

INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT TECHNICAL STAFF REPORT
08-Nov-2018
APPLICATION #: 155439-1

Applicant: John R McDonald
McDonald Ventures XXXVIII, LLC
3715 Northside Pkwy NW Bldg 200 Ste 700
Atlanta, GA 30327-2886
(407) 536-5323

Owner: John R McDonald
McDonald Ventures XXXVIII, LLC
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Atlanta, GA 30327-2886
(407) 536-5323

Consultant: Chad Linn
Linn Engineering & Design
Po Box 140024
Orlando, FL 32814-0024

Project Name: Clermont Commerce Center
Acres Owned: 9.4
Project Acreage: 9.3592
County: Lake
STR:

Section(s):	Township(s):	Range(s):
34	22S	26E

Receiving Water Body:

Name	Class
Blacks Lake	III Fresh

Authority: 62-330.020 (2)(b), 62-330.020 (2)(d), 62-330.020 (2)(c)
Existing Land Use: Commercial and Services(1400), Coniferous Plantations(4410), Residential - Medium Density(1200)
Mitigation Drainage Basin: Southern Ocklawaha River
Special Regulatory Basin: Ocklawaha River , Lake Apopka Basin
Final O&M Entity: McDonald Ventures XXXVIII, LLC
ERP Conservation Easements/Restrictions: No
Interested Parties: No
Objectors: No

Authorization Statement:

Construction and operation of a Stormwater Management System for a 9.3592 - acre project known as Clermont Commerce Center to be constructed and operated as per plans received by the District on November 6, 2018.

Recommendation: Approval

Reviewers: Alyssa Alers; Ana Arsova

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.*

The permit applicant is the record title holder over the property on which the proposed activities will be conducted.

Project Location and Brief Description:

The project is located in the northeast corner of Hancock Road and Trade Avenue in Clermont. The proposed project includes construction of two warehouse/office buildings, truck court, driveways, parking and two stormwater retention ponds.

Permitting History:

No previous district permits.

The proposed activity as outlined on your ERP application and attached drawings does not qualify for federal authorization pursuant to the State Programmatic General Permit V (SPGP V) or SAJ-111 Coordination Agreements, therefore a SEPARATE permit or authorization may be required from the Corps. You may need to apply separately to the Corps using the appropriate federal application form. More information about Corps permitting may be found online in the *Jacksonville District Regulatory Sourcebook*. Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.

Engineering

Description of Project (Surface Water Management System):

The surface water management system includes two dry retention ponds that provide treatment and attenuation of stormwater runoff generated by the proposed development and neighboring offsite areas.

In the pre-development condition the runoff from the site, as well as neighboring areas to the south, east, and north, drain to an onsite depression. In the proposed post-development condition, Pond A will provide treatment and attenuation for the runoff from a portion of the neighboring property to the south, while Pond B will provide treatment and attenuation for the runoff from the proposed development, as well as the commercial development to the east, and a small area of the neighboring property to

the north. The proposed ponds will not discharge and will hold the entire runoff from the onsite and offsite areas.

Water Quality:

The applicant has demonstrated that the dry retention ponds will provide for treatment of the stormwater runoff generated by the proposed development pursuant to Section 5.0 and 13.7 ERP, A.H., Volume II.

Flood Protection:

The applicant has demonstrated that the stormwater management system will attenuate the peak discharge rate generated by the mean annual 24-hour storm event.

Special Basin Criteria:

The proposed project is located within the Lake Apopka Hydrologic Basin. The applicant has demonstrated that the proposed stormwater management system will not discharge water to Lake Apopka or its tributaries for the 100-yr, 24-hour storm event, and will recover the runoff from the storm event within 14 days following the storm event. In addition, the applicant will monitor the water elevations in the system for ten years following construction, as conditioned in the permit. The proposed project meets the criteria for issuance of a permit pursuant to Chapter 62-330 F.A.C. and Section 13.7 A.H. Vol II.

The proposed project is located within the Ocklawaha River Hydrologic Basin. The proposed development does not exceed any of the thresholds in Section 3.1 ERP, A.H., and therefore the Ocklawaha River Hydrologic Basin conditions are not applicable.

Operation and Maintenance:

The applicant will operate and maintain the system in accordance with Sections 12.3.1 and 12.4 ERP A.H. Vol I.

Environmental

Site Description:

The proposed project site is located at the northeast corner of Hancock Road and Trade Avenue in Clermont, Florida. The site is currently undeveloped and heavily wooded. The north central portion of the project site is most consistent with the Longleaf Pine-Xeric Oak classification. The northern and southern portions of the project site are most consistent with the Coniferous plantation classification. The northern portion is an old citrus grove that has been recently planted with slash pines. The project site is within the Ocklawaha River Hydrologic Basin and the Lake Apopka Hydrologic Basin. There are no wetlands or other surface waters within the project boundary.

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.

There are no proposed impacts to wetlands or other surface waters.

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.*

The proposed project site is sufficiently distant from any other wetland or surface waters to provide reasonable assurance that adverse secondary impacts will not result from the proposed works, pursuant to Section 10.2.7(a), ERP A.H. Volume I.

The proposed project does not contain upland habitats that provide significant nesting, denning, or breeding habitat for wetland-dependent "listed" species, therefore, the applicant has demonstrated that the project will not cause unacceptable impacts to uplands utilized by listed species, as described by Section 10.2.7(b), ERP A.H. Volume I.

No adverse, unacceptable impacts to archaeological or historical resources are anticipated to result from this proposed project, pursuant to Section 10.2.7(c), ERP A.H. Volume I.

No future phases of the project are anticipated, and the project is not anticipated to cause adverse secondary impacts to wetlands, pursuant to Section 10.2.7(d), ERP A.H. Volume I.

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.*

Design modifications were not necessary because impacts to wetlands or other surface waters were not proposed.

Mitigation:

Mitigation is not required because there are no adverse impacts to wetlands or other surface waters.

Financial Assurance Mechanism:

N/A

Off-Site Mitigation:

N/A

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.*

The proposed project will not cause unacceptable adverse cumulative impacts to wetland functions within the Ocklawaha River Hydrologic Basin.

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," (October 1, 2013) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), incorporated by reference herein, 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., and shall be submitted electronically or by mail to the Agency. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.
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 Operation 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 12.3.4 of Volume I) as filed with the Florida 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 and Maintenance 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 prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850) 245-6333, as well as the appropriate permitting agency office. Project activities 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 the proper authorities notified in accordance with Section 872.05, F.S. For project activities subject to prior consultation with the DHR and as an alternative to the above requirements, the permittee may follow procedures for unanticipated discoveries as set forth within a cultural resources assessment survey determined complete and sufficient by DHR and included as a specific permit condition herein.
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. At a minimum, all retention and detention storage areas must be excavated to rough grade prior to building construction or placement of impervious surface within the area to be served by those facilities. To prevent reduction in storage volume and percolation rates, all accumulated sediment must be removed from the storage area prior to final grading and stabilization.
21. In accordance with the monitoring requirements of Section 13.7(b)(2) of the ERP Applicant's Handbook, SJRWMD Volume II (October 1, 2013), the permittee shall monitor water elevations in the stormwater management system for ten years following completion of construction of the entire system, including all associated residential, commercial, transportation, or agricultural improvements. If the results of the monitoring indicate that the system is not recovering storage in accordance with the permitted design or causes water to be discharged to Lake Apopka or its tributaries for events less than the 100-year 24-hour storm event, then the permittee shall either perform maintenance that brings the system into compliance or obtain a modification to the permit and implement measures to bring the system into compliance, and in either event the monitoring shall continue for three years after the date the system is brought into compliance.
22. The permittee shall install a staff gauge in each retention pond in a clearly visible location, upon completion of construction of the system or upon any part of the system being used for its intended purpose. During the monitoring period, water level elevations in each pond shall be monitored once a month in the months of March, and June through December. A permanent record of water level measurements showing the date and time of day of the measurement, the depth (water level) and weather conditions shall be maintained by the permittee. These

records must be submitted to the District within 30 days of the end of each calendar year during the monitoring period.

23. 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.
24. The proposed project must be constructed and operated as per plans and calculations received by the District on November 6, 2018.