



**US Army Corps
of Engineers**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No. Date
CENAP-OP-R-2010-319-35

Application No. File No.

In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Lavelle Investment Inc.
 1345 Industrial Boulevard
 Southampton, New Jersey 08088

AGENT: Ian Jerome, President
 Jerome Associates
 426 South Shore Road
 Absecon, New Jersey 08201

WATERWAY: Ottens Harbor and Post Creek

LOCATION: 708 West Burk Avenue, Block 65, Lots 12-18, 21 and 22, and Block 76, Lots 1-29, City of Wildwood, Cape May County, New Jersey (see E-1).

ACTIVITY: Lavelle Investment Inc. has applied for Department of the Army authorization to re-align an existing bulkhead along both Ottens Harbor and Post Creek and to construct commercial boat mooring at the subject property (see E-2).

The shorelines of both Post Creek and Ottens harbor are currently bulkheaded. The applicant has proposed to straighten the erratic bulkhead line. This would involve filling of 0.02 acres (890 sq. ft.) of open water along the bulkhead and removing fill material from 0.043 acres (1,886 sq. ft.) to create open water along the face of the proposed bulkhead. Approximately 845' of bulkhead would be reconstructed utilizing vinyl material or another non-polluting material.

The commercial mooring facility, located entirely within Ottens Harbor, will accommodate 32 slips along a 4' wide by approximately 460' floating dock. The ends of the private mooring system are 8' wide to accommodate the ramp

and access to the adjacent slips. The docks would be commercially available and to patrons of the restaurant.

A Department of the Army permit was issued to Lavelle Investments on June 24, 2003 to legalize the existing dock structures and the bulkhead along the Post Creek and Ottens Harbor waterfront area. Another permit was issued to the applicant for all the work described above on August 13, 2010 but the proposed work was not performed and the permit expired.

PURPOSE:

The applicants stated project purpose is to construct commercial moorings spaces and to repair/replace a deteriorating bulkhead along the waterfront.

Federal regulations contained in 33 CFR 325.1(d)(7) require applicants to include a statement describing how impacts to waters of the United States are to be avoided and minimized. Furthermore, the application must also include either a statement describing how impacts to waters of the United States are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts. Lavelle Investment LLC has stated that reconstruction of the bulkhead results in the net removal of fill from waters of the U.S., thus demonstrating minimization and negating the need for compensatory mitigation. Additionally, the use of non-polluting materials reduces impacts to aquatic organisms.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Pursuant to Section 106 of the National Historic Preservation Act, the permit area has been so extensively modified that little likelihood exists for the proposed project to impact a historic property.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect Essential Fish Habitat (EFH). A preliminary assessment of the species listed in the "Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware", dated March 1999, specifically page 63, indicates that the work may pose a minimal adverse effect on EFH. Use of non-polluting building materials for reconstruction of the bulkhead and for dock structures on the site would be an appropriate conservation measure to mitigate for chemical contamination of shellfish beds. Additionally, installation of proper sediment and erosion controls during removal of fill material will minimize impacts to EFH habitat, target species and their prey.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

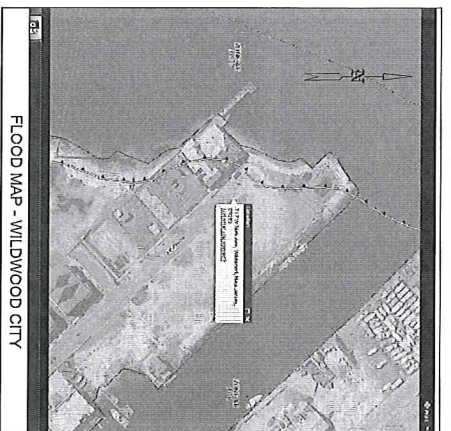
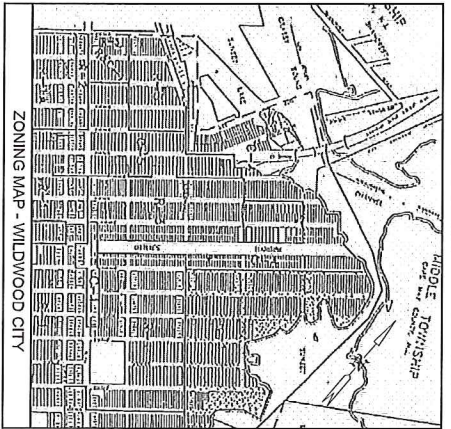
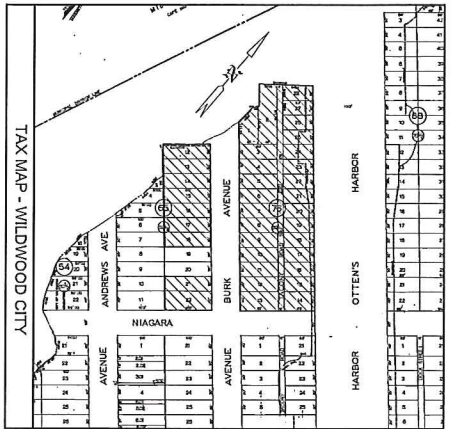
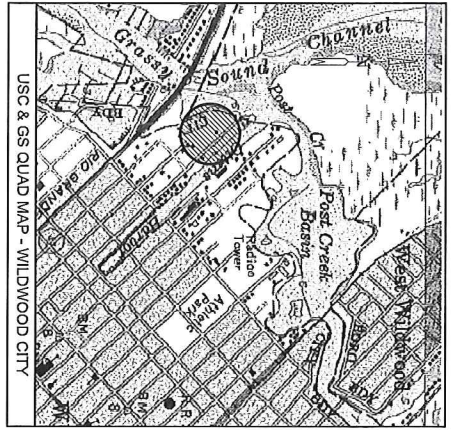
In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Mr. Michael H. Hayduk at (215) 656-5822 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.

Edward E. Bonner
Chief, Regulatory Branch



"THE WHARF"

PROPOSED RESTAURANT EXPANSION, PUBLIC MARINA AND SURFACE PARKING PROJECT CAFRA APPLICATION PLAN SET



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APPROVED FOR CITY OF WILDWOOD



ARTHUR W. PONZIO CO. & ASSOCIATES, INC.
SURVEYORS, PLANNERS, ENGINEERS
400 NORTH DOVER AVENUE, ATLANTIC CITY, N.J. 08401
NEW JERSEY STATE LICENSE NO. 220000000

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ARTHUR W. PONZIO, JR., CIVIL ENGINEER
PROFESSIONAL LAND SURVEYOR N.J. NO. 220000000

JON J. BARNHART, CIVIL ENGINEER
PROFESSIONAL ENGINEER N.J. NO. 220000000

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