

June 24, 2024

100 Miles

Attn: Lericia Harris & Alice Keyes

P.O. Box 2056

Brunswick, Georgia 31521

alice@onehundredmiles.org/lericia@onehundredmiles.org

Subject: CMPA Application Comments

101 & 103 Angler's Way

Brunswick, GA 31523

Dear Ms. Harris and Ms. Keyes,

I would like to begin this response by thanking you for taking the time to review our Public Notice and application. I firmly believe that public participation is a crucial part of the Coastal Marshlands Protection Act (CMPA), especially in terms of the public interest as it applies to each project. I will use this opportunity to better explain our decision-making process in regard to this project, and further explain some of the conditions that led us to the decision to install a bulkhead.

Project Description:

I apologize for any confusion in the project description. The rules governing bank stabilization, or rather the interpretation of the rules, have undergone significant changes over the past few years. We began this process requesting a Letter of Authorization and Revocable License, which then morphed into a CMPA Permit request. Simultaneously, we also submitted applications for private dock at these locations. Due to the application and review requirements, private dock applications are typically processed much quicker than CMPA permit applications. This was the case here as well, the docks were permitted and built while we were still working through the CMPA permit process for the bulkheads. This scenario is consistent with the laws and rules governing private docks, as they are exempt from the CMPA.

To my knowledge, there were no errors in the Public Notice posted by DNR staff, but I understand how this whole process may have looked a little confusing to an outside observer. We are happy to answer specific questions that may arise about the permitting process on our end.

Living Shorelines:

To begin with, I wanted to provide a little insight into my history working on living shoreline projects. I have personally been involved with living shorelines projects as a regulator, a project manager overseeing the engineering and construction process, and as a consultant working on the environmental sustainability and permitting aspect. The projects that I have worked on include several projects on Little Cumberland Island, Tolomato Island, and several others

throughout the state. We have one living shoreline project in Darien which should be on Public Notice very soon.

I bring up my history to highlight that the determination of whether a living shoreline is suitable on any specific project is always a part of our decision-making process when it comes to bank stabilization projects. I agree that incorporating “nature-based solutions” into human development projects can have significant positive impacts on both people and the environment. When a site is suitable for a living shoreline, we always propose this option as a potential solution to the property owner.

Existing Site Conditions:

When we began our initial assessment on this specific project location in 2022. We observed a steep cut bank along Fancy Bluff Creek. The bank can be generally characterized as an abrupt 4–6-foot drop from the upland property, followed by a 1:1 slope extending beyond the mean low water line. We were also able to correlate our field observations to historic waterway and erosion records which indicate an erosion rate of approximately 1 meter per year (GWRAP Map). The existing shoreline was also devoid of any marsh vegetation.

As you mentioned, the upland parcels at this project location do not contain any man-made improvements at this time and in the immediate vicinity of the CMPA line. Based on these observations and research, we made the conclusion that the existing shoreline’s natural state is one of perpetual severe erosion. This level of erosion naturally leads to what are better defined as water bottoms as opposed to marshes.

There is some degree of variation between the legal description of Coastal Marshlands as stated in O.C.G.A. § 12-5-282 and what one typically refers to as “marshland” in scientific literature. I would argue that the relevant scientific literature tends towards a definition that necessarily requires vegetated marshlands, whereas the Coastal Marshlands Protection Act includes water bottoms as well. This is a key difference that you must take into account when determining how to apply the living shoreline method within the legal framework in the state of Georgia.

A living shoreline, by design, should mimic the natural features that are present in areas immediately surrounding the project location. As discussed, the natural features present on this site are one of a steep erosional cut bank. In contrast, to the west of the project location are approximately a dozen residential lots, all of which have effective shoreline armoring in place as either bulkheads or rip rap. These neighboring properties have remained stable since the year 2000, whereas the area at the proposed site, as well as the lands to the east, have experienced continued erosion at a precipitous rate. The area further to the east does have large, vegetated marsh areas between the high ground and the channel; however, even the vegetation in these locations has not been sufficient to prevent erosion.

The field observations and historical data that is available through various web platforms all indicate that the only way to create a stable shoreline at this location is through traditional

armoring methods such as a bulkhead or rip rap. It is also important to note that in the areas on the east side of Lot 2, where the energy is much lower, natural marsh is present and is not being altered in any way for this project. We have designed this project to specifically address the major erosional problem at hand, while the entire eastern flank of the lot will not be armored and will maintain its beneficial marsh/upland transition zone.

Unsuitability of Living Shoreline at this Location:

If we were to make an attempt at forcing a living shoreline in this situation, we would be left with two options to acquire the required slope; either fill water bottoms at a distance of up to 21 feet into the channel, or cutting the high ground back approximately 21 feet. The first option of filling additional water bottoms, or Coastal Marshlands as defined by the Act, would result in major obstructions to the natural flow of navigational water and would be directly in opposition to the Public Interest as defined in part 1 of the Public Interest consideration in the Act.

(1) Whether or not unreasonably harmful obstruction to or alteration of the natural flow of navigational water within the affected area will arise as a result of the proposal;

The alternative of cutting the bank back 21 feet from its existing location would result in a major acceleration of erosion to the properties on the east and west side of the project location. This would similarly be in direct opposition to the Public Interest, in this case part 2 of the Public Interest consideration in the Act.

(2) Whether or not unreasonably harmful or increased erosion, shoaling of channels, or stagnant areas of water will be created; and

This second option would also result in a substantial loss in property value for the property owner, who would in effect be losing land to a quasi-eminent domain interpretation of the CMPA. I do not believe the CMPA was written for this type of implementation, which would protect the marsh by forcing upland owners to turn their land into marsh.

Conclusion:

I want to thank you again for your efforts in promoting sustainability on our 100 miles of coastline and would be happy to help your organization in this endeavor to install more living shorelines. However, like anything, there is a time and place for living shorelines. Unfortunately, the conditions at this project location are not suitable for constructing a living shoreline, and the construction of a bulkhead is the only way to properly prevent further erosion and loss of upland. This project will not result in the loss of any transitional marsh/upland interface, as this interface does not currently exist at the project site due to the existing severe erosion. We respectfully request the Coastal Marshlands Protection Committee approve this project as proposed.

Sincerely,
Sam LaBarba
Coastal Permitting Service

June 26, 2024

Altamaha Riverkeeper
Attn: Maggie Van Cantfort
127 F St #204
Brunswick, Georgia
maggie@altamahariverkeeper.org

Subject: CMPA Application Comments
101 & 103 Angler's Way
Brunswick, GA 31523

Dear Ms. Cantfort,

Erosion at the proposed project location has been documented in detail by Georgia Tech and presented in their Georgia Wetlands Restoration Access Portal (G-WRAP). The historic shorelines at this location have been migrating to the south in the direction of the upland lots since the 1800's. The annual erosion rate is 0.21 – 1 meter per year at the upland/marsh interface where the bulkhead is proposed. In contrast, the rest of the properties on this section of the waterway all have existing shoreline armoring structures and are indicated as having no annual erosion.

This historical documentation shows that the erosion has been occurring before any clearing activities took place on the upland. There is a distinct difference between erosion that occurs as a result of a flowing waterway and that which occurs as a result of rainwater. This project location is experiencing erosion from the waterway scouring the bottom section of the bluff, this causes the deeper sediment layers to be carried away by the current, followed by large collapses in the upper sediment layers which no longer have their support base. This type of erosion is not indicative of rainwater eroding the topsoil first and then eroding lower sediment layers. The photographs you submitted clearly show vegetation still present along the vast majority of shoreline with the roots exposed from undercutting.

All work completed on the upland has followed local, state, and federal laws. This property meets the criteria for exemption 391-3-7-.11(1)(j) in the erosion and sedimentation Rule. I have copied this exemption below for your convenience. This exemption was verified by EPD on January 13, 2023 for this project location. The work conducted on the upland took place through this authorized exemption prior to bulkheads requiring a CMPA permit. When DNR policy changed to require CMPA permits for bulkheads the upland component became part of the evaluation by CRD staff and is clearly indicated in the project drawings and application.

The marsh buffer shall not apply to any lot for which the preliminary plat has been approved prior to December 31, 2015, if roadways, bridges, or water and sewer lines have been extended to such lot prior to December 31, 2015, and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

The application is not meant to be misleading. Neither the applicant nor the DNR staff could have anticipated the application process to take over two years to complete. When the applications were originally submitted, the docks were not yet installed, and a bulkhead did not require a CMPA permit. As the process has evolved over the past two years the applicants have had to modify and amend the application several times, which may have contributed to some confusion. This was not the intent and has also been a difficult situation for the applicant. As you have indicated in your photograph, erosion may be accelerating due to this prolonged delay.

The neighbors were originally notified of the bulkhead in 2022 when the Bank Stabilization Authorization application was submitted. The bank stabilization application is no longer valid and has been replaced by the CMPA permit application. The CMPA permit process involved DNR sending out digital or paper notifications to everyone on the regulatory mailing list, as well as the adjacent property owners. Due to multiple applications being submitted for this project, the neighbors have been notified multiple times and provided the opportunity to provide comments. The project was also posted in local newspapers as is DNR policy.

The project location does not contain marsh vegetation due to excessive erosion. This can be observed in the photographs submitted with the application, the G-WRAP marsh classification layers, and also from the photographs that you submitted in your comments. Marsh die off cannot occur if there is no marsh present. It is also important to note that the absence of marsh vegetation is a primary indicator of erosion. The neighboring properties to west will not be at risk because they already have bulkheads or rip rap in place, and to the east there is extensive marsh vegetation between the upland and the channel. This is the reason the bulkhead does not extend to lot 3 which is also owned by the applicant. The bulkhead is being proposed only in the areas where it is necessary.

As the consultant, we are aware of the negative and positive impacts of bulkheads and other types of shoreline stabilizations. Determining the best solution to an erosion problem always involves a detailed cost/benefit analysis with our client, and we regularly request advice from DNR staff. I have attached our response to 100 Miles comments which provides greater detail on the decision-making process in this scenario.

At this location severe erosion is apparent through on-site observations as well historical data that was included in the application and discussed in this letter. The alternative to stabilizing this shoreline is for the applicant to give away their upland to the marsh, we do not believe this is a reasonable expectation of any property owner.

Sincerely,

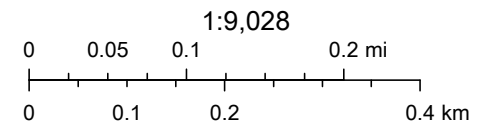
Sam LaBarba
Coastal Permitting Service

ArcGIS Web Map



11/1/2022, 9:55:39 AM

- Glynn County Parcels 2020
- 1930s to 2000s hotspots
- 0.20 - 0.20
- 0.21 - 1
- 1 - -0.21
- > 1
- < -1



Chester W. Jackson Jr., Ph.D.
Assistant Professor of Geology

Web AppBuilder for ArcGIS