

SaveOS
1217 Sunset Drive
Ocean Springs, MS 39564

DEPARTMENT OF THE ARMY
Attn: Munther N. Sahawneh, District Engineer
Mobile District, Regulatory Division
Post Office Box 2288
Mobile, Alabama 36628-0001

Re: **PUBLIC NOTICE NO. SAM-2023-00580-APS**. PROPOSED IMPACTS TO WATERS OF THE U.S. ASSOCIATED WITH CONSTRUCTION OF A MARINA, INCLUDING PIERS, BULKHEADS, AND DREDGING FOR THE MARINA AND ACCESS CHANNEL OCEAN SPRINGS, JACKSON COUNTY, MISSISSIPPI

April 22, 2024

TO WHOM IT MAY CONCERN:

SaveOS is a 501(c)(4) non-profit organization incorporated on 17 March 2024. Our mission is to protect the charm and historical character of Ocean Springs. The organization was formed by concerned citizens of Ocean Springs in response to actions by the City Alderman and Mayor pursuing:

- aggressive over development of the historic and downtown areas,
- proliferation of bars within the downtown area,
- commercialization of our iconic front beach, and
- further expansion of a noisy, unsafe and crowded entertainment district into residential neighborhoods and onto our beaches.

[SaveOS.org](https://saveos.org) has grown to hundreds of members in a very short time and expects to grow to thousands of members. Our organization is committed to the prioritization of public funding to projects suited to the public interest as defined on our website [saveOS.org](https://saveos.org).

We are adamantly opposed to the poorly placed, and uneconomic marina and associated commercial event space. The applicants proposal reflects a poor understanding of the surrounding complex marine environments and a lack of willingness to listen to citizen input. The project will result in significant damage to the environment, degrade a site of historical significance (lower Jackson Avenue), significantly reduce access to a public beach and recreational area, and diminish the welfare and quality of life of residents of Ocean Springs.

On behalf of our members, SaveOS.org insist that:

- an Environmental Impact Statement, specifically identifying essential fish habitat, be prepared
- an archaeological, both land and water, survey be conducted, overseen by the State Department of Archives and History and administrated by the State Historic and Preservation Officer,
- and a series of public meetings be conducted by the applicant.

Our comments, in the order of the communication provided in PUBLIC NOTICE NO. SAM-2023-00580-APS follow.

PROPOSED WORK:

The area is not blighted

Contrary to statements by the applicant, the area is not blighted. The site has been in use by the public for some time for fishing, recreational walking, and for sunrise church services. There is strong local opposition to the commercialization of the one-mile stretch of front beach, one of Ocean Springs' most cherished and historical assets.

The project would destroy a tranquil and scenic site

It is common to see bald eagles perched on nearby abandoned pier pilings, ospreys fishing along the beachfront, and occasional sitings of river otters in the area.

The community values the area's tranquility and scenic beauty, which the development threatens to destroy. The location is immediately adjacent a property purchased with federal funds and deeded to remain a protected conservation area. The City of Ocean Springs (the applicant) proposes to repurpose this area as a parking lot for the Marina and ancillary commercial event space. The conservation property is immediately backed by a wetlands area where tidal ebb and flow was unfortunately severely restricted when the property was backfilled for construction of apartments in the velocity zone. The apartments were destroyed and the property purchased with Coastal Impact Assistance Program funds.

Alternatives have not been discussed (no public hearing)

A very attractive alternative development to the parking lot-commercial event space-marina development would be to restore sufficient tidal flow to the wetlands area thereby encouraging population and use by wading birds and possibly river otters. The areas on both sides of Front Beach Drive including the conservation property could be incorporated into a public green space-nature park.

The applicant's statement suggesting their proposal would expand park facilities in downtown Ocean Springs which "are very limited and insufficient for the growing volume of pedestrians using this part of the City" is misleading and insincere. The proposed work would convert a deeded conservation area owned by the MS Department of Marine Resources (MDMR) into a parking lot. There is already a commercial park and

event space nearby at the "Fort Maurepas" site with parking, a pavilion, splash park, and event stage.

The residents in the area and members of SaveOS.org are strongly opposed to expanding the noisy and crowded downtown entertainment district to the beachfront for the benefit of a few commercial interests and detriment of the citizens of Ocean Springs who cherish our non-commercial beach.

Justification for the proposal is superficial and insincere

The City's reference to the existing "Ocean Springs Harbor facility at 100% full, with no existing capacity and a more than 18 months waitlist" to justify a new marina at the proposed location is purposefully misleading. The nearby Point Cadet Marina has abundant available slips. There are more than 100 available slips at nearby existing marinas.

The waiting list at Ocean Springs Harbor is easily understood. It is scenic and picturesque. The Harbor is protected having been located in a natural bayou with a tree canopy along the sides of a natural bluff providing added protection. Access to boat slips is along a public street with parking immediately adjacent to the slips. It is owned and operated by the county with an on-site harbor master. Slips are modestly priced. Ocean Springs Harbor will always have a waiting list.

The bulkhead repairs required at the proposed Marina site and the cost of other improvements to provide a storm resilient public (non-commercial) green space are a very small fraction of the cost to build a marina in an exposed and environmentally sensitive location. The proposed Marina would remove a significant part of the beach including areas on either side of its massive foot print from public use for fishing, wading, swimming and use by small sailing craft.

Required hydraulic dredging is extensive due to the shallow water (-4.5 ft MLLW) at the location. Large jetties with broad bases are required due to the exposed location to prevailing and direct line with major and seasonal storm events.

COASTAL ZONE: The application reflects poorly on the applicants understanding of the surrounding complex marine environments and a lack of willingness to listen to citizen input. The citizens of Ocean Springs and the adjacent coastal communities should not be adversely impacted by a lack of understanding of the marine ecosystem and laws governing thereof. This lacking establishes obstacles this project has not considered or acknowledged.

The structure's footprint is so far south of the beach that it will impact all the major recreational and commercial traffic that uses the Davis Bayou channel. This protrusion into the navigable waterway by the marina structure will cause disruption during peak times of summer recreational activities including the small craft sailing regatta events hosted at the Ocean Springs Yacht Club.

The location of the concrete structure and breakwater near the mouth of Davis Bayou at a point where it flows into Biloxi Bay will disrupt the natural ebb and flow of the tides. Rising and falling tides will be forced south around the structure. Tidal flow will undercut one side of the structure and deposit these sediments into the Davis Bayou channel,

adjacent oyster reefs and Biloxi Bay. This will require constant maintenance and upkeep of the structure and the access channel. These associated maintenance activities will, in turn, have constant negative environmental impacts that are not addressed in the original project proposal, including erosion of the adjoining beach.

This more southerly flow will impact critical wetlands to the south. This impact will cause eroding and ultimate destruction of the saltwater marsh, reduce critical habitat of most of our recreational and commercial species including but not limited to all three major species of shrimp, crabs, and finfish.

Much of the undercut sediment will be transported into the Davis Bayou channel, onto adjacent oyster reefs and out into Biloxi Bay. This will then result in continuous dredging projects for the lifespan of this marina. Applicant has acknowledged this by further proposing a 292 foot steel bulkhead along with a 128 foot riprap structure and reef balls for shoreline protection; additionally, an approximate 2,400 foot rubble mound breakwater. All this will be constantly assaulted by the rise and fall of marine tides including storm and hurricane surges. The applicant has not addressed these extreme weather conditions nor the long-term impacts they will have on the surrounding critical marine habitat. There are no mitigation efforts that will offset the permanent altering of the tides through this critical marine habitat area.

The loss of the normal ebb and flow through this critical narrowing of Davis Bayou will have both short and long-term adverse consequences to all the marine resources in this area. There are few studies that specifically address this area, so current and future impacts will not be known until an environmental impact study (EIS) is completed in the project area. A study of the ebb and flow of tides, movement of sediments and nutrients, identification of all flora and fauna present and their population distribution and abundances is essential to understanding the entire impacts on the marine environments within the project area and adjacent areas.

WATER QUALITY: The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), requires certification for any license or permit that authorizes an activity that may result in a discharge. **The city of Ocean Springs has requested eight variances from MDMR to build the marina in the middle of a swimming beach.** This beach like other beaches along the MS coast already experiences occasional "no swimming notices" due to high bacteria levels.

The proposed marina will directly impact one major recreational reef created by the MDMR and have potentially lesser effects on two nearby reefs. This artificial reef was created in the existing footprint of a naturally occurring oyster reef that was augmented over the years by the previous seafood processing plant located on the property. The proposed marina will impact portions of this reef located north and west, well within the footprint of the proposed marina.

Water quality will be irreversibly and negatively impacted by damage and/ or destruction of oyster reefs due to pollution from vessels located at the marina and

ongoing significant dredging operations required at this location (refer above).

This encroachment into and onto a critical oyster reef is in direct opposition to the conservation and preservation doctrines of the MDMR.

The beach is already at its best and highest purpose considering the delicate environmental attributes of Front Beach.

HISTORIC PROPERTIES: In accordance with Section 106 of the National Historic Preservation Act, and Appendix C of 33 CFR 325, the undertaking defined in this notice must be considered for the potential to affect historic properties. Further coordination with the State Historic Preservation Officer and/or federally-recognized American Indian tribes must be performed as determined to be appropriate.

French explorers landed along this shoreline in 1699. For years, a “replica” fort of early French explorers existed within several hundred feet of the proposed Marina location. Historic local maps refer to possible archaeological remains within and around the project area. A full archaeological study should precede any consideration of a project in the area.

The proposed project would be built at the foot of Jackson Avenue, one of the oldest streets in the State of MS. A historic marker is placed at the foot of Jackson Avenue on the conservation property purchased by the MDMR with CIAP funds and deeded to be preserved in its natural state in perpetuity.

All of lower Jackson Avenue, Front Beach Drive east and west of the proposed Marina site, and the property where the marina, parking lot and commercial event space are proposed are all on the National Register of Historic Places. “Many Oaks” and “The Cedars”, two homes that are on the National Register of Historic Places are immediately across the street from the proposed marina site. These homes and others nearby will be at risk of damage from debris and displaced vessels during major storm events. Lower Jackson Avenue has an additional four properties on the National Register of Historic Places. Along the length of Jackson Avenue which will be a major route for access to the Marina and commercial Event Center, there are dozens of homes locally registered as historic properties including St. Alphonsus Church and St. Alphonsus School.

Ocean Springs is to Mississippi and the upper Gulf Coast as historic Jamestown and Williamsburg are to the VA colonies. The proposed marina, commercial event space and placement of a parking lot on the conservation property would irreparably wreck the ambiance of this historic site, disturb the peace of residents in the area, and put archaeological and historic properties at risk of being lost forever. The scenic view from the top of historic Jackson Avenue south to the entrance to the Gulf of Mexico would be destroyed by these projects.

ENDANGERED SPECIES: Preliminary review of this application and the U.S. Department of the Interior’s List of Endangered and Threatened Wildlife and Plants indicate the following federally-listed species are known or expected to occur within the project area: Eastern black rail (T), Mississippi Sandhill crane (E), Piping plover (T), Red knot (T), Louisiana quillwort (E), Gulf sturgeon (T), West Indian manatee (T), Alabama red-

bellied turtle (E), Alligator snapping turtle (T), Gopher tortoise (T), Green sea turtle (T), Hawksbill sea turtle (E), Kemp's Ridley sea turtle (E), Leatherback sea turtle (E), Loggerhead sea turtle (T). There is designated critical habitat within the project action area. Further coordination with the U.S. Fish and Wildlife Service (USFWS) and NMFS must be performed as determined to be appropriate.

The property immediately north and west of the conservation area that the City proposes to convert to a parking lot was once a marsh area subject to tidal flow. That area was stranded and is largely stagnate due to extensive fill material that was placed in the area before the conservation area was Deeded to the MDMR. A much better use of GOMESA and other public funding would be to re-establish sufficient tidal flow to the stranded marsh with corresponding positive impacts on wildlife including wading birds and otters. Nesting plovers are routinely seen on the property. Otters and manatee have been sited at the proposed marina site or in the immediate area.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposed project would impact large areas of estuarine substrate and emergent wetlands. The proposal provides no serious evaluation of the risk represented by the project to critical marine resources.

The proposed marina will directly impact one major recreational reef created by the MDMR and have potentially lesser effects on two nearby reefs. This artificial reef was created in the existing footprint of a naturally occurring oyster reef that was augmented over the years by the previous seafood processing plant located on the property. The proposed marina will impact portions of this reef located north and west, well within the footprint of the proposed marina. This encroachment into and onto a critical oyster reef is in direct opposition to the conservation and preservation doctrines of the MDMR.

Three reefs will be impacted: the Ocean Springs Community Pier, the Ocean Springs Pier reef and the Ocean Springs Harbor Pier. These reefs are either to the east, west or directly under the proposed structure. All three reefs will absorb some level of negative impacts, as this structure will protrude into Davis Bayou and impact the natural tidal flow; thereby, obstructing critical nutrient flow across these reefs. The DMR once had a goal of a million sacks of harvested oysters. Destruction of the artificially enhanced natural reef will lessen the ability to ever reach this lofty goal. Moving this reef is not a reasonable nor judicious alternative. Under the best conditions the mortality rate for dispossessed oysters is very high. This removal would include destruction to benthic communities and major marine vertebrates and invertebrates.

These oyster reefs are in these specific locations because environmental conditions are extremely favorable for their establishment and continued growth. There are few areas within the Biloxi Bay that have the essential bottom type and environmental conditions that would allow for these transplanted oysters to survive and thrive. The MDMR recently expended hundreds of thousands of dollars to place an experimental oyster clutch area immediately to the south of the proposed marina site. This site would be effectively negated by the construction and ongoing dredging required for the marina. Moving im-

pacted reefs would incur extreme mortality rates that would negate their movement. The loss of these oyster reefs to the recreational community will limit recreational opportunities. Recreational fisherman that cannot afford the larger offshore boats are limited to these unique fishing opportunities.

The responsibilities of MDMR include protection of essential marine plant life. This stretch of beach is one of the few left that has critical plant vegetation, both potentially submerged and emergent marine plants. A submerged aquatic vegetation (SAV) survey should be conducted to ensure the presence or absence of SAV and, if present, subsequent mitigation efforts.

An examination of the governing sections of the administrative code in all instances would not permit establishment of this project. Bypassing or modifications to the administrative code would allow for permanent adverse impacts to a critical marine environment and should not be allowed. In summation, an Environmental Impact Statement study should be conducted, specifically identifying Essential Fish Habitat, an archaeological, both land and water, survey should be required (overseen by the State Department of Archives and History administrated by the State Historic and Preservation Officer) and a series of public meetings should be conducted by the applicant.

Additional COMMENTS: The decision whether to issue a permit must be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision must reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof; conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

The project is poorly placed.

The proposed marina structure will be located in the central area of Davis Bayou in such a manner that it will cause maximum environmental and marine resource damage to the surrounding critical marine habitat. Large expanses of saltwater grasses are located south of proposed area and to the east and west of the proposed project area.

These marsh grasses provide essential fish habitat for all major recreational and commercial finfish species. Additionally, oysters and benthic community will be adversely impacted both long- and short-term. There are no alternatives to the destruction of this habitat; once lost there is fundamentally no way to regain it.

Destruction to these critical marine habitats is in violation both materially and in principle to the Magnuson Stevens Conservation Act (MSCA) 1976 – as amended. Protecting Essential Fish Habitat (EFH) is core to the establishment of the MSCA as stated: pre-

vent overfishing, rebuild overfished stocks, increasing long-term economic and social benefits, ensuring a safe and sustainable supply of seafood, and protecting habitat (necessary for fish to spawn, breed, feed and mature). Areas such as Davis Bayou provide essential fish habitat and are nursery areas for all major marine fish species. As these fish populations mature, many move offshore into adjacent federal waters where they are managed by rules and regulation established by the federally mandated Gulf of Mexico Fisheries Management Council.

The project is not economically viable

No thorough cost-benefit analysis has been presented to justify the project's economic viability. With existing marinas in the vicinity having ample capacity, the necessity and financial logic behind the new marina, at best, are questionable. **The Jackson County Board of Supervisors has refused to support the marina portion of the project because of this issue.**

Citizens do not want the project

Excessive noise and fear of more violent incidents in the downtown area has negatively impacted the quality of life for residents in and around downtown Ocean Springs area. GOMESA funds or other funds available for preserving the state's natural resources should not be used to commercialize Front Beach for the benefit of commercial interests focused on profits from what many citizens believe is an out-of-control alcohol based entertainment district.

The project is expected to exacerbate noise pollution and change the nature and character of the historic setting and neighborhoods along Front Beach Drive and connector streets. The character of these communities and the non-commercial beach front are among some of the best attributes that make Ocean Springs attractive for residents and visitors.

The City has already converted the nearby public park at Fort Maurepas to a commercial event space with regular weekly events with food and alcohol sales. The proposed project would expand these operations along Front Beach Drive directly adjacent historic homes and other residential locations thereby firmly anchoring the City's noisy entertainment district on the beach. The connector from the beach to the noisy, alcohol fueled downtown entertainment area would be along the historic Jackson Avenue.

The development contravenes existing environmental conservation commitments and local zoning thereby carrying significant risk of legal challenge.

Respectfully,



C. Michael Illanne

For the Directors and Members of SaveOS

Copies:

**Mississippi Department of Environmental Quality, Office of Pollution Control, Post Office
Box 2261, Jackson, Mississippi 39225**

**Mississippi Department of Marine Resources, 1141 Bayview Avenue, Biloxi, Mississippi
39530.**