



20BF-003

STAFF REPORT

ADDRESS:

801 E. Beach Dr.

LEGAL DESCRIPTION:

Property is legally described as Abst 628 M Menard Sur Lot 3 (5-0), Palisade Palms Replat (2008), a subdivision located in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Ron Gwin

PROPERTY OWNER:

East Beach Project Phase 1,
Ltd.

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 – 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.

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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-foot landward of the Dune Protection Line. The Dune Protection Line is defined as the area within 25-foot 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-foot landward of the line of vegetation.

The applicant is requesting approval to conduct annual beach maintenance activities on approximately 800 linear feet of beach located to the south of the Palisade Palms Condominiums. 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 between the Line of Vegetation and 3.0-foot elevation contour during the following times: weekly beach maintenance activities during the months of June through August; twice-monthly beach maintenance activities during April, May, and September; and monthly beach maintenance activities January through March and October - December.

According to the Bureau of Economic Geology, the area is stable and accreting.

Site and Surrounding Area:

The subject site totals approximately 800 linear feet of beach south of the Palisade Palms Condominiums. The Palisade Palms Condominiums are 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 +1.9 to +2.9 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
Palisade Palm Condominiums	~800

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 impacts 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 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 construction, 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 Line of Vegetation and 3.0-foot elevation contour 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 but only between the Line of Vegetation and 3.0-foot elevation contour area 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 to be conducted between the Line of Vegetation and 3.0-foot elevation contour area 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. The applicant is proposing annual beach maintenance activities.

Staff Recommendation:

Staff recommends approval of 20BF-003 with the following conditions:

Specific Conditions to Case 20BF-003:

1. 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)).
2. 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 proposed. 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 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.
 - c. 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. An additional permit shall be required if any adverse impacts to dunes occur.
 - d. 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.
 - e. 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.
 - f. 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.

- g. 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.
- h. Should the applicant propose to extend the portion of beach where work will be performed, the applicant must obtain a new or amended beachfront construction certificate and dune protection permit from the City.

Additionally, the Texas General Land Office (GLO) provided the following recommendations, included in Attachment "D":

- i. The GLO encourages the removal of litter and other debris by handpicking or raking by hand and strongly discourages the use of machines.
- j. 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.
- k. The applicant is prohibited from placing trash collected by beach maintenance activities within the primary dune complex. All trash collected should be separated to remove sand particles and disposed of properly in an off-site location.
- l. 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.
- m. 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 any activities within USACE jurisdiction.
- n. 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:

- 3. 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;
- 4. Any alterations to the project, as approved, shall return to the Planning Commission and/or Texas General Land Office for additional review and approval;
- 5. The applicant shall coordinate any/all dune enhancement plans with the Development Services Department; and,

6. 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

03/11/2020

Date

Cathy

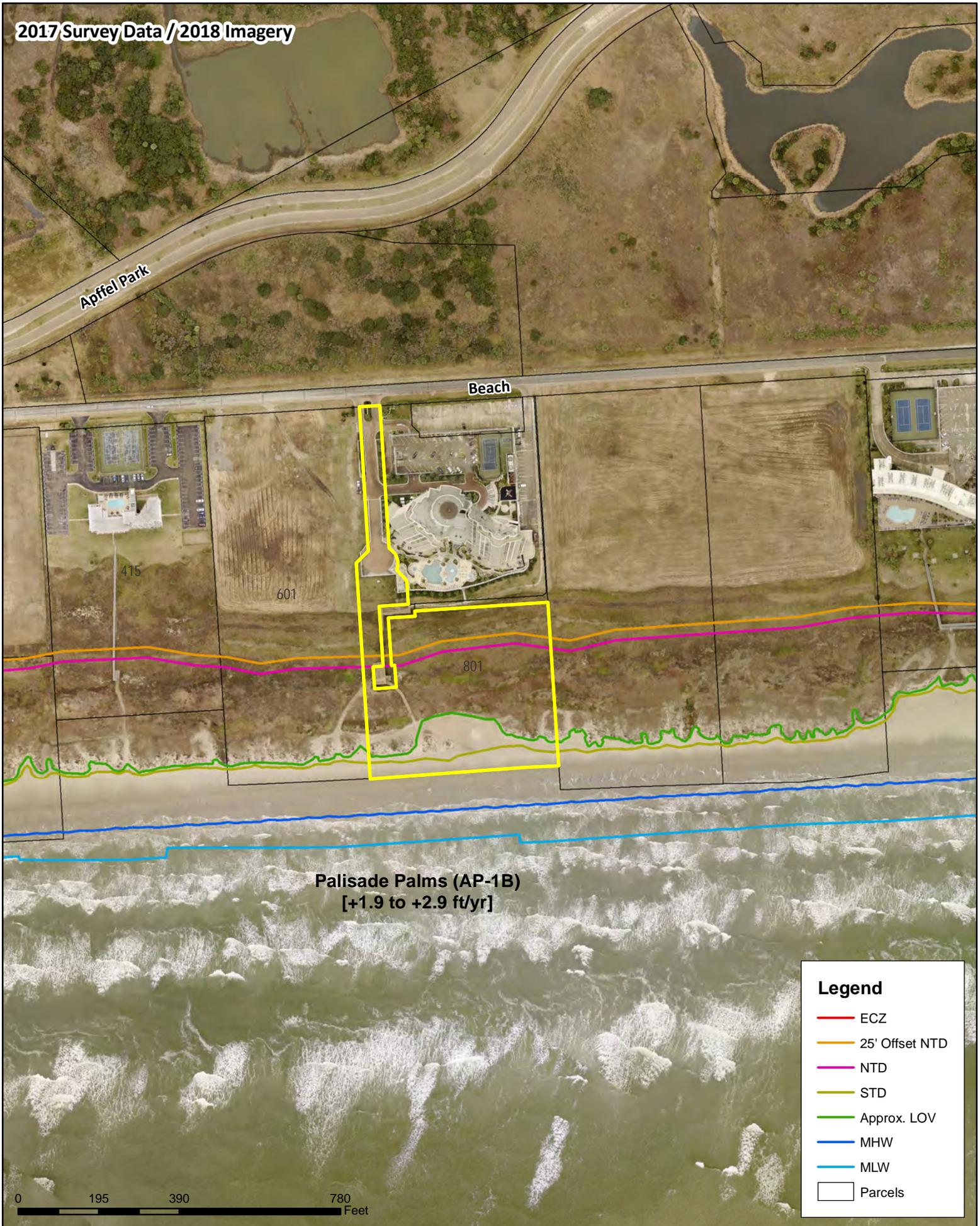
Catherine Gorman, AICP
Assistant Planning Director / HPO

03/12/2020

Date

Attachment “A”

Aerial Map



Legend

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

Palisade Palms (AP-1B)
[+1.9 to +2.9 ft/yr]

0 195 390 780 Feet

801 E BEACH DR (Case #20BF-003)

Map prepared by the City of Galveston Development Services Department (VGreb) - 1/9/2020
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”

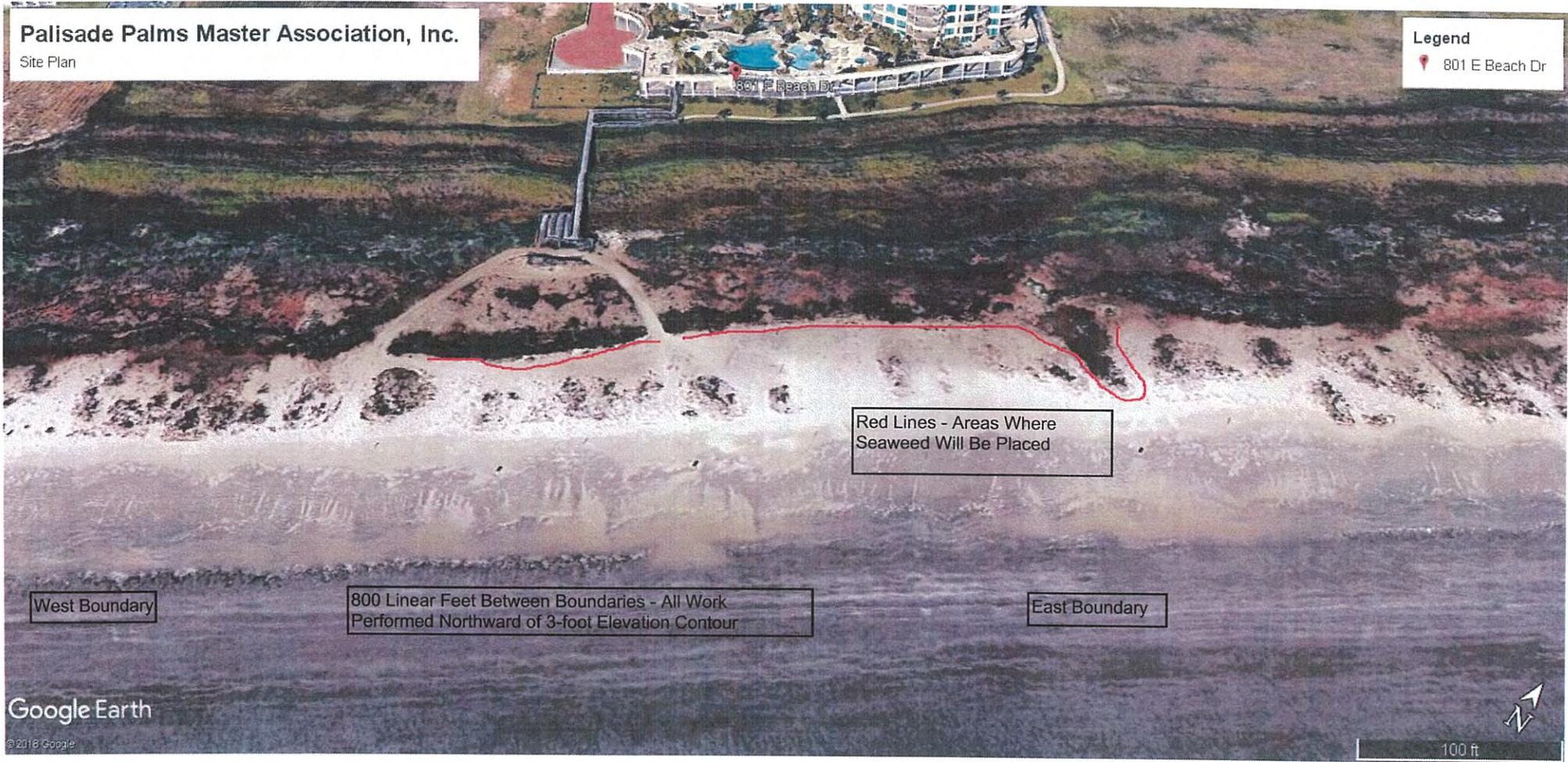
Site Plan

&

Narrative

Palisade Palms Master Association, Inc.
Site Plan

Legend
801 E Beach Dr



Red Lines - Areas Where Seaweed Will Be Placed

West Boundary

800 Linear Feet Between Boundaries - All Work Performed Northward of 3-foot Elevation Contour

East Boundary

Google Earth

© 2018 Google

100 ft

Palisade Palms Master Association, Inc.
801 East Beach Drive, Galveston, Texas 77550

Applicant Narrative for Annual Beach Maintenance Application

~~Submitted January 8, 2020~~

~~REVISED January 23, 2020~~

REVISED January 27, 2020

Palisade Palms Master Association, Inc. (PPMA) is applying to renew the Annual Beach Maintenance permit which expired on December 31, 2019. Outlined below you will find the items requested to be included in this narrative.

- Linear Footage – the PPMA has 1600 linear feet but is applying to include only 50% of this amount in the permit – 800 feet total. Work will only take place from the 3 foot elevation contour northward and will not enter federal waters under the USACE jurisdiction.
- Frequency – plans call for monthly cleanings in the months of January, February, March, October, November, and December. Twice monthly cleanings will occur in the months of April, May and September. Weekly cleanings will occur in the months of June, July, and August. Cleanings will occur on a scheduled basis each month / week in the frequencies noted regardless of seaweed or debris volume. PLEASE NOTE – cleaning will only occur on 50% of the linear feet under our jurisdiction. The remaining 50% will not be cleaned. The area being cleaned is closest to the beach access point dune walk over bridge.
- Equipment – the PPMA will utilize 2 types of equipment either owned or contracted with a beach cleaning contractor. Both are manufactured by H. Barber and Sons and include the “Sandman” (smaller walk behind machine) and the “Barber Surf Rake” pulled by a Kubota (or similar) tractor (same type of equipment used by the Galveston Island Park Board).
- Seaweed placement will be evenly distributed along the dune line avoiding any possible wetland areas.
- Trash and debris will be placed in the existing trash cans provided by the Galveston Park Board or, if too large, removed and placed in the dumpster containers at Palisade Palms.
- Nesting Turtles – The Turtle Island Restoration Network uses Palisade Palms as a starting point for their volunteers. Two times per day, during nesting season, these volunteers retrieve their equipment from the front desk, where it is stored, and patrol the beach all the way to Stewart Beach and back. In addition, each time the Barber Surf Rake is used on the beach there will be a trained Wildlife Monitor present in addition to the machine operator.
- The PPMA will notify the Turtle Island Restoration Network 24 hours in advance of any cleaning.
- This proposed activity will in no way affect public beach access nor will it adversely affect the beach or exacerbate erosion. This portion of beach is an accreting beach and the proposed equipment is the least intrusive mechanized method of cleaning and grooming beaches.
- All sand will remain between the line of vegetation and the mean high tide and there will be no significant redistribution of the sand.
- This activity will not have an adverse effect on the dunes or dune vegetation nor will it alter the beach profile or the line of vegetation.

Attachment “C”

Site Photos





20BF-003 – Palisade Palms



20BF-003 – Palisade Palms



20BF-003 – Palisade Palms



20BF-003 – Palisade Palms

Attachment “D”
GLO Comment Letter



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

January 29, 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: 801 E Beach Dr, Galveston
Legal Description: ABST 628 M Menard Sur Lot 3 (5-0) Palisade Palms Replat (2008)
Lot Applicant: East Beach Project Phase 1 LTD Falcon Interests c/o Ron Gwin
Case Number: 20BF-003
GLO ID No.: BDCOG-20-0016

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 monthly in January through March and October through December, twice monthly in April, May and September and weekly in June through August on approximately 800 linear feet of beach in front of Palisade Palms. According to the Bureau of Economic Geology, the area is stable to accreting.

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 proposed. 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. An additional permit shall be required if any adverse impacts to dunes occur.⁶
- 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.⁷
- 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.⁸
- 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.⁹
- 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.¹⁰
- 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

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 § 15.3(s)(1).

⁷ 31 Tex. Admin. Code § 15.7(l).

⁸ City of Galveston Beach Access Plan § 29-90(o)(6)(d)(1).

⁹ 31 Tex. Admin. Code § 15.7(l).

¹⁰ 31 Tex. Admin. Code § 15.4(d).

the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers. This permit application does not authorize any activities within USACE jurisdiction.

- Should the applicant propose to extend the portion of beach where work will be performed, the applicant must obtain a new or amended beachfront construction certificate and dune protection permit from the City.
- 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