



## Interoffice Memorandum

July 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: August 11, 2020 – Public Hearing  
Shoreline Alteration/Dredge and Fill Permit Application for  
David and Mary Ellen Bates (SADF-20-01-001)

David and Mary Ellen Bates (applicants) are requesting a Shoreline Alteration/Dredge and Fill Permit (SADF) to authorize a vinyl seawall with riprap and plantings along the shoreline of Lake Tibet, located at 9106 Bay Point Drive, Orlando, FL 32819. The Parcel ID for the site is 28-23-28-0600-00-160. The subject property is located in District 1.

In order to abate ongoing erosion of their lakeshore, the applicants are proposing to construct a new 450-foot vinyl seawall with concrete cap along the entire length of their shoreline, six inches landward of the Normal High Water Elevation (NHWE) of Lake Tibet. Riprap and plantings will be installed waterward of the seawall in most areas. Riprap will not be installed in areas that have existing dense coverage of bald cypress (*Taxodium distichum*) trees and knees so as not to damage the trees. There are existing seawalls on both adjacent properties.

The proposed seawall includes approximately 0.10 acre of direct wetland impacts to shoreline wetlands. In addition, the seawall will incur 0.22 acre of secondary impacts to Lake Tibet. To address the required mitigation for the direct and secondary impacts, the applicant will purchase 0.07 wetland mitigation credits from the Southport Ranch Mitigation Bank.

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, the Environmental Protection Division (EPD) staff has evaluated the proposed SADF 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 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. Riprap and plantings shall be installed waterward of the new seawall in accordance with the plans submitted by Biotech Consulting, Inc., received by the Environmental Protection Division (EPD) on January 24, 2020 and as modified on June 9, 2020 and July 9, 2020.
3. Riprap shall be installed at a two (horizontal) to one (vertical) slope and extend at least halfway up the face of the seawall. Riprap shall not be installed in areas that are densely covered with bald cypress (*Taxodium distichum*) trees and knees.
4. 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. In the event the installation of the riprap has not commenced within 30 days or been completed within 60 days of completion of the seawall, this permit shall be void and a new permit application with fee will be required.
5. Installation of aquatic plantings must be initiated within 30 days and be completed within 60 days of installation of the riprap. After one year, if 80 percent areal coverage of native, emergent or aquatic plant species is not established, additional replanting may be required.
6. This permit does not authorize any dredging or filling in wetlands or surface waters except that which is necessary for the installation of the seawall, riprap and backfill areas as specified on the plans.
7. The permittees may maintain a clear access corridor below the Normal High Water Elevation (NHWE) of 98.52 feet (NAVD 88) above mean sea level for Lake Tibet, 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.
8. Existing vegetation may not be removed from the shoreline outside of the designated access corridor.
9. Any permit extensions for the activities authorized herein may be approved by way of Consent Agenda if there are no changes.

General Conditions:

10. 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 the approved drawings, plans, and other documents attached hereto or on file with EPD.
11. The permittees binds themselves and their 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 permittees and/or agent promptly thereafter.

12. 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.
13. 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.
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 owner's riparian or other property rights, the permittees agree 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.
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 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 permittees, or convey any rights or privileges other than those specified in the permit and Chapter 33, Article IV of the Orange County Code.
16. 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.
17. 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 of the Internal Improvement Trust Fund prior to commencing activity on sovereignty lands or other state-owned lands.
18. 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.

19. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
20. The permittees shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
21. EPD staff shall have permission to enter the site at any reasonable time to inspect the project for conformity with the plans and specifications approved by the permit.
22. The permittees shall hold and save the County harmless from all damages, claims or liabilities, which may arise because 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. 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 permittees shall implement them as necessary to prevent adverse impacts to wetlands and/or surface waters.
26. 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 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.
27. Pursuant to Section 125.022, FS, the applicants 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 SADF-20-01-001 for David and Mary Ellen Bates, subject to the conditions listed in the staff report. District 1**

DDJ/JW: mg

Attachments