



DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
ONE CONSERVATION WAY · BRUNSWICK, GA 31520 · 912-264-7218

WALTER RABON
COMMISSIONER

DOUG HAYMANS
DIRECTOR

**SHORE PROTECTION ACT
STAFF'S FINDINGS & RECOMMENDATIONS**

July 12, 2024

TO: Shore Protection Committee:
Commissioner Walter Rabon
Mr. Chad Barrow
Mr. Brad Brookshire
Mr. Davis Poole
Dr. Valerie Hepburn

FROM: Department Staff to the Committee

APPLICANT: 5 7th St. LLC
Brent Watts
2108 Drayton Street
Savannah, GA 31401

LOCATION: #5 7th Street, Tybee Island, Chatham County, Georgia

PROPOSED PROJECT: The applicant is proposing to construct and maintain a pool, pool deck, and install native landscaping at an existing single-family residential structure.

APPLICABLE LAW: Official Code of Georgia Annotated (O.C.G.A.) §12-5-230 *et. seq.*
Shore Protection Act

SUMMARY OF PUBLIC COMMENTS: The Public Notice of the Shore Protection Committee ran from June 6, 2024 through July 5, 2024. No public comments were received in response to the public notice.

FINDINGS: Department Staff to the Committee make the following findings regarding this application:

Project Scope and Justification: O.C.G.A. § 12-5-238:

1. The applicant's property is approximately 19,503sq.ft. (0.44 acre), of which 8,851sq.ft. (0.20 acre) is located within the state's SPA jurisdiction. The area within SPA jurisdiction consists of an existing 4ft. x 18ft. sidewalk (72sq.ft.; 0.001 acre), maintained lawn (2,271sq.ft.; 0.05 acre), and vegetated sand dunes (6,580sq.ft.; 0.15 acre). The sidewalk will be removed as part of the project.
2. The applicant proposes to improve the existing outdoor living space immediately seaward of the recently relocated historical residence by constructing and maintaining a 15ft. x 40ft. swimming pool and pool deck, of which approximately 145sq.ft. (0.003acre) will be in SPA

- jurisdiction, and associated fence (25sq.ft.; 0.0001acre). Impacts to SPA jurisdiction for the proposed hardscape components of the project total approximately 170sq.ft. (0.004 acre).
3. The remainder of the outdoor living area within SPA jurisdiction will be landscaped using native vegetation (2,101sq.ft.; 0.048acre).
 4. Temporary impacts associated with site preparation and construction include the use of heavy equipment to clear, grade, and to construct the swimming pool. Where appropriate, existing vegetation will be removed from the area, soil will be amended, and native vegetation will be installed landward of the toe of the dune.
 5. A private dune crosswalk is not proposed. The 7th Street public access dune crosswalk maintained by City of Tybee Island is located immediately adjacent to the property.
 6. As proposed, permanent impacts to the SPA jurisdictional area will total approximately 170sq.ft. Approximately 8,681sq.ft. (98%) of the SPA jurisdictional area will be retained or improved to a more natural vegetated and topographic state.

Application Form, Applicant Name and Address, Project Site Plan, Plat, Deed or other instrument, Written permission to carry out project by owner of land, O.C.G.A. § 12-5-238(1-5, 8):

7. Applicant has submitted the application form, name and address, project site plan, plats, and deed.

Adjoining Landowners, Non-refundable application fee, O.C.G.A. § 12-5-238(6,7):

8. Applicant has submitted names and addresses of adjoining property owners as well as the non-refundable application fee as required.

Hurricane Resistant Standards, O.C.G.A § 12-5-238(9):

9. Mark Boswell, Engineer (Ga License No. 28372), has submitted a certification that the project meets all applicable hurricane standards.

Local Government Zoning, O.C.G.A. § 12-5-238(11):

10. Applicant has provided a statement from George Shaw, Planning & Zoning Manager for the City of Tybee Island Dated March 13, 2024 that the project does not violate any zoning law.

Landfill, Hazardous Waste Inquiry, O.C.G.A. § 12-5-238(12):

11. Applicant has made an inquiry to the Hazardous Site Index of Georgia as to the existence of hazardous waste at the site. The project area was not found to be over a hazardous waste site or landfill.

Notification of Proposed Project, O.C.G.A. § 12-5-239(b):

12. Interested parties who have requested to be placed on the regulatory mailing list and adjacent property owners were notified in writing of the proposed project. The Public Notice of the Shore Protection Committee ran from June 6, 2024 through July 5, 2024. No public comments were received in response to the public notice.

Requirements and Restrictions Regarding the Issuance of a Permit, O.C.G.A. § 12-5-239(c):

13. **No permit shall be issued except in accordance with the following provisions:**
 - (1) **A permit for a structure or land alteration, including, but not limited to, private residences, motels, hotels, condominiums, and other commercial structures, in the dynamic dune field may be issued only when:**
 - A. **The proposed project shall occupy the landward area of the subject parcel and, if feasible, the area landward of the sand dunes; The proposed pool and**

pool deck will be constructed landward of the landward toe of the most landward dune at this location. The dynamic dune field in these areas consists of mature dunes that extend seaward approximately 400ft. from the project location. The proposed structure will occupy the landward area of the dynamic dune field.

- B. At least a reasonable percentage, not less than one-third, of the subject parcel shall be retained in its naturally vegetated and topographical condition;** As proposed, total jurisdictional impacts would be approximately 170sq.ft. (2%).
 - C. The proposed project is designed according to applicable hurricane- resistant standards;** Mark Boswell, Engineer (Ga License No. 28372), has submitted a certification that the project meets all applicable hurricane standards.
 - D. The activities associated with the construction of the proposed project are kept to a minimum, are temporary in nature, and, upon project completion, restore the natural topography and vegetation to at least its former condition, using the best available technology;** Heavy equipment used in association with the project will access the project area from the applicant's property. The applicant has stated that all construction activities associated with the proposed project will be kept to a minimum and are temporary in nature.
 - E. The proposed project will maintain the normal functions of the sand sharing mechanisms in minimizing storm-wave damage and erosion, both to the unaltered section of the subject parcel and at other shoreline locations;** Historical monitoring of coastal dunes have shown that the frontal or most seaward dune, which is closest to the beach, is an ephemeral and unstable feature. Sand dunes typically accrete or expand under the force of onshore winds and an ample supply of sand, but they can erode quickly under severe wave energy at times of high tide or elevated sea level. Dunes, whether modern, manmade, or Pleistocene, can be expected to retreat quickly under rising sea levels and larger waves. Beach erosion is monitored quarterly on Tybee Island. The monitoring includes erosion rates and volumes. This area of the island is currently not erosional. The proposed project consists of the construction and maintenance of a pool and pool deck in an area of the beach that has been identified as accretional. As proposed, the pool and pool deck should not impact the normal function of the sand sharing system on the public beach.
- (2) No permits shall be issued for a structure on beaches, eroding sand dunes areas, and submerged lands; provided, however, that a permit for a pier, boardwalk, or crosswalk in such an area may be issued, provided that:**
- A. The activities associated with the construction of the proposed land alterations are kept to a minimum, are temporary in nature, and, upon project completion, the natural topography and vegetation shall be restored to at least their former condition, using the best available technology;** The applicant as stated all construction activities associated with the proposed project will be kept to a minimum and are temporary in nature.
 - B. The proposed project maintains the normal functions of the sand-sharing mechanisms in minimizing storm-wave damage and erosion, both to the unaltered section of the subject parcel and at other shoreline locations;** East of the subject property are three (3) dune ridge lines varying in elevation from +20ft to +12ft. within the project area. Approximately 18ft. east of the subject parcel is the City of Tybee Island's buried concrete and steel seawall. The distance from the easternmost point of the subject parcel to the ordinary highwater mark is approximately 400ft.

Public Interest Considerations, O.C.G.A. § 12-5-239(i):

14. In passing upon application for a permit, the Committee shall consider the public interest:

- A. The project will not result in unreasonably harmful, increased alteration of the dynamic dune field or submerged lands, or function of the sand-sharing system;** As proposed, the pool and pool deck will not impact the normal function of the sand sharing system on the public beach. East of the subject property are three (3) dune ridge lines varying in elevation from +20ft to +12ft. Approximately 18ft. east of the subject parcel is the City of Tybee Island's buried concrete and steel seawall that was constructed on the island in 1973. The distance from the easternmost point of the subject parcel to the ordinary highwater mark is approximately 400ft.
- B. The project will not unreasonably interfere with the conservation of marine life, wildlife, or other resources;** The beaches of Tybee Island serve as nesting site for sea turtles (May 1 through October 31st) and roosting locations for several migratory shorebirds. East of the subject property are three (3) dune ridge lines varying in elevation from +20ft to +12ft. There is also a dry sand beach at most high tides. The proposed activities will not unreasonably interfere with the conservation of marine life, wildlife, or other resources.
- C. The project will not unreasonably interfere with reasonable access by and recreational use and enjoyment of public properties.** The project is located on private property and as proposed will not unreasonably impact recreational use and access to the beach. The 7th Street public access dune crosswalk maintained by City of Tybee Island is located immediately adjacent to the property.

RECOMMENDATIONS: Should the Committee determine the proposed project to be in the public interest, Department Staff to the Committee recommends the following standard and special conditions:

SHORE PROTECTION ACT O.C.G.A. § 12-5-230
STANDARD PERMIT CONDITIONS

1. The project must comply, as applicable, for areas permitted herein, with all other Federal, State, and local statutes, ordinances, and regulations, and the applicant must obtain all licenses and permits prior to commencement of construction.
2. This permit does not resolve actual or potential disputes regarding ownership of or rights in or over the property upon which the subject project is proposed and shall not be construed as recognizing or denying any such rights or interests.
3. All plans, documents, and materials contained in this permit application, required by the Shore Protection Act O.C.G.A. 12-5-230 *et seq.* are a part of this permit and conformance to such plans, documents, and materials are a condition of this permit. No change or deviation from these plans, documents, and materials shall be permitted without prior notification and approval by the Department or Committee.
4. No further encroachment or construction shall take place within State jurisdiction, except as permitted by the Shore Protection Committee. Any modification of the plans or structure in the jurisdictional area must be reviewed and approved by the Department prior to construction.
5. A construction placard will be required to be obtained from the Department up to 30 days prior to the start of project construction and must be posted at the site. This placard will include certain steps in the construction of the permitted project that must be approved by the Department prior to construction.

6. The exact location and configuration of this project must be reviewed onsite and approved by Department staff immediately prior to beginning construction. Minor changes to the location may be allowed or required in areas that have eroded or accreted subsequent to the original jurisdictional determination.
7. No construction materials may be disposed of in the jurisdictional area of the Shore Protection Act.
8. Any incidental impacts associated with the construction of this project must be rectified by restoring areas to their pre-construction topographic and vegetative states.
9. The public shall maintain rights of ingress and egress on the foreshore beach area seaward of the ordinary high-water mark.
10. If the permitted improvements are damaged, fall into disrepair, become dilapidated, are not meeting their expected usefulness, or are not maintained at a serviceable level, then it is the responsibility of the owner to remove the improvements. A new permit will be required to retain and repair the structure, improvement or asset if it loses its structural integrity and is no longer serviceable.
11. The Shore Protection Committee is not bound in the future to protect any asset or improvements authorized by the permit.
12. The permit must be posted onsite within twenty-four (24) hours of beginning construction.
13. A copy of the above conditions must be supplied to the person in charge of construction.

SPECIAL CONDITIONS

1. Construction activities must be conducted landward of the landward toe of the dune as flagged in the field by the Department.
2. A final landscape plan depicting native coastal vegetation must be provided to the Department for approval prior to installation.
3. This permit does not authorize trimming or removal of any natural dune vegetation seaward of the landward toe of the most landward dune.
4. In order to minimize the disruption of nesting activity from artificial lighting from the subject parcel, the Permittee must comply with the Department of Natural Resources' Wildlife Resources Division's Sea turtle nesting guidelines as well as the City of Tybee Island lighting ordinance.
5. Permittee may be required to provide a post-construction survey that locates the proposed structure as indicated in the application materials. Such survey shall comply with the Georgia Plat Act, O.C.G.A. § 15-6-67 et seq.