



# City of Galveston

## DEVELOPMENT SERVICES

Coastal Resources Division

CoastalResources@GalvestonTX.Gov | 409-797-3660 | [www.galvestontx.gov](http://www.galvestontx.gov)

To: Jeffrey Hill, Planning Commission Chair  
Planning Commission

From: Dustin Henry AICP, Coastal Resource Manager

Date: Wednesday, April 14, 2021

Re: **20BF-111 (Open Space Reserve 5 and TR 37-1, Sandhill Shores Subdivision)** Request for a Beachfront Construction Certificate/Dune Protection Permit in order to construct a pedestrian pathway for public access to the beach. Property is legally described as Sandhill Shores Addn (2000), ABST 121, OSR 5 (0-5) Acres 0.171 and ABST 121 Page 18, 19 & 22 Hall & Jones Sur TR 37-1 41.982 Acres, a subdivision located in the City and County of Galveston, Texas.  
Applicant and Property Owner: Sandhill Shores POA c/o Bob Dolgin

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### Summary:

The City of Galveston Dune Protection and Beach Access Plan designates the authority to issue Beachfront Construction Certificates/Dune Protection Permits for projects such as new driveways, slabs, ground level enclosures, pedestrian access dune walkovers, sand fences, perimeter fencing, fill projects, dune restoration projects, and for other construction activities landward of 50-feet from the Dune Protection Line<sup>1</sup> to staff.

Ordinarily projects such as these do not require a public hearing with the Planning Commission, as they are administratively reviewed and approved by staff. The Dune Protection Act<sup>2</sup>, however, requires that the applicant notify property owners immediately adjacent to the construction site that a public hearing will be held when a proposed construction activity will result in adverse effects to dunes or dune vegetation and mitigation is required.

The construction of a pedestrian pathway on the subject property, as proposed, would result in unavoidable impacts to dune areas and dune vegetation in the area where the pathway will be designated, therefore a mitigation plan is required to compensate for these unavoidable adverse effects.

The applicant has sent notices to adjacent property owners informing them of the April 20, 2021 Planning Commission meeting, which is an opportunity for the public to provide input on the proposed activities.

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<sup>1</sup> City of Galveston Dune Protection and Beach Access Plan, Section D(5)

<sup>2</sup> Texas Natural Resources Code § 63.056



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### **Planning Commission:**

No action from the Planning Commission is needed at the public hearing. Following the public hearing, staff will ensure the proposed construction activities will conform to the City's Dune Protection and Beach Access Plan and all comments received from the General Land Office before issuing the permit. A copy of the GLO comment letter is enclosed.



TEXAS GENERAL LAND OFFICE  
GEORGE P. BUSH, COMMISSIONER

March 18, 2021

Via Electronic Mail

Dustin Henry, AICP  
Coastal Resources Manager  
Development Services Department  
City of Galveston  
823 Rosenberg, Room 401  
Galveston, Texas 77550-2103

**Beachfront Construction Certificate and Dune Protection Permit in the City of Galveston**

**Site Address:** Open Space Reserve 5 and TR 37-1, Sandhill Shores Subdivision, Access Point 24 Galveston  
**Legal Description:** Sandhill Shores Addn (2000), ABST 121, OSR 5 (0-5) Acres 0.171 and ABST 121 Page 18, 19 & 22 Hall & Jones Sur TR 37-1 41.982 Acres  
**Lot Applicant:** Sandhill Shores POA c/o Bob Dolgin  
**Case Number:** 20BF-111  
**GLO ID No.:** BDCOG-20-0374a

Dear Mr. Henry:

The General Land Office (GLO) has reviewed the additional application materials for a beachfront construction certificate and dune protection permit for the above-referenced location. The applicant proposes to construct a public ADA-compliant pedestrian pathway to the beach using crushed granite in the area landward of the critical dune area and a Mobi-mat in the area within and seaward of the critical dune area. The applicant also proposes to adversely impact 56 cubic yards of dunes and 2,066 square feet of dune vegetation through grading activities. Of the totals indicated above, the applicant proposes to mitigate for 1,411 square feet of impacts to dune vegetation in-place on either side of the proposed pathway and to compensate for impacts to 41 cubic yards of dunes and 655 square feet of dune vegetation in an on-site compensation area seaward of the vegetation line. According to the Bureau of Economic Geology, the area is stable.

Based on the information provided to our office for review, we have the following comments:

- The applicant proposes to adversely impact 56 cubic yards of dunes and to use 15 cubic yards of sand from those dunes as fill material to raise the elevation of the proposed pathway. The GLO has concerns that using 15 cy of dune material as fill for the pathway may not meet the requirements for dune mitigation areas to be continuous with any surrounding naturally formed dunes and approximate the natural position of naturally formed dunes in the restoration area.<sup>1</sup> In addition, over the long-term, there is the potential for erosion from the anticipated foot-traffic to

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<sup>1</sup> 31 Tex. Admin. Code § 15.7(e)(3).

further grade the pathway. The GLO requests that the applicant locate the entirety of the 56 cubic yards of sand from within the adversely impacted dunes to the restoration and compensation area and use beach-quality sand from off-site as fill material to raise the elevation of the pathway.

- The applicant has committed to the long-term maintenance of the pedestrian pathway to the beach to ensure that the pathway remains accessible. The applicant should continuously clear and maintain the pathway to avoid dunes and dune vegetation from migrating to the area within the pathway. Should dunes or dune vegetation migrate into the footprint of the pathway, the applicant is prohibited from adversely impacting the dunes or dune vegetation without first obtaining the appropriate beachfront construction certificate and dune protection permit prior to the additional impacts.
- Paving or altering the ground between the line of vegetation and 25 feet landward of the north toe of the dune is prohibited.<sup>2</sup> The City must ensure the proposed placement of crushed granite complies with this requirement before issuing a permit.
- Dune restoration projects shall extend no more than 20 feet seaward of the landward boundary of the public beach and shall follow the natural migration of the vegetation line.<sup>3</sup> The City shall not allow any person to restore dunes, even within the 20-foot corridor, if the dune restoration project would restrict or interfere with public use of the beach at normal high tide.<sup>4</sup>
- The City must require the applicant to mitigate damage to dunes and dune vegetation so as to provide, when compared to the pre-existing dunes and dune vegetation, an equal or greater area of vegetative cover and dune volume, an equal or greater degree of protection against damage to natural resources, and an equal or greater degree of protection against flood and erosion damage and other nuisance conditions to adjacent properties.<sup>5</sup>
- The applicant must restore or repair dunes using indigenous vegetation that will achieve the same protective capability or greater capability as the vegetation on surrounding natural dunes.<sup>6</sup>
- The restored dune vegetation must be continuous with any surrounding naturally formed dunes and must approximate the natural position and vegetative cover of any naturally formed dunes in the restoration area.<sup>7</sup>
- The City must require the applicant to conduct mitigation and compensation efforts continuously until the repaired, rehabilitated, and restored dune vegetation are equal or superior to the pre-existing dune vegetation. These efforts shall include preservation and maintenance of restoration activities pending completion of mitigation.<sup>8</sup>

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<sup>2</sup> City of Galveston Beach Access and Dune Protection Plan § 29-90(j)(1)(h)(1).

<sup>3</sup> 31 Tex. Admin. Code § 15.7(e)(1).

<sup>4</sup> 31 Tex. Admin. Code § 15.7(e)(2).

<sup>5</sup> 31 Tex. Admin. Code § 15.4(f)(3).

<sup>6</sup> 31 Tex. Admin. Code § 15.4(f)(3)(A)(iv).

<sup>7</sup> 31 Tex. Admin. Code § 15.7(e)(3).

<sup>8</sup> 31 Tex. Admin. Code § 15.4(g)(2).

- The City shall determine a mitigation and compensation project complete when the dune restoration project's position and vegetative cover matches or exceeds the surrounding naturally formed dunes.<sup>9</sup>
- The City shall provide written notification to the GLO after determining that mitigation and compensation is complete. The GLO may conduct a field inspection to verify compliance.<sup>10</sup>
- Since a mitigation plan is required, the applicant must provide landowners immediately adjacent to the tract with notice of the hearing on the permit at least 10 days prior to the hearing.<sup>11</sup>
- As required by the Dune Protection Act, the governing body of the City of Galveston is required to make a determination that there will be no material weakening of dunes or dune vegetation before deciding to issue a dune protection permit.
- The applicant should remove the Mobi-mat prior to any storm events, as indicated in the application.
- Any sand, soil, sediment, or dredged spoil deposited within critical dune areas or seaward of the local dune protection line must be of an acceptable mineralogy or grain size as compared to the sediments found onsite.<sup>12</sup>
- Any sand, soil, sediment, or dredged material deposited within critical dune areas or seaward of the local dune protection line must not contain hazardous substances listed in Volume 40 of the Code of Federal Regulations, Part 302.4, in concentrations that are harmful to people, flora, and fauna as determined by applicable requirements for toxicity standards established by the local, state, and federal governments.<sup>13</sup>
- The proposed construction activities must not result in the potential for increased flood damage to the proposed construction site or adjacent property, result in runoff or drainage patterns that aggravate erosion, cause significant changes to dune hydrology, adversely affect dune complexes or dune vegetation, or significantly increase the potential for washovers or blowouts to occur.<sup>14</sup>
- The City shall not issue a certificate or permit authorizing construction unless the construction activities will minimize impacts on natural hydrology and will not cause erosion of adjacent properties, critical dune areas or the public beach.<sup>15</sup>

If you have any questions, please contact me at (512) 463-5232 or at [michelle.culver@glo.texas.gov](mailto:michelle.culver@glo.texas.gov).

Sincerely,

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<sup>9</sup> 31 Tex. Admin. Code § 15.4(g)(3).

<sup>10</sup> 31 Tex. Admin. Code § 15.4(g)(4).

<sup>11</sup> 31 Tex. Admin. Code § 15.4(f).

<sup>12</sup> 31 Tex. Admin. Code § 15.4(c)(3).

<sup>13</sup> 31 Tex. Admin. Code § 15.4(c)(2).

<sup>14</sup> 31 Tex. Admin. Code § 15.4(d).

<sup>15</sup> 31 Tex. Admin. Code § 15.6(g).

Mr. Henry  
March 18, 2021  
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Michelle Culver  
Beach Access & Dune Protection Program  
Coastal Resources Division  
Texas General Land Office