



Interoffice Memorandum

July 15, 2021

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: August 10, 2021 – Public Hearing
Gregory and Melinda Ramsdell Conservation Area Impact
Permit Application CAI-20-05-034
(Related to Application #BR-20-03-000)

The applicants, Gregory and Melinda Ramsdell, are requesting an after-the-fact permit to authorize impacts to 0.01-acre of Class I conservation areas (wetlands and surface waters) associated with a private boat ramp facility on property adjacent to Lake Ola. The Conservation Area Impact (CAI) Permit Application (#CAI-20-05-034) is being processed concurrently with a private Boat Ramp Facility Permit Application (#BR-20-03-000).

The project site is located at 7845 Sloewood Drive, Mount Dora, on the southern shoreline of Lake Ola in District 2. The Parcel ID for the site is 17-20-27-3748-00-033.

On February 26, 2020, the Environmental Protection Division (EPD) received an Application to Construct a Dock for the above-referenced property. During review of the dock application, EPD staff discovered a private boat ramp had been constructed on the shoreline. Based on aerial photos, the boat ramp appears to have been installed in 2008 by the current owners. A search of records did not yield a permit for the boat ramp. EPD informed the applicants that they would need to obtain an after-the-fact, private Boat Ramp Facility Permit in order to allow the structure to remain. Additionally, a narrow wetland area located along the shoreline was impacted by the ramp; therefore, an after-the-fact CAI permit is also required. On March 30, 2020 and May 12, 2020, EPD received an after-the-fact Application for a Private Boat Ramp Facility Permit and an after-the-fact application for a CAI permit, respectively. The final site plans were received on April 9, 2021.

The applicants are requesting authorization of direct impacts to 0.01 acre of Class I wetlands and surface waters. The request also includes 0.04 acre of secondary wetland and surface water impacts. For mitigation, the applicants have reserved 0.01 mitigation credits at the Hammock Lake Mitigation Bank. The proposed mitigation adequately offsets the impacts associated with the boat ramp.

EPD staff has evaluated the boat ramp, site plans, and requested wetland and surface water impacts in accordance with the review criteria in Orange County Code, Chapter 15,

Article X. Pursuant to Article X, 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.

Additionally, pursuant to 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.

Accordingly, based on the documentation provided, EPD 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 the Class I wetlands, and therefore the request meets the criteria for approval.

The applicants and their agent were sent notification of the August 10, 2021 public hearing via electronic correspondence. Notification of the adjacent property owners is not required.

EPD assessed a \$1,499 penalty for construction of the boat ramp facility and the associated wetland impacts without a permit. The applicants paid the penalty on June 15, 2021. Approval of this permit and the associated boat ramp permit will bring the property into compliance with Orange County Code, Chapter 15, Articles X and XV.

EPD staff has evaluated the boat ramp and site plans in accordance with the review criteria and 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), and recommends approval of the after-the-fact CAI Permit No. CAI-20-05-034, 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 construction phase of this project is complete. The operational phase of this permit shall continue in perpetuity.
4. This permit authorizes wetland impacts that have already occurred due to the construction of a private boat ramp as depicted on the 'Wetland Impact Plan' prepared by Streamline Permitting, Inc., received by EPD on April 9, 2021. No additional wetland impacts are authorized with this permit.
5. Mitigation includes the purchase of 0.01 mitigation credit at the Hammock Lake Mitigation Bank. Documentation of the purchase of the required mitigation credits shall be provided to EPD within 30 days of issuance of this permit.
6. In the event the permittees do not successfully complete the transaction to obtain the requisite 0.01 credit from the Hammock Lake Mitigation Bank, the permittees shall

obtain a permit modification from the Environmental Protection Officer to provide alternative mitigation for the wetland impacts.

7. 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.

General Conditions:

8. 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 binds themselves and/or 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.
9. 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.
10. 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, Article X 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.
11. The permittees shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.
12. 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.

13. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
14. The permittees shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. Pursuant to Section 125.022 FS, the applicants shall obtain all other applicable state or federal permits before commencement of development.

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-20-05-034 for Gregory and Melinda Ramsdell, subject to the conditions listed in the staff report. District 2

JW/DDJ: jk

Attachments