

November 11, 2020

ERI Project No: 0975#1046

Ms. Theresa Newman
DNREC, Office of the Secretary
89 Kings Highway
Dover, Delaware 19901

Mr. Matthew Jones
DNREC, Wetlands & Subaqueous Lands Section
89 Kings Highway
Dover, Delaware 19901

**RE: DOCKET #2020-P-W-0014
SUBAQUEOUS LANDS APPLICATION OF JAMES & MEREDITH BRUNER
FOR A PIER, DOCK & TWO BOAT LIFTS
TAX MAP PARCEL: 134-23.12-16.00
BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE**

Dear Ms. Newman & Mr. Jones,

Environmental Resources, Inc. (ERI) is writing you as the applicant's agent and at their request to provide some additional comments with respect to their pending application. Having heard the thoughts of several commentators during the hearing, the Bruner's wish to point out several facts about their project for consideration.

As illustrated on the bathometric survey (Applicants Exhibit 3) prepared and sealed by a licensed Delaware professional engineer, the prevailing depth for navigation in the northerly waters surrounding Fenwick Island along Shultz Road is between 3 to 4 feet mean low water. This is based upon the unofficial but marked channel north-northeast of the Bruner property. As shown on the survey deeper water does exist inshore immediately surrounding the northern point of Shultz Road on all sides, but the prevailing depth to access any parts of surrounding Little Assawoman Bay is 3 to 4 feet mean low water. Measuring the area and depth of water around the proposed dock and four pile boat lift, over 110 feet of water greater than 3.0 feet deep exists north of it. That distance or greater occurs inshore of the Fenwick shoreline all around the Bruner property.

As pointed out at the hearing, the proposed Bruner dock is almost (within less than 2.0 feet) of the submerged deteriorated bulkhead that surrounds the property. The furthest extent of the encroachment beyond the submerged bulkhead is 21 feet as measured from the channelward boat lift piling. I would point out that the Bruner dock also lies somewhat landward of the adjoining property bulkhead wall to the east (Parcel 134-23.12-17.00) by a distance of nearly 5 feet. Looking at encroachment based on that bulkhead line, the Bruner dock and lift is only 17 feet channelward. This location and the fact that the dock and four pile boat lift have been moved as far as possible to the east (near the center of the northern point) minimizes any potential impact on the ability of boaters to view their surrounding as they travel through the area. This is also the case because the Bruner property does not extend out as far as the bulkheaded properties to the south on the west shore and because the northwest corner of the Bruner property is rounded off.

As shown on the bathymetric survey, a wide area of navigable water exists on all sides of the Shultz Road point. Boaters do not navigate in close proximity to the existing bulkhead shorelines as there is simply no need to do so. Boaters, at least legally, cannot travel at high speed through this area as the proximity to moored vessels and developed shorelines puts them in a no wake area.

Should a boater travel on the west side of Fenwick Island headed to or from the aforementioned navigational channel, it is clear based on Applicants Exhibit 3 that the Bruner dock and boat lifts are not within any sight line. As I pointed out earlier, the structure only extends channelward 17 feet from the north face of the Shultz Road point as it is somewhat behind the existing bulkhead to the east. As I pointed out at the hearing, the Bruner structure extends no more than the most minimal dock structures on either side of Fenwick Island north of Dagsboro Street. The claim made by commenters that the dock causes a visual safety hazard is without merit.

Insofar as the suggestion commenters voiced that the Bruner dock should be relocated to the western side of the property, as shown by the bathymetric survey the water depths are too shallow to moor or properly operate a boat lift. Significant wharfing out of 20 feet or more would be required to gain adequate depth. That approach is also likely to adversely impact the existing docking area on the property to the south. I have no doubt that owner would comment with objection should that idea be entertained. As currently proposed Mr. Bruner's dock does not impact anyone.

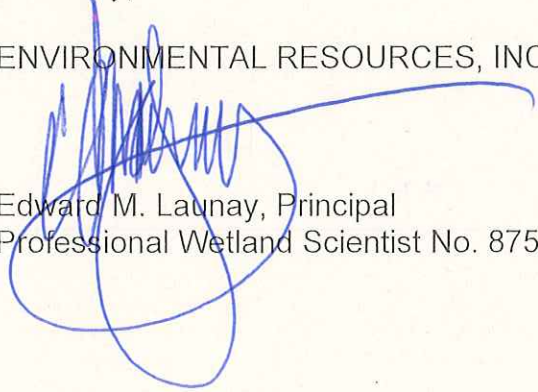
As I pointed out, the views of boaters traveling toward the navigational channel to the north is benefited by the fact that the Bruner shoreline is rounded off at its northwest corner. A clear view is provided as boaters look out to visually locate channel markers. The fact of the matter is that relocation of the Bruner dock to the western side of the property will negatively impact this sighting. Commenters giving the opinion that somehow relocation to the east side enhances boater views and navigational safety are in error. This is clear once careful analysis of the bathymetric survey provided by the applicant is conducted.

During the hearing, several commenters claimed that the waters immediately in front of the Bruner property was a zone which boaters currently use for accelerating and "getting on plane". While the applicants do not believe this to be the case, I do want to point out and will refer you to the DNREC's Division of Fish & Wildlife Boating Regulations, Section B12-6 Vessel Speed. Regulations state that the speeds of all vessels on the "Waters of the State" shall be limited to a "Slow-No Wake" speed within 100 feet of seven types of locations including floats, docks, anchored vessels and moored vessels. In addition, operators are advised to operate at safe and reasonable speeds having regard to conditions such as closeness to shoreline installations and the proximity to other vessels. Due to the proximity of adjacent docking facilities, the Bruner property lies within a "Slow-No Wake" zone. The Department must give no merit to comments claiming that the Bruner waterfront is a high speed area. It is not. Lastly, as the Department is aware a small boat docking facility can be permitted on a property allowing for up to four vessels. The applicants request is to only moor two vessels. The Department routinely allows docking for two vessels on a single residential property.

The Wetlands and Subaqueous Lands Section gave sound guidance with respect to minimizing the scope of this project to the maximum practical extent. The applicant took the Department's recommendations to heart and revised their application. The presently proposed dock and pier meet all the design standards and criteria of the Regulation Governing the Use of Subaqueous Lands. Accordingly, the applicants and I request the Department give positive consideration to this application.

Sincerely,

ENVIRONMENTAL RESOURCES, INC.



Edward M. Launay, Principal
Professional Wetland Scientist No. 875, Society of Wetland Scientists

Cc: J. Russell Bruner