



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

July 1, 2020

Via Electronic Mail

The Honorable Judge Barbara Canales
Nueces County Judge
901 Leopard Street, Room 303
Corpus Christi, Texas 78401-3697

Application for a Dune Protection Permit for Construction in Nueces County

Site Address: 106 Beach View Estates, Corpus Christi
Legal Description: Beach View Estates, Lot 16, Blk 1 and Mustang Island Section 2, 0.4158 acres out of Lot 51, Blk 1
Lot Applicant: Emmons Investments LLC c/o Craig Thompson
County ID No.: DPP-0420-01p
GLO ID No.: BDNC-20-0122a

Dear Judge Canales:

The General Land Office has reviewed the application materials for a Dune Protection Permit for the above-referenced location. The applicant proposes to construct a single-family residence with a swimming pool and a 6-foot-wide dune walkover for golf cart access. The applicant also proposes to adversely impact approximately 5,028 square feet of dune vegetation and 287 cubic yards of dunes and to mitigate for those impacts with 5,090 square feet of dune vegetation and 287 cubic yards of dunes that will be placed seaward of the 350-foot Building Setback Line. The proposed single-family residence is located landward of the Building Setback Line and the proposed swimming pool is located seaward of the Building Setback Line. According to the Bureau of Economic Geology, the area is eroding at a rate of four to five feet per year.

Based on the materials forwarded to our office for review, we have the following comments:

- The applicant may not damage any dune vegetation or clear or remove any vegetation on either side of the proposed dune walkover for the purpose of facilitating construction.¹
- The seaward terminus of the dune walkover must be restricted to the greatest extent possible to the most landward point of the public beach² and must not interfere with or otherwise restrict public use of the beach at normal high tides.³ Based on the photographs included in Exhibit F of the application materials, the dune walkover does not appear to comply with this requirement.

¹ 31 Tex. Admin. Code § 15.4(f)(1).

² 31 Tex. Admin. Code § 15.7(g)(1).

³ 31 Tex. Admin. Code § 15.7(g)(2).

The seaward terminus of the proposed dune walkover must be located further landward to end at or closer to the line of vegetation.

- The County 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.⁴
- 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.⁵
- The constructed dune must be continuous with any surrounding naturally formed dunes and must approximate the natural position, contour, volume, elevation and vegetative cover of any naturally formed dunes in the restoration area.⁶
- The County must require the applicant to conduct mitigation efforts continuously until the repaired, rehabilitated, and restored dunes and dune vegetation are equal or superior to the pre-existing dunes and dune vegetation. These efforts shall include preservation and maintenance of restoration activities pending completion of mitigation.⁷
- The County shall determine a mitigation project complete when the dune restoration project's position, contour, volume, elevation, and vegetative cover matches or exceeds the surrounding naturally formed dunes.⁸
- The County shall provide written notification to the GLO after determining that mitigation is complete. The GLO may conduct a field inspection to verify compliance.⁹
- The applicant has provided a list of the landowners immediately adjacent to the tract and has indicated that they intend to provide them with a notice of the hearing on the permit. 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. Such notice to adjacent landowners may be made by sending a copy of the hearing notice by certified mail to the adjacent property owner's address listed in the county central appraisal district records.¹⁰
- As required by the Erosion Response Plan for Nueces County, new development in the area between 350 and 200 feet landward of the line of vegetation must be restricted to recreational amenities such as parking areas and pools. As proposed, the construction appears to comply with this requirement.

⁴ 31 Tex. Admin. Code § 15.4(f)(3).

⁵ 31 Tex. Admin. Code § 15.4(f)(3)(A)(iv).

⁶ 31 Tex. Admin. Code § 15.7(e)(3).

⁷ 31 Tex. Admin. Code § 15.4(g)(2).

⁸ 31 Tex. Admin. Code § 15.4(g)(3).

⁹ 31 Tex. Admin. Code § 15.4(g)(4).

¹⁰ 31 Tex. Admin. Code § 15.4(f).

- The County must minimize the proliferation of excessive private access by permitting only the minimum necessary number of private beach access points to the beach from any subdivision.¹¹
- The deck of the walkover must be of sufficient elevation to allow for the growth of dune vegetation and the migration of dunes to the greatest extent practicable.¹² The walkway height above the dunes should be at least one to one and a half times its width to allow sunlight to reach vegetation underneath.
- The County shall require the applicant to relocate the walkover to follow any landward migration of the public beach or seaward migration of dunes.¹³
- The proposed dune walkover should be constructed to maintain ½-inch spacing between the slats to allow rain and sand to pass through the decking.
- Concrete may not be used to stabilize the base of the pilings for the dune walkover.¹⁴
- Construction of the proposed dune walkover should conform to the GLO's guidelines provided in the Dune Protection and Improvement Manual for the Texas Gulf Coast, which is located at <http://www.glo.texas.gov/coast/coastal-management/forms/files/dune-protection-manual-gpb.pdf>. The proposed height of the walkover above the dunes does not comply with this guidance.
- 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.¹⁵
- 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.¹⁶
- The County must ensure the proposed construction is consistent with FEMA minimum requirements or with the FEMA approved local ordinance.¹⁷
- 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.¹⁸

¹¹ 31 Tex. Admin. Code § 15.4(f)(2)(B)(iii).

¹² 31 Tex. Admin. Code § 15.7(g)(3).

¹³ 31 Tex. Admin. Code § 15.7(g)(4).

¹⁴ 31 Tex. Admin. Code § 15.6(f)(3).

¹⁵ 31 Tex. Admin. Code § 15.4(c)(3).

¹⁶ ¹⁶ 31 Tex. Admin. Code § 15.4(c)(2).

¹⁷ 31 Tex. Admin. Code § 15.6(e)(3).

¹⁸ 31 Tex. Admin. Code § 15.4(d).

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- The County must ensure the proposed construction activities minimize impacts on natural hydrology and do not cause erosion of adjacent properties, critical dune areas, or the public beach.¹⁹
- Before construction as proposed in this application commences, the applicant must apply for and obtain a Beachfront Construction Certificate from the City of Corpus Christi. Should the requirements to obtain a certificate from the City of Corpus Christi result in a material change to the proposed activities, the applicant must obtain a new or amended Dune Protection Permit from Nueces County.²⁰

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

¹⁹ 31 Tex. Admin. Code § 15.6(g).

²⁰ 31 Tex. Admin. Code §§ 15.2(46) & § 15.3(t)(4).