



MARK WILLIAMS
COMMISSIONER

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DIRECTOR

**COASTAL MARSHLANDS PROTECTION ACT
STAFF'S FINDINGS & RECOMMENDATIONS**

August 22, 2017

TO: Coastal Marshlands Protection Committee:
Commissioner Mark Williams, Chairman
Mr. Henry Morgan
Mr. Rick Gardner
Mr. Zach Harris
Mr. Bill Hodges

FROM: Department Staff to the Committee

APPLICANT: Mark V. Smith Revocable Trust
Mark V. Smith Trustee
141 Fairwind Road
Savannah, GA 31410

AGENT: Mr. Stuart Sligh
Sligh Environmental Consultants, Inc.
31 Park of Commerce Way, Suite 200B
Savannah, GA 31405

LOCATION: 141 Fairwind Road, Whitemarsh Island, Wilmington River, Chatham
County, Georgia

PROJECT: The proposed project is to dredge coastal marshlands at an existing, private, single-family residential dock facility.

ARMY CORPS NUMBER: 2015-00318

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

SUMMARY OF PUBLIC COMMENTS: The public notice of the Coastal Marshlands Protection Committee (CMPC) ran from June 17, 2017 to July 17, 2017. No comments were received in response to the public notice.

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, single-family residential dock facility was originally authorized in 2007.
2. The current facility consists of a 6ft. x 360ft. walkway, a partially covered 24ft. x 36ft. fixed deck, a 3ft. x 30ft. ramp leading to a 10ft. x 90ft. floating dock, and a 3ft. x 27ft. catwalk servicing a 14ft. x 28ft. covered hoist. A second 8ft. x 8ft. hoist is also associated with the structure. The seaward edge of the float is 316ft. seaward of MLW, where the river is approximately 1,050ft. wide at MLW. Impacts total approximately 4,551sq.ft. (0.11 acres).
3. The applicant is proposing to dredge approximately 6,400 cubic yards of material from a 1.29 acre area surrounding the private dock to provide for vessel access to the existing floating dock at all tidal stages.
4. Current bottom elevations vary from -3ft to -8ft. at Mean Low Water (MLW). The proposed dredging will result in an -8ft. MLW along the landward side of the floating dock within the 1.29 acre dredge area.
5. An 8 inch hydraulic cutter head dredge positioned on a floating barge will be used to siphon the bottom of the Wilmington River within the project area to -8ft. MLW. A submerged dredge pipe will be laid on the bottom of Tom Thumb Creek to move the dredge slurry to an upland confined disposal area. The placement of the submerged dredge pipe is consistent with previously authorized dredging projects at the Savannah Yacht Club.
6. An agreement between the applicant and the Savannah Yacht Club authorizes the one-time placement of approximately 6,400 cubic yards of sediment into the upland confined disposal area owned by the Savannah Yacht Club.
7. Proposed impacts for the proposed dredging project total approximately 6,400 cubic yards of material from a 1.29 acre area surrounding the existing private dock.

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

8. Currently, vessel access to the floating dock and hoists is limited by shallow water around MLW. The proposed dredging project will afford the property owner access the facility during all tidal stages.
9. Per the agent for the project, the proposed project is estimated to provide enhanced access over a ten (10) year period. No maintenance dredging is proposed.

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):

10. 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):

11. 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):

12. A letter has been received from the Chatham County Department of Building Safety & Regulatory Services stating that the proposed project does not violate any local zoning laws. The letter is not conditioned.

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

13. The proposed project is site specific. An alternative site will not satisfy the project purpose.

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

14. Applicant has reviewed the Hazardous Site Index maintained by the Georgia Environmental Protection Division for Chatham County, Georgia and stated that 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):

15. A Water Quality Certification was issued for on April 19, 2017.

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

16. Applicant has stated their intention to adhere to building, land disturbing and storm-water management permit as required by Chatham County, Georgia.

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

17. 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 June 17, 2017 to July 17, 2017. No comments were received in response to the public notice.

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

18. 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 dredging project may alter the natural flow of navigational water, but not in an unreasonable manner.
 - 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 area of the proposed dredging project is subject to daily tidal flows and will not create stagnant areas of water. The depth of the newly dredged area will taper into the existing contour of the adjacent waterbottoms and is expected not to be unreasonably harmful or increase erosion and/or shoaling.
 - 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

facility must install manatee awareness signage during dredging activities and adhere to standard manatee conditions and procedures for aquatic construction as approved by the Savannah District Office of the US Army Corps of Engineers. The project is not expected to 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.

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):

19. The proposed project is water related and water dependent and cannot be satisfied by use of a non-marshland alternative site.

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

20. The proposed project has no mooring space associated with it, therefore it is not required to have a waterbottoms lease.

O.C.G.A. § 12-5-288(b) requires that the amount of marshlands to be altered are minimum in size.

21. Proposed impacts for the existing structures total 4,551sq.ft. (0.11 acres). The proposed dredging impacts 1.29 acres of non-vegetated coastal marshlands and 6,400 cubic yards of sediment.

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

22. The marsh component for the project includes the proposed dredging of 6,400 cubic yards of sediment that impacts 1.29 acres of non-vegetated coastal marshlands.
23. The upland component for the project consists of the existing 9.3 acre confined upland disposal area owned by the Savannah Yacht Club. Other than the placement of the sediment, no modification to the upland component is proposed.

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 twenty-four (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 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.

SPECIAL CONDITIONS

1. Dredging activities may only occur as specified in the conditions of the 401 Water Quality Certification issued by the Director of the State of Georgia Environmental Protection Division issued April 19, 2017. No dredging will be conducted during the striped bass spawning period from April 1 to May 15 of each year.
2. Permittee must provide the Department with a project schedule for all dredging operations. The schedule must be received no less than five (5) days prior to commencing the dredging activities.
3. Permittee must install manatee awareness signage during dredging activities. The permittee shall adhere to standard manatee conditions and procedures for aquatic construction as approved by the Savannah District Office of the US Army Corps of Engineers, US Fish and Wildlife Service, and the Georgia Department of Natural Resources.
4. Each contractor is required to instruct all personnel associated with the dredging project about the possible presence of manatees in the area. Dredges are required to stop, alter course or otherwise maneuver to avoid approaching the known location of a manatee.
5. Permittee is required to provide a post-dredging hydrographic survey within 30 days of project completion. The survey must be performed by a surveyor registered in the State of Georgia and must comply with appropriate professional industry standards.

6. Permittee may be required to provide a post-construction survey to the Georgia Department of Natural Resources, Coastal Resources Division within 30 days of completion of the permitted activity. Such survey shall comply with the Georgia Plat Act O.C.G.A. 15-6-67 *et seq.*