



COASTAL RESOURCES DIVISION

ONE CONSERVATION WAY · BRUNSWICK, GA 31520 · 912-264-7218

WALTER RABON
COMMISSIONER

DOUG HAYMANS
DIRECTOR

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

March 7, 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: Sorry Charlie's Oyster Company, LLC
Harley Krinsky
230 E Point Drive
Savannah, GA 31401

AGENT: Sam Labarba
LaBarba Environmental Services
139 Altama Connector, #161
Brunswick, GA 31525

LOCATION: 230 East Point Drive, Talahi Island, Bull River, Chatham County, Georgia

PROJECT: The proposed project is to construct a commercial dock facility located in Bull River, Chatham County, Georgia.

ARMY CORPS NUMBER: SAS-2022-00963

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 October 3, 2024 to November 1, 2024. Eighteen (18) comments in opposition and a petition in opposition with 58 signatures were received during the public notice period. Two more opposing comments were received after the public notice period expired. The comments expressed concerns with upland zoning regulations, increased traffic and noise, environmental impacts, proximity to extended property lines, proximity to adjacent dock, and decreased property values for neighbors. The agent has responded to all comments received during the public notice period.

The project was tabled at the November 15, 2024 meeting by the Coastal Marshlands Protection Committee (CMPC) who requested further information relating to local zoning and the letters that were provided. The subsequent Public Notice of the CMPC in response to receipt of additional zoning information ran from February 1, 2025 to February 15, 2025. Eleven (11) comments were received in opposition to the project. Several commentors continued to submit comments in opposition to the project after the public notice period expired. The comments expressed concerns with zoning regulations, increased traffic and noise, environmental impacts, potential to decrease property values, proximity to extended property lines, interference with a potential new dock, and lack of an inclusion of an upland component. The agent has responded to all comments received during the public notice period.

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 0.46 acre subject parcel is the site of what was previously an earthen causeway and an unserviceable private recreational dock facility. The area that was once a causeway has subsided and is now jurisdictional coastal marshlands.
2. The dock associated with the property is in disrepair and will be removed prior to construction.
3. The proposed project is to construct a commercial dock facility that will be used to facilitate a commercial oyster farming operation.
4. A 6ft. x 421ft. (2,526sq.ft.) walkway will lead from the upland to access a 24ft. x 32ft. (768sq.ft.) covered fixed deck.
5. Two 13.5ft. x 30ft. (810sq.ft.) covered boat hoists will be located to the northwest of the fixed deck and accessed by a 5ft. x 30ft. (150sq.ft.) catwalk located between the two boat hoists.
6. A 6ft. x 32ft. (192sq.ft.) ramp will extend channelward from the fixed deck to access a 12ft. x 80ft. (960sq.ft.) floating dock.
7. A 8ft. x 20ft. floating upweller will be located on the landward side of the floating dock. One (1) bottle upweller and 10 (ten) drum silo upwellers will be located on the fixed deck for mariculture use.
8. The proposed commercial dock facility will extend approximately 90ft. channelward past Mean Low Water (MLW) at a location where the waterway is approximately 744ft. wide.
9. The proposed dock will be approximately 2ft. from the extended property line to the east and over the property line to the west.
10. The proposed dock will be located approximately 55ft. from the nearest existing dock to the west and 208ft. from the nearest existing dock to the east.
11. The proposed commercial dock facility will impact approximately 5,406sq.ft. (0.12 acres) of coastal marshlands.

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

12. The proposed modifications are to facilitate a commercial oyster operation. The applicant has an active shellfish lease from the State of Georgia. As a lease holder, the applicant received a Master Harvester Certification and a Shellfish Mariculture Permit. The applicant is also certified by the Georgia Department of Agriculture as a Shell Stock Shipper. The proposed

commercial dock facility will provide the necessary mooring space and work area for the applicant to harvest and process the oysters from the lease.

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):

13. 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):

14. Applicant has submitted names and addresses of adjoining property owners.

15. The non-refundable application fee of \$500.00 was submitted.

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

16. A letter has been received from the Chatham County Department of Building Safety and Regulatory Services dated January 31, 2024 stating that the project is not in violation of any local zoning ordinances. The letter is not conditioned. Another letter was received November 1, 2024 stating that Chatham County Department of Building Safety and Regulatory Services can neither approve nor deny the proposed changes to the dock, further stating that construction and maintenance of such structures fall under the purview of the State of Georgia. Subsequently, a letter dated November 7, 2024 attempted to offer clarification on the roles that the State of Georgia and the Chatham County Department of Building Safety and Regulatory Services have in regulating dock structures located over coastal marshlands. On November 15, 2024 the CMPC requested the applicant obtain another letter from Chatham County Department of Building Safety and Regulatory Services to clarify their intentions with respect to zoning for the proposed commercial dock project. A letter was received, dated January 27, 2025, that stated, "*The construction or renovation of a marine dock in the CM-EO zoning district does not violate the Chatham County ordinance.*" The requirement of this code section has been met for a complete application.

17. Public comments related to zoning were received both during and after the expiration of the public comment period. Several comments contained correspondence with the Chatham County Department of Building Safety and Regulatory Services that seemed to refute the official's finding that the project was not violative of zoning law. The latest correspondence referenced in comments is dated February 20, 2025.

18. CRD contacted the Chatham County Department of Building Safety and Regulatory Services and, in a letter dated February 21, 2025, received confirmation from the Assistant Director that the project is not violative of zoning law.

19. Per written communication from Chatham County Department of Building Safety and Regulatory Services, dated February 26, 2025, they will no longer be signing plans from project applications per their revised procedures.

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

20. The proposed project is to construct a commercial dock to facilitate the operations of an oyster farm. The proximity of the dock to the oyster lease is important due to time requirements for how long harvested shellfish can be left outside of mechanical refrigeration. The applicant explored the alternative of using the neighboring marinas, but they were found to not be feasible because the rules associated with the marinas would not allow for the activities

involved in a commercial oyster farming operation. There is also a concern that pollutants from the high number of vessels would potentially contaminate the oyster seed growing in the upwellers that are proposed for the commercial dock.

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

21. 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):

22. A 401 Water Quality Certification has been issued in conjunction with the Nationwide Permit #48 for upwellers and is not required for the pile supported portion of the project.

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

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

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

24. 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 October 3, 2024 to November 1, 2024. Eighteen (18) negative comments and a petition with 58 signatures were received during the public notice period. Two more negative comments were received after the public notice period expired. The comments expressed concerns with upland zoning regulations, increased traffic and noise, environmental impacts, proximity to extended property lines, proximity to adjacent dock, and decreased property values for neighbors. The agent has responded to all comments received during the public notice period.
25. The project was tabled at a November 15, 2024 meeting by the CMPC who requested further information relating to local zoning and the letters that were provided. The subsequent Public Notice of the CMPC in response to receipt of additional zoning information ran from February 1, 2025 to February 15, 2025. Eleven (11) comments were received in opposition to the project. Several commentors continued to submit comments in opposition to the project after the public notice period expired. The comments expressed concerns with upland zoning regulations, increased traffic and noise, environmental impacts, potential to decrease property values, proximity to extended property lines, interference with a potential new dock, and lack of an inclusion of an upland component. The agent has responded to all comments received during the public notice period.

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

26. 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 pile supported will not create an unreasonable harmful obstruction to or alter natural flow of navigable waters. The proposed dock facility will extend the minimum required distance into the waterway to

maintain functionality. The proposed facility will extend approximately 90ft. beyond Mean Low Water (MLW) at a point where the waterway is approximately 744ft. wide.

- 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 not expected to result in increased erosion, shoaling of channels or stagnant areas of water. The proposed dock facility is a pile-supported structure.
- 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 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 West Indian Manatee is an endangered and federally protected species and is known to frequent Georgia's coastal waters.

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

27. The proposed project will not require a water bottoms lease upon completion of construction.

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):

28. The facility is water-dependent. The project cannot be satisfied using an alternative non-marshland site.

29. The proposed commercial dock facility will impact approximately 5,406sq.ft. (0.12 acres) of coastal marshlands

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

30. The marshlands component consists of the proposed construction of a commercial dock facility.

31. There is no upland component for the proposed project.

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

32. The proposed structure qualifies as a Commercial Dock accordance with Rule 391-2-3-.03.

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 commercial dock..." The applicant has provided a needs assessment and states that the project is necessary to provide the necessary mooring space and work area for the applicant to harvest and process the oysters from the lease.

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.

**COASTAL MARSHLANDS PROTECTION ACT STANDARD CONDITIONS FOR
COMMERCIAL DOCKS**

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. No dredging is allowed in association with the initial community or commercial dock project.
3. The applicant must operate and maintain the dock in such a manner that will not unreasonably obstruct navigation to and from neighboring properties.
4. The community dock 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.

5. 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.
 - i. Sample collection and analyses must be according to methods approved by the Department.
 - ii. 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.
6. The applicant /permittee must post 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.
7. Permittee must provide a post-construction survey that locates the Tier Three Community Dock or Commercial Dock as indicated in the applications materials. Such survey shall comply with the Georgia Plat Act, O.C.G.A. §15-6-67 et. seq.