



DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
ONE CONSERVATION WAY • BRUNSWICK, GA 31520 • 912.264.7218
COASTALGADNR.ORG

MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

COASTAL MARSHLANDS PROTECTION ACT STAFF'S FINDINGS & RECOMMENDATIONS

May 19, 2023

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

FROM: Department Staff to the Committee

APPLICANT: Grand Harbor Development Group LLC
c/o David Hornsby
2 Skidaway Village Walk, Suite A
Savannah, GA 31411

AGENT: Dan Bucey
Resource Land Consultants
41 Park of Commerce Place, Suite 101
Savannah, GA 31405

LOCATION: Green Island Road, Franklin Creek, Chatham County Savannah GA

PROJECT: The proposed project is for the construction of a pile-supported community marina facility and parking lot to serve a 45-lot residential development known as Grand Harbor Subdivision.

ARMY CORPS NUMBER: SAS-2019-00381

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 April 12, 2023 to May 11, 2023. Forty-two comments were received during the public notice period. Forty-one comments were in opposition to the project. The negative comments include: navigation concerns related to the project design and location, environmental concerns related to the effects of increased vessel traffic, potential negative impacts to wildlife, lack of alternative site selection, and increased erosion to the shoreline. The applicant has provided written responses to the comments.

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 applicant proposes to construct a pile-supported community marina facility and parking lot to serve a 45-lot residential development known as Grand Harbor Subdivision. Currently, there are no existing structures, and the subdivision is undeveloped.
2. The marshlands component of the project is proposed to be constructed in two phases.
3. Phase I of the proposed community marina will include:
 - a. a 6ft. x 457ft. (2,742sq.ft.) walkway, of which approximately 6ft. x 281ft. (1,686sq.ft.) will be in CMPA jurisdiction.
 - b. The walkway will connect to a 20ft. x 20ft. (400sq.ft.) covered fixed deck and lead to a 5ft. x 40ft. (200sq.ft.) ramp.
 - c. The ramp will lead to a 10ft. x 27ft. (270sq.ft.) landing float to provide access to a 10.5ft. x 325ft. (3,412.5sq.ft.) floating dock. The proposed floating dock will be constructed of (13) 10.5ft. x 25ft. sections with seven (7) floating dock sections extending to the North of the landing dock and six (6) extending to the South.
 - d. The northern portion of the proposed structure will extend approximately 78ft. into the waterway where the waterway is approximately 247ft. at Mean Low Water (MLW). The southern portion of the proposed structure will extend approximately 52ft. into the waterway where the waterway is approximately 155ft. at MLW.
 - e. The floating docks will be configured to align with the channel.
 - f. Phase I of the project will impact approximately 5,968.5sq.ft. (0.137acre) of coastal marshlands.
4. Phase II of the proposed community marina will proceed once the demand for additional floating dock space is demonstrated and approved by the Department. This will consist of:
 - a. the addition of a 10.5ft. x 300ft. (3,150sq.ft., 0.007acre) floating dock to the southern end of the project. The additional floating dock will be constructed of twelve (12) 10.5ft. x 25ft. sections and will be configured to align with the channel.
 - b. Phase II of the proposed structure will extend approximately 52ft. into the waterway where the waterway is approximately 155ft. at MLW.
5. The riparian lots on the remainder of the property will be deed-restricted to prohibit construction of additional private docks.
6. Total proposed impacts to coastal marshlands for Phase I and II of the project are approximately 9,118.5sq.ft. (0.21 acres).

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

7. The applicant has stated the proposed project would provide water access for the forty-five (45) residents at Grand Harbor. An average dock space of twenty-five feet (25ft.) for each lot would require a minimum mooring capacity of 1,125ft. As designed, fifty (50) twenty-five-foot floating dock sections will provide mooring on both sides of the floats, resulting in 1,271 linear feet of mooring space. Two (2) twenty-five-foot sections of float at the gangway/floating dock landing would be utilized for loading/unloading of passengers and/or gear to alleviate long walks to the outer limits of the floating docks. The proposed project will provide access to coastal waters with approximately 0.21 acre of pile-supported structure over coastal marshlands.

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):

8. 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):

9. 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):

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

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

11. The Grand Harbor development is designed and marketed to potential buyers that would desire waterfront living along with unrestricted access to coastal waters provided by on-site mooring facilities. The applicant considered utilization of existing off-site alternative access facilities to provide residents the opportunity to access coastal waters. There is a public boat ramp approximately 3 miles from the project site on the Skidaway River on the south side of Diamond Causeway. However, this facility is very popular with county residents and can be extremely crowded on weekends and holidays, resulting in long wait times to load and unload and lack of parking. Use of this facility would not meet the applicant's overall project purpose, and would require either on-site or off-site boat and trailer storage. Due to the location of the proposed facility in close proximity to the Atlantic Ocean, some of the vessels may be larger than average and be difficult to tow and store. Providing on-site mooring at the proposed community dock will free up space for non-waterfront and transient boaters that may better utilize alternative public facilities. The project as proposed represents the most feasible option to provide necessary wet slips for residents of Grand Harbor and the increased demand that will occur in this area while protecting the general public's ability to continue to use existing public facilities without undue demand and crowding.

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

12. The 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):

13. A 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):

14. The applicant has stated their intention to adhere to building, land disturbing and storm-water management permit as required by Chatham County.

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

15. 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 April 12, 2023 to May 11, 2023. Forty-two comments were received during the public notice period. Forty-one comments were in opposition to the project. The negative comments include: navigation concerns related to the project design and location, environmental concerns related to the effects of increased vessel traffic, potential negative impacts to wildlife, lack of alternative site selection, and increased erosion to the shoreline. The applicant has provided written responses to the comments.

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

16. 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 applicant has stated that the proposed structure is pile-supported and will not alter natural flow of navigable waters or obstruct public navigation. The structure would occupy a maximum of 33% of the waterway at MLW. No unreasonably harmful obstruction to or alteration the natural flow of navigational water is expected.
 - 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 applicant contends the proposed facility will be pile-supported and will allow tidal waters to ebb and flood around and through the structure. The piles will not divert water in a manner that would increase erosion, cause shoaling of channels, or create areas of stagnant 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 structure will not interfere with the conservation of fish, shrimp, oysters, crabs, clams, or other marine life, or wildlife, or other resources, nor affect 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:

17. The proposed project will require a waterbottoms lease upon completion of construction Phase I. Upon completion of construction of Phase II, such lease will be required to be modified.

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):

18. The proposed facilities are water-dependent. The project cannot be satisfied using an alternative non-marshland site.
19. Total impacts to jurisdictional coastal marshlands will total approximately 9,118.5sq.ft. (0.21 acres).

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

20. The upland component of the project consists of an 11,509sq.ft. common area to access the marshlands component of the project.

21. The marsh component of the project consists of a pile-supported dock proposed in two phases that would occupy 9,118.5sq.ft. (0.21-acre) of coastal marshlands.

Marshland Buffers for Upland Component of the Project, Rule 391-2-3-.02(4):

22. The 50ft. marshlands buffer applicable to the upland component of the project has been described in the application and is approximately 11,509sq.ft. of common area. Proposed improvements to this area include a pervious pavement parking area for automobiles and golf carts (4,866sq.ft.), and a 10ft. wide pervious gravel walkway (1,380sq.ft.) providing access through uplands to the marshlands component of the project. A 302sq.ft. portion of the gravel walkway is within the 50ft. CMPA buffer.
23. The applicant has certified adherence to soil and erosion control responsibilities.
24. Land disturbance and construction within the 50ft. marshlands buffer in the upland component of the project is limited to:
 - a) **Construction and maintenance of temporary structures necessary for construction of the marshlands component of the project.** There are no temporary structures proposed for construction of the marshlands component. All construction will be conducted from barge and crane or from the uplands. Some portions of the walkway may require pilings to be driven by an excavator with a vibratory hammer attachment that would be working on mats from one side of the proposed walkway.
 - b) **Construction and maintenance of permanent structures that are required for the functionality of and/or provide permanent access to the marshlands component of the project.** Proposed permanent structures within the 50ft. marshlands buffer include a 302sq.ft. portion of gravel walkway providing access through uplands to the marshlands component of the project.
 - c) **Planting and grading with vegetated materials within the marshlands buffer to enhance stormwater management, such as erosion and sediment control measures, and to allow pedestrian access for passive recreation.** The marshlands buffer will be landscaped with native vegetation following construction.

Stormwater Management Standards for the Upland Component of the Project, Rule 391-2-3-.02(5):

25. Applicant has stated that no direct discharge of stormwater into coastal marshlands would result from construction of the upland component of the project.

Impervious Surface, Rule 391-2-3-.02(6):

26. The upland component will be 100% pervious.

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

27. The proposed structure qualifies as a Marina in accordance with Rule 391-2-3-.03.
28. 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 contends the construction of the proposed marina is needed to meet the access requirements for the Grand Harbor community.

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 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 each phase of the permitted activity. Such surveys shall comply with the Georgia Plat Act O.C.G.A. 15-6-67 *et seq.*
2. The construction of the marina will be completed in two phases. Prior to construction of Phase II, the permittee will submit an as-built survey and adequate documentation to the Department for review and approval demonstrating that Phase II is needed due to Phase I being near or at full capacity. Adequate documentation may include dated photographs, marina logbooks if utilized, and other evidence of occupancy deemed reasonable by the Department.
3. Upon completion of Phase I of the marina the Permittee must contact the Department for a waterbottoms lease prior to operation of the new facility.
4. Prior to the waterbottoms lease being issued, executed restrictive covenants precluding private recreational docks on all riparian lots must be provided to the Department.
5. Upon Department approved construction of Phase II, a modified waterbottoms lease will be required prior to operation of the modified facility.
6. Dredging in CMPA jurisdictional areas is not authorized with this permit.
7. Permittee must install manatee awareness signage during construction of the project and 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.