

INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT TECHNICAL STAFF REPORT
26-May-2017
APPLICATION #: 21769-5

Applicant: Casey Lyon
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(386) 943-5436

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Project Name: SR 414 (Maitland Blvd) widening: Hope Rd to US 17-92 interchange

Acres Owned: 28.1

Project Acreage: 28.1

County: Orange

STR:

Section(s):	Township(s):	Range(s):
25,26	21S	29E

30	21S	30E
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Receiving Water Body:

Name	Class
Lake Faith,Lake Charity	III Fresh

Authority: 62-330.020 (2)(c) , 62-330.020 (2)(d), 62-330.020 (2)(b), 62-330.020 (2)(a), 62-330.020 (2)(g)
Existing Land Use: Reservoirs(5300), Urban and build-up(1000)
Mitigation Drainage Basin: Lake Jesup
Special Regulatory Basin:
Final O&M Entity: FDOT
ERP Conservation Easements/Restrictions: No
Interested Parties: No
Objectors: No

Authorization Statement:

Authorization of a Stormwater Management System to serve SR 414 when expanded from four to six lanes over 1.45 miles between Hope Road and Maitland Avenue to be constructed and operated as per plans received by the District on December 13, 2016.

Recommendation: Approval

Reviewers: Lee Kissick; Ken Lewis

Staff Comments

Project Applicant and Sufficient Real Property Interest: *Under rule 62-330.060, Florida Administrative Code (F.A.C.), and subsection 4.2.3(d), Environmental Resource Permit Applicant's Handbook Volume I (ERP A.H. Volume I), a permit applicant must certify that it has sufficient real property interest over the land upon which the activities subject to the application will be conducted.*

FDOT either has ownership control or power of eminent domain over the property on which the proposed activities will be conducted.

Project Location and Brief Description:

The FDOT proposes to widen SR 414 from four to six lanes over 1.45 miles between Hope Road and the US 17-92 interchange in north central Maitland. The project also includes a new intersection to serve two proposed commercial developments, Maitland Concourse South (MCS) and Maitland Concourse North (MCN). The MCN development will share a pond (Pond 2) permitted under Permit IND-095-142388-2.

Permitting History:

The present project segment antedates effective state water resource permitting. The west end of the project dovetails with a SR 414 expansion authorized as part of the I-4 interchange improvements (e.g., 62355-25). On-site wetlands were defined in Dec 2015 by Formal Wetland Determination #FWD-095-142388-1.

Engineering

Description of Project (Surface Water Management System):

The project consists of widening SR 414 from four to six lanes between Hope Road and the US 17-92 interchange in north central Maitland, including intersection improvements at Maitland Concourse. Stormwater runoff will be treated and attenuated in three ponds. All three ponds will discharge directly into the Faith, Hope, and Charity chain of landlocked lakes.

Pond 1 is an existing dry retention pond located on the south side of SR 414, east of Maitland Concourse, that has previously been permitted for the proposed widening and improvements. Pond 3 is also an existing dry retention pond, located north of SR 414 on the west side of Maitland Avenue, that will be modified to accommodate the additional runoff from the proposed widening. Pond 2 will be located on the site of, and will function as a joint-use pond for, the proposed Maitland Concourse North (MCN) development (see Permit 142388-2). FDOT and the MCN developer have entered into agreements for the construction, operation, and maintenance of Pond 2.

Water Quality:

The applicant has submitted plans and calculations demonstrating that the proposed surface water management system will provide treatment and recovery of the required treatment volume for systems that discharge to a Class III waterbody.

Flood Protection:

The applicant has submitted plans and calculations demonstrating that the existing surface water management system, modified as proposed, will continue to provide for attenuation of the peak rate of discharge of stormwater runoff from the 25-year/24-hour storm event.

The applicant has submitted plans and calculations demonstrating that the proposed surface water management system will provide storage and recovery of the difference between the pre-development and the post-development runoff volume from the 25-year, 96-hour storm event.

Special Basin Criteria:

N/A

Operation and Maintenance:

FDOT

Environmental

Site Description:

The project occurs atop uplands within the SR 414 corridor that have long been cleared and graded for conversion to citrus groves and, later, more intensive urban land uses.

Impacts: *Subsection 10.2.2, ERP A.H. Volume I, states that an applicant must provide reasonable assurances that a regulated activity will not impact the values of wetland and other surface water functions so as to cause adverse impacts to: (a) the abundance and diversity of fish, wildlife and listed species; and (b) the habitat of fish, wildlife and listed species.*

No adverse wetland impacts will result from this project.

Secondary impacts: *Subsection 10.2.7, ERP A.H. Volume I, contains a four-part criterion that addresses additional impacts that may be caused by a proposed activity: (a) adverse impacts to wetland (and other surface water) functions and water quality violations that may result from the intended or reasonably expected uses of a proposed activity; (b) adverse impacts to the upland nesting habitat of bald eagles and aquatic or wetland dependent listed animal species; (c) impacts to significant historical and archaeological resources that are very closely linked and causally related to any proposed dredging or filling of wetlands or other surface waters; and (d) adverse wetland (and other surface) impacts and water quality violations that may be caused by future phases of the project or by activities that are very closely linked and causally related to the project.*

(Secondary impact items are addressed below according to their corresponding 10.2.7, A.H., subsection.)

a.) The road work is located in uplands that are sufficiently distant from offsite wetlands and other surface waters that the proposed activities will not cause unacceptable, adverse secondary impacts to their functions.

b.) The proposed project does not contain upland habitats that provide significant nesting, denning, or breeding habitat for wetland-dependent protected species.

c.) The project is within a heavily urbanized area and is unlikely to have significant effects on significant historical or archaeological resources.

d.) The project segment is the east terminal segment that connects to a six-lane segment authorized by a previous ERP so no future expansion phases are needed to

accommodate the lane expansion proposed here. Therefore, the project does not anticipate future phases that could result in adverse secondary impacts to wetlands.

Elimination/Reduction of Impacts: *Pursuant to Subsection 10.2.1.1, ERP A.H. Volume I, the applicant must implement practicable design modifications to reduce or eliminate adverse impacts to wetlands and other surface waters. A proposed modification that is not technically capable of being completed, is not economically viable, or that adversely affects public safety through endangerment of lives or property is not considered "practicable". Alternatively, an applicant may meet this criterion by demonstrating compliance with subsection 10.2.1.2.a. or 10.2.1.2.b, ERP A.H. Volume I.*

No adverse wetland impacts will result from this project.

Mitigation:

No adverse wetland impacts will result from this project.

Financial Assurance Mechanism:

No

Off-Site Mitigation:

no

Cumulative Impacts: *Subsection 10.2.8, ERP A.H. Volume I, requires applicants to provide reasonable assurances that their projects will not cause unacceptable cumulative impacts upon wetlands and other surface waters within the same drainage basin as the project for which a permit is sought. This analysis considers past, present, and likely future similar impacts and assumes that reasonably expected future applications with like impacts will be sought, thus necessitating equitable distribution of acceptable impacts among future applications. Under section 10.2.8, ERP A.H. Volume, when an applicant proposes mitigation that offsets a project's adverse impacts within the same basin as the impacts, the project does not cause unacceptable cumulative impacts.*

No adverse wetland impacts will result from this project.

Conclusion:

The applicant has provided reasonable assurance that the proposed project meets the conditions for issuance of permits specified in rules 62-330.301 and 62-330.302, F.A.C.

Conditions

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the District staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5, F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the District a fully executed Form 62-330.350(1), "Construction Commencement Notice,"[10-1-13], incorporated by reference herein (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), indicating the expected start and completion dates. A copy of this form may be obtained from the District, as described in subsection 62-330.010(5), F.A.C. If available, an District website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:

- a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex — “Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit” [Form 62-330.310(3)]; or
 - b. For all other activities — “As-Built Certification and Request for Conversion to Operational Phase” [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
- 7. If the final operation and maintenance entity is a third party:
 - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as-built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
 - b. Within 30 days of submittal of the as- built certification, the permittee shall submit “Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity” [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
- 8. The permittee shall notify the District in writing of changes required by any other regulatory District that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
- 9. This permit does not:
 - a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
 - b. Convey to the permittee or create in the permittee any interest in real property;
 - c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or

- d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
11. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
12. The permittee shall notify the District in writing:
 - a. Immediately if any previously submitted information is discovered to be inaccurate; and
 - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
13. Upon reasonable notice to the permittee, District staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the District will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.
19. This permit for construction will expire five years from the date of issuance.
20. All wetland areas or water bodies that are outside the specific limits of construction authorized by this permit must be protected from erosion, siltation, scouring or excess turbidity, and dewatering.
21. The operation and maintenance entity shall inspect the stormwater or surface water management system once within two years after the completion of construction and every two years thereafter to determine if the system is functioning as designed and permitted. The operation and maintenance entity must maintain a record of each required inspection, including the date of the inspection, the name and contact information of the inspector, and whether the system was functioning as designed and permitted, and make such record available for inspection upon request by the District during normal business hours. If at any time the system is not functioning as designed and permitted, then within 30 days the entity shall submit a report electronically or in writing to the District using Form 62-330.311(1), "Operation and Maintenance Inspection Certification," describing the remedial actions taken to resolve the failure or deviation.
22. The proposed project must be constructed and operated as per plans and calculations received by the District on December 13, 2016.