Board of County Commissioners

Proposed Amendments to Chapter 15, Article X. Wetland Conservation Areas

Work Session

September 26, 2023

Agenda

- Background
- Stakeholder Engagement
- Draft Code Provisions
  - Administrative Process
  - Tiered Permitting
  - Sensitive Areas
  - Upland Buffers
  - Mitigation
- Summary and Next Steps

Cypress dome in Orange County

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Wet Prairie in Orange County

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Background

- Board engagement
  - December 2021: Work session on current wetland permitting and review processes
  - Fall/Winter 2022: Wetland tours
  - December 2022: Work session on Regulatory Framework Study
    - Study framework
      - Review of differences between other counties, state, and federal regulations
      - Interviews and feedback from development community, NGOs, and six other counties
    - Key take aways
      - Article X is outdated and should be updated to reflect current practices
      - Utilize study findings to develop concepts for revised ordinance

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Background

- **Board engagement**
  - **January 2023: Work session on State of the Wetlands study**
    - **Study framework**
      - **Assessed changes in wetland coverage and function over time in Orange County**
      - **Analyzed ecosystem services associated with loss of wetland function**
    - **Key take aways**
      - **5.6% wetland loss between 1990-2020 (excluding Lake Apopka Restoration)**
      - **Wet prairie acreage reduced by 37% between 1990-2020**
      - **Hydric pine flatwoods increased in acreage (+100%)**
      - **Shifts in wetland community types over time; succession and other impacts**
      - **Increases in fragmentation for most wetland types**
      - **Many mitigation sites showed functional loss after 10 years, often due to invasive encroachment**

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Background

- **Board engagement**
  - **April 2023: Work session on Policy and Key Recommendations**
    - **Presented initial concepts for ordinance revision**
      - **Tiered permitting approach**
        - » **Noticed General Permits**
        - » **Standard Permits**
      - **Additional special protection areas**
      - **Upland buffer protection**
      - **New mitigation approach**

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Background
Board Feedback

- Enhance Protections
  - Additional special protection areas
  - Protect upland buffers
  - Municipality coordination
  - Sustainable growth
- Improve Permitting Process
  - Diversify permit types
  - Modernize code
  - Data-driven decision making
  - Balance property rights

- Enhance Protections
  - Promote in-County mitigation
  - Easements in perpetuity
  - Improve maintenance & monitoring requirements
  - Mitigate effects of flooding
- Increase Predictability
  - Clarify definitions
  - Codify processes
  - Education and outreach
  - Streamlining

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Stakeholder Engagement Session

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Stakeholder Engagement

- Stakeholder engagement sessions
  - May to July 2023, six meetings, in-person and virtual
  - NGOs, development community, municipalities, and the public
- Conference presentations:
  - June 2023: Florida Local Environmental Resource Agencies (FLERA)
  - June 2023: Florida Association of Counties (FAC)
  - August 2023: Florida Lake Management Society (FLMS)

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Stakeholder Engagement

- Advisory Board Work Sessions
  - February 2023:
    - Agricultural Advisory Board (AAB)
  - April 2023:
    - Environmental Protection Commission (EPC)
    - Sustainability Advisory Board (SAB)
    - Development Advisory Board (DAB)
    - Local Planning Agency (LPA)

LPA Work Session - April 2023

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Stakeholder Engagement

Feedback Summary

Administrative Process

- Expedite permitting for minimal impact activities
- Combine CAD/CAI process
- Staff issue most permits
- Clarify definitions
- Do not assume State permitting authority

Tiered Permitting

- Utilize exemptions or a streamlined process
- Support for Noticed General Permit concept
- Support for removing wetland classification system
- Include avoidance & minimization

Sensitive Areas

- Focus increased protections in vulnerable areas
- Allow only minimal amendments to existing conservation easements
- Adopt larger buffers than minimum standard

Buffers

- Large buffers are important for wildlife and wetland longevity
- 100-foot buffer too much; or not enough
- Clarify when smaller/larger buffer required

Mitigation

- Concern with in-County mitigation availability
- Perpetual maintenance enforceability
- Suitability of mitigation
- Clarify County & State differences

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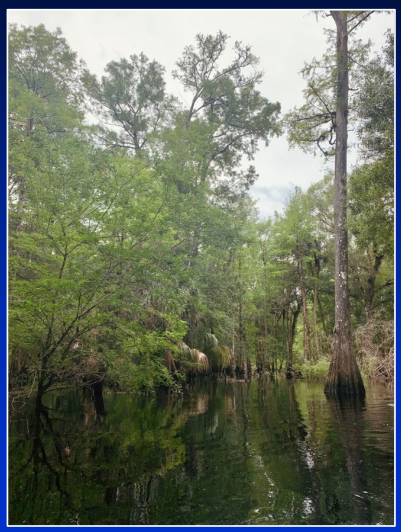

Big Econlockhatchee River – Orange County

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Draft Code Provisions
Refined Concepts

Administrative Process	Tiered Permitting Approach	Establishment of Sensitive Areas	Upland Buffers	Mitigation
Improve purpose and authority regarding wetland protections	Utilize Noticed General Permit and Standard Permit in lieu of a single permit type (CAI)	St. Johns River basin	Minimum 100' buffer with exceptions for parcels with limited uplands	Incentivize valuable in-County mitigation
Clarify definitions and codify processes	Eliminate Class system and assess wetlands based on quality and functionality (UMAM)	Shingle Creek basin	Larger or smaller buffers may be appropriate in some cases	Accept only valuable conservation easements as mitigation
Improve and clarify application instructions	Increase level of review scrutiny and required analyses with increasing impact size and wetland function			Require wetland monitoring, maintenance and groundwater monitoring in perpetuity

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Lake in Orange County

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Administrative Process

Wetland Identification	• Current: Conservation Areas • Revised: Wetlands and Surface Waters
Wetland Protection	• Current: "Significance", "Productivity" and classification system • Revised: Wetland functionality and modifiers
Authority	• Robust purpose language • Wetland protection, effective mitigation, discourage alteration, recognizes property rights • Reinforces County authority to protect wetlands

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Administrative Process

- **15-362 – Legislative Findings**
  - **Provide focus on protection of wetlands, surface waters, and their function**

(1) The county contains ~~large~~ wetlands and surface waters which **provide functions and environmental benefits that support the public health, safety, and welfare**. ~~are significant and productive in the maintenance and preservation of viable populations of plant and animal species~~. The functional value of wetlands and surface waters is demonstrated by, but not limited to, their ability to **enhance water quality**, **provide habitat** for plant and animal species, **recharge groundwater and aquifer resources**, regulate local climactic conditions, provide **recreational and educational opportunities** for the public, and **alleviate local and regional flooding**.

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Administrative Process

- **15-362 – Legislative Findings**
  - **Discourages alteration and recognizes property rights**

(5) ~~Where wetlands serve a significant and productive environmental function~~, The public health, safety, and welfare require that **any alteration or development affecting** ~~such lands~~ **wetlands or surface waters is discouraged** and such alteration should be so designed and regulated so as to **minimize, limit, or eliminate** any impact to wetland or surface water functions ~~upon the beneficial environmental productivity of such lands~~, **consistent with the development rights of property owners.**

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Administrative Process

- **15-362 – Legislative Findings**
  - **Recognizes findings of the State of the Wetlands Study**

(6) Based on findings from the **Orange County State of the Wetlands Study** in 2023, wetlands in the county have experienced a **decline in acreage**, an indication of decline in **wetland functionality**, and **increased fragmentation** since the adoption of this article in 1987. Accordingly, the intent of this ordinance is to **limit the effects of these trends** in ways that ensure the county can continue to **experience growth in a sustainable manner**. ~~Many of the environmentally productive functions of wetlands in their natural state can be replaced or duplicated, and natural inefficiencies or limitations in such functions can be reduced by providing for mitigation of harm to such functions in the design and development of land improvements.~~

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Administrative Process

- **15-363 – Purpose**
  - **Wetland protection**

(1) The purpose of this article is to **protect wetlands and surface waters**, and thereby public health, safety, and welfare, through the regulation of activities that may result in the alteration of wetlands and surface waters within the county. This article serves to establish procedures that accomplish ~~for the classification and management of~~ the following:

(a) To **discourage development or alteration of wetlands and surface waters that provide beneficial services and functions** ~~The identification of all potential conservation areas as Class I, Class II, or Class III conservation areas.~~

(b) **To protect, conserve, enhance, and preserve the ecological value, function, and diversity of wetlands, surface waters, associated uplands, and other natural resources in Orange County**

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Administrative Process

- **15-363 – Purpose**
  - **Avoidance and minimization of wetland impacts; Effective mitigation; Recognition of property rights**

(c) To provide regulations and standards that **minimize, limit, or avoid** the alteration of wetlands and other surface waters ~~Quantifiably documenting and comparably measuring the significance and viability of conservation areas under natural, altered and developed conditions.~~

(d) **Effective mitigation** and compensation programs designed to enhance, replace or alter the functioning of **wetlands and surface waters** ~~conservation areas~~ in conjunction with development activity.

(e) To recognize the **rights of individual property owners** to use their lands in a reasonable manner

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Administrative Process
New Definitions

- **Definitions (Section 15-364) added to provide clarity:**

Alteration	*Avoidance*	*Cumulative Impact*
Development	*Invasive/Nonnative*	*Listed Species*
Minimization	*Mitigation*	*Practicable*
Reasonable Alternatives	*Secondary Impacts*	*Surface Waters*
Upland Buffer	*Urban Infill*	*Vulnerable Habitat*
Wetland function		

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Administrative Process
New Definitions

- **Definitions (Section 15-364):**
  - ***Avoidance*** **shall mean mitigating an impact to wetlands or surface waters and their functions by selecting the least-damaging project type, spatial location, and extent compatible with achieving the purpose of the project.**
  - ***Minimization*** shall mean mitigating an impact to wetlands or surface waters and their functions by **managing the severity of a project's impact** on natural resources at the selected project site. Minimization is achieved through the incorporation of **appropriate and practicable design and risk avoidance measures.**

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Administrative Process
New Definitions

- **Definitions (Section 15-364):**
  - ***Mitigation*** shall mean a wetland enhancement, restoration, creation, and/or preservation project that serves to offset unavoidable wetland impacts and to compensate for the functional loss resulting from a permitted wetland impact remedying wetland impacts by repairing, rehabilitating or restoring affected habitat, creating similar habitat of equal or greater function, habitat, or unique upland habitat, any combination thereof or other offsetting process.
  - ***Upland Buffer*** shall mean natural areas of vegetation surrounding a wetland and/or surface water that is utilized to minimize man-induced disturbances, including the secondary impacts of development. Upland buffers may be areas with trees, shrubs, or grasses adjacent to wetlands and/or surface waters.

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Administrative Process
Wetland Determination

- **Section 15-378: Wetland ~~Conservation area classification~~ determination:**
  - The determination of the presence or absence of wetlands and surface waters ~~conservation areas, their classification as Class I, II, or III,~~ the extent and location of the wetland and surface waters, ~~conservation area~~ and the appropriate level of protection or mitigation as described in Division 3 ~~sections 15-396(2) and 15-419(1) or mitigation~~ will be reviewed according to 62-340 and 62-345 F.A.C., as amended by the Legislature. ~~and will follow two (2) processes: a staff review (informal) or formal review.~~ The environmental protection division is not bound to accept wetland determinations or delineations determined by other agencies except in cases where a valid Formal Wetland Determination (F.S. 373.421) has previously been made by a state agency, or pursuant to a permit issued under Chapter 373 Florida Statutes in which the delineation was field-verified by the permitting agency and specifically approved by binding permit conditions.

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Administrative Process
Wetland Determination

- **Section 15-378: Wetland ~~Conservation area classification~~ determination:**
  - **(1) Applicability**

(a) A wetland determination is **required for all permit applications**.

(b) Where practicable, a wetland determination will be **reviewed in conjunction with a permit application.**

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  - **Tiered Permitting**
  - Sensitive Areas
  - Upland Buffers
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Canal on Butler Chain of Lakes

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Tiered Permitting
Concept Overview

- **Noticed General Permits (NGPs)**
  - Issued only for ***minimal individual and cumulative impacts***
    - Development Activities (ex. Commercial, residential, urban infill)
    - Beneficial Activities (ex. Wetland or water quality restoration)
- **Standard Permits**
  - Categorized based on wetland function and acreage of wetland impacts
  - Levels increase in review steps, required analyses and approvals
    - Level 1
    - Level 2
    - Level 3

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - (1) The environmental protection division shall review every application to determine the **wetland function** ~~number of habitat units~~ existing before the activity and the wetland function ~~number estimated~~ anticipated after the proposed activity, based on direct and secondary impacts. Each application shall include a functional assessment utilizing UMAM (62-345, F.A.C.) and propose to offset impacts to wetlands, surface waters, and their functions through compensatory mitigation as described in Division 3 of this article. ~~demonstrate the preservation, creation or restoration of an equal number of habitat units after the proposed activity, except as permitted in divisions 3 and 4 of this article.~~
  - (3) In reviewing each application, the environmental protection division shall determine if the proposed activity may qualify for either a **Noticed General Permit or a Standard Permit**. The environmental protection division will review the application for completeness and **issue either a Request for Additional Information (RAI) or issue/deny a permit within thirty (30) days.**

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - **Noticed General Permits – Development-related Activities**

(8) The following development-related activities may qualify for a Noticed General Permit provided the proposed activity meets all requirements associated with each activity type:

(a) **Fill for Single-Family homesites** where the wetland **impact is less than 0.25-acres where there is less than 0.25 acres of contiguous uplands** to make any reasonable use of the land otherwise

(b) **Fill for isolated artificial surface waters or ponds** that are entirely created from uplands and do not connect to any other wetlands or surface waters

(c) **Fill for upland cut drainage ditches**

(d) **Commercial development, residential development, and urban infill where the wetland impact is less than 0.25-acres**

(e) **Commercial and residential development with only secondary impacts**

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - **Noticed General Permits; Single Family Homesite criteria**

(6) **Single Family Homesites – Limited wetland and surface water impacts for single family homes shall be allowed where there is insufficient contiguous upland property to make a reasonable use of the land otherwise.** Reasonable use of the land does not mean the highest and best use of the property. The footprint of the home, accessory uses, and on-site sewage disposal system shall be sited to avoid direct and secondary impacts to wetlands and surface waters to the extent possible. **Generally, a reasonable site plan for a single-family home would include the footprint of the home, driveway, septic system, and a yard and/or pool that is designed to minimize the total footprint** of the home.

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - **Noticed General Permits – Beneficial Activities**

(9) The following routine or environmentally beneficial activities may qualify for a Noticed General Permit provided the proposed activity meets all requirements associated with each activity type:

(a) Maintenance activities

(b) Invasive/Nonnative plant removal

(c) Wetland enhancement and/or restoration

(d) Water quality enhancement

(e) Public flood protection projects

(f) Utilities with temporary impacts

(g) Intake or Outfall structures

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - **Unallowable Noticed General Permits – Development-related Activities**

(f) A Noticed General Permit **will not be issued** for the above **development-related activities** if any of the following conditions are associated with the application:

(i) **Outstanding Florida Waterways** (OFWs) located within 150 feet of the project site construction footprint

(ii) **Listed wetland-dependent species nesting** within the project site

(iii) Wetland functional assessment score, as described in 62-345 F.A.C., of the proposed wetland impact is **greater than or equal to 0.8**

(iv) Proposed impacts to a **conservation easement**, further described in Section 15-383

(v) Proposed impacts that result in a **severance of wildlife corridors**

(vi) The project site has **already been issued a Standard Permit**

(vii) Proposed **impacts are not for a single, complete project**

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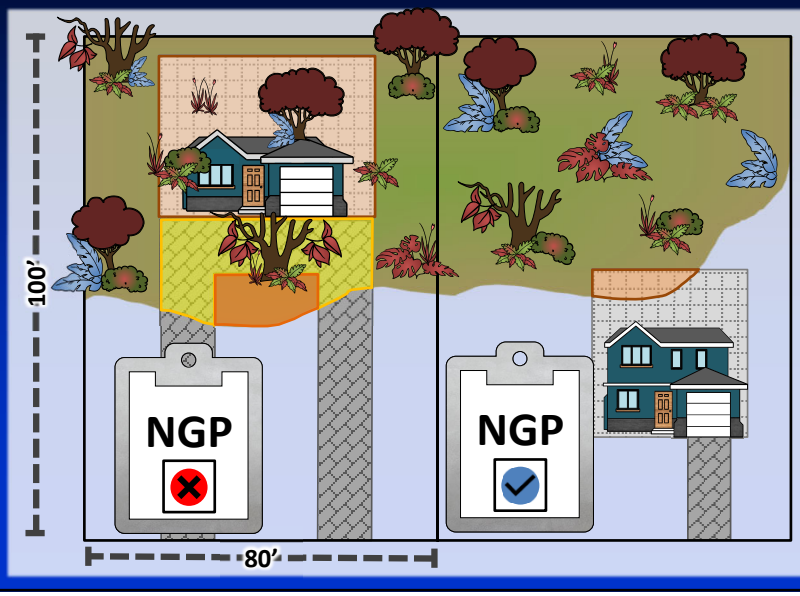
Tiered Permitting
NGP – Single Family Homesite Example



NGPs – Single Family Home Example

- House Pad
- Driveway
- Wetland Area
- Upland Area
- House Pad in Wetland
- Driveway in Wetland
- Fill in Wetland

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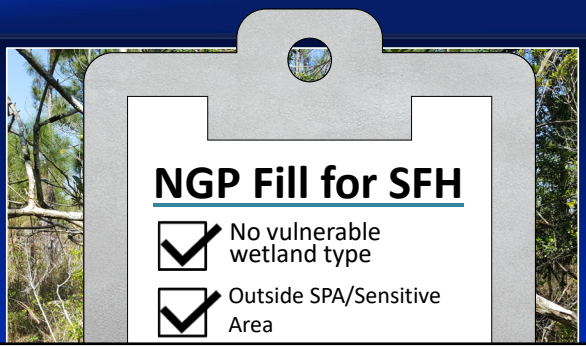
Tiered Permitting
NGP Processing Example

East Orlando Single Family Homesite

- Class III Impact
- 0.17 acres



REVISED CODE

1 day — NGP Application received

15-30 days — OC Staff Review

3-7 days — Supervisor Review

3-7 days — Approved by Administrator

1-2 Months

PROCESS NGP → SUPERVISOR REVIEW → ADMINISTRATOR APPROVAL

WETLAND LIMITS REVIEW
UMAM ASSESSMENT

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Tiered Permitting
Standard Permits

- **Size of impact and wetland functionality determine level of review, type and depth of impact analyses, and approval requirements**
- **Other factors (modifiers) impact the permitting level**

Permit Levels
SP Level 1
SP Level 2
SP Level 3

STANDARD PERMITTING MATRIX

UMAM Score	Wetland Impact (Acres) ≤ 2.0	> 2.0-10.0	> 10.0-25.0	>25.0
10				
9				
8				
7				
6				
5				
4				
3				
2				
1				

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - **Avoidance and minimization requirements for Standard Permits**

(4) Every application that qualifies for a Standard Permit, as described in this section, shall demonstrate how the proposed activity will avoid or minimize alterations or impacts to wetlands and surface waters to the maximum extent practicable. Review standards for avoidance and minimization are as follows:

(a) Wetland and surface water **impacts shall be conducted, located, designed, and/or constructed so that they cause the least environmentally adverse impact possible**

(b) Applicants must demonstrate actions to **first avoid, then minimize** wetland impacts to the maximum extent practicable, including, but not limited to **reducing the size, scope, configuration, or density of the project as proposed and developing environmentally preferable alternative project designs.**

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - **Standard Permits – Level 1**

(a) Level 1: Activities resulting in unavoidable impacts to wetlands where the direct wetland impact is less than or equal to 2 acres in size with a Uniform Mitigation Assessment Method (UMAM) functional score between 0.1-0.79; or activities resulting in unavoidable impacts to wetlands where the wetland impact is between 2.01-10 acres with a UMAM score less than 0.4.

(i) **Level 1 applications will require a limited cumulative impact analysis if wetland mitigation is facilitated outside of Orange County**, further described in Section 15-380.

(ii) Level 1 applications will undergo a **minimum of two levels of staff review** and will be **approved by the environmental protection division assistant manager**

(iii) Level 1 applications must demonstrate **avoidance and minimization** of wetland impacts to the extent practicable, and according to the requirements in this Section.

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - **Standard Permits – Level 2**

(b) Level 2: Activities resulting in unavoidable impacts to wetlands where the direct wetland impact is less than or equal to 2 acres with a UMAM functional score greater than or equal to 0.8; or activities resulting in unavoidable impacts to wetlands where the wetland impact is between 2.01-10 acres with a UMAM functional score between 0.4 – 1; or activities resulting in unavoidable impacts to wetlands where the wetland impact is between 10.01 - 25 acres with a UMAM functional score less than 0.6.

(i) Level 2 applications will require a **limited cumulative impact analysis**, further described in Section 15-380.

(ii) Level 2 applications will require a **secondary impact analysis**, further described in Section 15-380.

(iii) Level 2 applications will undergo a **minimum of three levels of staff review** and will be **approved by the environmental protection division manager**

(iv) Level 2 applications must demonstrate **avoidance and minimization** of wetland impacts to the extent practicable, and according to the requirements in this Section.

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Tiered Permitting

- **Section 15-379: Permit review standards**
  - **Standard Permits – Level 3**

(c) Level 3: Activities resulting in unavoidable impacts to wetlands where the direct wetland impact is between 10.01 - 25 acres with a UMAM functional score greater than or equal to 0.6; or activities resulting in unavoidable impacts to wetlands where the wetland impact is greater than 25 acres, regardless of UMAM functional score.

(i) Level 3 applications will require a **pre-application meeting** with the environmental protection division

(ii) Level 3 applications will require a **detailed cumulative impact analysis**, further described in Section 15-380.

(iii) Level 3 applications will require a **secondary impact analysis**, further described in Section 15-380.

(iv) Level 3 applications will require an **alternatives analysis**, further described in Section 15-380.

(v) Level 3 applications will undergo a **minimum of four levels of staff review** and will be subject to **public hearing and approval by the Board of County Commissioners**. Level 3 applications must include a notarized Relationship Disclosure Form to declare whether or not the applicant has any relationship with the Mayor or any other member of the Board of County Commissioners

(vi) Level 3 applications must demonstrate **avoidance and minimization** of wetland impacts to the extent practicable, and according to the requirements in this Section.

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Tiered Permitting
Standard Permits and Modifiers

- Raw score determined by size of impact and wetland functionality
- Incentive and deterrent modifiers may move the application up or down up to one level

Standard Permit Levels
SP Level 1 (1.0 - 1.9)
SP Level 2 (2.0 - 2.9)
SP Level 3 (3.0 - 3.9)

STANDARD PERMITTING MATRIX

UMAM Score	Wetland Impact (Acres) ≤ 2.0	> 2.0-10.0	> 10.0-25.0	>25.0
10	2.3	2.9	3.7	3.9
9	2.2	2.8	3.6	3.8
8	2.1	2.7	3.5	3.7
7	1.9	2.6	3.4	3.6
6	1.7	2.5	3.3	3.5
5	1.5	2.4	2.9	3.4
4	1.4	2.3	2.8	3.3
3	1.3	1.6	2.7	3.2
2	1.2	1.5	2.6	3.1
1	1.1	1.4	2.5	3.1

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Tiered Permitting
Standard Permits and Deterrent Modifiers

Deterrent Modifier	Score Delta
OFW within 150 feet	+0.5
SPA or Sensitive Area	+0.5
CE Impact (<3 acres)	+0.2
CE Impact (>3 acres)	+0.4
Imperiled wetland-dependent species nesting onsite	+0.4
Wildlife corridor impact	+0.3
Impact to Vulnerable Habitat (SOTW Study) or Important Wetlands & Surface Waters (Vision 2050)	+0.3

STANDARD PERMITTING MATRIX

UMAM Score	Wetland Impact (Acres) ≤2.0	> 2.0-10.0	> 10.0-25.0	>25.0
10	2.3	2.9	3.7	3.9
9	2.2	2.8	3.6	3.8
8	2.1	2.7	3.5	3.7
7	1.9	2.6	3.4	3.6
6	1.7	2.5	3.3	3.5
5	1.5	2.4	2.9	3.4
4	1.4	2.3	2.8	3.3
3	1.3	1.6	2.7	3.2
2	1.2	1.5	2.6	3.1
1	1.1	1.4	2.5	3.1

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Tiered Permitting
Standard Permits and Deterrent Modifiers

Incentive Modifier	Score Delta
Non-native/invasive removal	-0.3
Reduces fragmentation (bridge or infill)	-0.2 to -0.4
+25-75' upland buffer	-0.3
+75-150' upland buffer	-0.5
+150' or more upland buffer	-0.7
Sufficiently-sized in-County mitigation	-0.5
Demonstrated public benefit	-0.5
Wetland enhancement beyond mitigation requirements	-0.2
Stormwater treatment system – high nutrient reduction	-0.5

STANDARD PERMITTING MATRIX

UMAM Score	Wetland Impact (Acres) ≤2.0	> 2.0-10.0	> 10.0-25.0	>25.0
10	2.3	2.9	3.7	3.9
9	2.2	2.8	3.6	3.8
8	2.1	2.7	3.5	3.7
7	1.9	2.6	3.4	3.6
6	1.7	2.5	3.3	3.5
5	1.5	2.4	2.9	3.4
4	1.4	2.3	2.8	3.3
3	1.3	1.6	2.7	3.2
2	1.2	1.5	2.6	3.1
1	1.1	1.4	2.5	3.1

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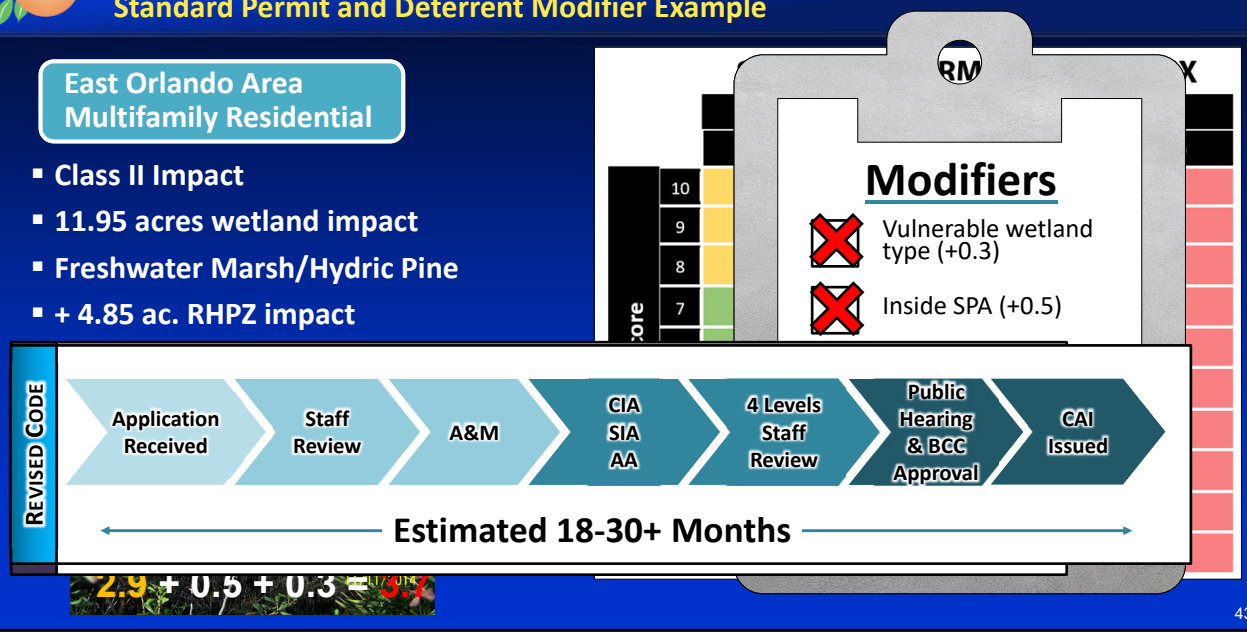
Tiered Permitting
Standard Permit and Deterrent Modifier Example

East Orlando Area Multifamily Residential

- Class II Impact
- 11.95 acres wetland impact
- Freshwater Marsh/Hydric Pine
- + 4.85 ac. RHPZ impact



Revised Code

Application Received → Staff Review → A&M → CIA SIA AA → 4 Levels Staff Review → Public Hearing & BCC Approval → CAI Issued

Estimated 18-30+ Months

2.9 + 0.5 + 0.3 = 3.7

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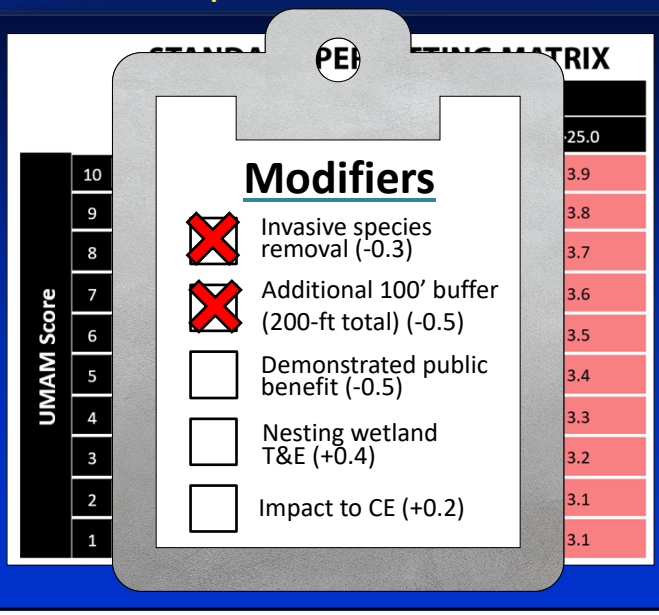
Tiered Permitting
Standard Permit and Incentive Modifier Example

Hypothetical Commercial Development

- 2.5 acres wetland impact
- Mixed hardwood wetland (not vulnerable habitat)
- UMAM functional score = 6
- Class III under existing code

Permit Levels
SP Level 1 (1.0 - 1.9)
SP Level 2 (2.0 - 2.9)
SP Level 3 (3.0 - 3.9)

2.5 - 0.3 - 0.5 = 1.7



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Tiered Permitting

- **Section 15-380: Required Analyses**
  - **Cumulative Impact Analysis**

(1) Cumulative Impact Analysis (CIA) – involves an evaluation of the **combined, incremental effects** of human activity, referred to as cumulative impacts, that pose a serious threat to the environment. The extent of a CIA should be commensurate with the potential for significant impacts. Each CIA will vary by activity type, location, resource size, and current conditions. The following shall be included in an CIA:

(a) Defining the Study Area to the CIA – shall include the project's **direct and secondary impact analysis**

(b) **Past, Present and Reasonably Foreseeable Future Actions**:

(i) Past actions are those actions that already occurred and may warrant consideration in determining the environmental impacts of an action;

(ii) Present actions are any other activities that are simultaneously occurring along with the proposed project;

(iii) Reasonably foreseeable future actions are possible activities, not speculative, that may affect the proposed project

(c) **Significance Determination** that describes the **current health of the resource** and **determines whether or not the proposed impacts pose a significant impact** based upon past, current and reasonably foreseeable actions.

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Tiered Permitting

- **Section 15-380: Required Analyses**
  - **Secondary Impact Analysis**

(2) Secondary Impact Analysis (SIA) shall **evaluate the effect of the proposed impacts within 100 feet or greater depending on the activity type, of the adjacent remaining wetland areas.** The SIA shall incrementally consider the secondary effects the project poses to the wetland community in incremental stages of 25 feet. The health of the remaining wetland after the proposed activity shall be evaluated in the SIA. The SIA shall consider whether the reasonably foreseeable impacts would be temporary or permanent, the severity of the impact (minor or substantial) and how the impact result (Negative, Neutral or Positive) will affect the resource.

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Tiered Permitting

- **Section 15-380: Required Analyses**
  - **Alternative Analysis**

(3) Alternative Analysis (AA) shall demonstrate that there are **no practicable alternatives for the proposed activity in uplands** and the proposed activity which impacts wetlands and/or surface waters has **avoided and minimized wetland impacts to the maximum extent practicable**. The extent of the AA will vary based upon the size of the wetland impacts. At a minimum, the AA shall include the **No Action Alternative and two additional alternatives** (including the proposed project). The following four components shall be included in every AA:

(a) **Availability** – an area not presently owned by the applicant that could reasonably be obtained and utilized by the applicant

(b) **Costs** – considers the overall cost of the project alternatives and whether these costs are unreasonably expensive

(c) **Existing Technology** – considers various technologies to achieve the project purpose by avoiding and minimizing wetland impacts. This includes utilizing best management practices and the most efficient means to avoid and minimize the wetland impacts that are currently proposed.

(d) **Logistics** shall consider whether practicable alternatives associated with the project's logistics are viable. Logistics shall be based upon industry standards and requirements for the activity being proposed.

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Tiered Permitting
Achieving Objectives

Project Objectives

- ☑ Predictable process and outcomes
- ☑ Alternate process for routine impacts
- ☑ Protect most valuable wetlands
- ☑ Incentivize in-County mitigation
- ☑ Clarified application process

- **Benefits of NGPs**
  - **Incentivizes developers to minimize impacts**
  - **Simplified process/Reduced staff time**
    - **60-70% of current SFH permits**
    - **25% of current non-SFH permits**
  - **Lower fees**
  - **Predictable outcomes**
- **Benefits of Standard Permits**
  - **Protects most valuable wetlands**
  - **Incentivizes beneficial projects and in-County mitigation**

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Agenda

- Background
- Stakeholder Engagement
- Draft Code Provisions
  - Administrative Process
  - Tiered Permitting
  - Sensitive Areas
  - Upland Buffers
  - Mitigation
- Summary and Next Steps

Shingle Creek

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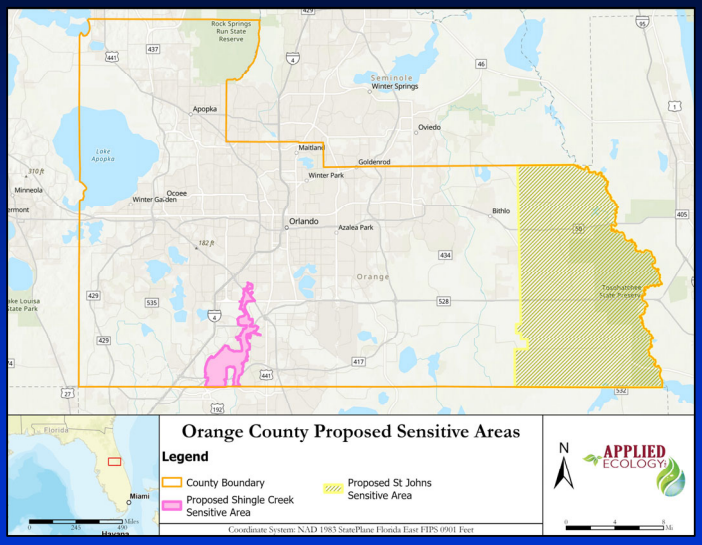
Sensitive Areas

- **Proposed New Sensitive Areas:**
  - Shingle Creek
  - St. Johns River
- **Permitting Criteria:**
  - Similar to Econ and Wekiva Code
  - 550-foot buffer from edge of river and named tributaries;
    ≥ 100-foot upland buffer on wetlands
  - Permitting modifier (increases level of review)
  - NGPs allowed if criteria met
- **Requirements Under Legal Review**
  - Comprehensive Plan language
  - Technical Study and Recommendations



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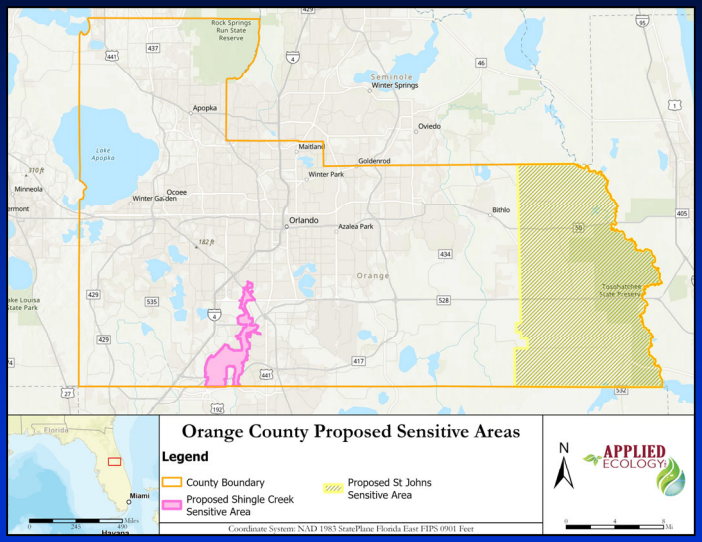
Sensitive Areas
Achieving Objectives

Project Objectives

- ☑ Protect most valuable wetlands
- ☑ Focus growth in urban areas
- ☑ Promotes sustainable growth
- ☑ Maintains wetland connectivity
- ☑ Protects biodiversity



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Agenda

- Background
- Stakeholder Engagement
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  - Sensitive Areas
  - **Upland Buffers**
  - Mitigation
- Summary and Next Steps

Lake Butler

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Upland Buffers

- **Section 15-382: Upland Buffers**
  - **Minimum 100-foot with exceptions; Requires mitigation for buffer**

(1) A **minimum one-hundred-foot (100-foot) natural and undisturbed** upland buffer is required for all applications, with some exceptions. Applicants shall provide a buffer width as close in width to the 100-foot minimum as possible. **In the following circumstances, a minimum twenty-five-foot (25-foot) and fifty-foot (50-foot) average upland buffer may be accepted:**

(a) Applications where the proposed **activity is located within parcels 5 acres or less**, or

(b) **Parcels that are comprised of greater than or equal to 90% wetlands.**

(2) If the required buffer cannot be provided by the applicant, **mitigation for the upland buffer and any associated secondary impacts are required**

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Upland Buffers

- **New requirements:**
  - **Wildlife-friendly fencing**
    - **Facilitates movement of wildlife and water**
  - **Signage**
    - **Prevents dumping and disturbance**

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Upland Buffers
Achieving Objectives

Project Objectives

- ☑ Better wetland protections
- ☑ Prevents dumping and pollution
- ☑ Maintain wetland function
- ☑ Protects biodiversity
- ☑ Clarified requirements

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Agenda

- Background
- Stakeholder Engagement
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  - Upland Buffers
  - **Mitigation**
- Summary and Next Steps

TM Econ Mitigation Bank

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Mitigation

- **Section 15-385: Applicability**
  - **Clarifies when mitigation is required**

(1) **All applicants seeking a permit** are required to provide mitigation to **compensate for any impact to wetlands, surface waters, or their functions, including direct, and secondary impacts.**

(2) Mitigation may also be required by state or federal regulatory agencies. Orange County's mitigation requirements differ from state and federal entities in the following circumstances:

(a) **Mitigation is required by Orange County for isolated wetlands less than one-half acre**

(b) **Mitigation is required by Orange County for impacts to upland buffers**

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Mitigation

- **Section 15-385: Evaluation Criteria**
  - **Clarification of types of mitigation and proposal requirements**

(1) Mitigation proposals shall be assessed using the **Uniform Mitigation Assessment Method (UMAM)**, as defined in 62-345 F.A.C., […]

(2) The following forms of mitigation may be accepted by the environmental protection division:

(a) **Mitigation Bank Credits** – Purchase of credits at a permitted mitigation bank

(b) **Providing equitable wetland function** through one or more of the following mechanisms, **either on the project site or off-site:**

(i) Restoration of degraded existing or former wetlands

(ii) Enhancement of degraded existing wetlands

(iii) Preservation of wetlands

(iv) Preservation of uplands

(v) Creation of wetlands within current uplands

(c) Donation to the Orange County **Conservation Trust Fund** – A monetary contribution to Orange County's Conservation Trust Fund

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Mitigation

- **Section 15-385: Evaluation Criteria**
  - **Preference for in-County mitigation**

(5) **All reasonable attempts should be made to mitigate wetland or surface water impacts within Orange County, preferably through either on-site or off-site mitigation. Mitigation outside of Orange County will also be considered when one or more of the following criteria are met:**

(a) **Mitigation site is deemed appropriate** to offset direct and/or secondary impacts

(b) **Mitigation site is located within the same USGS Hydrologic Unit Code (HUC) 12 as the impact**

(c) The applicant can demonstrate that the **proposed mitigation site will benefit the basin where the impact is to occur**

(d) **Mitigation banking credits within the boundaries of Orange County are unavailable**

(e) **On-site mitigation opportunities are not expected to have comparable long-term viability**

(f) **Off-site mitigation would provide greater improvement in ecological or functional value than on-site** mitigation

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Mitigation

- **Section 15-385: Evaluation Criteria**
  - **Conservation Easement Requirements**

(6) **Conveyance of a conservation easement** dedicated to Orange County over preserved uplands and wetlands may be required by Orange County as part of a mitigation plan and **must meet the criteria identified in the definition of Sufficient in-County Mitigation**, as follows:

(a) Sufficient in-County Mitigation shall mean **on-site or off-site** compensatory mitigation that is located within the boundaries of Orange County, where the mitigation site is **deemed sufficient to offset wetland impacts and provides either substantial wetland function and connectivity to adjacent wetlands, connection to a larger preserved public acreage, connection to an establish wildlife corridor, and/or substantial acreage within a Special Protection Area or Sensitive Area.**

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Administrative Process
Conservation Easement (CE) Amendments

- **Section 15-381: Conservation Easement Amendments**
  - **(3) The environmental protection division shall evaluate proposed impacts and/or amendments to determine the extent to which the proposed amendment continues to maintain protections of environmentally sensitive areas. The proposed development site as a whole shall be evaluated against the following criteria to determine the extent to which the site:**

(a) Maintains, preserves, or enhances connectivity to existing conservation areas or wetlands on adjacent parcels

(b) Supports unique and/or vulnerable habitats, environmental features, or wetland functions

(c) Provides habitat to listed species

(d) Is located within a Special Flood Hazard Area

(e) Provides capacity to reduce flooding in surrounding areas during hurricanes or storm events

(f) Promotes passive recreation that provides significant value to a neighborhood or community

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Mitigation

- **Section 15-385: Evaluation Criteria**
  - **New monitoring and maintenance requirements**

The applicant shall provide a monitoring and maintenance program. Monitoring and maintenance of mitigation sites, excluding those within a mitigation bank, **must be provided in perpetuity**. The applicant shall provide **annual reports for the first five (5) years** detailing monitoring and maintenance activities. **After 5 years, applicants must provide monitoring and maintenance reports every three (3) years**. Maintenance and monitoring requirements are as follows:

(a) **Less than 5% invasive and/or nonnative species** presence must be maintained within the mitigation site, including the upland buffer

(b) **Trash must be removed** from the entire mitigation area, including the upland buffer. No heavy equipment use is permitted.

(c) **Wildlife-friendly fencing and signage** must be installed according to Section 15-396

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Mitigation

- **Section 15-385: Evaluation Criteria**
  - **New monitoring and maintenance requirements, continued:**

(d) Wetlands used for on-site or off-site mitigation shall **require groundwater monitoring** through the use of piezometers. The applicant will be responsible for installing monitoring equipment, retrieving data, and ensuring that data collection equipment remains operable. Monitoring data must be submitted with the required reporting documentation. Orange County shall be granted access to the monitoring wells on-site.

(e) **Remedial actions will be required if the mitigation site is found to be in decline**

(f) Perpetual maintenance and monitoring must be performed by the permittee and subsequent owners of the project site, or by an authorized and approved representative.

(g) **Following 15 years of maintenance and monitoring, the applicant may request a reduced frequency of monitoring and maintenance**, which may be granted at the discretion of the environmental protection division.

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Mitigation
Achieving Objectives

Project Objectives

- ☑ Better wetland protections
- ☑ Incentivize in-County mitigation
- ☑ Maintain wetland function
- ☑ Promote purchase of new mitigation land
- ☑ Clarified requirements

Wetland Mitigation Area

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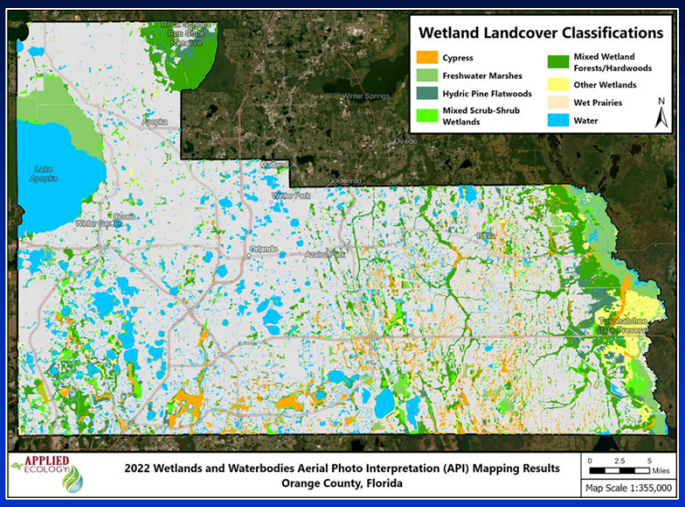

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Summary

- Heavy focus on study data and stakeholder feedback
- Improved process will benefit applicants
  - Predictability
  - Improved workflows / application instructions
- Increased protection for wetland resources
  - Tiered permitting encourages applicants to limit wetland impacts
  - Modifier system incentivizes applicants to adopt sustainable development plans and avoid and minimize impacts to qualify for a lower-level Standard Permit
  - 100-foot upland buffer enhances protections and improves wetland longevity
- Improvements and incentives for wetland mitigation process
- Consideration of Sensitive Areas (St. Johns River and Shingle Creek)

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Next Steps

- **Wetland Permitting Fee Study:**
  - Evaluate permitting fees
  - Initiated in August 2023
  - Anticipated completion concurrent with code adoption

Conservation Area Determination (CAD)

Conservation Area Determination (CAD)	Cost
CAD Process Fee (Single Family)	$685.00
CAD Process Fee (Non SF < 40 acres)	901.00
CAD Process Fee (Non SF 40 - 100 acres)	1,591.00
CAD Process Fee (Non SF each additional acre over first 100 acres)	10.60
After-The-Fact CAD (Single Family) (Includes $500 to technically replicate the environment)	1,215.00

Conservation Area Impact Permit (CAI)

Conservation Area Impact Permit (CAI)	Cost
CAI Process Fee (Single Family)	$556.00
CAI Process Fee (Non SF <10 acres of impact)	1,273.00
CAI Process Fee (Non SF 10 – 50 acres of impact)	2,016.00
CAI Process Fee (Non SF >50 acres of impact)	4,456.00
Petition for Binding Determination of Exemption	606.00

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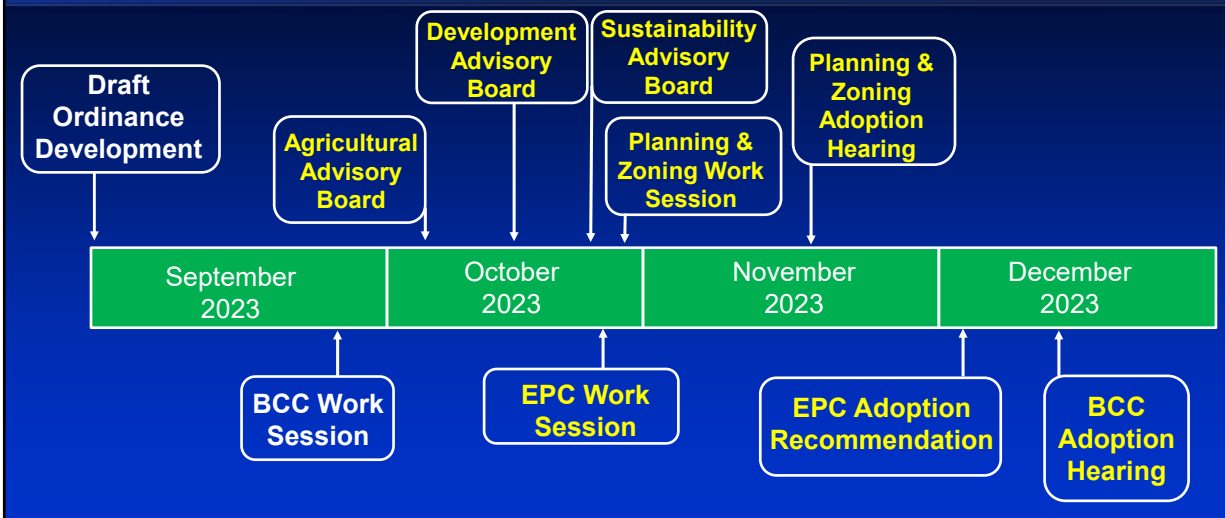
Next Steps



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