



Interoffice Memorandum

**AGENDA ITEM**

March 11, 2021

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners

FROM: Jon V. Weiss, P.E., Director  
Planning, Environmental, and Development  
Services Department

CONTACT PERSON: David D. Jones, P.E., CEP, Manager  
Environmental Protection Division  
(407) 836-1406

SUBJECT: April 13, 2021 — Consent Item  
Environmental Protection Commission Recommendation for  
Request for After-the-Fact Waiver for William James Herb III  
Dock Construction Permit BD-20-08-139

The applicant, Mr. William James Herb III, is requesting approval of an after-the-fact waiver to Orange County Code (Code), Chapter 15, Article IX, Section 15-343(b) (side setback). The project site is located at 5307 Brosche Road, Orlando, FL 32807. The Parcel ID number is 28-22-30-3444-00-092. The subject property is located adjacent to Lake Barton in District 3.

In September 1995, the Environmental Protection Division (EPD) issued Dock Construction Permit BD-95-131 to the previous owner of the property, Mr. James Ong, to construct a new boat dock on the subject property. BD 95-131 authorized a side setback of 10 feet from the western projected property line, which was the minimum side setback allowed by the Code at the time.

On October 10, 2018, EPD received a complaint regarding a modification to the existing dock and determined that the dock had been altered from its permitted design, including the installation of new pilings to support an expansion of the terminal platform on the east side of the dock. On July 25, 2019, EPD mailed a Notice of Violation (NOV) letter to the property owner, Mr. Herb, who purchased the property on August 16, 2018. The NOV required Mr. Herb to either remove all unpermitted portions of the dock to demonstrate consistency with the approved plans in permit BD 95-131, or submit an application to attempt authorization of the after-the-fact modification, and pay a penalty of \$799 to the Conservation Trust Fund.

An After-the-Fact Application to Construct a Dock was received by EPD on August 11, 2020, and a signed and sealed as-built survey showing current conditions was received by EPD on October 27, 2020. An Application for Waiver from Section 15-343(b) (side setback) was received by EPD on December 10, 2020 to reduce the side setback from the western projected property line from 25 feet to 7.3 feet.

Page Two

April 13, 2021 – Consent Item

Environmental Protection Commission Recommendation for Request for After-the-Fact Waiver for William James Herb III Dock Construction Permit BD-20-08-139

Notification of the Application for Waiver was sent to the affected adjacent shoreline owner. No objection was received.

EPD evaluated the after-the-fact waiver request for compliance with the criteria for approval. The recommendation of the Environmental Protection Officer (EPO) is to approve the request for the after-the-fact waiver to Section 15-343(b) (side setback), based on a finding that the applicant has demonstrated there will be no negative effect on the abutting shoreline owner pursuant to Section 15-350(a)(2)(2) as no objection has been received. In addition, pursuant to Section 15-350(a)(2)(1), no negative impacts to the environment are expected due to the positioning of the dock nearer to the western projected property line.

EPD presented the after-the-fact waiver request to the Environmental Protection Commission (EPC) at their February 24, 2021 meeting. Based upon evidence and testimony presented at the public hearing, the EPC voted (4:2) to accept the recommendation of the EPO and made a finding that the request for an after-the-fact waiver is consistent with Section 15-350(a)(2) and recommended approval of the request for waiver to 15-343(b) to reduce the minimum side setback from 25 feet to 7.3 feet from the western projected property line, with the condition that the applicant pay an administrative penalty of \$799 to the Conservation Trust Fund within 60 days of the decision of the Board.

**ACTION REQUESTED:**

**Acceptance of the findings and recommendation of the Environmental Protection Commission and approval of the request for an after-the-fact waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) to reduce the minimum side setback from 25 feet to 7.3 feet from the western projected property line with the condition that the applicant pay an administrative penalty of \$799 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners for the William James Herb III Dock Construction Permit BD-20-08-139. District 3**

JVW/DDJ: mg  
Attachments

# Dock Construction Application for After-the-Fact Waiver



The Sanborn Map Company

## Dock Construction Application for After-the-Fact Waiver

**BD-20-08-139**

**District #3**

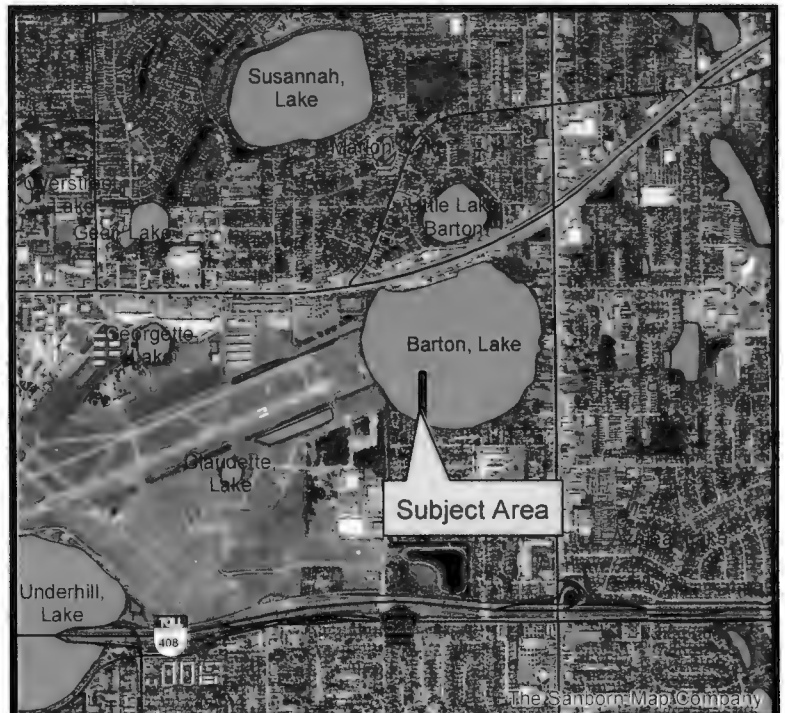
**Applicants: William James Herb III**

**Address: 5307 Brosche Road**

**Parcel ID: 28-22-30-3444-00-092**

**Project Site** 

**Property Location** 



The Sanborn Map Company

**Boundary Survey**

**Legal Description:**

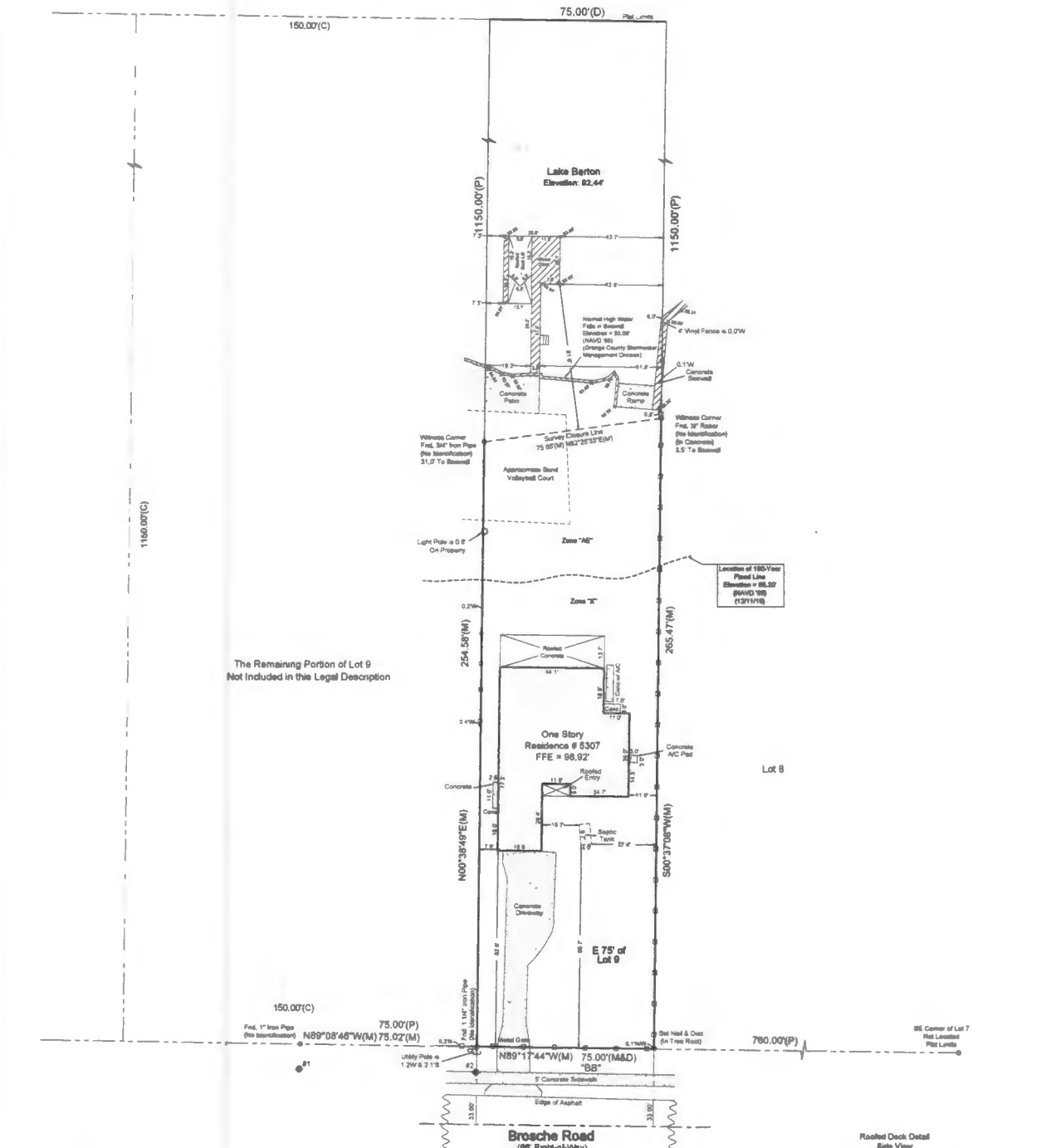
The East 75 feet of Lot 9, Hastings Subdivision, according to the Plat thereof as recorded in Plat Book D, Page(s) 141, of the Public Records of Orange County, Florida.

**Read Disclaimer:**  
 All boundaries in accord with the local governing municipality or other laws, per the plat they appear to be located as zone X, AL. This Property was found in ORANGE COUNTY, community number 08176 dated 9/23/2008.

CERTIFIED TO WILLIAM J. HERB



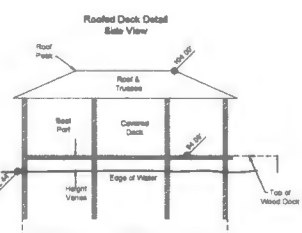
PARCEL ID # 28-22-30-0000-00-016



The Remaining Portion of Lot 9  
 Not Included in this Legal Description

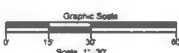
Lot 8

Broche Road  
 (66' Right-of-Way)  
 (Asphalt Road)



**Elevation Information for Dock**  
 Water Elevation 82.64'  
 Electrical Chiller 85.17'  
 Finished Floor Elevation of Rooftop Deck 84.00'  
 Highest Point of Dock 84.01'  
 Lowest Elevation of Dock 83.83'  
 Highest Elevation of Roof 104.00'

**ASSUMED BEARINGS**



- Site Benchmark Information-
- F1  
 1/4" Iron Pipe on Concrete  
 Elevation 85.92'
- F2  
 1/4" Iron Pipe on Concrete  
 Elevation 85.84'

- Benchmark Information-
- Orange County Datum Elevation 89.872'
- 3.P BRASS CORNER STAMPED "ORANGE 1054337" AT THE NE CORNER OF WALL 1 BOX 89 FT EAST OF BROCHE RD. AND BLOWER AVE. ON NORTH SIDE OF BROCHE RD. AT ADDRESS # 828. (ELEVATIONS ARE BASED UPON NAVD 83 DATUM)

Survey: Updated Survey - 10/16/23 - 2024

**Professional & Associates Surveying, Inc.**  
 1421 International Parkway, Suite 200  
 West Melbourne, FL 32909  
 Phone: (321) 938-1300 Fax: (321) 938-8165



**ENVIRONMENTAL PROTECTION DIVISION**  
**David D. Jones, P.E., CEP, Manager**  
 3165 McCrory Place, Suite 200  
 Orlando, FL 32803  
 407-836-1400 • Fax 407-836-1499  
 www.ocfl.net

**ORANGE COUNTY**  
**ENVIRONMENTAL PROTECTION COMMISSION**  
**February 24, 2021**

ENVIRONMENTAL  
 PROTECTION  
 COMMISSION

Mark Ausley  
 Chairman

Oscar Anderson  
 Vice Chairman

Flomari Blackburn

Billy Butterfield

Mark Corbett

Elaine Imbruglia

Vacancy - Regulated  
 Business or  
 Municipality

PROJECT NAME: James Herb

PERMIT APPLICATION NUMBER: BD-20-08-139

LOCATION/ADDRESS: 5307 Brosche Road, Orlando

**RECOMMENDATION: Acceptance of the findings and recommendation of the Environmental Protection Officer, and make a finding that the request for an after-the-fact waiver is consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2), and recommend approval of the after-the-fact waiver to Section 15-343(b) to reduce the minimum side setback from 25 feet to 7.3 feet on the western projected property line with the condition that the applicant pay an administrative penalty of \$799 to the Conservation Trust Fund within 60 days of the decision of the Board of County Commissioners, for the Herb Dock Construction Permit BD-20-08-139. District 3.**

- EPC AGREES WITH THE ACTION REQUESTED, AS PRESENTED
- EPC DISAGREES WITH THE ACTION REQUESTED, AS PRESENTED AND HAS MADE THE FOLLOWING RECOMMENDATION:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signature of EPC Chairman: 

DATE EPC RECOMMENDATION RENDERED: 2-24-2021



APPLICATION TO CONSTRUCT A BOAT DOCK
APPLICATION FOR WAIVER

(Pursuant to Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2))

Mail or Deliver To: Orange County Environmental Protection Division
3165 McCrory Place, Suite 200
Orlando, Florida 32803
(407) 836-1400, Fax (407) 836-1499

william herb

on behalf of (if applicable) pursuant to Orange County Code Chapter 15, Article IX, Section 15-350(a)(2) am requesting a waiver to section (choose and circle from the following: 15-342(b), 15-343(b), 15-344(a) and 15-345(a)) of the Orange County Dock Construction Ordinance.

1. Describe how this waiver would not negatively impact the environment:

this is for an existing dock that was allowed to be permitted and finaled out over 20 years ago

2. Describe the effect of the proposed waiver on abutting shoreline owners:

this is for an existing dock that was allowed to be permitted and finaled out 20 years ago

The environmental protection officer and the board may require of the applicant information necessary to carry out the purposes of this article.

By signing and submitting this application form, I am applying for a waiver to the Section indicated of the Orange County Dock Construction Ordinance identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application, and represent that such information is true, complete, and accurate. I understand this is an application and not a permit, and that work conducted prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, or local permits prior to commencement of construction. I understand that knowingly making any false statements or representation in this application is a violation of Sections 15-341 & 15-342, Orange County Code.

william herb

Name of Applicant: Signature of Applicant/Agent Date: 12/1/20
Corporate Title (if applicable):