

Interoffice Memorandum

DATE: April 21, 2025

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 Shoreline Alteration/Dredge and Fill Permit SADF-25-01-003 for Cristiana De Albuquerque Ferraz and Marco Antonio Ferraz Jr., subject to the conditions listed in the staff report. District 1 (Environmental Protection Division)

PROJECT: June 3, 2025 – Public Hearing Request for Shoreline Alteration/Dredge and Fill Permit for Cristiana De Albuquerque Ferraz and Marco Antonio Ferraz Jr. (SADF-25-01-003)

PURPOSE: The applicants, Cristiana De Albuquerque Ferraz and Marco Antonio Ferraz Jr., are requesting a Shoreline Alteration/Dredge and Fill permit to construct a replacement vinyl seawall in front of an existing wooden seawall, with riprap and plantings, on the shoreline of Lake Down at 5030 Down Point Lane, Windermere, FL 34786, Parcel ID No. 09-23-28-8175-00-020 in District 1.

There is significant erosion and remnants of an existing wooden seawall present along the shoreline of the property. The applicants are proposing to install approximately 118-feet of replacement vinyl seawall directly in front of the remaining seawall, which will remain in place, with two 8-foot returns on the northern and southern property lines. There are no permits on file for the original seawall; however, aerial photos and property records indicate it was built sometime before 2000 by a previous property owner; therefore, EPD is not pursuing any enforcement action.

No seawall is present on the adjacent properties; however, there are seawalls present on other properties on Lake Down. 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 within the 30-foot access corridor associated with the boat dock.

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 and cross-sections signed and sealed by Darcy Unroe, P.E., and received by EPD on April 1, 2025. The permitted activity must be completed within two years from the date of issuance of the permit. In the event that the project has not 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 Darcy Unroe, P.E., and received by EPD on

April 1, 2025. 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 Darcy Unroe, P.E., and received by EPD on April 1, 2025. 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 98.52 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 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 Florida Statutes (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. 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.

17. 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.
18. 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.
19. 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.
20. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
21. 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.
22. 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.
23. 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.

24. 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.
25. 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.
26. 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.
27. 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.
28. Pursuant to Section 125.022 FS, the applicants shall obtain all other applicable state or federal permits before commencement of construction.

BUDGET: N/A