



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

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: Mr. Arthur Lucas
Oaks On The River I, LLC
301 Sea Island Road, Suite 6
St. Simons Island, Georgia 31522

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

LOCATION: 205 Fort King George Drive, Darien,
Darien River, McIntosh County, Georgia

PROJECT: The proposed project is to remove an existing fixed dock and to construct a community dock at 205 Fort King George Drive, Darien, McIntosh County, Georgia. The proposed project is under 1/10 of an acre, and therefore may be considered a minor alteration of coastal marshlands under O.C.G.A. 12-5-280 *et seq.* Per O.C.G.A. 12-5-283(d), a Committee member requested that the proposed project be seen by the full Committee for broader consideration.

ARMY CORPS NUMBER: SAS-2020-0018

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

SUMMARY OF PUBLIC COMMENTS: The public notice of the Coastal Marshlands Protection Committee (CMPC) ran from June 4, 2020 to July 4, 2020. Twenty-four (24) comments were received during the public notice period. Eight comments were in favor of the proposed project and sixteen comments were in opposition to the project. The comments opposing the proposed project spoke to the following subjects: the applicant's lack of consideration for a public access walkway; the duration of comment period was too short; the proposed dock will be a navigational hazard; the fixed deck was referred to as a "party pavilion" and is not water dependent; the application is lacking proper storm water controls; and the lack of public access to the proposed 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 project site was formerly utilized for commercial shrimp fishing followed by a commercial cannonball jellyfish processing facility. An existing 4,320 sq. ft. fixed dock is located along the waterfront.
2. Oaks on the River I, LLC purchased the property in October 2017 and has constructed a twelve (12) unit condominium building on the upland.
3. The marshlands component of the proposed project consists of the removal of the existing fixed dock and the construction of a new community dock.
4. The proposed community dock will consist of a 6ft. x 100ft. wooden walkway (600sq.ft.) leading from the upland to a 20ft. x 20ft. covered fixed deck.
5. A 6ft. x 6ft. landing will extend from the east side of the walkway and will support a 3ft. x 24ft. aluminum gangway.
6. The aluminum gangway will provide access to a 10ft. x 150ft. floating dock.
7. The proposed community dock will extend 93ft. into the waterway at a location where the waterway is approximately 350ft. wide at MLW.
8. The dock will be located 115ft. east of the upstream extended property line and 184ft. west of the downstream extended property line
9. Total impacts to coastal marshlands associated with the proposed community dock structure are 2,608sq.ft. (0.06 acres).
10. The proposed project is under 1/10 of an acre, and therefore may be considered a minor alteration of coastal marshlands under O.C.G.A. §12-5-280 et seq. Per O.C.G.A. 12-5-283(d), a Committee member requested that the proposed project be seen by the full Committee for broader consideration.

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

11. The proposed project will provide onsite mooring specifically for the residents of Oaks on the River. The facility will prevent those residents from taking up space at the public marina up stream of the proposed facility. As proposed each resident will be assigned a 25ft. section of the floating dock.

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):

12. 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):

13. 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):

14. A letter has been received from the City of Darien, Georgia stating that the proposed project does not violate any of the zoning or building ordinances.

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

15. The proposed project is to construct a community dock specifically for the residents of Oaks On The River.

16. The applicant considered three alternatives. The first alternative was utilizing the boat ramp upstream west of US 17 and the public docks but parking and mooring time limitations made this location not feasible.

17. The second was utilizing the public marina immediately upstream but this would potentially prevent docking opportunities for transient boaters.

18. Lastly, the applicant considered utilizing the existing dock at the property but it is fixed with no floats and designed for commercial fishing vessels making not feasible for smaller recreational vessels. An alternative site will not satisfy the project purpose.

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

19. Applicant has reviewed the Hazardous Site Index maintained by the Georgia Environmental Protection Division for McIntosh County, Georgia and stated the proposed project is not over a landfill or hazardous waste site.

Water Quality Certification, O.C.G.A. § 12-5-286(b)(10):

20. A 401 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. Applicant has stated their intention to adhere to building, land disturbing and storm-water management authorizations as required by City of Darien and/or McIntosh County, Georgia.

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 June 4, 2020 to July 4, 2020. Twenty-four (24) comments were received during the public notice period. Eight comments were in favor of the proposed project and sixteen comments were in opposition to the project. The comments opposing the proposed project spoke to the following subjects: the application's lack of consideration for a public access walkway; the duration of comment period was too short; the proposed dock will be a navigational hazard; the fixed deck was referred to as a "party pavilion" and is not water dependent; the application is lacking proper storm water controls; and the lack of public access to the proposed facility.

The applicant has provided a response.

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 proposed pile-supported project is not expected to alter the natural flow of navigable waters within the affected area or obstruct navigation of the waterway. The structure will extend 93 ft. into the waterway at a location where the waterway is approximately 350 ft. wide at MLW.
- 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 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 community dock 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:

24. The proposed project will not be required to obtain a water bottoms lease.

Restriction on granting of permits; size restriction; activities and structures considered contrary to the public interest, O.C.G.A. § 12-5-288 (a):

25. The proposed project is for water dependent activities that cannot be satisfied by a non-marshland site.

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

26. The project is designed to minimize impacts to coastal marshlands while providing mooring space for the residents of Oaks On The River condominiums.
27. The total impacts to marshlands associated with the proposed project are 2,608 square feet (0.06 acres).
28. The proposed modification is under 1/10 of an acre, and therefore may be considered a minor alteration of coastal marshlands under O.C.G.A. §12-5-280 et seq.

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

29. The marsh component for the project consists of a community dock facility that will impact approximately 2,608 square feet (0.06 acres).
30. The upland component consists of a 527sq.ft. pervious walkway to provide residents' access to the community dock.

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

31. The applicant has certified adherence to soil and erosion control responsibilities.
32. 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.** Temporary impacts associated with the proposed community dock facility are only for access to the project site during construction.
 - 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.** The upland component consists of the proposed 527sq.ft. pervious walkway to provide residents' access to the community dock.

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

33. All stormwater from the upland component will percolate naturally into the ground and/or sheetflow into the adjoining upland areas and subsequently into vegetated marsh.

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

34. The upland component will be 100% pervious.

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

35. The proposed project is considered a Tier Three Community Dock in accordance with Rule 391-2-3-.03.
36. O.C.G.A 391-2-3-.03(5)(c) states that "A needs assessment must be submitted to justify the size of the proposed community dock..." The applicant has provided a needs assessment and contends the construction of the proposed community dock is needed to meet the access needs of the residents of Oaks on the River while not overcrowding public access areas.

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.

STANDARD COASTAL MARSHLANDS PROTECTION
ACT CONDITIONS FOR TIER THREE COMMUNITY
DOCKS

1. ~~Live-aboard vessels may not be occupied for more than 90 days during any calendar year, without the grant of an extension by the Commissioner. The permittee is responsible for precluding from the dock anyone occupying a vessel for more than 90 days during any calendar year. Floating homes, abodes, or dwellings are specifically prohibited.~~
2. 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.
3. No dredging is allowed in association with the initial community or commercial dock project.
4. The applicant must operate and maintain the dock in such a manner that will not unreasonably obstruct navigation to and from neighboring properties
5. 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.
6. 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.
7. 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.
8. 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.

SPECIAL CONDITIONS

1. 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.