



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

WALTER RABON
COMMISSIONER

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**SHORE PROTECTION ACT
STAFF FINDINGS & RECOMMENDATIONS**

November 15, 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: NOLA-ROMA Salt Company, LLC
3070 Lake Crest Circle
Lexington, KY 40513

LOCATION: 16 Sanctuary Place, Tybee Island, Atlantic Ocean, Chatham County, Georgia.

PROPOSED PROJECT: The applicant proposes to construct and maintain amenities associated with a single-family residential structure including a pool, deck, stairs, covered porches, stormwater infrastructure, and landscaping in Shore Protection Act jurisdiction.

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

SUMMARY OF PUBLIC COMMENTS: The Public Notice of the Shore Protection Committee ran from August 9, 2024 through September 7, 2024. No comments were received during the Public Notice period.

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, Lot A-1, a Recombination of Lots 7, 8, and a Portion of Lot 6, is approximately 37,376sq.ft. (0.858 acre), of which 18,216sq.ft. (0.418 acre) is located within SPA jurisdiction.
2. Currently, the parcel is unimproved and the area within SPA jurisdiction landward of the landward toe of dune consists of native coastal vegetation (1,860sq.ft. / 0.043 acre).
3. Seaward of the landward toe of dune is an enhanced, man-made sand dune, and a public beach (16,356sq.ft. / 0.375 acre) that is maintained by the City of Tybee Island (COTI).

4. The southern limits of the parcel are within Coastal Marshlands Protection Act (CMPA) jurisdiction. No impacts are proposed to CMPA jurisdiction.
5. The applicant is proposing to construct and maintain an elevated two-story single-family residence with amenities in SPA jurisdiction.
6. Impacts on the ground floor include a portion of the residence's concrete pad (553sq.ft.). An elevated pool (178sq.ft.) will be installed within the footprint of the concrete pad seaward of the residential structure. A spiral staircase (22sq.ft.) will provide access to the first story deck (211sq.ft.) and second story covered porch (41sq.ft.), both of which are within the footprint of the ground level concrete pad.
7. The remainder of the yard in SPA jurisdiction will be used to improve drainage (9sq.ft.) and landscaped using native coastal vegetation (522sq.ft.; 0.012 acre).
8. Proposed impacts to SPA jurisdiction total approximately 1,106sq.ft. (0.025 acres). Temporary impacts associated with site preparation include clearing, grading, filling, and removal of trees in SPA jurisdiction. A private dune crosswalk is not proposed.
9. As proposed, impacts to SPA jurisdiction would be approximately 1,106sq.ft. (0.025 acres). Approximately 17,110sq.ft. (93%) of the State's jurisdictional area will be retained or improved to a more natural vegetated and topographic state.
10. The COTI maintains an existing public dune crosswalk at Byers Street, immediately adjacent to the parcel.

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):

11. 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):

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

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

13. Paul B. Smith, GA P.E. 035706 has submitted a certification that the project is designed to meet or exceed applicable hurricane standards.

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

14. Applicant has provided a statement and signed drawings from the City of Tybee Island that state the project is not violative of any zoning law.

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

15. Applicant has made an inquiry to the Georgia Hazardous Waste Response and Remediation Program 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):

16. Adjacent property owners and interested parties who have requested to be placed on the mailing list were notified in writing of the proposed project. The Public Notice of the Shore Protection Committee ran from August 9, 2024 through September 7, 2024. No comments were received during the Public Notice period.

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

17. 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 residential amenities will be constructed landward of the landward toe of the dune at this location. The dynamic dune field in this area consists of a manmade dune permitted under SPA Permit #320 issued to COTI August 13, 2002. The constructed sand dune currently extends seaward approximately +/-100ft. from the landward toe of the manmade dune to the seaward toe of the scarp line on the manmade dune. The proposed amenities 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, impacts to SPA jurisdiction would be approximately 1,106sq.ft. (0.025 acres). Approximately 17,110sq.ft. (93%) of the State's jurisdictional area will be retained or improved to a more natural vegetated and topographic state.
- C. The proposed project is designed according to applicable hurricane-resistant standards;** Paul B. Smith, GA P.E. 035706 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;** Monitoring of coastal dunes has 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. The COTI recently began conducting beach and dune monitoring for shore protection by collecting data to document coastal change within this project area. Data collected includes current shoreline erosion rates and volumes. Detailed predictions of future change in the project area will be provided to COTI decision makers with actionable information. On October 14, 2014, COTI was issued a Letter of Permission (LOP) that authorized maintenance to the permitted project (the placement of up to 20,000cy of beach quality sand obtained from an approved upland source along approximately 2,100 linear feet of shoreline at an elevation of +8 feet above Mean Low Water (MLW). This project was not conducted. As a result of significant erosion at the project site caused by Hurricane Matthew

October 8, 2016, a second SPA LOP was issued to COTI March 9, 2017 and it authorized maintenance to the permitted project that consisted of placing up to 20,000cy of beach quality sand obtained from an approved upland source along approximately 2,100 linear feet of shoreline at an elevation of +8 feet above Ordinary High Water Mark (OHWM). This area of the island is currently experiencing erosion. The proposed project consists of the construction and maintenance of residential amenities in an area of the beach that has an eroding, manmade dune. As proposed, the project 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 dynamic dune field in the area consists of the manmade dune permitted under SPA Permit #320 issued August 13, 2002 to the COTI. The permitted dune was constructed in 2004 and was maintained under the 2017 SPA LOP. Current conditions show that the landward toe of the manmade dune is approximately +/- 100ft. from the OHWM and has an approximately +/-20ft. scarp line on the seaward face of the manmade dune. The proposed project will be landward of the landward toe of the manmade dune.
- 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;** The manmade dune height is approximately +/-12ft. within the project area. The distance from the landward toe of dune on the subject parcel to the OHWM is approximately +/-100ft. As proposed the residential amenities will be landward of the landward toe of the manmade dune.

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

18. 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;** The distance from the landward toe of the constructed dune on the subject parcel to the OHWM is approximately +/-100ft. As proposed, the residential amenities will not impact the normal function of the sand sharing system or the public beach.
- B. The project will not unreasonably interfere with the conservation of marine life, wildlife, or other resources;** The proposed project is located within the designated sensitive sea turtle nesting area. The beaches of Tybee Island serve as nesting site for sea turtles (May 1 through October 31st) and roosting locations for several migratory shorebirds. 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.** Beach access from the property is through the public access dune crosswalk maintained by the COTI at Byers Street,

immediately adjacent to the parcel. A private dune crosswalk is not proposed as part of the project.

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. 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 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.