



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

July 17, 2020

TO: Coastal Marshlands Protection Committee:
Commissioner Mark Williams, Chairman
Mr. Zach Harris
Mr. Bill Hodges
Mr. Chad Barrow
Mr. Brad Brookshire

FROM: Department Staff to the Committee

APPLICANT: Guy Davidson
Wilmington Partners, LLC
17 Park of Commerce Boulevard, #105
Savannah, GA 31405

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

LOCATION: Turners Creek, Chatham County, Georgia

PROJECT: The proposed project is the construction and maintenance of a commercial marina facility, Lightship Marina, Wilmington Island Road, Turner Creek, Chatham County, Georgia.

ARMY CORPS NUMBER: SAS-1996-11170

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 6, 2020 to July 6, 2020. Five comments were received. All the comments were opposed to the project siting as concerns the increased sedimentation of the waterway, negative effects on wildlife, and the large size of the facility.

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 proposed marina site was formerly the Lightship Tavern and Marina which consisted of an enclosed restaurant and marina facilities that included approximately 2,600 linear feet of dock space. Once the marina closed in the early 2000's most of the structures located within Turner Creek were removed leaving a walkway, pier, uncovered fixed deck and the restaurant building.
2. In 2016, Hurricane Matthew destroyed or severely damaged most of the remaining structures.
3. The marshlands component of the project is proposed in two phases. Phase I will consist of removing the unserviceable 867sq.ft. uncovered fixed deck west of the existing restaurant building and associated marine debris from the project site.
4. The restaurant building, which is located over coastal marshlands, will be removed and replaced with a 26ft. x 43ft. (1,118 sq.ft.) covered fixed deck within the footprint of the existing structure.
5. A 10ft. x 52ft. (520 sq.ft.) walkway will be constructed and lead seaward from the covered fixed deck to a second 30ft. x 30ft. (900 sq.ft.) covered fixed deck.
6. On the seaward side of the second covered fixed deck, a 5ft. x 10ft. (50 sq.ft.) landing platform will support an Americans with Disabilities Act (ADA) compliant 80ft. x 4ft. (320 sq.ft.) gangway.
7. The gangway will lead to a 21.5ft. x 10.5ft. (225.75 sq.ft.) floating dock attached, on the landward side, to a proposed 409.5ft. x 11.5ft. main floating dock (4,709.25 sq.ft.) that will extend parallel to the shoreline.
8. Also attached to the landward side of the main floating dock will be a 15ft. x 120ft. (1,800 sq.ft.) covered floating dock for use as storage for kayaks or jet skis available for rent.
9. At the western-most end of the main floating dock will be a 131.5ft. x 11.5ft. (1,512.25 sq.ft.) float that will extend perpendicular towards the channel. Approximately 60ft. seaward along this float will be a 248.5ft. x 11.5ft. floating dock (2,857.75 sq.ft. total) extending eastward, parallel to the channel.
10. At the terminal end, a 260ft. x 11.5ft. (2,990 sq.ft.) float with fuel dispensers and wastewater pumpout stations will extend eastward and parallel to the channel.
11. One 10ft. x 10ft. (100 sq.ft.) covered kiosk will be constructed for shelter for marina employees on the end of the finger floating dock.
12. At the eastern end of the main floating dock a finger-float system will extend perpendicularly towards the channel and will include an approximately 129.5ft. x 11.5ft. (1,489.25 sq.ft.) center floating dock with three fingers extending from each side (six total), each measuring 43ft. x 5.5ft. (1,419 sq.ft.).
13. On the seaward end of the center floating dock will be a 97.5ft. x 13.5ft. (1,316.25 sq.ft.) floating dock running parallel to the channel with fuel dispensers and wastewater pumpout stations.
14. One 10ft. x 10ft. (100 sq.ft.) covered kiosk will be constructed for shelter for marina employees on the westernmost seaward floating dock.
15. In all, the Phase I of the project will impact approximately 21,427.5 sq.ft. (0.492 acre) of coastal marshlands.
16. Once the demand for additional float space is demonstrated and approved by the Department, the applicant will proceed with Phase II of the proposed project that includes the western extension of the three floating docks originating from the western end of the main floating dock by 248.5ft. x 11.5ft. each (8,573.25 sq.ft. total).

17. Phase II will impact approximately 8,573.25 sq.ft (0.196 acre) of coastal marshlands.
18. The proposed structures for both phases will extend approximately 232 feet into the waterway where the waterway is approximately 636 feet wide. Impacts within jurisdictional coastal marshlands will total approximately 30,000.75 sq.ft. (0.689 acre).

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

19. The applicant has stated that residents of Chatham County have limited facilities that provide for public access to waterways and suitable wet boat storage. The marina will also provide easy access to the Intracoastal Waterway and the Atlantic Ocean. The proposed project will provide needed wet slip access to the growing boating community in the Savannah area.

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):

20. 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):

21. 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):

22. 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):

23. The proposed project is to construct and maintain a commercial marina facility. Several design alternatives were considered by the applicant. The project site is an existing developed property with associated pile supported structures located within Turners Creek.
24. Staff received an alternatives analysis that included a description of the constraints that the subject parcel presented to the developer, an explanation as to why the area could support an even larger marina than what is proposed, and three (3) alternatives to the proposed design.
25. The applicant contends that the preferred alternative is what is presented in the application and minimizes the use of the waterway while being an economically functional marina facility.

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

26. Applicant has reviewed the Hazardous Site Index maintained by the Georgia Environmental Protection Division (EPD) 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):

27. Water Quality Certification is not required for the proposed project. The USACE anticipates issuing a Letter of Permission for the proposed marina construction and therefore no 401 certification is required from the EPD.

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

28. 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):

29. 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 6, 2020 to July 6, 2020. Five (5) comments were received in opposition to the project, citing as concerns the increase in sedimentation of the waterway, negative effects on wildlife, and the large size of the facility.

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

30. 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 will not alter the natural flow of navigable waters or obstruct public navigation. The proposed marina is similar to the marinas upstream on Turners creek in that it will not extend further into the waterway and it is pile supported.
- 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 that the proposed project is not expected to result in increased erosion, shoaling of channels or stagnant areas of water. As part of the proposed project, a new bulkhead will be installed landward of CMPA jurisdiction. No filling, dredging, or bank improvements are proposed within CMPA jurisdiction.
- 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. The marina facility will be required to place the required Manatee awareness signage during and after construction. Regular monthly maintenance of dock facilities, hoses, faucets, or any apparatus or equipment capable of producing a stream of fresh water must be implemented.

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

31. The proposed project will require a waterbottoms 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):

- 32. The Lightship Marina facilities are water-dependent. The project cannot be satisfied using an alternative non-marshland site.
- 33. The applicant contends that the final design of the proposed marina has been minimized to the greatest extent possible while still maintaining functionality.
- 34. The two proposed 10ft. x 10ft. covered kiosks are inconsistent with existing permitted marina facilities on Turner Creek. As proposed the activities associated with these structures are not water dependent and could be fulfilled with non-marshland alternatives.

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

35. The marshlands component consists of the construction of a commercial marina facility. At build out, the amount of proposed structures in jurisdiction will total 30,000.75 sq.ft. (0.689 acre).
36. The upland component consists of the existing developed 2.14 acre property. Currently, the property has an existing gravel parking area, an asphalt driveway and turn around, an at grade boardwalk, and a brick building with a sidewalk leading to the dock.
37. The 50ft. marshlands buffer makes up approximately 48,100sq.ft. of the upland component. The existing marshlands buffer is impacted from previous development of the site and will not be further disturbed by the construction of the marina. Currently, the property has an existing gravel parking area, an asphalt driveway and turn around, an at grade boardwalk, and a brick building with a sidewalk leading to the dock.
38. Within the upland component, the existing house and adjacent patio will be removed and replaced with a new marina store building. The marina store will be constructed in the existing footprint of the old house and will be approximately 1,134sq.ft.
39. The parking area will utilize the existing driveway and paved areas that lead onto the parcel from Wilmington Island Road. The area will not be expanded upon but may need maintenance such as resurfacing and regrading for stormwater management purposes.
40. The existing concrete sidewalk along Turners Creek will either be retained or be a pervious path built within the existing footprint. There is also a proposed retention area along the western edge of the site designed to ensure that no untreated stormwater from the disturbed areas in the upland component will be directly discharged into the marsh. The remainder of the upland component will be landscaped.

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

41. The 50ft. marshlands buffer applicable to the upland component of the project has been described in the application submitted.
42. The 50ft. marshlands buffer makes up approximately 48,100sq.ft. of the upland component. The marshlands buffer is impacted from previous development of the site and will not be further disturbed by the construction of the marina.
43. The project is a proposed redevelopment of a previously developed property. The existing structures that will remain in the buffer represent approximately 7,424sq.ft. of the 48,100sqft. buffer. This is approximately 15% of the existing buffer. The applicant does not propose to encroach further into the marshlands buffer.
44. The applicant has certified adherence to soil and erosion control responsibilities.
45. 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.
 - 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.** New impacts in the buffer will include 1,134sq.ft. marina store installed in the same footprint of an existing building, however, the new impacts will be constructed on a portion of the buffer that is already disturbed and impervious.

- 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.** Proposed enhancements to the include a stormwater retention pond.

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

- 46. The proposed project adheres to the Coastal Stormwater Supplement and meets the requirements for quality and quantity.

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

- 47. The total existing developed area of the upland component is approximately 20,425sq.ft., consists of existing buildings and impervious paved and gravel areas, and is currently 100% impervious. Following construction of the proposed project the upland component will be remain 100% impervious. No more impervious surfaces will be created by the construction of the proposed project.

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

- 48. The proposed structure qualifies as a Marina in accordance with Rule 391-2-3-.03.
- 49. 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 and wet slip demands of the recreational boaters in the Savannah area.

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 will 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.*
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.
3. Upon completion of construction 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 construction of Phase II, the permittee must submit sufficient evidence, as determined by the Department, to demonstrate the need for the additional mooring space, which may include marina records, photographs or other documentation required by the Department. Construction of Phase II may begin only upon the Department's receipt of such information and written approval. Upon construction of Phase II, a modified waterbottoms lease will be required to account for the additional mooring space, which must be executed by the Department prior to operation of the newly constructed facilities.
5. The facilities shall be inspected monthly. A written record of all recommended and completed maintenance activities shall be maintained by the permittee for a period of three years from the date of inspection.