STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

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FLORIDA HOUSING FINANCE CORPORATION

HTG OAK VILLAS, LLC
a Florida limited liability company,

Petitioner

v.

FHFC CASE NO. 2021-039VW
APPLICATION NO. _____

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

_____/

PETITION FOR WAIVER OF THE QUALIFIED ALLOCATION PLAN'S REQUIREMENT FOR RETURNING HOUSING CREDIT ALLOCATIONS AND RULE 67-48.002(96), F.A.C.

HTG Oak Villas, LLC ("Petitioner"), by and through its undersigned counsel, hereby petitions the Florida Housing Finance Corporation (the "Corporation") for a waiver of the Corporation's Qualified Allocation Plan's prohibition from returning its 2020 Housing Credit Allocation prior to the end of the second calendar quarter of the year a development must be placed in service. The return of these Housing Credits is required before the Corporation may reserve an allocation of housing credits that Petition requests be immediately allocated. *See* Rule 67-48.002(96), Florida Administrative Code (the "Rule") and Qualified Allocation Plan Section II.K.

1. This Petition is filed pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code ("F.A.C."), and Rules 28-104.001 through 28-104.006, F.A.C. Petitioner requests a waiver of Rule 67-48.002(96), F.A.C, and Section II.K of the Qualified Allocation Plan ("QAP") to allow the immediate return of its 2020 Housing Credit Allocation, and

an immediate allocation of new Housing Credits (2021 or later). The relief requested by Petitioner is permanent in nature.

2. The name, address, e-mail address, telephone number, and facsimile number of the Petitioner is:

HTG Oak Villas, LLC
Attn: Rodrigo Paredes
3225 Aviation Avenue
6th Floor
Coconut Grove, FL 33131
Phone: 305-537-4704
Fax: 305-639-8427
E-Mail: rodrigop@htgf.com

3. The name, address, e-mail address, telephone number, and facsimile number of the Attorney for the Petitioner is:

John P. Grygiel, Esq.
jgrygiel@zkslawfirm.com
Zimmerman Kiser Sutcliffe PA
315 East Robinson St.
Suite 600
Orlando, FL 32801
Phone: (407) 425-7010
Fax: (407) 425-2747

4. Pursuant to RFA 2019-113, Petitioner timely submitted on November 5, 2019 its application for competitive housing credits ("Housing Credits") under the Low Income Housing Tax Credit program. *See* Application Number #2020-308(C) (the "Application").

5. Equity raised from the Housing Credits will be used for the construction of 96 residential units (all of which will be low-income housing tax credit units) to be known as Park Ridge (the "Development").

6. On March 6, 2020, the Corporation approved Petitioner's application for Housing Credits. On July 9, 2020, Petitioner was invited to credit underwriting.

7. Under Rule 67-48.028(1), if an applicant cannot complete its development by the end of the year in which the preliminary allocation of Housing Credits is issued, such applicant must enter into a "carryover allocation agreement" with the Corporation by December 31 of the year in which in the preliminary allocation is issued. The carryover allocation may (under Section 42 of the Internal Revenue Code) allow the applicant until the end of the second year following the year in which in the carryover allocation is issued to place the development in service. Rule 67-48.028 (2) requires an applicant to have a tax basis in a Housing Credit development that exceeds 10% of the reasonably expected basis within 6 months of the date the Corporation issues the carryover allocation agreement (the "10% test"), unless extended as provided in the carryover allocation agreement, otherwise the Housing Credits will be deemed returned to the Corporation.[1]

8. In the Petitioner's case, the Corporation mandated in the carryover allocation agreement that (a) the Petitioner satisfy the 10% test no later than April 30, 2021, which deadline was extended (after Petitioner paid the required fee to the Corporation) to October 26, 2021, and (b) the Petitioner place the Development in service no later than December 31, 2022 (collectively, the "Deadlines"). Petitioner must close on its construction and Housing Credit financing to acquire the land and commencement construction in order to meet the 10% test; delays thereto imperil the Development's placed-in-service deadline. As explained more fully below, there is uncertainty as to whether or not the Development will meet the Deadlines.

9. After being invited into credit underwriting, the Petitioner has proceeded apace in

[1]While sec. 5(b) of the Petitioner's carryover agreement requires *at least* 10% of such basis, Petitioner notes sec. 42(h)(1)(E) of the Internal Revenue Code and 67-48.028(2) F.A.C. requires *more* than 10% of such reasonably expected basis.

preparation for closing in order to satisfy the 10% test, but due to unforeseen events, delays have occurred beyond the control the Petitioner that make meeting the Deadlines questionable.

10. Before the Application was submitted, the Petitioner learned the Development site had two small wetlands to address, but Petitioner was assured by its environmental consultant, Vanasse Hangen Brustlin, Inc. ("VHB"), that the wetlands were small enough to allow a simple purchase of wetland mitigation credits from a mitigation bank, and that such credits (specifically, herbaceous credits) were obtainable within the timeframes to start construction as planned. The Petitioner accounted for the cost of the herbaceous mitigation credits in the Development's budget.

11. To mitigate the impact construction would have on the wetlands, and pursuant to the Florida Water Resources Protection Act, F.S. Ch. 373 (the "Florida Wetlands Act"), Petitioner needed to complete two steps: (1) obtain herbaceous credits from a mitigation bank, and (2) obtain an Environmental Resource Permit ("ERP"). VHB found a mitigation bank to purchase herbaceous wetland mitigation credits from the Alafia River Wetland Mitigation Bank ("ARWMD"). VHB timely engaged ARWMD, and on September 4, 2020, VHB obtained a reservation agreement for the credits. On January 4, 2021, Petitioner's engineers (High Point Engineering) submitted Petitioner's application to Southwest Florida Water Management District ("SWFWMD") for the Development's ERP. However, in an unexpected turn of events, on February 3, 2021, SWFWMD sent a Request for Additional Information (the "RAI", a relevant portion of which is attached hereto as **Exhibit A)** to the Petitioner's engineers informing them that ARWMD "does not have herbaceous credits available". *See* **Exhibit A**, sec. 12 on pp. 4-5. Petitioner and VHB confirmed that ASWMD did not have the active permit necessary to sell herbaceous mitigation credits, and they confirmed that no other mitigation bank in the Alafia Basin had permits to sell herbaceous mitigation credits. Because no herbaceous credits are available,

building permits cannot be issued by the appropriate authority (City of Mulberry, Polk County) until the wetlands mitigation plan is approved and the ERP is obtained.

12. The unexpected lack of credits from ARWMD forced the Petitioner to start anew with respect to the wetlands issue, resulting in lost time. In response to the RAI, from February to April of this year, VHB engaged the SWFWMD to propose alternative routes to mitigate the wetlands, which included mitigating "out of basin" (i.e., outside the vicinity of the Development) or mitigating with a similar type of credits, but those solutions were not acceptable to SWFWMD. VHB and Petitioner reached out to the land seller[2] for additional land to create a herbaceous new wetland. After several months of negotiations and engineering, on August 9, 2021, and in response to the RAI, Petitioner's engineers submitted to SWFWMD a mitigation plan, which plan requires the land seller to grant a perpetual conservation easement on the parcel land adjoining the Development site. In connection therewith, Petitioner has obtained a written agreement from the seller permitting the easement. SWFWMD's review and approval process of the ERP can take 30 to 90 more days after the RAI response delivered on August 9, 2021. Once SWFWMD has officially agreed on the mitigation plan, further surveying, designing and contracting will be required.

13. Despite the progress with SWFWMD, Petitioner, concerned about the timeline, proceeded on a dual track and contacted ARWMB again in June 2021. ARWMD expects to have its permit to sell herbaceous credits by the end of August 2021 or end of October of 2021. Petitioner may opt to pursue this path if it looks faster than the mitigation plan involving the creation of the conservation area requested by SWFWMD.

[2] The "land seller", or "seller" is the current owner of land upon which the Development will be constructed.

14. Given the delays arising from the foregoing, and given the potential of the pandemic to disrupt the Development's construction schedule (the current schedule exceeds 14 months), the Petitioner is concerned there is insufficient time to meet the placed in service deadline of December 31, 2022 even if the Petitioner satisfies the 10% test by October 26, 2021. In addition, the equity investor has expressed concerns to the Petitioner and has asked Petitioner to consider exchanging 2020 Housing Credits for subsequent credits. The equity investor may be unwilling to close its investment in the Development if there is any chance that it may not receive credits as expected. Without the approval of the credit swap, the tax credit investor may not participate in the transaction, resulting in the inability of the Petitioner to construct the Development.

15. As discussed above, the delays were caused by circumstances outside the Petitioner's control.

16. As set forth below, Petitioner seeks to return its 2020 Housing Credit Allocation now, rather than wait for the end of the second calendar quarter of the year the Development must be placed in service as required under the QAP. The Petitioner requests from the Corporation an immediate allocation of new Housing Credits with a later required placed in service date.

17. The requested waivers and variance will not adversely affect the Development. A denial of this Petition would, however, (a) result in substantial economic hardship to the Petitioner, (b) deprive Polk County of essential affordable housing units, and (c) violate principles of fairness.

18. Section 42(m) of the Internal Revenue Code requires each state allocating agency to adopt an allocation plan for the allocation and distribution of federal low income housing tax credits. The Corporation, as the allocating agency for the State of Florida, must distribute housing credits to applicants pursuant to its qualified plan.

19. The Corporation's Qualified Allocation Plan (Section II.K) permits the return of Housing Credits after the end of the **second calendar year quarter** of the year in which it was otherwise required to be placed in service pursuant to Section 42 of the Internal Revenue Code:

> ...where a Development has not been placed in service by the date required pursuant to Section 42 of the IRC, or it is apparent that a Development will not be placed in service by the date required pursuant to Section 42 of the IRC, and the Applicant has returned its Housing Credit Allocation **after the end of the second calendar quarter of the year in which it was otherwise required to be placed in service pursuant to Section 42 of the IRC**, the Corporation will reserve allocation in an amount not to exceed the amount of Housing Credits returned, and will issue a Carryover Allocation Agreement allocating such Housing Credits to the Applicant for either the current year or the year after the year in which the Development was otherwise required to be placed in service….

QAP at Section II. K (emphasis added)[3].

20. The applicable Rules for which waivers are requested are implementing, among other sections of Florida Housing Finance Corporation Act (the "Act")[4], which governs Florida's Housing Credits Program. *See* Section 420.5099, Fla. Stat. (2021). The Act designates the Corporation as the State of Florida's housing credit agency within the meaning of Section 42(h)(8)(A) of the Internal Revenue Code of 1986. As the designated agency, the Corporation is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits ("Allocation Procedures") pursuant to . Sections 420.5099(1) and (2) of the Act. Accordingly, the Rules subject to Petitioner's waiver requests are implementing, among other sections of the Act, the statutory authorization for the Corporation's establishment of Allocation Procedures for the Housing Credits Program. *See* Sections 420.5099 (1) and (2), Fla. Stat. (2021).

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[3] The 2019 QAP differed in that it required an applicant to return credits in the *last* calendar quarter of the year a development had to be placed in service. *See* QAP II.K (2019). The 2020 and 2021 QAPs require an applicant to return credits after the second calendar quarter of the year a development must be placed in service.

[4] The Act is set forth in Sections 420.501 through 420.55 of the Florida Statutes (2021).

21. The requested waivers will ensure the availability of Housing Credits that will otherwise be lost as a consequence of development delays described herein.

22. The facts set forth in Sections 9 through 14 of this Petition demonstrate hardship and other unforeseen circumstances, which justify Petitioner's request for the waiver. Petitioner respectfully requests, to the extent possible, that no further fees be imposed in excess of the fees the Corporation requires for all credit exchanges, given (a) the significant amount of extension fees already paid for the extension of various dates under the carryover allocation agreement, and (b) that the reasons for the delays described herein were wholly outside of Petitioner's control.

23. As demonstrated above, the requested waivers serve the purposes of Section 420.5099 and the Act, as a whole, because one of their primary goals is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households by ensuring:

> ... the maximum use of available tax credits in order to encourage development of low-income housing in the state, taking into consideration the timeliness of the application, the location of the proposed housing project, the relative need in the area for low- income housing and the availability of such housing, the economic feasibility of the project, and the ability of the applicant to proceed to completion of the project in the calendar year for which the credit is sought.

§ 420.5099(2), Fla. Stat. (2021).

24. Further, by granting the requested waivers, FHFC would recognize principles of fundamental fairness in the development of affordable rental housing. This recognition would promote participation by experienced developer entities, such as

Housing Trust Group, LLC, in meeting the purposes of the Act, regardless of the possible delays from factors outside of its control. In addition, grant of the requested waivers will permit the development of much needed housing for low-income and very low-income tenants. Finally, grant of the request to waiver will enable Petitioner to utilize (and not lose) its significant investment in due diligence expenses that cannot be recouped if the requested waiver is not granted.

25. The requested waivers will not adversely affect the Development or the Corporation.

26. Should the Corporation require additional information, Petitioner is available to answer questions and to provide all information necessary for consideration of this its Petition for Waiver.

WHEREFORE, Petitioner HTG Oak Villas, LLC, respectfully requests that the Corporation:

A. Grant the Petition and all the relief requested therein;

B. Waive the Qualified Allocation Plan's prohibition from returning Housing Credit Allocations prior to the second quarter of 2022;

C. Allow the immediate return of Petitioner‘s 2020 Housing Credit Allocation;

D. Immediately allocate new Housing Credits to Petitioner via a new carryover agreement, with a later placed in service date and in the amount equal to the amount of its 2020 Housing Credit Allocation;

E. Through a new carryover agreement, extend the existing deadline to satisfy the 10% test and extend the other deadlines in the existing carryover agreement to such date(s) acceptable to the Corporation and permissible with the new Housing Credits requested hereunder.

F. Award such further relief as it may deem appropriate.

Respectfully submitted this 11th day of August, 2021.

Respectfully Submitted,



John P. Grygiel, Esq.
Florida Bar No.: 957631
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Zimmerman Kiser Sutcliffe PA
315 East Robinson Street, Suite 600
Orlando, FL 32801
Phone: (407) 425-7010
Fax: (407) 425-2747
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Petition is being served and filed by electronic mail delivery to the Corporation Clerk of the Florida Housing Finance Corporation at CorporationClerk@Floridahousing.org, pursuant to Rules 28-104.002 and 57-52.002 of the Florida Administrative Code, with a copy being served by email to Hugh Brown, General Counsel, Florida Housing Finance Corporation, hugh.brown@floridahousing.org. I further certify that pursuant to Rule 28-104.002, a copy is being served by overnight delivery to the Joint Procedures Committee, Room 680, Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400, this 11th day of August, 2021.

By: _____

John P. Grygiel
Florida Bar No. 957631

Southwest Florida Water Management District
2379 Broad Street, Brooksville, Florida 34604-6899
(352) 796-7211 or 1-800-423-1476 (FL only)
WaterMatters.org

An Equal Opportunity Employer

Bartow Office
170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)

Sarasota Office
78 Sarasota Center Boulevard
Sarasota, Florida 34240-9770
(941) 377-3722 or
1-800-320-3503 (FL only)

Tampa Office
7601 U.S. 301 North (Fort King Highway)
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

February 03, 2021

EXHIBIT A

High Point Engineering
Braulio Grajales, P.E.
5300 W Cypress Street, Suite 282
Tampa, FL 33607

Subject:	**Request for Additional Information**	
	Project Name:	Park Ridge - Mulberry
	Application/Petition No.:	816798
	County:	Polk
	Sec/Twp/Rge:	S25/T29S/R23E
Reference:	Chapter 62-330, Florida Administrative Code (F.A.C.)	
	Section 373.4141 and 120.60, Florida Statutes (F.S.)	

Dear Mr. Grajales:

Before the District can complete its review of the permit application/petition referenced above, the information itemized on the enclosed checklist must be received.

Please ensure that your response to the checklist, including any payment of the fee (if not submitted),

- is received in this office within 90 days from the date of this request;
- references the permit application/petition number; and,
- includes a copy of **all** requested information (if submitted on paper).

Failure to provide this information within 90 days will delay the processing of the permit application/ petition, and may result in the permit application/petition being denied. If the additional information cannot be provided within that time period, you may make a written request for a time extension, provided that an acceptable justification for the time extension accompanies the request.

Pursuant to 120.60(1), F.S., if you believe this request for additional information is not authorized by law or rule, then upon your written request, the District shall proceed to process the application. Pursuant to Section 373.4141(1), F.S., if you believe that this request for additional information is not authorized by law or rule, then you may request a hearing pursuant to Section 120.57, F.S., and Chapter 28-106, F.A.C., of the Uniform Rules of Procedure. *A request for hearing must (1) explain how the substantial interests of a person requesting the hearing will be affected by the District's action; (2) state all material facts disputed by the person requesting the hearing or state that there are no disputed facts; and (3) otherwise comply with Rules 28-106.201 and 28-106.301, F.A.C. Chapter 28-106, F.A.C., may be viewed at www.flrules.org.* A petition for administrative hearing must be filed with (received by) the District Agency Clerk at the District's Tampa address within 21 days of receipt of this notice. Receipt is deemed to be fifth day after the date that this notice is deposited in the United States mail if this notice is mailed to you, or the date that this notice is issued, if sent by electronic mail. Failure to file a request for a hearing within this time period shall constitute a waiver of any right such person may have to request a hearing under Sections 373.4141(1) or 120.57, F.S.

Mediation pursuant to Section 120.573, F.S., of any administrative dispute regarding the District's determination in this matter is not available.

If you have questions regarding the information requested or the District's procedure, please contact me at the Tampa Service Office, extension 2088, or at esther.leong@watermatters.org. For assistance with environmental concerns, please contact Lisa Bowers, extension 2099.

Sincerely,

Esther Leong	Lisa Bowers
Engineer	Staff Environmental Scientist
Environmental Resource Permit Bureau	Environmental Resource Permit Bureau
Regulation Division	Regulation Division

Enclosures: Checklist

cc: SAV STAD, LLP
Yanisa Angulo
HTG Oak Villas, LLC
FDEP - Southwest District

PROJECT INFORMATION REVIEW LIST
Environmental Resource Permit Application
Individual

DATE:	February 03, 2021
PROJECT NAME:	**Park Ridge - Mulberry**
APPLICATION ID NUMBER:	**816798**
DATE APPL. RECEIVED:	**January 04, 2021**
APPLICATION REVIEWER(S):	
ENGINEERING:	**Esther Leong**
ENVIRONMENTAL:	**Lisa Bowers**

In order to provide that reasonable assurance is given for those "Conditions for Issuance of Individual and Conceptual Approval Permits" found in Rule 62-330.301, Florida Administrative Code (F.A.C.), and those "Additional Conditions for Issuance of Individual and Conceptual Approval Permits" found in Rule 62-330.302, F.A.C., the following additional information is required as indicated. The items requested are also extracted from Rules 62-330.060, F.A.C., "Content of Applications for Individual and Conceptual Approval Permits", 62-330.010(4)(a), F.A.C., "Southwest Florida Water Management District Applicant's Handbook Volume I", 62-330.010(4)(b)4, F.A.C., "Southwest Florida Water Management District Applicant's Handbook Volume II", and 40D-1.607, F.A.C., "Permit Processing Fee".

APPLICATION AND APPLICATION CERTIFICATION:

1. The name, Rodrigo Paredes, shown on the application for SAV STAD LLP is not listed on the Florida Department of State, Division of Corporations information provided, as an officer or registered agent of the corporation. Please either demonstrate that Mr. Paredes is an officer of the corporation, has authority to sign on behalf of the corporation, or provide a revised application signed by an officer of the corporation. [Rule 62-330.060, F.A.C.]
2. Please note that Environmental Resource Permits (ERPs) can only be issued to the entity(ies) with proof of legal property control. Currently, the owner of the parcel containing the project area (Parcel ID: 23-29-25-000000-032020) is SAV STAD, LLP per the provided deed and the information listed on the Polk County Property Appraiser. Unless documentation is provided for HTG Oak Villas, LLC demonstrating proof of property control (i.e., deed, purchase and sale agreement, long-term lease agreement, etc.), the application will be amended to list SAV STAD, LLP as the permittee and operation and maintenance (O&M) entity. Where control is demonstrated by a purchase and sale agreement, the permit will be conditioned to terminate if the transfer of ownership does not occur, and to prohibit construction until ownership is transferred to the permittee. If a lease agreement is provided as proof of legal property control, the land owner will need to be listed as a co-permittee and co-O&M entity. [Rules 62-330.060 (3), 62-330.301(j) F.A.C.; Section 4.2.3(d)5., ERP Applicant's Handbook (A.H.) Vol. I]
3. In accordance with Section 5.5.2.3 of the A.H. Vol. I, upon receipt by the District of an application for an individual permit to construct or alter a dam, impoundment, reservoir, or appurtenant work, a notice of receipt of the application must be published in a newspaper having general circulation (meeting the requirements of Section 50.031, F.S.) within the affected area in accordance with Sections 373.116, F.S., 373.118(3), 373.146, and 373.413(3), F.S. Please provide documentation that such noticing has been accomplished. Note that the published notices of receipt for an ERP can be in accordance with the language provided in Rule 40D-1.603(10), F.A.C., and receipt of an affidavit establishing proof of this publication will be considered a completeness item of this ERP Application.
4. Please provide authorization for the proposed work in the right-of-way ditch (i.e. proposed conveyance structures, outfall control structure, etc.). [Rule 62-330.060, F.A.C.]

SITE INFORMATION:

5. The ERP application proposes the construction of a stormwater management system within an area that is identified on the FDEP Map Direct Geographic Information System (GIS) as being on or within the influence of a waste contaminated site. The contamination site(s) of concern include Petroleum Contamination Monitoring (PCTS) Discharge Facility ID 9803385. It may be necessary to secure documentation, from the FDEP, or provide other reasonable assurance that the proposed system will not result in adverse affects to water quality due to the construction and/or operation of a stormwater management system located within or adjacent to a known contamination site. Please provide the District with written documentation, specific to the proposed activity, as to the resolution of this issue. For projects in Polk County the FDEP contact is Yanisa Angulo (yanisa.angulo@floridadep.gov). [Rule 62-330.301(1)(e), F.A.C.]

ENVIRONMENTAL CONSIDERATIONS:

6. Please contact the project Environmental Scientist, Lisa Bowers (lisa.bowers@watermatters.org), to schedule a site visit to review the limits of wetlands and/or surface waters. Please note, the Florida Department of Environmental Protection (FDEP) has assumed the federal dredge and fill permitting program under section 404 of the Federal Clean Water Act within certain waters. This may require coordination with FDEP to conduct a joint site visit for verification of wetland and/or surface water limits. Prior to the scheduled site visit, the wetland and/or surface water limits should be clearly marked with wetland flags or flagging tape. Once the agency(ies)'s field review is complete, please submit construction plans showing the approved and surveyed wetland and/or surface water limits. [Rules 62-330.301 and 62-330.302(1), F.A.C.; Subsection 10.2, A.H. Vol. I]
7. Please provide the District assurance that the Elimination or Reduction criteria within Subsection 10.2.1, A.H. Vol. I, have been met. Document in detail, if and how the removal impacts to Wetlands; (a) requires the project to be significantly different in type and function, (b) is not technically feasible, or (c) is not economically viable. If removal of these impacts makes the development significantly different in type and function, provide details. If removal of these impacts is technically infeasible, provide all necessary supporting data, including County or other agency specifications and reasoning as to why other uplands on the parcel were not considered for development. If removal of these lots is economically unviable, provide specific information, including economic justification. [Rule 62-330.301 (4), F.A.C.; Subsection 10.2.1, A.H. Vol. I]
8. There are wetlands in the project area, however, the information requested in Section C of the ERP Application was not provided. A complete permit application is required for District staff to evaluate the project. Please provide the information requested in Section C including Wetland Tables 1, 2, and 3 as applicable [Rule 62-330.060(1) F.A.C.]
9. Please clearly label and quantify the secondary impact area on the construction plans. [Rule 62-330.060(2), F.A.C.]
10. It appears that two wetlands are both labeled Wetland Area 2. Please label each wetland on the construction drawings with a unique identification name or number, which is consistent on the plans and with the wetland tables. [Rule 62-330.060(2), F.A.C.]
11. It appears that the project does not maintain the average 25-foot undisturbed buffer between the proposed parking area on the south side of Wetland 1, and the adjacent wetlands required to address adverse secondary impacts. Please address the potential for secondary impacts to the adjacent wetlands. Please depict on revised drawings any proposed measures to offset secondary impacts. If secondary impacts are anticipated, please provide Uniform Mitigation Assessment Method (UMAM) information for those areas to be affected. [Subsection 62-330.301(1)(f), F.A.C.]
12. It appears that the Alafia River Mitigation Bank does not have herbaceous credits available. Please provide an alternative mitigation plan, including but not limited to, mitigation type, acreage, location, cost estimate, financial security documentation, functional replacement, plant species, plant sizes and

spacing, timing, monitoring and maintenance. If preservation of wetlands or uplands is proposed, a conservation easement, acceptable to the District, and title insurance will be required. [Subsection 10.2.1 of the A.H. Vol. I and Rules 62-330.060(2), 62-330.301(1), & 62-330.302(1), F.A.C.]

13. Please provide seasonal high water level (SHWL) data for the wetland 1. If the water level indicators have not been verified, please contact Lisa Bowers at extension 2099 or at lisa.bowers@watermatters.org to schedule an on-site inspection and evaluation. [Rule 62-330.060 (2), 62-330.301 (1)(a-d), F.A.C.]
14. Please provide time/stage hydrographs for the 2.33 year mean annual storm event, 10-year/ 24-hour and the 25-year/24-hour event, for the pre-and post-developed conditions, which show the duration and frequency of inundation in Wetland 1. Start the storm events at the normal pool (NP) elevation of the wetland, showing the maximum stage elevations and the time relationships, and continue the output until the seasonal high water (SHW) elevation of the wetland returns to its pre-developed condition. Be sure to include the water elevations versus time. [Rules 62-330.060(1) and 62-330.302 (1)(a), F.A.C.]
15. The included notes indicate that Wetland 1 may be incorporated into the stormwater management system. Please confirm if any treatment or attenuation is proposed to occur within Wetland 1. [Rules 62-330.060(1) and 62-330.302(1)(a), F.A.C.]
16. Please note that since the proposed project includes activities in, on, or over, wetlands and/or surface waters, comments have been requested from the Florida Department of State, Division of Historical Resources (DHR). Therefore, please provide the District with the results of any cultural resource surveys conducted within the project area or any other additional information that supports whether or not the proposed project will adversely affect or enhance significant historical and archeological resources under the provisions of Section 267.061, Florida Statutes. Please provide any correspondence from DHR concerning the proposed project and please be advised that based on DHR's recommendations, additional information or revisions to the project may be required. [Rules 62-330.060(2) and 62-330.302(1)(a)(6), F.A.C; Subsection 10.2.3, A.H. Vol. I]
17. Please note that since the proposed project includes activities in, on, or over, wetlands and/or surface waters, comments have been requested from the Florida Fish and Wildlife Conservation Commission (FFWCC). Therefore, please provide the District with the results of any wildlife surveys that have been conducted within the project area or any other additional information that supports whether or not the proposed project will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats. Please provide any correspondence from the FFWCC concerning the proposed project and please be advised that based on FFWCC recommendations, additional information or revisions to the project may be required. [Rules 62-330.060(2), 62-330.301(1)(d) and 62-330.302(1)(a)(2), F.A.C.; Subsection 10.2.2, A.H. Vol. I]

PLANS:

18. The provided plans show off-site road improvements. Please clarify if these improvements are proposed under this application. If so, please provide authorization. There appears to be propose impacts to the existing right-of-way ditch. Please replace treatment function of existing ditches to be filled. Please demonstrate that the proposed culvert underneath the entrance driveway is sized appropriately and will not cause adverse impacts. [Section E, Part 2.1, ERP Application]
19. Sheet C-5.5 shows the cross-section details, however, the locations of the cross-sections appear to be missing on the plan view. Please clarify and revise the plans. [Section E, Part 2.1, ERP Application]
20. Please provide additional cross sections along all sides of the project boundary (especially along the western project boundary) to show how the proposed grades will tie into existing ground. Also, please provide sufficient pre- and post-development topographic information (extending at least 100-feet offsite) to ensure runoff will not be impounded along the property boundary, as doing so may result in adverse impacts to adjacent properties. [Section E, Part 2.1(b) and (d), ERP Application; Rule 62-330.301(1), F.A.C.]

21. It appears that runoff from the off-site areas to the west could be impounded along the western project boundary. Please design a conveyance system sized to convey runoff from its' contributing drainage basin area up to the 100-year, 24-storm event to ensure no adverse impacts. [Section E, Parts 1.3 and 2.1, ERP Application; [Rule 62-330.301(1), F.A.C.]
22. Please revise the construction plans to include the location of the on-site soil boring and infiltration tests, making sure that these test correlate (within reason) with the location of the proposed ponds. The existing elevation at which each boring was taken is necessary to support the estimated seasonal high water table (SHWT) elevations for the proposed pond. [Section E, Part 1.1, ERP Application]
23. The geotechnical information submitted with the application shows a presence of clays at depths above the proposed pond excavation, suggesting that the proposed pond could be excavated into clay. If that is the case, please revise the design so that the pond will not be excavated into clay, or make provisions on the plans to backfill at least a foot of clean sand over any exposed clay in order to avoid long term turbidity problems from suspended clay particles in the pond. [Rules 62-330.301(1)(e) and (i), F.A.C.]
24. Pursuant to Section 4.1.a.3(c), of the A.H. Vol. II, please make provisions to remove sediment, oils and greases from runoff entering the wetland. [Section 4.1.a.3(c), A.H. Vol. II]
25. Sheet C-5.1A indicates that the outfall control structure is ST-15 which is different than the details shown on Sheet C-7.1 (ST-7 and ST-25). Please clarify and revise to ensure consistency. [Section E, Part 2.1, ERP Application]
26. Please provide on the construction drawings the pump and intake details for the proposed wet detention pond. Please provide pump calculations that demonstrate the pump has been sized to meet the required volume per day necessary to meet net improvement input assumptions. In addition, please clarify how the stormwater will be withdrawn from the pond. Typically, this should be done through a horizontal well and sand filter media to prevent harmful blue algae from being sprayed into the air. [Rule 62-330.301(1), F.A.C.]
27. Please revise the plans to include a detailed operation and maintenance schedule/instructions for the proposed stormwater management system. The schedule/instructions should include requirements to irrigate with stormwater per the irrigation plan, and that the stormwater irrigation system shall be routinely inspected, operated and maintained in accordance with the permit, design and irrigation plans in order to meet water quality treatment requirements for net improvement. Alternatively, please provide an official operation and maintenance plan/guidelines that include these details. [Section E, Parts 1.3 and 2.1, ERP Application]

CONSTRUCTION SCHEDULE AND TECHNIQUES:

28. Please verify if dewatering will be required during the proposed construction activities. If so, please provide a detailed dewatering plan addressing the methods that are proposed to contain the discharge, proposed methods to isolating dewatering areas, and the duration in which dewatering structures will be in place. [Section E, Part 3(e), ERP Application]

DRAINAGE INFORMATION:

29. Please clarify the reference to ERP 43026778.000 shown with the Wetland O's Stage-Storage Data. [Section E, Part 1.3, ERP Application]
30. Please revise the boundary node to simulate the 25-year, 24-hour storm event for Node NC5050 (137.72' peak stage) of the Mulberry Watershed model. For a copy of the watershed model, please contact Jessica Hendrix at jessica.hendrix@watermatters.org. [Section E, Part 1.3, ERP Application]
31. Please address the following comments regarding the BMPTrains Analysis:
    a. Please verify the provided directly connected impervious area (DCIA) percentage and curve number values used in the post-development condition BMPTrains Analysis, as the provided

values do not seem to reflect the proposed condition. The DCIA percentage should be based on the amount of impervious surface area (i.e., buildings, parking/driveway, etc.) draining directly into the surface water management system, without flowing through any pervious areas, and the composite curve number should be calculated over the remaining portions of the site not accounted for as DCIA. If necessary, please revise the curve number calculations to include the total number of directly connected impervious area (DCIA) and its respective percentage within each basin. This value is important and required in order to verify the calculated treatment volumes generated in the net improvement calculations. [Section E, Part 1.2, ERP Application]

b. Please clarify the rational coefficient of 0.17 for the pre-condition landuse. Per the Rational C Values for Florida Zone 2 and the provided non DCIA CN and DCIA % (58.50 and 0, respectively), the rational c value is approximately 0.030. [Section E, Part 1.2, ERP Application]

c. Please provide supporting documentation for the littoral zone efficiency credit of 10%. Our District does not generally allow an efficiency credit unless an appropriate peer-reviewed and/or published study is submitted to support the efficiency used. Alternatively, please revise the BMPTrains calculations to remove the littoral zone efficiency credit. [Section E, Part 1.2, ERP Application]

d. Please clarify the available harvest volume of 2.188 acre-feet. Per the BMPTrains user manual, one of the assumptions for the Rate-Efficiency-Volume (REV) curve for stormwater harvesting ponds is that the drawdown of permanent pool volume for reuse does not exceed 1 inch over the catchment (to protect surrounding vegetation and for aesthetic reasons). Based on this assumption, the available harvest volume should be revised based on the catchment area of 5.88 acres as shown in the BMPTrains analysis. Additionally, the amount of greenspace proposed in the developed condition may not support a substantial quantity of reuse for irrigation. [Section E, Part 1.2, ERP Application]

e. Please revise the plans or provide a separate exhibit showing/delineating the 2.818 acres available for irrigation. [Section E, Parts 1.1, 1.2, ERP Application]

32. Please quantify and provide compensation for any impacts associated with the historic basin storage and/or floodplain within the existing on-site wetland(s) and/or floodplain area(s). Historic basin storage compensation must be based on the historic volume from natural grade in the system to its "pop-off" elevation. [Sections 3.3 and 3.7, A. H. Vol. II]

OPERATION AND MAINTENANCE AND LEGAL DOCUMENTATION:

33. Please clarify the proposed operation and maintenance (O&M) entity. If the proposed lots (units) are to be sold, the landowner will no longer be an acceptable O&M entity and it will be necessary for either a Home/Property Owners' Association to be formed or delegation to a CDD (or equivalent). Note that if a HOA/POA is to be formed, it will also be necessary to provide copies of the articles of incorporation, the declaration of protective covenants or deed restrictions, and a reference map or plat if referred to in the documents. Draft documents will need to be approved by legal staff before the application will be deemed complete. If the O&M entity will be a CDD, a preliminary letter of intent or statement from the entity will be required to indicate the entity's intention to accept responsibility for the operation and maintenance of the permitted system and which clearly indicates which portions of the systems are to be covered by that entity. [Sections 12.3.2 and 12.3.4, ERP A.H. Vol. I]

WATER USE:

34. Please verify if there are any existing wells located within the project site and if they will be utilized or abandoned. [Section E, Part 5(d), ERP Application]

The following comment(s), although not required by District rule, is(are) provided for your consideration and information:

35. Please note that additional information may be required based on the information provided in response to the questions above, to assure that the proposed project does not cause or contribute to any adverse on-site/off-site water quantity or quality impacts. [Rule 62-330.301(1), F.A.C.]

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