




Interoffice Memorandum

August 11, 2023

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

FROM: Andres J. Salcedo, P.E., Acting Director *Andres*
Planning, Environmental, and Development Services Department

CONTACT PERSON: **Elizabeth R. Johnson, CEP, PWS, MPA, Interim Manager** 
Environmental Protection Division
(407) 836-1511

SUBJECT: September 12, 2023 – Public Hearing
Shoreline Alteration/Dredge and Fill Permit Application for Mark and
Lisa Miller (SADF-23-03-005)

The applicants, Mark and Lisa Miller, are requesting a Shoreline Alteration Dredge and Fill Permit (SADF) to authorize construction of a seawall, faced with riprap and plantings, along the shoreline of their property on Lake Down. The property is located at 551 Ridgewood Drive, Windermere, FL 34786 (Parcel ID No. 17-23-28-9336-02-590) in District 1.

The applicants are proposing to construct approximately 60 feet of wooden seawall, which includes five-foot returns on either side of the seawall. There is a large amount of erosion occurring on portions of the shoreline and the applicants wish to save a large oak tree growing near the water's edge. The seawall will be constructed around the perimeter of the oak tree roots at the Normal High Water Elevation (NHWE).

The adjacent property to the east has an existing seawall and there are other properties with seawalls on Lake Down. Based on prior Board direction, riprap and plantings are required for new seawalls; therefore, the applicants will install riprap and plantings waterward of the new seawall. The applicants will also install plantings along the west side of the shoreline where there is little existing native vegetation.

On April 13, 2021, EPD was investigating a complaint of unauthorized shoreline clearing and observed that a large portion of the shoreline at the subject property had been cleared. After a file review, EPD staff confirmed that the shoreline clearing was done without the required Orange County permits and issued a Notice of Violation (Enforcement Case 21-588893) on May 12, 2021.

During a compliance inspection conducted by EPD on April 22, 2022, for BD-18-06-072, EPD documented that the shoreline continued to be cleared without proper authorization from EPD. EPD also noted that a wooden seawall had been constructed on the shoreline without the required Orange County permits. EPD issued an Updated Notice of Violation on September 16, 2022, requiring the removal of the seawall and submittal of a planting plan to restore the cleared shoreline.

On November 1, 2022, EPD staff conducted a follow up inspection of the property and determined that the shoreline had begun to naturally revegetate and that the unauthorized seawall had been removed.

An administrative penalty of \$8,836.80 was assessed for the violations, however due to the property owners' willingness and cooperation to bring their property into compliance, EPD

reduced the penalty to \$3,500.00. EPD received the penalty payment on November 14, 2022 and sent a No Further Action Letter on November 21, 2022 to the property owners.

In accordance with Orange County Code, Chapter 33, Article IV, Section 33-129(d), notification of the public hearing was sent to 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 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 site plan survey prepared by Extreme Marine Boat Docks and Decks and the engineered cross section signed and sealed by Tirlochan S. Chehal, P.E., received by the Environmental Protection Division (EPD) on July 10, 2023 and June 16, 2023, respectively. 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 shall be installed waterward of the new seawall in accordance with the site plan prepared by Extreme Marine Boat Docks and Decks and the engineered cross section signed and sealed by Tirlochan S. Chehal, P.E., received by EPD on July 10, 2023 and June 16, 2023, respectively. 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 site plan prepared by Extreme Marine Boat Docks and Decks and the engineered cross section signed and sealed by Tirlochan S. Chehal, P.E., received by EPD on July 10, 2023 and June 16, 2023, respectively. 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 Normal High Water Elevation (NHWE) of 98.52 feet (NAVD88) above mean sea level for Lake Down, 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 seawall, riprap, and native vegetation plantings, 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 (OFW).
10. Discharge of groundwater from dewatering operations requires approval from 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 taken 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. 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 holder promptly thereafter.
14. 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 owner's 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.

15. 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.
16. The permittees are hereby advised that Section 253.77 Florida Statutes (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.
17. 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.
18. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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.

24. 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.
25. 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.
26. Pursuant to Section 125.022 FS, the applicants shall obtain all other applicable state or federal permits before commencement of construction.

ACTION REQUESTED: **Acceptance of the findings and recommendation of the Environmental Protection Division staff and approval of Shoreline Alteration/Dredge and Fill Permit SADF-23-03-005 for Mark and Lisa Miller, subject to the conditions listed in the staff report. District 1**

ERJ/AS:jk

Attachements

Application for Shoreline Alteration/Dredge and Fill




**Shoreline Alteration Dredge and Fill
Permit Request
SADF-23-03-005
District #1**

Applicants: Mark and Lisa Miller

Address: 551 Ridgewood Drive

Parcel ID: 17-23-28-9336-02-590

Project Site 

Property Location 




OCEPD JUN162023 08:58

3. Stone or wood wall will diffuse wave energy.
The stone will conform to the following:

- a. The stone will be placed along the length of the wall and will cover 1/2 of the wall.
- b. Stone will pitch 2:1.
- c. Stone will be natural 12" in size.

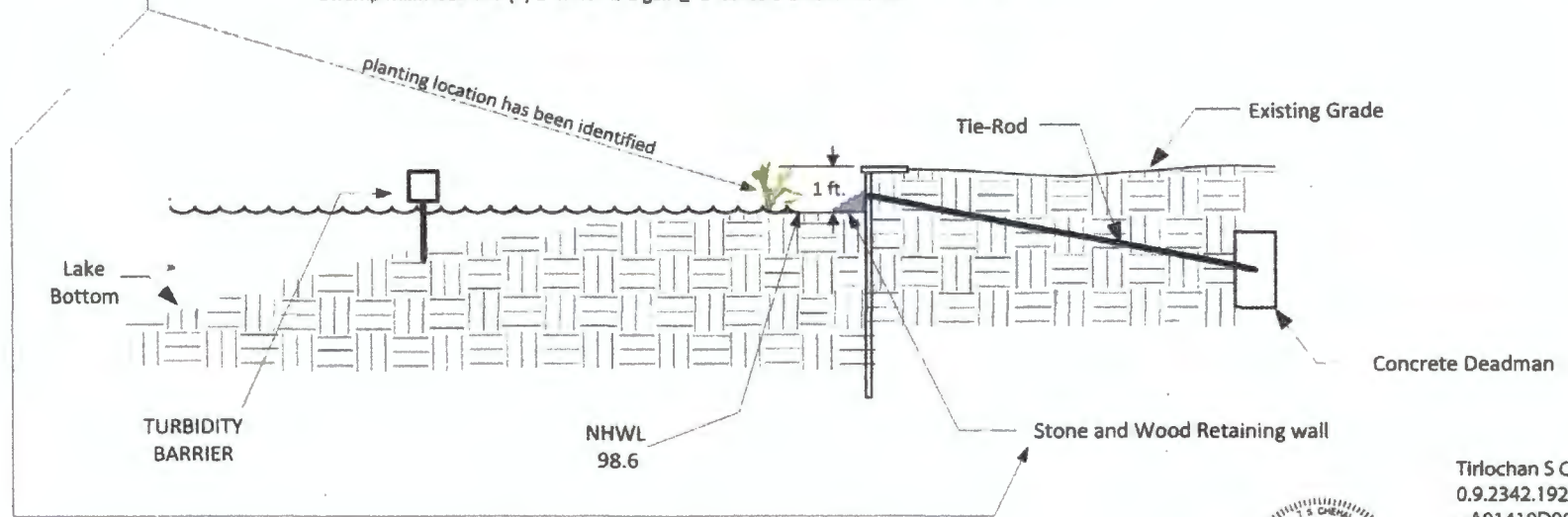
4. Planting will be position along with the stone which includes the following:

- a. Planting locations .
- b. Size of the planting area is on survey. Plant type, size of plants, spacing, and number of each plant.
Lake Down is in Outstanding Florida Waterbody. Five different type of plants will be use on 1' placements.
- c. 1' which is one gallon 
- d. (5) 1' which is 1 gal. @ 1' centers Broadleaf Arrowhead, (5) 1' which is 1 gal. @ 1' centers Blueflag Iris, (5) 1' which is 1 gal. @ 1' centers Pickerelweed, (5) 1' which is 1 gal. @ 1' centers Swamp Milkweed and (5) 1' which is 1 gal. @ 1' centers Golden Canna

received
6/16/2023

NOTES
Revisions #1
Revisions #2
Revisions #3
Revisions #4
Revisions #5
Revisions #6
Revisions #7
Revisions #8
Not Construction Drawings

Mark & Lisa Miller
551 Ridgewood Dr.
Wall Cross Section



This is Not a Construction Plan
This is The Items That Would be labeled
For Impacting the Shoreline For a Wood & Stone Retaining Wall
For Environmental Review
Wall Cross Section 1' X 60'



This seal has been electronically signed and sealed by T.S. Chehal, P.E., using a digital signature. Printed copies of this document are not considered legal if sealed and the signature must be verified on any electronic copy.

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 cn=Tirlochan S Chehal
 o=T.S. Chehal P.E., c=US
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 and integrity of this
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T.S. CHEHAL
 LICENSED PROFESSIONAL ENGINEER
 624 EXECUTIVE PARK COURT SUITE 1024 - C
 APOPKA, FL 32708
 (407) 521-5557
 FAX (407) 521-5434
 PE 0040748

DATE: 6/1/2023

SCALE: 1/8" = 1'0"

DRAWN BY SAT

SHEET

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