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**COMMENTS SUBMITTED FOR ABBY L. PUBUSKY AND THOMAS TAYLOR, II:  
DNREC PUBLIC HEARING DOCKET #2021-P-W-0016 (HELD ON AUGUST 25, 2021)**

I am the agent for the applicants, having prepared and submitted the original DNREC Wetlands and Subaqueous Lands Section permit application in December, 2018 for a proposed wetland walkway and docking facilities adjacent to Herring Creek at their property, 23854 Brant Circle, The Cove, Lewes, Sussex County, Delaware (Tax Map Parcel #2-34-18.00-257.00), as well as subsequent revisions. I am submitting the following comments for the record to clarify my presentation at the hearing.

First, I would like present background information. A subaqueous lands lease (SL-016/99) was issued in 1999 to the previous property owner to authorize the existing docking facility, a 12' x 4' pier and 5' x 25' dock. Even though DNREC jurisdictional wetland map #082, in effect at that time (and still in effect) shows that there are wetlands between the upland area and the waterway, a permit application for a wetland walkway was not submitted, nor was one required nor issued for access to the pier and dock. A 200' walkway would have provided access from the uplands to the docking facility. WSLS Guidelines in effect in 1999 would have authorized a walkway up to 300' in length at the subject property, and in fact, there is a 200' wetland walkway at the adjacent property to the east. In 2005, WSLS guidelines changed, and the maximum length of a wetland walkway was reduced to 150'. Mr. and Mrs. Taylor purchased the property in April, 2018, and in the absence of a walkway, had to take their ATV across the wetlands to reach the dock, but did want to construct an elevated walkway to minimize wetland impacts. Recognizing that a new wetland walkway to the existing docking facility would be in excess of 150', the applicants and I met with representatives of WSLS onsite in July of 2018 to discuss how they would be able to access their dock. Under the 2005 guidelines, a walkway in excess of 150' would not be permitted, so the only option would be to remove the existing structure, and build a new docking facility where it could be accessed by a wetland walkway 150' or less in length. An application for a 150' x 3' wetland walkway, removal of the existing docking facility, and construction of a new structure, consisting of a 34' x 4' pier, a 6' x 50' dock with two boat lifts, and a kayak lift/launch was submitted in December, 2018. There were objections to the project, based among other issues, the width of the waterway and the size of the docking facility. Tyler Brown of WSLS, DNREC went on site in a boat and measured the width of the waterway at mean low water, and determined it was 160' across. So, 20% would allow the applicants to extend the structure 32' channelward of the mean low water line. The applicants' contractor revised the design to comply with the 20% rule, and to reduce the size of the structure. A new plan was submitted to WSLS in September, 2020, for a 150' x 3' wetland walkway, and reducing the docking facility to a 10' x 4-6' fixed pier; a 10' x 3' gangway; a 6' x 6' floating pier section; and a 6' x 40' floating dock with a 6' x 10' PWC floating dock. The two boat lifts were eliminated from the revised plan.

Revised plans were again submitted in October, 2020 and in July, 2021, further minimizing the impacts, so that the final plan consists of a **150' x 3' wetland walkway; a 10' x 4' fixed pier; a 10' x 3' gangway; a 6' x 6' floating pier section, and a 6' x 40' floating dock with a 6' x 10' PWC floating dock.** The 40' dock will provide mooring facilities for the applicants' 25' pontoon boat, and an 18' fishing boat, currently owned by relatives, to be purchased and registered by the applicants. WSLs guidelines for docking facilities allow for a dock to be the combined length of the vessels, plus 5' between the vessels. Thus, a 25' boat and an 18' boat would allow for a 48' dock, the applicants are only requesting a 40' dock.

In conclusion, had the original owner been required by WSLs to construct a wetland walkway to provide access from his upland property to the authorized docking facility, this issue would not have arisen. The applicants, having purchased the property after guidelines changed, did not have the opportunity to build a walkway and maintain the existing dock. The applicants have stopped using their ATV to access the existing dock, which will allow impacted wetlands to return to their previous natural condition. We have worked with WSLs throughout this entire process for the past 3 years to design a structure that complies with all WSLs regulations and guidelines, and I respectfully request that their application be approved so that they and their young family can enjoy boating, fishing, and other water-based recreational activities that their neighbors already enjoy.

  
Evelyn M. Maurmeyer, Ph. D. 9/2/2021