



Interoffice Memorandum

August 29, 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: September 18, 2018 – Public Hearing
Shoreline Alteration/Dredge and Fill permit Application for
Phillip and Kelley Lillo (SADF-18-06-017)

Phillip and Kelley Lillo are requesting a Shoreline Alteration/Dredge and Fill Permit (SADF) to construct a new seawall on their property. The project site is located on Lake Down at 9722 Wildoak Drive. The Parcel ID for the site is 04-23-28-9332-00-810. The subject property is located in District 1.

In accordance with Orange County Code, Chapter 33, Article IV, Windermere Water and Navigation Control District; Section 33-129(d), notification of the public hearing was sent to property owners within 500 feet of the project site.

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

The applicant is proposing to construct a 132' long aluminum sheet pile seawall along the Normal High Water Elevation with an aluminum cap. The proposed seawall will terminate on the north side with a 5 foot return on the subject property. The east side of the wall will terminate with a 5 foot return and will not connect to the seawall on the neighboring parcel to the south. The seawall will be placed just landward of a grandfathered boat ramp on the property. The boat ramp will remain intact, but no access to the ramp will remain once the seawall is constructed. Rip rap will be placed along the entire length of the seawall, including the section over the boat ramp. The shoreline will be enhanced by native aquatic plantings waterward of the rip rap.

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

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 thirty (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 any and all appeals are resolved.
2. Construction activities shall be completed in accordance with the 'Site Plan' submitted by Richard Alan Horn, Fender Marine Construction, dated as received on June 26, 2018 and July 12, 2018 by the Environmental Protection Division (EPD). The permitted work must be commenced within six months and 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 is not 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. The planting must be implemented in accordance with the 'Site Plan' submitted by Richard Alan Horn, Fender Marine Construction, dated as received on June 26, 2018 and July 12, 2018 by EPD.
5. 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 outside the specified access corridor, additional replanting will be required.
6. The permittee must install rip rap at a two (Horizontal): one (Vertical) slope along the entire seawall as shown on the site plans received by EPD on July 12, 2018.
7. No filling can be performed except in the actual construction of the seawall. Additionally, this permit does not authorize any dredging or filling which may be necessary for maintenance or creation of navigable access to open water.
8. The permittee may maintain a clear access corridor below the Normal High Water Elevation of 98.52 feet above mean sea level (NAVD88) of Lake Down, 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.
9. Native vegetation, including but not limited to duck potato (*Sagittaria* spp.) and pickerelweed (*Pontederia cordata*), may not be removed from the shoreline outside of the specified access corridor.

10. The permittee is required to maintain turbidity and sedimentation barriers until the project area meets Class III surface water quality criteria as listed in Florida Administrative Code (FAC) 62-302.
11. 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.
12. 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:

13. 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. 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.
14. 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.
15. 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 structure(s).
16. 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 herein. The complete permit shall be available upon request by Orange County staff.
17. 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 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.

18. 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.

19. 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 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.
20. 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.
21. EPD shall have final construction plan approval to ensure that no modification has been made during the construction plan process.
22. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
23. EPD staff, with proper identification, shall have permission to enter the site at any reasonable time to ensure conformity with the plans and specifications approved by the permit.
24. The permittee shall hold and save the County harmless from any and all damages, claims or liabilities, which may arise by reason of the activities authorized by the permit.
25. 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.
26. 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.

27. Turbidity and sediments shall be controlled to prevent violations of water quality pursuant to Rule 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.
28. 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.
29. 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 Application (SADF-18-06-017) for Phillip and Kelley Lillo, subject to the conditions listed in the staff report. District 1**

JVW/DDJ: mg
Attachments

