



DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
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COASTAL MARSHLANDS PROTECTION ACT STAFF'S FINDINGS & RECOMMENDATIONS

May 10, 2024

TO: Coastal Marshlands Protection Committee:
Commissioner Walter Rabon, Chairman
Mr. Chad Barrow
Mr. Brad Brookshire
Mr. Davis Poole
Dr. Valerie Hepburn

FROM: Department Staff to the Committee

APPLICANT: Joe Nicosia
St. Marys Property Holdings, LLC
227 W. Monroe Street, Suite 5000
Chicago, IL 60606

AGENT: Jesse Boudreaux
SWCA Environmental Consultants
2008 Riverside Avenue
Jacksonville, FL 32204

LOCATION: St. Marys, St. Marys River, Camden County, Georgia

PROJECT: The proposed project is to modify and maintain an existing private marina facility located on St. Marys River, Camden County, Georgia.

ARMY CORPS NUMBER: SAS-2023-01340

APPLICABLE LAW: O.C.G.A. §12-5-280 *et seq.*, as amended, Coastal Marshlands Protection Act (CMPA) of 1970.

SUMMARY OF PUBLIC COMMENTS: The Public Notice of the Coastal Marshlands Protection Committee (CMPC) ran from March 16, 2024 to April 15, 2024. No comments were received.

FINDINGS: Department Staff to the CMPC make the following findings regarding this application:

Project Scope and Justification: O.C.G.A. § 12-5-286(b): O.C.G.A § 12-5-286 (b) (8) requires a discussion of why the permit should be granted.

1. The existing private marina was previously authorized by CMPA Permit #462. The marina was damaged during Hurricane Irma and has since been partially repaired.
2. The existing facility consists of a 7ft. x 512ft. (3,584sq.ft.) walkway with a 14ft. x 14ft. covered deck (additional 98sq.ft.) and a 7ft. x 18ft. covered area totaling approximately 3,682sq.ft.
3. The walkway terminates at a 6ft. x 87ft. (522sq.ft.) fixed walkway that runs parallel to the St. Marys River.
4. Landward of the terminal end of the walkway is a 3ft. x 26ft. (78sq.ft.) gangway that extends to the west and accesses a 10ft. x 50ft. (500sq.ft.) floating dock.
5. Extending from the eastern end of the terminal fixed walkway is a 4ft. x 40ft. (160sq.ft.) gangway that accesses a 10ft. x 200ft. (2,000sq.ft.) floating dock.
6. Extending from the western end of the fixed walkway is a 4ft. x 40ft. gangway that accesses a 10ft. x 60ft. floating dock.
7. The existing marina impacts approximately 7,720sq.ft. (0.18 acres) of coastal marshlands. The existing marina extends 282ft. into the waterway at a location where it is 1,431ft. wide at Mean Low Water (MLW).
8. The applicant proposes to modify and maintain a private marina.
9. The two channelward most floating docks (2,600sq.ft.) will be removed. The existing fixed walkway and all existing structures landward of the terminal fixed walkway will remain in place.
10. The eastern gangway will be replaced with a new 4ft. x 40ft. gangway (160sq.ft.) to access a proposed 12ft. x 201ft. (2,412sq.ft.) floating dock.
11. The western gangway will be replaced with a new 4ft. x 40ft. (160sq.ft.) gangway to access a proposed 10ft. x 390ft. (3,900sq.ft.) floating dock.
12. A new 10ft. x 135ft. (1,350sq.ft.) floating dock will extend channelward to connect to a new 12ft. x 381ft. (4,572sq.ft.) floating dock.
13. The two connected floating docks will run parallel on the western side of the terminal walkway. The landward most floating dock will have twelve 5ft. x 31ft. (1,860sq.ft.) fingers extending landward and ten 5ft. x 41ft. (2,050sq.ft.) fingers extending seaward.
14. The proposed dock facility will extend approximately 431ft. into the waterway where it is 1,571ft. wide at MLW. The proposed footprint of the modified private marina facility will be approximately 21,470sq.ft. (0.49 acres) with new impacts to coastal marshlands totaling 13,750sq.ft. (0.32 acres).

O.C.G.A. § 12-5-286 (b) (8) requires a discussion of why the permit should be granted.

15. The proposed marina facility will serve to accommodate the need for temporary and permanent boat slips for both recreational and commercial use. The facility will also be permanent mooring for a 110ft. yacht.

Application Form, Applicant Name and Address, Project Plans, Plat, Deed or other instrument, Written permission to carry out project by owner of land, O.C.G.A. § 12-5-286(b)(1-4):

16. Applicant has submitted the application form, name and address, project plans, plats, and deed.

Adjoining Landowners, Non-refundable application fee, O.C.G.A. § 12-5-286 (b)(5,7):

17. Applicant has submitted names and addresses of adjoining property owners as well as the non-refundable application fee.

Local Government Zoning, O.C.G.A. § 12-5-286(b)(6):

18. A letter was received from the City of St. Marys Community Development Director stating that the project is not violative of zoning law.

Alternative Sites Description and Feasibility 12-5-286 (b)(8):

19. No alternative sites were considered. The proposed project is the rebuilding of a previously existing marina at the site.

Landfill, Hazardous Waste Inquiry, O.C.G.A. § 12-5-286(b)(9):

20. Applicant has reviewed the Hazardous Site Index maintained by Georgia Environmental Protection Division. There are no landfills or hazardous waste sites near the proposed project location.

Water Quality Certification, O.C.G.A. § 12-5-286(b)(10):

21. Water Quality Certification is not required for the proposed project.

Adherence to Erosion and Sediment Control Responsibilities, O.C.G.A. § 12-5-286 (b)(11):

22. Applicant has stated the intention to adhere to soil and erosion control responsibilities.

Notification of Proposed Project, O.C.G.A. § 12-5-286(d)(e):

23. Adjacent property owners and interested parties who have requested to be placed on the mailing list were notified in writing of the proposed project. The public notice of the Coastal Marshlands Protection Committee (CMPC) ran from March 16, 2024 to April 15, 2024. No comments were received.

Public Interest Considerations, O.C.G.A. § 12-5-286(g):

24. In passing upon application for a permit, the CMPC shall consider the public interest.

- a) **The design of the project is such that no unreasonably harmful obstruction to or alteration of the natural flow of navigational water within the affected area will arise as a result of the proposal.** The proposed project is not expected to alter natural flow of navigable waters nor will it obstruct public navigation. The proposed marina will extend approximately 431ft. into the waterway where it is 1,571ft. wide at MLW.
- b) **The design of the project is such that no unreasonably harmful or increased erosion, shoaling of the channels, or stagnant areas of water will be created.** The proposed project is pile supported and is not expected to increase erosion, shoaling of channels, or create stagnant areas of water.
- c) **The proposal will not unreasonably interfere with the conservation of fish, shrimp, oysters, crabs, and clams or any marine life or wildlife or other natural resources including but not limited to water and oxygen supply.** The proposed project is not expected to interfere with the conservation of fish, shrimp, oysters, crabs, and clams or any marine life. The West Indian Manatee is an endangered and federally protected species and is known to frequent Georgia's coastal waters.

Restriction on granting of permits; size restriction; activities and structures considered contrary to the public interest, O.C.G.A. § 12-5-288 (a) and (b):

25. The proposed facilities are water-dependent. The project cannot be satisfied using an alternative non-marshland site.
26. Total impacts to jurisdictional coastal marshlands will total approximately 21,470sq.ft. (0.49 acres).

Leasing of state owned marshland or water bottoms, O.C.G.A. § 12-5-287:

27. The proposed project will require a waterbottoms lease upon completion of construction.

Determining Project Boundaries, Rule 391-2-3-.02(3):

28. The marshlands component consists of the construction of a private marina facility. When completed, the amount of proposed structures in jurisdiction will total approximately 21,470sq.ft. (0.49 acres).
29. The applicant has stated that there is no upland component for the proposed project.

Regulation of Marinas, Community Docks and Commercial Docks, Rule 391-2-3-.03

30. The proposed structure qualifies as a Marina in accordance with Rule 391-2-3-.03.
31. O.C.G.A 391-2-3-.03(6)(c) states that “A needs assessment must be submitted to justify the size of the proposed marina...” The applicant has provided a needs assessment and states that the proposed marina facility will serve to accommodate the need for temporary and permanent boat slips for both recreational and commercial use. The facility will also be permanent mooring for a 110ft. yacht.

RECOMMENDATION: Should the Committee determine that the proposed project is in the public interest, Department staff recommends the following STANDARD and SPECIAL conditions:

COASTAL MARSHLANDS PROTECTION ACT STANDARD CONDITIONS

1. The project must comply, as applicable, for areas permitted herein, with all other federal, state, and local statutes, ordinances, and regulations and the applicant must obtain all licenses and permits prior to commencement of construction.
2. This permit does not resolve actual or potential disputes regarding ownership of, rights in or over the property upon which the subject project is proposed, and shall not be construed as recognizing or denying any such rights or interests.
3. All plans, documents and materials contained in this permit application, required by Coastal Marshlands Protection Act of 1970, as amended O.C.G.A. § 12-5-280 et seq. are a part of this permit and conformance to such plans, documents, and materials are a condition of this permit. No change or deviation from these plans, documents, and materials shall be permitted without prior notification and approval by the Department or CMPC.
4. No further encroachment or construction shall take place within state jurisdiction, except as permitted by the CMPC. Any modification of the plans or structure in the jurisdictional area must be reviewed and approved by the Department or the CMPC, as necessary, prior to construction.
5. No construction or alteration of a project may commence until the expiration of 30 days following the date on which the application is approved; provided however that if a timely

- appeal is filed, no construction or alteration may commence until all administrative and judicial proceedings are terminated.
6. The permit must be posted onsite within 24 hours of beginning construction.
 7. A copy of these and all permit conditions must be supplied to the person in charge of construction. All contractors and subcontractors are responsible for strict adherence to all permit conditions.
 8. All Best Management Practices (BMPs) should be used to prevent any erosion and sedimentation at the site. No unauthorized equipment, materials, or debris may be placed in, disposed of, or stored in jurisdictional areas. Any visible alterations in the marsh topography will be restored immediately using low-impact hand tools. Any damage to the marsh vegetation that has not recovered naturally during the next growing season will be repaired by a method acceptable to the Department.
 9. If the permitted improvements are damaged, fall into disrepair, become dilapidated, or are not meeting their expected usefulness and are not maintained at a serviceable level, it is the responsibility of the owner to remove the improvements. A new permit will be required to retain and repair the structure, improvement, or asset if it loses its structural integrity and is no longer serviceable.
 10. The CMPC is not bound in the future to protect any improvement or asset authorized by the permit.

COASTAL MARSHLANDS PROTECTION ACT STANDARD CONDITIONS FOR MARINAS

1. Floating docks may not rest on the bottom at low tide and must be supported on pilings or by cradle at least two feet above the mud.
2. The marina proposed to be located in a manatee travel corridor or on a waterway where manatees may be found must have protective measures to minimize manatee/boat interactions to include:
 - a. An education plan for boaters using the marina;
 - b. Regular monthly maintenance of dock facilities' hoses, faucets, or any apparatus or equipment capable of producing a stream of fresh water in close proximity to the access of the facility;
 - c. A contingency plan for emergency repair of freshwater sources;
 - d. Temporary manatee awareness signage during construction of the facility and permanent posting and maintenance of the informational display signage, "Manatee Basics for Boater's" post-construction; and
 - e. Speed zones may be required if the marina is in a manatee travel corridor.
3. No dredging of tidal waterbottoms or vegetated coastal marshlands is allowed in association with the initial marina project.
4. If the marina could require maintenance dredging in the future, a permanent, dedicated spoil site with the capacity for the initial dredge volume and anticipated maintenance needs must be identified at the time of application.
5. The marina should provide onshore restrooms, shower and laundry facilities in the upland component of the project. The applicant/permittee must take specific measures (such as, but not limited to, signs or dock regulations) to encourage boaters to use the washrooms, laundromat and restrooms onshore, if any.
6. The marina must have an approved disposal system for the disposal of wastewater generated by boats and upland facilities at the marina.

7. The marina must install, for collection of solid wastes, trashcans, dumpsters or other suitable containers in compliance with the Act to Prevent Pollution from Ships (33 USCA 1901 and 33 CFR 158). Adequate separate containers for toxic substances shall be available.
8. The marina shall not allow any person to operate a marine toilet at a marina at any time so as to cause or permit to pass or to be discharged into the waters adjacent to the marina any untreated sewage or other waste matter or contaminant of any kind.
 - a. A marina must have a working pump-out facility and dockside waste collection system for the sanitary wastes from vessels adequate for the capacity of the marina (number and size of vessels) and require their use by boats using the marina, unless specific exceptions are allowed by the Coastal Marshlands Protection Committee.
 - b. Pump-out facility maintenance logs must be kept.
 - c. The marina must prominently display signage showing the location of the nearest pump-out facility.
9. If fueling facilities are installed the applicant/permittee must insure installation is according to the USEPA and GADNR/EPD laws and regulations. The following requirements must be met:
 - a. Fuel storage tanks and fuel lines between tank, dock, and vessels shall be equipped with emergency shut off valves.
 - b. Dispensing nozzles shall be the automatic closing type without a hold-open latch.
 - c. A marina must have adequate booms available either on-site or under contract to contain any oil spill.
 - d. The marina shall have a current 'Operations Manual' containing the following:
 - i. Description of how the applicant meets the conditions of this permit,
 - ii. The geographic location of the dock,
 - iii. A physical description of the facility showing mooring areas, fuel storage and dispensing areas, and locations of safety equipment,
 - iv. The names and telephone numbers of the facility, Coast Guard MSO, EPD Emergency Response Center, and other personnel who may be called by employees of the facility in an emergency, including fire and police,
 - v. A description and the location of each emergency shut-off system, and
 - vi. Names and telephone numbers of available hazardous spill clean-up contractors nearest the dock.
10. The Operation Manual must be maintained current and readily available in a conspicuous location for examination by employees of the dock and the Department.
11. The Operations Manual must be submitted to the Department prior to operation of the dock.
12. All components of the marina must be designed, installed, operated and maintained in a manner that will not unreasonably obstruct navigation to and from neighboring properties.
13. The marina or its operation shall not cause or create a measurable adverse water quality impact to the waterbody in which it is built, as measured by dissolved oxygen, fecal bacteria, or nutrient enrichment.
14. If the Department determines through its own water quality sampling or other resource analyses that there are perceptible environmental impacts associated with the dock development, the Department may require the applicant/permittee at applicant/permittee's expense, to have water, substrate, and/or tissue samples collected and analyzed for metals, petroleum hydrocarbons, or other constituents.
 - a. Sample collection and analyses must be according to methods approved by the Department.

- b. All results from such sampling results must be provided to the Department as obtained and may be used by the Department to further restrict the dock to reduce water quality impacts.
15. The permittee shall permanently post and maintain the informational display sign, "Manatee Basics for Boaters." Instructions for the installation and placement procedure of this sign are enclosed.

SPECIAL CONDITIONS

1. Permittee is required to provide a post-construction survey to the Department upon completion of the permitted activity and prior to issuance of a waterbottoms. Such survey shall comply with the Georgia Plat Act O.C.G.A. 15-6-67 *et seq.*
2. Upon completion of construction of the marina the Permittee must contact the Department for a waterbottoms lease prior to operation of the new facility.