



Interoffice Memorandum

April 28, 2023

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

FROM: Tim Boldig, Interim Director
Planning, Environmental, and Development
Services Department

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

SUBJECT: May 23, 2023 – Public Hearing
Shoreline Alteration/Dredge and Fill Permit Application for The
Weller Family Trust (SADF-23-03-009)

The applicant, The Weller Family Trust, is requesting a Shoreline Alteration/Dredge and Fill (SADF) permit to authorize the construction of a replacement seawall, faced with riprap and plantings, along the shoreline of Lake Burkett. The property is located at 4605 N. Landmark Drive, Orlando, FL 32817 (Parcel ID No. 01-22-30-2825-00-190) in District 5.

The applicant is proposing to construct approximately 250 feet of vinyl, replacement seawall directly in front of an existing wooden seawall that is in poor condition. The existing wall extends along the northern 250 feet of shoreline; the remaining approximately 190 feet of shoreline along the southern portion of the parcel is heavily vegetated and there is no seawall in this area. The replacement wall will be placed no further waterward than one foot from the existing seawall. There is an adjacent seawall to the north; however, that wall is in disrepair, so a 10-foot return will be constructed at the northern end of the replacement seawall. A 10-foot return will also be constructed at the southern end of the replacement seawall. The applicant will install riprap and native plantings waterward of the replacement seawall. There are three existing cypress trees located waterward of the existing seawall that will not be impacted by the construction; however, riprap will not be placed in these three small areas to avoid damaging the trees.

Environmental Protection Division (EPD) staff were unable to find a permit for the existing wooden wall, but have determined that the structure was constructed sometime prior to 2003 and prior to the applicant's purchase of the property in 2020. Due to the fact that the existing seawall was constructed by a previous owner, no enforcement action has been taken.

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 appeal period following the date of issuance, unless an appeal has been filed within this timeframe. Any appeal shall stay the effective date of this permit until all appeals are resolved.
2. Construction activities shall be completed in accordance with the engineered plans signed and sealed by Darcy Unroe, P.E. and received by EPD on April 10, 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.
3. 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.
4. 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 April 10, 2023. The riprap shall be installed at a two (horizontal) to one (vertical) slope, 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.
5. 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 10, 2023. After one year, if 80 percent areal coverage of native emergent or aquatic plant species is not established, additional plantings may be required.
6. The permittee may maintain a clear access corridor below the Normal High Water Elevation of 51.86 feet (NAVD88) above mean sea level for Lake Burkett, not to exceed 20 percent of the total shoreline length 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.

General Conditions:

8. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed, the impacts shown on the application and the approved drawings, plans, and other documents attached hereto or on file with EPD.

9. The permittee binds 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 and/or agent promptly thereafter.
10. 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. For further information, please contact the OCZD at (407) 836-5525.
11. After approval by the 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.
12. Prior to construction, the permittee shall clearly designate the limits of construction on-site. The permittee shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
13. Construction plans shall be submitted to EPD prior to initiating any construction activities for review and approval. The construction plans shall include, but are not limited to, a site plan clearly depicting the location of the seawall.
14. The permittee 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 permittee 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.
15. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee. 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 permittee agrees to either obtain written consent or remove the offending structure or encroachment within 60 days from the date of 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 permittee 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 permittee or create in the permittee any property rights, 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 permittee, or convey any rights or privileges other than those specified in the permit and Chapter 15, Article VI of the Orange County Code.
17. If these permit conditions conflict with those of any other regulatory agency, the permittee shall comply with the most stringent conditions. The permittee shall immediately notify EPD of any conflict between the conditions of this permit and any other permit or approval.

18. The permittee is 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 permittee is 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 permittee 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 permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
22. EPD staff shall have permission to enter the site at any reasonable time to inspect the property for conformity with the plans and specifications approved by the permit.
23. The permittee shall hold and save the County harmless from all damages, claims or liabilities, which may arise because 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 permittee.
25. The permittee agrees 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. Turbidity and sediments shall be controlled to prevent violations of water quality pursuant to Rules 62-302.500, 62-302.530(70) and 62-4.242 Florida Administrative Code. Best Management Practices, as specified in the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual, shall be installed and maintained at all locations where the possibility of transferring suspended solids into wetlands and/or surface waters may occur due to the permitted activity. If site specific conditions require additional measures, then the permittee shall implement them as necessary to prevent adverse impacts to wetlands and/or surface waters.
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 permittee 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 permittee fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertake actions that result in a violation of state or federal law.
28. Pursuant to Section 125.022 FS, the permittee shall obtain all other applicable state or federal permits before commencement of the activity authorized herein.

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ACTION REQUESTED: **Acceptance of the findings and recommendation of the Environmental Protection Division staff and approval of Shoreline Alteration/Dredge and Fill Permit SADF-23-03-009 for The Weller Family Trust, subject to the conditions listed in the staff report. District 5**

DJ/TB: jk

Attachments