

**NEW HAVEN HARBOR
CONNECTICUT
NAVIGATION IMPROVEMENT PROJECT**

**DRAFT INTEGRATED FEASIBILITY REPORT
AND ENVIRONMENTAL IMPACT STATEMENT**

**APPENDIX G
REAL ESTATE PLAN**



US Army Corps of Engineers
New England District

DRAFT
Real Estate Planning Report

New Haven Harbor Navigation Improvement Project
New Haven, CT

In Support of the Integrated Feasibility Report and Environmental Impact Statement

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1. STATEMENT OF PURPOSE/PROJECT DESCRIPTION/AUTHORITY

Introduction: The U.S. Army Corps of Engineers (USACE) in partnership with the New Haven Port Authority and the Connecticut State Port Authority, and in cooperation with other Federal and State agencies, is conducting a feasibility study to examine navigation improvements to the existing New Haven Harbor (Connecticut) Federal navigation project. The Integrated Feasibility Report and Environmental Impact Statement (IFR/EIS) documents the formulation, evaluation, and comparison of alternatives and identifies the tentatively selected channel plan (TSP). This Real Estate Plan is prepared in support of the IFR/EIS.

Study Purpose and Existing Federal Navigation Project: The results of this feasibility study will determine if improvements to the constructed Federal navigation project at the New Haven Harbor, are warranted and necessary and if deemed necessary, recommend improvements. The Federal Navigation project is shown in Figure 1.

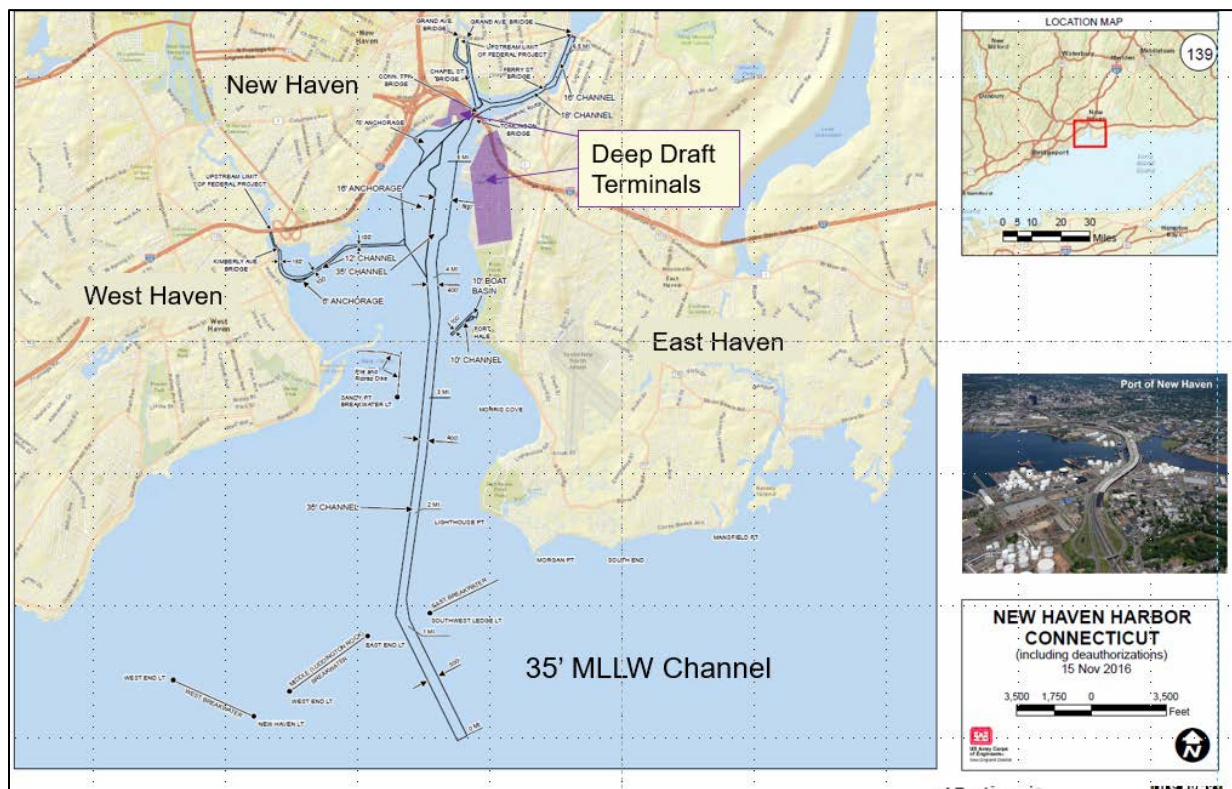


Figure 1 - Existing Federal Navigation Project, New Haven Harbor, CT

The current federally authorized New Haven Harbor navigation project includes the main ship channel, turning basin and maneuvering area authorized at a depth of -35 feet at mean lower low (MLLW), three shallow draft channels, several anchorages, three breakwaters, and a training dike. While the project area includes multiple navigation features, the assessment focuses on the main ship channel, turning basin and maneuvering area, as these are the areas requiring improvements. The main ship channel extends from deep water in Long Island Sound to the head of the harbor. The main ship channel to New Haven Harbor passes between the Ludington Rock Breakwater and the East Breakwater.

Study Authorization: This study of the New Haven Harbor was directed by the United States Senate Committee on the Environment and Public Works resolution of 31 July 2007. “Resolved by the Committee on Environment and Public Works of the United States Senate, that the Secretary of the Army is requested to review the report of the Chief of Engineers on New Haven Harbor, Connecticut, published as House Document 517, 79th Congress, 2nd Session, and other pertinent reports, to determine whether modifications to the recommendations contained therein are advisable in the interest of navigation, sediment control, environmental restoration and preservation, and other related purposes at New Haven Harbor, Connecticut.”

In addition, this study is supported in part by Section 216 of the Flood Control Act of 1970 which provides USACE with general authority to review completed civil works projects. “The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due to the significantly changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest”.

Federal Objective: The Federal objective of water and related land resources planning is to contribute to national economic development consistent with protecting the Nation’s environment, pursuant to national environmental statutes, applicable executive orders, and other Federal planning requirements. In support of this Federal objective, it is within both the National and USACE interest to participate in studies to improve commercial navigation. The “Federal Interest” decision in USACE planning is generally limited to instances where benefits of a potential project are expected to exceed the costs to the nation and the project is consistent with protecting the nation’s environment. Because this is a single purpose navigation project, National Economic Development (NED) benefits are evaluated in terms of reduced navigation transportation costs. Development of the tentatively selected plan (TSP) is based, in part, on identification of the plan that reasonably maximizes the net annual benefits. See Section 6 “Selection of the TSP” in the main report.

Proposed Project: The proposed project termed the Tentatively Selected Plan (TSP) will deepen the existing Federal navigation main channel, turning basin and maneuvering area from a depth of -35 feet to -40 feet MLLW. The TSP also includes widening the existing channel by 100 feet, widening the existing turning basin 200 feet to the north, and widening the channel bend near the breakwaters to the east by 240 feet. The TSP includes multiple open-water dredged material disposal sites, including utilization of material for salt marsh creation (beneficial use of dredge material) south of Sandy Point Spit which is owned by the City of West Haven.

Non-Federal Project Sponsors: The Non-Federal sponsors for the proposed improvement project are the Connecticut State Port Authority in partnership with the New Haven Port Authority.

2. REAL ESTATE REQUIREMENTS

Land, Easements, Rights-of-Way, Relocations, Borrow Material, and Dredged or Excavated Material Disposal Requirements. There will be multiple open water dredged material disposal sites, including beneficial use of material for planned salt marsh creation along Sandy Point. There are no upland disposal sites required. For the salt march creation site the non-Federal sponsor must acquire a temporary work area easement for 2 years (access, staging, mobilization) (0.24+/- acre) and permanent road easement (3.77+/-

acres). This land is owned by the City of West Haven. Please see the real estate plan exhibit, (Attachment #1) and the USACE standard estate language as follows:

ROAD EASEMENT (Estate 11)

A (perpetual [exclusive] [non-exclusive] and assignable) (temporary) easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos., and) for the location, construction, operation, maintenance, alteration replacement of (a) road(s) and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the owners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B); subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

TEMPORARY WORK AREA EASEMENT (Estate 15)

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts No.), for a period not to exceed, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

The real estate requirements will be further defined during the pre-construction, engineering and design phase (PED), upon project approval.

3. EXISTING FEDERAL PROJECTS

New Haven is Connecticut's largest seaport and is located on the northern shore of Long Island Sound on the central Connecticut coast. The existing Federal navigation project was adopted by the Act of 1852 and modified by the Acts of 1870, 1871, 1873, 1875, 1878, 1879, 1882, 1890, 1899, 1902, 1905, 1907, 1910, 1912, 1913, 1930, 1935, 1945, 1946, 1949, 1955, and 1986. The project, as completed in 1950, consists of (1) a 35-foot main channel, 400 to 500 feet wide, widened to 800 feet along the wharves to form a maneuvering basin, (2) a 16-foot by 134-acre anchorage in the upper harbor west of the main channel, (3) a pipe and stone dike extending easterly from Sandy Point, (4) 18 and 16-foot channels in the Quinnipiac River, (5) a 12-foot channel in the Mill River, and (6) a 12-foot channel and 6-foot anchorage in the West River. The Mill and Quinnipiac Rivers in 1982 and the West River in 1989. The project also includes three offshore stone breakwaters totaling about 12,100 feet long providing a refuge in the outer harbor.

4. EXISTING FEDERALLY OWNED LANDS

The project area is within a federal navigable waterway (subject to navigation servitude) and contains no land owned by the federal government.

5. LANDS OWNED BY THE NON-FEDERAL SPONSOR

There are no lands owned by the NFS identified as the Connecticut State Port Authority and the New Haven Port Authority in the proposed project area as the project is primarily located in open water. The real estate requirements will include access to the Sandy Point Salt marsh creation site (beneficial use of dredge material) and for long term operation and maintenance, the property is owned by the City of West Haven.

6. NAVIGATIONAL SERVITUDE

Navigational servitude is the right of the federal Government under the Commerce Clause of the U.S. Constitution to use, control, and regulate the navigable waters of the United States and the submerged lands thereunder for various commerce-related purposes including navigation and flood control. In tidal areas, the servitude extends to all lands below the mean high water (MHW). In non-tidal areas, the servitude extends to all within the bed and banks of a navigable stream that lie below the ordinary high water level. The CENAE Office of Counsel will review this navigation improvement feasibility study to determine whether project improvements meet the test of legal sufficiency for navigational servitude. Standard language may include, as this project is for navigation purposes, the federal government will exercise its rights under the doctrine of Navigational Servitude for all areas below MHW line, in order to maintain and improve the navigation channel.

7. INDUCED FLOODING

There is nothing in the feasibility report to indicate that the constructed project features will induce flooding in new areas or increase flooding in existing flood prone areas.

8. BASELINE COST ESTIMATE FOR REAL ESTATE

The real estate requirements are currently being defined as part of the feasibility analysis and the Real Estate Plan (REP) will be updated when additional design plans become available and will be finalized during pre-construction, engineering and design phase (PED). At this point in the study, two requirements have been identified in accordance with the proposed salt marsh creation/beneficial use site: 1) a temporary work area easement required from the City of West Haven, for contractor access, staging, storage, and demobilization; and 2) a perpetual easement (road easement) for monitoring and future maintenance at the salt marsh creation/beneficial use site. The baseline real estate cost estimates are annotated as follows: Temporary Work Area Easement (#15) \$2,500 dollars, Road Easement (#11), \$90,000 dollars, total \$92,500, adding 15% contingent fee, results in rounded \$107,000. In addition projecting the following administrative costs, \$25,000 for NFS administration costs +\$25,000 for Federal administration cost, for grand total of \$157,000 dollars.

9. PUBLIC LAW-646 RELOCATIONS

There are no facilities or utilities within the project boundaries requiring relocation, this will be further reviewed and confirmed at PED phase, based on project approvals.

10. MINERAL ACTIVITY

The Project Delivery Team (PDT) confirms there is no present or anticipated mining and drilling activity in the vicinity of the project that may affect project purposes and the operation thereof.

11. TIMBER RIGHTS

The Project Delivery Team (PDT) confirms that there are no timber rights required.

12. ASSESSMENT OF NON-FEDERAL SPONSOR ACQUISITION CAPABILITY

The Real Estate Division is currently working with the Non-Federal Sponsors (NFS) to complete the acquisition assessment checklist to ensure that the NFS is vested with sufficient power to acquire, hold title, and to condemn lands as needed for project purposes. The PDT held initial discussions with project study partners New Haven Port Authority (City of New Haven) and Connecticut State Port Authority in regards to real property acquisition requirements; they are currently seeking legal guidance regarding real property acquisition requirements, the USACE team will follow-up with NFS as the project progresses.

13. ZONING

There are no zoning considerations associated with this project.

14. ACQUISITION SCHEDULE

The project pre-construction, engineering and design (PED) and construction schedule is included in Appendix F of the IFR/EIS and is dependent on future USACE HQ approval and Congressional project authorization. The real estate acquisition requirements will be outlined during the PED phase, upon project approval.

15. UTILITY AND FACILITY RELOCATIONS

The Project Delivery Team (PDT) confirms that there are no current facility relocation requirements, and further confirmation will occur during PED phase. In regards to utility relocation, there is an existing submarine power and fiber optic cable located in the New Haven Harbor existing Federal navigation channel. The cable is owned by Cross Sound Cable, LLC (CSC) and is made up of a bundle of cables that provide 330 MW of high voltage direct current and internet and phone data transfer. The cable connects from a terminal in New Haven, Connecticut to terminal in Shoreham, New York a distance of about 25 miles across Long Island Sound.

The USACE Regulatory Program (see note) issued a Section 10¹ permit for construction of the cable in 2002 and about 5 miles of the 25 mile long cable is located in the Federal navigation channel. The permit required the cable be buried to -48 ft. MLLW in the Federal channel. The cable burial relied on the jet plow method where high-pressure water is used to fluidize the sea floor to create a trench for the cable to fall into. During construction with the jet plow, a small length (700 ft.) in the Federal channel, was not embedded to the required -48 feet MLLW due to encountering ledge that obstructed the achievement of the embedment depth. The USACE granted CSC a permit amendment that requires CSC to meet the -48 feet MLLW installation depth, at their cost, when corrective action is required by USACE. The Regulatory program is actively engaged with CSC to achieve the embedment depth required in the permit. Regulatory

¹ Note: The U.S. Army Corps of Engineers (USACE) has the power to regulate non-Federal use of navigable waters under Section 10 of the River and Harbor Act of 1899.

is attempting to resolve this issue informally; however, they are prepared to refer the enforcement action to the Department of Justice.

16. ENVIRONMENTAL CONCERNS

During the feasibility study phase, an environmental impact statement (EIS) is currently being prepared. This will include information on environmental consequence of the proposed project. During the initial study phase, a draft Environmental Impact Statement (EIS) will be issued for comment. At this point in the study, there are no known hazardous, toxic, or radioactive waste or CERCLA sites in the proposed project area. (CERCLA stand for the federal Comprehensive Environmental Response, Compensation, and Liability Act.)

17. ATTITUDES OF THE LANDOWNERS

The Non-Federal Sponsors, State, and local communities have expressed support for this navigation improvement project.

18. NOTIFICATION TO NON-FEDERAL SPONSOR

Subject to USACE HQ approval, Congressional authorization and Federal appropriation of funding required for the improvement project, the Non-Federal Sponsor (NFS) will be required to execute a project partnership agreement (PPA) for this project with USACE, including cost share responsibilities. Construction plans will be developed during Planning Engineering Design (PED) and finalized following signing of the PPA. Upon plans finalization, the Non-Federal Sponsor will be provided with the notice to proceed by the Real Estate Division regarding the acquisition of all required real property interests for project purposes, including long term maintenance and operations.

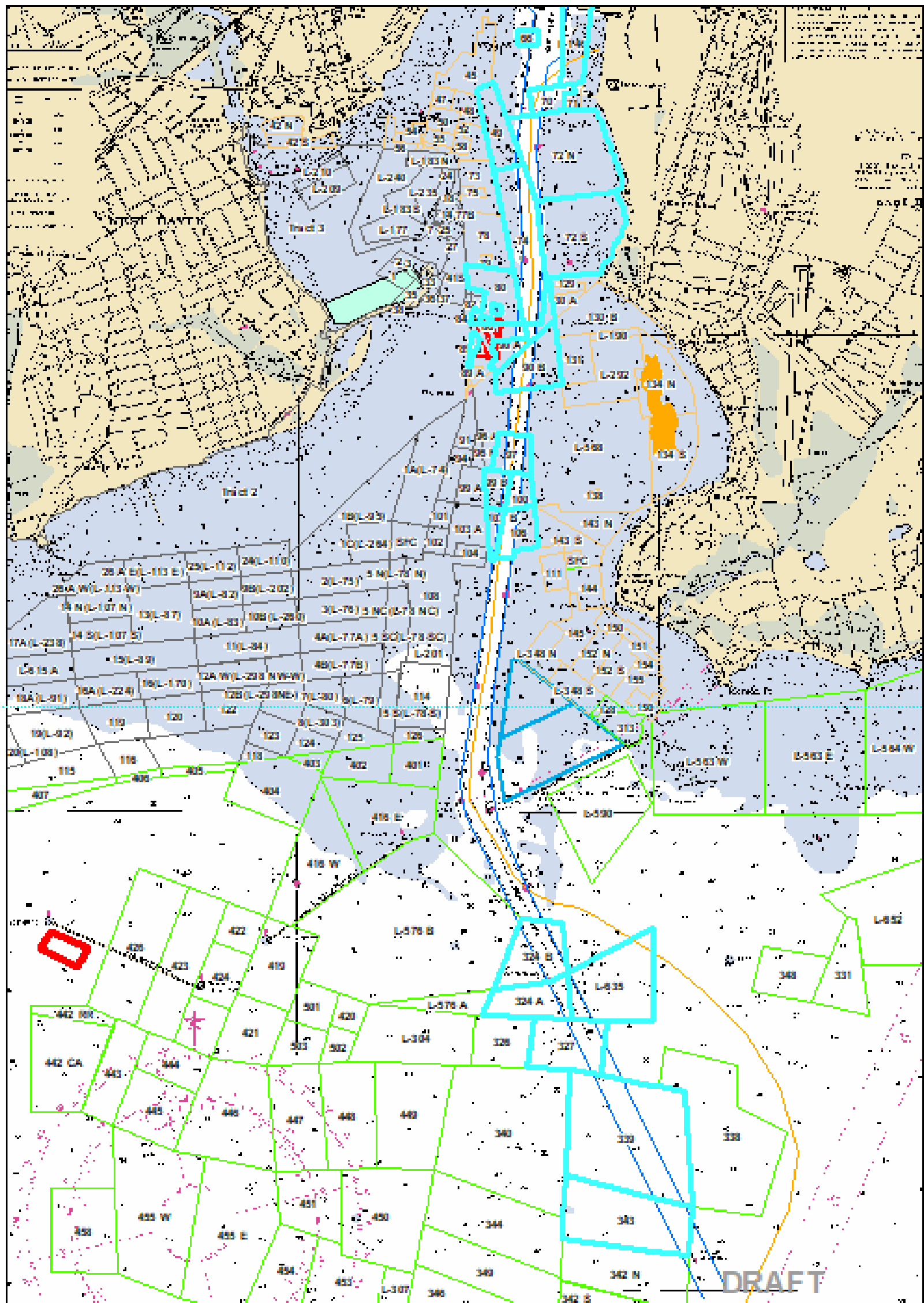
19. OTHER RELEVANT REAL ESTATE ISSUES

The harvesting of shellfish is an intensive aquaculture industry in the subtidal areas of New Haven Harbor. Shellfish species commercially managed and harvested in New Haven Harbor include the eastern oyster (*Crassostrea virginica*) and the hard-shell clam (*Mercenaria mercenaria*). The Connecticut Department of Agriculture's Bureau of Aquaculture (BOA) manages the shellfish beds under agreements with the New Haven Harbor municipalities (New Haven, West Haven, and East Haven), the BOA monitors and governs all parcels of seafloor within New Haven Harbor, as well as those outside of the breakwaters. There are 20 shellfish parcels that are in the channel improvement project area and 4 in the CAD cell area. These are highlighted in the Shellfish Parcel Map included as Attachment 2. The Aquaculture leases in the project area are subject to navigation servitude.

20. RISK ANALYSIS

Currently, there are no known significant risks associated with this project involving real estate.

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Legend

- Proposed Channel Limits
- Cross Sound Cable

Shellfish Parcels

- West Haven
- New Haven
- State of Connecticut
- Parcels in Project Area

New Haven Harbor, CT
Navigation Improvement Feasibility Study
Shellfish Parcels In Project Area

