	MEMORANDUM

TO: Jerry Mohn**,** Chair
Beach/Dune Ad Hoc Committee

FROM: Dustin Henry, AICP – Coastal Resources Manager
Development Services Department

DATE: April 17, 2019

RE: **Beach Access and Dune Protection Plan Review Ad Hoc Committee, Recommendations for Consideration of Policy Changes on Dune Protection Standards**

Based on feedback from the development community, staff has compiled the following list of policy questions:

1) **Consider Revising Definition of Dune Protection Line.**

   Issue: The Texas Administrative Code 31 TAC Rule § 15.3(k) states that local governments shall review its dune protection line every five years to determine whether the line is adequately located to achieve the purpose of preserving critical dune areas, or within 90 days after a tropical storm or hurricane affects the coastline in its jurisdiction.

   Current Definition:

   A line located at the north toe 25 feet landward of the north toe of the critical dune area. Where no dunes exist on beaches west of the western most terminus of the Galveston Seawall the line shall be located 200 feet landward of the vegetation line. In no case shall the Dune Protection Line be seaward of a straight line connecting the nearest Dune Protection Line on the East with the nearest Dune Protection Line on the West.

   Issue: The definition does not specify where a Dune Protection Line exists for those areas where no dunes exist in the areas seaward of the face of the Seawall or on the East End of the island.

   Issue: Does the Committee find that 25-feet landward of the north toe of the critical dune area do a sufficient job of preserving critical dune areas?

2) **Currently, construction proposed within 50-feet of the Dune Protection Line requires review and approval by the Planning Commission.**

   Issue: Does the Commission find that this review area is appropriate?

   Recommended Actions:

   - Any project within 50-feet of the Dune Protection Line AND within 200-feet of the LOV…or perhaps based on the erosion rate of the beach.

   - All projects that affect beach access – i.e. requests to change the City's Beach Access Plan go to Planning Commission and City Council

   - All "large-scale" projects, as defined by GLO.

   - All projects requiring a Mitigation Plan – see I)(2)(b) regarding Mitigation Plans, and 63.056 of Dune Protection Act (https://statutes.capitol.texas.gov/Docs/NR/htm/NR.63.htm). The Texas Administrative Code changed in 2015 and now requires the City hold a public hearing if any mitigation is proposed.

3) **Special Standards for Eroding Areas:**

Issue: there is a desire of the development community to construct in-ground pools in certain areas of the community, and to pave the ground underneath uncovered porches and stairs.

Recommended Actions:

- Consider developing a "reasonable justification" for a variance from state law to allow in-ground swimming pools in certain areas and under certain circumstances.

- Consider developing a "reasonable justification" for a variance from state law to allow for reinforced concrete under uncovered porches and stairs in certain areas and under certain circumstances.

4) **Annual Beach Maintenance Permits?**

Issue: the City's plan currently states that the Planning Commission is the authority to issue permits for beach maintenance activities.

Policy Question:

- Does Planning Commission still want to review and issue these type of permits? Staff recommends this continue to be the practice.

5) **Permit Expiration?**

Issue: Beachfront Construction Certificate/Dune Protection Permits have expiration dates that are different from other development approvals, such as Building Permits.

The City's plan currently states that work under a permit shall be completed:

- Within one (1) year from the date the permit is issued for Single-Family and Two-Family dwellings

- Within three (3) years from the date the permit is issued for townhome/condo, multiple-family dwelling, or non-residential projects.

Recommended Actions:

- Develop permit expiration timeframes that match that of other required permits such as Building Permits.