



## Construction Stormwater General Permit (CSGP)

### Larger Common Plan of Development

Office of Water Quality Stormwater Section

Stormwat@idem.IN.gov

### Construction Stormwater General Permit (CSGP) Definition/Interpretation of Larger Common Plan of Development or Sale

The requirements of the Construction Stormwater General Permit (CSGP) apply to all construction activities that result in the disturbance of one (1) acre or more of total land area and any land-disturbing activity resulting in disturbance of less than one (1) acre of total land area but is part of a larger common plan of development or sale.

Determining eligibility for projects subject to the CSGP is based on information within the general permit and the definition/interpretation of “larger common plan of development or sale”. IDEM often receives questions about the definition/interpretation of larger common plan of development or sale and provides this guidance to help answer such questions. IDEM consulted with U.S. EPA and obtained concurrence on IDEM’s definition/interpretation of larger common plan of development or sale in administering the CSGP.

The following information takes into consideration specific examples and scenarios that may assist in determining if a project requires permit coverage and any specifics that may or may not apply. The items below consider the terminology of larger common plan of development or sale.

The following are common project types which are regulated under the CSGP. IDEM’s approach to these types of projects [items (a) – (c)] was verified by the U.S. EPA in Washington DC on December 19, 2022. These examples are intended to provide insight into how IDEM administers the CSGP for projects which are part of a larger common plan of development or sale. IDEM also recommends review of the permit language in the CSGP to further understand the approach to the scenarios below.

**(a) Commercial/industrial multi-lot developments:**

*(Applies to projects that collectively will disturb one (1) acre or more):*

- 1) The overall developer of the property is required to obtain permit coverage. As lots are sold and developed within the overall project footprint, IDEM requires each purchaser/owner of the lot(s) to obtain their own permit coverage. This would apply to all lots regardless of the amount of land disturbance on each lot. Because the overall developer of the property has made the land available for development and has provided all roads, infrastructure etc. Collectively anyone working within the larger development is operating under a larger common plan of development or sale regardless of the amount of land they disturb on their individual lot.

**(b) Residential multi-lot developments:**

*(Applies to projects that collectively will disturb one acre or more):*

- 1) The primary/overall developer of the property is required to obtain permit coverage. The developer is installing roads, infrastructure, and erosion and sediment control measures for the overall development. As lots are sold and developed within the overall project footprint, IDEM does not

require each builder of a lot or multiple lots to obtain their own permit coverage. However, the CSGP requires the builder to sign a Construction Stormwater Residential Development [Lot(s)] Registration form which establishes their intent to comply with CSGP and operate under the permit coverage obtained by the overall developer. The form requires the lot operator (builder) to sign the form and list the building lot or lots for which they are responsible. The overall developer is required to sign the form. IDEM does have a provision in the CSGP that allows IDEM to enforce the CSGP and/or require any builder within the larger development to obtain their own permit coverage if a builder fails to comply with the CSGP requirements under the permit coverage of the overall developer.

- 2) Primary developer (prepares land for development) must:
  - a. Develop an overall construction/stormwater pollution prevention plan (SWP3).
  - b. Obtain permit coverage and must maintain coverage through completion of homes.
- 3) A builder within the development must:
  - a. Develop a building lot specific stormwater pollution prevention plan (SWP3). Post-construction does not apply under this example. IDEM will accept a building lot plan that is developed by the primary developer (refer to 2) above) for lots within the overall development.  
Note: One SWP3 is acceptable for multiple lots if the building lots are uniform in topography etc.
  - b. Complete a Construction Stormwater Residential Development Registration form and maintain the form on-site (form available on the IDEM Stormwater webpage).
  - c. Manage operations and comply with the requirements of the CSGP but is not required to conduct a self-monitoring program.

Note: The Construction Stormwater Residential Development Registration form is not required:

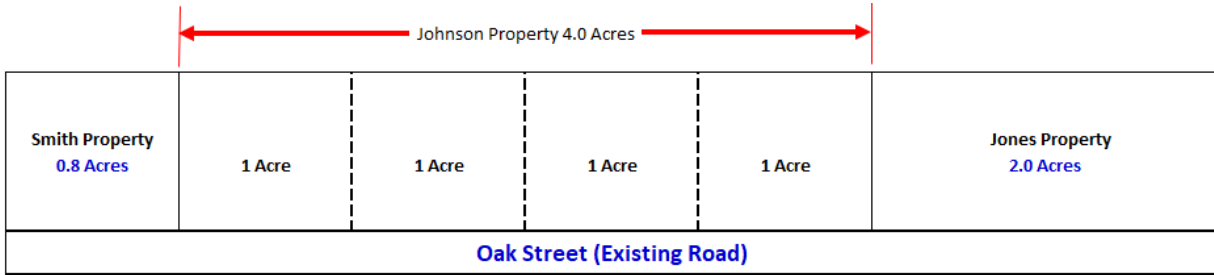
- If the primary developer is also the builder.
- A builder chooses or is required to obtain their own permit coverage.

**(c) Residential Strip developments:**

*(Applies to projects that collectively will disturb one acre or more):*

A strip development is land that is bought and split into lots by an entity or individual that is not making any improvements to the property. Improvements include infrastructure (roads, utilities, etc.) or any land disturbance. The building lots are being purchased and made available for development. In this scenario IDEM does not require the entity that purchased and platted the lots to obtain permit coverage as they are not disturbing land. In the CSGP, IDEM looks at strip developments as a “larger common plan of development or sale” primarily because multiple, contiguous lots that have been made available for development will cumulatively result in one (1) acre or more of land disturbance as each lot is built out. As each lot is developed, IDEM requires the builder on each lot to obtain permit coverage for that lot regardless of the amount of disturbance on each lot since the total build out of lots will collectively result in one (1) acre or more of land disturbance. As an example, if six lots are platted and a different builder operates on each lot, each of the six builders would be required to obtain permit coverage. IDEM has identified and established a calculation for total land disturbance which states “individual residential lots of .5 acres or more in size are required to use .5 acres as the projected land disturbance and lots less than .5 acres in size must use the actual acreage of the lot as the projected land disturbance”. If one or two builders purchase multiple lots and plan to build, the builder(s) may obtain one permit for all of the lots. Below are several examples related to strip developments.

**Example 1:**

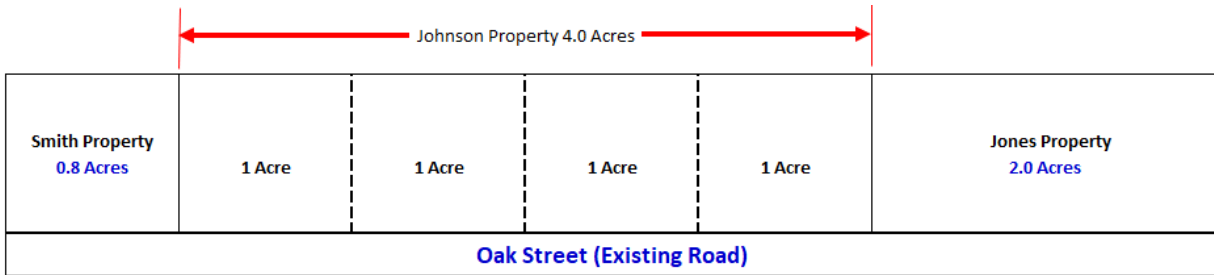


- Property (Johnson) is replatted into 4 one (1) acre parcels (multi lot project).
- Developer (entity requesting the replat) does not make any improvements.
- The builder(s) that purchase the lot(s) are required to develop a lot specific SWP3 and obtain permit coverage. Post-construction does not apply under this example.

**Rationale:**

- Larger common plan of development or sale.
- The land disturbance is calculated at .5 acres for lots that are .5 acres or more in size. Projected land disturbance is approximately 2.0 acres.

**Example 2:**

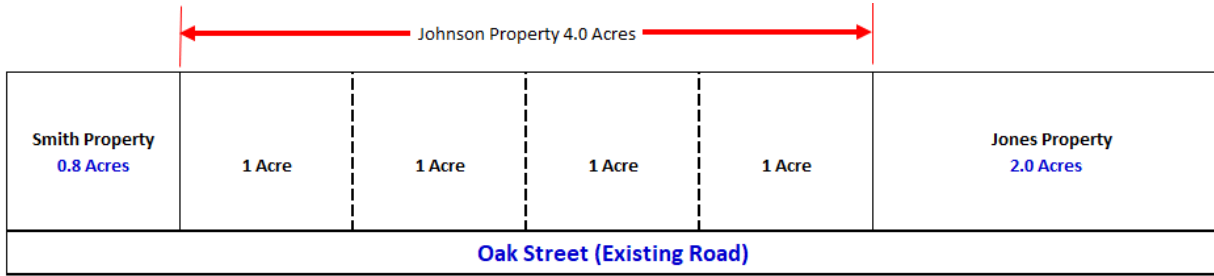


- Property (Johnson) is replatted into 4 one (1) acre parcels (multi lot project).
- Developer (entity requesting the replat) plans to make improvements to the property.
- The developer would be required to obtain permit coverage.
- The builder must develop a lot specific SWP3 and complete a Stormwater Residential Development Registration form.
- Post-construction does not apply under this example.

**Rationale:**

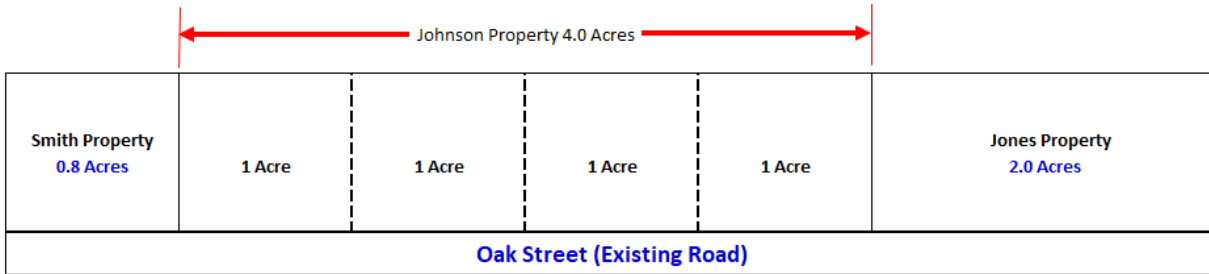
- Larger common plan of development or sale.  
The land disturbance is calculated for the initial improvement activity plus .5 acres for each lot.

**Example 3:**



- Mr. Jones plans to build a home on his 2.0-acre parcel. The property will not be divided or split into separate platted lots.
- The project is not considered a larger common plan of development or sale or a multi lot project.
- The need for permit coverage must be calculated on the actual projected land disturbance which is based on the footprint of the home, driveway, and any other amenities, if greater than one (1) acre, Mr. Jones must apply for permit coverage.
- Post-construction does not apply under this example.

**Example 4:**



- Mr. Smith plans to build a home on his .8-acre parcel.
- The project is not considered a larger common plan of development or sale or a multi lot project.
- Projected land disturbance will not exceed one (1) acre based on the size of the parcel.
- Permit coverage is not required.

**(d) Established entities/communities:**

*(Applies to projects at colleges, universities, or neighborhoods within a city or town):*

1) For established entities, the larger common plan does not apply except under specific scenarios. Some examples of established entities include cities, towns, universities, colleges, and INDOT. Planned development within an established entity would be subject to the one (1) acre of land disturbance *per project*. If an established entity has separate projects planned within its footprint, like adding a building in one area and a parking lot in another area and with less than one (1) acre disturbed at each project, permit coverage would not be required as these are separate projects. As an example, a university could have multiple, less-than-an-acre-disturbance projects occurring within their campus at one time and these would not be required to obtain permit coverage. There are exceptions, which would be determined based on the scope of the project. As an example, there is a building being constructed that is less than one acre (.75) and the sewer line that must be installed to service the building will disturb .3 acres. In this scenario the two projects are considered part of a common plan and would require permit coverage. The other scenario that may require permit coverage would be related to a re-development project where the planned activity is contiguous and results in one (1) acre or more of land disturbance.

Note: The above university example is consistent with how IDEM evaluates projects within a city or town.

2) Another similar scenario is related to an established residential or commercial neighborhood. If a vacant lot or lots are developed or demolition were to occur to rebuild, IDEM would evaluate the projected land disturbance to determine if permit coverage is needed. If there is less than one (1) acre of disturbance, IDEM would not require permit coverage. IDEM does not consider the existing, established neighborhood as part of the project thus the project is not part of a larger common plan. As an example, a business was torn down on a lot within a city. The surrounding neighborhood, which had been there for a long time, would not be considered a part of a larger common plan when the vacant lot is (re)developed and thus would not factor into the determination of the need for permit coverage. IDEM would not require this project to obtain permit coverage if the land disturbance for the lot redevelopment is less than one (1) acre. Likewise, the number of parcels/lots would not be considered as a larger common plan if multiple parcels were developed by the same entity and the cumulative land disturbance was less than one (1) acre.

**(e) Off-site construction activities:**

*(Applies to projects conducted by one or more entities and are associated with road extensions, sewer and water lines, and other utilities):*

- 1) For development projects that occur in conjunction with infrastructure installation, the need for permit coverage is determined by the specifics of the project(s). For example: A development corporation will obtain permit coverage for their subdivision project. The local municipality requires the development corporation to install an access road as part of the project. The road is considered part of the larger common plan of development and must be included in the projected land disturbance for the project. Permit coverage is required of the development cooperation for both activities.
- 2) A developer of a subdivision will obtain permit coverage for their overall project. The local municipality will install an access road as part of the project. The road is not part of the developer's larger common plan. Thus, the municipality must obtain permit coverage if the land disturbance associated with the road is projected to be one (1) acre or more.

**(f) Voluntary compliance:**

*(Applies to projects with less than one acre disturbed):*

It is not uncommon for an applicant to pursue permit coverage when a project is close to the one (1) acre threshold of land disturbance. The applicant may take this approach to ensure that the project complies if for some reason the final land disturbance results in one (1) acre or more. If an applicant voluntarily requests coverage, IDEM will review the plans and, if the plans are adequate, issue permit coverage.