



March 9, 2022

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Planning, Environmental, and Development  
Services Department

CONTACT PERSON: David D. Jones, P.E., CEP, Manager  
Environmental Protection Division  
(407) 836-1406

SUBJECT: March 22, 2022 – Public Hearing  
The Grow Planned Development  
Conservation Area Impact Permit Application No. CAI-20-06-043 (Related to Public Hearing Case #PSP-20-06-156)

This hearing was continued from the March 8, 2022 to the March 22, 2022 Board meeting. The applicants, American Land Investments of Orange County, LLC, Banksville of Florida, Inc., and Nivesa of Florida, Inc., are requesting a Conservation Area Impact (CAI) permit to impact wetlands, surface waters, and required upland buffers in order to construct portions of a main roadway network for an 1,189-acre development known as The Grow, and for a future Orange County school tract and Orange County park tract.

Due to the large size of the project, the applicants are processing the development in phases. The subject CAI application is for the main roadway network, a future public school tract, and an Orange County park tract. Additional CAI applications to construct subdivisions within the project are anticipated to be forthcoming. CAI-21-10-062 for the first subdivision, known as The Grow – South (which covers the majority of the southern half of the entire project site); has already been submitted. Any further requests for impact to Class I or II conservation areas will be brought before the Board for consideration at a future date.

The project site is located at 15817 E. Colonial Drive, 16499 E. Colonial Drive, E. Colonial Drive, 2513 S. Tanner Road, and 16562 Lake Pickett Road in Orlando, FL 32820. The Parcel ID Nos. for the site are 19-22-32-0000-00-001, 20-22-32-0000-00-002, 17-22-32-0000-00-002, 18-22-32-0000-00-001 and 08-22-32-0000-00-005. The subject properties are located in District 5. The project site is located within the boundary of the Econlockhatchee River Protection Area and is therefore also subject to Chapter 15, Article XI, Econlockhatchee River Protection Ordinance.

**Plan Review Background**

- September 20, 2016: The Board approved a Planned Development Regulating Plan (PD-RP), Case #LUP-16-01-002, for the subject project. The PD-RP included a depiction of conceptual impacts to wetlands, surface waters, and upland buffers. However, approval of the PD-RP did not constitute approval of wetland impacts; a CAI permit was still required pursuant to Chapter 15, Article X.

- September 21, 2016 and September 29, 2016: Conservation Area Determination (CAD) Nos. CAD-16-02-015 and CAD-16-02-021, respectively, were issued by the Environmental Protection Division (EPD).
- June 18, 2020: EPD received a CAI application for the project for the roadway network and infrastructure. The CAI application has been reviewed concurrently with Preliminary Subdivision Plan (PSP) No. PSP-20-06-156.
- December 15, 2021: The Development Review Committee approved a non-substantial change to the PD-RP.

### **Site Conditions**

The 1,189 acre project site contains:

- 129.51 acres of Class I surface waters, including all of Lake Tanner and a portion of Corner Lake;
- 202.92 acres of Class I wetlands, which mainly include several large forested communities that are greater than 40 acres in size;
- 31.39 acres of Class II wetlands, which include several isolated, forested systems (e.g., bay swamps) that are greater than five acres, but less than 40 acres in size;
- 0.89 acre of Class III surface waters, mainly ditches, that are less than five acres in size;
- 18.78 acres of Class III wetlands, which include several smaller, isolated freshwater marshes, forested systems, and wet prairies less than five acres in size; and
- 81.15 acres of required upland buffers pursuant to the Econlockhatchee River Protection Ordinance, Chapter 15, Article XI, Section 15-442(f) associated with Class I and II conservation areas.

In summary, the project site contains 383.49 acres of conservation areas and 81.15 acres of required upland buffers.

### **Current Request**

In order to construct portions of the project's main road network, a future public school, and an Orange County park, the applicants propose to impact wetlands, surface waters, and required upland buffers as summarized in the table below:

Impact Classification	Direct Impact (acres)	Secondary Impact (acres)	Reason for Impact
Class I Wetlands	0.94	0.46	Roads, Stormwater structure
Class II Wetlands	0.83	0.25	Roads
Class III Wetlands	5.93	0.84	Roads, School Tract, Park Tract
Class III Surface Waters	0.17		Roads, School Tract, Park Tract
Upland Buffer Impacts	1.88		Roads, Stormwater structure
<b>Total</b>	<b>7.87 acres of wetlands and surface waters; 1.88 acres of upland buffer</b>	<b>1.55 acres</b>	

The quality of the Class I and II wetland areas proposed for impact ranges from moderate to moderately high. The quality of the Class III wetlands and surface waters proposed for impact ranges from low quality ditches and small depressions to moderate quality marshes and forested systems. The upland buffer impacts vary from low quality existing pastureland to more natural, moderate quality uplands.

The subject property contains a tract to be used for a future Orange County school and another tract to be used as an Orange County park. The area to be utilized for the school includes impacts to 0.85 acre of Class III wetlands and 0.07 acre of Class III surface waters. The area to be utilized for the park includes impacts to 4.38 acres of Class III wetlands. There is a recorded Adequate Public Facilities Agreement (APF) between Orange County and the property owners that states the park tract wetlands shall be mitigated by the owners prior to conveyance to the County. A site plan has not been developed for the park at this time, but an attempt to avoid wetland impacts will be made through the site planning and design process, at the discretion of the Orange County Parks and Recreation Division.

### **CAI Permit Analysis**

The applicants are proposing impacts to Class I, II, and III conservation areas. The review criteria are as follows:

#### **Review Criteria: Article X - Wetland Conservation Areas**

Sec. 15-396. - Compensation required for unavoidable loss.

- a. *Class I conservation areas* - 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. The protection, preservation and continuing viability of Class I conservation areas shall be the

prime objective of the basis for review of all proposed alterations, modifications, or removal of these areas. 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.

- b. *Class II conservation areas* - Habitat compensation for Class II conservation areas should be presumed to be allowed unless habitat compensation is contrary to the public interest.
- c. *Class III conservation areas* - Habitat compensation shall be allowed for Class III conservation areas in all cases.

#### Sec. 15-362(5). – Legislative Findings

Avoidance and Minimization Criteria: Pursuant to Section 15-362(5), the applicants are required to demonstrate that “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.

#### Criteria Analysis

##### Class I and II Wetland Impacts:

The Grow PD-RP contains approximately 1,189 gross acres. Direct Class I impacts total 0.94 acre (Impacts #2, 2A, 15, and 26). Direct Class II impacts total 0.83 acres (Impacts #11A, 11B, and 12). The applicants have eliminated approximately 16.99 acres of Class I impacts that were contemplated per the PD-RP. All proposed Class I and II wetlands impacts are largely unavoidable and, in almost all cases, involve road crossings. The other unavoidable impacts involve (i) preservation, regrading and enhancement of man-made ditches and ponds within the required location of the Working Farm, per the PD-RP and APF (Impacts #5, 6 and 7); (ii) the school site (Impact #23, 25 and 26), which is located in its required location per the PD-RP and APF and other applicable governmental approvals; and (iii) water control structures necessary to hydrologically enhance Wetland 4D (Impact #2A; 0.06 acres) to maintain the existing hydrologic regime.

##### Working Farm:

Impacts #1, 2, 2A, 4, 5, 6, 7, 8, 9, and Buffer Impact #2A, 2B, 2C, and 2D are generally associated with the Working Farm. Of these, County staff has determined during site visits that five wetlands (Impacts #4, 6, 8, 9 and 10) are not significant or productive and therefore avoidance and minimization are not required. The rest involve road crossings, the required Working Farm and maintenance of the existing hydrologic regime. The area immediately adjacent to E. Colonial Drive involves minimal impacts to a low quality system.

##### Road Crossings:

Impacts #2, 10, 11A, 11B, 12, 15, and 37, involve road crossings. In all cases, the site geometry has been designed to avoid the larger and higher quality contiguous wetland systems throughout the site. In order to achieve this, road layouts were designed that would impact the smaller, isolated wetlands, or the fringe areas of larger systems. The road impacts are necessary to interconnect uplands in accordance with the approved PD-RP, thereby allowing sufficient development potential necessary to accommodate the

project's open space, amenities and road mitigation payment commitments.

Finally, as compared to the impacts conceptually identified in the original PD-RP, following approval of the non-substantial change, the applicant has significantly reduced the proposed impacts, as outlined in this application and the concurrent PSP.

Review Criteria: Article XI - Econlockhatchee River Protection Ordinance

In accordance with Chapter 15, Article XI, Econlockhatchee River Protection Ordinance, the project was evaluated and/or the applicants have provided the following:

- a) A survey of those species designated as endangered, threatened or species of special concern pursuant to Florida Administrative Code (F.A.C.) sections 39-27.003, 39-27.004 and 39-27.005, respectively, shall be required as part of all development applications where there is reasonable expectation, based upon the range and habitat requirements of these species, that such species utilize any habitat within the boundaries of the Econ River Basin which is the subject of the development application. Such surveys shall utilize the "Wildlife Methodology Guidelines" published by the Florida Game and Freshwater Fish Commission. If endangered, threatened or species of special concern are found on the project site, any proposed development within the habitat of the species shall protect the values of the habitat for that species. A management plan shall be required of the development for the protection of an endangered, threatened or species of special concern and shall become part of the conditions of approval for the project.

EPD Analysis: In accordance with Chapter 15, Article XI, Section 15-442(a), the applicants conducted a survey of the property for the presence of species designated as endangered, threatened or species of special concern. The assessment included direct observations and indirect evidence such as tracks, burrows, tree markings and vocalizations to indicate the presence of species observed. Species observed during the assessment include American alligator (*Alligator mississippiensis*), gopher tortoise (*Gopherus polyphemus*), Florida sandhill crane (*Grus canadensis pratensis*), little blue heron (*Egretta caerulea*), white ibis (*Eudocimus albus*), and snowy egret (*Egretta thula*). EPD staff confirmed the results of the wildlife survey during review of the two Conservation Area Determinations for the subject property and also multiple site visits associated with the CAI application and observed gopher tortoise burrows, Florida sandhill crane foraging habitat and a nest, and Sherman's (Southern) fox squirrel. The wetland where the sandhill crane nest is located is outside of the current project boundary and no impacts are proposed to that wetland in this application. The applicants will be required to provide EPD with a management plan (e.g., wildlife relocation or other applicable permits) for any imperiled wildlife species identified onsite prior to disturbance of vegetation or soils.

- b) Where landscaping is required, the design shall include the use of native plant species and minimize removal of understory vegetation to the greatest extent practical so that wildlife habitat will be preserved and maintained and the landscaped areas will blend into nearby natural areas.

EPD Analysis: The applicants have stated that the project proposes to utilize native plant species within all landscaped areas to blend the development into the rural landscape.

- c) Sufficient separation shall be required between stormwater management structures and conservation areas (as defined in section 15-364) to ensure no adverse impact to the hydrologic regime of the conservation area.

EPD Analysis: The applicants have stated that stormwater ponds will be controlled higher than the estimated seasonal high groundwater of adjacent wetlands and should not cause a drawdown of natural groundwater elevations.

- d) Surface waters shall be managed to encourage native vegetation where the vegetation does not impede water flow in the county's primary drainage system.

EPD Analysis: The applicants have stated that the onsite surface waters known as Lake Tanner and Corner Lake include littoral zones vegetated with a variety of native species. These areas will be preserved and managed per a monitoring plan for the project, to encourage native species growth and to control nuisance and exotic vegetation.

- e) Wet detention treatment systems, as defined by Ch. 40C-42, F.A.C., shall be required for those areas where dry retention/detention is not possible due to limited percolation capacity. Design of the wet detention treatment system shall be consistent with the guidelines in section 15-447 of this article. In addition to wet detention, created forested or herbaceous wetland areas shall be encouraged and incorporated into the system design, where feasible, to further enhance stormwater treatment while also providing wildlife habitat.

EPD Analysis: Wet detention will mainly be utilized, with the exception of limited use of dry retention areas due to groundwater limitations on the site. Stormwater calculations will be provided at the time of construction plan submittal. The design storms of Orange County and SJRWMD will be utilized for the development of the stormwater management systems and peak rate discharge will be summarized in a report to the Orange County Public Works, Development Engineering Division (Development Engineering) concurrent with construction plan review.

- f) Upland buffers averaging fifty (50) feet in width with a minimum of twenty-five (25) feet in width shall be required for class I and II conservation areas as such areas are defined in section 15-364. Where feasible, upland buffers for these conservation areas shall connect with each other and with larger natural systems. Mitigation, density or open space credits for upland buffers shall be given. Density credits for upland buffers of the conservation area shall be not less than that which is allowable under the zoning ultimately approved by the county and transferred to developable portions of the same property.

EPD Analysis: Upland buffers of 50 feet in width are being provided around Class I and II conservation areas. In areas where impacts to the required upland buffer are unavoidable (e.g., roadway crossings), mitigation is being provided.

- g) Peak discharge rates for surface water management systems shall not exceed the pre-development peak discharge rate for the mean annual storm (24-hour duration, 2.3-year return period, 4.4 inches of rainfall) and the 25-year storm (24-hour duration).

EPD Analysis: The applicants have stated that stormwater calculations will be provided at the time of construction plan submittal and peak discharge rates will be summarized in a report to Development Engineering concurrent with construction plan review.

- h) All proposed development within two thousand (2,000) feet of the Econlockhatchee River and its named tributaries shall submit as part of the development application information a statement from the Florida Division of Historical Resources or an archaeological consultant as to the potential for any archaeological or historical resources on the project site. If, in the opinion of the division or consultant, the project's location and/or nature is likely to contain such a resource, then a systematic, professional archaeological and historical survey shall be completed and submitted for review. If significant archaeological or historical sites are found, then such sites shall be preserved or excavated according to state guidelines prior to construction on the archaeological or historical site.

EPD Analysis: The southwest corner of the project area lies within 2,000 feet of the Econlockhatchee River. The applicants have provided a Cultural Resources Assessment Survey along with a letter from the Florida Department of State that concurred with the survey findings, which indicated that the project will have no effect on listed cultural resources.

- i) Rare upland habitat properties which contain rare upland habitat are hereby encouraged to preserve the essential habitat characteristics. Where feasible, the rare upland habitat should be connected to other communities through preservation of land as mitigation for wetland impacts allowed pursuant to conservation area regulations. Should rare upland habitat be preserved, density credits not less than that which is allowed under the zoning ultimately approved by the county may be transferred to developable portions of the same property or open space credits. Rare upland habitats are those vegetative communities identified as scrub, longleaf pine-xeric oak, sand pine scrub, xeric oak and live oak hammock. Those vegetative communities are defined in section 15-446 of this article.

EPD Analysis: The applicants have proposed to place the remaining 50-foot upland buffer surrounding Class I and II conservation areas into a conservation easement dedicated to Orange County, in addition to the preservation of the remaining onsite wetlands.

- j) The density and intensity of development permitted on parcels of property within the basin are encouraged to cluster or concentrate on those portions of the parcel or parcels which are furthest from the surface waters and wetlands of the Econlockhatchee River system.

EPD Analysis: The applicants have stated that the higher-density development is clustered in the central and eastern portions of the site which are furthest away from the surface waters and wetlands of the Econ River system.

As mitigation for the project's impacts, the applicants are proposing to preserve 173.14 acres of onsite wetlands and 72.09 acres of upland buffers by placing them into a conservation easement dedicated to Orange County. The wetlands proposed for mitigation are of moderate to moderately high quality. A monitoring and maintenance plan will be

implemented to control nuisance and exotic species and to maintain and improve the quality of the preserved wetlands.

EPD staff has evaluated the proposed impacts and site plan based on the review criteria in Orange County Code, Chapter 15, Articles X and XI. Based on the documentation and justifications provided, EPD staff has determined that the applicants have demonstrated the proposed site plan allows for reasonable use of the land, that there are no other feasible or practical alternatives available to further minimize or eliminate impacts to onsite wetlands or surface waters, and therefore the request meets the criteria for approval.

Notification of the public hearing was sent via electronic correspondence to the applicants and their agent. Notification of the adjacent property owners is not required.

There has been no enforcement action taken by EPD on the subject property.

EPD staff has made a finding that the request is consistent with Orange County Code, Chapter 15, Article X, Sections 15-362(5) and 15-396(3)(a), (b) and (c), and Article XI, Section 15-442 and recommends approval of CAI Permit No. CAI-20-06-043, 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 wetland impacts must be completed in accordance with the 'Wetland Impact Map' prepared by VHB, received by the Environmental Protection Division (EPD) on February 7, 2022. Construction shall be completed within five years from issuance of this permit unless extended in writing. Requests for permit extension must be submitted to EPD prior to the expiration date.
4. This permit authorizes conceptual approval of wetland impacts within the park tract subject to justification of the impacts on a site plan approved by the Orange County Parks and Recreation (Parks) Division during final design and engineering of the park. The plan must be provided to EPD upon approval by the Parks Division.
5. Prior to mass grading or initiating any construction within wetlands authorized for impact within the designated 20-acre park tract, EPD shall receive final design site plans that demonstrate the conceptually approved wetland impacts are necessary.
6. The permittees must provide EPD an Environmental Resource Permit from the St. Johns River Water Management District for any wetland impacts in the park tract, once available.



7. The on-site preservation must be implemented in accordance with 'Figure 1 Mitigation Areas' exhibit submitted by Bio-Tech Consulting, Inc., and received by EPD on February 4, 2022. The preservation area should include a minimum of 173.14 acres of wetlands.
8. The monitoring and maintenance of the preservation areas shall be conducted in accordance with the 'Monitoring and Maintenance Plan' narrative submitted by Bio-Tech Consulting, Inc. and received by EPD on February 4, 2022. Successful establishment of the wetland mitigation will have occurred when:
  - a. At least 85 percent areal coverage by appropriate wetland species has been obtained, and
  - b. The mitigation area is comprised of less than 10 percent nuisance vegetation and less than five percent invasive exotic vegetation, as listed in the Florida Exotic Pest Plant Council's 2019 List of Invasive Species Category I and II.
9. A baseline monitoring report that clearly shows site conditions prior to any maintenance activities (removal of nuisance and/or invasive exotic vegetation) must be submitted to EPD within 60 days of completion of the first maintenance event. This report must include, at a minimum, the following information: site location, field sampling design, sampling methodology, GPS location of fixed transects, photographic documentation, fish and wildlife observations, hydrology, results and discussion.
10. The permittees are required to submit annual monitoring reports that contain the following information: site location, field sampling design, sampling methodology, GPS location of fixed transects, photographic documentation, fish and wildlife observations, hydrology, results and discussion. If at the end of the five-year monitoring period, the mitigation area is not meeting success criteria, the permittees are required to provide a restoration plan or modified mitigation plan, and may be required to continue monitoring until success has been demonstrated.
11. Prior to initiating any construction within the wetlands, surface waters, or upland buffers that require mitigation, this permit requires the recording of a conservation easement (CE) in the public records of Orange County, and when applicable, notation of the CE on the corresponding plat. The CE must be dedicated to Orange County and cannot be recorded unless and until the CE is accepted and approved by EPD and the Orange County Real Estate Management Division (REM). The CE must include restrictions on the real property pursuant to Section 704.06, Florida Statutes (FS) and the requirements set forth below:
  - a. Within 30 days of issuance of this permit, the permit holder shall provide to EPD for review and written approval a copy of the surveyor's sketch and legal description of the area to be encumbered by the CE pursuant to the EPD-approved mitigation plan. The Orange County Surveyor must approve the final sketch and legal description. The permit holder shall ensure that the CE is executed by the correct grantor who must hold sufficient record title to the land encumbered by the CE. Accordingly, when the permit holder submits the surveyor's sketch and legal description, the permit holder must contemporaneously submit current evidence of title of the proposed easement area to EPD. The evidence of title is subject to review and approval by REM.

- b. If the impacts are to an upland defined as River Corridor Protection Zone (Chapter 15, Article XI, Section 15-443(1)), or to an upland buffer as defined by Chapter 15, Article XI, Section 15-442(f), or to a wetland or surface water for which mitigation is required and authorized to occur in discrete phases, the areas to be preserved to offset such impacts may be placed under a CE in phases, such that impacts are offset prior to the commencement of work within the phase that the impacts are permitted occur. Such phasing of preservation can only occur if it has been proposed in the mitigation plan and approved by this permit. A surveyor's sketch and legal description of the area to be placed under CE must be submitted in accordance with paragraph (a) above prior to commencement of each phase.
  - c. The CE must be in a form approved by the Orange County Attorney's Office (OCAO) and REM. Consistent with Section 704.06 FS, the CE must prohibit all construction, including clearing, dredging, or filling, except that which this permit specifically authorizes. The CE must contain the provisions set forth in Section 704.06(1)(a) through (h), FS. The CE must contain provisions that grant the County the right to access and inspect the CE area, and to enforce the terms and conditions of the CE. Unless specifically prohibited by law, the CE must include a provision whereby the permit holder shall warrant title and agree to defend the same. The grantor cannot amend the CE without written approval by the County.
  - d. If the grantor of the CE is a partnership, the partnership must provide to EPD a partnership affidavit stating that the person executing the CE has the legal authority to convey an interest in the partnership land.
  - e. If any mortgages or financial encumbrances exist on the land, the permit holder shall ensure an appropriate consent and joinder is executed subordinating the mortgage or financial interest to the CE, which must be reviewed and approved by the OCAO and REM. The consent and joinder of mortgagee must be recorded simultaneously with the CE in the public records of Orange County at the permit holder's sole expense.
  - f. Upon approval of the final executed documents by Orange County, the CE and its attachments must be recorded in the public records of Orange County, at the permit holder's sole expense.
  - g. At least 45 days prior to whichever comes first: (1) dredging, filling, or clearing of any wetland or surface water for which mitigation is required; (2) clearing any upland within the River Corridor Protection Area or any upland buffer as defined and required per Chapter 15, Article XI, Section 15-442(f); (3) the sale of any lot or parcel; (4) the recording of the subdivision plat; or (5) use of the infrastructure for its intended use, the permit holder shall submit to EPD a copy of the preliminary plat depicting the area to be encumbered by the CE.
  - h. If during the review of the submitted evidence of title, REM finds any encumbrances or irregularities that will render the proposed mitigation inadequate to offset the impact(s), the permit holder shall submit a revised mitigation plan for EPD staff to review and approve. The revised mitigation plan may require approval by the Board.
12. Conservation areas shall be clearly marked with signage that identifies the wetland and upland buffer. These signs shall be installed every 150 feet on any open space and on

every other individual lot line. The signage shall conform to the 'Typical Conservation Marker Detail' figure received by EPD on February 7, 2022 and the locations shown on the 'Wetland Impact Map' prepared by VHB, received by the EPD on February 7, 2022. The signs shall be installed prior the approval of the mass grading plans or subdivision construction plans.

13. Prior to beginning construction, the permittees must demarcate the boundaries of all wetland and upland conservation areas with six-foot-high PVC poles with orange flagging tied to the tops or orange safety fencing. Initial clearing shall include a path along the limit of construction to facilitate installation of silt fence and form a visual limit of clearing. After the initial clearing adjacent to the conservation areas is complete, a silt fence must be installed along the conservation easement boundaries and maintained throughout construction.
14. 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.
15. The permittees 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 permittees 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.
16. 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 Municipal Separate Storm Sewer System (MS4), 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.
17. 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, 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 permittees 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 Nephelometric Turbidity Units (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.

18. 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 Chapters 62-621.300(2)(a) and 62-620, F.A.C., and Chapter 403 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:

19. Subject to the terms and conditions herein, the permittees are 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 permittees bind themselves and their 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.
20. Prior to construction, the permittees shall clearly designate the limits of construction on-site. The permittees shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
21. 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.
22. The permittees 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 permittees 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.
23. Issuance of this permit does not warrant in any way that the permittees have riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittees. 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 permittees agree 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.
24. This permit does not release the permittees 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 permittees or create in the permittees 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 permittees, or convey any rights or privileges other than those specified in the permit and Chapter 15, Articles X and XI of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittees shall comply with the most stringent conditions.

25. The permittees shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.
26. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittees 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.
27. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
28. The permittees shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
29. 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.
30. The permittees 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.
31. 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 permittees.
32. The permittees agree that any dispute arising from matters relating to this permit shall be governed by the laws of Florida, and initiated only in Orange County.
33. 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 permittees 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 permittees fail 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.
34. Pursuant to Section 125.022 FS, the applicants shall obtain all other applicable state or federal permits before commencement of development.
35. Wildlife crossings for the loop road shall be shown on the construction plans in areas where the loop road crosses wetland and/or upland buffers. The wildlife crossings shall consider terrestrial and aquatic species as appropriate.
36. Pursuant to the approved APF agreement, potential impacts to the wetlands on the APF school and park track shall be mitigated. However, the wetlands for the park track shall not be impacted or filled prior to conveyance to the County.

**ACTION REQUESTED:** Acceptance of the findings and recommendation of the Environmental Protection Division staff and approval of Conservation Area Impact Permit CAI-20-06-043 for The Grow Planned Development, subject to the conditions listed in the staff report. District 5

JW/DDJ: jk

Attachments

# Application for Conservation Area Impact Permit



## Conservation Area Impact

CAI-20-06-043

District #5

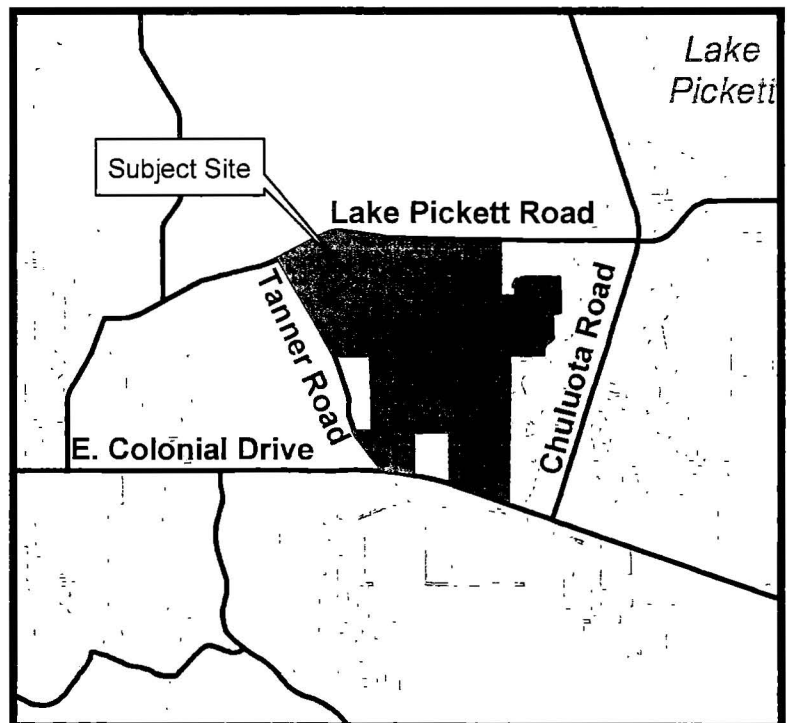
**Applicants:** American Land Investments of Orange County, LLC, Banksville of Florida, Inc., and Nivesa of Florida, Inc.

**Addresses:** Multiple

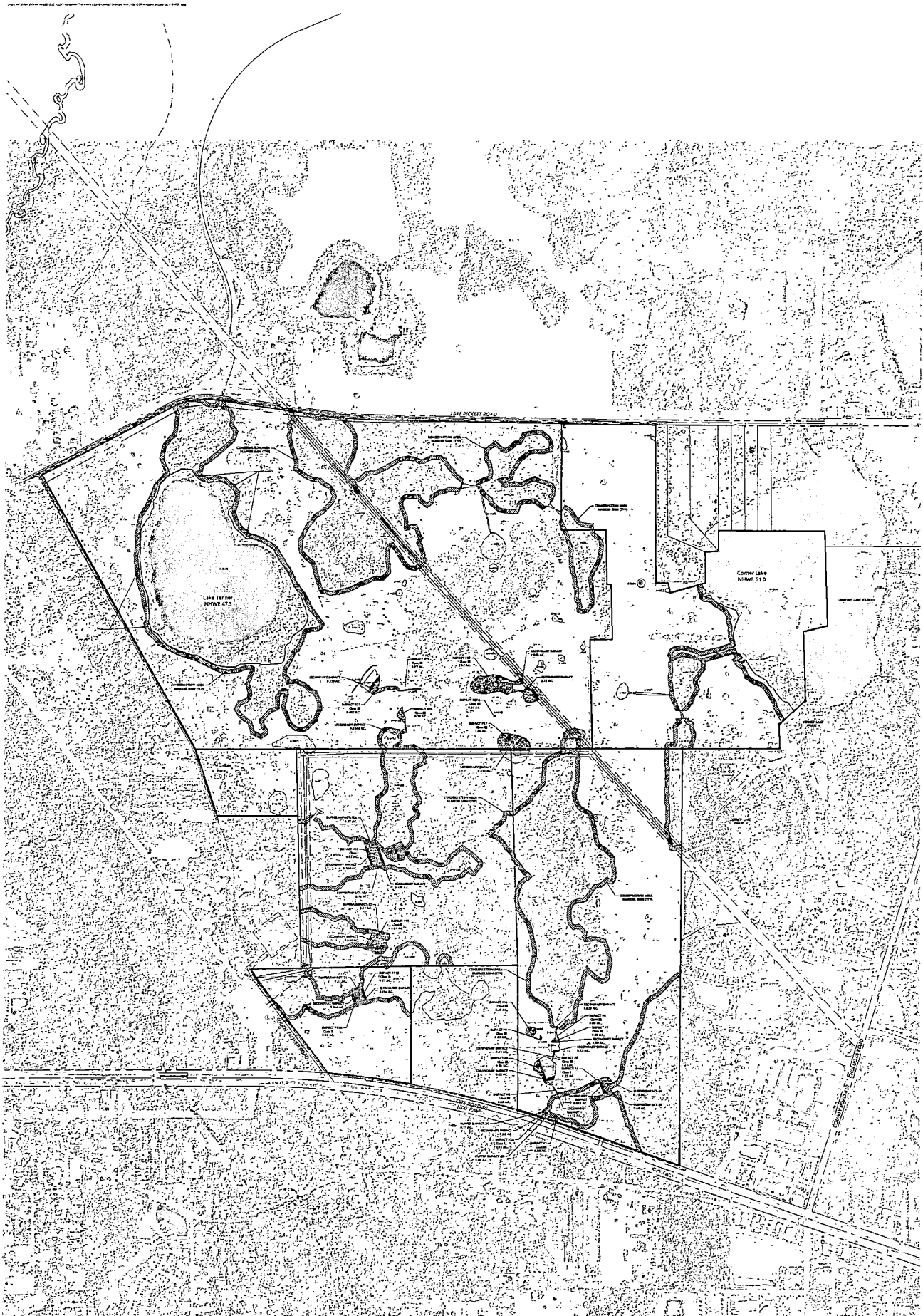
**Parcel IDs:** Multiple

**Project Site**

**Property Location** 



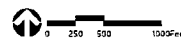




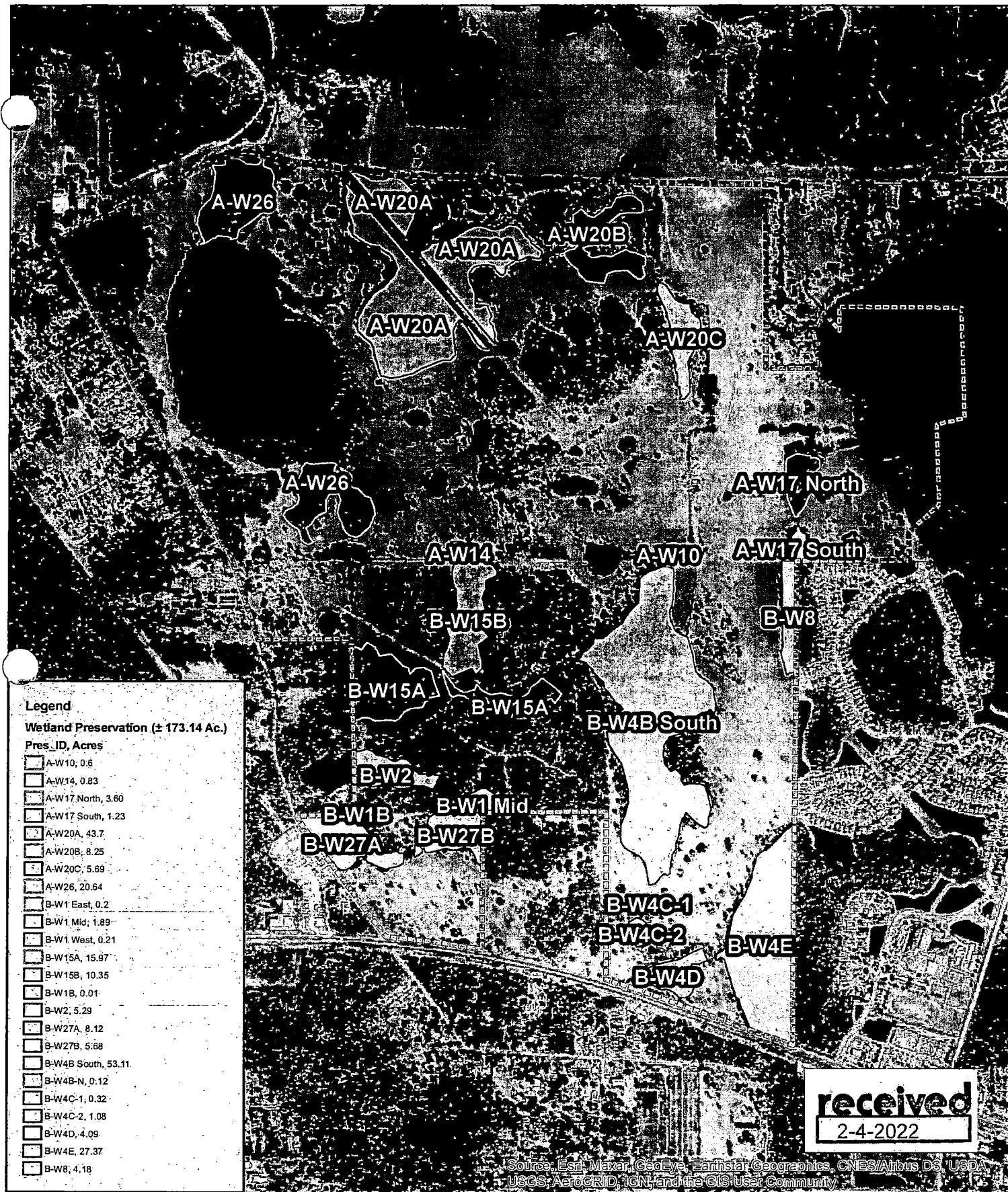
Naarmap.com Aerial - Flown Date: April 2020

Wetland Impact Map  
 The Grow  
 Orange County, Florida  
 Date: February 07, 2021

**received**  
 2-7-2022







The Grow - PSP Road, APF Lands  
Orange County, Florida  
Figure 1  
CAI-20-06-043 Mitigation Areas

**received**  
2-4-2022

1,700 Feet

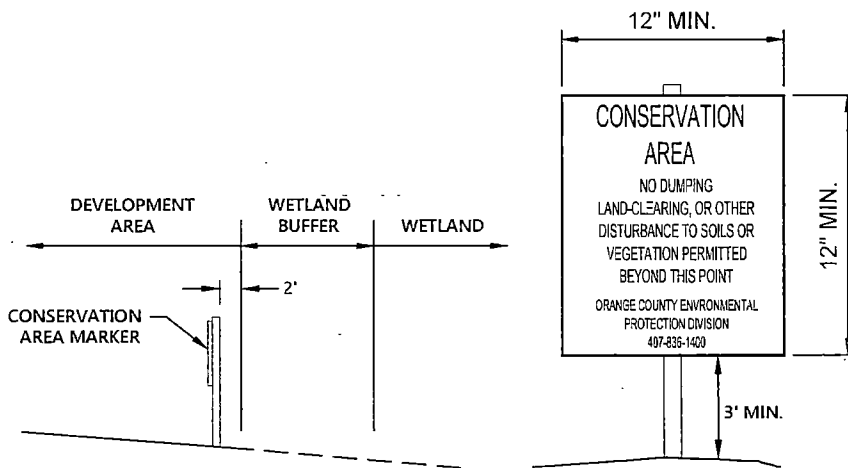
Project #: 672-28  
Produced By: LPM  
Date: 2/3/2022



received  
2-7-2022

NOTES:

1. CONSERVATION AREAS SHALL BE CLEARLY MARKED WITH PERMANENT SIGNS STATING: "CONSERVATION AREA - NO DUMPING, LAND-CLEARING, OR OTHER DISTURBANCE TO SOILS OR VEGETATION PERMITTED BEYOND THIS POINT. ORANGE COUNTY ENVIRONMENTAL PROTECTION DIVISION 407-836-1400." THESE SIGNS SHALL BE LOCATED NO FARTHER THAN 150 FEET APART IN COMMON AREAS ON THE LANDWARD EDGE OF THE BUFFER (NOT IN THE BUFFER), AND ON EVERY OTHER INDIVIDUAL LOT LINE FOR RESIDENTIAL PROPERTIES, OR AS SPECIFIED WITHIN AN APPROVED ORANGE COUNTY CONSERVATION AREA IMPACT (CAI) PERMIT. PROVIDE A TYPICAL SIGN SHOWING THE DIMENSIONS OF THE SIGN AT 12 BY 12 INCHES MINIMUM AND AT LEAST 24 INCHES ABOVE GRADE.



---

## Typical Conservation Marker Detail

---

N.T.S.

**The Grow CAI-20-06-043  
Maintenance – Monitoring Plan**

**Mitigation Plan**

The mitigation plan proposes to preserve 173.14 acres of forested on-site wetlands, and associated 50-foot upland buffers, with frequent nuisance and exotic species management in perpetuity. The on-site mitigation area will be placed within a conservation easement dedicated to the County. Management of the Mitigation Area will be limited to nuisance and exotic species control through herbicide application.

**Monitoring Plan**

The wetland preservation areas will be quantitatively monitored for a period of three (3) years. The monitoring events will occur on a semi-annual basis for the entire monitoring period. A baseline monitoring report and three (3) annual reports will be submitted to the County.

Permanent monitoring transects will be established throughout the wetland preservation areas and utilized for the collection of sampling data. Each transect will be 100 feet in length have two (2) monitoring stations. Monitoring stations will include a quantitative assessment of vegetation within a 50-foot radius of each monitoring station. At the ends of each transect, photo stations will be established to provide photographic documentation of the preservation areas. A GPS point will be recorded at each photo station and shown on an exhibit. Data collected from these monitoring stations will include a vegetative species listing with wetland status, estimated percent coverage of species, wildlife utilization, and a description of any problems encountered during the evaluation and proposed solutions.

**Maintenance Plan**

During the three (3) year monitoring period, maintenance events to control nuisance and exotic vegetation will occur on a quarterly basis. Maintenance events will be conducted to ensure that the conservation areas are free from invasive exotic vegetation (as defined by the Florida exotic pest plant council) immediately following a maintenance activity and shall constitute no more than 5% of vegetative cover between maintenance activities. Nuisance plant species shall constitute no more than 10% of total cover.

**received**  
2-4-2022

Following the three (3) year monitoring program, a perpetual maintenance plan is proposed for the preserved wetland. A maintenance program shall be implemented for the preserved wetland on a regular basis to ensure the integrity and viability of the conservation areas as permitted. Maintenance shall be conducted in perpetuity to ensure that the conservation areas are free from invasive exotic vegetation (as defined by the Florida exotic pest plant council at the date of permit issuance) immediately following a maintenance activity and shall constitute no more than 5% of vegetative cover between maintenance activities. Nuisance plant species shall constitute no more than 10% of total cover.

### **Mitigation Success**

To demonstrate that the mitigation is successful, the following criteria must be maintained.

- 1) 85% coverage by appropriate wetland species.
- 2) Coverage of exotic species shall not exceed 5%.