

**US Army Corps of Engineers
New England District**

Real Estate Plan

Cape Cod Canal & Sandwich Beaches

Continuing Authorities Program Section 111

Shore Damage Mitigation Project

Sandwich, Massachusetts

January 2022

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Real Estate Plan

1. Statement of Purpose, Project Description, Authority

1.1. Introduction

The Cape Cod Canal Federal Navigation Project (FNP) was built as a private enterprise beginning in the 1900s and included a canal as well as two jetties located at the eastern entrance to the canal. The Cape Cod Canal FNP has been owned and operated by the U.S. Army Corps of Engineers since 1928. It provides safe and efficient passage for vessels from Buzzard's Bay on the southwesterly side to Cape Cod Bay on the northeasterly side, avoiding the hazards of traveling around Cape Cod. The Canal also provides recreational opportunities.

Two jetties were constructed at the eastern end of the Canal to prevent material from migrating into the Canal and filling the navigation channel. The jetties reduce federal taxpayer funds required to maintain the Canal by extending the periods between required dredging. Section 111 of the Continuing Authorities Program authorizes shore damage mitigation caused by Federal navigation projects. The Cape Cod Canal Section 111 Shore Damage Mitigation Study examined the impact of the FNP and especially the jetties on the downdrift beaches. The study supports the observation that the jetties have had the unintended consequence of interrupting the natural alongshore migration of sediment and starving the downdrift shoreline of material that would otherwise maintain the beach profile in the town of Sandwich. Erosion is particularly significant along a town-owned beach (Town Neck Beach) and is of great concern to town of Sandwich residents because of the loss of recreational area and more importantly because it increases the vulnerability of inland infrastructure to storm damage.

1.2. Study Purpose

The U.S. Army Corps of Engineers (USACE) conducted this Cape Cod Canal Section 111 Feasibility Study to investigate the impacts of the Cape Cod Canal FNP on the town of Sandwich, Massachusetts shoreline and develop and evaluate alternatives to mitigate those impacts, focusing on the Town Neck Beach area. The Focused Study Area is shown in Figure F1.



The study focused on quantifying the interruption to alongshore sediment transport attributed to the jetties at the eastern end of the Canal and identifying appropriate means of replicating, as best as possible, the natural coastal processes that existed prior to the construction of the jetties. Any proposed remedy must ensure the continued functionality of the Cape Cod Canal FNP. The study evaluated the merit of each proposed alternative with respect to functionality, constructability, impacts to environmental and cultural resources, real estate requirements, and cost. The finding of the study and any recommendations for implementation will be presented in a final Detailed Project Report (DPR).

1.3. Study Authorization:

This study is authorized under the Continuing Authorities Program (CAP) Section 111, which authorizes the prevention or mitigation of shoreline damage attributable to Federal Navigation Projects.

1.4. Recommended Plan:

The project focus is exclusively on mitigation of long-term erosion attributed to the jetties constructed at the eastern entrance to the Cape Cod Canal through a large-scale beach and dune nourishment project that will reduce vulnerability to coastal storms, sea level rise, and flooding. The Recommended Plan provides for the one-time construction of an engineered dune and berm beach along Town Neck Beach. Using a hydraulic dredge, material will be removed from the nearshore borrow area off Scusset Beach. The sand will be used to

replenish the shoreline at Town Neck Beach and restore privately owned properties behind town property. This will be accomplished by placing 388,000 cubic yards of sand from the offshore borrow site onto three areas as shown on Attachment 1, Real Estate Plan (4 sheets). These include an area below mean high water (MHW) adjacent to the town of Sandwich public beach, the town beach, and the private properties behind the town beach. The placement of sand will restore the extensive Town Neck Beach and the recreational opportunities it provides town residents as well as its essential role in protecting the private properties and town infrastructure behind the beach. Material will be deposited on approximately 21.4 acres of beach above mean high water and on approximately 20 acres adjacent to the beach that are below mean high water. The amount of sand to be placed on the privately-owned properties, comprising just 1.28 acres behind the town beach, is incidental but essential to a complete project.

It is increasingly likely that the schedule for O&M dredging of the FNP will align with the proposed beach nourishment and that dredged material may be used to augment the material from the borrow area.



Figure F-2: Cape Cod Canal East Entrance and Borrow Area To North of Jetty

1.5. Non-Federal Project Sponsor:

The Non-Federal sponsor (NFS) for the proposed mitigation project is the Town of Sandwich, Massachusetts. The town will not be responsible for acquiring Lands, Easements, Rights of Way, Relocations, and Disposal Areas (LERRDs). The project is intended to correct a problem caused by the FNP and the District will be responsible for obtaining all LERRDs required for the construction of the project. The project will be fully funded by the federal government.

2. Real Estate Requirements

Required LERRDs will include temporary beach storm damage reduction easements (TBSDRE) over Town-owned property and over the seven (7) privately-owned properties as shown on Attachment 2. A temporary work area easement (TWAE) over town-owned property shown on Attachment 2 will also be required. The recommended plan will also require permitting by the Commonwealth of Massachusetts for work in state waters.

The recommended plan will require use of 388,000 cubic yards of dredged material from the nearshore borrow area off Scusset Beach shown in Figure F-2 above. The borrow area is within the waters of the Commonwealth of Massachusetts. The Commonwealth of Massachusetts does not grant easements to dredge in near-shore waters. Instead, the Commonwealth of Massachusetts customarily provides a Water Quality Certificate under Section 401 of the Clean Water Act issued by its Department of Environmental Protection for work in state waters, not a real estate instrument and the District will conform to that practice in this instance. The Commonwealth of Massachusetts will also require a statement of Office of Coastal Zone Management concurrence with the Coastal Zone Management Act. The borrow area is subject to the navigation servitude (see discussion in Section 7 below). Appendix A of the report includes the record of detailed correspondence with federal and state agencies about the proposed use of borrow area materials and the permitting process.

Standard Estate No. 26. Perpetual Beach Storm Damage Reduction Easement (PBSDRE) is appropriate for the placement of sand on the Town Neck Beach as shown on Attachment 1. Real Estate Maps. However, the PBSDRE exceeds the needs of the project that requires only a one-time placement of materials with no Operation & Maintenance (O&M) requirement. Instead, a non-standard Temporary Beach Storm Damage Reduction Easement (TBSDRE) is proposed. The non-standard estate deviates from the PBSDRE only in its temporary nature, proposing a term of 24 months. Use of a TBSDRE conforms with the guidance of WRDA Section 1115 (section a) to consider the minimum interest required for a water resources project. The request for use of the non-standard estate for this CAP Section 111 Project was submitted through the North Atlantic Division to USACE Headquarters January 25, 2022 and

requests approval by or before March 31, 2022. The proposed TBSDRE is included with this report as Attachment 2: Proposed Estates.

CENAE-RE has also requested approval to deviate from the PBSBRE (Standard Estate 26) for the easements over 7 private properties that lie behind the Town Neck Beach, requiring only a TBSDRE. In the case of the private properties, deviations from the standard estate language include a temporary easement term of 24 months and deletion of the standard estate's requirement for "public use and access" due to the temporary nature of the easements and because the lands encumbered by the easements will be work zones for much of the proposed 24-month term. As with the proposed TBSDRE to be acquired from the town of Sandwich, the TBSDREs to be acquired from the private property owners conforms with the guidance of WRDA Section 1115 (section a) to consider the minimum interest required for a water resources project. The request for use of the non-standard estate for this CAP Section 111 Project was submitted through the North Atlantic Division to USACE Headquarters January 25, 2022 and requests of approval by or before March 31, 2022. The proposed TBSDRE is included with this report as Attachment 2: Proposed Estates.

Table F1 below identifies the LERRDs required for the construction of the recommended plan.

No fee interest will be required.

Table-1: LER Summary

Ownership	Required Acres				No. of Impacted Parcels		
	Fee	TBSDRE	TWAE	Total	Private	Public	Total
Town of Sandwich	0	23.48	2.92	26.4	0	2	2
Private	0	1.28	0	1.28	7	0	7
<i>Total Acres:</i>	<i>0</i>	<i>24.76</i>	<i>2.92</i>	<i>27.68</i>	<i>7</i>	<i>2</i>	<i>9</i>

TBSDRE – Temporary Beach Storm Damage Reduction Easement

TWAE – Temporary Work Area Easement

The TWAE to be acquired from the town is for access, staging, construction, and mobilization for twenty-four (24) months. The USACE standard estate language (as found in Exhibit 5-29 of ER 405-1-12) will be used for the TWAE. The estate language is provided at Attachment 2.

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

3. Lands Owned by the Non-Federal Sponsor (NFS)

The NFS owns lands along the beach which will be used for access, staging, mobilization, and construction of the project. TWAEs will be required over an NFS-owned area identified as Public Parking Area on Attachment 1: Real Estate Maps. A TBSDRE will also be required over the NFS-owned Town Neck Beach as shown on Attachment 1. The NFS is willing to make these areas available for the project and the temporary use of the lands will not conflict with other municipal programs or needs. The NFS can grant the TWAE and TBSDRE through a town meeting vote and the real estate instrument can be signed by the board of selectmen.

4. Non-Standard Estates

As described in Section 2. Real Estate Requirements above, the recommended plan requires approval of non-standard estates over the town-owned beach and over seven (7) private parcels. The proposed non-standard estates require modification of Standard Estate No. 26, Perpetual Beach Storm Damage Reduction as a Temporary Beach Storm Damage Reduction Easement for the one-time placement of material on the town beach and the private properties behind it.

ER 405-1-12, paragraph 12-9, provides that the policy of USACE is to acquire “the minimum interest in real property necessary to support a project.” Section 1115(a) of the Water Resource Development Act of 2018 (33 U.S.C 598a) further states the Federal government shall “first consider the minimum interest in real property necessary to support the water resources development project for which such interest [in land] is acquired.” Generally, the standard estate best suited for beach fill placement is a Perpetual BSDRE. However, a perpetual easement exceeds the needs of a project that provides for a one-time placement of material with no OMRRR requirement. Therefore, it is not necessary for the Federal government to hold a perpetual easement interest over any portion of the lands required for the project, to include over privately owned lands. Additionally, acquiring a perpetual easement may create an expectation among private landowners and local community that the Federal government will assume continued responsibility for future maintenance or renourishment of the beach. Considering the project requirements, acquiring perpetual easements over the NFS and private properties is not necessary for the project.

The proposed Temporary BSDRE over private properties will omit the requirement for public use and access. ER 1165-2-130, paragraph 6(h), provides that public use is a condition for federal participation in shore erosion control projects. However, the purpose of the Section 111 Project is to correct an erosion problem attributed to the FNP – it is the presence of the FNP that has directly influenced and exacerbated erosion along the downdrift Sandwich shoreline. Since the FNP jetties led to the current situation of undernourished private beach

properties by interrupting the natural deposit of sand along the shoreline and since the purpose of the Project is to mitigate the negative impacts the FNP has had to the Sandwich shoreline, it is the District's position that the Federal government should not require public use and access on private beach properties as a prerequisite to federal participation in mitigating the beach erosion problem. Therefore, any easement used for beachfill placement over private properties should exclude the public use and access requirement.

The private properties represent only approximately 3% of the project area but their inclusion is essential to a complete project to mitigate the effects of the FNP on the Town Neck Beach and the resulting damage to the privately-owned properties as described in Section 2 above.

5. Existing Federal Projects

No existing federal projects are within the LERRDs required for the project. The Cape Cod Canal FNP will not be affected by or be included in the real property requirements of this project.

6. Existing Federally Owned Lands

The project area is within the town of Sandwich, County of Barnstable, Massachusetts and contains no land owned by the federal government.

7. Navigation 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. There is a two-part test to determine whether the servitude should apply to a project. First, the project must serve a purpose that has a "nexus" to navigation and, second, the servitude only extends to lands below the mean high water (MHW) mark for tidal areas. The proposed Section 111 project for Sandwich meets both of these criteria.

Since 1928 the USACE has been operating and maintaining the Cape Cod Canal (Canal) as a Federal Navigation Project. The canal provides a shorter and more protected route to mariners who would otherwise travel an additional 135 miles around Cape Cod and the Islands of Martha's Vineyard and Nantucket. In order to maintain safe navigation into and out of the Canal, jetties were constructed at the east entrance to reduce wave energy and prevent shoaling of the channel itself. Unfortunately, the jetties at the east entrance interrupt natural longshore sediment transport through the littoral system, which have long been suspect as the cause of significant erosion along the downdrift shoreline. Due to the presumed cause-and-effect relationship between the jetties and erosion along the Sandwich shoreline, this Section

111 project has a nexus to navigation. The navigation servitude will only be applied to LERRDs under the MHW mark. The NAE Office of Counsel concurs in this determination.

8. Induced Flooding

The entire project area is subject to coastal storm flowage. The constructed project features will not induce flooding in new areas or increase flooding in existing flood-prone areas.

9. Baseline Cost Estimate for Real Estate

Real estate costs will be borne entirely by the federal government because the project purpose is mitigation of damage caused by the FNP. There will be no LERRD credits to the NFS.

The NAE Appraiser reviewed the proposed Temporary Beach Storm Damage Reduction Easements to be acquired from the owners of the 7 parcels located behind Town Beach and the Appraiser's cost estimate for the required easements is captured below in Table F2: Baseline Real Estate Costs. The town of Sandwich has indicated its intention to donate the easement rights required for the project.

The government's administrative costs are expected to include survey, map preparation, environmental investigation, appraisal, negotiation, document preparation, and document recording, as well as other miscellaneous costs. No relocations of facilities or utilities will be required. These costs are included in Table F2, below.

Table F2: Baseline Real Estate Costs

Project Account	Federal Costs	Non-Federal Cost	Total BCERE
01-Lands and Damages	\$230,000	\$0	\$230,000

10. Public Law 91-646 Relocation Assistance Benefits

The recommended plan will not require temporary or permanent relocations of residential or commercial occupants.

11. Mineral Activity

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.

12. Timber Rights

There are no timber rights required.

13. Assessment of Non-Federal Sponsor Acquisition Capability

This project will be 100% federally funded as a Section 111 project to mitigate the damages caused by the FNP. Although the NFS will not be responsible for acquiring LERRDs for this project the Capability Assessment was completed with the NFS and is provided with this report as Attachment 3.

14. Zoning

There are no zoning considerations associated with this project.

15. Acquisition Schedule

The PED and construction schedule is included in Appendix E – Cost Engineering Report of the Decision Document and is dependent on future USACE approval and project funding. The real estate acquisition requirements will be further outlined during PED, upon project approval. The actual construction schedule is subject to project approval and funding. The schedule shown below in Table F3 reflects the tasks to be accomplished and will be revised as needed based on project approval.

Table F3: Real Estate Acquisition Schedule	
Acquisition Schedule	Date
Obtain HQ approval of NSEs	March 2022
Execute Project Partnership Agreement	May 2022
Begin survey and appraisal of required properties	June 2022
Survey, appraisal and appraisal review complete	September 2022
Negotiate and acquire required easements, including legal review	March 2023
Advertise contract(s)	April 2023
Start Construction	October 2023

16. Utility and Facility Relocations

There are no utility or facility relocation requirements.

17. Hazardous, Toxic and Radioactive Waste (HTRW)

An Environmental Impact Statement will not be required for the Feasibility Phase; an Environmental Assessment /Finding of No Significant Impact will satisfy National Environmental Policy Act (NEPA) requirements. A Draft Integrated Feasibility Report and Environmental Assessment was issued for comment in October 2020 and the comment period closed in December 2020. At this point in the study, there is no known hazardous, toxic, or radioactive waste in the proposed project area and no known sites having had a release or

threatened release of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act.

18. Project Support

The NFS has expressed and demonstrated support for the beach and dune nourishment project to restore the Town Neck Beach and mitigate the damage attributed to the FNP. The recommended plan is supported by affected landowners and the local public.

19. Risk Notification to Non-Federal Sponsor

Following USACE approval and funding for the improvement project, the District will be required to execute a PPA with the NFS. As this is a full-federal project, the NFS will not be responsible for any acquisition of LERRDs. Responsibility to acquire LERRDs will be borne entirely by the District.

20. Other Relevant Real Estate Issues

There are no other relevant real estate issues.

21. Point of Contact

This Real Estate Plan was prepared by Real Estate Project Delivery Team member Maureen Davi.

Maureen B. Davi

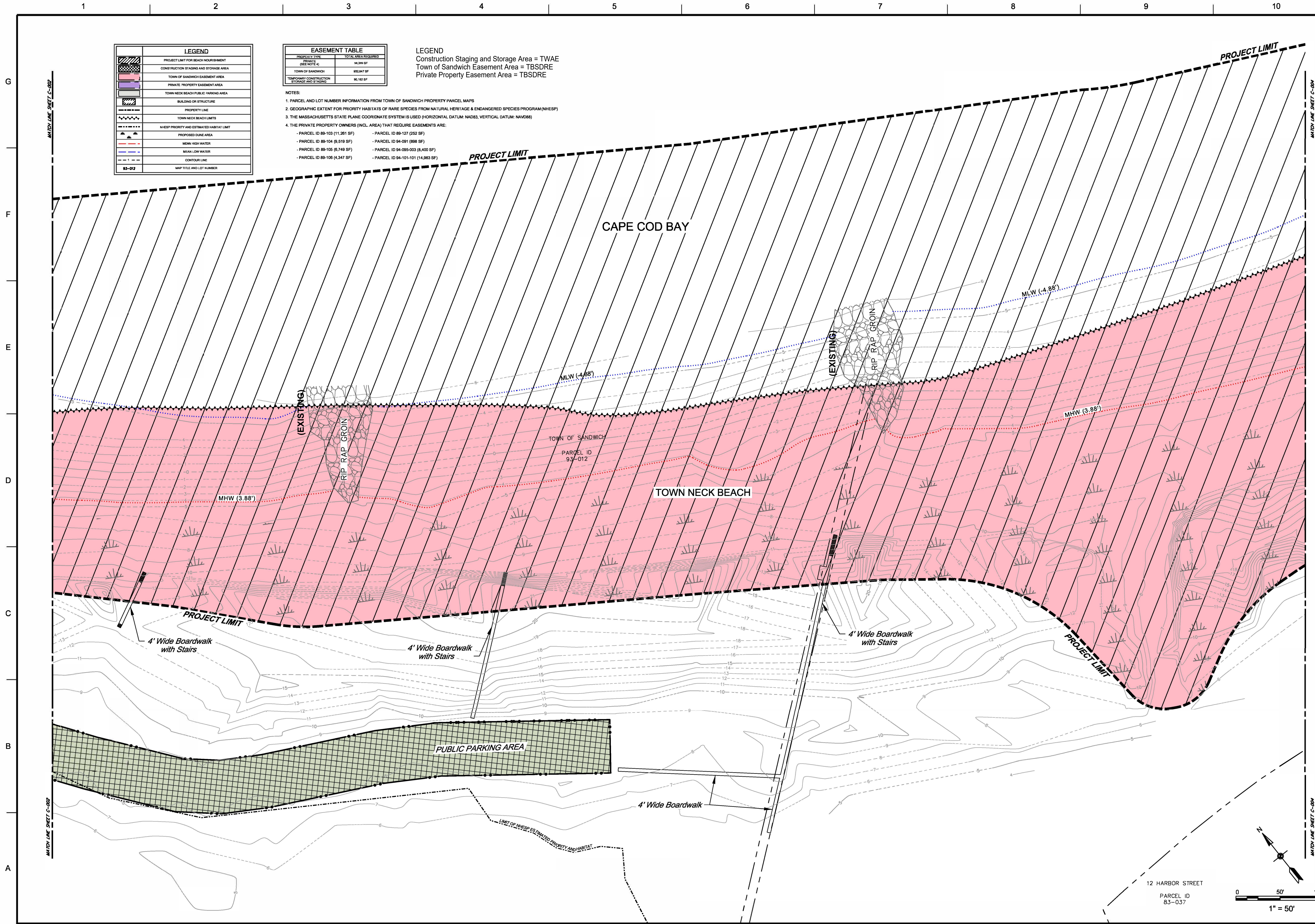
Maureen B. Davi
Realty Specialist

Timothy W. Shugert
Chief, Real Estate Division

Attachment 1

Real Estate Maps





LEGEND	
	PROJECT LIMIT FOR BEACH NOURISHMENT
	CONSTRUCTION STAGING AND STORAGE AREA
	TOWN OF SANDWICH EASEMENT AREA
	PRIVATE PROPERTY EASEMENT AREA
	TOWN NECK BEACH PUBLIC PARKING AREA
	BUILDING OR STRUCTURE
	PROPERTY LINE
	TOWN NECK BEACH LIMITS
	NHESP PRIORITY AND ESTIMATED HABITAT LIMIT
	PROPOSED DUNE AREA
	MEAN HIGH WATER
	MEAN LOW WATER
	CONTOUR LINE
93-012	MAP TITLE AND LOT NUMBER

EASEMENT TABLE	
PROPERTY TYPE	TOTAL AREA REQUIRED
PRIVATE (SEE NOTE 4)	96,389 SF
TOWN OF SANDWICH	892,847 SF
TEMPORARY CONSTRUCTION STAGING AND STAGING	90,162 SF

- NOTES:
- PARCEL AND LOT NUMBER INFORMATION FROM TOWN OF SANDWICH PROPERTY PARCEL MAPS
 - GEOGRAPHIC EXTENT FOR PRIORITY HABITATS OF RARE SPECIES FROM NATURAL HERITAGE & ENDANGERED SPECIES PROGRAM (NHESP)
 - THE MASSACHUSETTS STATE PLANE COORDINATE SYSTEM IS USED (HORIZONTAL DATUM: NAD83, VERTICAL DATUM: NAVD83)
 - THE PRIVATE PROPERTY OWNERS (INCL. AREA) THAT REQUIRE EASEMENTS ARE:
 - PARCEL ID 89-103 (11,261 SF)
 - PARCEL ID 89-104 (9,519 SF)
 - PARCEL ID 89-105 (6,749 SF)
 - PARCEL ID 89-106 (4,347 SF)
 - PARCEL ID 89-127 (252 SF)
 - PARCEL ID 94-091 (898 SF)
 - PARCEL ID 94-095-003 (8,400 SF)
 - PARCEL ID 94-101-101 (14,963 SF)

LEGEND
Construction Staging and Storage Area = TWAE
Town of Sandwich Easement Area = TBSDRE
Private Property Easement Area = TBSDRE

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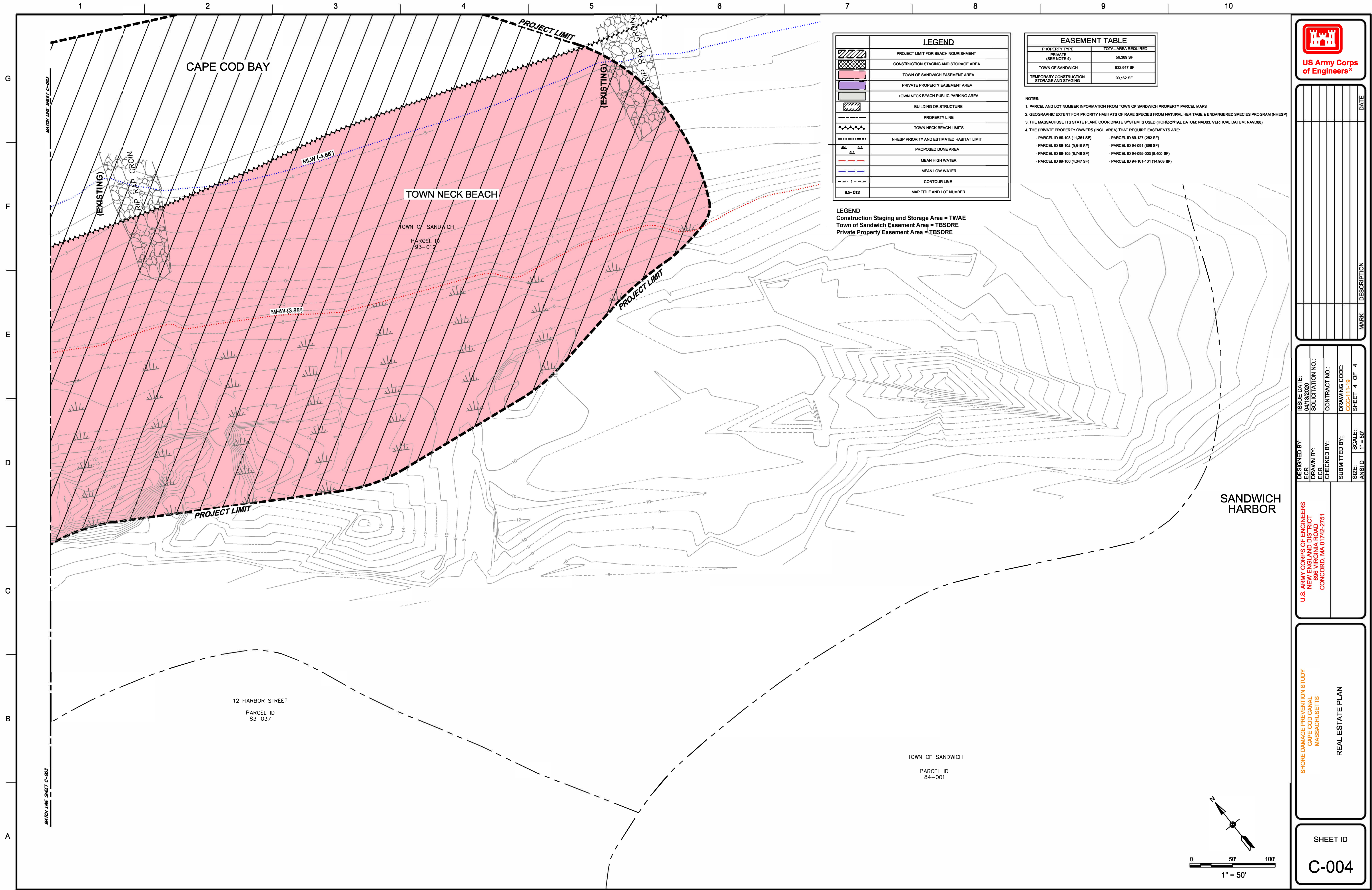
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DESIGNED BY: EOR	DRAWN BY:	CHECKED BY:	SUBMITTED BY:	SIZE:	SCALE:	SHEET	3	OF	4	ANSI/D	1" = 50'

U.S. ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
886 VIRGINIA ROAD
CONCORD, MA 01742-2751

SHORE DAMAGE PREVENTION STUDY
CAPE COD CANAL
MASSACHUSETTS

REAL ESTATE PLAN

SHEET ID
C-003



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Attachment 2

Proposed Estates

Attachment 2 – Proposed Estates

Estates to be acquired from the town of Sandwich

The proposed modification to Standard Estate No. 26, Perpetual Beach Storm Damage Reduction Easement is shown below:

TEMPORARY BEACH STORM DAMAGE REDUCTION EASEMENT

A temporary and assignable easement and right-of-way in, on, over and across the land described in Schedule A (Tract Nos. __) for a period not to exceed twenty-four (24) months beginning with the date possession of the land is granted to the United States for use by the United States, its representatives, agents, contractors, and assigns, to construct; preserve; patrol; and repair a public beach, a dune system and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction of the Cape Cod Canal Section 111 Mitigation of Damages Associated with a Federal Navigation Project, Sandwich, Massachusetts; together with the right of public use and access; to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement; reserving to the grantor, their successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

TEMPORARY BEACH STORM DAMAGE REDUCTION EASEMENT

A **temporary** and assignable easement and right-of-way in, on, over and across the land described in Schedule A (Tract Nos. __) **for a period not to exceed twenty-four (24) months beginning with the date possession of the land is granted to the United States** for use by the United States,, its representatives, agents, contractors, and assigns, to construct; preserve; patrol; **operate; maintain; and repair; rehabilitate; and replace;** a public beach, a dune system and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish; **and renourish periodically;** to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction , **periodic renourishment and maintenance** of the Cape Cod Canal Section 111 Mitigation of Damages Associated with a Federal Navigation Project, Sandwich, Massachusetts, together with the right of public use and access; to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; **to facilitate preservation of dunes and vegetation through the limitation of access to dune areas;** to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement **(except _____); reserving, however, to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune**

overwalk structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the designated representative of the United States and/or the Town of Sandwich, MA and provided further that such structures are subordinate to the construction,, operation, maintenance, and repair, rehabilitation and replacement of the project; and further] reserving to the grantor, (s), (his) (her) (its) (their) (heirs), successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

TEMPORARY WORK AREA EASEMENT (Standard Estate No. 15)

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed twenty-four (24) month, 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 work area, including the right to 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 Cape Cod Canal Section 111 Mitigation of Damages Associated with a Federal Navigation 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.

Estate to be acquired from private property owners

The proposed modification to Standard Estate No. 26. Perpetual Beach Storm Damage Reduction Easement from the private property owners is shown below:

TEMPORARY BEACH STORM DAMAGE REDUCTION EASEMENT

A temporary and assignable easement and right-of-way in, on, over and across the land described in Schedule A (Tract Nos. __) for a period not to exceed twenty-four (24) months, beginning with the date possession of the land is granted to the United States, for use by the United States, its representatives, agents, contractors, and assigns, to construct; preserve; patrol; and repair a beach, a dune system and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction of the Cape Cod Canal Section 111 Mitigation of Damages Associated with a Federal Navigation Project, Sandwich,

Massachusetts, to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement; reserving, however, to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns, all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

TEMPORARY BEACH STORM DAMAGE REDUCTION EASEMENT

A temporary and assignable easement and right-of-way in, on, over and across the land described in Schedule A (Tract Nos. __) for a period not to exceed twenty-four (24) months, beginning with the date possession of the land is granted to the United States, for use by the United States,, its representatives, agents, contractors, and assigns, to construct; preserve; patrol; operate; maintain; and repair; rehabilitate; and replace; a public beach, a dune system and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to deposit sand; to accomplish any alterations of contours on said land; to construct berms and dunes; to nourish; and renourish periodically; to move, store and remove equipment and supplies; to erect and remove temporary structures; and to perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the Cape Cod Canal Section 111 Mitigation of Damages Associated with a Federal Navigation Project, Sandwich, Massachusetts, together with the right of public use and access; to plant vegetation on said dunes and berms; to erect, maintain and remove silt screens and sand fences; to facilitate preservation of dunes and vegetation through the limitation of access to dune areas; to trim, cut, fell, and remove from said land all trees, underbrush, debris, obstructions, and any other vegetation, structures and obstacles within the limits of the easement (except ____); reserving, however, to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns, the right to construct dune overwalk structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the designated representative of the United States and provided further that such structures are subordinate to the construction, operation, maintenance, and repair, rehabilitation and replacement of the project; and further] reserving to the grantor(s), (his) (her) (its) (their) (heirs), successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; subject however to existing easements for public roads and highways, public utilities, railroads and pipelines.

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Attachment 3

Non-Federal Sponsor Capability Assessment

Project Name: Cape Cod Canal Section 111

Project Location: Sandwich, MA

Project Sponsor: Town of Sandwich, MA

ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION CAPABILITY

The preliminary real estate acquisition information is attached to this document.

Legal Authority:

Name and title of sponsor's representative providing answers to this section.

George Dunham, Town Manager

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes?
YES, this is spelled out in M.G.L. c.40, §3 for all Massachusetts municipalities.
- b. Does the sponsor have the power of eminent domain for this project?
YES, this is spelled out in M.G.L. c.40, §14 and in c. 79 for all Massachusetts municipalities.
- c. Does the sponsor have "quick-take" authority for this project? YES
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? NO
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? NO

II. Human Resource Requirements:

Name and title of sponsor's representative providing answers to this section.

George Dunham, Town Administrator

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended?
NO
- b. If the answer to II. a. is "yes," has a reasonable plan been developed to provide such training? N/A
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? YES
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? YES
- e. Can the sponsor obtain contractor support, if required in a timely fashion?
YES
- f. Will the sponsor likely request USACE assistance in acquiring real estate?
NO

Project Name: Cape Cod Canal Section 111

Project Location: Sandwich, MA

Project Sponsor: Town of Sandwich, MA

III. Other Project Variables:

Name and title of sponsor's representative providing answers to this section.

George Dunham, Town Administrator

a. Will the sponsor's staff be located within reasonable proximity to the project site?
YES

b. Has the sponsor approved the project/real estate schedule/milestones? YES

IV. Overall Assessment:

a. Has the sponsor performed satisfactorily on other USACE projects?
YES

b. With regard to this project, the sponsor is anticipated to be: FULL CAPABLE

V. Coordination:

a. Has this assessment been coordinated with the sponsor? YES

b. Does the sponsor concur with this assessment? YES

VI. NOTES:

Prepared by:

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Gaelen C. Daly
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