



Interoffice Memorandum

October 21, 2020

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) 836-1406**

SUBJECT: November 17, 2020 – Public Hearing
After-the-Fact Shoreline Alteration/Dredge and Fill Permit
Request for Cesar Augusto Escobar (SADF-19-06-010)

Cesar Augusto Escobar (applicant) is requesting an After-the-Fact Shoreline Alteration/Dredge and Fill (SADF) Permit to authorize an existing 330-foot-long seawall that he installed without a permit in 2015. The project site is located at 11205 Tindall Road, Orlando, on a canal in the southwestern portion of Lake Hart. The Parcel ID for the site is 28-24-31-0000-00-026. The subject property is located in District 4.

The Environmental Protection Division (EPD) received a complaint on May 9, 2018 for several unauthorized structures that had been constructed on the subject property. Upon review of historical aerial photographs and permitting records for the subject property, EPD discovered that a boat dock, boat ramp, and seawall appeared to have been constructed without authorization. Additionally, EPD suspected that unauthorized wetland impacts had occurred. EPD staff met with the applicant's agent, Mr. Doug Bauman, P.E., on August 8, 2018 and confirmed the above-listed structures were existing onsite and that wetland impacts had occurred.

EPD initiated formal enforcement proceedings against the applicant. There is currently an unresolved Order by the Special Magistrate (SM Order 2018- 388304DC) with a running daily fine accruing at a rate of \$250 per day. The lien will continue to accrue until all of the violations (including the unpermitted seawall) have been resolved. As of October 6, 2020 the current lien amount is \$115,250. In addition, EPD assessed an administrative penalty of \$28,197 for the violations of Orange County Code, Chapter 15, Articles VI, IX, X, and XV, which was paid by the applicant on July 1, 2020.

On May 31, 2019, EPD received an after-the-fact SADF Permit Application to attempt to authorize the existing seawall on the subject property. Several meetings and correspondence occurred between staff and the applicant's agent since that time. The applicant's agent provided all the required documentation to deem the application complete on September 15, 2020.

To address the wetland impacts that have occurred, an after-the-fact Conservation Area Impact Permit (CAI) (#CAI-19-05-027) was issued by EPD on September 24, 2020. The CAI Permit brought the property into compliance with Orange County Code, Chapter 15, Article X. A portion of the unauthorized boat dock was removed and the remaining dock was authorized by an after-the-fact Boat Dock Permit (BD) (#BD-19-05-043), which was issued by EPD on August 30, 2019. The BD Permit brought the property into compliance with Orange County Code, Chapter 15, Article IX. The applicant has agreed to remove the unauthorized boat ramp and restore the shoreline in the area of the boat ramp in order to bring the property into compliance with Orange County Code, Chapter 15, Article XV. Approval of this after-the-fact SADF permit request, will bring the property into compliance with Orange County Code, Chapter 15, Article VI. Upon issuance of the SADF permit, restoration of the boat ramp area, and payment of the outstanding lien, the property will be brought into compliance with the corrective actions identified in the Notice of Violation and the Special Magistrate Order. Once completed, the applicant will need to coordinate with the Orange County Division of Building Safety and the Zoning Division to obtain building permits and final approval for the seawall and any remaining unauthorized structures on the property.

Riprap and plantings are not being required waterward of the existing seawall in this case due to navigational concerns in the canal. There are no existing seawalls on the adjacent properties, but there are other seawalls on Lake Hart.

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 staff has evaluated the after-the-fact 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 after-the-fact Shoreline Alteration / Dredge and Fill 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. This permit authorizes the existing seawall as depicted on the 'After-the-Fact Shoreline Alteration / Dredge and Fill Plan (As-built)', dated as received by the Environmental Protection Division (EPD) on September 15, 2020. Any changes, additions, or repairs to the seawall will require a new Shoreline Alteration / Dredge and Fill Permit.
3. This permit does not authorize any further dredging or filling. Construction of the seawall is already complete.

4. The permittee may maintain a clear access corridor below the Normal High Water Elevation of 60.52 feet above mean sea level (NAVD88) for Lake Hart, not to exceed 30 feet in width, of sufficient length waterward from the shoreline, to allow access to open water. Any existing structures, such as a boat dock, must be located within this corridor.
5. Native vegetation, including but not limited cypress (*Taxodium* spp.), maidencane (*Panicum hemitomon*), duck potato (*Sagittaria lancifolia*), and pickerelweed (*Pontederia cordata*) may not be removed from the shoreline outside of the access corridor.

General Conditions:

6. 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.
7. 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 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.
8. 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.
9. 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.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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.
15. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
16. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. 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.

23. 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 the After-the-Fact Shoreline Alteration/Dredge and Fill Permit SADF-19-06-010 for Cesar Augusto Escobar subject to the conditions listed in the staff report. District 4**

JVW/DDJ: mg

Attachments

After-the-Fact Shoreline Alteration/Dredge and Fill Permit Request



**After-the-Fact
Shoreline Alteration/Dredge and Fill
Permit Application Request
District #4**

Applicant: Cesar Escobar

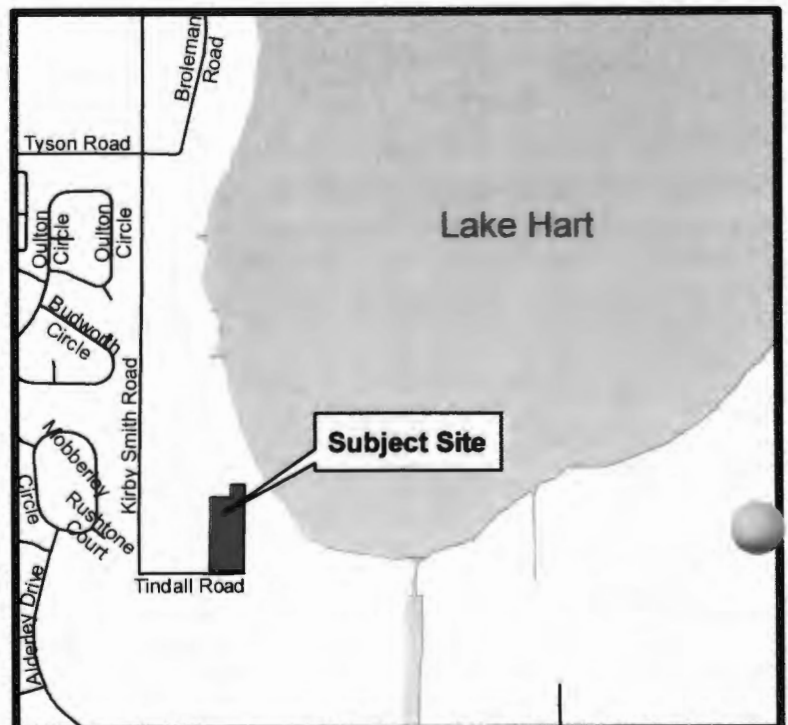
Address: 11205 Tindall Road

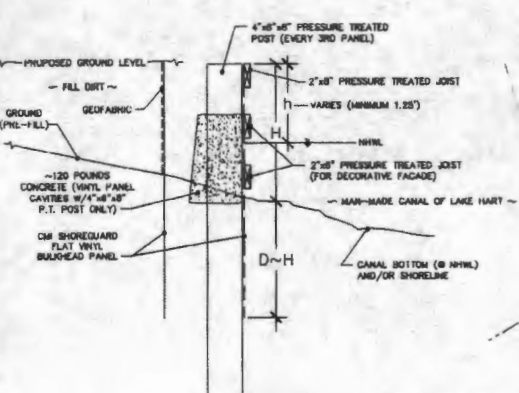
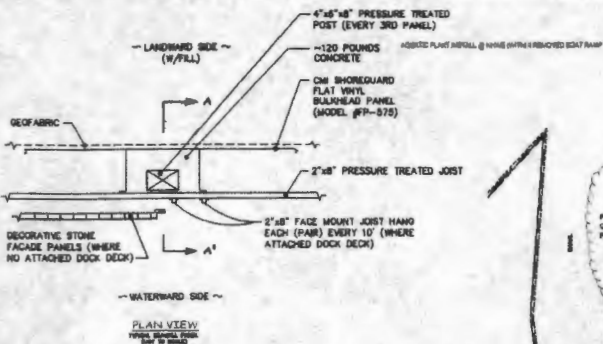
Parcel ID: 28-24-31-0000-00-026

**Shoreline Alteration/Dredge and Fill
Permit No.:** SADF-19-06-010

Project Site 

Property Location 





SECTION A-A' TYPICAL SEAWALL SECTION (SHOWING SOIL TYPES AND WATER TABLE) (SEE TO SCALE)



CM

PP-575

Overall Height (H)	6.00 to 8.00	1200 lbs
Overall Length (L)	24.00 to 36.00	4000 lbs
Weight (W)	11.00 to 15.00	1500 lbs
Installation	CLASS II SURFACE WATER (SW-1)	5.00 to 6.00
Thickness (T)	6.00 to 8.00	7.00 to 8.00
Bottom Depth	18"	18"
Anchor Length	18"	18"
Material	Pressure Treated Lumber	18"
Standard Detail	See Detail PP-575 (1) through (4)	
Manufacturer	CM	
Overall Weight	4.00 to 6.00	

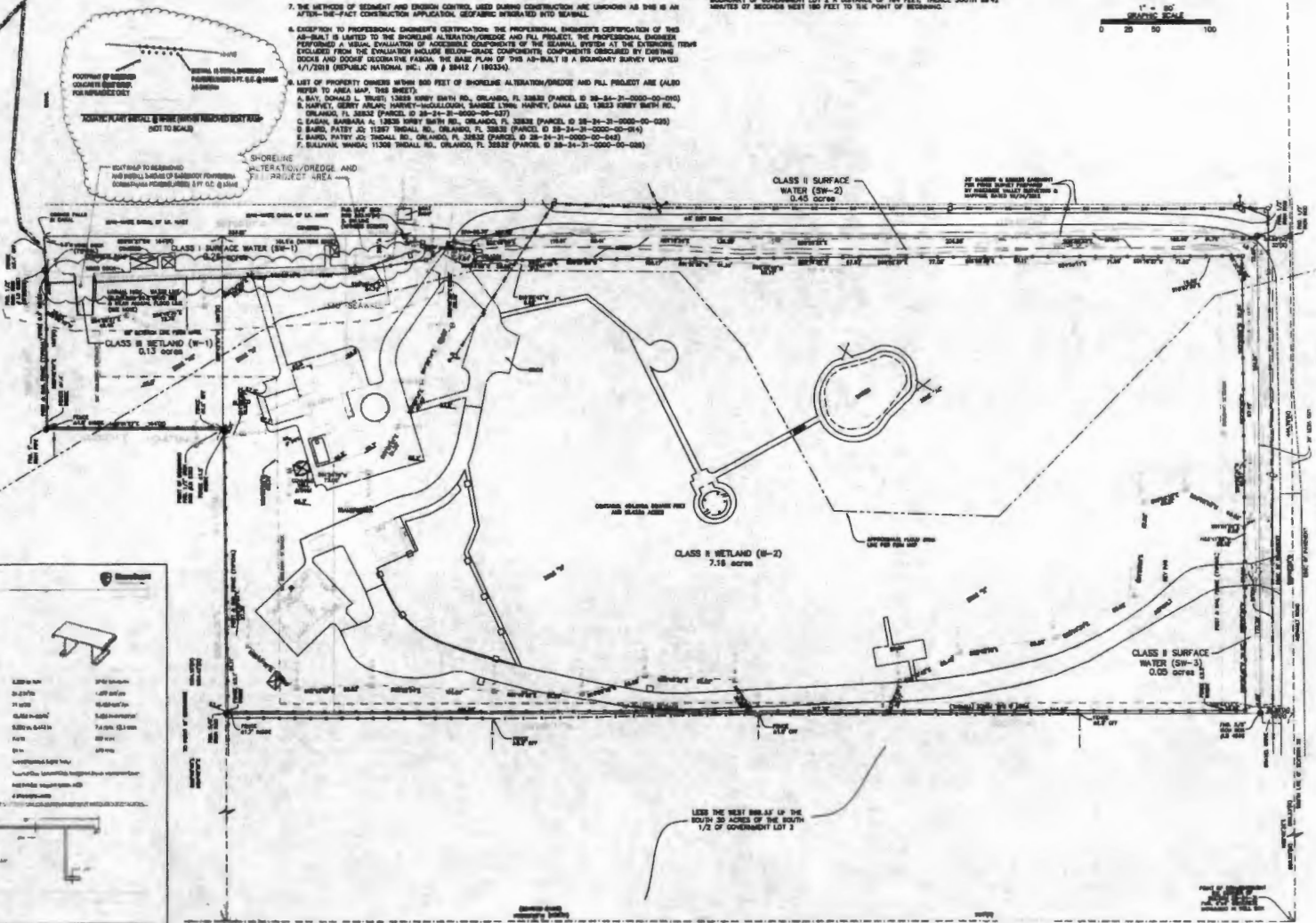
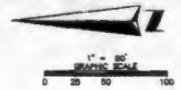
NOTES:

1. THE CURRENT WATER LEVEL IS ~ 10.5' HAVO 28' INH IS 10.5' HAVO 28'
2. WATER BODY: MAR-MADE L-SHAPED CANAL TO LAKE HART
3. CANAL WATER DEPTH AT END OF DOCK ~ 6.0'
4. DIMENSIONS OF THE PROPERTY ARE SHOWN ON PLAN AND LINEAR FEET OF SHORELINE AT THE HWY IS 367.8'
5. SEAWALL @ 230 TOTAL LINEAR FEET
6. PROPERTY OWNER NAME AND SITE ADDRESS: CESAR AUGUSTO ESCOBAR, 11265 TINDAL ROAD, ORLANDO, FL 32832
7. THE METHODS OF SEDIMENT AND EROSION CONTROL, USED DURING CONSTRUCTION ARE UNKNOWN AS THIS IS AN AFTER-THE-FACT CONSTRUCTION APPLICATION. GEOTEXTILE INTEGRATED INTO SEAWALL.
8. EXCEPTION TO PROFESSIONAL ENGINEER'S CERTIFICATION: THE PROFESSIONAL ENGINEER'S CERTIFICATION OF THIS AS-BUILT IS LIMITED TO THE SHORELINE ALTERATION/DREDGE AND FILL PROJECT. THE PROFESSIONAL ENGINEER PERFORMED A VISUAL EVALUATION OF ACCESSIBLE COMPONENTS OF THE SEAWALL SYSTEM AT THE EXTERIOR ITEMS EXCLUDED FROM THE EVALUATION INCLUDE BELOW-GRADE COMPONENTS, COMPONENTS OBTAINED BY EXISTING DOCKS AND DOCKS DECORATIVE FACADE. THE BASE PLAN OF THIS AS-BUILT IS A BOUNDARY SURVEY UPDATED 4/7/2018 (REPUBLIC NATIONAL INC. JOB # 20412 / 192334).

PROPERTY LEGAL DESCRIPTION

THE SOUTH 30 ACRES OF THE SOUTH 1/2 OF GOVERNMENT LOT 2, LESS THE WEST 283.25 FEET THEREOF AND ALSO LESS THE SOUTH 20 FEET THEREOF, SECTION 28, TOWNSHIP 24 SOUTH, RANGE 21 EAST, ORANGE COUNTY, FLORIDA.

ALSO, FROM THE SOUTHWEST CORNER OF SECTION 28, TOWNSHIP 24 SOUTH, RANGE 21 EAST, ORANGE COUNTY, FLORIDA, RUN NORTH ALONG THE WEST BOUNDARY OF SAID SECTION 28 A DISTANCE OF 844 FEET; THENCE NORTH 88 DEGREES 42 MINUTES 07 SECONDS EAST 1184.43 FEET FOR THE POINT OF BEGINNING; THENCE RUN NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 154 FEET; THENCE NORTH 88 DEGREES 42 MINUTES 07 SECONDS SOUTH 80 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SAID EAST BOUNDARY OF GOVERNMENT LOT 2 A DISTANCE OF 184 FEET; THENCE SOUTH 88°42' WEST OF SECTION 28 180 FEET TO THE POINT OF BEGINNING.



DATE	REVISION HISTORY	DATE	REVISION HISTORY

As-Built
 Shoreline Alteration/Dredge
 And Fill Plan (As-Built)
 11265 Tindal Road
 Orlando, FL 32832

GENERAL CIVIL & ENVIRONMENTAL ENGINEERING LLC
 11265 TINDAL ROAD
 ORLANDO, FLORIDA 32832
 P.O. BOX 450

DOUGLAS M. BURGAS, P.E. PE 00-28887
 PROFESSIONAL ENGINEER

