

**NOTICE OF MEETING
CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE**

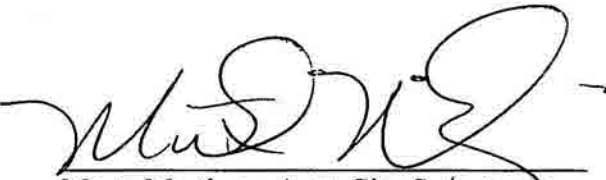
NOTE: One or more members of the City of South Padre Island City Council may attend this meeting; if so, this statement satisfies the requirements of the OPEN MEETINGS ACT.

NOTICE IS HEREBY GIVEN THAT THE SHORELINE TASK FORCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, WILL HOLD A REGULAR MEETING ON:

MONDAY, JUNE 27, 2016
3:00 P.M. AT THE MUNICIPAL BUILDING,
CITY COUNCIL CHAMBERS, 2ND FLOOR
4601 PADRE BOULEVARD, SOUTH PADRE ISLAND, TEXAS


1. Call to Order.
2. Pledge of Allegiance.
3. **Public Comments and Announcements:** *This is an opportunity for citizens to speak to Task Force relating to agenda or non-agenda items. Speakers are required to address the Task Force at the podium and give their name before addressing their concerns. [Note: State law will not permit the Shoreline Task Force to discuss debate or consider items that are not on the agenda. Citizen Comments may be referred to City Staff or may be placed on the agenda of a future Shoreline Task Force meeting]*
4. Approval of minutes of the June 13, 2016 regular meeting.
5. Discussion and possible action on Dune Construction permit for Marriott (Barrineau).
6. Discussion and possible action on Las Costas walkover mitigation (Barrineau).
7. Discussion and possible action on Kingfish St. closure (Giles).
8. Adjournment.

DATED THIS THE 23RD DAY OF JUNE 2016


Marta Martinez, Asst. City Secretary

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING OF THE SHORELINE TASK FORCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CORRECT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING ON **JUNE 23, 2016** AT **10:00 P.M.** AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.




Marta Martinez, Asst. City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL, JAY MITCHIM; ADA DESIGNATED RESPONSIBLE PARTY AT (956) 761-1025.

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: June 27, 2016

NAME & TITLE: Troy Giles, SLTF Chairman

ITEM

Approval of minutes of the June 13, 2016.

ITEM BACKGROUND

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

Comments:

RECOMMENDATIONS/COMMENTS

**MINUTES
CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE COMMITTEE
MONDAY, June 13, 2016**

I. CALL TO ORDER.

The Shoreline Task Force Committee of the City of South Padre Island, Texas held a regular meeting on Monday, June 13, 2016, at the Municipal Complex Building, 2nd Floor, and 4601 Padre Boulevard, South Padre Island Texas. Chairman Giles called the meeting to order at 3:00 p.m. A quorum was present: Chairman Troy Giles, Members Ron Pitcock, Charlie Brommer, and Rob Nixon all present. Absent were Members Norma Trevino Virginia Guillot, and Neil Rasmussen. City staff members present were Shoreline Management Director, Patrick Barrineau, Shoreline Project & Program Manager, and Brandon Hill.

II. PLEDGE OF ALLEGIANCE.

Chairman Giles led the Pledge of Allegiance.

III. PUBLIC ANNOUNCEMENTS AND COMMENTS:

Public comments and announcements were given at this time.

IV. APPROVAL OF MINUTES FOR MAY 23, 2016.

Shoreline Task Force Member Ron Pitcock made a motion to accept as written, with correction of typo in date, seconded by Committee Member Rob Nixon. Motion passed unanimously.

**V. Discussion and possible action on aesthetic improvements to public beach access points.
(P. Barrineau)**

Motion made by Rob Nixon to go forward with the planning process, second by Ron Pitcock. Motion passed unanimously.

**VI. Discussion and possible action on aesthetic improvements to bay side street endings.
Motion made by Rob Nixon to go forward with the planning process, second by Charlie Brommer.
Motion passed unanimously.**

**VII. Overview of shoreline plan master document and intended role. (Barrineau)
Director Barrineau presented a plan for creation of a Master Document setting goals and benchmarks for the Shoreline Department that includes both beach and bay.**

VIII. Since the Task Force had no further business to discuss, Mr. Giles adjourned the meeting at 3:42 PM

Mary K. Hancock

Troy Giles, Chairman

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: June 27, 2016

NAME & TITLE: Patrick Barrineau, Shoreline Director

ITEM

Discussion and possible action on Dune Construction permit for Marriott (Barrineau).

ITEM BACKGROUND

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____

NO: _____

Approved by Legal: YES: _____

NO: _____

Comments:

RECOMMENDATIONS/COMMENTS

Adjacent Landowner (North)

Owner: SPI PROPERTIES LIMITED LIABILITY CO

Mailing Address: PO Box 2344
South Padre Island, TX, 78597-2344

Adjacent Landowner (South)

1. **Owner:** SOUTH PADRE ISLAND TIKI CONDOMINIUM OWNERS ASSOCIATION

Mailing Address: 6608 PADRE BLVD
SOUTH PADRE ISLAND, TX, 78597-7711

2. **Owner:** CARLSON JAMES E & DARLENE

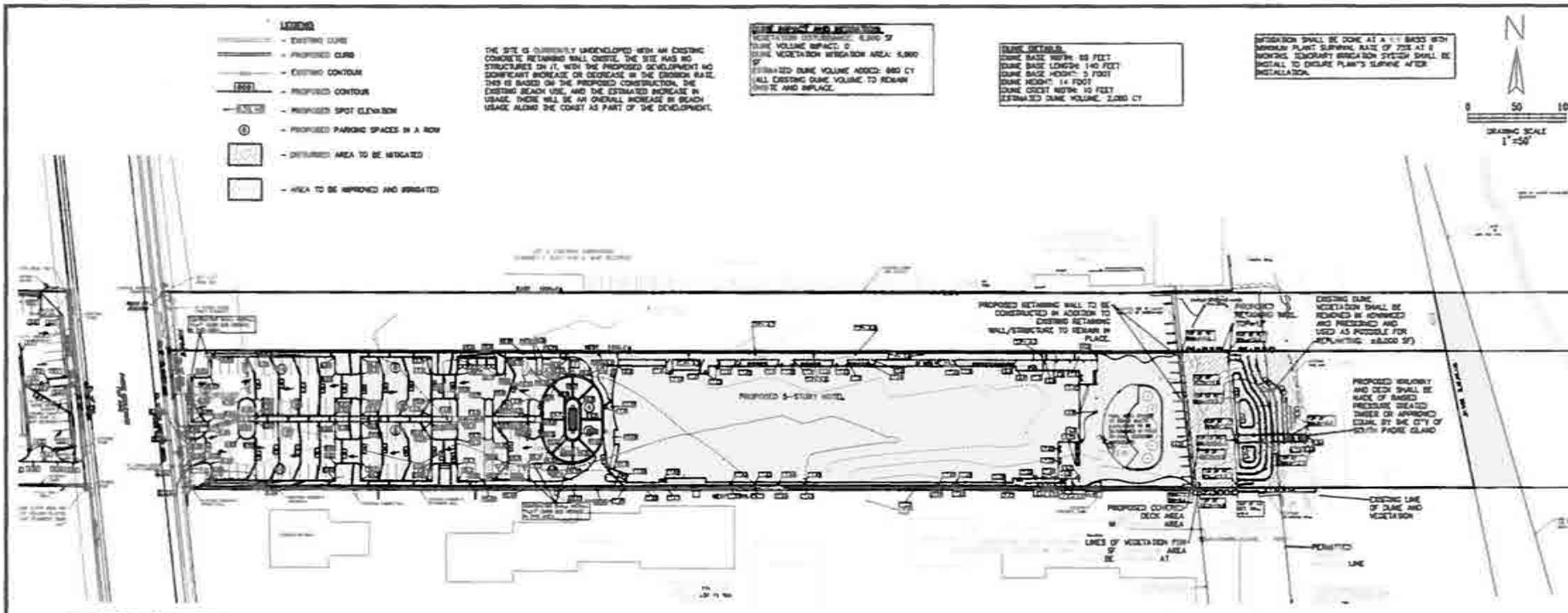
Mailing Address: 6608 Padre Blvd Apt 118
South Padre Island, TX, 78597-7711

3. **Owner:** CARLSON JAMES E & DARLENE

Mailing Address: 6608 Padre Blvd Apt 118
South Padre Island, TX, 78597-7711

4. **Owner:** CARLSON JAMES E & DARLENE

Mailing Address: 6608 Padre Blvd Apt 118
South Padre Island, TX, 78597-7711



VEGETATION MITIGATION
 6.016 ACRES AND BEING THAT PORTION OF TRACTS SEVEN (7) AND EIGHT (8), PADRE BEACH ESTATES SUBDIVISION, LYING EAST OF PADRE BOULEVARD (STATE HIGHWAY NO. 100), IN THE CITY OF SOUTH PADRE ISLAND, CAMERON COUNTY, TEXAS, ACCORDING TO THE MAP ON PLAT THEREOF RECORDED IN VOLUME 14, PAGE 61, MAP RECORDS OF CAMERON COUNTY, TEXAS, AND SAID 6.016 ACRES BEING MORE PARTICULARLY LOCATED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A ONE-HALF INCH IRON PIN FOUND AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF PADRE BOULEVARD (100 FT. EASEMENT) WITH THE NORTH BOUNDARY LINE OF SAID TRACT 17, AND BEING THE SOUTHWEST CORNER OF LOT 3, CONTAIN SUBDIVISION (CABINET 1, SHEET 1416-A, MAP RECORDS), FOR THE NORTHEAST CORNER OF THIS TRACT.

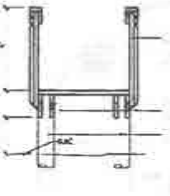
THENCE, ALONG THE NORTH BOUNDARY LINE OF SAID TRACT 17, EAST, AT A DISTANCE OF 860.8 FEET, A ONE-HALF INCH IRON PIN WITH A YELLOW PLASTIC CAP STAMPED "MIR INC" FOUND, A TOTAL DISTANCE OF 1286.4 FEET TO THE CORNER OF ELEVATION +0.7, SURVEYED FOR THE MEAN HIGHER HIGH TIDE LINE ON DECEMBER 18, 2013, FOR THE NORTHEAST CORNER OF THIS TRACT.

THENCE, ALONG SAID BOUNDARY OF ELEVATION +0.7, SOUTH 11 DEG. 34 MIN. 31 SEC. EAST, A DISTANCE OF 304.6 FEET TO THE SOUTH BOUNDARY LINE OF SAID TRACT 18, FOR THE SOUTHWEST CORNER OF THIS TRACT.

THENCE, ALONG THE SOUTH BOUNDARY LINE OF SAID TRACT 18, WEST AT A DISTANCE OF 208.7 FEET TO A ONE-HALF INCH IRON PIN WITH A YELLOW PLASTIC CAP STAMPED "MIR INC" FOUND, A TOTAL DISTANCE OF 1324.4 FEET TO THE INTERSECTION OF THE SOUTH BOUNDARY LINE OF SAID TRACT 18 WITH THE EAST RIGHT-OF-WAY LINE OF SAID PADRE BOULEVARD, FOR THE SOUTHWEST CORNER OF THIS TRACT.

THENCE, ALONG SAID EAST RIGHT-OF-WAY LINE OF SAID PADRE BOULEVARD, NORTH 08 DEG. 00 MIN. WEST, A DISTANCE OF 301.10 FEET TO THE POINT OF BEGINNING.

CONTAINING 6.016 ACRES, MORE OR LESS.



TYPICAL DUNE WALK DETAIL



TYPICAL BEACH MAT DETAIL

III. CAUTION III
UNDERGROUND UTILITIES
 EXISTING UTILITIES AND UNDERGROUND FACILITIES INDICATED ON THESE PLANS HAVE BEEN LOCATED FROM REFERENCE INFORMATION SUPPLIED BY VARIOUS PARTIES. THE ENGINEER DOES NOT ASSUME THE RESPONSIBILITY FOR THE UTILITY LOCATIONS SHOWN. IT SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR(S) TO VERIFY THE HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES AND UNDERGROUND FACILITIES PRIOR TO CONSTRUCTION. TO TAKE PRECAUTIONS IN ORDER TO PROTECT ALL FACILITIES ENCOUNTERED AND NOTIFY THE OWNERS OF ALL CONFLICTS OF THE WORK WITH EXISTING FACILITIES. THE CONTRACTOR SHALL PROTECT AND MAINTAIN ALL UTILITIES FROM DAMAGE DURING CONSTRUCTION. ANY DAMAGE BY THE CONTRACTOR TO UTILITIES SHALL BE REPAIRED OR REPLACED BY THE CONTRACTOR AT THEIR OWN EXPENSE.
 CALL 1-800-ONE CALL OR 1-800-ONE-CALL AT LEAST 48 HRS PRIOR TO CONSTRUCTION.

LEGEND: 1. EXISTING CURB 2. PROPOSED CURB 3. EXISTING CONTOUR 4. PROPOSED CONTOUR 5. PROPOSED SPOT ELEVATION 6. PROPOSED PARKING SPACES IN A ROW 7. DISTURBED AREA TO BE MITIGATED 8. AREA TO BE IMPROVED AND MITIGATED

VEGETATION MITIGATION
 VEGETATION ESTABLISHED: 6.016 ACRES
 DUNE VOLUME IMPACT: 0
 DUNE VOLUME MITIGATION AREA: 5,800 SF
 ESTIMATED DUNE VOLUME ADDED: 880 CY
 ALL EXISTING DUNE VOLUME TO REMAIN INTACT AND IN PLACE.

DUNE DETAILS
 DUNE BASE WIDTH: 10 FEET
 DUNE BASE LENGTH: 140 FEET
 DUNE BASE HEIGHT: 3 FEET
 DUNE HEIGHT: 14 FEET
 DUNE CORNER RADIUS: 10 FEET
 ESTIMATED DUNE VOLUME: 5,800 CY

MITIGATION SHALL BE DONE AT A 1:1 RATIO WITH MINIMUM PLANT SURVIVAL RATE OF 75% AT 1 YEAR. EXISTING VEGETATION SHALL BE REMOVED AND REPLACED WITH PLANTS SUITABLE FOR THE CLIMATE AND SOIL TYPE. PLANTS SHALL BE INSTALLED TO ENSURE PLANT'S SURVIVAL AFTER INSTALLATION.

GENERAL NOTES

1. 30% TO BE PLANTED IN THE MITIGATION AREA. SHALL INCLUDE BUTTERFLY BUSH, SEA OATS, MARSHMALLOW, COCKLESHELL, OR OTHER PLANTS APPROVED BY THE CITY OF SOUTH PADRE ISLAND.
2. THE EXISTING VEGETATION SHALL BE COLLECTED AND REPLANTED AT THE MITIGATION SITE. MITIGATION SHALL OCCUR PRIOR TO COMMENCEMENT OF SITE GRADING.
3. ANY DUNE MATERIAL SHALL BE FROM AN APPROVED SOURCE AND HAVE BEEN TESTED TO DETERMINE IT HAS THE SAME GRAIN SIZE AND MINERALOGY AS THE CURRENT MATERIAL ON SITE.
4. ALL MITIGATION WORK AND VEGETATION INSTALLATION SHALL BE DONE IN ACCORDANCE WITH THE OPEN BEACHES ACT, TEXAS STATE LAW, AND UNDER THE SUPERVISION OF A QUALIFIED PERSON. ALL WORK SHALL BE DONE TO PREVENT EROSION ON THE PUBLIC BEACH.
5. A TEMPORARY IRRIGATION SHALL BE INSTALLED ON ALL MITIGATED AND PLANTED SURFACES TO ENSURE VEGETATION ESTABLISHMENT. IRRIGATION SYSTEM TO BE REMOVED ONCE VEGETATION HAS BEEN ESTABLISHED FOR THE REQUIREMENTS OF THE OPEN BEACHES ACT, THE CITY OF SOUTH PADRE ISLAND AND THE STATE OF TEXAS.

PROJECT DATA TABLE

ESTIMATED DURATION OF CONSTRUCTION	18 MONTHS
LOCAL BEACH SOUTH CONTRACTORS	DATE
NUMBER OF STRUCTURES	1 STRUCTURE
PARKING SPACES ON SITE	100 SPACES
VEGETATION DESCRIPTION	THE PROPOSED WOODEN VEGETATION/ENCLOSURE WILL BE LOCATED ON THE SOUTH-CENTER PORTION OF THE SITE.
PROPOSED SURFACES	THE PROPOSED SURFACES, DRIVEWAYS AND PARKING AREAS SHALL BE PERMEABLE PAVING. THE DRIVEWAY PAD SHALL BE REINFORCED CONCRETE. THE DECK AND OVERWALK SHALL BE WOOD.
EXISTING SITE CONDITIONS	THERE IS AN EXISTING CONCRETE RETAINING WALL AND COUNTERTOP THAT SPANS THE WIDTH OF THE SITE.

OWNER:
 MODERN RESORT LODGING, LLC
 7000 PADRE BOULEVARD
 SOUTH PADRE ISLAND, TEXAS 78473
 PH: 361.773.6977

DESIGNER:
 CUMULUS DESIGN, INC.
 210 AND 215
 CALLES, TEXAS 78840
 PH: 214.235.0387
 FAX: 214.235.0387

REMARKS:
 Top of fire hydrant to be installed near the Northwest corner of the property on the East side of Padre Boulevard 100 and to the North of 100th Street.
 ELEVATION = 3.87
 Top of fire hydrant to be installed near the Southwest corner of the property on the East side of Padre Boulevard 100 and to the North of 100th Street.
 ELEVATION = 3.77

Cumulus Design
 Firm #14810
 2050 N. Highway 360, Suite 240
 Grand Prairie, Texas 75050
 Tel: 214.235.0387

THIS DOCUMENT IS
 PREPARED FOR THE
 PURPOSE OF THE
 CITY OF SOUTH PADRE ISLAND
 CAMERON COUNTY, TEXAS
 DATE: 04/15/18

BEACH & DUNE PLAN
 COURTYARD BY MARriott ON PADRE BLVD.
 CITY OF SOUTH PADRE ISLAND
 CAMERON COUNTY, TEXAS

PLAT DATE
 04/15/18
 DRAWING SCALE
 1" = 50'
 PROJECT NUMBER
 C015032
 SHEET NUMBER
 BD



Natalie Bell
Beach Access & Dune Protection Program
Coastal Resources Division
Development Services
Texas General Land Office

Dear Natalie,

Thank you for your help and time with our project (GLO ID No.: BDSPI-15-0384). Please see below our responses to the comments provided on January 12, 2016.

Comments

1. The proposed project includes construction within 200 feet of the line of vegetation and will disturb more than 7,000 square feet of dunes or dune vegetation.¹ The City must prepare a written consistency determination that the proposed action is consistent with CMP goals and policies identified in 31 TAC §505.62(a), and submit it to the GLO.

Response: A consistency determination by the City is no longer required based on the new site layout.

2. Aerial images and site visits by GLO field staff on December 9, 2015 suggest that the current line of vegetation may be located approximately 20 feet or more farther landward than what is shown on the survey provided in the application materials. The applicant should obtain and submit a recent survey of the construction site identifying the current location of the line of vegetation and of mean low tide.

Response: A recent survey of the construction site was performed on 12/29/2015 by Mejia & Rose, Inc. The plan has been updated to reflect this current survey.

3. The applicant must submit recent color photographs that clearly show the current line of vegetation, looking north, south, east and west.

Response: Photographs as specified have been included with this submittal.

4. The applicant may request a line of vegetation determination to be conducted by the City.³ The request and determination by the City must be forwarded to the GLO for review and approval.

Response: This will no longer be required because an updated survey has been obtained for the construction site.

5. The applicant proposes dune restoration and vegetation planting to extend 51 feet seaward of the LOV identified on the survey. Restoration of dunes on the public beach is allowed no more than 20 feet seaward of the landward boundary of the public beach at the time of construction.

Response: Per our discussion during the meeting, no seaward mitigation will be done from the current line of vegetation due to existing site erosion patterns. The existing dunes elevation and volume will be increased by bringing in geologically similar material. Existing vegetation will be replanted in addition to transplanted material.

6. The applicant also proposes construction of an irrigation system and dune walkover extending onto the public beach. Any construction on the public beach or any construction that encroaches in whole or in part on the public beach is prohibited.

Response: A temporary irrigation system will be in place until vegetation is fully established.



7. The applicant must submit a detailed description and diagram of the proposed retaining wall, including the type of material and dimensions.

Response: A retaining wall be added to the existing wall and a new retaining wall will be constructed approximately between 44.7 feet to 50 feet east of the existing wall. A detailed description and diagram of the proposed retaining walls will be provided.

8. The applicant must submit a financial guarantee acceptable to the City to secure removal of the retaining wall, if necessary.

Response: This will no longer be required as the retaining wall will be reused.

9. The mitigation plan provided does not adequately demonstrate that avoidance or minimization was taken into account before proposing adverse effects on dunes or dune vegetation.⁷ The applicant must provide alternatives to the proposed location of construction on the tract which would cause fewer or no adverse effects on dunes and dune vegetation or less impairment of beach access.⁸ The GLO is available to discuss options for adequate mitigation or compensation activities via conference call.

Response: The existing dunes elevation and volume will be by increased by bringing in geologically similar material. Existing vegetation will be replanted in addition to transplanted material. Please reference beach & dune plan and "vegetation protocol" write up for additional mitigation information.

10. The grading plan provided does not clearly show a final proposed elevation for the areas seaward of the Dune Protection Line. The applicant should clearly identify the final elevation of both the proposed pool area landward of the historic building line (HBL) and the proposed dune restoration area seaward of the HBL.

Response: The revised beach and dune plan now shows final elevations with respect to the existing elevation.

11. The application identifies fill material to be placed seaward of the Dune Protection Line. The applicant must identify the source of the sand for the project and demonstrate that the materials are the same grain size and mineralogy as what is currently on site.

Response: Fill material will be similar to existing material on site. Please reference beach & dune plan and "vegetation protocol" write-up for additional mitigation information.

12. Where a mitigation plan is required, the applicant must provide contact information for all landowners immediately adjacent to the tract and affirmation by the applicant that the adjacent landowners will be provided with notice of the hearing at least 10 days prior to the City's hearing on the application.

Response: A list of adjacent property owners has been generated. The notice will be sent out at least 10 days prior to the City's hearing on the application.

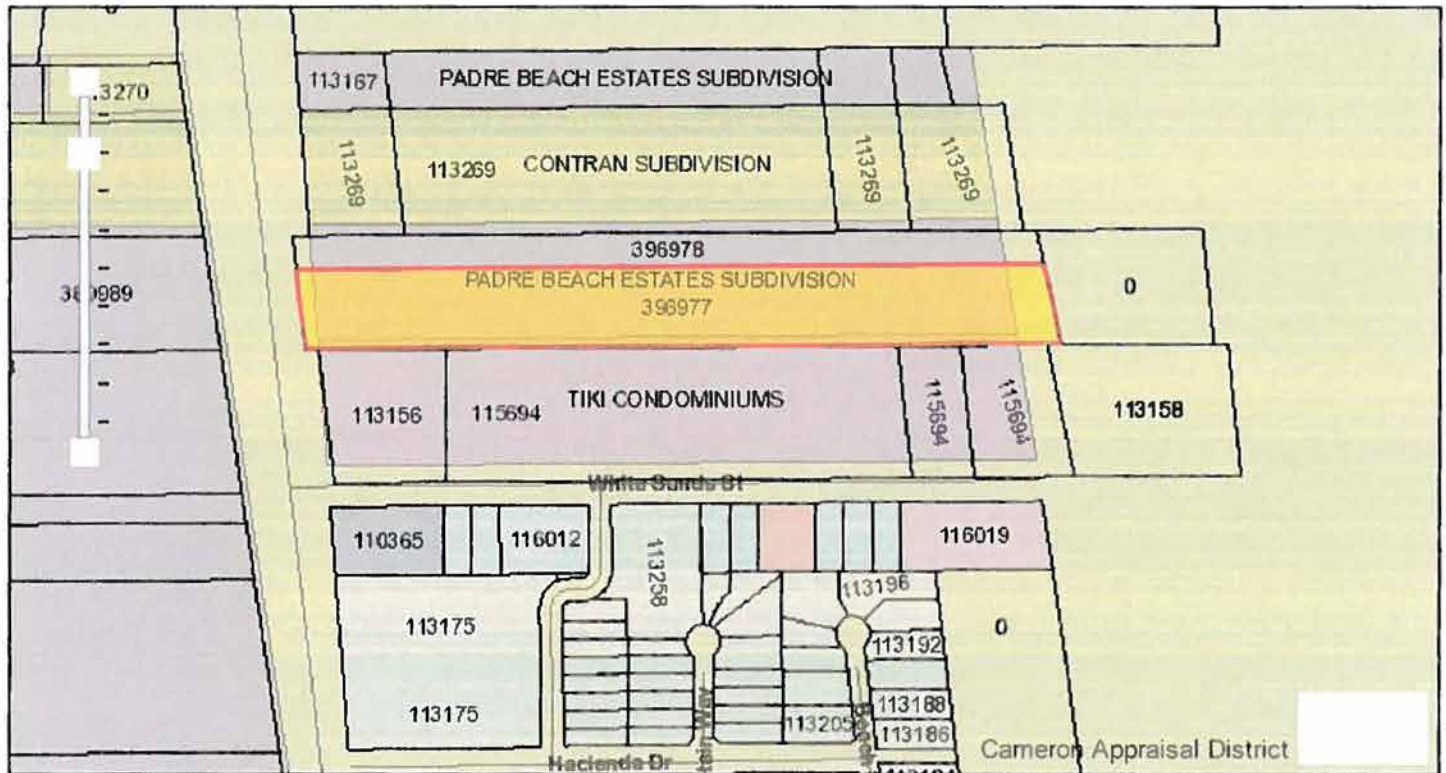
Thank you for your time and help with this application. Please feel free to contact us if you have any questions or comments in regards to this application.

Sincerely,

Paul Cragun

CAMERON APPRAISAL DISTRICT

Printable Map of Property: 396977 For Year: 2015



Property Details

Property Id: 396977
Geo. Id: 67-6420-0160-0001-00
Property Type: Real
Property Address: PADRE
Owner Name: MODERN RESORT LODGING LLC
Owner Address: 7010 Padre Blvd
 South Padre Island, TX, 78597-7726
Legal Description: LOT 16 PADRE BEACH ESTATES
 SUBDIVISION (2015 REPLAT C1-3323
 CCMR FILED 12/31/14)
Appraised Value: 4595580
Mapsc0:
Jurisdictions: IPI, SST, CSP, GCC, SC1, STS, CAD,
 SPN, TR2

Values for 2015

(+) Improvement Homesite Value:	+	\$0.00	
(+) Improvement Non-Homesite Value:	+	\$0.00	
(+) Land Homesite Value:	+	\$0.00	
(+) Land Non-Homesite Value:	+	\$4,595,580.00	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0.00	\$0.00
(+) Timber Market Valuation:	+	\$0.00	\$0.00
<hr/>			
(=) Market Value:	=	\$4,595,580.00	
(-) Ag or Timber Use Value Reduction:	-		
<hr/>			
(=) Appraised Value:	=	\$4,595,580.00	
(-) HS Cap:	-	\$0.00	
<hr/>			
(=) Assessed Value:	=	\$4,595,580.00	

DISCLAIMER: The Cameron Appraisal District does not warrant the accuracy, completeness or

Intended use of the information contained in this document.

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: June 27, 2016

NAME & TITLE: Patrick Barrineau, Shoreline Director

ITEM

Discussion and possible action on Las Costas walkover mitigation (Barrineau).

ITEM BACKGROUND

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

Comments:

RECOMMENDATIONS/COMMENTS



6
22 June 2016

To Whom It May Concern:

The City of South Padre Island and the property owners responsible for the Las Costas walkover issues have reached a settlement where the owners can mitigate damage caused by their construction project in exchange for approval by the GLO and City of the walkover. These mitigation efforts may be generally divided into two sections; (1) those immediately impacting the utility of the walkover as it stands, and (2) those concerned with mitigating the walkover's impact on adjacent dunes and dune vegetation communities.

To address the first category of mitigation efforts, the city requests that the wide platforms or 'wings' that were built into the walkover but not permitted prior to construction be removed. Additionally, the city requests that a mobi-mat be placed from the end of the walkover to the dune vegetation line (a distance of 30 feet with bearing 85°).

To address the second category of mitigation efforts, the city requests the course of the public beach access walkway adjacent to this property be changed. The walkway will continue straight from the present end of the mobi-mat for 100 feet along bearing 110°, then turn to face along bearing 45° for 50 feet. The property owners should provide written permission (ideally in the form of an easement) to the city indicating their approval of having a public access walkway partially on their property. This walkway must be ADA compliant, so the mobi-mat should be at least 5' wide all the way to the dune vegetation line and have minimal slope. Please see the attached image for planform outlines of the Las Costas walkover (tan) and new mobi-matted walkways (navy).

In order to promote equal access to the beach, the city also requests the property owners provide one beach-going wheelchair. In order to mitigate the vegetation and sand lost in the construction of the walkover, the city requests the property owners provide 50 yd³ of sand and 3500 dune plants (of species to be determined by Ms. Shelby Bessette) to be placed within the old public access walkway in order to promote the growth of a dense low vegetation canopy. Plants and sand displaced by the construction of the new public access walkway will be relocated to an area of the city's choosing where they will be most worthwhile.

The attached documents include the easement provided by the property owners giving the city permission to maintain a public beach access walkway at this point, and planform visuals showing the present and designed layout of the walkover and mobi-mats.

Sincerely,

Patrick Barrineau
Director, Shoreline Management
City of South Padre Island, TX

**CITY OF SOUTH PADRE ISLAND
SHORELINE TASK FORCE
AGENDA REQUEST FORM**

MEETING DATE: June 27, 2016

NAME & TITLE: Patrick Barrineau, Shoreline Director

ITEM

Discussion and possible action on Kingfish St. closure. (Giles).

ITEM BACKGROUND

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal:

YES: _____

NO: _____

Approved by Legal:

YES: _____

NO: _____

Comments:

RECOMMENDATIONS/COMMENTS



**APPLICATION FOR ABANDONMENT OF PORTION OF KINGFISH
STREET PUBLIC RIGHT-OF-WAY WEST OF LAGUNA BLVD. IN THE
CITY OF SOUTH PADRE ISLAND, TEXAS**

Date: May 14, 2016

To: The Mayor and City Council of the City of South Padre Island, Texas

Applicants [on behalf of themselves and their respective members pursuant to Texas Property Code §82.102(a)(4)]:

- (1) Sand Castle Council of Co-Owners, Inc.
- (2) Condominiums at Sand Castle II Association of Co-Owners, Inc.
- (3) Condominiums at Sand Castle III Association of Co-Owners, Inc.

[(1), (2) and (3) collectively referred to as the "**Associations**"]

Request: For adoption of an ordinance, pursuant to Texas Local Government Code §253.001(c), directing the Mayor or City Manager of South Padre Island to execute documents necessary

(1) to acknowledge the City's abandonment of that portion of the West Kingfish Street right-of-way easement located west of the westernmost boundary line of the Laguna Blvd. public right-of-way (the described easement hereafter referred to as the "**Subject Easement**"); and

(2) to convey (as appurtenant to the units at the Sand Castle Condominiums) the Subject Easement, with the conveyance being to the various unit owners (including the Associations) of units in the following condominium regimes (collectively the "**Sand Castle Condominiums**"): Sand Castle Number One, Sand Castle II Condominiums, and Sand Castle III Condominiums.

Attached hereto as **Exhibit A** is a drawing reflecting the Subject Easement that the Applicants request that the City formally abandon and convey to the Sand Castle Condominiums unit owners. This Exhibit also shows: (i) the surrounding area to the nearest public street in all directions (which is only Laguna Blvd. to the east); and (ii) all of the abutting lots and blocks in the platted subdivision where the Subject Easement is located.

History & Ownership:

- **1952** John L. Tompkins & Co. filed with Cameron County a Plat of **Padre Beach Section V**, which is attached as **Exhibit C**. That Plat covers land from the Laguna Madre to the Gulf of Mexico. On that Plat, Tompkins "dedicate[d] to public use the streets, easements and Rights-of-way as shown" on the Plat¹ (emphasis added). Among the streets² dedicated on the Plat is Kingfish Street.

¹ See Plat attached hereto as Exhibit C, paragraph (starred) which Tompkins signs as Trustee Owner.

² Padre Boulevard, Gulf Boulevard, Swordfish Street, Red Snapper Street, Dolphin Street, Kingfish Street, and White Cap Circle and Blue Water Circle.

- Well-settled law establishes that
 - The persons who own land abutting a street which has been dedicated to the public by a plat are the actual fee title owners of the land to the center of the street;
 - Whenever an abutting owner transfers land to another, that conveyance carries with it the title to the center of the street, which vests in the new owner; and
 - The City simply owns a surface right-of-way easement, which is a public easement that encumbers the abutting owners' fee title to the land to the center of the street.³

- **April 1973** Bill & Jean Moore, the sole owners of all of the western-most lots on both sides of the Subject Easement [other than the mere 100 feet at the northeast corner of Kingfish St. and Laguna Blvd.⁴ (the "**NE 100 Feet**")]⁵ created the Sand Castle Number One condominium regime out of the land they owned.⁵
 - The Declaration creating the initial 1973 condominium regime⁶ described the "Improvements" in the condominium regime as including "the automobile parking areas . . . fishing piers, boat docks, [and] boat launching ramp"⁷ (collectively the "**Parking and Street End Improvements**").
 - All of these Parking and Street End Improvements are also described in the Declaration as among the "General Common Elements" dedicated for use only by the condominium unit owners and their invitees.⁸
 - As shown on **Exhibit B** attached,⁹ the Sand Castle Condominiums Parking and Street End Improvements are located on both sides of Kingfish St., on which the City's right-of-way easement sits. Those Parking and Street End Improvements themselves occupy more than half the width and the western-most end of the street easement right-of-way that was dedicated to public use by Tompkins in 1952.
 - As noted above, the Sand Castle condominium unit owners – as all the persons owning (as tenants in common) the General Common Elements on the land abutting Kingfish St. at this point in time and place – own the fee simple interest in this land up to the center of the street on both sides of the street. In other words, the Sand Castle condominium unit owners own all the land underlying what became at this point is a mere nominal street easement except to the extent

³ See Rocha and Ward, How to Close a Street Called Desire, a Legal History of Streets (Abridged), Texas City Attorneys Association (2006) and various authorities and cases cited therein, p. 8.

⁴ Lots 8 & 9 in Block 66, Padre Beach Subdivision Section V

⁵ located on Lots 1-7 in Block 66, and Lots 1-8 in Block 65, Padre Beach Subdivision V

⁶ filed in Vol. 3, Page 69, Cameron County Condominium Records

⁷ See Cameron County Condominium Records, Vol. 3, at the top of Page 72

⁸ See Cameron County Condominium Records, Vol. 3, bottom of Page 72, continuing on to Page 73

⁹ the filed Plat accompanying the Declaration

the street easement served the owners of only the NE 100 Feet adjoining Laguna Blvd.

- **During the 43+ years between April 1973 & Now**

- The lease from the GLO for the submerged land at the end of the Subject Easement has been in the name of and for the benefit of the Sand Castle Condominium Number One owners, as the owners of the General Common Elements that include the fishing piers, boat docks, and boat launching ramp.
 - Only the Sand Castle owners and their invitees – not the general public – have had any right to use these dock facilities and the boat ramp, and the parking areas that occupy most all of the Subject Easement leading up to them.
 - Sand Castle Condominiums residents have had serious and repeated problems with trespassers on their property, causing the following:
 - Property damage from vandalism and wear and tear on the General Common Elements by persons who have no right to use the condominium General Common Elements;
 - The presence of strangers who have no business coming on to the Sand Castle Condominiums property, threatening the residents' safety and security and damaging their property.
 - This trespassing and accompanying property and security violations occur even though the Subject Easement, as it extends west from Laguna Boulevard, does not adjoin a public street, nor does it go anywhere other than to property owned by the Sand Castle Condominiums residents.
- In an effort to solve the repeated trespassing and threats to the residents' security and property, unit owners at the Sand Castle Number One condominium regime sought to install a security gate at the entrance to the condominium grounds.
 - The security gate is to be located where the condominium General Common Elements¹⁰ begin, at the line coincident with the western-most boundary line of the Laguna Blvd. public right-of-way and eastern-most boundary of the Subject Easement.
 - Such a gate will effectively restrict access to the condominium General Common Elements to those persons who own those General Common Elements and their invitees, similar to the situation that exists in other gated condominium communities located throughout South Padre Island.
 - To facilitate the ability to install a security gate at this location, two of the Sand Castle Number One condominium unit owners (husband and wife Craig and Christina Sparling) therefore purchased the two lots abutting the NE 100 Feet of

¹⁰ the defined Parking and Street End Improvements

the Subject Easement, under a plan to make all of the land west of the intersection of Laguna Blvd. and Kingfish St. part of the Sand Castle Condominiums.

- **October 2008** As part of this plan, Sparling created the Sand Castle II & III condominium regimes,¹¹ whose dedicatory instruments¹² specifically refer to and incorporate the plan to consolidate Sand Castle II & III with Sand Castle Number One, including the General Common Elements.
 - The associations created for Sand Castle II & III, pursuant to the authority in Texas Property Code §82.102(a), simultaneously entered into an Easement and Maintenance Agreement (“EMA”)¹³ with Sand Castle Number One. The EMA creates perpetual and reciprocal easements for use of the General Common Areas by the residents of the consolidated Sand Castle Condominiums.
 - The Applicants thus represent 100% of the fee simple owners of the land underlying the Subject Easement, all of which represents part of the General Common Elements of the consolidated Sand Castle Condominiums.

Reasons for Abandonment/Conveyance of Easement: The City should formally abandon the Subject Easement for the following reasons:

1. Abandonment of the Subject Easement will greatly reduce the safety and security risks the Sand Castle Condominiums residents repeatedly suffer when persons who do not reside in the Sand Castle condominium regimes or who have not been invited by the residents trespass upon the residents’ property.
2. This will in turn save the City money and resources by:
 - a. decreasing the number of security calls, complaints, nuisance calls and reports to which the City’s police department must respond;
 - b. eliminating the cost of the City’s obligation to maintain a street on this portion of the Kingfish right-of-way.
3. The City’s easement here is purely nominal, as it serves no public purpose and is located on land to which the general public is not even entitled to go. The Subject Easement goes nowhere to which the public is entitled to go, or which the public cannot otherwise access through other public means.
 - a. All of the land underlying the Subject Easement is part of the General Common Elements of the Sand Castle Condominiums, none of which should be used by the general public.

¹¹ located on Lots 8 and 9 in Block 66, Padre Beach Subdivision.

¹² Recorded in the Cameron County Official Records as Doc. #48992 in Vol. 15520, Page 157 *et seq.* and Doc. #49059 in Volume 15521, Page 255 *et seq.*

¹³ Recorded as Doc. #49146 in Cameron County Official Records, Vol. 15523, page 111 *et seq.*

- b. The only place to which the Subject Easement leads is to additional Sand Castle General Common Elements that only the Sand Castle residents are entitled to use: the dock facilities and the boat ramp.
- c. The Laguna Madre, which lies beyond the Sand Castle Condominiums private dock facilities and boat ramp, can be accessed by the general public through numerous other access points along this vast body of water.

Procedure for Abandonment/Conveyance – No Appraisal Needed: The abandonment and vacating of the City's easement must be in the form of an ordinance;¹⁴ however, because of the very unique circumstances surrounding the ownership, history and use of the land underlying the City's nominal easement here, there is no need for providing for an appraisal to determine any fair market value for the conveyance of the City's easement interest here for the following reasons:

- 1. The only time an appraisal is needed is when the City is required to determine the "fair market value" of an easement before conveying its interest. The requirements for an appraisal before a municipality can convey an easement is set forth in Tex. Local Gov't Code § 272.001(b), which reads in part as follows:

[T]hose interests described by this subsection¹⁵ may not be conveyed, sold, or exchanged for less than the *fair market value* of the land or interest unless the conveyance, sale or exchange is with one or more abutting property owners who own the underlying fee simple. The *fair market value* is determined by an appraisal" (footnote and emphasis added).

- 2. As noted in the History & Ownership set forth above, by law, the Applicants are the fee simple abutting owners of the land underlying and subject to the City's nominal right-of-way easement on this portion of West Kingfish. Under the clear language of Tex. Local Gov't Code § 272.001(b), there is absolutely no need for a determination of fair market value. Hence, there is no need for an appraisal.
- 3. Nor is this a situation similar to any other instance in which the City needed an appraisal so that it could get "fair market value" for conveying a City owned property interest – *e.g.*, where the City proposed selling its easement right to developers of the underlying land who may have owned some of the abutting lots.
 - a. Those previous circumstances were instances in which the street easement actually had value, either (i) to the City because the street was something that could actually be used by the general public and was perhaps a conduit to property used by the City or the general public, or (ii) to the developer who was changing the use of the land and would thus realize future profits from the development and changed use of the land.

¹⁴ Tex. Local Gov't Code § 253.001(c)

¹⁵ which includes in subsection (b)(2) "streets or alleys, . . . used by easement;"

- b. As noted above, the only members of the "general public" who use the Subject Easement are trespassers on the Sand Castle Condominiums General Common Elements. Neither the City, nor the persons whom the City governs as members of the general public, own any valuable interest here because the only persons who have the right to use the parking areas and private boat ramp and docks to which this nominal easement leads are the Sand Castle Condominiums residents.
4. By abandoning a merely nominal easement interest and conveying it to the Sand Castle Condominium unit owners, the City will not be "letting go" of a supposedly valuable interest in property to a person or company who can then develop it for profit.
 - a. On the contrary, the City would be "letting go" of the risks and costs associated with (i) maintaining a street that is not and cannot be used by either the general public or the City, and (ii) responding to the safety and security concerns of the Sand Castle Condominiums residents when unwanted intruders trespass on their property.
 - b. Once the City abandons its mere nominal easement here, the Applicants are not going to use, or even be able to use, their land thus unencumbered by the City's easement to pursue development of a profitable new venture; rather, they will continue to use their land as they have for the last 43+ years, as the sole access they have to the General Common Elements they own: the parking areas for their vehicles, and their private boat ramp and docks.
5. Abandonment of the Subject Easement will thus serve the best interests of the City by (i) increasing the safety, security and welfare of the Sand Castle Condominiums residents, (ii) taking nothing that is of value to either the City or the general public it governs, and (iii) requiring nothing more than enactment of an ordinance under Texas Local Government Code § 253.001(c)

WHEREFORE, the undersigned Applicants submit this Request that the City of South Padre Island adopt an ordinance [pursuant to Texas Local Government Code § 253.001(c)] directing the Mayor or City Manager of South Padre Island to execute documents necessary

(1) to acknowledge the City's abandonment of the portion of the West Kingfish Street right-of-way west of the westernmost boundary line of the Laguna Blvd. public right-of-way (the "Subject Easement"); and

(2) to convey to the Sand Castle Condominiums owners the Subject Easement.

APPLICANTS:¹⁶

BY: SAND CASTLE COUNCIL OF CO-OWNERS, INC.



Herbert Bode, President

**BY: CONDOMINIUMS AT SAND CASTLE
II ASSOCIATION OF CO-OWNERS,
INC.**



Craig Sparling, President

**BY: CONDOMINIUMS AT SAND CASTLE
III ASSOCIATION OF CO-OWNERS,
INC.**

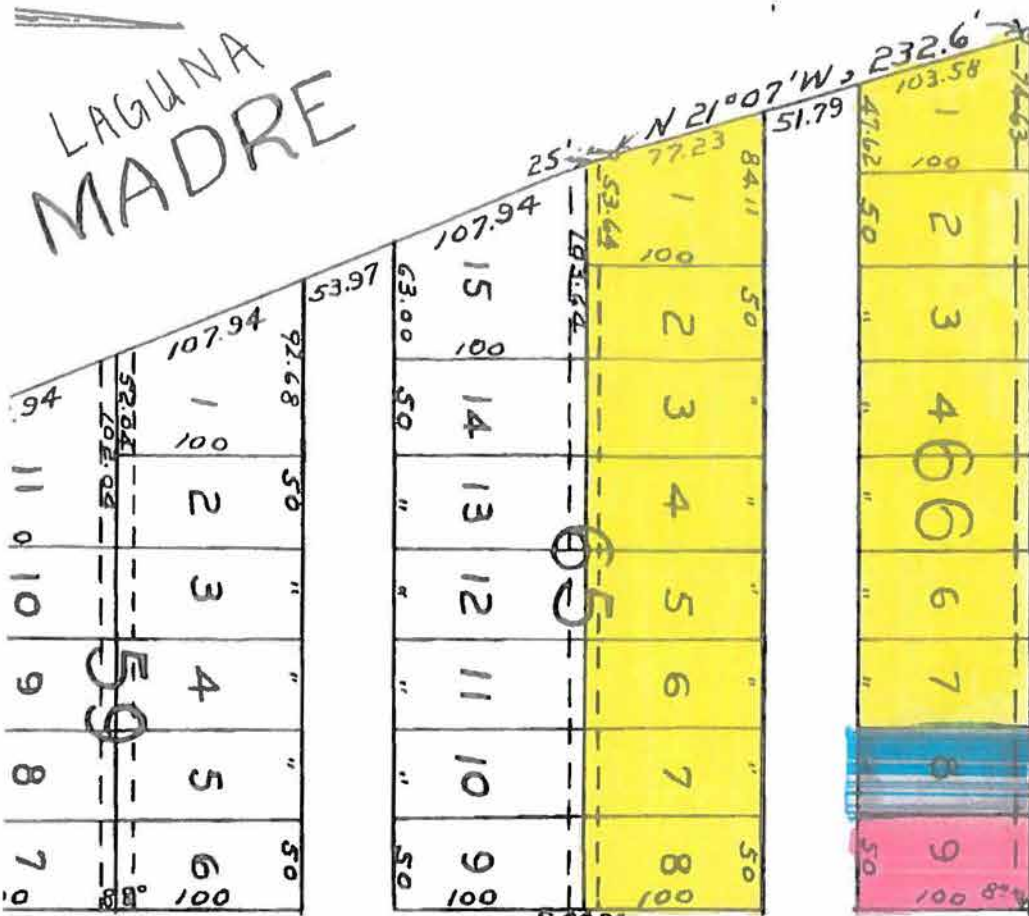


Craig Sparling, President

¹⁶ pursuant to Tex. Prop. Code §82.102(a)(4)

Exhibit A

LAGUNA
MADRE



Sand Castle
No. 1

Sand Castle
No. 2

Sand Castle
No. 3

Blocks 65 and 66
are located in
Padre Beach
Subdivision

BOULEVARD

LAGUNA BOULEVARD

DOLPHIN

KINGFISH

PADRE
BOULEVARD

EXHIBIT B

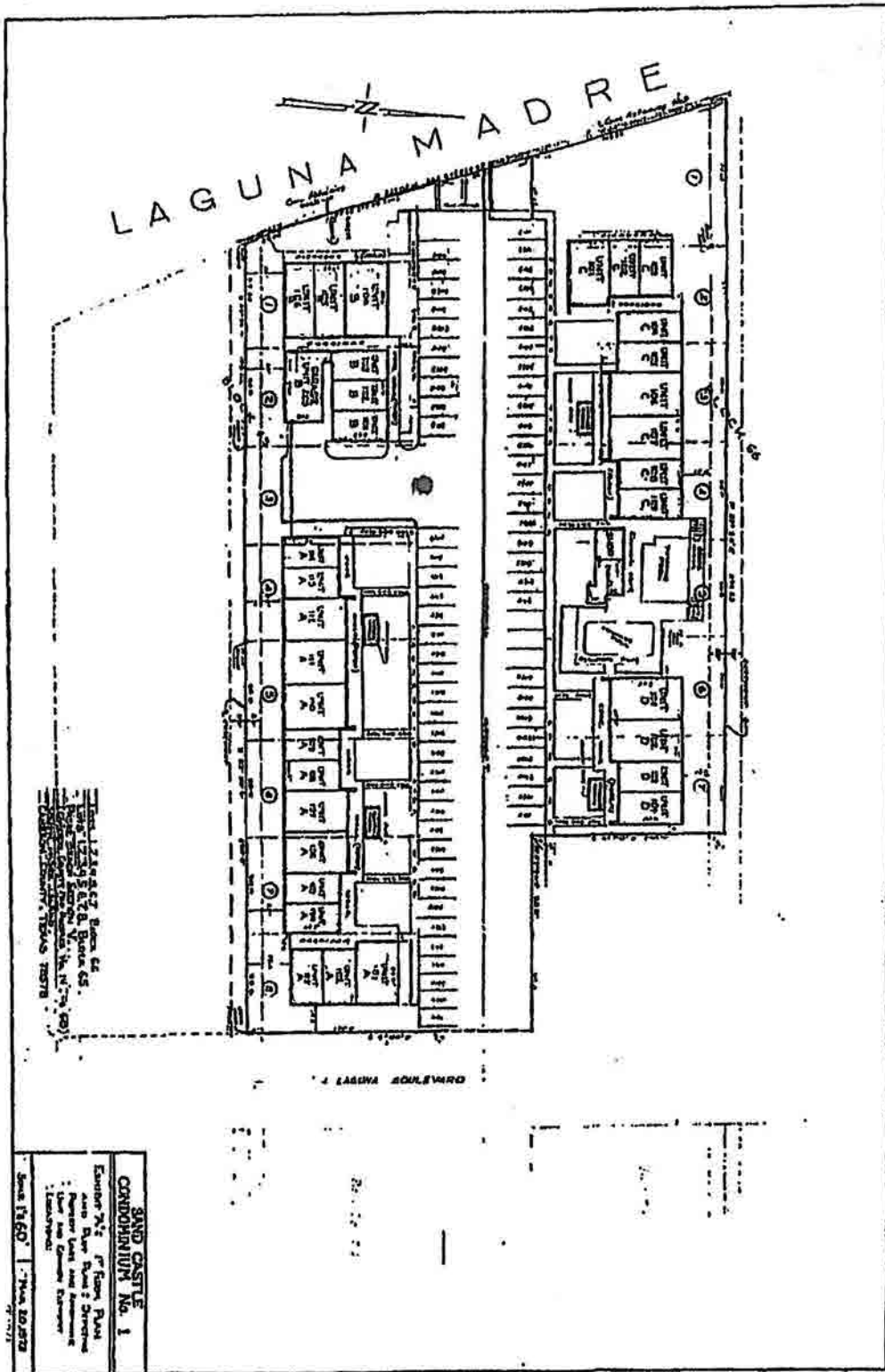


Exhibit
C

17815
PADRE BEACH SECTION IV

COMPRISING BLOCKS 32-40 BOTH
INCLUSIVE BEING A SUBDIVISION OF
33.25 ACRES ON PADRE ISLAND
SAME BEING IMMEDIATELY NORTH
OF AND ADJOINING PADRE BEACH
SECTION III, AS RECORDED IN VOL.
UNSUB. PLATS, MAP RECORDS OF
CAMERON COUNTY, TEXAS.

JOHN L. TOMPKINS & CO
DEVELOPERS
214-216 JONES BLDG. CORPUS CHRISTI, TEXAS
JULY 22, 1932 J.E. McNally
San Benito, Tex. Civil Engineer

Engineer's Certificate
I, J. E. McNally, Civil Engineer, certify that this is a true and correct Map of
PADRE BEACH SECTION IV, comprising the 33.25 Acres, more or less, out of a 1930.00
Acres Tract, as shown by Deed from W. J. Ehlers, Sr. to J. E. McNally, dated October 12, 1931, and
recorded in Vol. 189, Page 189, Deed Records of Cameron County, Texas, as
subdivided and platted by me.

28 JULY 1932 J.E. McNally
Civil Engineer

STATE OF TEXAS
COUNTY OF CAMERON }
Subscribed and sworn to before me this 28 day of July 1932.
W.D. Collins, Notary Public in
and for Cameron County, Texas.

STATE OF TEXAS }
COUNTY OF CAMERON } I, John L. Tompkins, Trustee, owner of the 33.25 Acres more
or less, out of a 1930.00 Acres Tract, as shown by Deed from W. J. Ehlers, Sr. to J. E. McNally, dated
October 12, 1931, and recorded in Vol. 189, Page 189, Deed Records of Cameron County, Texas,
do hereby adopt and confirm this PADRE BEACH SECTION IV, as platted and shown in this
Map and dedicate to public use the streets, easements, and rights of way as shown
thereon.

Witness My Hand this 28 day of July 1932.
John L. Tompkins, Trustee
Trustee Owner

STATE OF TEXAS }
COUNTY OF CAMERON } Before Me, the Undersigned Authority, on this day personally
appeared John L. Tompkins, known to me to be the person whose
name is subscribed to the foregoing instrument and acknowledged to me that
he executed the same for the purposes and consideration therein
expressed.

Given Under My Hand and Seal of Office, this 28 day of July 1932.
W.D. Collins, Notary Public
CAMERON COUNTY, TEXAS

O.K. J. C. Harris, County Engineer - 7-19-32

O.K. C. H. McLaughlin, Co. Tax Assessor-Collector.

Approved by the Commissioners' Court of Cameron County, Texas
at Regular Meeting on the 18th day of September 1932
Dexter C. Dancy,
County Judge.

Approved by the City Commission, City of Port Isabel, Texas
this 11 day of August, 1932.

Attest:
D. D. Brumley, City Secretary.

Filed for record at 9:30 a.m. A.M. SEPT
18th A.D. 1932, and duly recorded at 4:50
a.m. P.M. SEPT 22nd A.D. 1932.
N. D. BEARD, COUNTY CLERK,
CAMERON COUNTY, TEXAS
By [Signature] Deputy

