

HEARING OFFICER'S REPORT

TO: The Honorable Shawn M. Garvin
Cabinet Secretary, Department of Natural Resources and Environmental Control

FROM: Theresa L. Newman
Regulatory Specialist, Office of the Secretary
Department of Natural Resources and Environmental Control

RE: Subaqueous Lands Lease Application of 204 Salisbury Exchange, LLC

DATE: January 22, 2021

I. BACKGROUND AND PROCEDURAL HISTORY:

A virtual public hearing was held on Thursday, April 30, 2020, at 6:00 p.m. via the State of Delaware Cisco WebEx Meeting Platform by the Department of Natural Resources and Environmental Control (“DNREC,” “Department”) to receive comment on the application submitted by 204 Salisbury Exchange, LLC (“Applicant”) for a Subaqueous Land Lease to construct and utilize a residential pier, two docks, and mooring pilings in Head of Bay Cove, Rehoboth Bay (“Application”) in accordance with 7 DE Admin. Code 7504 - *Regulations Governing the Use of Subaqueous Lands* (“Regulation”).

On August 12, 2019 the Department’s Division of Water, Wetlands and Subaqueous Lands Section (“WSLS”), received the initial application submitted by the Applicant to construct and utilize a 4-foot-wide by 128-foot-long pier, two 5-foot wide by 26-foot-long docks and install eleven free-standing mooring pilings in Head of Bay Cove, Rehoboth Bay, at 204 Salisbury Street, Rehoboth, Sussex County, DE. The aforementioned pier meets the land between the two parcels that comprise the Applicant’s property, along with two docks angled

east of that pier, towards a state -owned parcel. It should be noted, per Section 4.9.210 of the Regulation, a convenience structure shall be set back a minimum of ten (10) feet from adjacent property lines. The Applicant proposed the structure to provide mooring facilities for two 18-foot Hobie Cat sail boats and a 21-foot Chaparral powerboat.

On September 11, 2019, representatives of both, WSLS and the Applicant attended an on-site visit to review the proposed project. During the site visit, WSLS conducted bathymetry to determine if the requested depths were consistent with the criteria established in the Regulations. The bathymetry points were conducted at 10-foot increments, beginning 30 feet from the mean high-water line. The bathymetry determined that there was no gain in water depth between the 110-foot mark and the 130-foot mark (approximately where the length of the pier would end.) The Department recommended that the Applicant reduce the length of the pier and the number of mooring pilings to accommodate the needs of the Applicant's sails boats and boat, and to meet the criteria established in the Regulations.

The Department placed the initial application on public notice in the Delaware State News and the News Journal from September 18, 2019 through October 8, 2019. To that, the Department received five written correspondence from the public in objection to the initial application. The correspondence from the public expressed the following concerns: (1) the pier reduces the ability to effectively sail in and out of Head of Bay Cove from the east neighboring property, (2) the vessel to be moored at the proposed pier could not successfully navigate the shallow waters of Head of Bay Cove, (3) the proposed structure would require frequent dredging to maintain access, resulting in increased erosion in the cove, (4) concerns of necessary

dredging/filling for the installation of the proposed structure, (5) environmental impacts to the shallow waters from oil, gas, and exhaust from the moored vessel, and (6) the negative impacts to breeding horseshoe crabs and diamond back terrapins. A few other opinions expressed were that of the proposed structure is not comparable to existing structures within the cove and interferes with the aesthetic view from shore of the east neighboring property. Consequently, a public hearing was requested along with the concerns addressed.

Subsequent to the application review process, the Department received a revised Application on February 7, 2020. The Applicant revised the initial application by: (1) reducing the length of the pier by 14 feet, proposing to construct a 4-foot by 114-foot-long pier, (2) reducing the number of free-standing mooring pilings from eleven to three, (3) moving the two 5-foot wide by 26-foot-long docks from the east of the pier to the west of the pier, and (4) moving the pier's junction with land west, to comply with the setback for the east property boundary owned by the State.

On April 30, 2020, the virtual public hearing was held by the Department. There were eleven (11) members of the public in attendance at the virtual hearing, along with the Applicant, a representative of the Applicant and WSLS staff. The record remained open through February 15, 2020 and comment was received from the public. Subsequent to the record closing, this Hearing Officer requested a Technical Response Memorandum ("TRM") from the expert staff of WSLS that will be discussed in further detail below. Proper notice of the hearing was provided as required by law.

II. SUMMARY OF THE PUBLIC HEARING RECORD:

The public hearing record (“Record”) consists of the following documents: (1) a verbatim transcript; (2) seven documents introduced by responsible Department staff at the public hearing held on April 30, 2020 and marked by this Hearing Officer accordingly as "Department Exhibits 1-7"; (3) one document introduced by Evelyn Maurmeyer, Ph.D., Consultant of Applicant and marked by this Hearing Officer accordingly as "Applicant Exhibit 1"; and (4) the TRM from Rebecca Bobola, Environmental Scientist II, Division of Water. The Department's person primarily responsible for reviewing this Subaqueous Lands Lease Application, Mrs. Bobola, developed the Record with the relevant documents in the Department's files.

Representing the Applicant at the hearing was Evelyn Maurmeyer, Ph.D., Independent Consultant with Coastal & Estuarine Research, Inc. Following opening remarks from Mrs. Bobola on behalf of the Department (and the introduction of the Department's exhibits to be entered into the Record), Ms. Maurmeyer, proceeded to offer a brief background of her experience and provided an overview of the project and the Application process conducted by the Applicant. The Applicant, Mr. Scott Humphry, concluded the presentation on his own behalf, explaining the background of the proposed project, the reasons therefor, and the research that was conducted prior to submitting the initial application.

Subsequent to the public hearing, the Department received 4 letters of objection and 5 letters in support of the revised Application. The objections to the revised Application addressed concerns of: (1) the added noise to the cove during installation, interrupting paddle board yoga

classes held in the cove from Delmarva Board Sports (recommending installation in the off season), (2) the proposed length of the pier impacts the east neighbors' ability to navigate the cove, (3) a negative impact to aesthetic enjoyment of the skyline from the east neighboring property, (4) the existing longer piers in the vicinity are outside of Head of Bay Cove and should not be used as comparable structures, and (5) concern for a decrease in public use of the cove recreationally due to the presence of the pier. Comments in favor of the proposed structure noted similar structures existing nearby, longer and wider structures having been installed nearby in recent years, and that denying access to the cove when other waterfront residents have been able to obtain access would be improper. The Record closed with regard to public comment 15 days following the public hearing, on May 15, 2020.

Subsequent to the close of the Record as noted above, this Hearing Officer requested a Technical Response Memorandum ("TRM") from the WSLs technical experts in the Department's Division of Water to: (1) address the concerns associated with this pending Application, as set forth in the public comment received by the Department; (2) provide a formal regulatory review of the Applicant's proposed project; and (3) offer the Division of Water's conclusions and recommendations with regard the pending Application for the benefit of the Record generated in this matter.

I find that the Division of Water's TRM offers a detailed regulatory review of all aspects of the Applicant's proposed revised Application, identifies all of the concerns raised by the public and responds to them in a balanced manner, with accurately reflecting the information

contained in the Record. Thus, the aforementioned TRM is attached hereto as Appendix “A” and expressly incorporated herein as such.

III. RECOMMENDED FINDINGS AND CONCLUSIONS:

The Applicant has applied for a Subaqueous Lands Lease application, seeking approval to construct and utilize a 4-foot by 114-foot-long pier in junction with land west, two 5-foot wide by 26-foot-long docks west of the pier, and install three free-standing mooring pilings in Head of Bay Cove, Rehoboth Bay, at 204 Salisbury Street, Rehoboth, Sussex County, DE. I find that the Applicant's proposed revised project meets the requirements established in the Regulations.

In reviewing the applicable statutes and regulations, as well as weighing public benefits of this project against potential detriments, the Department’s experts in the WLSL have concluded that the aforementioned project complies with all applicable state laws and regulations. Should this Application be approved, the WLSL Subaqueous Lands Lease that would be issued by the Department would be reflective of the revised Application submitted and would include all necessary requirements intended to protect public health and the environment. I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of the statutes and regulations, as noted herein, and that the record supports approval of the Application submitted by 204 Salisbury Exchange, LLC.

In conclusion, I recommend that the Subaqueous Lands Lease necessary for the proposed project as set forth in the revised Application submitted by 204 Salisbury Exchange, LLC

consistent with the Record developed in this matter, be issued by the Department in the customary form, and with appropriate conditions.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has jurisdiction under 7 *Del.C.* §§6003, 6004, 6006(4) and all other relevant statutory authority, to make a final determination of the Application after holding a public hearing, considering the public comments, and reviewing all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the Application submitted by 204 Salisbury Exchange, LLC, and of the public hearing held on April 30, 2020, and held said hearing to consider all public comment that may be offered on the Application, in a manner required by the law and regulations;
3. The Department has carefully considered the factors required to be weighed in issuing the lease required by this Application, and finds that the Record supports approval of the Application and the issuance of the Subaqueous Lands Lease associated with the same;
4. The Department shall issue the Subaqueous Lands Lease to the Applicant, 204 Salisbury Exchange, LLC, to construct and utilize a 4-foot by 114-foot-long pier in junction with land west, two 5-foot wide by 26-foot-long docks west of the pier, and install three free-standing mooring pilings in Head of Bay Cove, Rehoboth Bay, at 204 Salisbury Street, Rehoboth, Sussex County, DE, consistent with the Record developed in this matter. Furthermore, said lease shall include all conditions as set

- forth in the Department's draft lease, to ensure that Delaware's environment and public health will be protected from harm;
5. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
 6. The Department shall serve and publish its Order on its internet site and shall provide legal notice of the Order in the same manner that the Department provided legal notice of the Application.



Theresa L. Newman
Public Hearing Officer

\ahear\ 204 Salisbury Exchange, LLC. Subaqueous Lands Lease. 2021

Attachments/Appendices:

Appendix A: Technical Response Memorandum (08/05/2020)



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

DIVISION OF WATER
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Technical Response Memorandum

To: Theresa Newman, Hearing Officer

Through: Virgil Holmes, Director, Division of Water *VH*
Steven Smailer, Environmental Program Administrator, Division of Water *SS*

From: Rebecca Bobola, Environmental Scientist, Wetlands and Subaqueous Lands *RB*
Section

Date: August 5, 2020

Subject: 204 Salisbury Exchange LLC. Subaqueous Lands Lease Application

INTRODUCTION

The Wetlands and Subaqueous Lands Section (WSLS), Division of Water, Department of Natural Resources and Environmental Control received an application from 204 Salisbury Exchange LLC. to construct a boat docking facility in Rehoboth Bay at 204 Salisbury Street, Rehoboth, Sussex County, Delaware. The proposed project is subject to the requirements of the Subaqueous Lands Act (7 Del C., Chapter 72) and the Regulations Governing the Use of Subaqueous Lands (7 DE Admin. Code 7504).

This Technical Response Memorandum (TRM) presents the Wetlands and Subaqueous Lands Section's (WSLS) findings regarding the above-referenced lease application. The TRM also addresses comments presented prior to and during the public hearing held on April 30, 2020. The project was placed on 20 day public notice on September 18, 2019. During the public notice period the WSLS received 5 letters of objection from Susan Wroble, Scott MacDonald, Lawrence MacDonald, Richard MacDonald, and Howard (Bud) Swope. The objections stated the following concerns: the proposed pier reduces the ability to effectively sail in and out of Head of Bay Cove from the east neighboring property, interferes with the aesthetic view from shore of the east neighboring property, the vessel to be moored at the proposed pier could not successfully navigate

the shallow waters of Head of Bay Cove, concern that the proposed structure would require frequent dredging to maintain access, resulting in increased erosion in the cove, concern regarding necessary dredging/filling for the installation of the proposed structure, environmental impacts to the shallow waters from oil, gas, and exhaust from the moored vessel, the proposed structure is not comparable to existing structures within the cove, and negative impacts to breeding horseshoe crabs and diamond back terrapins. Following the public hearing, during the open record, the WSLs received 4 letters of objection from Janis Markopoulos, Lawrence MacDonald, Scott MacDonald, and Susan Wroble. The WSLs also received 5 letters of support from Andy Strine, Dave Schuster, Frank Charlton, Rex Lotito, and William Bartoshesky. The objections stated the following concerns: the added noise to the cove during installation would interrupt paddle board yoga classes held in the cove from Delmarva Board Sports (recommends installation in off season), the proposed length of the pier impacts the east neighbors' ability to navigate the cove, a negative impact to aesthetic enjoyment of the skyline from the east neighboring property, the existing longer piers in the vicinity are outside of Head of Bay Cove and should not be used as comparable structures, and concern for a decrease in public use of the cove recreationally due to the presence of the pier. Comments in favor of the proposed structure noted similar structures existing nearby, longer and wider structures having been installed nearby in recent years, and that denying access to the cove when other waterfront residents have been able to obtain access would be improper.

The applicant, 204 Salisbury Exchange, LLC, originally proposed to install a 4 foot wide by 128 foot long pier, two 5 foot wide by 26 foot long docks, and 11 mooring pilings. Before and during the public hearing Scott Humphrey, owner of 204 Salisbury Exchange, LLC. presented the alternative application and plans which propose to install a 4 foot wide by 114 foot long pier, two 5 foot wide by 26 foot long docks, and 3 associated mooring pilings. The alternative application reduces the overall footprint of the docking facility, addresses the fact that no permanent structure would be constructed on the east side of the dock reducing the suggested navigation conflicts with the east neighbor.

Summary/Discussion

Prior to the public hearing, the WSLs held a site meeting with the applicant and their consultant to collect depth data as well as discuss property line setbacks, and options for reducing the structure to minimize impact to the resources while still meeting the vessel mooring needs of the applicant. The applicant was willing to compromise on the length of structure since adequate water depth was shown to be obtainable in a shorter distance. The applicant also understood the need to shift the structure to the west to comply with the ten foot property setback. Additionally, the applicant agreed to reconfigure the (2) 26 foot long docks to extend west, instead of east, to comply with lot lines extended and avoid encroaching on the east property.

REGULATORY REVIEW- SUBAQUEOUS LANDS

The following review evaluates the proposed project with respect to the requirements of the Subaqueous Lands Act (7 Del. C., Chapter 72 (Chapter 72) and the Regulations Governing the Use of Subaqueous Lands (7 DE Admin. Code 7504) (Regulations) adopted in accordance with the statute. The Regulations provide the criteria for evaluating projects that are proposed to be constructed in public or private subaqueous lands. The burden is on the applicant to satisfy the Department that the requirements of these Regulations have been met; and if the granting of the

permits, lease or approval will result in loss to the public of a substantial resource, that the loss has been offset or mitigated. The public comments received prior to, and at the hearing, as well as the Department's regulatory evaluation, are addressed according to the pertinent sections of the Regulations as follows.

Section 4.0 Criteria of Permits, Leases and Letters of Authorization

Section 4.0 of the Regulations requires that the application be evaluated based on the consideration of specific performance specifications, standards and other criteria, including Section 4.6 - Public Use Impacts, Section 4.7 - Environmental Considerations, Section 4.8 Requirements for all Structures and Section 4.9 – Boat Docking Facilities. It also states that an application may be denied if the activity could cause harm to the environment, either singly or in combination with other activities or existing conditions, which cannot be mitigated sufficiently.

The WSLs concludes that public use impacts will be minimal since the structure will be placed within the equitable apportionment for 204 Salisbury Exchange, LLC. as it pertains to property lines extended and only to the extent channelward to obtain adequate water depth (Figure 1). The proposed design does meet the requirements for all boat docking structures and does not exceed 250 linear feet in length.



Figure 1. A visual interpretation of the legal opinion from the State of Delaware Department of Justice to DNREC dated June 9, 2006 referencing Riparian Boundaries on Navigable Rivers and Across Accretions as it applies to Head of Bay Cove. The approximate location of the proposed structure is visible in red, positioned within the equitable apportionment for 204 Salisbury Exchange, LLC.

Section 4.6 Public Use Impacts

Under this section the Department must consider, among other things, the potential effect on the public and the extent to which the public would benefit or suffer detriment from the project. Additionally, the Department must consider the degree to which the applicant's primary purpose could be realized by alternatives that would minimize or avoid impacts. The public use impacts most relevant to the proposed project are discussed in Sections 4.6.3, 4.6.4, and 4.6.5, below.

4.6.3 Navigation - The potential effect on the public with respect to commerce, navigation, recreation, aesthetic enjoyment, natural resources, and other uses of the subaqueous lands.

The proposed structure will be placed within State waters of the Rehoboth Bay, and requires a Subaqueous Lands Lease from the State of Delaware. Under Section 4.9 Boat Docking Facilities, paragraph 4.9.2.5 states: In no case shall a structure extend more than 20 percent of the width of the waterbody, nor shall it extend seaward more than 250 feet, except under exceptional circumstances necessary to provide access for needed commerce. In tidal natural features 20 percent is measured from the mean low water mark of one side of the waterbody to the mean low water mark of the other. The proposed structure is proposed to extend 114 feet channelward of the mean high water mark and is far from exceeding 20 percent of the width of the waterbody. The length of the structure is justified due to the shallow water depths. The WSLS confirmed that the presented bathymetry was accurate and that the resultant depth at mean low tide would be 19 inches at a distance of 110 feet from the mean high water line. Shallower depths are present between the end of the proposed pier and the shoreline which already limits recreational uses in the area. Specific concern was expressed regarding a negative impact to the residents of BayStrand II's ability to sail from their property into the cove effectively, as well as a concern for loss of aesthetic enjoyment with the addition of a pier in the foreground of their view of sunsets. There is approximately 135 feet of open water between the base of BayStrand II's docking facility and the most channelward end of the proposed structure's pier, available for navigation. Using the legal opinion from the State of Delaware Department of Justice to DNREC dated June 9, 2006 referencing Riparian Boundaries on Navigable Rivers and Across Accretions, the WSLS confirmed the proposed structure lies within the equitable apportionment pertaining to 204 Salisbury Exchange, LLC.'s water front parcel and access to the mouth of the cove (Figure 1). With respect to the aesthetic enjoyment, the proposed structure would be the fourth docking structure in the line of sight at sunset.

4.6.4 Disruption of Public Use – The extent to which any disruption of the public use of such lands is temporary or permanent.

The proposed structure will permanently occupy 680 square feet (0.26%) channelward of mean low water of the 6 acres of Subaqueous Lands within Head of Bay Cove. Concern has been expressed in public comment regarding permanent inability to navigate Head of Bay Cove following the construction of the proposed structure. Open water of similar depths to the area of the proposed structure will remain unoccupied and available for recreational activities such as sailing, kayaking, paddle boarding, fishing, and crabbing.

4.6.5 Avoidance - The extent to which the applicant's primary objectives and purposes can be realized without the use of such lands (avoidance).

The applicant owns 67 feet of waterfront property; this is the only area where the applicant can construct a facility on their riparian property boundary. The applicant does have the right to wharf and access the water from their riparian property boundary.

However, the applicant could moor a vessel in subaqueous lands, without a permit, adjacent to their property and wade to and from their vessel; although, this can be dangerous considering the distance the applicant would have to wade. There is also a community boat ramp approximately .1 miles from the applicant's residence; this would require the applicant to trailer the vessel for each use. Regular use of this boat ramp by boaters with moderate to large size vessels would likely require significant maintenance dredging. Lastly, there are several marinas along the east side of Rehoboth Bay the applicant, as well as the other residents within Head of Bay Cove, could consider; although, its unknown of the marinas' availabilities and cost.

4.6.6 Minimization - The extent to which the applicant's primary purpose and objectives can be realized by alternatives, i.e. minimize the scope or extent of an activity or project and its adverse impact.

The applicant has considered, and acted on, reducing the length of the structure in order to minimize impacts and address the adjacent neighbors' concerns, but further minimization would create an impact that would not achieve their goal. Further structure reduction would not allow the applicant to berth a vessel due to shallow waters. During the review of the record for the preparation of this document it was realized the applicant had not yet submitted the boat registration card. The submitted boat registration does not match the boat referenced in the applicant's testimony during the public hearing. Please see the attached email correspondence regarding the applicant's attestation that the new motorized vessel meets the same criteria he references in his testimony. The applicant also owns two non-motorized Hobie Cat sailing vessels with 10" drafts when the rudder is up.

Section 4.7 Environmental Considerations

4.7.1.1 Any impairment of water quality, either temporary or permanent which may reasonably be expected to cause violation of the State Surface Water Quality Standards. This impairment may include violation of criteria or degradation of existing uses.

The proposed structure is expected to have minimal adverse impacts to water quality. The facility will primarily be used to berth one motorized vessel and two non-motorized vessels and does not include any refueling, maintenance, or convenience facilities which could be sources of potential contaminants. The leaking of contaminants, such as, gas and oil, into the waterway from the vessel alone is expected to be no different than if the applicant were to simply moor their vessel in the same space. The treated lumber used for the facility can leach contaminants; however, this is mostly during the first few months after installation and can be considered minimal. Concern was expressed regarding increased turbidity to the cove with the use of a motorized vessel within the shallow waters of the cove. The proposed structure is designed in length to provide adequate water depth for the draft of the vessel to be moored at the proposed structure, thus addressing this concern.

4.7.1.2 Any effect on shellfishing, finfishing, or other recreational activities, and existing or designated water uses.

The primary use of Head of Bay Cove is for adjacent property owners and Bay Resort guests to gain access to the Inland Bays and for the general public's use. A secondary use would be crabbing and fishing. The proposed structure would allow the applicant to use Head of Bay Cove for these same reasons and would not impede others from gaining access to, or using, Head of Bay Cove (Figure 1).

4.7.1.3 Any harm to aquatic or tidal vegetation, benthic organisms or other flora and fauna and their habitats. 4.7.1.4 Any loss of aquatic habitat.

The dock will cause some shading but should allow for the growth of aquatic vegetation and the continued use of the area by benthic organisms. Head of Bay Cove is currently used by the general public and currently contains five other docking structures; the addition of two sailing vessels and one motorized vessel and docking facility should not have a significant adverse impact in this regard.

Section 4.7.5 Other Considerations

4.7.5.2 The degree to which the project incorporates sound engineering principles and appropriate materials of construction.

The structure is proposed to use CCA treated lumber and will be constructed to typical standards by a local marine contractor, as is common for the majority of the structures in the vicinity. Concern was expressed that the applicant did not provide stamped and certified engineered plans. Such plans are not required by the WSLs unless extraordinary circumstances require such. This is not the case for this structure.

4.7.5.3 The degree to which the proposed project fits in with the surrounding structures, facilities and uses of the subaqueous lands and uplands.

There are multiple docks located both east and west of the project location. Structures in the area range from 25 feet long to 250 feet long. The use of the docks varies from berthing motorized vessels and launching non-motorized vessels for residential use to launching non-motorized vessels and board sport equipment for commercial use.

Section 4.8 Requirements for all Structures

4.8.4 Structures shall not interfere with navigation, public, or other rights.

This structure meets the requirements stated in the regulations for proper navigation. The adjacent neighbors claim that the ability to navigate effectively will be eliminated by the proposed structure which is the basis for their opposition.

Section 4.9 Boat Docking Facilities

4.9.2.2 Structures should be constructed to avoid dredging or filling, with minimal impact on aquatic vegetation and wetlands, and without dead-end or poorly flushed lagoons. 4.9.2.7 Docks and piers should extend out from the shoreline far enough so as to eliminate need for dredging and filling, and provide sufficient height to allow light to penetrate to vegetation underneath and alongside.

The proposed structure's length would obtain adequate water depth at mean low water, for the draft of the proposed vessel to be berthed, avoiding the need for dredging.



Figure 2. Boat registration card submitted August 26, 2020 by the applicant.

CONCLUSION

The WSLs finds that the activity described in the application for the Subaqueous Lands Permits by 204 Salisbury Exchange, LLC., including installation of a pier, two docks, and three mooring pilings, complies with Statute and Regulations administered by the WSLs. Additionally, the structure dimensions are consistent with the applicable regulations, guidance documents, and the nearby structures. The WSLs finds that the structure will not substantially affect the navigational uses of the public or the adjacent neighbors. After reviewing the associated surveys, plot plan, deeds, and after evaluating the legal opinion from the State of Delaware Department of Justice to DNREC dated June 9, 2006 referencing Riparian Boundaries on Navigable Rivers and Across Accretions, the WSLs's opinion is that the proposed construction of 204 Salisbury Exchange, LLC.'s dock is within their riparian boundaries. While any new structure could be considered to reduce public access, the rights of the riparian landowner to access their lands from the water must also be considered.

In the event the Secretary determines that this project should be approved, we have included draft permits with appropriate conditions for consideration.