

INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT TECHNICAL STAFF REPORT
13-Feb-2020
APPLICATION #: 158467-1

Applicant: Jeff Fuqua
Hartwood Residential, LLC
401 Ferguson Dr
Orlando, FL 32805-1009
(407) 293-6562

Owner: Jeff Fuqua
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Consultant: John T Townsend
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Project Name: Hartwood Marsh Residential
Acres Owned: 115.89
Project Acreage: 98.29
County: Lake
STR:

Section(s):	Township(s):	Range(s):
16	23S	26E

Receiving Water Body:

Name	Class
Wetland	III Fresh

Authority: 62-330.020 (2)(a), 62-330.020 (2)(e), 62-330.020 (2)(b), 62-330.020 (2)(c) ,
62-330.020 (2)(d)
Existing Land Use: Herbaceous(3100), Live Oak(4270), Freshwater Marshes(6410), Streams and
Waterways(5100), Willow and Elderberry(6180), Coniferous Plantations(4410)
Mitigation Drainage Basin: Palatlakaha River Nested
Special Regulatory Basin: Ocklawaha River

Final O&M Entity: Hartwood Residential Homeowners Association, Inc.

ERP Conservation

Easements/Restrictions No

:

Interested Parties: No

Objectors: No

Authorization Statement:

Construction and operation of a Stormwater Management System for a 98.29 - acre project known as Hartwood Marsh Residential, as per plans received by the District on January 2, 2020 and amended Sheet C251 received by the District on January 28, 2020.

Recommendation: Approval

Reviewers: Sandra Joiner; Nicole Martin

Staff Comments

Project Applicant and Sufficient Real Property Interest:

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 on the south side of Hartwood Marsh Road, west of the intersection of Hancock Road and Hartwood Marsh Road in Clermont, Lake County. The project includes the construction of a 321-lot, single-family residential subdivision with associated roadway safety improvements to the adjacent Hartwood Marsh Road and the extension of Hancock Road. The stormwater management system for the residential development and adjacent roadways includes two master dry retention treatment ponds.

Permitting History:

There are no existing District permits for the project site.

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-R1 (SPGP V-R1) Coordination Agreement, 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 stormwater management system includes two interconnected dry retention ponds (Pond-1 and Pond-2) to provide for the treatment and attenuation of stormwater runoff

generated by the proposed residential development and Hartwood Marsh roadway safety improvements and Hancock Road extension. In the pre-development condition, the site drains to the west to a land-locked wetland. In the post-development condition, stormwater runoff will be conveyed to the retention system prior to discharge to the west as in the pre-development condition.

The design of the retention system was based on assumed impervious area for the future extension of Hancock Road (Basin Post-Hancock-2). An appropriate Environmental Resource Permit modification will be required prior to the construction of the roadway extension.

Water Quality:

Submitted plans and calculations show that the stormwater system is designed to provide water quality treatment for the proposed residential development, Hartwood Marsh roadway safety improvements, and Hancock Road extension, in accordance with Section 5.0, A.H. Vol II for discharge to Class III waters.

Water Quality Certification

This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Flood Protection:

Submitted plans and calculations show that the stormwater system is designed to provide volumetric attenuation of stormwater runoff generated by the proposed residential development, Hartwood Marsh roadway safety improvements, and Hancock Road extension for the 25-year, 96-hour storm event, pursuant to Sections 3.1 and 3.2.1, A.H. Vol II.

Special Basin Criteria:

The project is located within the Ocklawaha River Hydrologic Basin. The project is consistent with the conditions for permit issuance pursuant to Section 13.2, A.H. Vol II and Rule 40C-41.063(2), F.A.C., as follows:

Storm Frequency Standard: Submitted plans and calculations show that the stormwater system is designed to provide peak discharge rate attenuation of stormwater runoff generated by the proposed residential development, Hartwood Marsh roadway safety improvements and Hancock Road extension for the 10-year, 24-hour storm event. As such, this standard is met.

Runoff Volume: The project does not include pumped discharge. As such, this standard does not apply.

Operation and Maintenance:

The applicant has proposed that the project will be operated and maintained by a homeowners association identified as Hartwood Residential Homeowners Association,

Inc. and has provided draft articles of incorporation and a draft declaration of covenants and restrictions that meet the requirements of Section 12.3.1, A.H. Vol I.

Environmental

Site Description:

The project site consists predominately of a planted pine plantation along the eastern portions of the property while the western half of the property consists of two freshwater marshes and a scrub, willow wetland that extends offsite on the southern end of the property. The freshwater marsh system contain bushy bluestem (*Andropogon glomeratus*), primrose willow (*Ludwigia peruviana*), pickerelweed (*Pontederia cordata*), duck potato (*Sagittaria latifolia*), maidencane (*Panicum hemitomom*), saltbush (*Baccaris halimifolia*), wax myrtle (*Myrica cerifera*), and torpedograss (*Panicum repens*). The scrub wetland consists mainly of Carolina willow (*Salix caroliniana*), but also includes saltbush, wax myrtle, black gum (*Nyssa sylvatica*), red maple (*Acer rubrum*), cattail (*Typha* spp.), and spatterdock (*Nuphar lutea*). Historically, a surface water feature was excavated along the eastern side of the wetlands. Dirt trails and roads throughout the site is evidence of past activities by all-terrain vehicles and silviculture practices associated with the pine plantation.

Impacts:

The project involves work within 0.02 acre of the surface water for the installation of a turf reinforcement mat to stabilize the bank of the ditch associated with a concrete weir. The activity meets the exemption criteria in Chapter 62-330.051(9), F.A.C; therefore, mitigation is not required to offset impacts to this system.

Secondary impacts:

The project meets the secondary impact criteria of subsection 10.2.7, A.H., Volume I, as follows:

a) The proposed activities were assessed for the potential to result in unacceptable secondary impacts, as defined in section 10.2.7(a), ERP A.H. Volume I. The applicant has designated a 25-foot average, 15-foot minimum undisturbed upland buffer directly abutting the three wetland systems to the west of the project limits within the project boundaries. The applicant has proposed permanent "Conservation Area" signage along the landward side of the buffer placed at 50-foot intervals. In addition, these signs will also be placed at 100-foot intervals along the western edge of the stormwater ponds along the surface water as shown on amended Sheet C251 received by the District on January 28, 2020. The buffer and permanent signage provide reasonable assurance that adverse secondary impacts will not result from maintenance activities associated with the stormwater ponds and usage of the development.

b) no evidence was observed that the upland portions of the site are being utilized by bald eagles, and aquatic and wetland dependent listed species for nesting and denning;

c) no adverse impacts to cultural resources are anticipated; and

d) there are no known future phases or expansion, or very closely linked and causally related on-site or off-site activities that would result in adverse impacts.

Elimination/Reduction of Impacts:

The applicant has demonstrated that the impacts cannot be further reduced or eliminated, pursuant to Section 10.2.1, A.H. Vol. The proposed impacts are necessary and have been reduced through practicable design modifications.

Mitigation:

No adverse impacts to wetlands or other surface waters are proposed.

Financial Assurance Mechanism:

None.

Off-Site Mitigation:

None.

Cumulative Impacts:

No adverse impacts to wetlands or other surface waters are proposed. The proposed project will not cause any unacceptable cumulative impacts to wetlands or other surface waters located within the Palatlahaha River Nested Basin.

**Wetland Summary Table
Hartwood Marsh Residential**

	<u>Acres</u>
Total Surface Water, Upland RHPZ and Wetlands in Project	
Wetlands	0.000
OSW	2.940
Upland RHPZ	0.000
Total	2.940
Impacts that Require Mitigation	
Total	0.000
Impacts that Require No Mitigation	
Total	0.020
Mitigation	
On-Site	
Total	0.000
Off-Site	
Total	0.000

Other

0.000

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. 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.
22. 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.
23. This permit does not authorize the permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a "take" permit cannot be issued. Requests for further information or review can be sent to FWCConservationPlanningServices@MyFWC.com.
24. The proposed stormwater management system shall be constructed and operated in accordance with the plans received by the District on January 2, 2020 and amended Sheet C251 received by the District on January 28, 2020.
25. The design of the retention system was based on assumed impervious area for the future extension of Hancock Road. An appropriate Environmental Resource Permit modification shall be obtained prior to the construction of the roadway extension.
26. Prior to the construction of the activities authorized in this permit, per the approved plans, the permittee must install permanent conservation signs on the west side of the two dry retention ponds and along the landward side of the upland buffers abutting the wetlands. The signs along the western edge of the ponds shall be installed every 100 feet and the signs landward of the upland buffers shall be installed every 50 feet as shown on amended Sheet C251, received by the District on January 28, 2020. These signs shall state:

“CONSERVATION AREA: No dumping, land clearing, or other disturbance to vegetation will be permitted beyond this point.”