




Interoffice Memorandum

June 18, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E. Director
Community, Environmental and Development
Services Department

CONTACT PERSON: **David D. Jones, P.E., CEP, Manager
Environmental Protection Division
(407) 836-1405** 

SUBJECT: July 10, 2018 – Public Hearing
Shoreline Alteration/Dredge and Fill Permit Application for Iona
Butler Properties, LLC (SADF-17-06-009)

Iona Butler Properties, LLC, is requesting a Shoreline Alteration/Dredge and Fill (SADF) Permit to construct a new seawall without rip rap. The project site is located on Lake Butler at 11940 Lake Butler Boulevard, Windermere. The Parcel ID for the site is 07-23-28-5616-00-740. The subject property is located in District 1.

Notification of the public hearing was sent to property owners within 500 feet of the project site on June 13, 2018.

Pursuant to Orange County Code, Chapter 33, Article IV, Environmental Protection Division (EPD) staff has evaluated the proposed SADF application and required documents.

The applicant is proposing to construct a 270-foot long concrete "Redi-Rock" seawall along the Normal High Water Elevation of the shoreline; beginning at the western property boundary and terminating at the existing dock. Three concrete "Redi-Rock" stairways are proposed to provide lake access. The neighboring property to the west of the subject property has an existing seawall. No rip rap is proposed, however, native Florida vegetation will be planted in front of the new wall.

Significant erosion and damage to the vegetation occurred to the former wetland area and shoreline during Hurricane Irma. The applicant removed the damaged vegetation and attempted to stabilize the area with fill and sod, resulting in a loss of 0.092 acre of wetland. To compensate for the resulting habitat loss, the applicant has agreed to purchase wetland mitigation credits from Shingle Creek Mitigation Bank.

Additional credits are proposed for purchase in lieu of installing rip rap in front of the seawall. Using the Uniform Mitigation Assessment Method (UMAM), as set forth in 62- 345 Florida Administrative Code, staff assessed the mitigation for the direct impact to the

wetland area and indirect impacts to the surface water without rip rap in place. The applicant has agreed to purchase a minimum of 0.09 UMAM credits from Shingle Creek Mitigation Bank for these impacts.

There is an open enforcement case on this property (#17-496866) related to the unauthorized clearing of lakeshore vegetation and filling of the wetland area along the shoreline as described above. The purchase of wetland mitigation credits, planting of native vegetation, and issuance of this permit will bring the property into compliance with Orange County Code.

Staff Recommendation

Approval of the 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. Construction activities shall be completed in accordance with the 'Site Plans' submitted by Streamline Permitting, Inc., received by the Environmental Protection Division (EPD) on April 23, 2018. The permitted work must commence within six months and be completed within one year from the date of issuance of the permit. In the event this project has not commenced within 6 months or been completed within a year this permit is void.
3. Any permit extensions for the approved construction may be approved by way of Consent Agenda if there are no changes.
4. This permit does not authorize any dredging or filling except that which has already occurred to stabilize the shoreline and what is necessary for the actual construction of the seawall.
5. The planting must be implemented in accordance with the 'Planting Plan' depicted on Sheet SW-3 submitted by Streamline Permitting, Inc., received by EPD on April 23, 2018.
6. New plantings must be initiated within 30 days of completion of the seawall. After one year, if 80% coverage of native species is not established, additional replanting will be required.
7. The permittee may maintain a clear access corridor below the Normal High Water Elevation, 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. Native vegetation, including but not limited to, duck potato (*Sagittaria spp.*), pickerelweed (*Pontederia cordata*), and fragrant water lily (*Nymphaea odorata*), may not be removed from the shoreline outside of the access corridor.
9. The existing ambient water quality within Outstanding Florida Waters shall not be lowered as a result of the proposed activity, except as authorized by the Florida Department of Environmental Protection (FDEP) under Rule 62-4.242(2) Florida Administrative Code (FAC).
10. The permittee shall monitor water quality conditions during the construction activities. The water quality monitoring shall be completed in accordance with the 'Water Quality Monitoring Program' described on Sheet SW-2, submitted by Streamline Permitting, Inc., received by EPD on April 23, 2018. The monitoring program shall include:
 - a. "Work Area" samples to be collected outside the turbidity barriers;
 - b. Depth of the collection shall be at 0.5 meters;
 - c. Laboratory analyses shall be completed by a National Environmental Laboratory Accreditation Conference certified lab;
 - d. Field measured conditions calibration error allowances shall be that as listed in FDEP SOP FT 10000;
 - e. Sampling stations selected shall be located by GPS.
11. A baseline monitoring report that clearly shows water quality conditions prior to dredging/construction activity must be submitted to EPD a minimum of 48 hours prior to the permitted activity. This report needs to include the following information: site location, sampling location documented by GPS, sampling parameters, sampling methodology, fish and wildlife observations, results and discussion.
12. The permittee is required to submit weekly water quality monitoring reports to EPD. These reports need to include the following information: site location, sampling location (documented by GPS), sampling parameters, sampling methodology, baseline information, State of Florida water quality standards, fish and wildlife observations, comparison of the gathered data, results and discussion. If at any time the "work area" parameters fail to meet Class III surface water quality criteria as listed in Chapter 62-302 FAC, work shall cease until those parameters are in compliance.
13. The permittee is required to maintain the turbidity and sedimentation barriers until EPD has approved, in writing, the post activity Water Quality Monitoring report indicating that the project area meets Class III surface water quality criteria as listed in Chapter 62-302 FAC.
14. The mitigation plan must be implemented in accordance with the Uniform Mitigation Assessment Method (UMAM) calculations provided by EPD, as agreed to by the permittee. The credits purchased must total at least 0.09 UMAM credits from the Shingle Creek Mitigation Bank.

15. Prior to initiating any construction, EPD shall receive a certificate of credit purchase from Shingle Creek Mitigation Bank stating that the transaction regarding the transfer of 0.09 mitigation credits has been completed.
16. In the event that the permittee does not successfully complete the transaction to obtain the requisite 0.09 UMAM credits from the Shingle Creek Mitigation Bank, the permittee shall obtain a permit modification from the Environmental Protection Officer (EPO) to provide alternative mitigation for the wetland impacts prior to the commencement of any construction activities.
17. 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 in order to obtain a building permit. For further information, please contact the OCZD at (407) 836-5525.
18. 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.

General Conditions:

19. 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 approved drawings, plans, and other documents attached hereto or on file with EPD.
20. 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 EPO. Notice of the revocation shall be provided to the permit holder promptly thereafter.
21. 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.
22. 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 and acreage of the impacts and preservation.
23. 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.

24. 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.
25. 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. 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.
26. The permittee is hereby advised that Section 253.77, Florida Statutes, states that a person may not commence any excavation, construction, or other activity involving the use of sovereign 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 sovereign lands or other state-owned lands.
27. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, 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.
28. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
29. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
30. 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.
31. 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.

32. 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.
33. 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.
34. 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, and Chapter 62-4.242 FAC.
35. Best Management Practices 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 State designated waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters.
36. Pursuant to Section 125.022, Florida Statutes, 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.
37. Pursuant to Section 125.022, Florida Statutes, the applicant shall obtain all other applicable state or federal permits before commencement of the activity authorized herein.

ACTION REQUESTED: Approval of Shoreline Alteration/Dredge and Fill permit request (SADF-17-06-009) for Iona Butler Properties LLC, subject to the conditions listed in the staff report. District 1

JVW/DDJ:mg

Attachments

Shoreline Alteration/Dredge and Fill Permit



Shoreline Alteration/ Dredge and Fill Permit

SADF-17-06-009

District 1

Applicants: Iona Butler Properties LLC

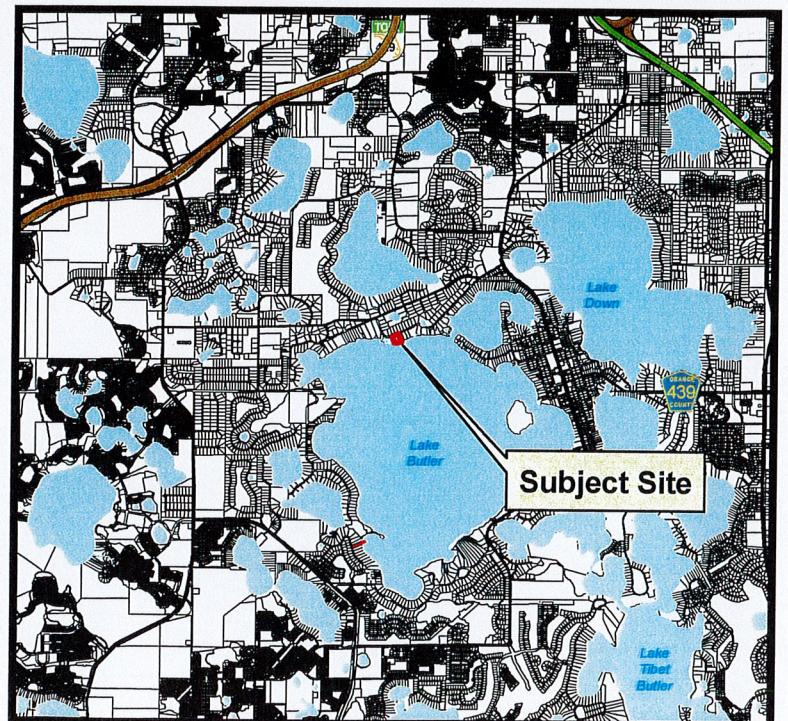
Address: 11940 Lake Butler Blvd.

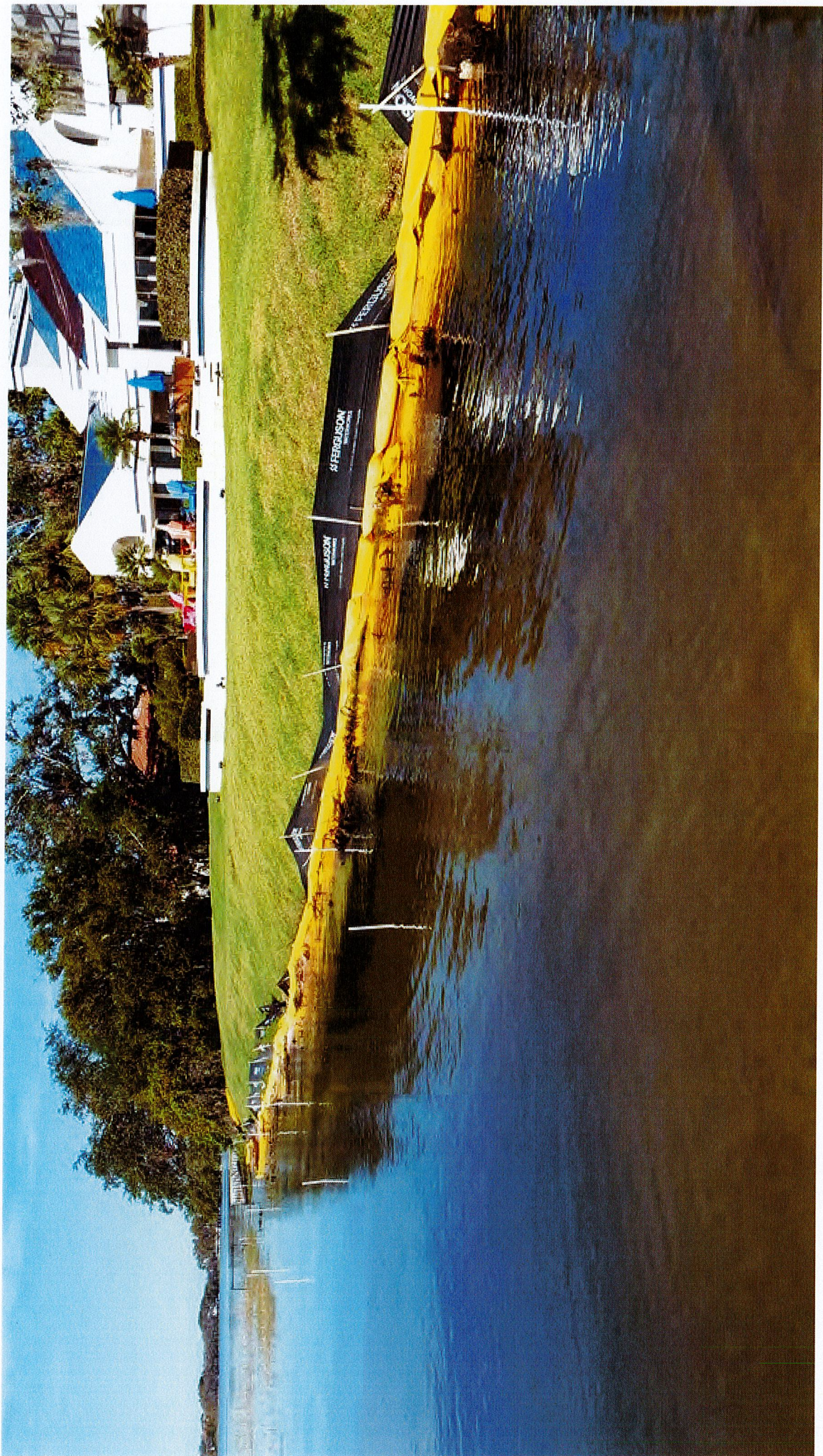
Parcel ID: 07-23-28-5616-00-740

Project Site



Property Location





SHORELINE PLANTING PLAN

ZONE	AREA (S.F.)	SPECIES	NUMBER OF PLANTS*
A	1,295	PANICUM HEMITOMON, ELOCHARIS SP.	144
B	1,293	SAGITTARIA LANCEOLATA, ELOCHARIS SP.	144
C	1,325	SAGITTARIA LANCEOLATA, PONTEDERA CORDATA	148

* Based on a 3-foot grid spacing

LITTORAL PLANTING SCHEDULE

	ZONE A - PANICUM HEMITOMON, ELOCHARIS SP.
	ZONE B - SAGITTARIA LANCEOLATA, ELOCHARIS SP.
	ZONE C - SAGITTARIA LANCEOLATA, PONTEDERA CORDATA

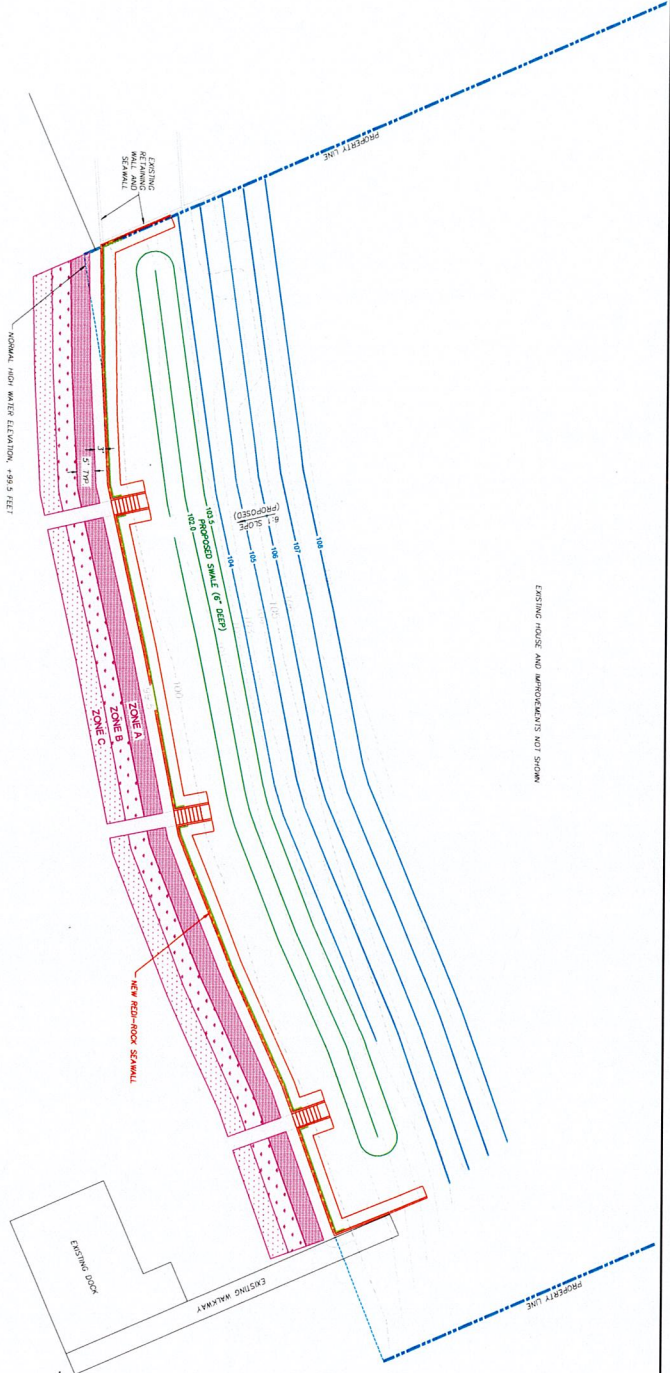
LEGEND

R. Kenneth Davis, State of Florida, Professional Engineer, License No. 37711.
 This plan has been electronically signed and sealed by R. Kenneth Davis, P.E., on the Date noted. The drawing shown using a digital signature. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copy.



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 0002FD8
 2018.04.19 10:02:44 -0400

LAKE BUTLER



EXISTING ROAD AND IMPROVEMENTS NOT SHOWN

REDI-ROCK SEAWALL DESIGN
 11940 LAKE BUTLER BOULEVARD
 WINDERMERE, ORANGE COUNTY, FLORIDA

SHORELINE PLANTING PLAN

NO.	DATE	REVISION
1		FOR BUFFALO UNDERGROUND, LLC

R. KENNETH DAVIS, P.E.
 FL. REG. NO. 37711
 DATE: 04/19/2018
 TIME: 10:02:44 AM
 PROJECT: 0109800000015926CF3DAD0
 DRAWING: 17-0134-03

UNIVERSAL ENGINEERING SERVICES

 SHEET NO. SW-3