



November 24, 2020

Ms. Deb Barreiro
Georgia Department of Natural Resources
Coastal Resources Division
One Conservation Way
Brunswick, GA 31520

RE: Comments on CMPA permit application submitted by the City of Tybee Island for the fill of coastal marshlands for a city road and private driveway on Chimney Creek in Chatham County

Dear Ms. Barreiro,

Thank you for the opportunity to comment on the Coastal Marshlands Protection Act permit application submitted to the Georgia Department of Natural Resources, Coastal Resources Division (CRD) by the City of Tybee Island for the fill of coastal marshlands for a city road and private driveway on Chimney Creek in Chatham County. These comments are submitted to you on behalf of One Hundred Miles, a non-profit organization dedicated to protecting and preserving Georgia's 100-mile coast through education, advocacy, and community engagement. We represent more than 800 members in coastal Georgia and throughout the nation.

To preface our comments on the application, we acknowledge the difficult position of the homeowners situated on the hammock at the end of Polk Street. These private homes were originally constructed in over 70 years ago, preceding the Coastal Marshlands Protection Act (CMPA), and certainly preceding a sound understanding of the impact rising sea levels would have on homesteads on Tybee Island. It is understandable that the petition is being made that would allow the landowners to continue to use the driveway that has historically provided safe and dependable access. It is also understandable that the City of Tybee Island would be interested in protecting the safety of the city residents. However, the question before the CMPA Committee (the Committee) is whether this project is in the best interest of the public and that no feasible alternative exists.

Acknowledging the difficult position of the homeowners and the City, but holding firm to the charge of the CMPA, we must recommend that the Committee deny the permit to the applicant.

- 1) Overall, the project provides only a short-term band-aid to the larger impending problem of rising sea levels. Mean sea level around Tybee Island has risen 11 inches since the driveway to the Polk Street hammock was constructed around 1950.¹ Furthermore, research documents that regular conditions are changing rapidly, and extreme conditions once expected to occur occasionally are occurring more regularly. Since 2010, there has been an

¹ NOAA Tides & Currents website – Ft. Pulaski station.
<https://tidesandcurrents.noaa.gov/waterlevels.html?id=8670870&bdate=19500101&edate=20171231&units=stand&timezone=GMT&interval=m>

exponential increase in the number of extreme tides per year.² The application fails to adequately address the challenges brought about by rising sea levels and continued flooding.

Considering the current flooding on the site and the expected increase in coming years, the only dependable way to meet the needs of the applicant and minimize impact to the marshlands is to construct a permanent bridge to the hammock. Constructing a bridge would be notably more expensive (as described in the project packet) but is the most viable alternative and longer-term solution to continuing access to the homes on the Polk Street hammock. Other alternatives such as an elevated walkway through the right of way (ROW) to the private property boundary could also be considered. This type of alternative would allow the City to provide emergency medical service, should the occasion arise, but would not compel the state to issue a CMPA permit for residential use nor would it obligate the local government to build up or maintain a private driveway.

- 2) The project is not water related or dependent on waterfront access. O.C.G.A. Section 12-5-288 (a) explains, "If the project is not water related or dependent on waterfront access or can be satisfied by the use of an alternative non-marshland site or by use of existing public facilities a permit usually should not be granted..." The applicant certifies that the project is NOT water related or dependent on waterfront access by describing the request to the Committee for, "...authorization for impacts associated with maintenance of Polk Street and a driveway which provides access to Mike Leonard's primary residence." (see letter from Alton Brown to CRD September 17, 2020).
- 3) The project is contrary to the public interest. The CMPA describes restrictions on granting permits for activities and structures that are, "considered contrary to the public interest."³ The list of activities, "normally considered to be contrary to the public interest when located in coastal marshlands..." includes O.C.G.A Section 12-5-288 (b)(1) filling of marshlands for residential uses and (b)(2) filling of marshlands for private parking lots and private roadways. Although the City of Tybee is the applicant, the public ROW from Highway 80 is requested to be maintained only as an extension of the driveway to the private residence.
- 4) The project is not exempt under the CMPA. O.C.G.A. Section 12-5-295 lists the projects that can be exempted from permitting through the Committee, including maintenance of drinking water lines for political subdivisions. It appears that the private residences on the Polk Street hammock utilize the city water system, however the two homes are not considered a political subdivision, and therefore not exempt from the act. Additionally, the project is not a Department of Transportation (DOT) project, and it is clearly not a project to maintain drainage ditches – both explicit exemptions in the CMPA.
- 5) The application and public notice mis-represent the amount of fill needed for the project because calculations are based on an outdated topographic survey. Despite requests from CRD staff (see the letter from Deb Barreiro on October 20, 2020), the applicant has failed to provide an updated topographic survey necessary to determine the appropriate amount of fill material needed for this project. As advertised in the public notice, "Based on a 2010 topographic survey the applicant estimates approximately 182 tons of unspecified stone and an additional 1.008 cubic yards (84 truckloads) of fill material will be needed to construct an

² Dahl, Kristina, M.F. Fitzpatrick, E.Spanger-Siegfried. "Sea level rise drives increased tidal flooding frequency at tide gauges along the U.S. East and Gulf Coasts: Projections for 2030 and 2045" Available online: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0170949>

³ O.C.G.A Section 12-5-288

8 foot wide travel lane..." Sea level, as measured by a National Oceanic and Atmospheric Administration (NOAA) gauge at Fort Pulaski National Monument, has increased 11 inches since 1950, but since 2010 the rate of acceleration has increased significantly, now rising by over an inch every 2 years.⁴ Considering the significant changes in water levels since 2010, the year the topographic survey was conducted, the advertised volume of fill is significantly underestimated and the full impact to coastal marshlands is mis-represented in the public notice.

While we sympathize with the homeowners on the Polk Street hammock, we cannot recommend the Committee grant the applicant the CMPA permit. This project offers only a short-term band-aid to problems that will certainly get worse as sea levels continue to rise. Furthermore, the application does not accurately estimate a realistic amount of fill material that will impact the public marshlands. Above all else, the project is contrary to the public interest, as clearly stated in the CMPA.

Thank you for your consideration of these comments. Contact me at any time should you have question or need additional information – 912.230.6494 or alice@onehundredmiles.org.

Sincerely,

Alice M. Keyes

Alice M. Keyes
VP of Coastal Conservation
One Hundred Miles

⁴ NOAA Tides & Currents website – Ft. Pulaski station.
<https://tidesandcurrents.noaa.gov/waterlevels.html?id=8670870&bdate=19500101&edate=20171231&units=standard&timezone=GMT&interval=m>

From: [Clark Alexander](#)
To: [Barreiro, Deb](#)
Subject: Public Notice - City of Tybee Island
Date: Tuesday, November 24, 2020 5:30:13 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms Barreiro,

I am writing to provide comment on the request by City of Tybee Island to fill marsh to create a causeway to the dwelling of a single individual. This individual should be the applicant, not the City. The City has no public need to build a partial causeway out into the marsh. This activity is not in the public interest and directly results from the homeowner not maintaining their causeway, as have been done by other nearby homeowners as can be seen in aerial imagery. This previously serviceable causeway has been allowed to fall into disrepair and marshlands have reclaimed it. As such, the fact that a 6-y old study assessing the area does not indicate any increased barrier to flow or damage to the marsh is immaterial. That study was performed when the road was higher and sea level lower. The marsh is now flooded often, and any new causeway would certainly lead to loss of marsh area and function. Further, there is an alternative and less impactful means of accessing the hammock – by boat. There is a floating dock on the south end of the hammock, which appears to have water at all stages of the tide. And as an aside, I believe that this application is not accurate, and thus incomplete – it stipulates that there are two occupied dwellings on the hammock, whereas the Chatham county tax property records on the SAGIS website states that there is only one. If only one, that would further decrease the importance of providing this access because it does not serve multiple homeowners.

Thank you for considering my comments,

Clark Alexander, PhD
Coastal Marshlands Committee member 1998-2006

clark.alexander@skio.uga.edu
912.598.2329



2 December 2020

Georgia Department of Natural Resources
Coastal Resource Division
Attn: Ms. Deb Barreiro
deb.barreiro@dnr.ga.gov

**Subject: Response to Public Notice Comments
Polk Street
Chatham County, Georgia**

RLC# 08-028

Dear Ms. Barreiro:

In an email dated 25 November 2020, you provided comments received during the Coastal Marshlands Protection Act Application public notice issued for the Polk Street maintenance project. As you requested, the following provides the name of the commenting individual or agency and a response to each comment.

One Hundred Miles: In a letter dated 24 November 2020, the One Hundred Miles provided comments regard the proposed project.

Comment 1: *Considering the current flooding on the site and the expected increase in coming years, the only dependable way to meet the needs of the applicant and minimize impact to the marshlands is to construct a permanent bridge to the hammock. Constructing a bridge would be notably more expensive (as described in the project packet) but is the most viable alternative and longer-term solution to continuing access to the homes on the Polk Street hammock. Other alternatives such as an elevated walkway through the right of way (ROW) to the private property boundary could also be considered. This type of alternative would allow the City to provide emergency medical service, should the occasion arise, but would not compel the state to issue a CMPA permit for residential use nor would it obligate the local government to build up or maintain a private driveway.*

Response 1: Per the cross-section depicted on Sheet C5 of the permit drawings, the City of Tybee and Mr. Leonard have proposed a project which includes raising the elevation of the existing road to an elevation 7.0' NAVD29 which is the elevation of many existing roads and causeways on Tybee and along the coast of Georgia (i.e. Catalina Drive, Campbell Avenue, Solomon Avenue, and most of the roads on the north end of Tybee). While an elevated walkway through the right of way does not provide adequate emergency access, the proposed road will allow the City to provide emergency medical service, should the occasion arise.

Comment 2: *The project is not water related or dependent on waterfront access. O.C.G.A. Section 12-5- 288 (a) explains, "If the project is not water related or dependent on waterfront access or can be satisfied by the use of an alternative non-marshland site or by use of existing public facilities a permit usually should not be granted..." The applicant certifies that the project is NOT water related or dependent on waterfront access by describing the request to the Committee for, "...authorization for impacts associated with maintenance of Polk Street and a driveway which provides access to Mike Leonard's primary residence." (see letter from Alton Brown to CRD September 17, 2020).*

Response 2: The project is not dependent on waterfront access like a dock, marina, boat ramp, barge facility, tugboat facility, etc. However, the project is clearly water related since the entire purpose of the project is to perform maintenance of an existing road to minimize flooding. The proposed road maintenance cannot be satisfied by use of an alternative non-marshland site because the existing roadway extends through the marsh to an island surrounded by marsh.

Comment 3: *The project is contrary to the public interest. The CMPA describes restrictions on granting permits for activities and structures that are, "considered contrary to the public interest." The list of activities, "normally considered to be contrary to the public interest when located in coastal marshlands..." includes O.C.G.A Section 12-5-288 (b)(1) filling of marshlands for residential uses and (b)(2) filling of marshlands for private parking lots and private roadways. Although the City of Tybee is the applicant, the public ROW from Highway 80 is requested to be maintained only as an extension of the driveway to the private residence.*

Response 3: The proposed project consists of maintenance of an existing road. The project area totals 812 linear feet of existing road. Approximately 582 linear feet of the roadway is within City of Tybee right-of-way and 230 linear feet is within property owned by Mr. Leonard. While the City of Tybee is the applicant for the project, construction cost will be shared by both the City of Tybee and Mr. Leonard. Each party will be responsible for construction cost within their property. Many private roads and private causeways providing access to single family residences (both within and outside private residential subdivisions) are present along the coast of Georgia. Obviously the CMPA never intended to prohibit maintenance of these private roads and driveways to existing residences.

Comment 4: *The project is not exempt under the CMPA. O.C.G.A. Section 12-5-295 lists the projects that can be exempted from permitting through the Committee, including maintenance of drinking water lines for political subdivisions. It appears that the private residences on the Polk Street hammock utilize the city water system, however the two homes are not considered a political subdivision, and therefore not exempt from the act. Additionally, the project is not a Department of Transportation (DOT) project, and it is clearly not a project to maintain drainage ditches – both explicit exemptions in the CMPA.*

Response 4: No response required.

Comment 5: *The application and public notice mis-represent the amount of fill needed for the project because calculations are based on an outdated topographic survey. Despite requests from CRD staff (see the letter from Deb Barreiro on October 20, 2020), the applicant has failed to provide an updated topographic survey necessary to determine the appropriate amount of fill material needed for this project. As advertised in the public notice, “Based on a 2010 topographic survey the applicant estimates approximately 182 tons of unspecified stone and an additional 1.008 cubic yards (84 truckloads) of fill material will be needed to construct an 8 foot wide travel lane...” Sea level, as measured by a National Oceanic and Atmospheric Administration (NOAA) gauge at Fort Pulaski National Monument, has increased 11 inches since 1950, but since 2010 the rate of acceleration has increased significantly, now rising by over an inch every 2 years. Considering the significant changes in water levels since 2010, the year the topographic survey was conducted, the advertised volume of fill is significantly underestimated and the full impact to coastal marshlands is mis-represented in the public notice.*

Response 5: The “advertised volume of fill” was provided as an estimate for calculating construction cost. While minor changes in topography have occurred as a result of the prohibited maintenance, daily tide events, discrete storm events, etc., these minor changes have no impact on the purpose of the project nor project design. The project area totals 812 linear foot of road. Approximately 582 linear feet of the roadway is within City of Tybee right-of-way and 230 linear feet is within property owned by Mr. Leonard. Maintenance activities will occur within 769 linear feet and the remaining 43 feet within the project area that does not require maintenance will remain undisturbed. Acre and square foot impacts to coastal marshlands based on the current CMPA line are as follows:

Impact Location	Impact Purpose (ac)	Leonard (ac/sf)	City (ac/sf)	Total (ac/sf)
Upland Roadway Area	N/A	N/A	N/A	N/A
Jurisdictional Dirt Roadway Area	Elevate Road	0.05/2178	0.11/4791.6	0.16/6969.6
Jurisdictional Gravel Roadway Area	Elevate Road	0/0	0.05/2178	0.05/2178
Vegetated Marsh Area	Shoulder Slope	0.04/1742.4	0.05/2178	0.09/3920.4
Project Area Total		0.09/3920.4	0.21/9147.6	0.3/13,068

Regardless of final volume requirements, the permit will limit the footprint of impact to the linear footage and acreage measurements outlined above and depicted on the permit drawings.

Clark Alexander: In an email dated 24 November 2020, Mr. Alexander provided comments regarding the proposed project.

Comment: I am writing to provide comment on the request by City of Tybee Island to fill marsh to create a causeway to the dwelling of a single individual. This individual should be the applicant, not the City. The City has no public need to build a partial causeway out into the marsh. This activity is not in the public interest and directly results from the homeowner not maintaining their causeway, as have been done by other nearby homeowners as can be seen in aerial imagery. This previously serviceable causeway has been allowed to fall into disrepair and marshlands have reclaimed it. As such, the fact that a 6-y old study assessing the area does not indicate any increased barrier to flow or damage to the marsh is immaterial. That study was performed when the road was higher and sea level lower. The marsh is now flooded often, and any new causeway would certainly lead to loss of marsh area and function. Further, there is an alternative and less impactful means of accessing the hammock – by boat. There

is a floating dock on the south end of the hammock, which appears to have water at all stages of the tide. And as an aside, I believe that this application is not accurate, and thus incomplete – it stipulates that there are two occupied dwellings on the hammock, whereas the Chatham county tax property records on the SAGIS website states that there is only one. If only one, that would further decrease the importance of providing this access because it does not serve multiple homeowners.

Response: Mr. Leonard has been working with the City of Tybee on maintenance of Polk Street since 1996. Mr. Leonard does not own and cannot perform maintenance activities within the 582 linear feet of the project located within City of Tybee right of way. The City of Tybee is not responsible for construction costs or future maintenance costs of any portion of the project located within private property. As noted above, the City of Tybee is the applicant for the project but both parties will share in the construction cost. The City of Tybee will be responsible for construction and any future maintenance costs within the City right of way and Mr. Leonard will be responsible for construction and any future maintenance costs within his property. Any changes in roadway or sea level elevation since completion of the hydrology study are immaterial and have no impact on the results of the report. The marsh was flooded at the time of the hydrology study, is currently flooded and as documented by the hydrology study will be flooded post road maintenance. There are two occupied dwellings on the property (including Mr. Leonard's house and a guest house).

If you have any questions or require additional information to publish the public notice, please do not hesitate to contact us at (912) 443-5896. We look forward to presenting the project to the Coastal Marshlands Protection Committee at the December 2020 meeting.

Sincerely,



Alton Brown, Jr.
Principal
Resource & Land Consultants

cc: Mr. Shawn Gillen - City of Tybee
Mr. Bubba Hughes – City of Tybee
Mr. H.L. Scottie Hendrix – Weiner Shearouse
Mr. Mike Leonard
Mr. Mike Smith
Dr. Clark Alexander
Ms. Alice Keyes – One Hundred Miles

From: [Barreiro, Deb](#)
To: [Noble, Josh](#)
Cc: [Andrews, Jill](#)
Subject: FW: Polk Street Maintenance Public Notice Comments
Date: Thursday, December 3, 2020 12:45:57 PM
Attachments: [image001.png](#)

Dr. Alexander requested that additional information be included for consideration for the reasons stated below.

From: Clark Alexander <Clark.Alexander@skio.uga.edu>
Sent: Thursday, December 3, 2020 12:20 PM
To: Barreiro, Deb <Deb.Barreiro@dnr.ga.gov>
Cc: Alice M. Keyes <alice@onehundredmiles.org>; Scottie Hendrix <SHendrix@wswgs.com>; mike@alphacosav.com; Bubba Hughes <bhughes@epa-law.com>; Shawn Gillen <sgillen@cityoftybee.org>
Subject: RE: Polk Street Maintenance Public Notice Comments

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Dear Ms. Barreiro,

It should be clearly stated that Mr. Leonard does not own any of the marshlands surrounding his hammock, including the 230 feet of marsh between his upland and the city's ROW, unless Mr. Leonard has produced a King's or State grant to those marshlands. Mr. Brown's assertion of ownership in several of his question responses is not factual without such.

Thank you for your attention.

Clark Alexander
CMPC member 1998-2006
clark.alexander@skio.uga.edu
912.598.2329

From: Alton Brown <abrown@rlandc.com>
Sent: Thursday, December 03, 2020 5:04 AM
To: Barreiro, Deb <Deb.Barreiro@dnr.ga.gov>
Cc: Alice M. Keyes <alice@onehundredmiles.org>; Clark Alexander <Clark.Alexander@skio.uga.edu>; Scottie Hendrix <SHendrix@wswgs.com>; mike@alphacosav.com; Bubba Hughes <bhughes@epa-law.com>; Shawn Gillen <sgillen@cityoftybee.org>
Subject: Polk Street Maintenance Public Notice Comments

[EXTERNAL SENDER - PROCEED CAUTIOUSLY]

Deb: See attached.

Alton

Alton Brown, Jr. PRINCIPAL

41 Park of Commerce Way, Suite 101

Savannah GA, 31405

O 912 443 5896 **D** 912 480 4402 **C** 912 659 0084

<http://www.rlandc.com>

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