

Interoffice Memorandum

DATE: May 5, 2026

TO: Mayor Jerry L. Demings and County Commissioners

THROUGH: N/A

FROM: Tanya Wilson, AICP, Director, Planning, Environmental, and Development Services Department

CONTACT: Renée H. Parker, LEP, Manager, Environmental Protection Officer

PHONE: (407) 836-1420

DIVISION: Environmental Protection Division

ACTION REQUESTED:

Acceptance of the findings and recommendation of the Environmental Protection Division staff and approval of After-the-Fact Conservation Area Impact Permit CAI-23-12-059 for KP Home 1 Investment LLC. District 4. (Environmental Protection Division)

PROJECT: Request for After-the-Fact Conservation Area Impact Permit Application for KP Home 1 Investment LLC (Application No. CAI-23-12-059)

PURPOSE: The applicant, KP Home 1 Investment LLC, is requesting an After-the-Fact Conservation Area Impact (CAI) permit for Class I wetland impacts associated with the construction of a single-family residence and associated improvements. The project site is located at 13450 E. Lake Mary Jane Road, Orlando, FL 32832, on the northern shoreline of Lake Mary Jane in District 4. The Parcel ID for the site is 23-24-31-0000-00-003.

The project is being reviewed under the prior version of Article X, Conservation Areas Ordinance, adopted in 1987, since the application was received prior to the effective date of June 1, 2024 for the updated Article X, Wetlands and Surface Waters Protection Ordinance.

Site Conditions:

The site is situated on Lake Mary Jane and includes an existing single-family residence and associated infrastructure. The 4.09-acre property is mostly wetlands, including approximately 3.94 acres of Class I wetlands and surface waters (Lake Mary Jane). The



wetlands and surface waters are of moderate to moderately-high quality, with a mixture of native and exotic species. There is also a small 0.15-acre upland area in the northeastern corner of the property where the driveway intersects with E. Lake Mary Jane Road. The driveway traverses the property across the wetlands to the homesite which is located within former wetlands.

Background:

According to historic aerials, the subject lot was undeveloped prior to 1987. In 1989, a Building Permit (B89020017) was issued to a previous property owner for the construction of a single-family home and associated infrastructure, which was subsequently constructed. In 1998, additional Building Permits were issued to construct a swimming pool (B98001259) and to erect a screened enclosure around the pool/patio (B98005216). Neither the Environmental Protection Division (EPD) nor the applicant have been able to locate Orange County or state-issued permits authorizing the wetland impacts associated with the construction of the original homesite (house, garage, driveway, etc.) or the pool/patio addition. The property has changed ownership several times since the home was built, and the applicant purchased the property on October 20, 2020.

On June 13, 2022, EPD investigated a complaint of unauthorized wetland clearing and subsequently issued a Notice of Violation (NOV) (Enforcement Case No. 22-609452) on July 5, 2022. The impacts included clearing and filling of wetland vegetation and new structures in the wetland.

On December 5, 2023, in response to the NOV, the applicant submitted an After-the-Fact Conservation Area Impact Permit Application (CAI-23-12-059) to attempt to permit some of the impacts as constructed.

On January 7, 2026, EPD issued a Restoration Plan Approval Letter for restoration of the impacted areas minus those that are part of the subject application. EPD staff coordinated with the applicant on February 26, 2026 and March 30, 2026 to ensure the restoration is underway, and a baseline planting report was submitted by the applicant's agent on May 1, 2026, which indicates the completion of the first stage of restoration. If the subject application is denied, the restoration plan will require modification to include removal of the applicable structures/features and restoration of those areas.

On May 7, 2024, the applicant remitted the administrative penalty in the amount of \$10,000.

Current Request:

The applicant is requesting after-the-fact approval of the following structures/features

below; the ownership at the time of construction is also identified for each item:

- 0.44-acre home, including pool/patio, and main driveway (prior owner)
- 0.002-acre treehouse (prior owner)
- 0.04-acre paver driveway extension (applicant)
- 0.026-acre screen addition (applicant)
- 0.022-acre deck addition (applicant)

No impacts are proposed to remain below the Normal High Water Elevation of Lake Mary Jane. The status of the current enforcement case remains open pending the outcome of the impact permit request. The applicant will be required to restore any wetland areas subject to this application that are not approved for impact.

Analysis of Chapter 15, Article X (adopted 1987):

EPD staff has evaluated the proposed impacts and site plan in accordance with the applicable review criteria. Pursuant to Orange County Code, Chapter 15, Article X, Section 15-362(5), where wetlands serve a significant and productive environmental function, the public health, safety and welfare require that any alteration or development affecting such lands should be so designed and regulated so as to minimize or eliminate any impact upon the beneficial environmental productivity of such lands, consistent with the development rights of property owners. When encroachment, alteration or removal of Class I conservation areas is permitted, habitat compensation or mitigation as a condition of development approval shall be required. Additionally, pursuant to Section 15-396(3)(a), the removal, alteration or encroachment within a Class I conservation area shall only be allowed in cases where no other feasible or practical alternatives exist that will permit a reasonable use of the land or where there is an overriding public benefit.

EPD staff has determined that the applicant has demonstrated the site plan clusters the impacts around a central location, which allows for reasonable use of the land and demonstrates that there are no other feasible or practical alternatives that would minimize or eliminate impacts to the Class I wetland. Therefore, the request meets the criteria for approval.

To offset the 0.09-acre wetland impacts for the paver driveway extension, screened addition, deck addition, and treehouse, the applicant has proposed to purchase 0.07 wetland mitigation credits from the TM-Econ Mitigation Bank, Phase IV, which is located in Orange County. EPD has determined that the mitigation is appropriate and sufficient to offset adverse impacts to wetlands that have occurred as a result of the proposed project. Since the original homesite and pool/patio addition were constructed nearly 40 years ago by a previous property owner, EPD is not requiring mitigation for the 0.44-acre impacts associated with the home, pool/patio and original driveway.

Notification of the public hearing was sent to the applicant and their authorized agent. Notification of the adjacent property owners is not required.

Summary of Wetland Impacts, Mitigation, and Staff Recommendation

Item	Acres	Constructed By	Mitigation Required	Staff Recommendation
Single-family homesite with pool/patio addition	0.44	Prior Owner	No	Approve
Treehouse	0.002	Prior Owner	Yes	Approve
Paver driveway extension	0.04	Applicant	Yes	Approve
Screened addition	0.026	Applicant	Yes	Approve
Deck addition	0.022	Applicant	Yes	Approve
Total	0.53			

Staff Recommendation:

EPD has made a finding that the request is consistent with Orange County Code, Chapter 15, Article X (adopted 1987) and recommends approval of After-the-Fact CAI Permit No. CAI-23-12-059, subject to the conditions listed below:

Specific Conditions:

1. This permit shall become final and effective upon expiration of the 30-calendar day period following the date of rendition of the Board’s decision approving the permit, unless a petition for writ of certiorari or other legal challenge has been filed within this timeframe. Any timely filed petition or other challenge shall stay the effective date of this permit until the petition or other challenge is resolved in favor of the Board’s decision.
2. The operational phase of this permit is effective upon the completion of the construction and continues in perpetuity.
3. The after-the-fact wetland impacts are authorized in accordance with the ‘Wetland Impacts’ plan, submitted by Bowman and Blair Ecology and Design, Inc., received by the Environmental Protection Division (EPD) on April 26, 2026.
4. To offset the wetland impacts, 0.07 freshwater mitigation credits shall be purchased from the TM-Econ Mitigation Bank, Phase IV. Since the impacts are after-the-fact,

EPD must receive documentation demonstrating that the mitigation has been completed (0.07 credit purchased) prior to permit issuance.

5. For any wetland impacts subject to the request that are denied by the Board, the applicant shall submit and implement a restoration plan to the satisfaction of EPD.
6. Restoration of the impacted wetland areas not subject to the request, or not approved, must be completed in substantial accordance with methodology and standard conditions in the Restoration Plan Approval Letter, dated January 6, 2026, or subsequent revisions, for the associated EPD enforcement case (22-609452).
7. Prior to any filling within the 100-year flood zone, a Flood Plain Permit may be required from the Orange County Stormwater Management Division authorizing the fill.
8. The permittee shall notify EPD, in writing, within 30 days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee shall remain liable for all permit conditions and corrective actions that may be required as a result of any permit violations which occur prior to the transfer of the permit by Orange County to a subsequent owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.
9. For projects which disturb one acre or more of land, or which are less than one acre but are part of a larger common plan of development of sale that is greater than one acre, coverage under a National Pollutant Discharge Elimination System (NPDES) Construction Generic Permit (CGP) is required. Prior to the start of land disturbing activities, which includes demolition, earthwork and/or construction, the operator shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit to the Florida Department of Environmental Protection (FDEP) a Notice of Intent (NOI) to obtain coverage under the NPDES CGP pursuant to the requirements of 62-621.300(4)(a) Florida Administrative Code (F.A.C.). As the Operator of the MS4, a copy of the NOI shall also be submitted to the Orange County NPDES Environmental Program Supervisor prior to the start of activities. Copies of the SWPPP, NOI, and FDEP Acknowledgement Letter are to be kept on the project site and made available upon request. Upon completion of all land disturbing activities and after final stabilization of the site is complete, the developer/contractor shall submit to FDEP a Notice of Termination (NOT) to end their coverage under the CGP and provide a copy of the NOT to the Operator(s) of the MS4. A copy of the CGP, NOI and additional information can be found on the FDEP website: <http://dep.state.fl.us/water/stormwater/npdes/construction3.htm>.

10. Turbidity and sediment shall be controlled to prevent off-site, unpermitted impacts and violations of water quality standards pursuant to Rules 62-302.500, 62-302.530(70), and 62-4.242, F.A.C. Best Management Practices (BMPs), as specified in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (2013, or most current version), shall be installed and maintained at all locations where there is the possibility of transferring sediment, turbidity, or other pollutants, into wetlands and/or surface waters due to the permitted activities. BMPs are performance based; if selected BMPs are ineffective or if site-specific conditions require additional measures, then the permittee shall implement additional or alternative measures as necessary to prevent adverse impacts to wetlands and/or surface waters. Turbidity discharging from a site must not exceed 29 NTU over background for Class III waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters (OFW). A copy of the Designer and Reviewer Manual can be found at the following website: <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>.
11. Discharge of groundwater from dewatering operations requires approval from FDEP and the applicable Water Management District. The operator/contractor shall obtain an FDEP Generic Permit for the Discharge of Ground Water from Dewatering Operations pursuant to the requirements of 62-621.300(2)(a) and 62-620 F.A.C. and Chapter 403, Florida Statutes (FS). Discharges directed to the County's MS4 require an Orange County Right-of-Way Utilization Permit for Dewatering prior to the start of any discharges.

General Conditions:

12. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee binds itself and its successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities, including without limitation the performance of the required mitigation, are not in accordance with the conditions of the permit, work shall cease and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.
13. Prior to construction, the permittee shall clearly designate the limits of construction on-site. The permittee shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
14. Construction plans shall be submitted to EPD prior to initiating any construction activities for review and approval. The construction plans shall include, but are not

limited to, a site plan clearly depicting the location and acreage of the impact and preservation areas.

15. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
16. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee. In the event that any part of the structure(s) permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owner's riparian or other property rights, the permittee agrees to either obtain written consent or to remove the offending structure or encroachment within 60 days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
17. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee or convey any rights or privileges other than those specified in the permit and Chapter 15, Article X of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittee shall comply with the most stringent conditions.
18. The permittee shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.
19. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
20. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.

21. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
22. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to ensure conformity with the plans and specifications approved by the permit.
23. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
24. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
25. The permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida and initiated only in Orange County.
26. Pursuant to Section 125.022 FS, issuance of this permit by the County does not in any way create any rights on the part of the permittee to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the permittee fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.
27. Pursuant to Section 125.022 FS, the applicant shall obtain all other applicable state or federal permits before commencement of development.

BUDGET: N/A