

**WATER AND SCIENCE ADMINISTRATION
TIDAL WETLANDS DIVISION**

Wetland Report and Recommendation

State Wetlands Case No:

22-WL-0471

Applicant: Maria Burmeister
1586 Eaton Wy
Annapolis, Maryland 21401
410-345-2186
burmeister.maria@yahoo.com

Agent: Chris Snyder
Waterfront Engineering, Design and
Construction, Inc
8348 Governor Ritchie Hwy
Pasadena, Maryland 21122
waterfrontdesign@verizon.net

Date Application Received: April 27, 2022 Public Notice Required? Yes

Comment Period Closing Date: October 09, 2022

Maryland Coordinates: 150174 x 439899

Location of Proposed Work: 1586 Eaton Way, Annapolis, MD 21401

Purpose of Proposed Work: To improve habitat by establishing tidal wetlands, and to improve navigable access.

Description of Authorized Work: Install a 12-foot wide stone groin within a maximum of 30 feet channelward of the mean high water line, along with 1,250 square feet of spartina patens and spartina alterniflora over 55 cubic yards of clean sand fill. Remove an existing pier and construct a 96-foot long by 6-foot wide pier, a 10-foot long by 20-foot wide platform, and a boat lift with associated piles within a maximum of 91 feet channelward of the mean high water line.

Waterbody: Clements Creek

Requires Water Quality Certification?: No, the WQC has been issued for the Maryland State Programmatic General Permit.

Qualifies for Maryland State Programmatic General Permit?: Yes, Category A and will be included as a Special Condition in the Report and Recommendation.

Area of Vegetated Wetland Impacts Requiring Mitigation: 0 s.f.

Area of Open Water Tidal Wetlands Requiring Mitigation: 0 s.f.

Area of Wetlands Created: 1,250 s.f.; 625 s.f. of high marsh, 625 s.f. of low marsh

Was the Applicant's Original Project Modified?: Yes. A proposed 45-foot long by 12-foot wide stone groin was removed, and the total marsh area was reduced from 1,300 to 1,250 square feet.

Department Comment:

As required by § 5-204 (b) of the Environment Article, the Department drafted and issued a public notice by posting the public notice on its WEB site from September 15, 2022 to October 15, 2022 and publishing the public notice for the proposed project in the Capital Gazette on September 20, 2022. In addition, the public notice was provided to adjacent property owners listed below:

- David & Heather Clifford 1588 Eaton Way, Annapolis, MD 21401
 - dclifford@verizon.net, hclifford@juniper.net 410-925-4214, 410-925-4214
- Alonzo & Robin Robinson 1592 Lancaster Green, Annapolis, MD 21401

The Maryland Department of Natural Resources (DNR) reviewed the proposed project and advised a Time of Year restriction from February 15th to June 15th of each year due to records of yellow perch in Clements Creek. The Maryland Historical Trust reviewed the proposed project and determined that there are no historic properties affected by this undertaking.

The Department received comments in opposition to the project from David & Heather Clifford, 1588 Eaton Way. The concerns about the project included 1) disruption to submerged aquatic vegetation and fish spawning habitat, 2) Disturbance to the natural movement and filtering of organic “debris” in the cove, and 3) navigational hazards from the pier due to proximity to the property line. These comments were addressed by the Department and agent in an engineer’s report:

1) *Disruption to SAV/fish spawning habitat* – DNR provided comments advising a TOY restriction for fish spawning. The adjacent property owner did provide photographs of minimal SAV at the site, however, no SAV was observed during the MDE site visit nor was any identified in the 5-year composite for VIMS SAV mapping.

2) *Disturbance to natural movement and filtering of organic “debris” in cove* – Sand placement on the eastward side of the groin will allow for immediate bypassing of material, which will negate any negative impact to adjacent shorelines.

3) *Navigational hazard due to the proximity of proposed work to property line* - In response to these comments, the agent revised the plans to remove the 45-foot long by 12-foot wide stone groin adjacent to the 1588 property line.

The applicant received a variance decision from Anne Arundel County on June 2, 2023, which allowed for variances of 14 feet on the eastern side of the pier to install a 10-foot long by 20-foot wide platform and 15 feet on the western side of the pier to install a boat lift with associated piles. It also allowed for the installation of a shed, deck, and steps with less setbacks and buffer than required.

The evaluation of this project has taken into account ecological, economic, recreational, developmental, and aesthetic considerations appropriate for this proposal as well as other requirements set forth in the Code of Maryland Regulations. To ensure that impacts to resources are avoided and minimized to the maximum extent possible and to ensure that all work is performed in accordance with critical area and local regulations, the Department has recommended a number of special conditions. Provided all general and special conditions are adhered to, the work proposed will not cause significant deleterious impacts to marsh vegetation, submerged aquatic vegetation, finfish, shellfish, or navigation.

Project Justification: In consideration of the site characteristics and the nature of the proposed work, the Department concludes that the application represents a reasonable exercise of riparian rights. Living Shoreline (LS) projects are an adaptation strategy for coastal communities vulnerable to sea-level rise and other effects of anthropogenic climate change. Along with shoreline erosion control, LS projects can provide

critical habitat for a variety of estuarine organisms.

SPECIAL CONDITIONS:

- A. The Maryland Department of the Environment has determined that the proposed activities comply with, and will be conducted in a manner consistent with the State's Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended.
- B. The Licensee shall comply with all Critical Area requirements and obtain all necessary authorizations from local jurisdiction. This License does not constitute authorization for disturbance in the 100-foot Critical Area Buffer. "Disturbance" in the Buffer means clearing, grading, construction activities, or removal of any size of tree or vegetation. Any anticipated Buffer disturbance requires prior written approval, before commencement of land disturbing activity, from local jurisdiction in the form of a Buffer Management Plan.
- C. If the authorized work is not performed by the property owner, all work performed under this Tidal Wetlands License shall be conducted by a marine contractor licensed by the Marine Contractors Licensing Board (MCLB) in accordance with Title 17 of the Environment Article of Annotated Code of Maryland. A list of licensed marine contractors may be obtained by contacting the MCLB at 410-537-3249, by e-mail at MDE.MCLB@maryland.gov or by accessing the Maryland Department of the Environment, Environmental Boards webpage.
- D. The issuance of this license is not a validation or authorization by the Department for any of the existing structures depicted on the plan sheets on the subject property that is not part of the authorized work description, nor does it relieve the Licensee of the obligation to resolve any existing noncompliant structures and activities within tidal wetlands.
- E. The Licensee shall remove an existing pier and associated structures prior to the commencement of the construction of a new pier.
- F. The Licensee shall construct the marsh establishment area in accordance with the following conditions:
 - 1. The Licensee shall use clean substrate fill material, no more than 10% of which shall pass through a standard number 100 sieve.
 - 2. The marsh establishment area shall be planted within one year following completion of the filling operation.
 - 3. The marsh establishment project shall be maintained as a wetland, with non-nuisance species' aerial coverage of at least 85% for three consecutive years. If 85% coverage is not attained, the reasons for failure shall be determined, corrective measures shall be taken, and the area shall be replanted.
 - 4. If the fill is graded hydraulically, the licensee shall use a turbidity curtain around the perimeter of the instream work.
 - 5. If the existing bank is to be cleared or graded:
 - a. The Licensee shall perform all work under and in accordance with an approved Soil Erosion and Sediment Control Plan from the applicable sediment and erosion control agency; and
 - b. The Licensee shall perform all work under and in accordance with the Critical Area requirements of the local jurisdiction in the form of an approved Buffer Management Plan.
- G. The Licensee shall accept the terms of the attached marsh maintenance plan by signing and returning the standard plan to the Water and Science Administration, Tidal Wetlands Division prior to

commencement of any work authorized under this License. If the Licensee wishes to propose an alternative marsh maintenance plan, the alternative plan must be submitted to and approved by the Tidal Wetlands Division, Water and Science Administration, prior to commencement of any work authorized under this License. Any alternative plan must provide assurances of success that are at least equivalent to those of the standard plan, in terms of the extent of native marsh plant coverage, elimination of invasive species and timeframe for plant establishment.

- H. The Licensee shall submit photographs on an annual basis for the first five growing seasons to the Tidal Wetlands Division, Water and Science Administration in order to document the success of the project in terms of the extent of native marsh plant coverage. Photographs shall be taken from at least two directions, as necessary to fully depict the living shoreline.
 - I. The total platform area shall not exceed 200 square feet.
 - J. The Licensee shall not attach accessory platforms to any existing or proposed boat lifts.
 - K. The Licensee shall have all work proposed above mean high water reviewed and authorized by Anne Arundel County Department of Inspections and Permits.
 - L. Your project qualifies for federal approval under the Maryland State Programmatic General Permit (MDSPGP) under the Category A limits. The federal permit is not attached. The MDSPGP permit, general conditions, and activity specific special conditions must be downloaded from the Department's website at https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Pages/MDSPGP6_conditions.aspx.
- x. You will need to download the following: Cover Letter, MDSPGP General Conditions, and the following MDSPGP-6 Activity-Specific Conditions - f (2) Living Shoreline / Beach Nourishment and a (3) Piers.

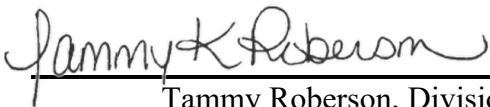
DEPARTMENT OF THE ENVIRONMENT APPROVAL:



8/14/23

Mel Throckmorton, Natural Resource Planner
Tidal Wetlands Division

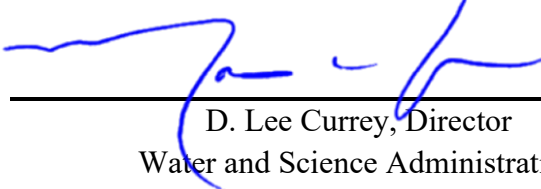
DATE



8/14/2023

Tammy Roberson, Division Chief
Tidal Wetlands Division

DATE



D. Lee Currey, Director
Water and Science Administration

8/22/2023

DATE

WETLANDS ADMINISTRATION CONCURRENCE:

William Morgante, Wetlands Administrator
Board of Public Works

DATE