



19BF-097

STAFF REPORT

ADDRESS:

Beachside Village

LEGAL DESCRIPTION:

Property is legally described as Beach (0-16) Beachside Village (2004), Beachside Village Section 4 (2016), Open Space and Beach Access (0-3), Beachside Village Section 5 (2019) Beach Reserve and Open Space Access, a subdivision located in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Debbie Reinhart

PROPERTY OWNER:

Beachside Village, HOA, Inc.

REQUEST:

Beachfront Construction Certificate/Dune Protection Permit for Annual Beach Maintenance.

APPLICABLE LAND USE

REGULATIONS:

Chapter 29, Article 2, Beach Access Dune Protection and Beachfront Construction Regulation.

STAFF RECOMMENDATION:

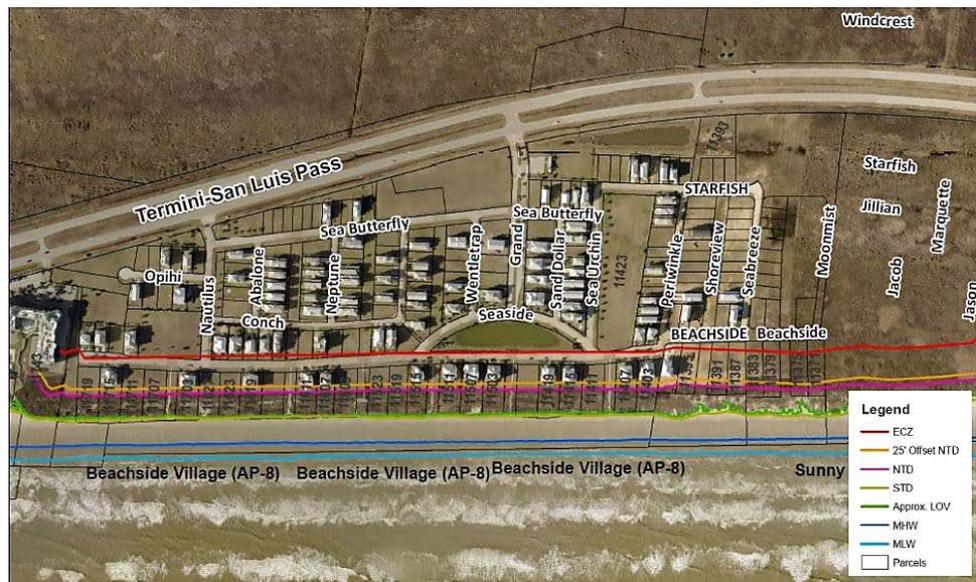
Approval with Conditions

EXHIBITS:

- A – Aerial Map
- B – Site Plan & Narrative
- C – Site Photos
- D – GLO Comments

STAFF:

Virginia Greb
Coastal Resources Asst.
Mgr.
VGreb@GalvestonTX.gov



Note: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

The data presented on these pages is not legally binding on the City of Galveston or any of its departments. These maps and the associated data are representations ONLY and may contain errors in the databases. Therefore, the information presented on this map is for informational purposes only and should not be construed to be legally binding.

Executive Summary:

The City of Galveston’s Dune Protection and Beach Access Plan designates the Planning Commission as the authority to review and consider for approval of applications for a Beachfront Construction Certificate/Dune Protection Permit when the proposed construction activities will occur in areas within or seaward of the Dune Conservation Area or up to 50-feet landward of the Dune Protection Line. The Dune Protection Line is defined as the area within 25-feet landward of the north toe of the critical dune area, or for those beach areas where no dunes exist west of the terminus of the Seawall, within 200-feet landward of the line of vegetation.

The applicant is requesting approval to conduct annual beach maintenance activities on approximately 3,000 linear feet of beach in the Beachside Village Subdivision. The proposed beach maintenance area is seaward of the Dune Protection Line and within the Planning Commission review area. The applicant proposes to conduct beach maintenance activities on the beach between the Line of Vegetation and the 3.0-foot elevation contour on an as-needed basis bi-weekly. For clarification, bi-weekly is defined as twice a month.

Site and Surrounding Area:

The subject site totals approximately ~3,000 linear feet of beach in the Beachside Village Subdivision. There are single and multi-family dwellings located to the North of the proposed beach maintenance area and beach area to the South, East, and West. According to the Bureau of Economic Geology, between the 1950s and 2012, this beach area has experienced an average shoreline change rate of -9 to -11 feet per year.

Analysis:

The table below summarizes details from the applicant site plan and narrative (Attachment “B”) regarding the proposed annual beach maintenance area in linear feet:

Location	Linear Feet
Beachside Village	3,000

In accordance with Chapter 29: Planning – Beach Access Dune Protection & Beach Front Construction, before issuing a permit, the Planning Commission must find that the proposed construction conforms with the following Beachfront Construction Certificate and Dune Protection Permit standards:

(1) The proposed activity is not a prohibited activity as defined in these standards.

The request conforms to the City of Galveston’s Dune Protection and Beach Access Plan, and Erosion Response Plan. The site plan and narrative, (Attachment “B”), are submitted with this request.

Staff has reviewed the application materials and no prohibited activities seaward of the Dune Protection Line have been identified.

(2) The proposed activity will not materially weaken dunes or materially damage dune vegetation seaward of the Dune Protection Line based on substantive findings as defined in "Technical Standards" of these standards.

According to Section 29-2(k) Technical Standards, the Planning Commission shall not approve an application for construction if it is determined that it will result in a material weakening and material damage of dune vegetation. The following standards are to be used to make this determination:

- a. The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property;
- b. The activity shall not result in runoff or drainage patterns that aggravate erosion on or off the site;
- c. The activity shall not result in significant changes to dune hydrology;
- d. The activity shall not result in adverse effects on dune complexes or dune vegetation;
- e. The activity shall not significantly increase the potential for washovers or blowouts to occur; or
- f. The Commission shall not issue a Beachfront Construction Certificate and Dune Protection Permit authorizing construction unless the construction and property design is designed so as to minimize impacts on natural hydrology. Such projects shall not cause erosion to adjacent properties, critical dune areas, or the public beach.

The Technical Standards also state that the Planning Commission should take into consideration all comments from the Texas General Land Office when deciding whether to grant a Beachfront Construction Certificate/Dune Protection Permit. Comments from the Texas General Land Office for this request are found in Attachment “D” and

recommended as specific conditions for this request, should the Planning Commission approve this request.

The proposed construction will be required to be consistent with FEMA minimum requirements, which should not increase the potential for increased flood damage to the construction site or adjacent property.

As a result of the activity, the applicant is prohibited from affecting runoff or drainage patterns that would aggravate erosion on or off site, result in significant changes to dune hydrology, or significantly increase the potential for washovers or blowouts to occur. Runoff should be directed away from the dune area. The applicant is required to direct all non-natural drainage on the lot away from the beach and dunes, and toward the drainage infrastructure in the subdivision and in the street landward of the lot. Drainage plans are to be reviewed and approved by the City Engineering Department.

Staff finds that the proposed beach maintenance activity will not materially weaken dunes or materially damage dune vegetation, as defined by these Technical Standards because the proposed beach maintenance activities are to be conducted between the 3.0-foot elevation contour and Line of Vegetation at scheduled times.

(3) There are no practicable alternatives to the proposed activity that is located seaward of the Dune Protection Line and adverse effects cannot be avoided as provided in the Mitigation sequence as outlined in these Standards.

The City's Dune Protection and Beach Access Plan states that the Planning Commission shall utilize the Mitigation Sequence in determining whether to issue a permit for an activity located seaward of the Dune Protection Line, after the determination that no material weakening of dunes or material damages to dunes will occur within critical dune areas or seaward of the Dune Protection Line. The mitigation sequence is as follows:

- 1) **Avoid** the impact altogether by not taking a certain action or parts of an action;
- 2) **Minimize** impacts by limiting the degree or magnitude of the action and its implementation;
- 3) **Rectify** the impact by repairing, rehabilitating, or restoring the affected environment; and,
- 4) **Compensate** for the impact by replacing resources lost or damaged.

According to the application materials, the entirety of the proposed beach maintenance activities will be located seaward of the Dune Protection Line between the 3.0-foot elevation contour and Line of Vegetation at scheduled times. Therefore, no adverse effects to dunes or dune vegetation are anticipated.

(4) The applicant's mitigation plan, for an activity seaward of the Dune Protection Line, if required, will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects.

Staff finds that the proposed activity will not materially weaken dunes or materially damage dune vegetation and no adverse effects to dunes or dune vegetation are expected as the proposed beach maintenance activities are between the 3.0-foot elevation contour and Line of Vegetation at scheduled times.

(5) The proposed activity complies with any applicable requirements of: Requirements for Beachfront Construction Certificate and Dune Protection Permits and Management of the Public Beach of this Section; and

The application conforms to the City of Galveston's requirements for a Beachfront Construction Certificate and Dune Protection Permit, and the City's requirements for the management of the public beach.

(6) The structure is located as far landward as practicable.

This standard does not apply. A structure is not being proposed for construction. The applicant is proposing annual beach maintenance activities.

Staff Recommendation:

Staff recommends approval of 19BF-097 with the following conditions:

Specific Conditions to Case 19BF-097:

1. The applicant may conduct proposed beach maintenance activities on the beach between the Line of Vegetation and the 3.0-foot elevation contour on an as-needed basis bi-weekly, on approximately 3,000-feet of beach in front of Beachside Village. For clarification, bi-weekly is defined as twice a month, not twice a week. If the applicant proposes to increase beach maintenance activities to more than twice a month, an amendment to the original application shall be submitted for review / consideration. The Texas Administrative Code Rule 15.7 (l) states that local governments shall prohibit beach maintenance activities unless maintenance activities will not materially weaken dunes or dune vegetation or reduce the protective functions of dunes.
2. Removal or destruction of dune vegetation within the area seaward of the Dune Protection Line is prohibited (per Section C of the City's Dune Protection & Beach Access Plan). Chapter 8 of Municipal Code prohibits the operation of a motor vehicle upon, over, or across a sand dune (Sec. 8-4), and prohibits the operation or parking of a vehicle within ten feet of the dune line (Sec. 8-3(f)).
3. The applicant shall adhere to all comments from the Texas General Land Office (GLO) included in Attachment "D":
 - a. The applicant must minimize the raking of the beach to only when the influx of materials is heavy enough to impact the public's ability to use the public beach easement. At such times that beach maintenance is required, the applicant may not conduct beach maintenance activities at a greater frequency than twice a month. Should there be a need for additional beach maintenance conducted outside of the schedule provided in the application materials, an updated schedule must be provided to the City and GLO for review and approval prior to implementation.
 - b. The GLO encourages the removal of litter and other debris by handpicking or raking by hand and strongly discourages the use of machines.
 - c. The proposed beach maintenance activity must not restrict or interfere with public use of or access to the beach or dedicated pedestrian pathways to the beach for public use.
 - d. The applicant shall avoid impacts to any dunes or dune vegetation. The applicant may not rake over dune vegetation or operate machinery on dunes. Collected maintenance materials should be thinly spread and not placed in large piles. The GLO recommends placing collected maintenance materials in low areas, blowouts and breaches within the primary dune complex. If maintenance materials cannot be placed in the primary dune complex or its placement would adversely affect dunes and dune vegetation, the collected maintenance materials may be placed immediately adjacent to the line of vegetation provided its placement would not adversely affect public access.
 - e. The applicant is prohibited from placing trash collected by beach maintenance activities within the primary dune complex. All trash collected should be washed to remove sand particles and disposed

of properly in an off-site location.

- f. The applicant's activities must not result in significant redistribution of sand or significantly alter the beach profile, materially weaken dunes or dune vegetation, or reduce the protective function of dunes.
- g. The rake height should be adjusted to allow the rake teeth to draw man-made and naturally occurring debris into piles or windrows, while at the same time minimizing the amount of sand moved from the beach.
- h. The applicant must return any sand moved or redistributed due to beach maintenance activities to the area between the line of vegetation and mean high tide.
- i. The applicant's beach maintenance activities must not result in the potential for increased flood damage to the 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.
- j. The GLO recommends that the applicant conduct beach maintenance activities in accordance with the Galveston Park Board of Trustees Recommended Best Practices for Beach Maintenance.
- k. In addition to the requirements outlined above, the applicant must conduct activities in accordance with other local, state, or federal regulations and permits, such as permits issued by the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers. This permit application does not authorize work to be performed within USACE jurisdiction.
- l. The beach maintenance activities appear to be proposed in an area where sea turtle nesting habitat is located. The GLO recommends that the applicant take measures to avoid violating the Endangered Species Act, such as utilizing a sea turtle monitor with appropriate training and notifying a nest patrol and detection program prior to cleaning the beach.

Standard Conditions:

- 4. Work approved under this permit shall be completed within one (1) year from the date this permit is issued. If work is not completed in this time period, it will be necessary for the applicant to reapply for a Beachfront Construction Certificate/Dune Protection Permit, unless an extension of the period, prior to the expiration, has been submitted to the Texas General Land Office for review and approved by the City;
- 5. Any alterations to the project, as approved, shall return to the Planning Commission and/or Texas General Land Office for additional review and approval;
- 6. The applicant shall coordinate any/all dune enhancement plans with the Development Services Department; and,
- 7. The applicant must adhere to all aspects of Section 29: Planning-Beach Access Dune Protection & Beachfront Construction.

ERP PRACTICABLE DEFINITION

Practicable means available and capable of being done after taking into consideration existing building practices, siting alternatives, and the footprint of the structure in relation to the area of the building portion of the lot, and considering the overall development plan for the property.

TEXAS ADMINISTRATIVE CODE PRACTICABLE DEFINITION 15.2(57)

In determining what is practicable, local governments shall consider the effectiveness, scientific feasibility, and commercial availability of the technology or technique. Local governments shall also consider the cost of the technology or technique.

Respectfully Submitted,

Virginia Greb

Virginia Greb
Coastal Resources Assistant Manager

02/13/2020

Date

Cathy

Catherine Gorman, AICP
Assistant Planning Director / HPO

02/13/2020

Date

Attachment “A”

Aerial Map



Beachside Village (AP-8) Beachside Village (AP-8) Beachside Village (AP-8) Sunny Beach (AP-7)

Legend

- ECZ
- 25' Offset NTD
- NTD
- STD
- Approx. LOV
- MHW
- MLW
- Parcels

0 325 650 1,300 Feet

Beachside Village (Case #19BF-097)

Map prepared by the City of Galveston Development Services Department (VGreb) - 12/19/2019
 Data Sources: Topographic Data from Atkins July 2017 wading depth surveys, 2018 Aerial Imagery and Parcel Data from Galveston CAD

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Attachment“B”

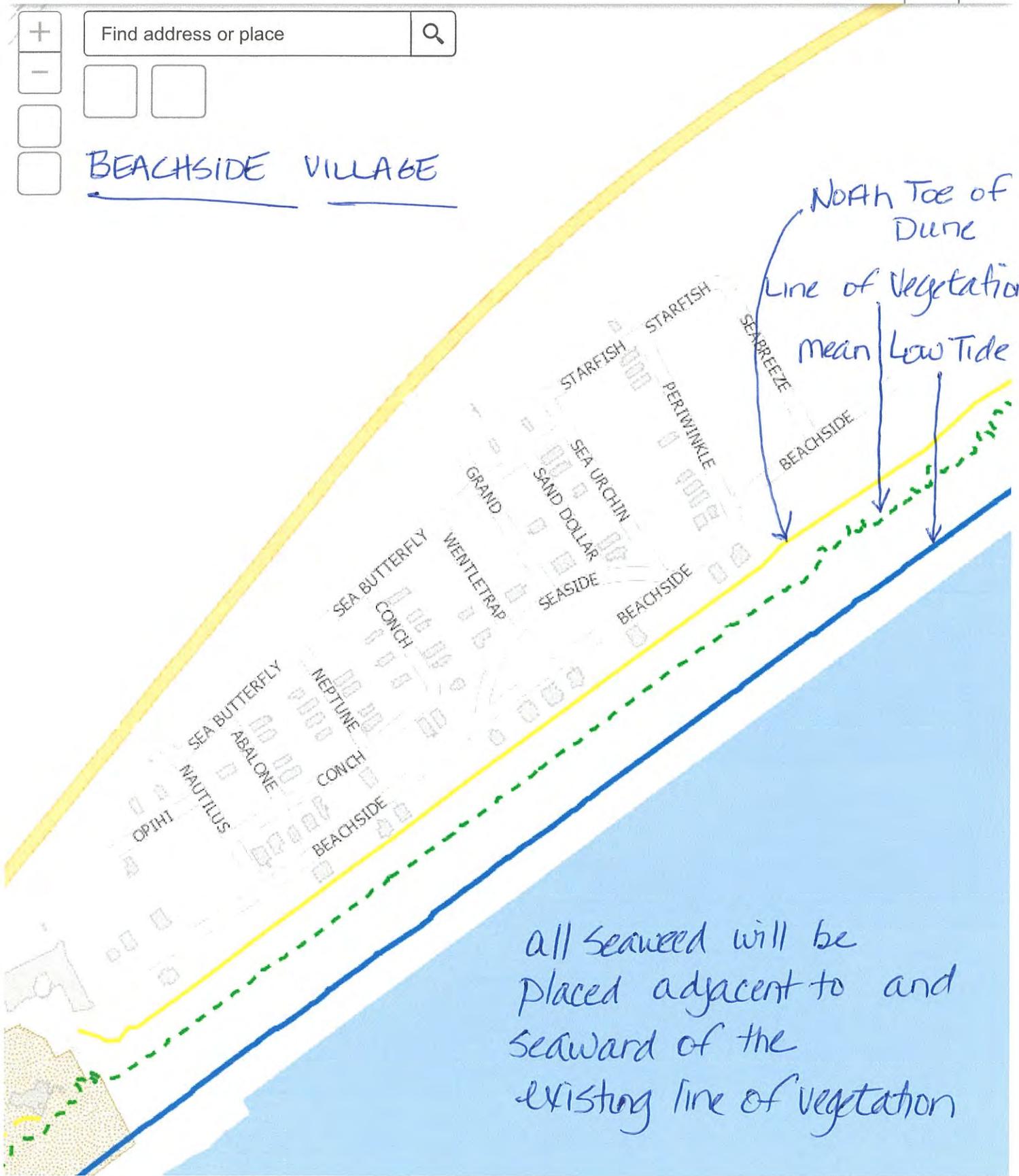
Site Plan

&

Narrative



BEACHSIDE VILLAGE



all seaweed will be placed adjacent to and seaward of the existing line of vegetation

400ft
3,278,595.606 13,653,719.156 Feet



Beachside Village Siteplan
Beach cleaning area highlighted in pink



16 December 2019

City of Galveston
Planning Department
P. O. Box 779
Galveston, Texas 77553

To Whom it May Concern:

Attached please find a Beach Maintenance Application Form. I have completed the form to the best of my ability and have attached the beach survey from the City's website, photos and a check for \$500. I am acting on behalf of the Board of Directors for Beachside Village Homeowners Association, Inc. The HOA has contracted with Sunrise Beach Cleaning to perform the beach cleaning.

Beachside Village fronts approximately 3000 linear feet of beach. Sunrise Beach Cleaning will rake the area between the 3' contour line and the line of vegetation. The equipment will leave most of the sand in place, raking the seaweed and placing it in small piles adjacent to and just seaward of the line of vegetation. Sunrise Beach Cleaning employs certified turtle monitors. This proposed activity will not adversely affect the public, public beach access or exacerbate erosion. The sand will remain between the line of vegetation and the mean high tide, the activity will not adversely weaken the dune or dune vegetation or reduce the protective functions of the dunes, the activity will not result in the significant redistribution of sand and the activity will not significantly alter the beach profile or the line of vegetation.

Please let me know if you need further information from me concerning this application.

Respectfully,

A handwritten signature in blue ink that reads "Debbie Reinhart".

Debbie Reinhart

From: [Debbie Reinhart](#)
To: [Virginia Greb](#)
Cc: [Dustin Henry](#)
Subject: Re: 19BF-097 - Additional Information Needed - Beachside Village
Date: Wednesday, January 8, 2020 3:33:14 PM
Attachments: [City3Color_60p_3c9c6c84-a89b-4a38-bddf-450e68d5cc3b.png](#)

Good afternoon, Virgie. I must have overlooked this email while I was out of town for the holidays. I apologize that I didn't respond quickly!

I've reviewed my prior beach maintenance letter (18BF-047) and I will use the language in that permit to answer your questions:

- Frequency - As needed but not more often than bi-weekly. At all times, the contractor will notify the turtle organization and will have a turtle monitor on site.
- Equipment - Sand rake - same equipment we've used for the past several years.
- Disposal - The seaweed and trash will be deposited in low areas, blowouts and breaches within the primary dune complex. If none exist, the material will be placed adjacent to and seaward of the dune.

I hope this answers your questions, adequately. Please be assured that at NO TIME will the beach maintenance activity restrict or interfere with the public use of or access to the beach or the pedestrian pathways. Please let me know if you need anything else from me.

Debbie Reinhart
Kahala Development, LLC
Beachside Realty Company, LLC
Beachside Village Builders, LLC
Physical: 3711 Grand Avenue, Galveston, Texas 77554
Mailing: P. O. Box 3809, Galveston, Texas 77552
Cell: 512.731.8182

On Thu, Dec 19, 2019 at 3:44 PM Virginia Greb <VGreb@galvestontx.gov> wrote:

Hi Debbie,

Please address the following comments / questions to continue the review process:

- What is the frequency the beach will be maintained?
- What type of equipment will be used to perform beach maintenance activities?
- What is the plan and method for the disposal of trash and debris?

If you have questions, please contact the coastal resources division.

We are happy to help.



Virginia Greb, Assistant Coastal Resource Manager

Development Services Department

P.O. Box 779 Galveston, TX 77553 | 823 Rosenberg Suite 401 Galveston, TX 77550

O: 409.797.3660 | D: 409.797.3545 | F: 409.877.1560 | vgreb@galvestontx.gov

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Attachment “C”

Site Photos















Attachment “D”
GLO Comment
Letter



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

January 17, 2020

Via Electronic Mail

Virginia Greb
Coastal Resources Assistant 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: Beach Seaward of Beachside Village, Galveston
Legal Description: Beachside Village Sec 4 (2016) ABST 121, Open Space Beach Access (0-3), Acres 2.0786; ABST Hall & Jones Sur Beach (0-16) Beachside Village (2004); Beachside Village Sec 5 (2019) ABST 121 Beach Res & Open Spc Access
Lot Applicant: Beachside Village HOA c/o Debbie Reinhart
Case Number: 19BF-097
GLO ID No.: BDCOG-20-0006

Dear Ms. Greb:

The General Land Office (GLO) has reviewed the application materials for a beachfront construction certificate and dune protection permit for the above-referenced location. The applicant proposes to conduct beach maintenance activities on the beach between the line of vegetation and the 3.0-foot elevation contour on an as-needed basis twice a month on approximately 3,000 linear feet of beach in front of Beachside Village. According to the Bureau of Economic Geology, the area is eroding at a rate of nine to eleven feet per year.

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

- The applicant must minimize the raking of the beach to only when the influx of materials is heavy enough to impact the public's ability to use the public beach easement.¹ At such times that beach maintenance is required, the applicant may not conduct beach maintenance activities at a greater frequency than twice a month. Should there be a need for additional beach maintenance conducted outside of the schedule provided in the application materials, an updated schedule must be provided to the City and GLO for review and approval prior to implementation.
- The GLO encourages the removal of litter and other debris by handpicking or raking by hand and strongly discourages the use of machines.²

¹ 31 Tex. Admin. Code § 15.7(l).

² 31 Tex. Admin. Code § 15.7(l).

- The proposed beach maintenance activity must not restrict or interfere with public use of or access to the beach³ or dedicated pedestrian pathways to the beach for public use.⁴
- The applicant shall avoid impacts to any dunes or dune vegetation.⁵ The applicant may not rake over dune vegetation or operate machinery on dunes. Collected maintenance materials should be thinly spread and not placed in large piles. The GLO recommends placing collected maintenance materials in low areas, blowouts and breaches within the primary dune complex. If maintenance materials cannot be placed in the primary dune complex or its placement would adversely affect dunes and dune vegetation, the collected maintenance materials may be placed immediately adjacent to the line of vegetation provided its placement would not adversely affect public access.
- The applicant is prohibited from placing trash collected by beach maintenance activities within the primary dune complex. All trash collected should be washed to remove sand particles and disposed of properly in an off-site location.
- The applicant's activities must not result in significant redistribution of sand or significantly alter the beach profile, materially weaken dunes or dune vegetation, or reduce the protective function of dunes.⁶
- The rake height should be adjusted to allow the rake teeth to draw man-made and naturally occurring debris into piles or windrows, while at the same time minimizing the amount of sand moved from the beach.⁷
- The applicant must return any sand moved or redistributed due to beach maintenance activities to the area between the line of vegetation and mean high tide.⁸
- The applicant's beach maintenance activities must not result in the potential for increased flood damage to the 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.⁹
- The GLO recommends that the applicant conduct beach maintenance activities in accordance with the Galveston Park Board of Trustees Recommended Best Practices for Beach Maintenance.
- In addition to the requirements outlined above, the applicant must conduct activities in accordance with other local, state, or federal regulations and permits, such as permits issued by the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers. This permit application does not authorize work to be performed within USACE jurisdiction.

³ 31 Tex. Admin. Code § 15.7(e)(2).

⁴ City of Galveston Beach Access Plan Appendix A

⁵ 31 Tex. Admin. Code § 15.4(f).

⁶ 31 Tex. Admin. Code § 15.7(l).

⁷ City of Galveston Beach Access Plan § 29-90(o)(6)(d)(1).

⁸ 31 Tex. Admin. Code § 15.7(l).

⁹ 31 Tex. Admin. Code § 15.4(d).

- The beach maintenance activities appear to be proposed in an area where sea turtle nesting habitat is located. The GLO recommends that the applicant take measures to avoid violating the Endangered Species Act, such as utilizing a sea turtle monitor with appropriate training and notifying a nest patrol and detection program prior to cleaning the beach.

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

Sincerely,



Michelle Culver
Beach Access & Dune Protection Program
Coastal Resources Division
Texas General Land Office

cc: Dustin Henry, Coastal Resources Manager