



COASTAL RESOURCES DIVISION
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**SHORE PROTECTION ACT
STAFF'S FINDINGS & RECOMMENDATIONS**

May 22, 2020

TO: Shore Protection Committee:
Commissioner Mark Williams, Chairman
Mr. Zach Harris
Mr. Bill Hodges
Mr. Chad Barrow
Mr. Brad Brookshire

FROM: Department Staff to the Committee

APPLICANT: Villas-By-The-Sea Condominium Association, Inc.
1175 N Beachview Drive
Jekyll Island, GA 31527

AGENT: Blake Hightower
Land Design Associates, Inc.
228 Redfern Village #203
St. Simons Island, GA 31522

LOCATION: 1175 N Beachview Drive, Jekyll Island, Atlantic Ocean, Glynn County, Georgia

PROPOSED PROJECT: The applicant proposes the construction of two (2) beach crosswalks, a roofed gazebo, two (2) access walkways, and research radars within the State's Shore Protection Act (SPA) 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 April 4, 2020 through May 4, 2020. Two negative public comments were received that were concerned with the lack of accessibility on public property, the recreational use and enjoyment of public property, and concern over the number of crosswalks and size of crosswalks and structures allowed on-site.

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 property consists of two parcels. Parcel 1 is leased by Villas-by-the-Sea Resort, and includes 17 condominium buildings, the Driftwood Bistro Restaurant, and the Convention Center. Parcel 2 is property maintained by the Jekyll Island Authority (JIA).
2. Parcel 1 is approximately 708,354 (16.26 acres), of which approximately 19,193 sq. ft. (0.44 acres) is located within SPA jurisdiction.
3. Parcel 2 is approximately 303,064 sq. ft. (6.96 acres), of which approximately 260,385 sq. ft. (5.98 acres) is located within SPA jurisdiction.
4. SPA Permit #375 was originally permitted on August 28, 2007 and authorized scrub shrub habitat trimming, landscaping, boardwalks, crosswalks, and research radars.
5. The Jekyll Island Phase I Shoreline Rehabilitation project was authorized by Letter of Permission (LOP) issued on October 24, 2018 for maintenance and rehabilitation of the existing rock revetment.
6. SPA Permit #465 issued on November 9, 2018 for the Jekyll Island Phase II Shoreline Rehabilitation authorized limited debris removal, sand placement, dune construction, construction of public access paths and crossovers.
7. Due to a combination of Hurricanes (Irma, Matthew, etc.), construction of Phase I and Phase II shoreline rehabilitation projects, a staff site visit confirmed no complete crossover structures existed on property on November 4, 2019.
8. A LOP was issued December 5, 2019 for reconstruction of a crosswalk which was partially removed for construction activities authorized by SPA Permit #465. The LOP authorized a 2-section, approximately 168 ft. crosswalk to be reconstructed on the southside of the property.
9. Existing impacts on Parcel 2 (42,174 sq. ft.) include a rock revetment, beach quality sand fill landward of the rock revetment, wooden bollards and rope, and a wooden wind fence. Approximately 218,211 sq. ft. (83.8%) of the State's jurisdictional area currently remains in a natural or improved topographic and vegetative condition.
10. All proposed impacts associated with this proposal are located on Parcel 2.
11. The applicant proposes to construct two additional beach crosswalks, a roofed gazebo, two access walkways, and research radars within SPA jurisdiction.
12. Crosswalk 1: Crosswalk 1 will consist of a 162 ft. x 6 ft. walkway starting at the landward toe of the dune, extending over the rock revetment, terminating at a 25 ft. x 6 ft. staircase extending to the beach. Two 5 ft. x 5 ft. staircases, one to the north and one to the south, will be built approximately 104 ft. from the landward side to maintain public access across the structure landward of the rock revetment.
13. Crosswalk 2: Crosswalk 2 consists of the existing irregularly shaped structure of which approximately 126 sq. ft. will be removed. A new 9 ft. 9 in. x 4 ft. 10 in. crosswalk will be constructed in the same orientation as the existing structure and will meet a 54 ft. 11 in. x 6 ft. crosswalk which will be built due east, where it meets the proposed roofed gazebo. Extending east from the proposed roofed gazebo, the crosswalk will continue for 53 ft. 8 in. where it crosses the rock revetment to a 17 ft. x 6 ft. staircase that terminates on the beach.
14. Roofed Gazebo: A proposed roofed gazebo will be 30 ft. wide x 18 ft. in length (540 sq. ft.) and will connect to Crosswalk 2.
15. Access Walkway 1: Proposed access Walkway 1 will run in a north and south direction parallel to the Atlantic Ocean, landward of the rock revetment, and will connect Access Walkway 2 to Crosswalk 2. The walkway will be 313 ft. long x 8 ft. wide (2,507 sq. ft.).

16. Access Walkway 2: Proposed access Walkway 2 consists of an existing irregularly shaped section of a walkway (approx. 58 ft. long). The proposed walkway will connect to the existing section of walkway. This will then continue east for approximately 34 ft. 11 in. that leads to access Walkway 1 to the north, and to a 5 ft. by 8 ft. staircase that descends to the south.
17. Research Antennas: A total of 15 research antennas (radars) are proposed within SPA jurisdiction. The Tx array will consist of four (4) antennas attached to 4 in. x 4 in. posts placed south of proposed Crosswalk 1 (0.44 sq. ft.). The Rx array has 11 antennas placed parallel to the Atlantic Ocean with three (3) antennas attached to access Walkway 1 and eight (8) attached to 4 in. x 4 in. posts located just south of access Walkway 2 and within SPA jurisdiction (1.2 sq. ft.).
18. As proposed, approximately 214,565.36 sq. ft. (82.4%) of the State's jurisdictional area would remain in a natural or improved topographic and vegetative condition.

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):

19. 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):

20. Applicant has submitted the 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):

21. Jeff Homans, Registered Landscape Architect (No. 1284), has submitted a certification that the project meets all applicable hurricane standards.

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

22. Applicant has provided a statement from the Jekyll Island-State Park Authority that the project does not violate any zoning law.

Landfill, Hazardous Waste Inquiry, O.C.G.A. § 12-5-239(12):

23. Applicant has made an inquiry to the appropriate authorities that the proposed project is not over landfill or hazardous waste site and that the site is otherwise suitable for the proposed project.

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

24. 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 April 4, 2020 through May 4, 2020. Two negative public comments were received that were concerned with the lack of accessibility on public property, the recreational use and enjoyment of public properties, and concern over the number of crosswalks and size of crosswalks and structures allowed on-site

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

25. 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 land alteration components of this application occupy an area landward of the existing rock revetment. Work will be completed in JIA's Phase II permitted area (SPA Permit #465) where beach quality sand was recently backfilled landward of the revetment, artificial dunes were created, and planting of native vegetation has occurred.
- 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;** Approximately 214,565.36 sq. ft. (82.4%) of the State's SPA jurisdictional area will be retained or restored to a natural vegetated and topographic state.
- C. The proposed project is designed according to applicable hurricane-resistant standards;** Jeff Homans, Registered Landscape Architect (No. 1284), 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;** The proposed project consists of two crosswalks, 2 access walkways to connect with the new crosswalks, a roofed gazebo, and research radars. The construction will be temporary in nature, and upon project completion will restore the natural topography and vegetation to at least its former condition.
- 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;** The proposed access walkways and gazebo will be constructed landward of the rock revetment, so as to minimize storm-wave damage and erosion. Furthermore, these structures will be constructed of wood and above the grade of the backfilled sand area, to allow for normal functions of the sand-sharing system.

26. No permit shall be issued except in accordance with the following provisions:

(2) No permits shall be issued for a structure on beaches, eroding sand dune areas, and submerged lands; provided, however, that a permit for a pier, boardwalk, or crosswalk in such 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 proposed project consists of two crosswalks, 2 access walkways to connect with the new crosswalks, a roofed gazebo, and research radars. The proposed crosswalk structures will be constructed of wood and, upon project completion, the natural topography and vegetation shall be restored to at least its former condition. The project will result in temporary disturbances associated with the construction of the crosswalks.

- 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 proposed crosswalks traverse the rock revetment and will terminate just seaward of the rock revetment and of the current ordinary high-water mark (OHWM). During a storm event, storm-wave action may cause damage to the structure and erosion in the vicinity of the structure. Furthermore, the applicant is proposing to construct the crosswalks at least 3 feet above the current topography to help maintain the normal functions of the sand sharing system.

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

27. 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 proposed crosswalks traverse the rock revetment and will terminate just seaward of the current ordinary high-water mark (OHWM). During a storm event, storm-wave action may cause damage to the structure and erosion in the vicinity of the structure.
- B. The project will not unreasonably interfere with the conservation of marine life, wildlife, or other resources;** The project is not expected to interfere with the conservation of marine life, wildlife, or other resources. The applicant contends that the proposed project may benefit conservation by discouraging foot traffic and disturbance in sensitive habitat areas.
- C. The project will not unreasonably interfere with reasonable access by and recreational use and enjoyment of public properties.** The proposed project will provide beach access to residents, visitors, and guests of the Villas-by-the-Sea Condominiums as well as maintain the public's current access of public property by use of staircases traversing up and over each crosswalk and access walkways. This project will provide access to the wet-sand beach for recreational use and enjoyment of public 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.

SHORE PROTECTION ACT O.C.G.A. 12-5-230
STANDARD PERMIT CONDITIONS FOR DUNE CROSSWALKS

~~Only one crosswalk structure shall be allowed on a parcel.~~ In considering the design and routing of a crosswalk, the shortest route over the lowest area of the dunes shall be plotted to minimize impacts to the sand sharing system. For new construction, no decks or viewing platforms will be approved in the jurisdictional area. Previously permitted and grandfathered structures may be maintained provided they are serviceable. Additionally, the applicant requesting the structure must own 100% of the private lands through which the structure crosses or have the express written permission of the owner.

The following standard conditions shall apply to dune crosswalks:

1. The height of the structure shall be at least 36" above the grade of the sand dune and the width shall be no greater than 6' as measured from the outside posts, to allow for sand movement or accretion in the dynamic dune field.
2. The terminal point of the crosswalk shall be seaward of the seaward most dune ~~but shall not encroach seaward of the ordinary high water line in the active intertidal beach.~~
3. ~~If the shoreline erodes and the crosswalk extends seaward of the ordinary high water line, it will be the responsibility of the applicant to move the permitted improvements back to the dry sand beach, landward of the ordinary high water line.~~
4. The structure shall begin at the toe of the landward most dune.
5. Heavy equipment is prohibited in the Shore Protection Act jurisdiction. This project must be constructed using hand tools.
6. Clearing and grading of dunes is not authorized in conjunction with the construction of this project; stockpiling of materials in the dunes is prohibited.
7. Vegetation may be cleared only for the width of the permitted structure. The maintenance trimming of jurisdictional vegetation will only be allowed within 6" of the sides of the structure and 7' high over the structure.
8. No motorized vehicles are permitted on the crosswalk structure, except for motorized wheelchairs for handicapped persons.
9. Any sand needed to restore the site to pre-project vegetated and topographic conditions, or for backfilling, must be beach quality and obtained from an upland source and not from the beach.

SPECIAL CONDITIONS

1. During and post construction, public access to the flat sand area landward of the rock revetment must be maintained.
2. Because the project may occur between May 1st and October 31st, sea turtle nesting season, and in order to minimize the disruption of nesting activity from artificial lighting from the subject parcel, the Permittee must comply with the Jekyll Island-State Park Authority Beach Lighting Ordinance as well as the Department of Natural Resources' Wildlife Resources Division's sea turtle nesting guidelines.

3. The permitted structures shall be inspected monthly. A written record of all recommended and completed maintenance activities shall be maintained by the permittee for a period of three years from the date of inspection.
4. Permittee must provide a post-construction survey that locates all permitted structures in jurisdiction as indicated in the application materials. Such survey shall comply with the Georgia Plat Act, O.C.G.A. § 15-6-67 et seq.