



**US Army Corps  
of Engineers**  
Philadelphia District

Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390  
ATTN: CENAP-OP-R

# Public Notice

Public Notice No. <b>CENAP-OP-R-2018-45</b>	Date <b>February 2, 2018</b>
Application No. <b>CENAP-OP-R-2018-45</b>	File No. <b>CENAP-OP-R-2018-45-85</b>
In Reply Refer to: <b>REGULATORY BRANCH</b>	

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

**APPLICANT:** Cape Shores Home Owners Association

**AGENT:** Dr. Evelyn M. Maurmeyer, Coastal & Estuarine Research, Inc.

**WATERWAY:** Breakwater Harbor in the Delaware Bay

**LOCATION:** Cape Shores Subdivision located off of Cape Henlopen Drive, Lewes, Sussex County, Delaware Tax Map Parcel 3-35-5.00-240.00  
(Lat. 38.784215°N/Long.-75.108676°W).

**ACTIVITY:** The Cape Shores Home Owners Association has applied for a Department of the Army permit to conduct beach nourishment activities in the Breakwater Harbor/Delaware Bay, at the Cape Shores residential community, Tax Map Parcel 3-35-5.00-240.00, Lewes, Sussex County, Delaware. The applicant proposes to discharge 53,000 cubic yards of sand from an upland borrow site owned by Melvin Joseph Construction Company located at 25136 DuPont Boulevard, Sussex County, Delaware onto the shoreline to replenish 2,550 linear feet of beach and dune. From 1998 to 2013, beach nourishment activities at this location has taken place 10 times with the placement of anywhere from 4,300 cubic yards of sandy material to 30,900 cubic yards of sandy material. The dimensions of the project are indicated on the attached plans identified as E-1 through E-5.

**PURPOSE:** The purposes of the project are to provide protection for waterfront homes during coastal storms and to restore a recreational beach for the residents of the Cape Shores and the public.

**AVOIDANCE/MINIMIZATION/COMPENSATION STATEMENT:**

On April 10, 2008, the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency published a *Final Rule on Compensatory Mitigation for the Losses of Aquatic Resources* (33 CFR 325 and 332 and 40 CFR 230). The rule took effect on June 9, 2008. In accordance

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with 33 CFR Part 325.1(d)(7) of the rule, the applicant has stated that the proposed project has been designed to avoid and minimize adverse effects on the aquatic environment to the maximum extent practicable, and has further documented that compensatory mitigation is not necessary. The following aspects and features of the project demonstrate the applicant's efforts in this regard.

The project cannot be avoided entirely because it is, by its nature, a water-dependent activity. Absent the proposed beach replenishment, the residents of the Cape Shores and their homes would be placed in jeopardy by future storms and seasonal erosion. The project would occur within the tidal zone of the Breakwater Beach shoreline, an area of shallow sandy substrate which does not support wetlands or other special aquatic sites. Because no wetlands or other special aquatic sites would be impacted by the project, the applicant is not proposing to conduct any compensatory mitigation for the work.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As a result, consultation with the USFWS and/or NOAA Fisheries pursuant to Section 7 of the ESA is not necessary. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The Magnuson-Stevens Fishery Conservation and Management Act requires all federal agencies to consult with the NOAA Fisheries on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). A preliminary review of this application indicates that EFH is present within the project area. The Philadelphia District will evaluate the potential effects of the proposed actions on EFH and will consult with NOAA Fisheries as appropriate. Consultation will be concluded prior to the final decision on this permit application.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers 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 this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species,

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historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work. As a result of previous coordination with the Delaware State Historic Preservation Office and the Philadelphia District Cultural Resource Specialist and Tribal Liaison for past permitted beach nourishment activities at this location, the Corps of Engineers has determined that the permit area has been so extensively modified that little likelihood exists for the proposed project to impact a historic property. The Philadelphia District has determined that the proposed project is of such limited nature and scope that little likelihood exists for the proposed action to impact an historic property. The District has determined that the project will have no effect on properties eligible for or listed in the National Register of Historic Places.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Michael Yost at (267) 240-5278, by email at michael.d.yost@usace.army.mil, or by writing this office at the above address.

Edward E. Bonner  
Chief, Regulatory Branch



2018-45

E-1

**PROPOSED 53,000 C.Y. BEACH REPLENISHMENT PROJECT:**  
 IN: 3,080 l.f. of beach adjacent to Breakwater Harbor, Delaware Bay  
 AT: Cape Shores, Lewes, Sussex County, DE 19958  
 Tax Map Parcel #3-35-5.00-240.00  
 APPLICANT: Cape Shores Homeowners Association  
 DATE: October 19, 2017

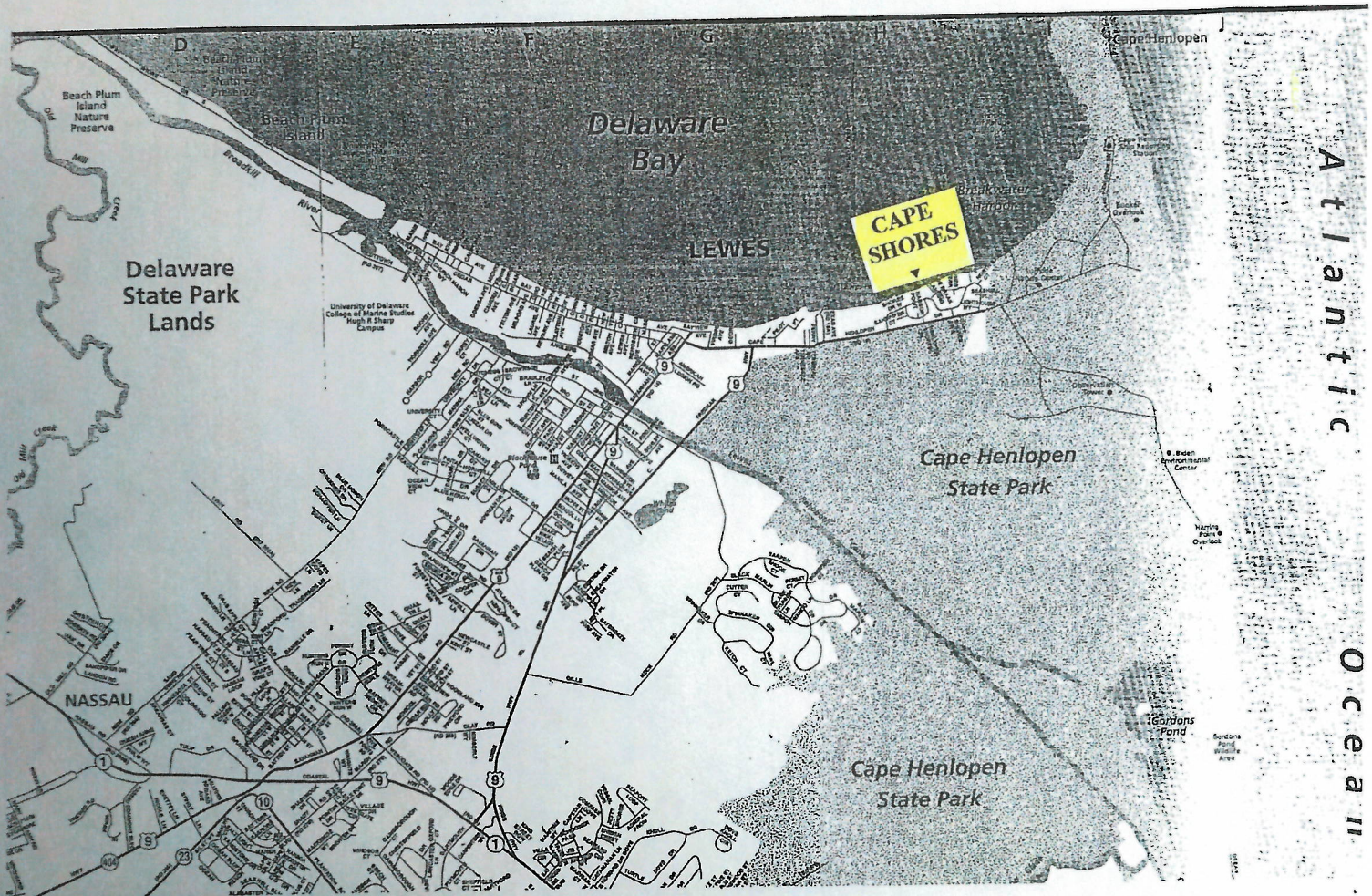
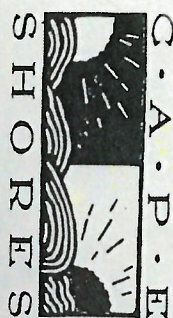


Figure 2. Map of Lewes, Sussex County, Delaware, showing project site, Cape Shores. Directions to site (from Dover, DE): SR-1 southbound toward beaches (follow signs to Cape May-Lewes Ferry); left at traffic signal at Dartmouth Drive; bear left onto Kings Highway; bear right onto Freeman Highway (at "Welcome to Lewes" lighthouse replica); continue over Lewes and Rehoboth Canal bridge; right onto Henlopen Drive; pass Cape May-Lewes ferry terminal (on left) and Port Lewes community (also on left); left turn onto West Cape Shores Drive. Beach can be viewed from any of the access points off of West Cape Shores Drive/Breakwater Reach (including community pier, located between houses at 112 and 114 Breakwater Reach). Also see Figure 3.



# 2018-45

## E-2



C.A.P.H.  
SHORES  
400-A East Cape Shores Drive  
Lewes, Delaware 19958  
Office (302) 645-4800  
Fax (302) 645-4907

**PROPOSED 53,000 C.Y. BEACH REPLENISHMENT PROJECT:**  
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DATE: October 19, 2017

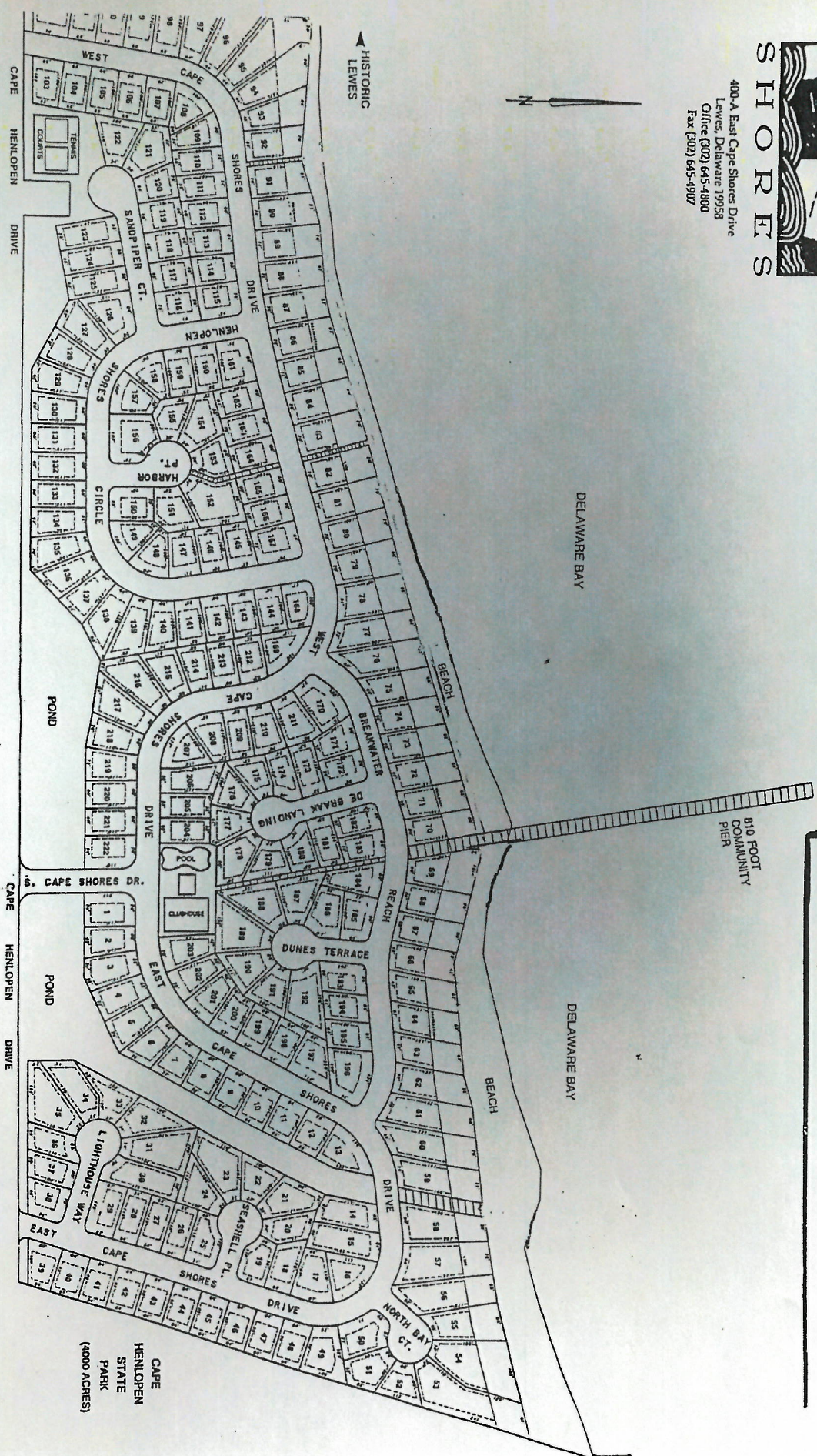


Figure 3.

Map of Cape Shores, Lewes, Sussex County, Delaware showing project site, beach adjacent to Delaware Bay. Beach nourishment project will extend 3,080 linear feet along Cape Shores community shoreline.

This rendering is for conceptual purposes only and is subject to change without notice.



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 APPLICANT: Cape Shores Homeowners Association  
 DATE: October 19, 2017 (*update Dec. 19, 2017*)

**2018-45**

**STA 12+50 to 21+45**

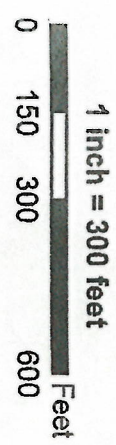


**LEGEND**

- Baseline
- + Baseline Stations
- STA. 29+90 (Typical Cross Section)

Figure 10a.

Plan view of proposed 54,000 cy beach renourishment project  
 along 2,550 linear feet of beach adjacent to Breakwater Harbor,  
 Delaware Bay at Cape Shores, Lewes, Sussex County, Delaware.  
 Drawing prepared by DNREC Division of Watershed Stewardship,  
 Shoreline and Waterway Management Section



Date: 12/11/2017

This data set was developed for NOAA



2018-45  
E-4

**PROPOSED 53,000 C.Y. BEACH REPLENISHMENT PROJECT:**

IN: 3,080 l.f. of beach adjacent to Breakwater Harbor, Delaware Bay

AT: Cape Shores, Lewes, Sussex County, DE 19958

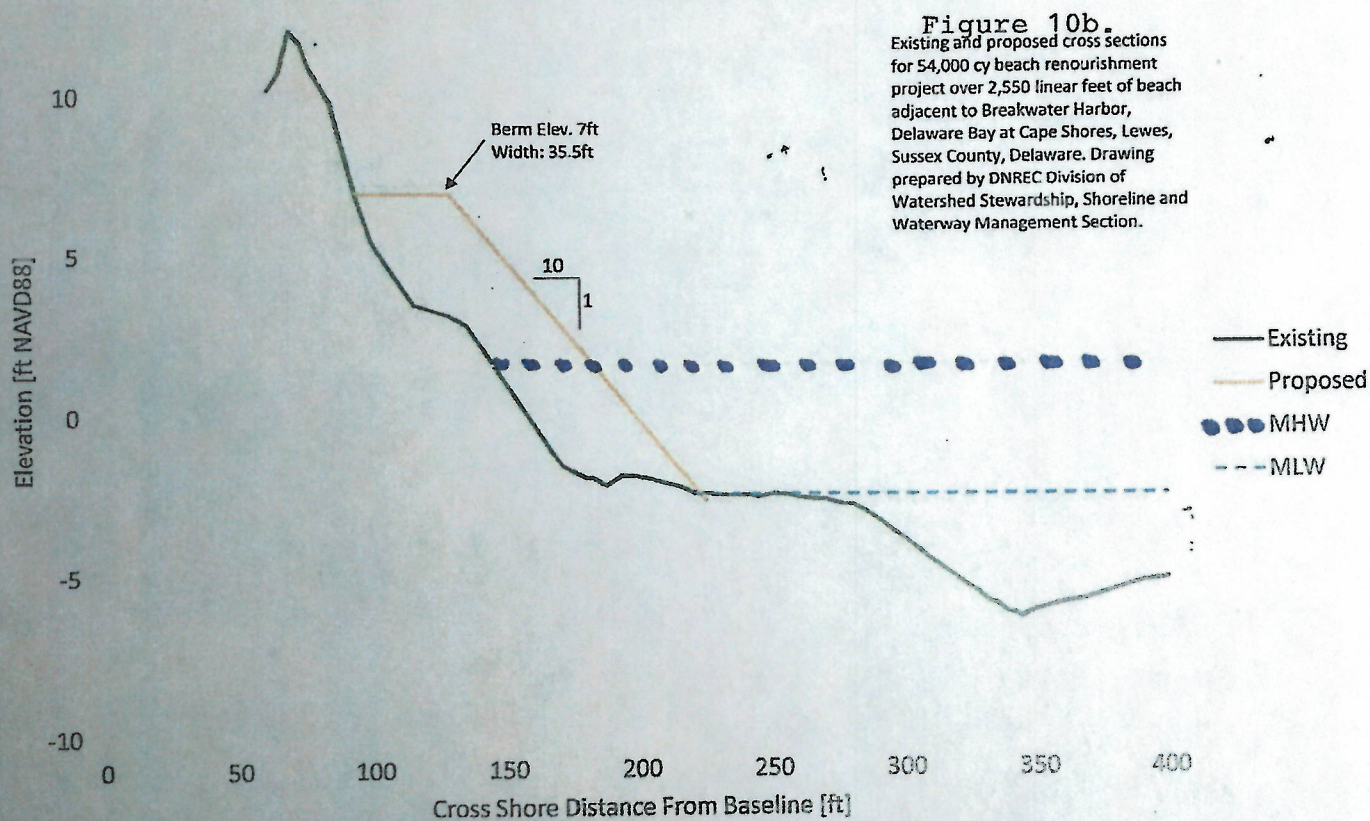
Tax Map Parcel #3-35-5.00-240.00

APPLICANT: Cape Shores Homeowners Association

DATE: October 19, 2017 (updated Dec. 19, 2017)

Typical Profile: Sta 29+90, May 2016

12/11/2017

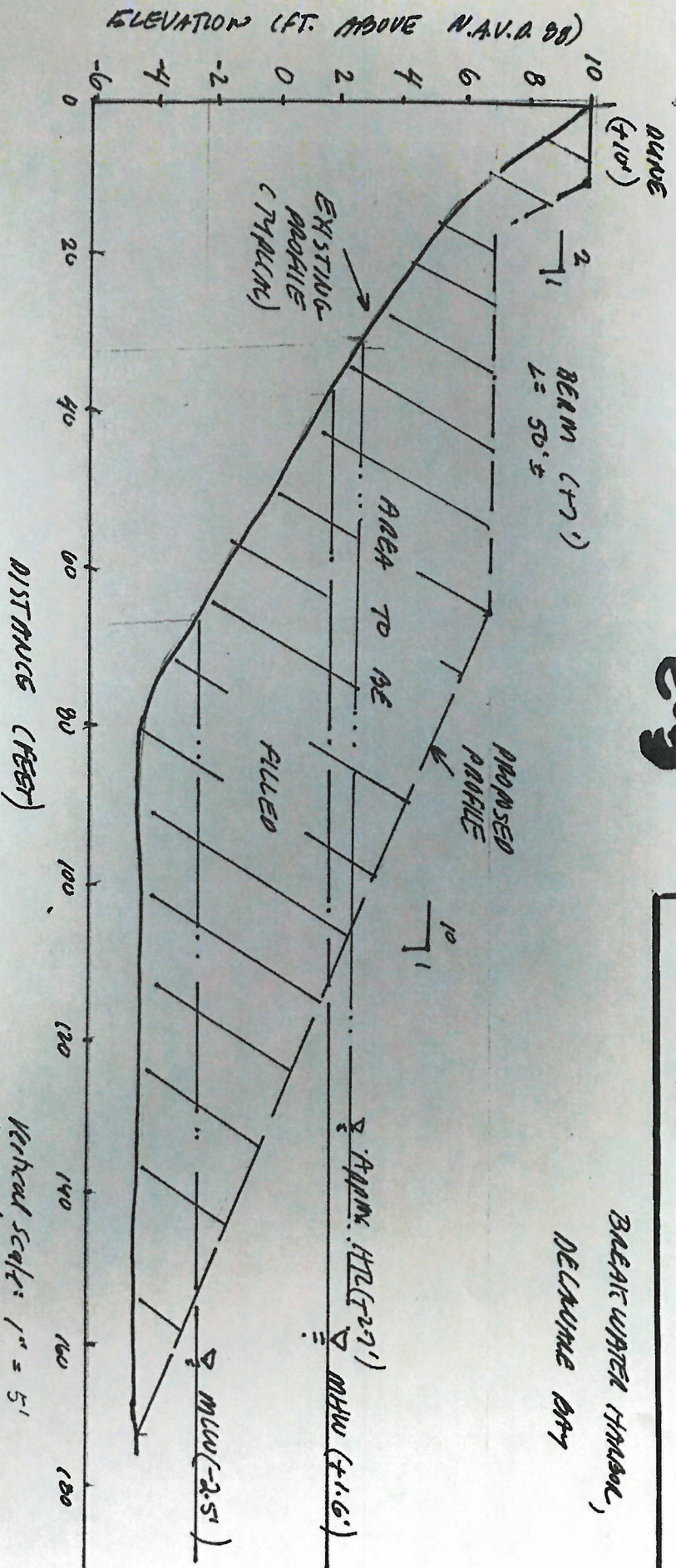




2018-45  
E-5

PROPOSED 53,000 C.Y. BEACH REPLENISHMENT PROJECT:  
IN: 3,080 L.F. of beach adjacent to Breakwater Harbor, Delaware Bay  
AT: Cape Shores, Lewes, Sussex County, DE 19958  
Tax Map Parcel #3-35-5-00-240.00  
APPLICANT: Cape Shores Homeowners Association  
DATE: October 19, 2017

BALDWIN WINTER HARBOR,  
DELAWARE BAY



Vertical Scale: 1" = 5'  
Horizontal Scale: 1" = 20'  
Vert. Exag. = 4:1

Figure 10.

Conceptual plan showing typical existing (pre-nourishment) profile and proposed (post-nourishment) profile. The replenishment project involves placement of 53,000 c.y. of sand along 3,080 linear feet of beach at Cape Shores (17.2 c.y./linear foot of beachfront). The berm width will be increased by up to 50', and the berm elevation will be raised to +7' NAVD. In addition, the dune will be reconstructed with a maximum elevation of +10' NAVD at the crest, with a 1V:2H dune slope.