




## Interoffice Memorandum

August 31, 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  
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SUBJECT: September 27, 2022 – Public Hearing  
The Grow (South) Planned Development  
Conservation Area Impact Permit Application No. CAI-21-10-062 (Related to Public Hearing Case PSP-21-12-367)

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 in order to construct portions of a development known as The Grow. The subject CAI application is for the southern portion of the site. The project site is located at 16499 E. Colonial Drive, E. Colonial Drive, and S. Tanner Road, Orlando, FL 32820 in District 5. The Parcel ID Nos. for the site are 20-22-32-0000-00-002, 17-22-32-0000-00-002, and 18-22-32-0000-00-025. 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.

Due to the large size of the project (1,189 acres), the applicants are processing the development in phases as described below. The Grow (South) (this application) comprises a total of 408.33 acres. The applicants are proposing direct impacts to 3.64 acres and secondary impacts to 0.58 acre of Class III wetlands.

### **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 required 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, Articles X and XI.
- 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 EPD.
- June 18, 2020: EPD received a CAI application for the project for the roadway network and infrastructure. The CAI application was reviewed concurrently with Preliminary Subdivision Plan (PSP) No. PSP-20-06-156.

- October 6, 2021: EPD received a CAI application (CAI-21-10-062) for the current request for The Grow - South. The CAI is being reviewed concurrently with PSP-21-12-367.
- December 15, 2021: The Development Review Committee approved a non-substantial change to the PD-RP (CDR-21-03-104).
- March 21, 2022: EPD received a CAI application (CAI-22-03-023) for The Grow – North project. The CAI application is being reviewed concurrently with PSP-22-03-087.
- March 22, 2022: The Board approved CAI-20-06-043 which authorized 7.87 acres of conservation area and 1.88 acres of required upland buffer impacts associated with the main roadway network, future public school tract, and Orange County park tract. During the Board hearing, Commissioner Bonilla requested that future CAI applications for The Grow come before the Board at a public hearing regardless of the wetland classification of the proposed impacts.
- August 10, 2022: The Development Review Committee approved a non-substantial change to the PD-RP (CDR-22-03-088).

### **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 entire project area for The Grow contains 383.49 acres of conservation areas and 81.15 acres of required upland buffers.

### **Current Request**

The Grow South (this application) comprises a total of 408.33 acres, including the following conservation areas and required upland buffers:

- 111.17 acres of Class I wetlands, which include large forested communities that are greater than 40 acres in size;
- 11.78 acres of Class II wetlands, which include several isolated, forested systems that are greater than five acres, but less than 40 acres in size;
- 5.77 acres of Class III wetlands, which include several smaller, isolated freshwater marshes, intermittent ponds, and vegetated non-forested wetlands less than five acres in size;
- 0.28 acre of Class III surface waters, mainly ditches, that are less than five acres in size; and,
- 32.05 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 Grow (South) contains 129 acres of conservation areas and 32.05 acres of required upland buffers.

In order to construct portions of a residential subdivision and associated infrastructure, the applicants propose to impact wetlands as summarized in the table below:

<b>Wetland Classification</b>	<b>Direct Impact (acres)</b>	<b>Secondary Impact (acres)</b>	<b>Reason for Impact</b>
Class III	3.64	0.58	Roads, Stormwater Ponds, Residential Lots

The quality of the Class III wetlands proposed for impact range from low quality intermittent ponds and vegetated, non-forested wetlands to moderate to moderately high quality freshwater marshes. The project area includes larger Class I and II wetlands and required 50-foot buffers pursuant to Chapter 15, Article XI, Econlockhatchee River Protection Ordinance. Some impacts to these Class I and II wetlands and associated buffers were previously approved under CAI-20-06-043. The current application only proposes impacts to Class III wetlands and does not include any additional impacts to the Class I or II wetlands or required upland buffers within the project area.

### **CAI Permit Analysis**

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

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

##### **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.”

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

Mitigation Criteria: Pursuant to Section 15-396(3)(c), “...habitat compensation shall be allowed for Class III conservation areas in all cases.”

### Criteria Analysis

Within the project area of The Grow (South), the applicants have avoided all impacts to the larger, higher quality Class I and Class II conservation areas. The remaining proposed impacts to Class III conservation areas are due to the construction of interior roads, stormwater ponds, and residential lots. County staff have determined that three of the wetlands (Impacts #17, 29, and 30) are not significant or productive; therefore, avoidance and minimization are not required.

For the remaining wetlands, the applicants have stated that *“The Grow’s 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. Preservation of these smaller wetlands, either grouped together or isolated, would require the fill to be graded around each wetland. According to VHB (project engineer), as much as three feet of fill will be required for the proposed development. When considering these wetlands for preservation, the layout would include the required protective upland buffer and the grading of slopes to that buffer from the development fill (additional 25-30 feet). The result would be loss of additional upland areas and create additional design constraints for road and lot layouts.”* Additionally, the applicants state *“in the post-development condition, the surrounding development would only further isolate these wetlands by providing additional barrier to wildlife, likely altering the hydrologic regime and contributing to the proliferation of nuisance and exotic vegetation within the wetlands.”*

Additionally, the original site plan for this project included 1.10 acres of impact to Wetland #28. Through site plan modifications, those impacts have been reduced by 0.78 acre, resulting in a smaller impact of 0.32 acre.

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 proposed impacts when viewed project wide.

### 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*), snowy egret (*Egretta thula*) and wood stork (*Mycteria americana*). 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 and Florida sandhill crane foraging habitat and a nest. The wetland where the sandhill crane nest is located is outside of the current project boundary. 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 project boundary does not include the onsite surface waters known as Lake Tanner and Corner Lake; however, the littoral zones are currently 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 St. Johns River Water Management District 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.

- 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: While the project boundary of The Grow (South) does not lie within 2,000 feet of the Econlockhatchee River, there is a portion of the southwest corner of The Grow project area that does. 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.

### **Mitigation**

As mitigation for the project's impacts, the applicants are proposing to preserve 49.38 acres of onsite wetlands and the associated 50-foot 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. The preservation of onsite wetlands alone does not fully offset the proposed impacts; therefore, the applicants are also proposing to purchase 0.61 mitigation credits from the Lake X Mitigation Bank. The Grow (South) project area is located within the service area of Lake X Mitigation Bank, which is located in Osceola County. The combination of the proposed onsite preservation and mitigation credit purchase will adequately offset the proposed impacts.

### **Staff Findings and Recommendation**

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 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)(c), and Article XI, Section 15-442 and recommends approval of CAI Permit No. CAI-21-10-062, 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 – Parcels A, B, D and E' prepared by VHB, received by the Environmental Protection Division (EPD) on May 19, 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. Any permit extensions for the activities authorized herein may be approved by way of Consent Agenda if there are no changes.
4. The on-site preservation must be implemented in accordance with the 'Figure 1' exhibit submitted by Bio-Tech Consulting, Inc., and received by EPD on March 16, 2022. The preservation area should include a minimum of 49.38 acres of wetlands.
5. Wildlife corridors and potential wildlife crossings and signage are shown on the Wildlife Crossings and Potential Crossing Location Map submitted by Bio-Tech Consulting on March 21, 2022. Developer shall be required to show and include said crossings and signage on the construction plans subject to staff's determination that: (A) the crossings can be installed within the right-of-way depicted on the approved PSP, thus not requiring additional wetland and/or upland buffer impacts; and (B) the improvements will not create sight distance problems or other safety concerns. The wildlife crossings shall consider terrestrial and aquatic species as appropriate.
6. The monitoring and maintenance of the preservation areas shall be conducted in accordance with the 'Maintenance - Monitoring Plan' narrative submitted by Bio-Tech Consulting, Inc. and received by EPD on March 16, 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.
7. 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.
8. 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.
9. 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.
10. 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 EPD on May 19, 2022. The signs shall be installed prior the approval of the mass grading plans or subdivision construction plans.
11. 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

17. In an effort to protect the water quality of downstream waterbodies, the permittees will implement a Street Sweeping Program (Program) that will facilitate removal of leaves and other materials from the streets. The Street Sweeping Program consists of removing soil, vegetation and other debris from the curbed streets within the limits of the development. The Program will provide for weekly sweeping of curbed streets. This Program will be implemented, neighborhood by neighborhood, on a phased basis upon the Permittees filing a Notice of Termination of coverage under Florida Department of Environmental Protection's Construction Generic Permit. The Permittee's Program will be maintained and funded by the Property Owner's Association. An annual report shall be submitted to EPD at [WetlandPermitting@ocfl.net](mailto:WetlandPermitting@ocfl.net). The Report shall include the following:

- a. Annual Total weight and/or volume accumulated.
- b. Annual Number of curb miles streets swept.
- c. Map of streets swept.
- d. Documentation that accumulated materials have been disposed of properly in accordance with Rule 62-701, Florida Administrative Code.

General Conditions:

18. 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.
19. 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.
20. 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.
21. 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.
22. 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.

23. 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.
24. The permittees shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.
25. 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.
26. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
27. The permittees shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
28. 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.
29. 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.
30. 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.
31. 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.
32. 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.
33. 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 Conservation Area Impact Permit CAI-21-10-062 for The Grow (South) Planned Development, subject to the conditions listed in the staff report. District 5

JW/DDJ: jk

Attachments