



Interoffice Memorandum

August 11, 2023

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

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

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

SUBJECT: September 12, 2023 – Public Hearing
Shoreline Alteration/Dredge and Fill Permit Application for Ashok
and Daksha Patel (SADF-22-02-001)

The applicants, Ashok and Daksha Patel, are requesting a Shoreline Alteration/Dredge and Fill (SADF) Permit to authorize the construction of a new seawall, faced with riprap, on the shoreline of Big Sand Lake. The property is located at 8767 Southern Breeze Drive, Orlando, FL, 32836 (Parcel ID No. 34-23-28-2489-00-430) in District 1.

On October 15, 2021, EPD denied a Building Permit Application (B21022377) for the construction of a seawall on the subject parcel, stating that an SADF Permit was needed. On February 7, 2022, EPD received an SADF Permit Application (SADF-22-02-001) for the construction of the seawall. EPD met with the applicants' agent, (Sheila Cichra) on June 15, 2022 and explained that EPD would not support the placement of a seawall in the location depicted on the plans, as the proposed wall would result in 0.06 acre of wetland impacts. The application stalled, and no request for additional time to revise the proposed plans was received, therefore EPD issued a closure letter for SADF-22-02-001 on January 6, 2023.

On May 10, 2023, EPD met with the applicants onsite to discuss re-opening SADF-22-02-001 and discussed potential locations for the seawall. On July 5, 2023 and July 24, 2023, EPD received revised plans for the proposed seawall. The applicants moved the proposed wall landward, thereby reducing wetland impacts. The applicants are proposing to construct a new, vinyl seawall approximately 110 feet in length along the shoreline to prevent further erosion on their property. EPD received a letter from a professional engineer stating the construction of a new vertical seawall is the only practical method to stabilize and prevent further erosion of the shoreline.

The adjacent owners to the north (8761 Southern Breeze Drive, owned by Janak and Jaimini Marolia) have a seawall application being reviewed concurrently with this proposed seawall; therefore, the two walls are proposed to tie together without returns. The adjacent parcel to the south (8773 Southern Breeze Drive, owned by Jeffrey and Barbara Hallman) has a seawall permitted in 2006 as a retaining wall; therefore, the proposed seawall will join with that existing wall without a return.

Based on prior Board direction, riprap and plantings are required for new seawalls and replacement seawalls; therefore, the applicants will be required to install riprap waterward of

the new seawall. However, due to an abundance of existing vegetation, no additional plantings are required.

The construction of the seawall will impact approximately 0.03 acre of shoreline wetlands located immediately landward of the seawall. These impacts were evaluated utilizing the Uniform Mitigation Assessment Method to calculate the functional loss, and the applicants have agreed to remit a mitigation payment of \$2,125 to the Conservation Trust Fund.

In accordance with Orange County Code, Chapter 15, Article VI, Section 15-218(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 15, Article VI, EPD has evaluated the proposed SADF Permit Application and required documents and has made a finding that the request is consistent with Section 15-218.

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 engineered plans signed and sealed by Darcy Unroe, P.E., and received by EPD on July 5, 2023 and July 24, 2023. The permitted activity must commence within six months and be completed within one year from the date of issuance of the permit. In the event that the project has not commenced within six months or been completed within one year 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 one year, 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, vinyl seawall in accordance with the engineered plans signed and sealed by Darcy Unroe, P.E. and received by EPD on July 5, 2023 and July 24, 2023. 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. The permittees may maintain a clear access corridor below the NHWE of 89.03 feet (NAVD88) above mean sea level for Big Sand Lake, not to exceed 30 feet in width, 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.

7. 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.
8. Prior to initiation of construction activities, the applicants will provide a mitigation payment of \$2,125 to the Conservation Trust Fund to offset impacts to 0.03 acre of wetlands.
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 permittee 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 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 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.

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 15, Article VI 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 the Shoreline Alteration/Dredge and Fill Permit SADF-22-02-001 for Ashok and Daksha Patel, subject to the conditions listed in the staff report. District 1**

ERJ/AS:jk

Attachments

Shoreline Alteration/Dredge and Fill Permit Request

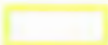


**Shoreline Alteration/Dredge
and Fill Permit Request
SADF-22-02-001
District #1**

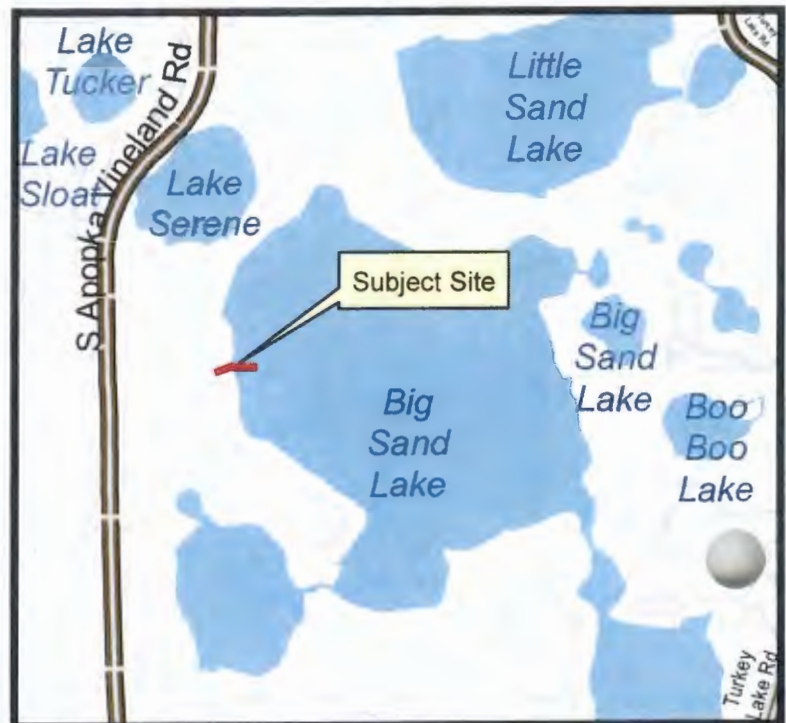
Applicants: Ashok and Daksha Patel

Address: 8767 Southern Breeze Dr.

Parcel ID: 34-23-28-2489-00-430

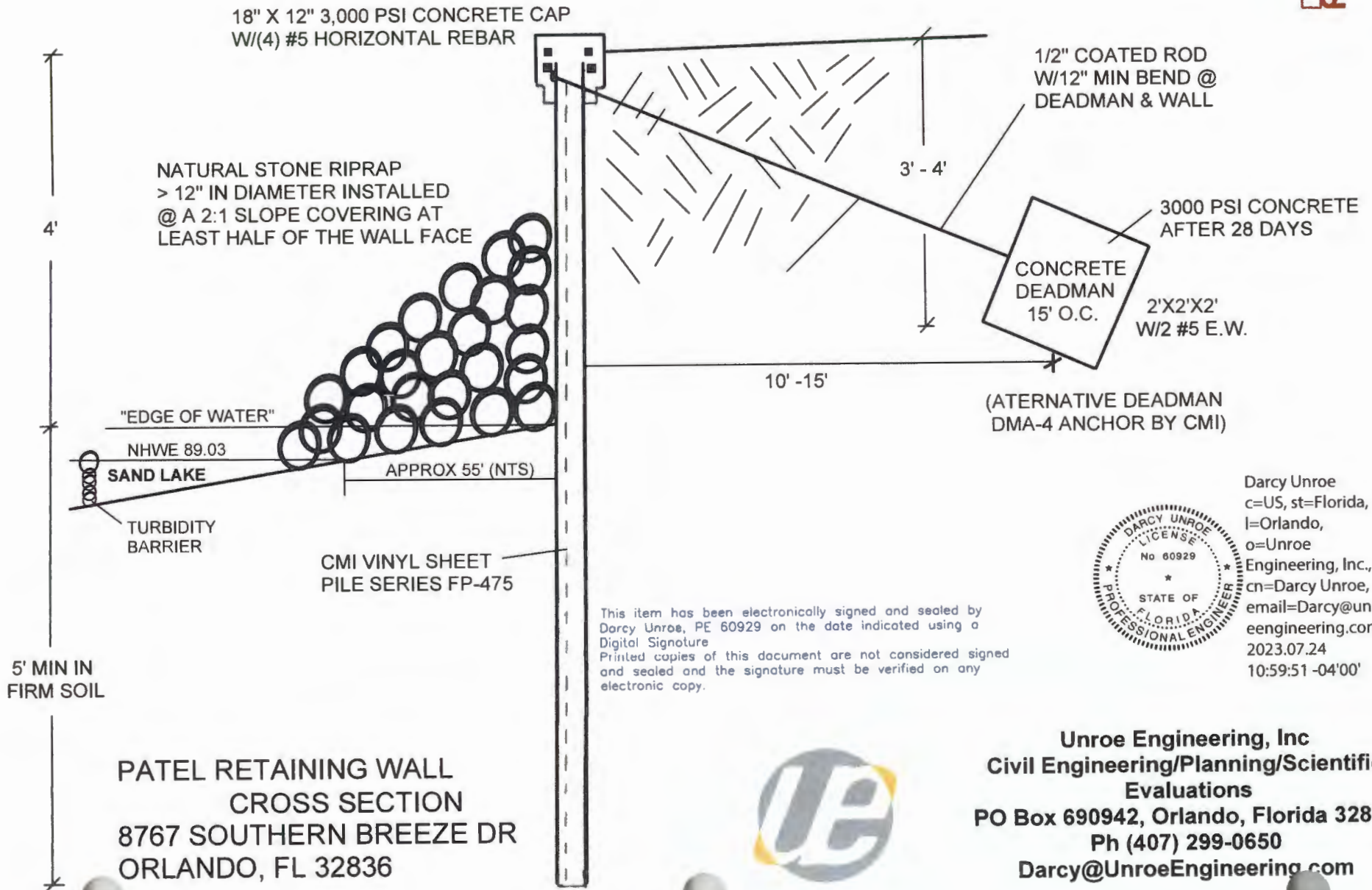
Project Site 

Property Location 



110' VINYL SEAWALL CONSTRUCTED AT THE "EDGE OF WATER"

Received
7/24/2023



Darcy Unroe
c=US, st=Florida,
l=Orlando,
o=Unroe
Engineering, Inc.,
cn=Darcy Unroe,
email=Darcy@unroe
engineering.com
2023.07.24
10:59:51 -04'00'



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