

Jolie

Calder, Gayle H. (DNREC)

From: Marti Williams <martilvh@gmail.com>
Sent: Tuesday, February 25, 2020 5:23 PM
To: President VHCHOA; Calder, Gayle H. (DNREC); Claude O'Connor; John Williams
Subject: Re: 10 Slip Marina Application Across from VOHC

Regarding the proposed Lawton Family Marina on Herring Creek:

I would like to point out that marinas have a "No Wake Zone" associated with them. The area where the new marina is to be located is "the play area" of Herring Creek. This large area has the widest and (non-channeled) deepest water in the entire creek. It is literally the only section in the entirety of Herring creek, from Rehoboth Bay to the ends of both prongs of Herring Creek, where boats can safely tow tubes, wake boarders or water skiers. Boats safely travel in a large circle between the Hazard Shoal channel markers to the split of the two prongs. Unfortunately, the circular play area includes the proposed marina. Having a no wake zone in this area effectively stops Herring Creek from being used as a recreational tow area.

Although Rehoboth Bay can be used for towing, the water is much rougher in the bay. Although I frequently see wake boarders and water skiers on the play area of Herring Creek, I do not see them on the bay, presumably due to the rough water.

Although I appreciate the desire for the Lawton family to have access to the water, I question why they feel the need for a marina, rather than conventional docks.

Thank you for your consideration.

Marti and John Williams
23974 Sundance Lane
Lewes, DE 19958
(302) 983-1733

On Mon, Feb 24, 2020 at 3:59 PM President VHCHOA <president.vhchoa@gmail.com> wrote:

Hi everyone,

*Wanted to pass the information that Claude discovered about a proposed marina on Herring Creek.
More details and next steps to follow.*

Stay tuned.

Anne

----- Forwarded message -----

From: Claude Oconnor <claudio58@verizon.net>

Date: Mon, Feb 24, 2020 at 11:22 AM

Subject: 10 Slip Marina Application Across from VOHC

To: <president.vhchoa@gmail.com>

Cc: VOHC Premier Property and Pool Management Jenn Melson/Joan Kresefsky <manager@vhclewes.com>, Denny Nemeth <dennynemeth@gmail.com>

Hi Ann,

Not sure if you and Al received a letter from DNREC last week informing us about an application for a 10 slip marina plus a concrete ramp to be constructed just across Herring Creek from our cove. Apparently the Lawton Family, who owns multiple lots and homes across from us want this marina for "private family use." However given its size and having a boat ramp, I'm sure this will greatly increase boat traffic, noise and negatively impact the already poor water quality in Herring Creek.

I am in the fact gathering stage to prepare a letter challenging this application. We only have until March 10 to submit any challenges to this application with the Wetlands and Subaqueous Lands Division of DNREC. I am asking for your help to get the attached application distributed to at least all of the waterfront homeowners in VOHC and possibly the entire community. The purpose of which is to raise as many formal objections to this substantial change to Herring Creek directly across from our waterfront properties.

Please let me know what we can do as a community to challenge this application as that will have more impact with DNREC than if we respond as individuals.

Thank you,

Claude O'Connor
claudio58@verizon.net
717-309-1536

On Monday, February 24, 2020, Calder, Gayle H. (DNREC) <Gayle.Calder@delaware.gov> wrote:

Lawton Family

Hope this helps,

Gayle

Gayle Calder

Wetlands and Subaqueous Lands

Department of Natural Resources

89 Kings Highway

Dover, DE 19901

302-739-9943

Fax:302-739-6304

E-mail:Gayle.Calder@delaware.gov

Anne E. Lara
VHCHOA
President
302-547-1681

Gayle Calder
Wetlands and Subaqueous Lands Section
89 Kings Highway
Dover, DE 19901

Dear Ms Calder,

I am responding to the memorandum received concerning Project notice No. 4. Particularly I am commenting on Permit Application of the Lawton Family - Ribinsky (234-18.00-51.06)

I live directly across Herring Creek from the proposed marina and within the impacted range. For many years this section of Herring Creek has been utilized for water skiing, inflatable towing, and crabbing.

The utilization has increased every year to the point where the 2 activities create a safety hazard. Crab pots have restricted access to existing docks and water skiers come uncomfortably close to hitting crab pots. The application will further restrict the waterway.

The aerial view submitted as part of the application does not show several docks, including mine, across the Creek.

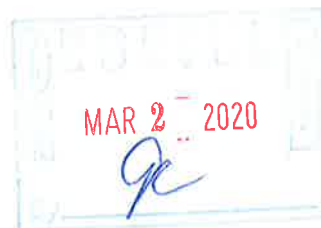
As the population continues to increase on the waterways, a "Family Marina" is an excessive use of limited access. Not being totally familiar with the laws, I am concerned with the classification and implications of a "Marina". In any case, with a larger structure built, the traffic flow will narrow. The distance implied by the application is misleading considering present usage and extent of growth in this usage.

As specified in your letter, I request a public hearing in this matter.

Thank you,

Dennis Nemeth

23980 Sundance Lane
Lewes, DE 19958



To: Gayle Calder
DNREC
Wetlands and Subaqueous Lands Section
89 Kings Highway
Dover, DE 19901

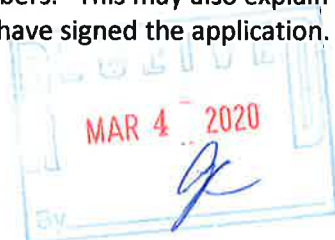
Dear Ms. Calder,

I am responding to Project Notice No.4 on the Marina Permit Application for Lawton Family-Ribinsky (234-18.00-51.06. I live directly across from the proposed marina and within the 1,000' radius impacted site. I have reviewed the Lawton Family-Ribinsky application in detail. I have found multiple discrepancies in the application and want to ask the Secretary of DNREC to hold a public hearing to fully discover the true "owners" and the complete impact of this "Family Marina" on Herring Creek and its natural habitat.

In the current application, there is no listing of the owner for Lot 51.06, where the marina site is proposed to be located. I have found the current owner listed in the Sussex County Tax records as Donald Charles Mitchell (attachment A). The second owner noted on the tax record is Theodore Wade Mitchell, who is listed on the marina application as owner of lot #51.12. I'm not sure how ownership of this 10 slip marina to be located on a single lot can be divided among 8 owners listed in the application? Further, why does the application request a 10 slip marina when there's only 8 owners listed with 8 boats specified in the application ranging from 22' to 26' LOA? How will Joseph Ribinsky listed as Harbormaster and assumedly 1/8th marina owner, ensure that all owners will abide by the DNREC regulations for marina operations as specified under Exhibit "O" in the application?

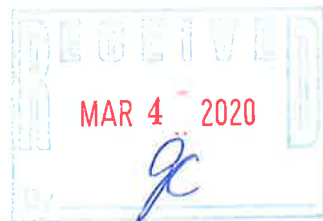
At the current time, the proposed marina is to be located on an undeveloped lot #51.06. However as shown in the photographs of the lot taken on 2/24/2020 (attachments #1,2,3 4) the lot has been used as a dump site with multiple piles of old building debris and other discarded trash (tires, plastic storage bins, cleared brush, etc.) During episodes of severe weather, hurricanes, Nor'easters and increasingly high tides, this debris or it's runoff will be washed into Herring Creek further contributing to the very poor water quality in both Herring Creek and Guinea Creek as reported by the Delaware Center for the Inland Bays. Given the current poor conditions of lot #51.06 how can we be assured that the proposed marina will be properly maintained as specified in the application? Will DNREC police this marina to ensure that proper maintenance and specified uses will be followed?

There is a 28 acre parcel that has been divided into 4 lots with some lot(s) currently for sale along Sisters Lane (see attachment #5 & 5A). Lot 3 (#51.23) and Lot 4 (#51.24) are listed in the application as owned by James W. & Catherine L. Travis. James Travis has signed the application as one of the 8 owners of the proposed marina. While the marina application states: "Project Purpose.....to provide docking facilities for family members (private, non-commercial marina)", I am concerned that the marina will be positioned as one of the amenities offered for one or more of these lots. This would be a commercial use of the marina to enhance the value of one or more of these landlocked lots. Since lot #2 is currently listed for sale at \$200K, this would not be in-compliance with the stated purpose to "provide docking facilities for family members." This may also explain why there are 10 slips requested in the application while only 8 owners have signed the application.



There have been other waterfront homeowners within The Villages on Herring Creek and the 1,000' impacted radius, who have submitted comments and concerns about this proposed marina. I have read and concur with the comments sent in from both Marti Williams and Dennis Nemeth. I believe that Al & Anne Lara (President of our VOHC Homeowners Association) and others have also sent in comments challenging the marina application. Given the concerns expressed by myself and the other impacted property owners, I again ask that the Secretary of DNREC hold a public meeting or reject the marina application with sufficient justification to do so.

Thank you,
Claude O'Connor
23978 Sundance Lane
Lewes DE 19958



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Layers
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Search results

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Selected Features:

Parcels (1)

▼ 1) 234-18.00-51.06

Zoom

Book	5115
Page	113
Owner Name	MITCHELL DONALD CHARLES
Second Owner Name	THEODORE WADE MITCHELL
Mailing Address	24400 SISTERS LN
City	MILLSBORO
State	DE
Description	PARCEL E
Land Code	AG

Selected Features (1)

200m

600ft



MAR 4 2020

ATTACHMENT

#1

(234-1800-

57.06)

MAR 4 2016

R





ATTACHMENT
#2
(2018-08-14) 16

ATTACHMENT
3
(234-18.00-57.06)



ATTACHMENT
4
(234-18.00-57.06)



Williams ↑

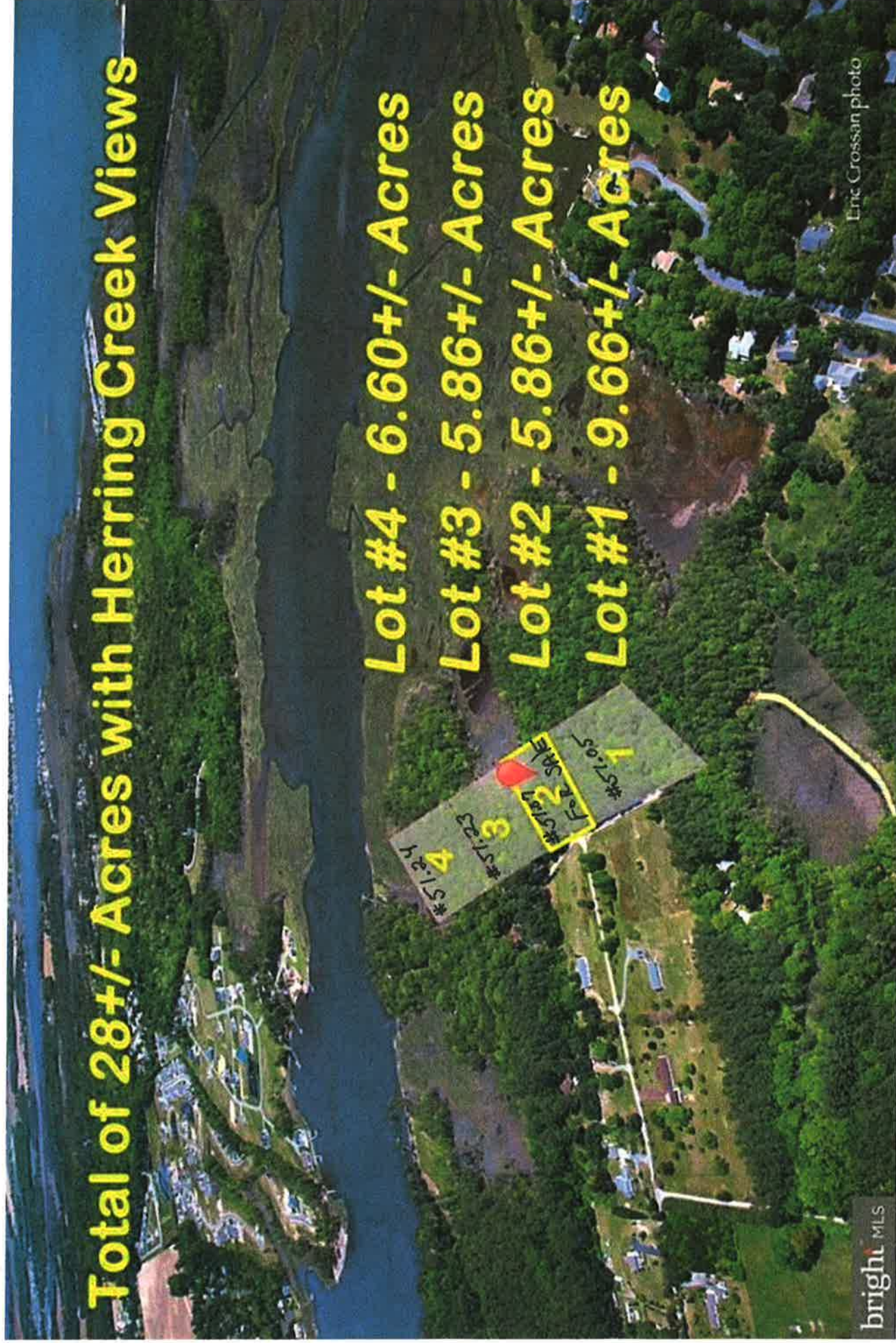
O'Connor ↑

Nemeth ↑

MAR 4 2020

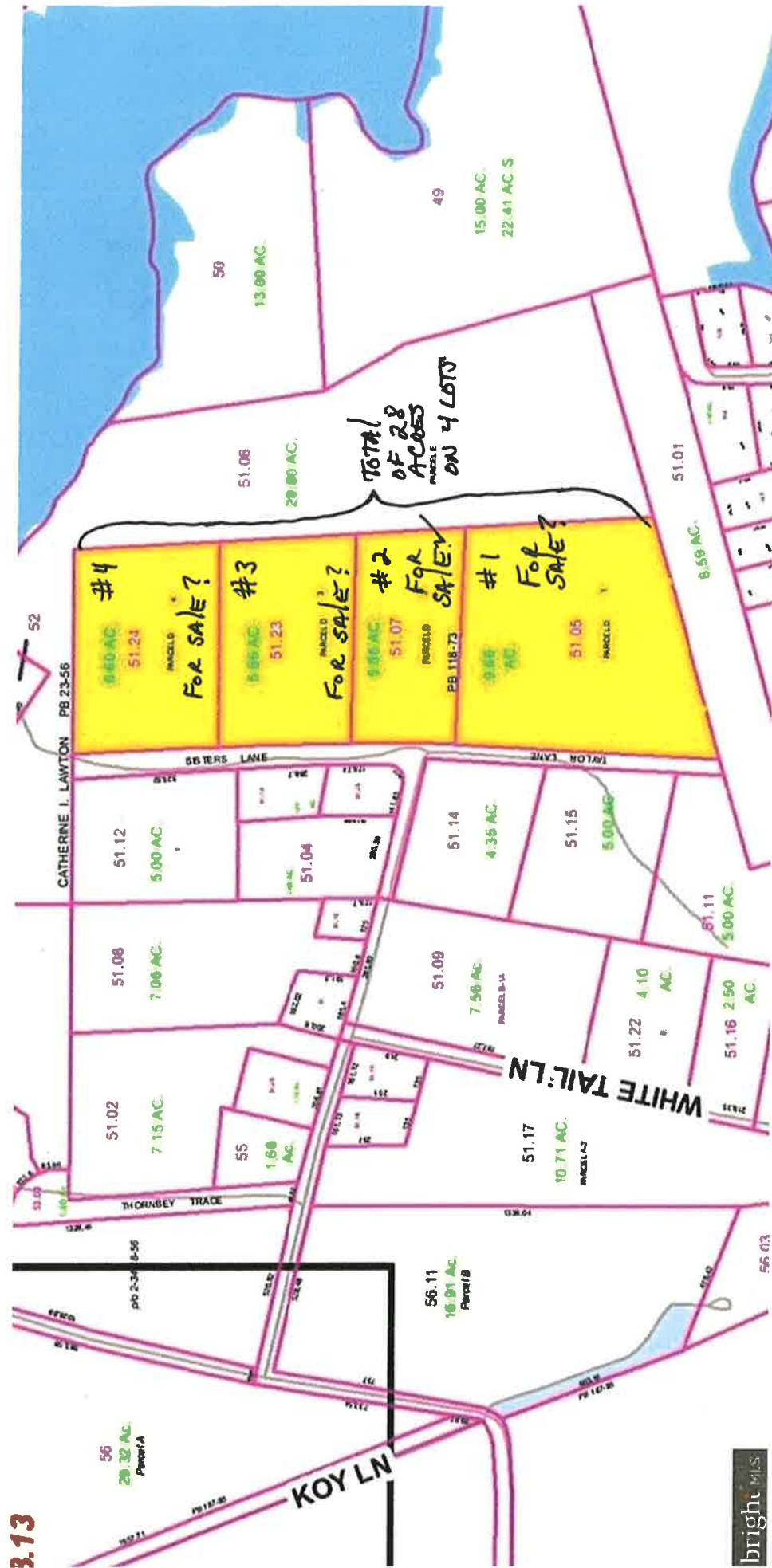
[Signature]

ATTACHMENT #5 (234-18.00-57.06)



MAR 4 2020

ATTACHMENT SA (234-18.00-57.06)



MAR 4 2020

Molina, Julie (DNREC)

From: Calder, Gayle H. (DNREC)
Sent: Tuesday, March 10, 2020 6:26 AM
To: Molina, Julie (DNREC)
Subject: FW: Marina Permit Application 234-18.00-51.06 for the Lawton Family-Ribinsky Family Marina

Expires: Friday, May 29, 2020 12:00 AM

Switch-MessageId: 3f135fcd8fa48efa2791bc0815cf905

From: Rita Lysik <ritaml1211@gmail.com>
Sent: Monday, March 09, 2020 4:43 PM
To: Calder, Gayle H. (DNREC) <Gayle.Calder@delaware.gov>
Subject: Marina Permit Application 234-18.00-51.06 for the Lawton Family-Ribinsky Family Marina

Gayle Calder
DNREC
Wetlands and Subaqueous Lands Section
89 Kings Highway
Dover, Delaware

Dear Ms. Calder,

I am challenging the development of a Family Marina proposed in Project Notice No. 4 on the Marina Permit Application 234-18.00-51.06 for the Lawton Family-Ribinsky Family Marina. I am co-owner of a dock on Herring Creek (Lot 50; 23913 Sunny Cove Court) in the Villages of Herring Creek on Rehoboth Bay that is outside the 1000 feet impact area. However, I still have concerns about the impact of a 10 slip marina which is proposed for Herring Creek. My concerns are:

1. I hardly think that a 10 slip marina is needed for a family. In my estimation, this is comparable to a commercial enterprise. I support the concerns expressed by Claud O'Conner regarding who will own the dock, maintain and police the area, and ensure that all regulations are enforced.
2. The proposed structure may negatively impact downstream water displacement and flow and cause flooding of our property (Lot 50) during episodes of severe weather, hurricanes, and high tides.
3. The construction of dock with 10 slips will increase boating traffic on Herring Creek and contribute to general pollution impacting the adjacent wetlands.

As a result of my concerns, I request that the Secretary of DNREC reject this application or hold a public hearing to hear objections to the construction of a Family Marina on Herring Creek.

Thank you,

Rita Lysik

23913 Sunny Cove Court

Lewes, Delaware 19958

Molina, Julie (DNREC)

From: Calder, Gayle H. (DNREC)
Sent: Tuesday, March 10, 2020 6:30 AM
To: Molina, Julie (DNREC)
Subject: FW: Lawton-Ribinsky Family Marina Application 234.-18.00-51.06

Expires: Friday, May 29, 2020 12:00 AM

Switch-MessageId: 9cad735fdd4d4fb6b36546cf8d272225

From: Anne Lara <laraanneliz@gmail.com>
Sent: Monday, March 09, 2020 7:42 PM
To: Calder, Gayle H. (DNREC) <Gayle.Calder@delaware.gov>
Cc: Molina, Julie (DNREC) <Julie.Molina@delaware.gov>
Subject: Lawton-Ribinsky Family Marina Application 234.-18.00-51.06

Good afternoon Gayle,

We would like to request a public meeting to review/discuss the Lawton-Ribinsky Family Marina application(234-18.00-51.06).

Our reasons for such include to gain a better understanding of:

- *how the property where the proposed marina located will be managed(there is no home on the property)*
- *why is there a plan for 10 slips when only eight prospective owners are on the application*
- *what will be impact to existing recreational activities such as crabbing, jet skiing, and water skiing*
- *how will the proposed marina affect Herring Creek "no wake" zones*
- *why is the term "family" marina being used when there in actuality no onsite management of the marina*
- *what is the difference between a commercial and family marina*
- *how will the marina be regulated/managed.*

We truly appreciate your attention to our request.

Al and Anne Lara

Anne and Al Lara

23966 Sundance Lane

Lewes, DE 19958

302-547-1681



Subaqueous Lands Permit Application

Delmarva Power & Light-To install by directional bore a 8-inch diameter 1,100 foot long high pressure pipe at a minimum of 25 feet below the mudline under approximately 170 linear feet of Delaware City Branch Canal, the bore pits will be located in the right-of-way at the corner of Hamilton and 2nd Street and at the corner of Officers Row and Wingate Road, Delaware City, New Castle County, DE

DFW Comments:

HDD Frac-Out Contingency Plan

Although, the use of a directional drill has less of an impact than other methods such as trenching, there is still a potential for frac-outs to occur which could impact wetlands and water bodies within the project area. As such, if this method is used, we highly recommend that a frac-out contingency plan be in place prior to the start of project activities. The contingency plan should include the following:

- 1) A provision to contain materials released,
- 2) A clean-up protocol, and
- 3) Arrangements for an experienced representative (drilling crew or consultant) to watch the site at all times so that the operation can be shut down immediately in the event a frac-out occurs.

On-site staff should have access to the DNREC 24 hour hotline phone number (1800-662-8802) to report any environmental release or fish kill. Immediate notification of any environmental release is imperative. Please also follow-up with a contact to Edna Stetzar, DFW Environmental Scientist (Edna.Stetzar@delaware.gov or 302-735-8654)

Ronald Finelli (234-24.00-110.00)-To repair 150 linear feet of bulkhead, to install a 5 by 6 foot long dock, a 4 by 12 foot long gangway, a 6 by 30 foot long floating dock, a boatlift with 4 associated pilings, and a 10 by 10 foot long air lift in an unnamed lagoon adjacent to Guinea Creek at 93 Creek Drive, Winding Creek Village, Millsboro, Sussex County, DE

DFW Comments: None

Route 40 Ventures LLC (1102500006)-To install 3 road crossings with associated fill and utilities within unnamed tributaries to Muddy Run at the proposed Cascades community at 0 Pulaski Highway, Newark, New Castle County, DE

DFW Comments: None

Sunoco Partners Marketing & Terminals L.P. (0606100002)-To repair/replace 850 linear feet of rip-rap revetment on Middle Creek at 6402 Philadelphia Pike, Claymont, New Castle County, DE

DFW Comments: None

Subaqueous Lands Permit and Wetlands Application

Jason Tedesco (134-12.00-1600.00)-To install a 3 by 170 foot wetland walkway/pier and a 6 by 24 foot dock on Whites Creek at 27 Indian Hill Lane in Ocean View, Sussex County DE

DFW Comments:

Although we do not have species records at the site proposed for development, the habitat may support one or more species of breeding marsh birds such as state-endangered Black Rail (*Laterallus jamaicensis*). Furthermore, construction at this site could cause disturbance to marsh nesting birds in the adjacent marsh. To minimize impacts to these species during the breeding season, we recommend that that work at this location be avoided from April 1st through July 31st.

Subaqueous Lands Permit and Water Quality Application

Dewey Beach Enterprises- (3-34-23.06-1.00)-To place approximately 1,000 cubic yards of sand for beach replenishment between Dickinson Avenue and Van Dyke Avenue in Dewey Beach, Sussex County, DE

DFW Comments:

To minimize potential impacts to horseshoe crabs, we recommend a TOYR of **April 15th to August 30th** for in-water work. The use of sand of similar grain size to that which currently exists is also recommended.

Subaqueous Lands Lease Supplemental Application

Isabelle Trombetta (2-33-1.00-57.00)-To install a boat lift with four associated pilings and two 16 inch by 20 foot long catwalks connecting to a previously authorized structure at 29585 Nor'Easter Drive, Millsboro, Sussex County, DE

DFW Comments: None

Subaqueous Lands Lease Renewal Application

Mark Duber (3-34-13.12-2.00)-To maintain a 4 by 20 foot long pier, a 6 by 25 foot long dock, a 5 by 30 foot long dock, an elevator style boat lift, and a PWC lift on the Lewes Rehoboth Canal at 71 Tidewaters, Henlopen Acres, Rehoboth Beach, Sussex County, DE

DFW Comments: None

Subaqueous Lands Lease Application

Robert Lank (533-19.12-61.00)-To install a 21 by 17.5 foot long floating double PWC dock and kayak launch on Roy Creek at 37679 Pine Road, Keenwik On The Bay, Selbyville, Sussex County, DE

DFW Comments: None

Subaqueous Lands Lease and Marina Permit

Lawton Family-Ribinsky (234-18.00-51.06)-To construct a new 10 slip marina consisting of a 4 by 123 foot long pier, six (6) 2 by 24 foot long finger piers, two (2) boat lifts with 4 associated pilings each and 16 free-standing mooring pilings and to authorize a 14 by 16 foot long concrete boat ramp in Herring Creek located northwest of the terminus of Sisters Lane, Millsboro, Sussex County, DE

DFW Comments: We commented on this project for the ACOE application process. Our comments are below.

Fisheries

Due to the significant number of piles being driven for this project, our division fisheries biologists have determined that a time of year restriction (TOYR) for pile driving work is appropriate to protect anadromous species including American Eel, American Shad, Striped Bass, and river herring, as well as the estuary dependent species, Summer Flounder. The TOYR for anadromous species is March 1st through June 30th and the TOYR for Summer Flounder is March 15th through September 30th. Therefore, the Delaware Division of Fish and Wildlife is requesting that a **TOYR from March 1st through September 30th be observed for pile driving activities** to protect the fish species listed above.

Breeding Marsh Birds

Although we do not have species records at the site proposed for development, the habitat may support one or more species of breeding marsh birds such as state-endangered Black Rail (*Laterallus jamaicensis*). Furthermore, construction at this site could cause disturbance to marsh or colonial nesting birds in the adjacent marsh. To minimize impacts to these species during the breeding season, we recommend that that work at this location be avoided from **April 1st through July 31st**.

These Documents/Applications above are available for review by contacting:

Gayle Calder
Wetlands and Subaqueous Lands Section
89 Kings Highway
Dover, DE 19901
(302) 739-9943 FAX (302) 739-6304

If you have any comments, please return this memo to this office by March 10, 2020.

A public hearing on the above applications will NOT be held unless the Secretary of DNREC determines that a public hearing is in the public interest or if a written meritorious objection to the application is received within 20 days from this notice. Please indicate in your letter whether your intention is to request a public hearing or whether you are simply providing comments for the Department's consideration. If a public hearing is desired, please be advised that a public hearing request shall be deemed meritorious if it exhibits familiarity with the application and provides a reasoned statement of the action's probable impact.

PUBLICATION INSTRUCTIONS:

PLEASE PUBLISH AS A 2-COLUMN DISPLAY AD IN THE FOLLOWING:

DELAWARE STATE NEWS- Wednesday February 19, 2020

NEWS JOURNAL - Wednesday, February 19, 2020

BILLING INFORMATION: 400403

DNREC, DWR, Gayle Calder

89 KINGS HIGHWAY, DOVER, DE 19901