

**WATER AND SCIENCE ADMINISTRATION
TIDAL WETLANDS DIVISION**

Wetland Report and Recommendation

State Wetlands Case No:

23-WL-0629

Applicant: Pines Community Improvement Association
C/O Ross Powers
PO Box 19
Arnold, Maryland 21012
Email: Ross.d.powers@gmail.com

Agent: Neal Wilkins
156 Summit Way
Arnold, MD 21012
Email: NAWilkins@gmail.com

Date Application Received: July 14, 2023 Public Notice Required? Yes

Comment Period Closing Date: April 30, 2024

Maryland Coordinates: 150709 x 442143

Book Map Coordinates: Anne Arundel Co. ADC Map Num: 0 Ed: Coord: 0 X

Location of Proposed Work: 158 Edge Way, Arnold, MD 21012

Purpose of Proposed Work: Improve navigation and authorize an existing mooring field.

Description of Authorized Work: 1) Construct an 8-foot wide by 244-foot long floating pier system with ten 16-foot long by 3-foot wide finger piers, nine 26-foot long by 4-foot wide finger piers, a 8-foot wide by 40-foot long landing, a 4-foot wide by 30-foot long gangway, associated with a total of 12 pilings, all extending a maximum of 159 feet channelward of the mean high waterline; and 2) authorize a community mooring field with a total of 47 mooring buoys.

Waterbody: Chase Creek

Requires Water Quality Certification?: No, a Letter of Permission (LOP) will be issued by the U.S. Army Corps of Engineers. Therefore, an individual Water Quality Certification is not required.

Qualifies for Maryland State Programmatic General Permit?: No, a Letter of Permission (LOP) was issued by the U.S. Army Corps of Engineers.

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: 0 s.f.

Was the Applicant's Original Project Modified?: Yes. Originally the proposal did not include a mooring field, however, after review, it was found that the current mooring field, which has been previously registered through the Maryland Department of Natural Resources (MD DNR) as a group mooring, also requires Department authorization and was therefore added to be included in the current proposal.

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 February 01, 2024 to March 01, 2024 and publishing the public notice for the proposed project in The Capital on February 07, 2024. In addition, the public notice was provided to adjacent property owners listed on Attachment A. Several comments were received from the public and are addressed below.

The Department received a request for a public informational hearing from the members of the Briarcliff on the Severn community, signed by Margaret and Craig Morrell, Lucy and Charles Illiff, Lea and Skip Trimble, Jan and Eric Madsen, Bethany and Garrett King, Christine Wagner, Allyn and Joe Englestein, Kay and Tony Van Hover, Nat Semple, Cynthia and David Belt, Paula and Nick Illiff, Anne Doody, Tricia and Marc Mayo, Martha and Brian Smith, Susan and Jeffrey Schaub, Doug Wilson, Elizabethe and Eric Rosburg, and Robert Buckley on February 26, 2024. The Department drafted and issued public notice for the hearing on its website from March 15, 2024 to April 15, 2024 and published the public notice for the hearing in The Capital on March 20, 2024. In addition, the public notice was provided to all interested parties listed on Attachment B. The hearing was held on April 15, 2024 at the Severna Park Library. All previous commenters and Interested parties were notified by the Department via letter or email. The subsequent list of attendees are listed in Attachment C. The public hearing report is summarized in Attachment D. The hearing was recorded but not transcribed. Participants were notified that comments were due by 5:00 PM on April 30, 2024.

Questions and comments were received by members of the public who were in opposition of the proposed project during the public notice period, at the public information hearing, and during the comment period after the hearing. Comments and associated responses from MDE and the Applicant are summarized below.

Comments in Opposition

During the public notice and public informational hearing comments were received from members of the public. The below comments and questions were submitted to MDE. Responses by MDE or the Applicant follow.

- Concerns that the mooring field has never been previously notified to interested parties.
 - MDE determined that because the Department was not aware of the mooring field prior to receiving the application for the floating pier system, there has been no previous opportunities to notify interested parties.
 - The group mooring registration, administered by the Maryland Department of Natural Resources (DNR), does not have a public notice requirement.
- Concerns regarding the current bulkhead condition and stability where the floating pier structure attaches to the shore.
 - MDE has determined that the current bulkhead is still functional, however, shoreline erosion control is a separate activity from pier structures and there is no requirement to repair any damages to the bulkhead prior to authorization for the mooring field and floating pier structure.
 - The agent has also indicated that the proposed pier structure will not be attached to the bulkhead system.
- Concerns regarding Pines Community Improvement Association's (PCIA) role in the mooring field administration.
 - PCIA may move, remove, assign, and install any mooring buoys within the authorized mooring field. Any changes to the mooring field must receive necessary approval.
 - The agent has indicated that they will not be charging any fees associated with the use of the mooring field.

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- Concerns regarding previous authorizations for the mooring field.
 - The Department has no record of previously authorizing a mooring field in this location, but aerial imagery suggest the mooring field has existed prior to 1972 and has been expanded since then. The mooring field has been and is currently registered as a group mooring under DNR's authority. For information relevant to the U.S. Army Corps of Engineers' authorization, please reach out to their office at 410-962-2809.
- Questions regarding the difference between a mooring field and a group mooring.
 - DNR has the authority to register group moorings, however, a mooring field requires state and federal authorization according to the Maryland State Programmatic Permit (MDSPGP-6). Most often, group moorings are also considered mooring fields and should be registered with DNR and receive appropriate authorizations.
- Concerns regarding ongoing maintenance of the mooring field.
 - The authorization allows for three years for the installation of structures; structures can remain in the water after. They will need to be re-registered through DNR as a group mooring. Any changes to the mooring field would require an application to the Department if the authorization has expired or a modification to the existing authorization if it has not yet expired.
- Concerns regarding the maintenance of existing marina structures, including the existing sewage pump out.
 - MDE has determined that the property is suitable for the proposed work. Additionally, a special condition is recommended based on these concerns, Special Condition E below.
 - The agent has confirmed that the existing pump out and marina facilities are functional.
- Concerns regarding navigation and equal riparian access relevant to the mooring field proposal.
 - MDE consulted with John Gallagher of MD DNR's Fishing and Boating Services and has confirmed the group mooring does not exceed these limits and that Code of Maryland Regulations 08.04.13.02 B and C are commonly misinterpreted. These regulations are intended so no one buoy can extend over a third of the waterway from one shoreline's mean high water line to the opposite shoreline's mean high waterline. Additionally, MD DNR has confirmed that navigation will be maintained with the proposal. Navigational value is expected to be equal to or greater than what is currently in place with the proposed changes.
- Concerns regarding the number of mooring buoys proposed in the mooring field.
 - MDE has determined that the current proposal meets all regulatory requirements.
 - The agent has shared that the currently proposed mooring field is what has been registered with DNR since 2008 and has been used since prior to the 1990's.
- Concerns regarding altering the Severn River's scenic and wild qualities.
 - MDE has determined that mooring buoys and pier structures are typical structures to view on the water and therefore will not alter the river's scenic and wild qualities.
- Concerns regarding the existing navigational channel as opposed to the new navigational channels proposed.
 - The Department has determined that new navigation channels can be proposed and accepted; the existing fairway are the current conditions, while new channels have been proposed. MD DNR's Division of Boating and Fishing Services has reviewed the proposal and has indicated that reasonable navigation will be maintained by the proposal.

- Question regarding who the public should reach out to with any questions/concerns regarding the mooring field.
 - The agent has indicated that the beach and boating coordinator position is a volunteer position and the person holding that position changes from time to time. The preferred means to contact the beach and boating committee is by email; boating@pinesonthesevern.org.
 - If necessary, if there are any issues with the mooring field, please either report to MD DNR's Natural Resource Police or to the MDE's compliance inspectors. DNR's Natural Resource Police, who can be reached at 410-260-8888, would be able to assist with any issues regarding the maintenance or abandonment of buoys, whereas the Department's compliance inspectors, who can be reached at 410-537-3510, would be able to assist with any concerns regarding the location of buoys within the mooring field. The Department would not be able to assist with any concerns regarding individual mooring buoys.
- Concerns regarding whether or not a depth study was performed for the project
 - No additional water depth surveys are required for this application. In order to ensure that vessels will be placed in appropriate water depths and that navigational access is maintained, the Department has recommended the inclusion of special conditions H and I.
- Concerns regarding the U.S. Army Corps of Engineers' (USACE) involvement in the authorization.
 - For information relevant to the U.S. Army Corps of Engineers' authorization, please reach out to their office at 410-962-2809.
- Concerns regarding the weight and material used in the proposed floating pier.
 - MDE does not regulate the weight or materials used in construction.
- Concerns regarding impacts to the environment, including Submerged Aquatic Vegetation (SAV).
 - According to the Virginia Institute of Marine Science (VIMS), there has been no documented presence of Submerged Aquatic Vegetation (SAV) around or near this site for over five years. There has been no documented presence in the years 2023, 2022, 2021, 2018, 2017, and 2016, while in the year 2019 there was sparse SAV coverage on the opposing shoreline from where the proposed floating dock system is located. There are no anticipated adverse impacts as relevant to the proposed work.
 - The agent has considered alternative designs, including a fixed pier design, but moved forward with the proposed floating pier structure to avoid unnecessary environmental impacts.
- Concerns regarding who will be allowed to use moorings within the mooring field.
 - Pines on the Severn administers the group moorings under authority of DNR.
 - The agent has indicated that the proposed mooring field layout includes four moorings earmarked for use by chase creek riparian property owners.
 - Individuals can place their own mooring buoys within state waters if all associated regulations are followed. DNR, not MDE, regulates individual mooring buoys. The establishment of a community mooring field does not include or exclude individual mooring buoys from being placed in Chase Creek by individuals not associated with PCIA if all DNR regulations relating to single recreational mooring buoys are met.
- Concerns regarding consistency between plan sheets was raised.
 - The agent has addressed consistency issues between plan sheets with the current plan set.

The DNR reviewed the proposed project and determined they had no comments or concerns regarding the proposal.

The Maryland Historical Trust reviewed that proposed project and determined that there are no historic properties affected by this undertaking.

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. The vast majority of public comments related to the proposed mooring field rather than the proposed floating pier system, however, the current proposed mooring field meets all requirements and is consistent with State regulations. The Department consulted with MD DNR's John Gallagher, Associate Director for Boating Services, to determine if the proposed mooring field will impact navigation. It was determined that due to the depths of the channel the mooring field would not impact navigation, and the mooring field meets all regulatory requirements related to the mooring buoys under MD DNR Regulations (COMAR 08.04.13.01). The mooring field has been registered under DNR's group mooring registration with earliest records dating back to 2008 and was most recently re-registered in March of 2023. The mooring field has been in existence prior to 1972, but was expanded with additional or relocated buoys after 1972. Attachment E depicts which mooring buoys that existed prior to 1972 and are grandfathered, which mooring buoys have been installed without authorization from BPW, and which buoy locations do not currently have a buoy installed. All forty-seven mooring buoys are included in MD DNR's group mooring registration and have been reviewed by MD DNR's Division of Fishing & Boating Services to ensure navigability and public access to state waters is maintained. The proposed floating pier system, designed for the community of Pines on the Severn, is anticipated to replace their existing, failing bulkhead mooring system. The floating pier system proposed will be resistant to sea level rise and other climate related issues and was found to be less environmentally impactful than the alternative, a fixed pier system. The PCIA community took additional time to consult with the Briarcliff community on the proposal. The project's purpose is to improve navigable access and authorize an existing mooring field, and in consideration of the site characteristics and nature of the proposed work, the Department concludes that the application represents a reasonable exercise of riparian rights.

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 or is not otherwise exempt from the licensing requirement, all work performed under this Tidal Wetlands Permit 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 and COMAR 26.30. The licensed marine contractor shall be authorized for the appropriate license category to perform or solicit to perform the activities within this authorization, if applicable. A list of licensed marine contractors and their license category 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 at <https://mde.maryland.gov/programs/water/WetlandsandWaterways/Pages/LicensedMarineContractors.aspx>.

- 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, prior to any boat being moored at the facility, certify to the Water and Science Administration, Tidal Wetlands Division, that dockside sewage pump out facilities to accommodate sewage from vessels using the applicant's marina are installed, operated, and maintained. The facilities shall be connected to a public sewage treatment system serving the area or to an on-site sewage disposal system sized, installed, and operated in compliance with the requirements of the Anne Arundel County Health Department.
- F. The Licensee shall not attach accessory platforms to any existing or proposed boat lifts.
- G. The Licensee shall have all work proposed above the mean high water line reviewed and authorized by Anne Arundel County Department of Planning and Zoning.
- H. The Licensee shall ensure that all moorings have sufficient water depths (minimum of 2 feet at mean low water) to prevent vessels from grounding or resting on the bottom at mean low water.
- I. The Licensee shall ensure that navigation through the mooring field is maintained, and vessels moored within the community mooring field do not impede navigation through the waterway.

DEPARTMENT OF THE ENVIRONMENT APPROVAL:



Kathryn Burcham, Natural Resource Planner
Tidal Wetlands Division

March 31, 2025

DATE



Jonathan Stewart, Acting Division Chief
Tidal Wetlands Division

March 31, 2025

DATE



D. Lee Currey, Director
Water and Science Administration

Apr 3, 2025

DATE

WETLANDS ADMINISTRATION CONCURRENCE:

William Morgante, Wetlands Administrator
Board of Public Works

DATE