

PUBLIC NOTICE

REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER SECTION 408

TITLE: Sandpiper Village Lots 21 and 22 – Dune Modification at the Bethany Beach/South Bethany Coastal Storm Damage Reduction Project in Bethany Beach, Sussex County, Delaware

PUBLIC NOTICE IDENTIFICATION NUMBER: 408-NAP-2024-0020

PUBLIC NOTICE COMMENT PERIOD:

Begins: **25 February 2025**

Expires: **12 March 2025**

Interested parties are hereby notified that an application has been received for a Department of the Army Section 408 permission for certain work at or near a federal project of the United States, as described below and shown on attached figures. Written comments are being solicited from anyone having an interest in the requested alteration. Comments will become part of the U.S. Army Corps of Engineers' (USACE's) administrative record and will be considered in determining whether to approve the request. Comments supporting, opposing, or identifying concerns that should be considered by the USACE in its decision process are all welcome.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply USACE endorsement of the project as described.

1. REQUESTOR: In compliance with 33 USC 408 (Section 14 of the Rivers and Harbors Act of 1899; hereinafter Section 408), the homeowners of Lots 21 and 22 in Sandpiper Village, Bethany Beach, Delaware have requested permission to modify the existing dune fronting their properties. The subject dune is sited within the footprint of the Bethany Beach/South Bethany Coastal Storm Damage Reduction Project.

2. LOCATION: The proposed project is located in uplands at the dune east of Lots 21 and 22 in Sandpiper Village, corresponding to 14 and 16 Sea Side Drive in Bethany Beach, Sussex County, Delaware; approximate center coordinates 38.518780, -75.053516.

3. LOCATION MAP(S)/DRAWING(S): Please see attached Project Plan Sheets 1 - 3.

4. REQUESTER'S PROPOSED ACTION: The proposed action entails modification/lowering of the existing dune fronting Lots 21 and 22 to the USACE design crest elevation of +16 feet NAVD. The subject dune has exceeded the USACE design crest elevation of +16 feet NAVD, reaching approximately +24 feet NAVD at its peak. Sand

excavated from modifying/lowering of the dune will be trucked via the Ocean Drive roadway to Fenwick Island State Park where it will be unloaded and stockpiled in uplands as directed by the Delaware Department of Natural Resources and Environmental Control (DDNREC). The modified/lowered dune will be planted with American beachgrass (*Ammophila breviligulata*). All dune modification, excavation, and stockpiling activities will be performed in uplands, landward of both the High Tide Line (HTL) and Mean High Water (MHW) Line of the Atlantic Ocean.

5. REGULATORY AUTHORITY: This request will be reviewed according to the provisions of Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408). A requestor has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), Section 404 of the Clean Water Act (33 USC Section 1344) and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413). Any Section 10/404/103 permit decision associated with the proposed alteration is separate from and will not be included in the Section 408 permission decision. An approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

6. ENVIRONMENTAL COMPLIANCE: A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the Philadelphia District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. Based on information provided by the applicant to date, current Corps regulations governing NEPA implementation, and/or the contents of existing NEPA documentation if available, it is likely that the proposed action will be determined to be categorically excluded from the need to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS). This determination will be finalized following completion of agency coordination and prior to issuance of the Section 408 Permission Decision.

7. EVALUATION: As part of its evaluation, USACE will first make a determination that the submittal from the requestor is complete. The Philadelphia District is working closely with the requestor to ensure that all required technical plans, maps, drawings, and specifications are provided and are complete. Once the package is complete, a District-led review will be conducted to determine, in accordance with Engineering Circular (EC) 1165-2-216, whether the proposed alteration will impair the usefulness of the USACE Project or be injurious to the public interest, as follows:

- A. *Impair the Usefulness of the Project Determination.* The Philadelphia District's Section 408 review team will determine if the proposed alteration will limit the ability of the federally authorized project to function as authorized, or will compromise or change any authorized project conditions, purposes or outputs.
- B. *Injurious to the Public Interest Determination.* Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public

interest. Evaluation of the probable impacts that the proposed alteration to the USACE project may have on the public interest requires a careful weighing of all those factors that are relevant in each particular case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.

8. SOLICITATION OF COMMENTS: The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by USACE to determine whether to issue, modify, condition, or deny a permission for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are considered in making a final determination whether the proposed action will be categorically excluded from the need to prepare further NEPA documentation. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

- A. It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to the Philadelphia District Corps of Engineers, Office of Counsel to obtain copies of said materials under the FOIA.
- B. It is presumed that all parties viewing this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

9. COMMENT SUBMISSION AND ADDITIONAL INFORMATION: Written comments on the described work should reference the USACE Public Notice Identification Number found on the first page of this notice. Comments must reach this office no later than the stated expiration date of the Public Notice to become part of the record and be considered in the decision. Comments or requests for additional information should be emailed or mailed to the following address:

Email: Bishel.Baby@usace.army.mil
U.S. Army Corps of Engineers
Philadelphia District
Attn: Bishel B. Baby
1650 Arch Street, 7th Floor
Philadelphia, PA 19103-2004

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL PERMIT PLANS
FOR
LOTS 21 AND 22 DUNE MODIFICATION
LOCATED IN SOUTH BETHANY, DELAWARE

AQUATERRA
CONSULTING INTERNATIONAL
534 28th St
West Palm Beach, FL 33407
561-703-5230
www.aquaterraci.com
FL CA Lic No: 31695

DESIGNED BY: **MAG**

DRAWN BY: **EC**

CHECKED BY: **MAG**

REVISION HISTORY:	
DATE	ISSUANCE
01/07/2025	ISSUED FOR PERMIT
02/21/2025	REVISION

CERTIFICATION:
I HEREBY CERTIFY THAT THE INFORMATION
ON THIS MAP PERTAINING TO THE REMAPPING
OF THE FLOOD ZONES REPRESENTS MY BEST
EFFORTS TO INTERPRET THE DATA AVAILABLE.
ALL ELEVATIONS REFERENCED TO NAVD88
ENGINEER'S STAMP:

Digitally signed
by Michael
Giovannozzi
Date:
2025.02.21
'10:34:24 -05'00



PROJECT NAME:
**LOTS 21 & 22
SOUTH BETHANY, DE**

DRAWING TITLE:
**DUNE MODIFICATION
COVER SHEET AND INDEX**

FILE NAME: Dune Mod Plan.MXD

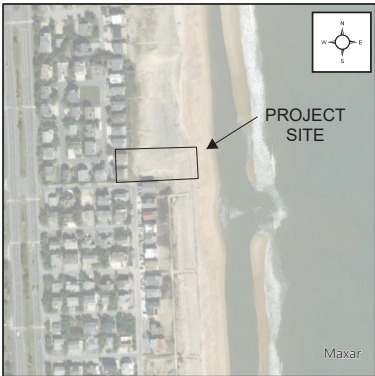
DRAWING SCALE: 1" = 50'

DRAWING #:	AREA:	SHEET #:
T-1	N/A	1 of 3

PROPERTY INFORMATION	
SITE ADDRESS	TAX MAP NO.
14 SEA SIDE DR (LOT 21)	134-17.20-260.00
16 SEA SIDE DR (LOT 22)	134-17.20-261.00

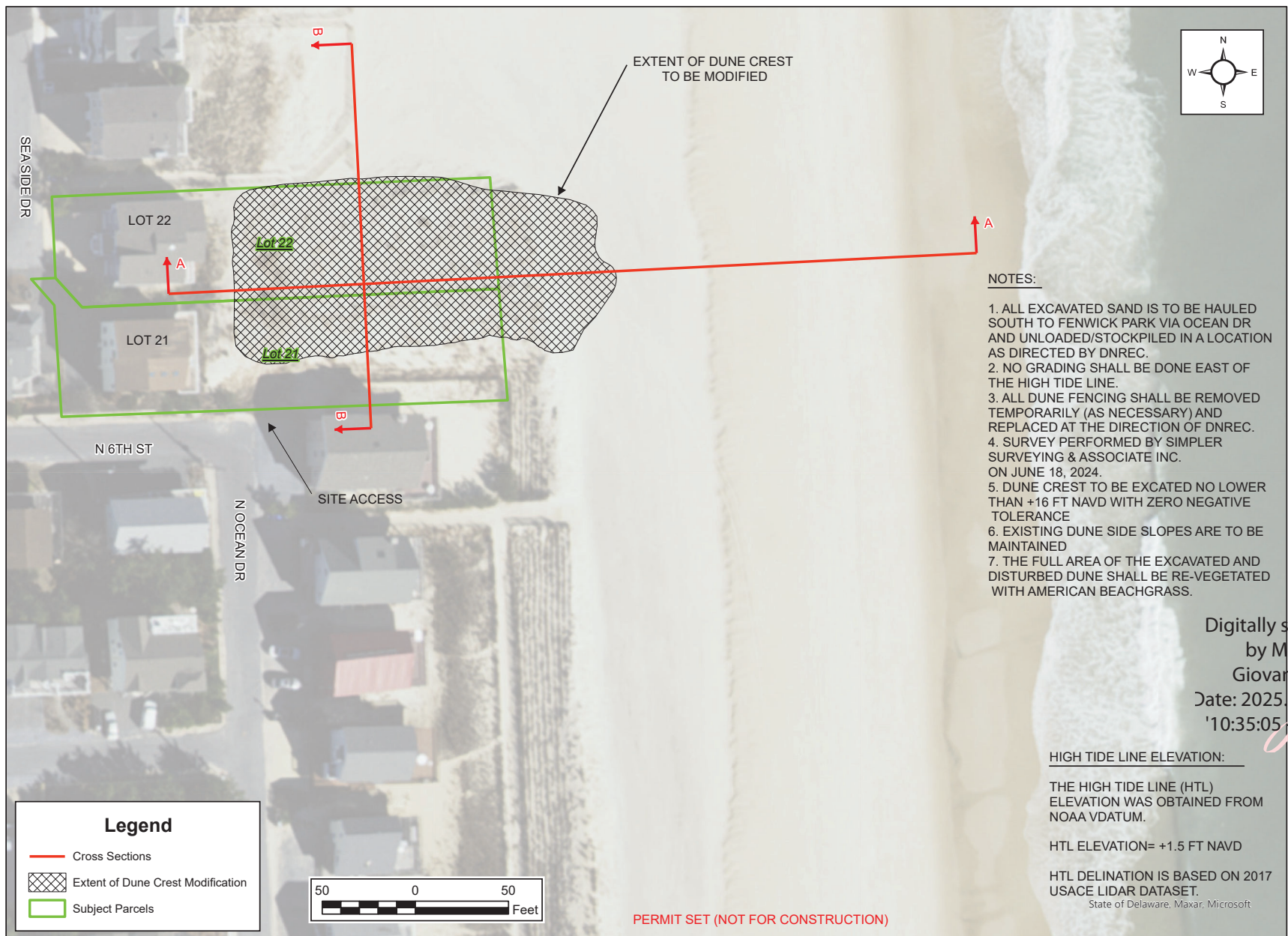


VICINITY MAP
N.T.S.



LOCATION MAP
N.T.S.

INDEX OF SHEETS	
SHEET #	SHEET TITLE
1	COVER SHEET AND INDEX
2	SITE PLAN
3	CROSS SECTION AND LANDSCAPING DETAILS



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DRAWN BY: EC

CHECKED BY: MAG

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I HEREBY CERTIFY THAT THE INFORMATION ON THIS MAP PERTAINING TO THE REMAPPING OF THE FLOOD ZONES REPRESENTS MY BEST EFFORTS TO INTERPRET THE DATA AVAILABLE.

ALL ELEVATIONS REFERENCED TO NAVD88

ENGINEER'S STAMP:

MICHAEL A GIOVANNOZZI
LICENSE
No. 20111
DELAWARE
PROFESSIONAL ENGINEER

PROJECT NAME:

LOTS 21 & 22
SOUTH BETHANY, DE

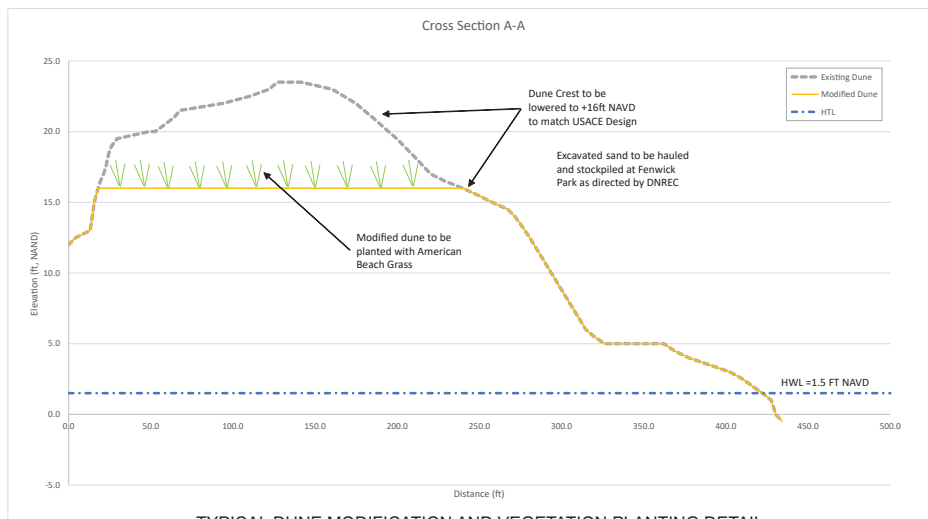
DRAWING TITLE:

DUNE MODIFICATION
SITE PLAN

FILE NAME: Dune Mod Plan.MXD

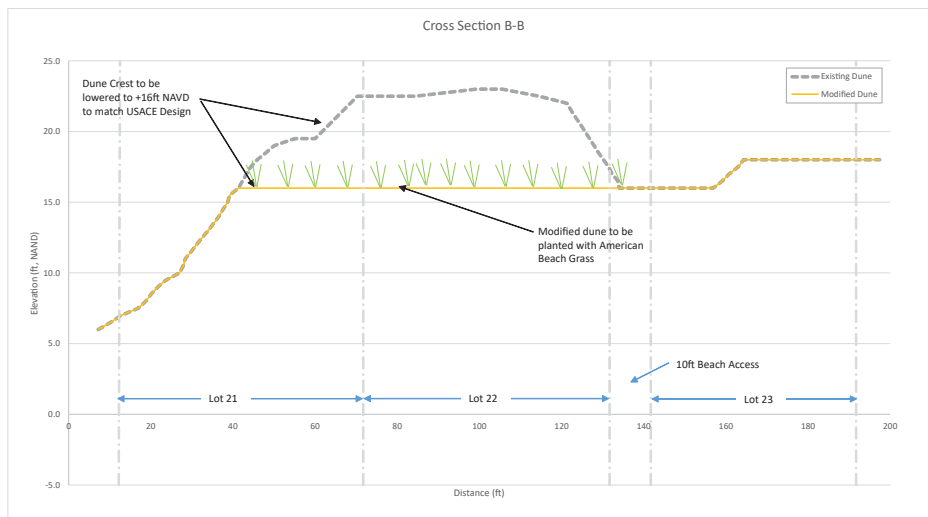
DRAWING SCALE: 1" = 50'

DRAWING #	AREA	SHEET #
T-1	N/A	1 of 2



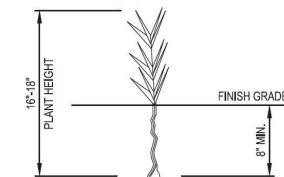
TYPICAL DUNE MODIFICATION AND VEGETATION PLANTING DETAIL

N.T.S.



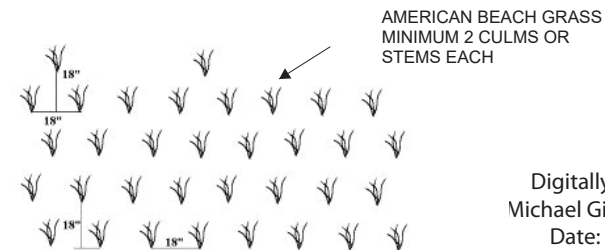
TYPICAL DUNE MODIFICATION AND VEGETATION PLANTING DETAIL

N.T.S.



DETAIL - BEACHGRASS PLANTING

N.T.S.



TYPICAL VEGETATION PLANTING SCHEDULE

(12" TO 18" O.C.)

N.T.S.

NOTE:

1. CONTRACTOR MAY ATTEMPT TO ACHIEVE A NATURAL LOOK BY NOT PLANTING IN STRAIGHT ROWS AND MODIFY THE SPACING REQUIREMENTS FOR UP TO 25% OF THE PLANTS.

2. CONTRACTOR SHALL PROVIDE PLANTS AND PLANTINGS ACCORDING TO TECHNICAL SPECIFICATIONS AND CONTRACT DOCUMENTS.



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ENGINEER'S STAMP:



Digitally signed by
Michael Giovannozzi
Date: 2025.02.21
'10:35:20 -05'00

PROJECT NAME:

LOTS 21 & 22
SOUTH BETHANY, DE

DRAWING TITLE:
DUNE MODIFICATION
CROSS SECTION AND
LANDSCAPING DETAILS

FILE NAME: Dune Mod Plan.MXD

DRAWING SCALE: 1" = 50'

DRAWING #	AREA	SHEET #
T-1	N/A	3 of 3

PERMIT SET (NOT FOR CONSTRUCTION)