



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

March 7, 2025

TO: Coastal Marshlands Protection Committee:
Mr. Chad Barrow
Mr. Brad Brookshire
Mr. Davis Poole
Dr. Valerie Hepburn

FROM: Department Staff to the Committee

APPLICANTSSS: James H. Alexander
12 Horsepen Point Drive
Tybee Island, GA 31328

Leo K. Sheehan and Margaret B. Sheehan
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Tybee Island, GA 31328

AGENT: Alton Brown
Resource & Land Consultants
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LOCATION: Shared property line between 10 Horsepen Point Drive and 12 Horsepen Point Drive, Horsepen Creek and unnamed tributaries of Horsepen Creek, Tybee Island, Georgia 31328

PROJECT: The proposed project is to construct and maintain a golf cart bridge and private shared-family-family dock, on Horsepen Point, Horsepen Creek, Tybee Island, Chatham County, Georgia.

ARMY CORPS NUMBER: 2022-00379

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 February 7, 2025 through February 21, 2025. Thirty-one (31) emailed comments were received in response to this public notice representing the viewpoints of 58 individuals.

Ten (10) comments were supportive of the applicants and / or their application for the private shared-family dock. Five (5) of those comments stated that at the proposed dock location on Horsepen Creek, the waterway was not navigable at Mean Low Water (MLW). One comment recognized the value of a shared dock, another supported the process by which the project has been reviewed, and another supported private property rights. One commentator suggested that all the existing docks on the eastern side of the creek caused sedimentation along the eastern creek bank and resulted in the channel's migration towards the western bank of Horsepen Creek.

Fourteen email comments, with a total of twenty signatures in opposition to the project, cited various concerns including the proposed dock's impact on navigation, concerns about the structure potentially creating a navigational obstacle at Mean High Water (MHW) for vessels (including barges that maintain docks on the waterway), walkway orientation (East/West) potentially accumulating wrack, and the increased risk of habitat loss for species of marsh birds in the vicinity of the structure. The proposed bridge to the hammock also raised concerns about clearing of upland component buffer on the marsh hammock, the impact of clearing and grading potentially increasing erosion and sedimentation from the hammock, as well as the lack of alternative locations proposed for the project. A concern raised the issue of coastwide impact of CMPC approval of a bridge to a hammock.

The remaining twenty-eight individuals signed a petition opposing the project. The petition was circulated among Tybee residents with access to Horsepen Creek. The petition commented on the channel's westward migration, questioned the validity of the applicant's bathymetric data (stating recent MLW observations at the project site are not consistent with the applicant's findings). Additionally, the petition raised concerns that potential modifications to existing private dock structures in the vicinity of the proposed shared private dock may be challenged as a result of a permitted structure potentially occupying the navigable channel at this location.

The applicants' agent has responded to comments received during this 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. This project was first placed on public notice April 20 through May 21, 2024. The proposed project included construction of a wooden vehicular bridge to span a tidal tributary and provide access to the 0.927 acre hammock immediately seaward of the applicants' single-family residences. A shared private dock embarking from the hammock was proposed to terminate at Horsepen Creek where the applicants proposed a fixed deck and two (2) covered hoists.
2. The proposed dock would have extended approximately 32ft. into Horsepen Creek where it is approximately 116ft. wide at Mean Low Water (MLW). Total impacts to coastal marshlands for the proposed shared private dock was approximately 7,370sq.ft. (0.169 acre).
3. Combined impacts for the proposed vehicular bridge and shared private dock totaled approximately 8,414sq.ft. (0.193 acre).
4. In response to comments received, the applicants proposed a modified shared private dock structure.
5. A revised 15-day public notice ran from August 24, 2024 through September 9, 2024. The revised project included construction and maintenance of a 6ft. x 174ft. wooden golf cart bridge (1,044sq.ft. / 0.024 acre) commencing from the shared property line of Lot 5 and Lot 6

- (also known as 10 Horsepen Point Drive and 12 Horsepen Point Drive). The wooden bridge would span a tidal tributary and provide access to Parcel A, the 0.927 acre hammock immediately seaward of the applicants' single-family residences. A shared private dock was proposed to be constructed from the hammock and included a 6ft. x 740ft. ThruFlow elevated walkway (4,400sq.ft.) and terminated at Horsepen Creek where the applicants proposed to construct a 15ft. x 20ft. covered fixed deck (300sq.ft.). A 4ft. x 30ft. gangway (120sq.ft.) was to provide access to an 8ft. x 60ft. floating dock (480sq.ft.).
6. The proposed shared dock was to be located in an area of Horsepen Creek where the applicant stated measurements at MLW were variable but, at the narrowest location, the floating dock would have extended approximately 18ft. into Horsepen Creek where the waterway is approximately 71.25ft.
 7. Impacts to coastal marshlands for the proposed shared private dock totaled approximately 5,300sq.ft. (0.112 acre).
 8. Combined impacts to coastal marshlands for the proposed golf cart bridge and shared private dock were approximately 6,344sq.ft. (0.146 acre).
 9. The CMPC considered the permit application at a public hearing on November 15, 2024. The CMPC denied the permit as proposed based on findings that the project was not minimized.
 10. The applicants submitted a revised application on November 21, 2024, requesting to construct a golf cart bridge and a shared private dock to be located on Horsepen Creek. The proposed revised shared private dock structure does not meet the exemption under the CMPA, O.C.G.A. 12-5-295, 7(B).
 11. The current request proposes the construction of a 6ft. x 174ft. wooden golf cart bridge (1,044sq.ft. / 0.024 acre) that would commence from the shared property line of Lot 5 and Lot 6 (also known as 10 Horsepen Point Drive and 12 Horsepen Point Drive). The wooden golf cart bridge would span a tidal tributary and provide access to Parcel A, the 0.927 acre hammock immediately seaward of the applicants' single-family residences. The proposed shared private dock will be constructed from the hammock and includes 740ft. x 4ft. elevated walkway (2,960sq.ft.) that will terminate at Horsepen Creek where the applicants propose to construct a 15ft. x 20ft. covered fixed deck (300sq.ft.). A 4ft. x 30ft. gangway (120sq.ft.) will provide access to an 8ft. x 30ft. floating dock (240sq.ft.).
 12. Combined impacts to coastal marshlands for the shared private dock total approximately 3,620sq.ft. (0.083 acre).
 13. The floating dock will extend approximately 18ft. into Horsepen Creek where the waterway is approximately 78ft. at MLW. The fixed deck will extend 28ft. into Horsepen Creek where the waterway is approximately 93ft. at MLW.
 14. Total impacts to coastal marshlands for the proposed vehicular bridge and shared private dock total approximately 4,664sq.ft. (0.11 acre).

Application Form, Applicantss 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):

15. Applicants have submitted the application form, names and addresses, project plans, plats, and deeds.

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

16. Applicants have 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):

17. A letter has been received from the City of Tybee Island 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):

18. The revised private shared-family dock was sited by the applicants and their agent(s). GA DNR CRD staff advised the applicants and their consultants that as proposed, the structure would require a CMPA Permit. No alternative locations were included for consideration as part of the application.

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

19. Applicants 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):

20. 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):

21. Applicants have stated their intention to adhere to building, land disturbing and storm-water management permit as required by the City of Tybee Island.

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

22. The public notice of the Coastal Marshlands Protection Committee (CMPC) ran from February 7, 2025 through February 21, 2025. Thirty-one (31) emailed comments were received in response to this public notice. The agent has provided written responses to the comments.

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

23. 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 applicants provided bathymetric data for the project site collected November 19, 2021. The applicants stated that at MLW the width of Horsepen Creek is variable. The proposed dock is sited opposite two existing private single-family docks that were originally permitted in 2006 (PRD20060244) and 2007 (PRD20070009). The floating dock will extend approximately 18ft. into Horsepen Creek where the waterway is approximately 78ft. at MLW. The fixed deck will extend 28ft. into Horsepen Creek where the waterway is approximately 93ft. at MLW. The applicants contend the proposed dock will not create unreasonably harmful obstruction to or alteration of the natural flow of navigational water within the affected area.
 - 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 applicants contend 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. Coastal hammocks are small islands of maritime forest usually surrounded by brackish water and/or salt marsh. These are restricted to a narrow band of shoreline and barrier islands and provide important habitat for neotropical migrant birds. Many wildlife species, including federally and/or state-listed species or other species of concern, use hammocks as breeding sites. Hammocks are important roost sites for wood storks and other large wading birds as daytime roosts are often used by storks to minimize flight distances to tidally influenced feeding areas. Other birds such as white-eyed vireos, yellow-throated warblers, orchard orioles, northern parulas, summer tanagers, great-crested flycatchers, and blue-gray gnatcatchers nest in hammocks. Other state-owned hammocks seaward of Parcel A may be located within the proposed project location. 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:

24. A waterbottoms lease is not required for the proposed project.

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

25. The proposed project includes a cart bridge to a hammock and a private shared-family dock for two adjacent property owners.

26. Impacts to coastal marshlands for the private shared-family dock total approximately 3,620sq.ft. (0.083 acre).

27. Combined impacts to coastal marshlands for the proposed golf cart bridge and revised shared-family private dock total approximately 4,664sq.ft. (0.11 acre).

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

28. The marshlands component of the project includes the proposed bridge and dock facility. Total impacts to coastal marshlands for the proposed golf cart bridge and revised shared-family private dock total approximately 4,664sq.ft. (0.11 acre).

29. The upland component of the project is approximately 0.927 acre.

Marshlands Buffer For Upland Component, Rule 391-2-3-.02(4):

30. The 50ft. marshlands buffer applicable to the upland component of the project has been delineated as shown on the submitted plans and drawings.

31. The 50ft. marshlands buffer for the project includes the upland area where the cart bridge commences from the residential properties (300sq.ft. / 0.007acre) and terminates on the hammock (Parcel A 0.927 acre).

32. Combined, the 50ft. marshlands buffer for the proposed project is approximately 0.934 acre. A 9ft. x 467ft. at grade pervious earthen path (4,203sq.ft.) for pedestrians and carts will provide access to the dock (60sq.ft.).

33. Impervious impacts to the buffer total approximately 180sq.ft. (0.004 acre).

a. Construction and maintenance of temporary structures necessary for construction of the marshland component of the project. Temporary impacts to the 50ft. marshlands buffer include the use of equipment to remove vegetation and grading to create the earthen path. The applicant states that all temporary impacts within the 50ft. coastal marshlands buffer will be restored to the preconstruction state.

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

impacts from terminal ends of the cart bridge and the private shared-family dock that will result in approximately 180sq.ft. / 0.004 acre of impervious impacts.

- 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.** No planting within the coastal marshlands buffer to enhance stormwater management is proposed.

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

34. The applicants state the proposed project does not include upland site development activities and development of a stormwater management plan is not required.

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

35. Approximately 180sq.ft. / 0.004 acre of impervious impacts will result from construction of the project as proposed. The remainder of the upland component (0.930 acre) will be pervious upon project completion.

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

36. The proposed facility includes construction of a cart bridge to provide access to a hammock seaward of the applicant's residences. A shared-family private dock will commence from the hammock and as such is reviewed under O.C.G.A. §12-5-280 *et seq.*, as amended, Coastal Marshlands Protection Act of 1970.

37. The structures, as proposed, require a CMPA Permit. Consideration of the proposed dock under O.C.G.A. 391-2-3-.03 "Regulation of Marinas, Community Docks and Commercial Docks." does not apply.

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 applicants 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. The elevated walkway may not traverse any upland or hammocks not owned by the applicants. The permittee shall coordinate with the Department prior to construction to confirm the walkway will not traverse uplands east of the hammock.
2. The permittees will provide copies of a binding covenant that runs with the land, in favor of the state, prohibiting the construction of future private docks from the parcels referenced in the deeds submitted in association with this permit application 12 Horsepen Point Drive, 10 Horsepen Point Drive, and the Fee Simple Instrument Deed executed January 15, 2020 and recorded January 16, 2020 in BK 1826 PG 140-142.
3. Permittee may be required to provide a post-construction survey to the Georgia Department of Natural Resources, Coastal Resources Division upon completion of the permitted activity. Such survey shall comply with the Georgia Plat Act O.C.G.A. 15-6-67 *et seq.*
4. The permittee must install manatee awareness signage during construction of the project 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, US Fish and Wildlife Service, and the Georgia Department of Natural Resources.