

## Interoffice Memorandum

**DATE:** October 16, 2024

**TO:** Mayor Jerry L. Demings and County Commissioners

**THROUGH:** N/A

**FROM:** Tanya Wilson, AICP, Director, Planning, Environmental, and Development Services Department

**CONTACT:** Renée H. Parker, LEP, Manager, Environmental Protection Officer

**PHONE:** (407) 836-1420

**DIVISION:** Environmental Protection Division

### **ACTION REQUESTED:**

Acceptance of the findings and recommendation of the Environmental Protection Division staff and approval of the After-the-Fact Shoreline Alteration/Dredge and Fill Permit SADF-24-01-003 for Brett and Katie Claflin, subject to the conditions listed in the staff report. District 1.

**PROJECT:** Request for an After-the-Fact Shoreline Alteration/Dredge and Fill Permit for Brett and Katie Claflin (SADF-24-01-003)

**PURPOSE:** The applicants, Brett and Katie Claflin, are requesting an After-the-Fact Shoreline Alteration/Dredge and Fill permit to authorize the installation of a replacement vinyl seawall landward of an existing seawall along the shoreline of Lake Butler. The property is located at 1309 Kelso Boulevard, Windermere, Florida 34786 (Parcel ID No. 13-23-27-4110-00-080) in District 1.

There is an existing wooden seawall located along the shoreline of the property. The wood is in poor condition and in need of replacement. The applicants are proposing to install approximately 101 feet of replacement vinyl seawall behind the existing seawall, with an 11.8-foot return on the northern end and an 8.3-foot return on the southern end. The proposed project includes the installation of a five-foot wide staircase to be located within the 30-foot access corridor associated with the dock.

Environmental Protection Division (EPD) staff received a complaint about the construction of a seawall at the subject property on September 21, 2023 (Enforcement Case Nos. 23-629572 and 23-629573). A search of records determined that no permits were on file for either the existing seawall, constructed by the previous property owners, nor the replacement seawall, partially constructed by the applicants. A Notice of Violation (NOV) was sent to the applicants for the unauthorized work on October 16, 2023, which included requirements to obtain the

proper permit(s), and pay an administrative penalty in the amount of \$3,999.00. Upon the applicant's request, EPD agreed to reduce the penalty to \$1,687.50, based on the applicant's quick response and work towards bringing the property into compliance. EPD received the penalty payment, designated for use in the Conservation Trust Fund, on August 21, 2024.

No seawall is present on the property to the south; however, the property on the north has a seawall, and there are other seawalls present on Lake Butler. Based on prior Board direction, riprap and plantings are normally required for new and replacement seawalls. Therefore, the applicants will install riprap waterward of the replacement seawall along its entire length and native plantings will be installed along the shoreline except for the area within the designated 30-foot access corridor.

In accordance with Orange County Code, Chapter 33, Article IV, Section 33-129(d), notification of the public hearing was sent to all property owners within 500 feet of the project site. EPD has received no objections to the request.

Pursuant to Orange County Code, Chapter 33, Article IV, EPD has evaluated the proposed SADF permit application and required documents and has made a finding that the request is consistent with Orange County Code, Chapter 33, Article IV, Section 33-129.

#### Staff Recommendation

Approval of the SADF permit, subject to the following conditions:

#### Specific Conditions

1. This permit shall become final and effective upon expiration of the 30-calendar day period following the date of rendition of the Board's decision approving the permit unless a petition for writ of certiorari or other legal challenge has been filed within this timeframe. Any timely filed petition or other challenge shall stay the effective date of this permit until the petition or other challenge is resolved in favor of the Board's decision.
2. The operational phase of this permit is effective upon the completion of construction and continues in perpetuity.
3. Construction activities shall be completed in accordance with the plans submitted by Q-Ice Builders, and signed and sealed by Robert DeWitt, P.E. and received by EPD on September 6, 2024. The permitted activity must commence within six months and be completed within two years from the date of issuance of the permit. In the event that the project has not commenced within six months or been completed within two years or extended, this permit shall be void and a new permit application with fee will be required.
4. In the event that the permitted activity has not been completed within two years, the Environmental Protection Officer may grant a permit extension of up to one additional

year. Requests for permit extension must be submitted to EPD prior to the expiration date. No changes to the approved plans will be authorized with a permit extension.

5. Riprap will be installed waterward of the new seawall in accordance with the engineered plans signed and sealed by Robert DeWitt, P.E., and received by EPD on September 6, 2024. The riprap shall be installed at a slope no steeper than two (horizontal) to one (vertical), extend at least halfway up the face of the seawall, and measure between 12 inches to three feet in diameter. The installation of riprap must commence within 30 days and be completed within 60 days from the date of completion of construction of the seawall.
6. Installation of plantings must be initiated within 30 days and be completed within 60 days of installation of the riprap in accordance with the engineered plans signed and sealed by Robert DeWitt, P.E., and received by EPD on September 6, 2024. After one year, if 80 percent areal coverage of native emergent or aquatic plant species is not established, additional plantings may be required.
7. The permittees may maintain a clear access corridor below the NHWE of 98.48 feet (NAVD88) above mean sea level for Lake Butler, not to exceed 30 feet or 20 percent of the total shoreline length in width, whichever is greater, and of sufficient length waterward from the shoreline to allow access to open water. Any existing or future structures, such as a boat dock, must be located within this corridor.
8. This permit does not authorize any dredging or filling except that which is necessary for the installation of the replacement seawall, as depicted on the approved plans.
9. Turbidity and sediment shall be controlled to prevent off-site, unpermitted impacts and violations of water quality standards pursuant to Rules 62-302.500, 62-302.530(70), and 62-4.242, Florida Administrative Code (F.A.C.). Best Management Practices (BMPs), as specified in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (2013, or most current version), shall be installed and maintained at all locations where there is the possibility of transferring sediment, turbidity, or other pollutants into wetlands and/or surface waters due to the permitted activities. BMPs are performance based; if selected BMPs are ineffective or if site-specific conditions require additional measures, then the permittees shall implement additional or alternative measures as necessary to prevent adverse impacts to wetlands and/or surface waters. Turbidity discharging from a site must not exceed 29 Nephelometric Turbidity Units (NTU) over background for Class III waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters (OFWs).
10. Discharge of groundwater from dewatering operations requires approval from the Florida Department of Environmental Protection (FDEP) and the applicable Water Management District. The operator/contractor shall obtain an FDEP Generic Permit for the Discharge of Ground Water from Dewatering Operations pursuant to the requirements of Chapters 62-621.300(2)(a) and 62-620, F.A.C., and Chapter 403 FS. Discharges directed to the

County's MS4 require an Orange County Right-of-Way Utilization Permit for Dewatering prior to the start of any discharges.

#### General Conditions

11. A copy of this permit, along with EPD stamped and approved drawings, should be provided to the Orange County Zoning Division (OCZD) at 201 South Rosalind Avenue for review prior to applying for a Building Permit. For further information, please contact the OCZD at (407) 836-5525.
12. After approval by OCZD, the certified site plans will need to be reviewed by the Orange County Building Safety Division (OCBSD) in order to obtain a Building Permit. For further information, please contact the OCBSD at (407) 836-5550.
13. The permittees shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications in good condition at the construction site. The permittees shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
14. Subject to the terms and conditions herein, the permittees are hereby authorized to perform or cause to be performed, the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittees bind themselves and any successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities are not in accordance with the conditions of the permit, work shall cease, and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holders promptly thereafter.
15. Issuance of this permit does not warrant in any way that the permittees have riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittees. In the event that any part of the structure permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owners' riparian or other property rights, the permittees agree to either obtain written consent or to remove the offending structure or encroachment within 60 days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
16. This permit does not release the permittees from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittees or create in the permittees any property right, or any interest in real property, nor does it authorize any entrance upon or activities upon property which

is not owned or controlled by the permittees or convey any rights or privileges other than those specified in the permit and Chapter 33, Article IV of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency, the permittees shall comply with the most stringent conditions. The permittees shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.

17. The permittees are hereby advised that Section 253.77 FS, states that a person may not commence any excavation, construction, or other activity involving the use of sovereignty or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittees are responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
18. Should any other regulatory agency require changes to the property or permitted activities, the permittees shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
19. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
20. The permittees shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate. EPD may revoke the permit upon discovery of information that may cause pollution to water bodies, cause an adverse impact on the riparian rights of other waterfront property owners, or impede the traditional use and enjoyment of the waterbody by the public.
21. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to ensure conformity with the plans and specifications approved by the permit.
22. The permittees shall notify EPD, in writing, within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. The permittees shall remain liable for any corrective actions that may be required as a result of any permit violations until the permit is legally transferred.
23. The permittees shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
24. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittees.

25. The permittees agree that any dispute arising from matters relating to this permit shall be governed by the laws of Florida and initiated only in Orange County.
26. Pursuant to Section 125.022 FS, issuance of this permit by the County does not in any way create any rights on the part of the applicants to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicants fail to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.
27. Pursuant to Section 125.022 FS, the applicants shall obtain all other applicable state or federal permits before commencement of construction.

**BUDGET: N/A**



## After-the-Fact Application for Shoreline Alteration/Dredge and Fill



**After-the Fact Shoreline Alteration  
Dredge and Fill Permit Request  
SADF-24-01-003  
District #1**

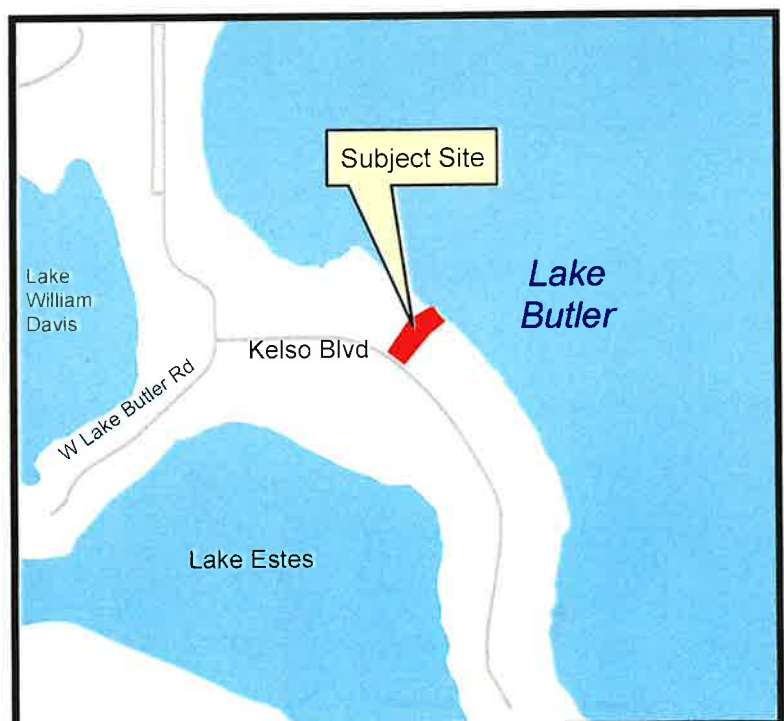
**Applicants: Brett and Katie Claflin**

**Address: 1309 Kelso Blvd**

**Parcel ID: 13-23-27-4110-00-080**

**Project Site** 

**Property Location** 





# Boundary Survey

## Legal Description:

Lot 8, Kelso on Lake Butler, according to the Plat thereof as recorded in Plat Book 5, Page(s) 48-49, Public Records of Orange County, Florida.

Flood Zone: X and AE  
Community Number: 12095C  
Panel: 0380F  
Date: 9/25/2009

CERTIFIED TO:  
Katie Lee Claflin  
Brent Hunter  
Old Florida Bank  
Treasure Title Insurance Agency, Inc.  
Westcor Land Title Insurance Company



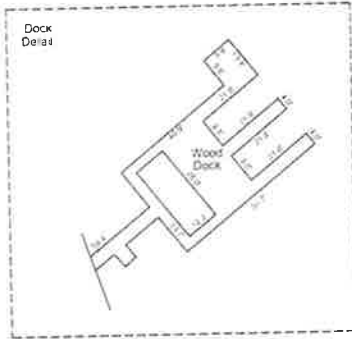
LAKE BUTLER

### PLANTING PLAN

Plants to be planted at one-foot spacing

SPECIES	SIZE	#
Canna flaccida	BR	42
Portulaca oleracea	BR	84
Sagittaria latifolia	BR	84
Nymphaea odorata	1-GAL	20
Euboea corymbosa	BR	84

received  
9/6/2024



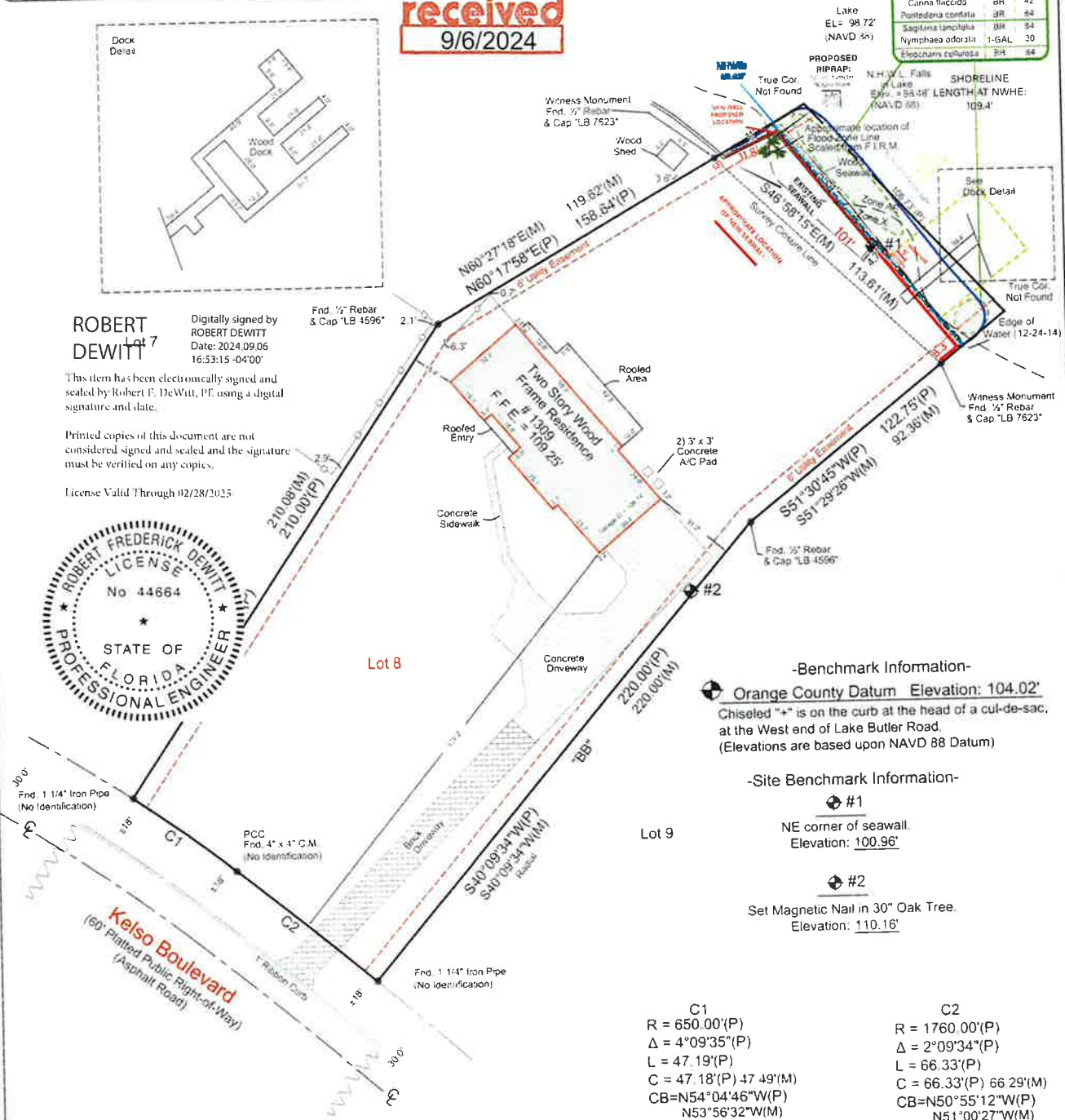
ROBERT DEWITT

Digitally signed by  
ROBERT DEWITT  
Date: 2024.09.05  
16:53:15 -04'00'

This item has been electronically signed and sealed by Robert F. DeWitt, PE, using a digital signature and date.

Printed copies of this document are not considered signed and sealed and the signature must be verified on any copies.

License Valid Through 02/28/2025



### -Benchmark Information-

Orange County Datum Elevation: 104.02'  
Chiseled "+" is on the curb at the head of a cul-de-sac, at the West end of Lake Butler Road.  
(Elevations are based upon NAVD 88 Datum)

### -Site Benchmark Information-

#1  
NE corner of seawall.  
Elevation: 100.96'

#2  
Set Magnetic Nail in 30" Oak Tree.  
Elevation: 110.16'

C1  
R = 650.00'(P)  
Δ = 4°09'35"(P)  
L = 47.19'(P)  
C = 47.18'(P) 47.49'(M)  
CB=N54°04'46"W(P)  
N53°56'32"W(M)

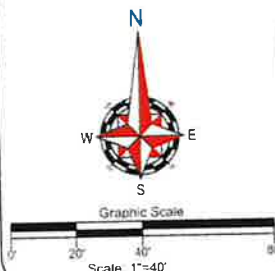
C2  
R = 1760.00'(P)  
Δ = 2°09'34"(P)  
L = 66.33'(P)  
C = 66.33'(P) 66.29'(M)  
CB=N50°55'12"W(P)  
N51°00'27"W(M)

\*Revised 4-6-16: Added NHWL and floor elevations

Field Date: 12/24/14	Date Completed: 04/16/16
Drawn By: BK	File Number: IS-19387
<b>Legend:</b>	
C - Contour	PC - Point of Curvature
CA - Concrete	PI - Point of Intersection
CL - Center Line	POB - Point of Beginning
CO - Corner	POI - Point of Intersection
DE - Description	PP - Point of Beginning
FE - Flood Elevation	PSM - Permanent Reference Monument
FEMA - Federal Emergency Management Agency	PT - Point of Tangency
FPE - Finished Floor Elevation	R - Radius
FPL - Foundation	RAC - Rebar & Cap
L - Length (As Placed)	REC - Recovered
M - Measured	RS - Right of Way
N&D - Not & Determined	Set - Set 1/2" Rebar & Cap
N&R - Not & Recovered	Typ - Typical
OR - Official Records Book	US - Utility Easement
OS - Official Survey	WM - Water Meter
PS - Plat Book	Δ - Delta (Central Angle)
Q - Metal Fence	CL - Chain Link Fence

Notes:  
-Survey is Based upon the Legal Description Supplied by Client.  
-Subsequent Property Deeds have NOT been Researched for Gaps, Overlaps and/or Mistakes.  
-Bearing, Distance, and/or Restriction of Record.  
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-Building Ties are NOT to be used to reconstruct Property Lines.  
-Fence Ownership is NOT determined.  
-About Overhangs, Underground Utilities and/or Fences have NOT been located UNLESS otherwise noted.  
-Septic Tanks and/or Drainfield locations are approximate and MUST be verified by appropriate Utility Location Companies.  
-Use of This Survey for Purposes other than Intended, Without Written Verification, Will be at the User's Sole Risk and Without Liability to the Surveyor.  
-ANY Rights or Benefits to Anyone Other than those Certified.  
-Flood Zone Determination Shown Herein is Given as a Courtesy, and is Subject to Final Approval by FEMA. This Determination may be affected by Flood Easements and/or other information NEITHER known by NOR given to this Surveying Company at the time of this Endeavor and Associates Surveying, Inc. and the signing surveyor assume NO Liability for the Accuracy of this Determination.

Ireland & Associates Surveying, Inc.  
1301 S. International Parkway, Suite 2001  
Lake Mary, Florida 32746  
www.irelandsurveying.com  
Office-407.678.3366 Fax-407.320.8165





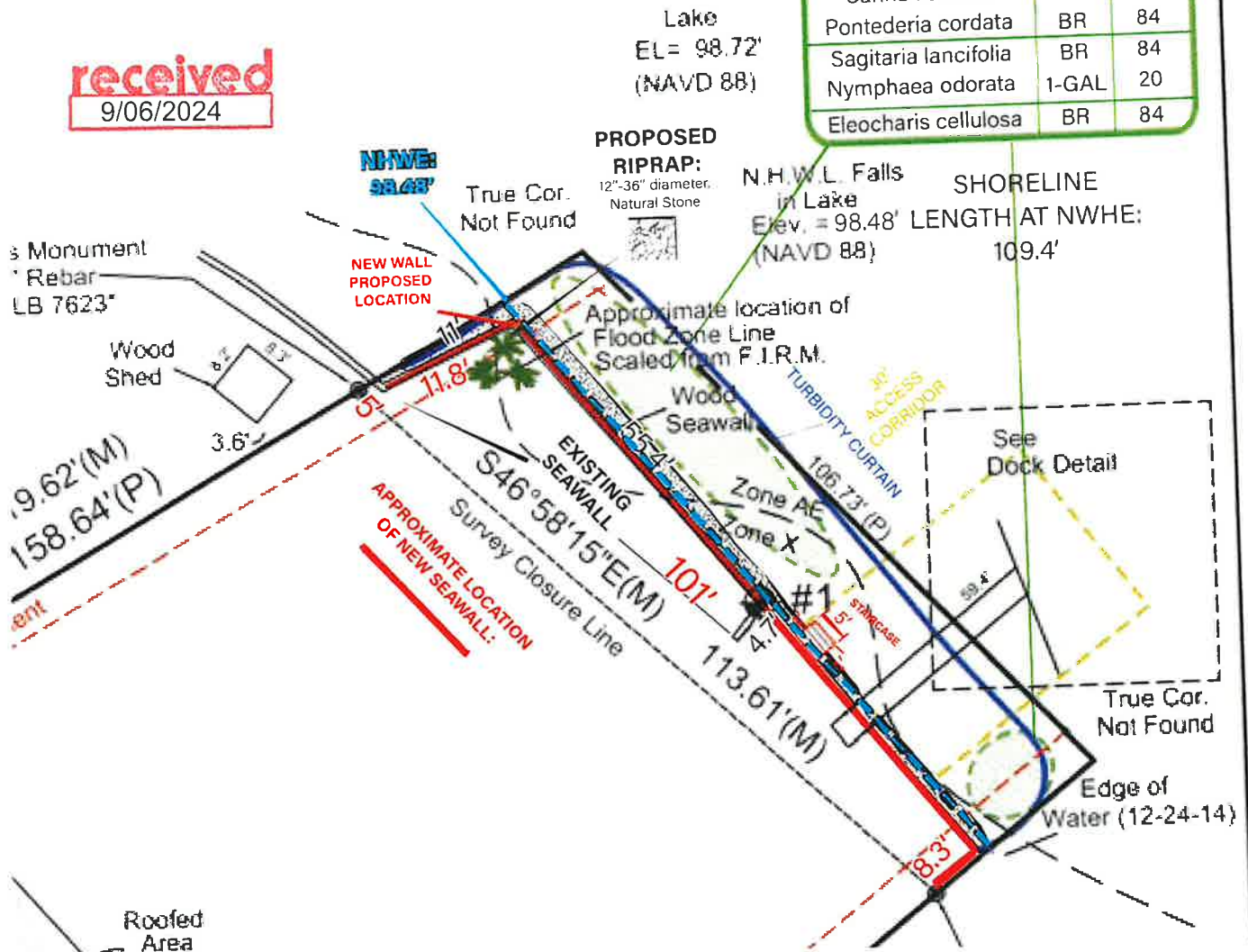


**received**  
9/06/2024

## PLANTING PLAN

Plants to be planted at one-foot spacing.

SPECIES	SIZE	#
Canna flaccida	BR	42
Pontederia cordata	BR	84
Sagittaria lancifolia	BR	84
Nymphaea odorata	1-GAL	20
Eleocharis cellulosa	BR	84



### Close up of site plan

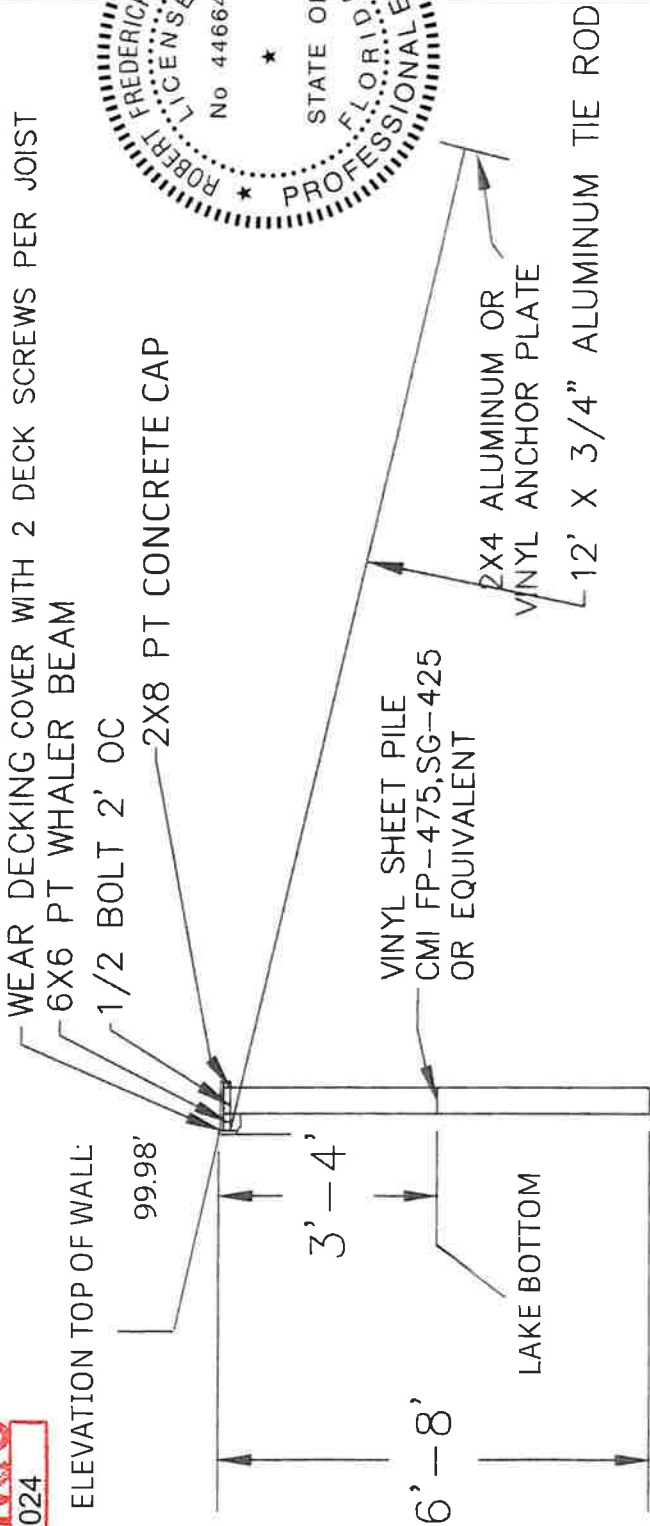
Brett Claflin  
1309 Kelso Blvd  
SADF-24-01-003

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ROBERT  
DEWITT

Digitally signed by ROBERT  
DEWITT  
Date: 2024.09.06 16:49:21  
-04'00'

received  
9/6/2024



Elevation Varies Depending On Grade  
Between 2-4' Embedment Depth  
Equals To Exposure Height

BRETT CLAFLIN  
SITE ADDRESS: 1309 KELSO BOULEVARD  
PARCEL ID NO.: 13-23-27-4110-00-080  
APPLICATION NO.: SADP-24-01-003

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ROBERT DEWITT

Digitally signed by ROBERT DEWITT  
Date: 2024.09.06 16:50:08 -04'00'

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received  
9/6/2024

ELEVATION:  
100.96'

VINYL SEAWALL W/  
CONCRETE CAP



PLANTINGS

NHWE: 98.48

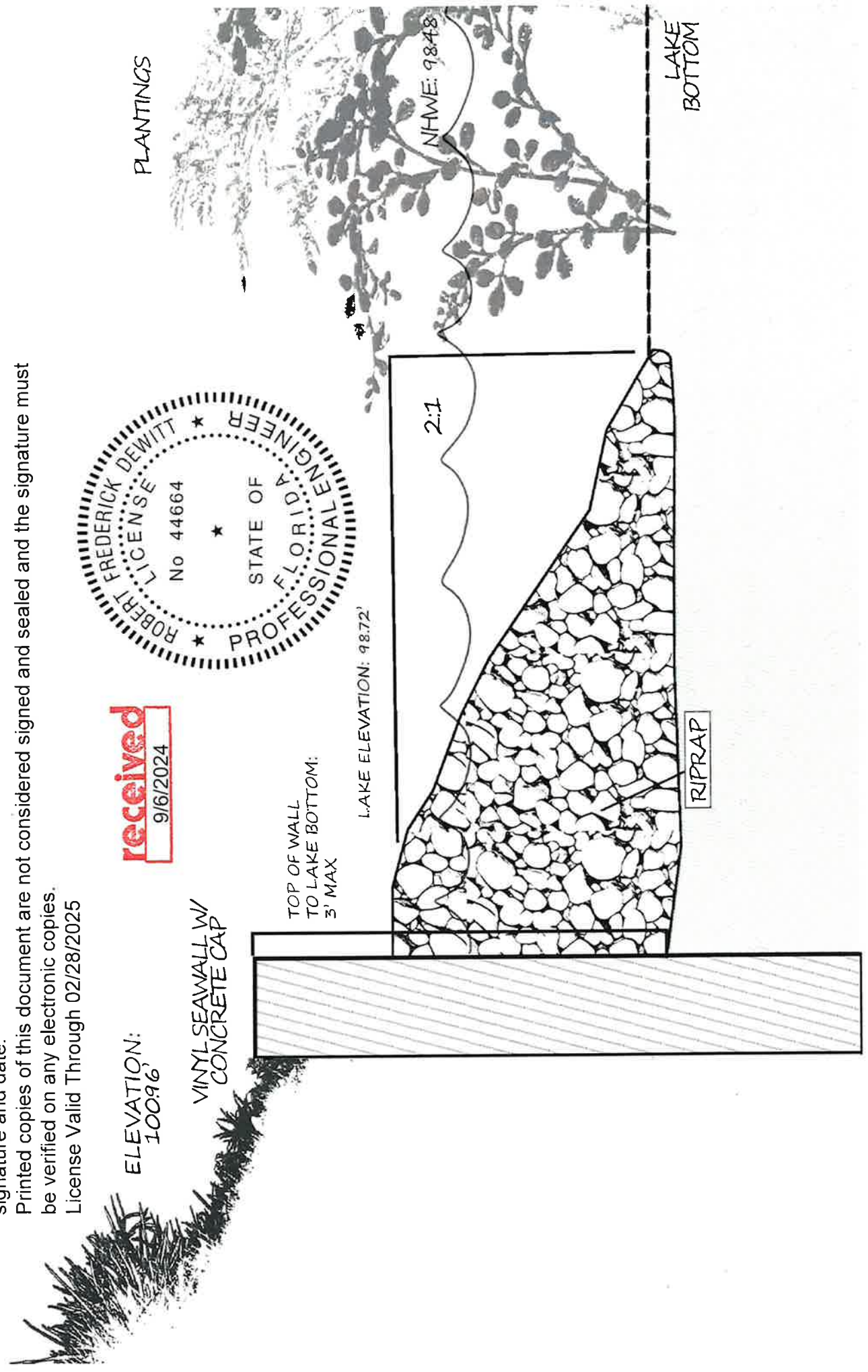
LAKE  
BOTTOM

TOP OF WALL  
TO LAKE BOTTOM:  
3' MAX

LAKE ELEVATION: 98.72'

2:1

RIPRAP





BRETT CLAFLIN  
SITE ADDRESS: 1309 KELSO BOULEVARD  
PARCEL ID NO: 13-23-27-4110-00-080  
APPLICATION NO: SADP-24-01-003

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received  
9/6/2024

4'-0"

SYNTHETIC DECKING

\*OWEN CORNING WEARDECK  
(NON-OCA LUMBER)

(TYP. @  
THREAD)  
10"

23'  
32  
(TYP. @  
RISER)

1 1/4"  
(TYP. @  
NOSING)

RIPRAP

4" EMBEDDED

PILES WRAPPED  
WITH HDPE

6" EMBEDDED

LAKE  
BOTTOM

NHWL

NLWL



Digitally signed by  
ROBERT DEWITT  
Date: 2024.09.06  
16:50:53 -04'00'

ROBERT  
DEWITT



