



Interoffice Memorandum

June 5, 2017

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

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

**CONTACT PERSON: Lori Cunniff, CEP, CHMM, Deputy Director
Community, Environmental and Development
Services Department
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SUBJECT: June 20, 2017 – Public Hearing
Taylor Morrison of Florida, Inc., Conservation Area Impact Permit
Application No. CAI-16-04-018

The applicant, Taylor Morrison of Florida, Inc., is requesting a Conservation Area Impact Permit for 0.15 acre of direct Class I wetland and surface water impacts associated with construction of a new semi-private boat ramp facility on Lake Hancock. The Conservation Area Impact Permit (CAI) application accompanies semi-private boat ramp facility permit application (BR-16-04-000).

The project site is located at the intersection of Minuteman Loop and John Hancock Drive, on a lobe of Lake Hancock in Section 28, Township 23 South, Range 27 East. The Parcel ID No. is 28-23-27-9174-10-000. A location map is provided in the supporting documentation. The subject property is located in Orange County Commission District 1.

The project site is located within the West Lake Hancock Estates Subdivision, on a tract designated as open space, recreation area and boat ramp. The tract is approximately 800 feet wide and 210 feet deep. A small playground and outdoor amphitheater are located at the southern end of the tract. The adjacent lot to the south is undeveloped and will be a future single-family residence. The adjacent lot to the north is a completed single-family residence. The proposed boat ramp will be 140 feet long (as measured from the street) and 12 feet wide. The ramp will traverse a narrow wetland along the shoreline, and a small boat basin will be dredged within Lake Hancock to provide adequate depth for launching boats. Construction of the ramp and associated boat basin will require a total of 0.15 acre of direct impacts to Class I wetlands and surface waters.

Pursuant to Orange County Code, Chapter 15, Article X, Environmental Protection Division (EPD) staff have evaluated the proposed CAI Permit Application and required documentation.

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 applicant has demonstrated that the proposed site plan allows for reasonable use of the land and that there are no other feasible or practical alternatives available to further minimize the impacts to Class I wetlands.

The applicant has proposed to purchase 0.01 mitigation credits from the Latham Park Mitigation Area for the impacts related to the boat ramp construction. Based on the documentation and justifications provided by the applicant, the applicant has demonstrated that the proposed site plan allows for reasonable use of the land and that there are no other feasible or practical alternatives available to further minimize the impacts to Class I wetlands. In addition, the mitigation, as proposed, offsets the impacts.

Notification of the public hearing was sent via electronic correspondence on May 15, 2017, to the applicant's agent. Notification of the adjacent property owners is not required.

There is no current enforcement action on the subject property.

Staff Recommendation

Approval of the Conservation Area Impact Permit application subject to the following conditions:

Specific Conditions:

1. The wetland impacts must be completed in accordance with the "Boat Ramp Site Plans" submitted by Madden, Moorhead & Glunt Inc., dated as received by EPD on August 18, 2016, as revised on October 14, 2016, and March 22, 2017, and as submitted by Bio-Tech Consulting, Inc., and Fender Marine Construction, dated as received on December 1, 2016. Construction shall be completed within five years from the date of issuance of this permit unless extended in writing. Requests for permit extension must be submitted to the EPD prior to the expiration date.
2. Prior to initiating any construction within the wetlands and surface waters to be impacted, EPD shall receive documentation from the owner of the Latham Park Mitigation Area stating that the sale of 0.01 (0.19 acre) mitigation credits has been completed.
3. In the event that the permittee does not successfully complete the transaction to obtain the requisite 0.01 (0.19 acre) mitigation credits from the Latham Park Mitigation Area, the permittee shall obtain a permit modification from the Environmental Protection Officer (EPO) to provide alternative mitigation for the wetland and surface water impacts prior to the commencement of any construction activities.
4. 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.

5. The permittee shall notify EPD, in writing, within thirty days of any sale, conveyance, or other transfer of ownership or control of the real property subject to this permit. The permittee shall remain liable for all permit conditions and corrective actions that may be required as a result of any permit violations which occur prior to the transfer of the permit by Orange County to a subsequent owner. If applicable, no permit shall be transferred unless and until adequate financial assurance has been provided and approved by Orange County.
6. 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 Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP) pursuant to the requirements of 62-621.300(4)(a) F.A.C. As the Operator of the 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/contract 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.
7. All excess lumber, scrap wood, trash, garbage and similar materials shall be removed from conservation areas and/or surface water(s) immediately.

General Conditions

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

11. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
12. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee. In the event that any part of the structure(s) permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owner's riparian or other property rights, the permittee agrees to either obtain written consent or to remove the offending structure or encroachment within sixty 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.
13. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 15, Article X of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittee shall comply with the most stringent conditions. The permittee shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.
14. The permittee is hereby advised that Section 253.77, Florida Statutes, states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereign lands or other state-owned lands.
15. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.

16. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
17. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
18. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to either, at a minimum: inspect, sample, or test to ensure conformity with the plans and specifications approved by the permit.
19. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
20. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
21. The permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida, and initiated only in Orange County.
22. 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 Florida Administrative Code (FAC). Best Management Practices (BMPs), as specified in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (2013, or most current version), shall be installed and maintained at all locations where there is the possibility of transferring sediment, turbidity, or other pollutants, into wetlands and/or surface waters due to the permitted activities. BMPs are performance based, if selected BMPs are ineffective or if site-specific conditions require additional measures, then the permittee shall implement additional or alternative measures as necessary to prevent adverse impacts to wetlands and/or surface waters. Turbidity discharging from a site must not exceed 29 NTU over background for Class III waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters (OFW). A copy of the Designer and Reviewer Manual can be found at the following website: <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>
23. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant 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 applicant fails to obtain 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. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

Taylor Morrison of Florida, Inc., Application for a Conservation Area Impact Permit (CAI-16-04-018)

ACTION REQUESTED: **Approval of Conservation Area Impact Permit (CAI-16-04-018) for Taylor Morrison of Florida, Inc., subject to the conditions listed in the staff report. District 1**

JVW/LC: mg

Attachments