



Interoffice Memorandum

October 4, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of 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) 836-1405**

SUBJECT: October 22, 2019 – Public Hearing
Shoreline Alteration/Dredge and Fill Permit Modification
Request for Matthew and Daisy Muenzner (SADF-19-01-
000)

Matthew and Daisy Muenzner are requesting modification of a previously issued Shoreline Alteration/Dredge and Fill (SADF) permit to construct a new vinyl seawall with backfill along their shoreline of the Fish Lake Canal. The project site is located at 10825 Emerald Chase Drive, Orlando in the northeastern portion of Fish Lake. The Parcel ID for the site is 09-24-28-8935-00-340. The subject property is located in District 1.

On January 15, 2019 SADF Permit No. SADF-18-09-023 was approved by the Board and subsequently issued on January 31, 2019. On January 17, 2019, the Environmental Protection Division (EPD) received a new application requesting to modify the original permit. However, on January 21, 2019, the applicant asked for the application for permit modification to be placed on hold until they received their permit from the South Florida Water Management District (SFWMD). During the hold, the original permit expired on July 30, 2019. The processing of the permit modification was resumed on August 14, 2019 after the applicant notified EPD that their permit was approved by the SFWMD. The permit modification was assigned a new number (SADF-19-01-000) for tracking purposes.

The seawall approved in the original permit, measuring 144 feet in length, was designed to follow the Normal High Water Elevation (NHWE) along the total length of the shoreline of the canal at the subject property. The requested modification is to construct a seawall measuring 214 feet in length at the NHWE of the canal with exception of a 14-foot section where the NHWE curves landward. The seawall will have an eight-foot return at each end, terminating on the subject property with a one-foot setback from each projected property line. The straight design of the seawall will result in approximately 42 square feet of impacts to surface waters. The applicants have agreed to purchase 0.01 mitigation credits from the TM-Econ Mitigation Bank-Phase IV in order to offset these impacts.

In addition, the modified design includes wrapping the seawall around a proposed upland-cut boat basin measuring 11 feet in width and 25 feet in length. The proposed boathouse to cover the boat slip will be reviewed separately from the SADF permit modification, under Orange County Code, Chapter 15, Article IX (Dock Construction Ordinance).

There are no existing seawalls on the adjacent properties. Riprap and aquatic plantings are not being requested because they could cause navigational concerns in the canal.

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. Pursuant to Orange County Code, Chapter 33, Article IV, Environmental Protection Division (EPD) staff has evaluated the SADF permit application and required documents and has made a finding that the request is consistent with Section 33-129.

No enforcement action has been taken by EPD on the subject property.

Staff Recommendation

Approval of the Shoreline Alteration/Dredge and Fill Permit Modification, 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 approved construction plans submitted by Streamline Permitting Inc., dated as received on August 21, 2019 and September 25, 2019, by the Environmental Protection Division (EPD). The permitted work must be commenced within six months and completed within two years from the date of issuance of the permit. In the event that project has not commenced within six months or been completed within two years this permit is void.
3. Prior to initiating any construction within the surface water to be filled, EPD shall receive a Certificate of Credit purchase from TM-Econ Mitigation Bank-Phase IV stating that the transaction regarding the transfer of 0.01 wetland mitigation credits has been completed.
4. Any permit extensions for the approved construction may be approved by way of Consent Agenda if there are no changes.
5. This permit does not authorize any dredging or filling, except that which is necessary for the actual construction of the seawall and upland-cut boat basin.
6. The permittee may maintain a clear access corridor below the Normal High Water Elevation (NHWE) of 98.6 feet above mean sea level (NAVD88) for Fish Lake, not to exceed 30 feet in width, 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. Native vegetation, including but not limited to fragrant water lily (*Nymphaea odorata*), bladderwort (*Utricularia* spp.), and spatterdock (*Nuphar advena*) may not be removed from the shoreline outside of the access corridor.
8. The permittee is required to maintain the turbidity and sedimentation barriers until the project area meets surface water quality criteria for Outstanding Florida Waters, as listed in Florida Administrative Code (FAC) 62-302.

General Conditions:

9. 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. The permittee binds itself and its successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities, including without limitation the performance of the required mitigation, 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.
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 approval. 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 proposed 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(s) 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 permittee agrees 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 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 33, Article IV 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 FAC. 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 applicant 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 applicant fails to obtain 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 applicant shall obtain all other applicable state or federal permits before commencement of the activity authorized herein.

ACTION REQUESTED: Acceptance of the findings and recommendation of the Environmental Protection Division staff and approval of Shoreline Alteration/Dredge and Fill Permit Modification SADF-19-01-000 for Matthew and Daisy Muenzner subject to the conditions listed in the staff report. District 1

JVW/DDJ: mg

Attachments