

# *PORT ARANSAS*

## *COASTAL MANAGEMENT PLAN*



PREPARED BY:

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FEBRUARY 1995

C E R T I F I C A T E

THE STATE OF TEXAS X

COUNTY OF NUECES X

I, the undersigned, City Secretary of the City of Port Aransas, Texas, do certify that the foregoing is a true and correct copy of

ORDINANCE NO. 95-02

AN ORDINANCE ADOPTING THE PORT ARANSAS COASTAL MANAGEMENT PLAN, PROVIDING FOR READING, SEVERANCE, EFFECTIVE DATE AND PUBLICATION

as same appears in the Official Records of the City of Port Aransas, Texas, this 28 day of MARCH, 1996.

*Esther Arzola*  
Esther Arzola, City Secretary  
City of Port Aransas, Texas

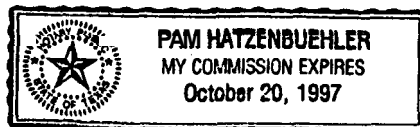
(SEAL)

STATE OF TEXAS  
COUNTY OF NUECES

Before me, the undersigned authority on this day personally appeared Esther Arzola known to me to be the person whose name is subscribed to the foregoing instrument, and having been by me first duly sworn on oath, acknowledged that she has executed the same for the purposes and consideration therein expressed and that the foregoing statements are true and correct.

"IVEN under my hand and seal of office, this 28 day of March, 1996.

*Pam. Hatzembuehler*  
Notary Public in and for Nueces County, Texas



AN ORDINANCE ADOPTING THE PORT ARANSAS COASTAL  
MANAGEMENT PLAN, PROVIDING FOR READING,  
SEVERANCE, EFFECTIVE DATE AND PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARANSAS,  
NUECES COUNTY, TEXAS, THAT:

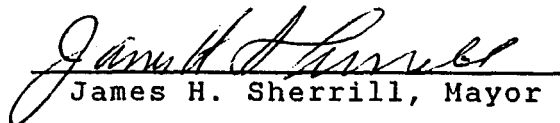
Section 1. ADOPTION. The Port Aransas Coastal Management Plan,  
a copy of which is hereto attached, is hereby adopted.

Section 2. EFFECTIVE DATE. As provided by Article **III**, Section  
12.C and by Article XII, Section 2 of the Charter of the City of  
Port Aransas, this ordinance shall be effective upon adopting  
and, in addition, if any penalty, fine or forfeiture is imposed  
by this ordinance, then this ordinance shall be effective only  
after publication of this ordinance in its entirety or in summary  
form once in the official newspaper of the City of Port Aransas.

Section 3. SEVERANCE. If any part of this ordinance is invalid  
or void or is declared to be so, then said part shall be severed  
from the balance of this ordinance and said invalidity shall not  
affect the balance of this ordinance, the balance of the  
ordinance to be read as if said invalid or void portion thereof  
were not included.

Section 4. PUBLICATION. As provided by Article **III**, Section  
12.C this ordinance shall be published one time in the official  
newspaper of the City of Port Aransas, Nueces County, Texas,  
which publication shall contain the caption of this ordinance  
stating in substance the purposes of same.

PASSED, ORDAINED, APPROVED AND ADOPTED this 15th day of  
February, 1995.

  
James H. Sherrill, Mayor

ATTEST:

  
Esther Arzola, City Secretary

First reading: December 15, 1994  
Second reading: January 19, 1995  
Third **reading**: February 15, 1995

PUBLIC READING OF ORDINANCES:

THIRD READING OF **COASTAL** MANAGEMENT PLAN ORDINANCE-Councilman Kroll **moved** to adopt the third and final reading of an ordinance adopting **the** Port Aransas Coastal Management Plan. Motion was seconded by Councilman **Crawford** and carried with the following vote:

Mayor <b>Sherrill</b>	Yes
Councilman Kroll	Yes
Councilman Wymore	Yes
<b>Councilman</b> Kenigsberg	Absent
<b>Councilman</b> Borders	Yes
Councilwoman 'Goldsmith	Absent
Councilman <b>Crawford</b>	Yes

ORDINANCE NO. 95-2

AN ORDINANCE **ADOPTING THE** PORT ARANSAS COASTAL  
MANAGEMENT PLAN, PROVIDING **FOR** READING, **SEVERANCE**,  
EFFECTIVE DATE AND PUBLICATION.

**PASSED**  
FINAL  
READING

\*\*\*Excerpts from the Regular City Council meeting held February 15th, 1995

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## I. STATEMENT OF OBJECTIVES:

The City of Port Aransas has identified the following goals as the basis for managing and regulating human impacts on the beach/dune system.

- A. To protect public health and safety while preserving, restoring, and enhancing coastal natural resources.
- B. To assist coastal land owners in using beachfront property in a manner compatible with preserving public and private property, public access to the beach coastal natural resources, and the protective and recreational function of the beach/ dune system.
- C. To prevent the destruction and erosion of public beaches.
- D. To insure that construction is in compliance with the Federal Emergency Management Agency Guidelines.
- E. To provide coordinated, consistent, responsive, timely and predictable permitting process.
- F. To educate the public about coastal issues such as dune protection, beach access, erosion and flood protection.
- G. To promote dune protection and ensure that adverse effects on critical dunes and critical dune vegetation are avoided whenever practicable. If such adverse effects cannot be avoided, to insure that such adverse effects are minimized and mitigated for.

## II. APPLICABILITY

The Port Aransas Coastal Management Plan applies to land within its city limits and extraterritorial jurisdiction which is adjacent to and landward of the public beach and lying in the area either up to the first public road generally parallel to the public beach or to any closer public road not parallel to the beach, or to within 1,000 feet of mean high tide, whichever is greater. Section VI "The City of Port Aransas Management of the Public Beach" applies only to the public beach within the city of Port Aransas city limits.

## III. DEFINITIONS

The City of Port Aransas has attempted as much as is possible to define words and terms in the same manner as the General Land Office of Texas. Those words and terms copied directly from Title 31, Subchapter A of the General Land Office Regulations, have been identified by a line under the word or title.

Affect - As used in Title A subchapter 31 regarding dunes, dune vegetation, and the public beach, "affect" means to produce an effect upon dunes, dune vegetation, or public beach use and access.

Amenities - Any nonhabitable major structure including swimming pools, bathhouses, detached garages, cabanas, pipelines, piers, canals, lakes, ditches, artificial runoff channels and other water retention structures, roads, streets, highways, parking areas and other paved areas (exceeding 144 square feet in area), underground storage tanks, and similar structures.

Applicant - Any person applying to a local government for a permit and/or certificate for any construction or development plan.



Backdunes - The dunes located landward of the foredune ridge which are usually well vegetated but may also be unvegetated and migratory. These dunes supply sediment to the beach after the foredunes and the foredune ridge have been destroyed by natural or human activities.

Beach access - The right to use and enjoy the public beach, including the right of free and unrestricted ingress and egress to and from the public beach.

Beach/dune system - The land from the line of mean low tide of the Gulf of Mexico to the landward limit of dune formation.

Beach rentals - Beach rentals means the rental on a daily or hourly basis of nonmotorized, beach and water related and recreational goods such as sailboards, kites, umbrellas, floatation devices like innertubes and air mattresses, surfboards, sailboats, balls and frisbees out of a mobile business establishment.

Beachfront construction certificate or certificate - The document issued by a local government that certifies that the proposed construction either is consistent with the local government's dune protection and beach access plan or is inconsistent with the local government's dune protection and beach access plan. In the latter case, the local government must specify how the construction is inconsistent with the plan, as required by the Open Beaches Act, <\*>61.015.

Beach maintenance - The cleaning or removal of debris from the beach by handpicking, raking, or mechanical means.

Beach profile - The shape and elevation of the beach as determined by surveying a cross section of the beach.

Beach-related services - Reasonable and necessary services and facilities directly related to the public beach which are provided to the public to ensure safe use of and access to and from the public beach, such as vehicular controls, management, and parking (including acquisition and maintenance of off-beach parking and access ways); sanitation and litter control; lifeguarding and lifesaving; beach maintenance; law enforcement; beach nourishment projects; beach/dune system education; beach/dune protection and restoration projects; providing public facilities such as restrooms, showers, lockers, equipment rentals, and picnic areas; recreational and refreshment facilities; liability insurance; and staff and personnel necessary to provide beach-related services. Beach-related services and facilities shall serve only those areas on or immediately adjacent to the public beach.

Beach user fee - A fee collected by a local government in order to establish and maintain beach-related services and facilities for the preservation and enhancement of access to and from and safe and healthy use of public beaches by the public.

Blowout - A breach in the dunes caused by wind erosion.

Breach - A break or gap in the continuity of a dune caused by wind or water.

Bulkhead - A structure or partition built to retain or prevent the sliding of land. A secondary purpose is to protect the upland against damage from wave action.

City beach - City beach shall mean the Gulf beach of Mustang Island within the corporate city limits between the line of vegetation and the line of mean low tide of the Gulf of Mexico as defined in V.T.C.A. Natural Resources Code 61.012.

Camping - Camping shall mean the use of tents or other shelters, automobile trailer cars, house trailers, house cars, campers or other such vehicles for the purpose of living or sleeping quarters. Nothing contained herein shall prevent the use of umbrellas, sun shades and the use of the usual beach equipment for temporary use and not used for human habitation.

Coastal and shore protection project - A project designed to slow shoreline erosion or enhance shoreline stabilization, including, but not limited to, erosion response structures, beach nourishment, sediment bypassing, construction of man-made vegetated mounds, and dune revegetation.

Commercial facility - Any structure used for providing, distributing, and selling goods or services in commerce including, but not limited to, hotels, restaurants, bars, rental operations, and rental properties.

Construction - Causing or carrying out any building, bulkheading, filling, clearing, excavation, or substantial improvement to land or the size of any structure. "Building" includes, but is not limited to, all related site work and placement of construction materials on the site. "Filling" includes, but is not limited to, disposal of dredged materials. "Excavation" includes, but is not limited to, removal or alteration of dunes and dune vegetation and scraping, grading, or dredging a site. "Substantial improvements to land or the size of any structure" include, but are not limited to, creation of vehicular or pedestrian trails, landscape work (that adversely affects dunes or dune vegetation), and increasing the size of any structure.

Coppice mounds - The initial stages of dune growth formed as sand accumulates on the downwind side of plants and other obstructions on or immediately adjacent to the beach seaward of the foredunes. Coppice mounds may be unvegetated.

Critical dune areas - Those portions of the beach/dune system as designated by the General Land Office that are located within 1,000 feet of mean high tide of the Gulf of Mexico that contain dunes and dune complexes that are essential to the protection of public beaches, submerged land, and state-owned land, such as public roads and coastal public lands, from nuisance, erosion, storm surge, and high wind and waves. Critical dune areas include, but are not limited to, the dunes that store sand in the beach/dune system to replenish eroding public beaches.

Cumulative impact - The adverse effect on beach use and access, on a critical dunes or critical dune vegetation which results from the incremental effect of an action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

Dedication - Includes, but is not limited to, a restrictive covenant, permanent easement, and fee simple donation.

Dune - An emergent mound, hill, or ridge of sand, either bare or vegetated, located on land bordering the waters of the Gulf of Mexico. Dunes are naturally formed by the windward transport of sediment, but can also be created via man-made vegetated mounds. Natural dunes are usually found adjacent to the uppermost limit of wave action and are marked by an abrupt change in slope landward of the dry beach. The term includes coppice mounds, foredunes, dunes comprising the foredune ridge, backdunes and man-made vegetated mounds.

Dune complex - Any emergent area adjacent to the waters of the Gulf of Mexico in which several types of dunes are found or in which dunes have been established by proper management of the area. In some portions of the Texas coast, dune complexes contain depressions known as swales.

Dune Protection Act - Texas Natural Resources Code, <\*>63.001, et seq.

Dune protection and beach access plan or plan - A local government's legally enforceable program, policies, and procedures for protecting dunes and dune vegetation and for preserving and enhancing use of and access to and from public beaches, as required by the Dune Protection Act and the Open Beaches Act.

Dune protection line - A line established by a county commissioners court or the governing body of a municipality for the purpose of preserving, at a minimum, all critical dune areas identified by the General Land Office pursuant to the Dune Protection Act, <\*>63.011, and <\*>15.3(f) of this title (relating to Administration). A municipality is not authorized to establish a dune protection line unless the authority to do so has been delegated to the municipality by the county in which the municipality is located. Such lines will be located no farther than 1,000 feet landward of the mean high tide of the Gulf of Mexico.

Dune protection permit or permit - The document issued by a local government to authorize construction or other regulated activities in a specified location seaward of a dune protection line or within a critical dune area, as provided in the Texas Natural Resources Code, <\*>63.051.

Dune vegetation - Flora indigenous to and growing on natural dunes, dune vegetation can include coastal grasses and herbaceous and woody plants.

Effect or effects - "Effects" include: direct effects - those impacts on public beach use and access, on critical dune areas, or on dunes and dune vegetation seaward of a dune protection line which are caused by the action and occur at the same time and place; and indirect effects - those impacts on beach use and access, on critical dune areas, or on dunes and dune vegetation seaward of a dune protection line which are caused by an action and are later in time or farther removed in distance than a direct effect, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems. "Effects" and "impacts" as used in Title A subchapter 31 are synonymous. "Effects" may be ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.

**Eroding area** - The area seaward of the erosion line depicted on Attachment #2 herein.

**Erosion** - The wearing away of land or the removal of beach and/or dune sediments by wave action, tidal currents, wave currents, drainage, or wind. Erosion includes, but is not limited to, horizontal recession and scour and can be induced or aggravated by human activities.

**Erosion line** - The described line shall be located 200' landward from the line of vegetation or a distance 60 times the historical annual erosion rate as published by the University of Texas Bureau of Economical geology and as measures landward from the line of vegetation, whichever is greater.

**Erosion response structure** - A hard or rigid structure built for shoreline stabilization which includes, but is not limited to, a jetty, retaining wall, groin, breakwater, bulkhead, seawall, riprap, rubble mound, revetment, or the foundation of a structure which is the functional equivalent of these specified structures.

**FEMA** - The United States Federal Emergency Management Agency. This agency administers the National Flood Insurance Program and publishes the official flood insurance rate maps.

**Foredunes** - The first clearly distinguishable, usually vegetated, stabilized large dunes encountered landward of the Gulf of Mexico. On some portions of the Texas Gulf Coast, foredunes may also be large, unvegetated, and unstabilized. Although they may be large and continuous, foredunes are typically hummocky and discontinuous and may be interrupted by breaks and washover areas. Foredunes offer the first significant means of dissipating storm-generated wave and current energy issuing from the Gulf of Mexico. Because various heights and configurations of dunes may perform this function, no standardized physical description applies. Foredunes are distinguishable from surrounding dune types by their relative location and physical appearance.

**Foredune ridge** - The high continuous line of dunes which are usually well vegetated and rise sharply landward of the foredune area but may also rise directly from a flat, wave-cut beach immediately after a storm.

**Habitable structures** - Structures suitable for human habitation including, but not limited to, single or multi-family residences, hotels, condominium buildings, and buildings for commercial purposes. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartments, is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements.

**Industrial facilities** - Include, but are not limited to, those establishments listed in Part 1, Division D, Major Groups 20-39 and Part 1, Division E, Major Group 49 of the Standard Industrial Classification Manual as adopted by the Executive Office of the President, Office of Management and Budget (1987 ed.). However, for the purposes of Title A subchapter 31, the establishments listed in Part 1, Division D, Major Group 20, Industry Group Number 209, Industry Numbers 2091 and 2092 are not considered "industrial facilities." These establishments are listed in "Appendix I" attached to this section.

Large-scale construction - Construction activity greater than 5,000 square feet in area and habitable structures greater than two stories in height. Multiple-family habitable structures are typical of this type of construction.

Line of vegetation - The extreme seaward boundary of natural vegetation which spreads continuously inland. The line of vegetation is typically used to determine the landward extent of the public beach.

Littering - Littering means any act of placing, scattering or leaving unattended upon any beach in the city any:

- (1) Glass bottles, jars or other types of glass containers;
- (2) Tin cans or any other type of metal containers;
- (3) Newspapers, paper sacks, paper containers, or any other type of used paper or plastic;
- (4) Decayable food, fruit, vegetables or any remnant or residue thereof;
- (5) Trash or debris of any type or character, including without limitation broken toys, wooden, metal or any other type of boxes, containers or receptacles.

Local government - A municipality, county, any special purpose district, any unit of government, or any other political subdivision of the state.

Man-made vegetated mound - A mound, hill, or ridge of sand created by the deliberate placement of sand or sand trapping devices including sand fences, trees, or brush and planted with dune vegetation.

Master planned development - A document containing maps, drawings, narrative, tables, and other forms of communication that provides information about the proposed use of specific land and/or water that include, but is not limited to, as appropriate, descriptions of land and/or water uses, land and/or water use intensities, building and/or site improvement locations and sizes, relationships between buildings and improvements, vehicular and pedestrian access and circulation systems, parking, utility systems, stormwater management and treatment systems, geography, geology, impact assessments, regulatory-approved checklist, and phasing. Information in the master plan may be conceptual or detailed depending on the status of its regulatory approval.

Mitigation sequence - The series of steps which must be taken if dunes and dune vegetation will be adversely affected. First, such adverse effects shall be avoided. Second, adverse effects shall be minimized. Third, the dunes and dune vegetation adversely affected shall be repaired, restored, or replaced. Fourth, the dunes and dune vegetation adversely affected shall be replaced or substituted to compensate for the adverse effects.

Mobile business establishment - Mobile business establishment means a person or business entity engaging in beach rentals from or out of a motor vehicle or other mobile vehicle, or from a temporary structure which is easily moved from the beach or to another location on the beach on two-hour notice.

National Flood Insurance Act - 42 United States Code, <\*><\*>4001, et seq.

Natural resources - Land, fish, wildlife, insects, biota, air, surface water, groundwater, plants, trees, habitat of flora and fauna, and other such resources.

Open Beaches Act - Texas Natural Resources Code, <\*><\*>61.001, et seq.

Open Space - Those areas completely free of structures.

Owner or operator - Any person owning, operating, or responsible for operating commercial or industrial facilities.

Permit or certificate condition - A requirement or restriction in a permit or certificate necessary to assure protection of life, natural resources, property, and adequate beach use and access rights (consistent with the Dune Protection Act) which a permittee must satisfy in order to be in compliance with the permit or certificate.

Permittee - Any person authorized to act under a permit or a certificate issued by a local government.

Person - An individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, state, municipality, commission, political subdivision, or any international or interstate body or any other governmental entity.

Pipeline - A tube or system of tubes used for the transportation of oil, gas, chemicals, fuels, water, sewerage, or other liquid, semi-liquid, or gaseous substances.

Practicable - In determining what is practicable, local governments shall consider the effectiveness, scientific feasibility, and commercial availability of the technology or technique. Local governments shall also consider the cost of the technology or technique.

Practicable Alternative - A reasonable alternative which can be put into practice and is economically and scientifically feasible.

Public beach - As used in Title A subchapter 31, "public beach" is defined in the Texas Natural Resources Code, <\*>61.013(c).

Retaining wall - A structure designed primarily to contain material and to prevent the sliding of land.

Seawall - An erosion response structure that is specifically designed to withstand wave forces.

Seaward of a dune protection line - The area between a dune protection line and the line of mean high tide.

Single Family Housing - A structure designed and arranged exclusively for the use and occupancy of one family. This housing does not include duplexes, apartments, condominium complexes or other multifamily structures.

Small-scale construction - Construction activity less than or equal to 5,000 square feet and habitable structures less than or equal to two stories in height. Single-family habitable structures are typical of this type of construction.

Structure - Includes, without limitation, any building or combination of related components constructed in an ordered scheme that constitutes a work or improvement constructed on or affixed to land (i.e., buildings, parking lots, roads, swimming pools, tennis courts.)

Swales - Low areas within a dune complex located in some portions of the Texas coast which function as natural rainwater collection areas and are an integral part of the dune complex.

Unique Flora or Fauna - Flora or Fauna which are not found on other coastal property in Nueces County.

Washover areas - Low areas that are adjacent to beaches and are inundated by waves and storm tides from the Gulf of Mexico. Washovers may be found in abandoned tidal channels or where foredunes are poorly developed or breached by storm tides and wind erosion.

#### IV. ADMINISTRATION.

The Dune Protection Act and the Open Beaches Act require the City of Port Aransas and the County of Nueces to adopt and implement programs for the preservation of dunes and the preservation and enhancement of use of and access to and from public beaches. Pursuant to a interlocal agreement between the City of Port Aransas and Nueces County, the City has been delegated the authority to administrate dune protection activities and permitting within its corporate limits. Nueces County however did not delegate authority to set or relocate the dune protection line. This plan is consistent with the requirements of the Open Beaches Act, the Dune Protection Act, and Title 31 Chapter 15 Subchapter A of the General Land Office Regulations.

##### A. Beachfront Construction Certification Areas.

The City of Port Aransas has been delegated the authority by the General Land Office of Texas to certifying construction on land within its city limits and extraterritorial jurisdiction which is adjacent to the Gulf of Mexico and is consistent with public rights to access. The Open Beaches Act, Section 61.011(d)(6), limits the geographic scope of the beachfront construction certification area to the land adjacent to and landward of public beaches and lying in the area either up to the first public road generally parallel to the public beach or to any closer public road not parallel to the beach, or the area up to 1,000 feet of mean high tide, whichever distance is greater. Applications for beachfront construction certificates shall be reviewed by the City of Port Aransas for consistency with its plan.

##### B. Critical Dune Areas and Dune Protection Lines.

The Commissioner of the General Land Office has the responsibility to identify and protect Texas' critical dune areas. Nueces County has the responsibility for establishing the dune protection line within the Nueces County. The Dune

Protection Act limits the geographic scope of critical dune areas and the location of the dune protection line, to that portion of the beach, within 1,000 feet of mean high tide of the Gulf of Mexico. The General Land Office has identified critical dune areas as all dunes located within 1,000 feet of mean high tide of the Gulf of Mexico. Nueces County has set the dune protection line at 1,000 feet from mean high tide of the Gulf of Mexico.

**C. Areas Exempt From the City of Port Aransas Plan.**

The City of Port Aransas beach access plans shall not include the following areas, which are exempt from regulation by the City:

1. National park areas, national wildlife refuges, or other designated national natural areas;
2. state park areas, state wildlife refuges, or other designated state natural areas; and
3. beaches on islands and peninsulas not accessible by public road or ferry facility for as long as that condition exists.

**D. State-owned or Public Land Not Exempt From the City of Port Aransas Plan.**

The City of Port Aransas plan shall apply to all state-owned or public land other than parks and refuges, subject to the provisions of the Texas Natural Resources Code.

**E. Activities Exempt from Dune Protection Permits.**

The following activities are exempt from the requirement for a dune protection permit, but are subject to the requirements of the beachfront construction certificate.

1. Exploration for and production of oil and gas and reasonable and necessary activities directly related to such exploration and production, including construction and maintenance of production and gathering facilities located in a critical dune area which serve wells located outside of a critical dune area, provided that such facilities are located no farther than two miles from the well being served;
2. Grazing livestock and reasonable and necessary activities directly related to grazing;
3. Recreational activities other than operation of a recreational vehicle other than where permitted on and to the public beach.

**F. Procedure for Obtaining a Beachfront Construction Certificate.**

No person shall cause, engage in, or allow construction on land adjacent to and landward of public beaches and lying in the area either up to the first public road generally parallel to the public beach or to any closer public road not parallel to the beach, or to within 1,000 feet of mean high tide, whichever is



- greater, without acquisition of a beachfront construction certificate from the City of Port Aransas. The procedure for obtaining construction authority is graphically represented on Attachment #1. The initial step requires the landowner or his representative to provide to the City of Port Aransas Building Inspector the location and nature of the proposed work.  
If the proposed improvements are not seaward of the erosion line or located on a beach access (vehicular) the applicant may make application for beachfront construction on short Form PASF-1. (See Attachment #4) All other construction shall make application for a beachfront construction certificate as defined in Section IV.H "Permit and Certificate Application Requirements":

**G. Procedure for Obtaining a Dune Protection Permit.**

1. Potential applicants may submit descriptions of proposed construction to the City of Port Aransas for a determination of whether a permit would be required for the construction. If the potential applicant seeks to establish that no permit is required, the description shall demonstrate that the proposed construction will not adversely affect critical dunes. The applicant shall submit a site map which shows the location of the proposed construction and the distance between the proposed construction and mean high water, the vegetation line and the dune protection line. In addition, applicants shall submit photographs and a written description which states that no dunes exist on the construction site. The City of Port Aransas shall send notice of any proposed determination that the construction does not require a permit to the General Land Office for review at least 10 working days before the determination is made. Upon making the determination, the City of Port Aransas shall notify the potential applicant whether the proposed construction requires a permit.
2. If proposed construction requires a permit, an application shall be submitted to the City of Port Aransas, who shall forward the application to the Planning and Zoning Commission for review. Within 30 days of receiving the application, the Planning and Zoning Committee shall submit its comments on the application to the City Council. The City Council shall review and act on the proposed permit within 30 days. The procedure for obtaining construction authority is graphically represented on attachment #6.

**H. Permit and Certificate Application Requirements.**

1. For all proposed construction (large- and small-scale), the applicant shall submit the following items and information:
  - a. the name, address, phone number, and, if applicable, fax number of the applicant, and the name of the property owner, if different from the applicant;
  - b. the number of proposed structures and whether the structures are amenities or habitable structures;
  - c. the number of parking spaces;

- d. the approximate percentage of existing and finished open spaces (those areas completely free of structures);
  - e. the elevation of lowest habitable floor of all habitable structures and the finished floor elevation of all other structures.
  - f. the approximate duration of the construction;
  - g. a drawing showing configuration and location (any existing or proposed walkways or dune walkovers on the tract);
  - h. a grading layout (referenced to the National Oceanographic and Atmospheric Administration or NGVD datum, having a contour interval of 2 feet or less ), showing existing contours of the project area and proposed final grading;
  - i. photographs of the site which clearly show the current location of the vegetation line and the existing dunes on the tract;
  - j. Proof of applicants financial capability to fund eventual relocation or demolition of structure (i.e., as through proof of Upton-Jones coverage in the National Flood Insurance Program);
  - k. an accurate map or plat of the site identifying:
    - (1) its size in acres or square feet;
    - (2) the site by its legal description, including, where applicable, the subdivision, block, and lot;
    - (3) the location of the property lines and a notation of the legal description of adjoining tract;
    - (4) the location of the structures, the footprint or perimeter of the proposed construction on the tract;
    - (5) proposed roadways and driveways and proposed landscaping activities on the tract;
    - (6) the location of any seawalls or any other erosion response structures on the tract and on the properties immediately adjacent to the tract;
    - (7) and if known, the location and extent of any manmade vegetated mounds, restored dunes, fill activities or any other pre-existing human modifications in and within 100' of the area proposed for construction.
  - l. The effects of the proposed activity on the beach/dune system which cannot be avoided should the proposed activity be permitted, including, but not limited to, damage to dune vegetation, alteration of dune size and shape, and changes to dune hydrology;(for dune permits only)
  - m. A comprehensive mitigation plan which includes a detailed description of the methods which will be used to avoid, minimize, mitigate and/or compensate for any adverse effects on dunes or dune vegetation. (for dune permits only)
2. For all proposed large-scale construction, the City of Port Aransas shall require applicants to submit the following additional items and information:
- a. If the tract is located in a subdivision and the applicant is the owner or developer of the subdivision, a certified copy of the recorded plat of the subdivision, or, if not a recorded subdivision, a plat of the

- subdivision certified by a licensed surveyor, and a statement of the total area of the subdivision in acres or square feet;
  - b. in the case of multiple-unit dwellings, the number of units proposed;
  - c. alternatives to the proposed location of construction on the tract or to the proposed methods of construction which would cause less impairment of beach access or cause fewer or no adverse affects on critical dunes and critical dune vegetation;
  - d. the proposed activity's impact on the natural drainage pattern of the site and the adjacent lots;
3. For all proposed construction (large-and small-scale), if the applicant already has the following items and information he shall provide them in his application;
- a. a copy of construction plans for the proposed improvements;
  - b. a copy of a topographical survey of the site;
  - c. the activities potential impacts on coastal erosion;
  - d. a copy of the FEMA "Elevation Certificate" for any existing structures located on the site.
4. Applicants assertions.

The applicant must include in the application the following positive assertions and if not provided in the above permit application requirements, sufficient additional evidence of fact to support them.

- a. The proposed activity was designed to avoid adverse effects on critical dunes in accordance with subsection VI.F, "Requirements for Avoidance of Adverse Effects".
- b. The proposed activity is not one of the prohibited activities listed under subsection VI.D, "Prohibited Activities", of the Port Aransas Coastal Management Plan.
- c. The activity will not result in runoff or drainage patterns that aggravate erosion on or off the site.
- d. The activity will not result in significant changes to dune hydrology.
- e. The activity will not disturb unique flora or fauna.
- f. The activity shall not significantly increase the potential for washovers or blowouts to occur.
- g. The activity will not result in significant adverse effects to dune complexes or dune vegetation.

#### I. Master Planned Development.

The City of Port Aransas may adopt separate ordinances authorizing master planned developments located within the geographic scope of Title 31 Chapter 15 Subchapter A of the General Land Office Regulations. These ordinances and orders shall be consistent with and address dune protection and beach access requirements of Title 31 Chapter 15 Subchapter A of the General Land Office Regulations, the Dune Protection Act, and the Open Beaches Act. The ordinances and orders shall be submitted to the General

Land Office and the Attorney General's Office for review and approval to ensure consistency with Title 31 Chapter 15 Subchapter A of the General Land Office Regulations. When considering approval of a master planned development or construction plans and setting conditions for operations under such plans, the City of Port Aransas shall consider:

- a. The plan's potential effects on critical dunes, critical dune vegetation, public beach use and access, and the applicant's proposal to mitigate for such effects throughout the construction;
- b. the contents of the master planned development; and
- c. whether any component of the master planned development, such as installation of roads or utilities, or construction of structures in critical dune areas or seaward of a dune protection line, will subsequently require a dune protection permit or a beachfront construction certificate. If a dune protection permit or beachfront construction certificate will be necessary, the City of Port Aransas shall require the developer to apply for the permit and/or certificate as part of the master planned development approval process. This requirement only applies if the City of Port Aransas is authorizing activities impacting critical dune areas and public beach use or access under beach access plan.

J. Review of Certificate and Permit Applications

1. City of Port Aransas review.

When determining whether to approve a proposed activity, the City of Port Aransas may review and consider:

- a. the permit or certificate application;
- b. the proposed activity's consistency with Title 31 Chapter 15 Subchapter A of the General Land Office Regulations and the City of Port Aransas dune protection and beach access plan, including the dune protection beachfront construction standards contained in both;
- c. any other law relevant to dune protection and public beach use and access which affects the activity under review;
- d. the comments of the General Land Office and the Attorney General's Office; and
- e. any other information the City of Port Aransas may consider useful to determine consistency with the City of Port Aransas dune protection and beach access plan, including resource information made available to it by federal and state natural resource entities. The City of Port Aransas shall not issue a dune protection permit or beachfront

construction certificate that is inconsistent with its plan, Title 31 Chapter 15 Subchapter A of the General Land Office Regulations, and other state, local, and federal laws related to the requirements of the Open Beaches Act.

2. State Review

- a. For all proposed construction requiring a beachfront construction certificate or dune protection permit (large- and small-scale), the City of Port Aransas shall provide to the General Land Office the following information:
  - (1) a copy of the community's most recent flood insurance rate map identifying the site of the proposed construction;
  - (2) a preliminary determination as to whether the proposed construction complies with all aspects of the City of Port Aransas beach access plan;
  - (3) the activity's potential impact on the community's natural flood protection and protection from storm surge; and
  - (4) a description as to how the proposed beachfront construction complies with and promotes the City of Port Aransas beach access policies and requirements, particularly, the beach access plan's provisions relating to public beach ingress/egress, off-beach parking, and avoidance of reduction in the size of the public beach due to erosion.
  - (5) The location of improvements in relation to the erosion line.
- b. Beachfront construction permits
  - (1) For construction landward of the erosion line and for construction not on existing or future Beach Access (vehicular) a PASF-1 short form is used. The City has made a comprehensive review and determined that construction in this area will not adversely effect the public right to access and use of the public beach. The review and approval of this plan shall serve as notice to the General Land Office and the Attorney General's Office that the City of Port Aransas intends to issue Beachfront Construction Permits in this area subject to the proper filing of a PASF-1, Application for Beachfront Construction Permit.
  - (2) For any proposed construction seaward of the erosion line or on an existing or future beach access (vehicular) as depicted on Attachment #3. The City of Port Aransas shall forward the complete application, including any associated materials, to the General Land Office and the Attorney General's Office. The application, any documents associated with the application, and information as to when the decision will be made must be received by the General Land Office and the Attorney General's Office no later than 10 working days before the City of Port Aransas is first scheduled to act on the certificate. The City of Port Aransas may act on such

applications only if the state agencies received the application within the proper time frame.

c. Dune Protection permits

- (1) For any proposed construction which requires a dune permit, the City of Port Aransas shall forward the complete application, including any associated materials, to the General Land Office and the Attorney General's Office. The application, any documents associated with the application, and information as to when the decision will be made must be received by the General Land Office and the Attorney General's Office no later than 10 working days before the City of Port Aransas is first scheduled to act on the certificate. The City of Port Aransas may act on such applications only if the state agencies received the application within the proper time frame.

- d. The General Land Office and the Attorney General's Office may submit comments on the proposed activity to the City of Port Aransas.

K. Term and Renewal of Permits and Certificates.

1. The City of Port Aransas dune permits and beachfront construction certificates shall be valid for no more than three years from the date of issuance. The City of Port Aransas may renew a dune permit or beachfront construction certificate allowing proposed construction to continue if the activity as proposed in the application for renewal meets the applicable state and local standards and the permittee supplements the information provided in the original certificate application materials with additional information indicating any changes to the original information provided by the applicant. For the purpose of maintaining administrative records for permits, certificates and renewals, if any, the City of Port Aransas shall keep all original application materials submitted by any applicant for three years. Each renewal of a permit or certificate allowing construction shall be valid for no more than 90 days. The City of Port Aransas shall issue only two renewals for each permit or certificate. After the City of Port Aransas issues two renewals, the permittee must apply for a new permit or certificate. In addition, the City of Port Aransas shall require a permittee to apply for a new a permit or certificate if the proposed construction is changed in any manner which causes or increases adverse effects on dunes, dune vegetation or public beach use and access within the geographic scope of Title 31 Chapter 15 Subchapter A of the General Land Office Regulations.
2. If the City of Port Aransas elects to authorize master planned developments it may adopt a different term limit for permits and certificates only if the master planned development is authorized under a separate, state-approved ordinance. Each master planned development will be deemed to be a new local ordinance subject to state approval

regarding effects on dune protection and public beach use and access.

3. Any dune permit or beachfront construction certificate allowing beachfront construction issued by the City of Port Aransas pursuant to its dune protection and beach access plan shall be voidable under the following circumstances.
  - a. The permit or certificate is inconsistent with Title 31 Chapter 15 Subchapter A of the General Land Office Regulations or the City of Port Aransas plan at the time the permit or certificate was issued.
  - b. A material change occurs which would or could make the permitted construction an encroachment on the public beach or would adversely effect critical dunes or critical dune vegetation seaward of the dune protection line.
  - c. A permittee fails to disclose any material fact in the application.
4. The City of Port Aransas shall require that a permittee apply for a new permit or certificate in the event of any material changes. Material changes include human or natural conditions which have adversely affected beach access and use or critical dunes and critical dune vegetation seaward of the dune protection line that either:
  - a. did not exist at the time the permittee prepared the original permit or certificate application; or
  - b. were not considered by the City of Port Aransas because the permittee failed to provide information regarding the site condition in the original application for a permit or certificate.
5. A certificate automatically terminates in the event the certified construction comes to lie within the boundaries of the public beach by artificial means or by action of storm, wind, water, or other naturally influenced causes. Nothing in the certificate shall be construed to authorize the construction, repair, or maintenance of any construction within the boundaries of the public beach at any time.

**L. Administrative Record.**

1. The City of Port Aransas shall compile and maintain an administrative record which demonstrates the basis for each final decision made regarding the issuance of a dune protection permit or beachfront construction certificate. The administrative record shall include copies of the following:
  - a. all materials the City of Port Aransas received from the applicant as part of or regarding the permit or certificate application;
  - b. the transcripts, if any, or the minutes and/or tape of the City of Port Aransas's meeting during which a final decision regarding the permit or certificate was made; and
  - c. all comments received by the City of Port Aransas regarding the permit or certificate.
2. The City of Port Aransas shall keep the administrative record for a

minimum of three years from the date of a final decision on a permit or certificate. The City of Port Aransas shall send to the General Land Office or the Attorney General's Office, upon request by either agency, a copy of those portions of the administrative record that were not originally sent to those agencies for permit or certificate application review and comment. The record must be received by the appropriate agency no later than 10 working days after the City of Port Aransas receives the request. The state agency reviewing the administrative record shall notify the appropriate permittee of the request for a copy of the administrative record from the City of Port Aransas. Upon request of the permittee, the City of Port Aransas shall provide to the permittee copies of any materials in the administrative record regarding the permit or certificate which were not submitted to the City of Port Aransas by the permittee.

## V. STANDARDS FOR ISSUANCE OF BEACHFRONT CONSTRUCTION CERTIFICATES.

### A. The City of Port Aransas Certification of Beachfront Construction.

This section provides the standards The City of Port Aransas shall follow when issuing beachfront construction certificates. In general, within its jurisdiction, the City of Port Aransas shall not allow diminution of the size of public beaches and shall preserve and enhance public access between public beaches and public roads lying landward. The City of Port Aransas certification shall consist of one of two affirmative findings: an affirmative finding by the City of Port Aransas that the proposed construction is consistent with the beach access portion of the City of Port Aransas's beach access plan and does not encroach upon the public beach, or does not interfere with, or otherwise restrict, the public's right to use and have access to and from the public beach; or an affirmative finding that the proposed construction is inconsistent with the beach access portion of a the City of Port Aransas's beach access plan.

### B. Prohibition of Certification.

The City of Port Aransas shall not issue a certificate authorizing beachfront construction if the City of Port Aransas determines that the construction:

1. reduces the size of the public beach in any manner; or
2. closes or otherwise impairs any existing or planned public beach access point unless the City of Port Aransas simultaneously provides or requires the permittee to provide equivalent or better public access.

### C. Encroachments on Public Beaches.

#### 1. Prohibition of construction on the public beach.

The City of Port Aransas is prohibited from issuing a certificate authorizing any person to undertake any construction on the public beach or any construction that encroaches in whole or in part on the public beach.



This prohibition does not prevent the approval of man-made vegetated mounds and dune walkovers under a properly issued dune protection permit and beachfront construction certificate. Any issuance or approval of a certificate contrary to this section is void.

2. Construction landward of the public beach.

The City of Port Aransas shall not issue any beachfront construction certificate authorizing construction landward of the public beach that functionally supports or depends on, or is otherwise related to, proposed or existing structures that encroach on the public beach, regardless of whether the encroaching structure is on land that was previously landward of the public beach.

D. Dedication of New Beach Access Points.

1. Pursuant to the authority provided in the Open Beaches Act, Section 61.015(g), and as a condition of beachfront construction certification as to consistency with the City of Port Aransas's plan, the City of Port Aransas shall itself dedicate or require a permittee to dedicate to the public new public beach access, where necessary, for consistency with the access plan shown on the Beachfront Construction Zones Map. (See Attachment #2)
2. The City of Port Aransas shall itself dedicate or require a permittee to dedicate an access area if it issues a certificate allowing a permittee to conduct activities which will impair access to and from the beach in any manner. Such a dedicated access area shall provide access equivalent to or better than the access impaired by the permittee's activity and shall be consistent with the pertinent provisions regarding beach access and use, vehicular controls, or beach user fees as contained in the City of Port Aransas's beach access plan.

VI. STANDARDS FOR ISSUANCE OF DUNE PROTECTION PERMITS

A. The City of Port Aransas Issuance of Dune Protection Permits.

This section provides standards The City of Port Aransas shall follow when issuing dune protection permits. In general, The City of Port Aransas shall protect critical dunes and critical dune vegetation from adverse effects resulting directly or indirectly from construction in a critical dune area or seaward of its dune protection line, as required by the Dune Protection Act, Title 31, subchapter A of the General Land Office Regulations and The City of Port Aransas Coastal Management Plan.

B. Considerations When Issuing a Dune Protection Permit.

The City of Port Aransas, when appropriate, may consider the following items and information when determining whether to grant a permit:

1. All comments submitted to the local government by the General Land Office

- and the Attorney General's Office;
2. cumulative and indirect effects of the proposed construction on all critical dunes and critical dune vegetation within critical dune areas or seaward of a dune protection line;
3. cumulative and indirect effects of other activities related to the proposed construction on critical dunes and critical dune vegetation located on the proposed construction site;
4. the pre-construction type, height, width, slope, volume, and continuity of the critical dunes, the pre-construction condition of the critical dunes, the type of critical dune vegetation, and percent of vegetation cover on the site;
5. the local historical erosion rate as determined by the University of Texas at Austin, Bureau of Economic Geology, and whether the proposed construction may alter critical dunes and critical dune vegetation in a manner that may aggravate erosion;
6. the applicant's mitigation plan for any unavoidable adverse effects on critical dunes and critical dune vegetation and the effectiveness, feasibility, and desirability of any proposed critical dune reconstruction and revegetation;
7. the impacts on the natural drainage patterns of the site and adjacent property;
8. any significant environmental features of the potentially affected critical dunes and critical dune vegetation such as their value and function as floral or faunal habitat or any other benefits the critical dunes and critical dune vegetation provide to other natural resources;
9. wind and storm patterns including a history of washover patterns;
10. location of the site on the flood insurance rate map; and
11. success rates of dune stabilization projects in the area.

C. Required Affirmative Findings.

Before The City of Port Aransas may issue a dune protection permit it must make the following four (4) affirmative findings.

1. The proposed activity is not a prohibited activity as defined in subsection VI.D "Prohibited Activities" of the Port Aransas Coastal Management Plan.
2. The proposed activity will not materially weaken critical dunes or materially damage critical dune vegetation based on the application of technical standards under subsection VI.E, "Technical Standards for Determination of Material Weakening" of the Port Aransas Coastal Management Plan.
3. The design of the proposed activity has incorporated the provisions for avoidance in accordance with subsection VI.F, "Requirements for Avoidance of Adverse Effects" of the Port Aransas Coastal Management Plan.
4. The applicant's mitigation plan will adequately avoid, minimize, mitigate, and/or compensate for any unavoidable adverse effects, as provided in subsections VI.F "Mitigation of Adverse Effects" of the Port Aransas Coastal Management Plan.

**D. Prohibited Activities**

1. Activities that are likely to result in the temporary or permanent removal of sand from the portion of the beach/dune system located on or adjacent to the construction site, including:
  - a. moving sand to a location landward of the critical dune area or dune protection line; and
  - b. temporarily or permanently moving sand off the site, except for purposes of permitted mitigation, compensation, or an approved dune restoration or beach nourishment project and then only from areas where the historical accretion rate is greater than two per year, and the project does not cause any adverse effects on the sediment budget;
2. depositing sand, soil, sediment, or dredged spoil which contains the toxic materials listed in Volume 40 of the Code of Federal Regulations, Part 302.4, in concentrations which are harmful to people, flora, and fauna as determined by applicable, relevant, and appropriate requirements for toxicity standards established by the local, state, and federal governments;
3. depositing sand, soil, sediment, or dredged spoil which is of an unacceptable mineralogy or grain size than the sediments found on the site (this prohibition does not apply to materials related to the installation or maintenance of public access roads.
4. creating dredged spoil disposal sites, such as levees and weirs, without the appropriate local, state, and federal permits;
5. constructing or operating industrial facilities not in full compliance with all relevant laws and permitting requirements prior to the effective date of this subchapter;
6. operating recreational vehicles other than on properly permitted roads.
7. mining dunes;
8. constructing concrete slabs or other impervious surfaces within 200 feet landward of the natural vegetation line (a concrete slab may be permitted in the described area if it supports and does not extend beyond the perimeter of a habitable structure elevated on pilings and if no walls are erected that prohibit the natural transfer of sand; an impervious surface may be permitted in the described area if it does not exceed 5% of the area of the permitted habitable structure);
9. depositing trash, waste, or debris including inert materials such as concrete, stone, and bricks that are not part of the permitted on-site construction;
10. constructing cisterns, septic tanks, and septic fields seaward of any structure serviced by the cisterns, septic tanks, and septic fields;
11. detonating bombs or explosives.

**E. Technical Standards For Determination of Material Weakening**

1. Technical standards for Port Aransas determination as to material weakening of critical dunes and material damage of critical dune vegetation. Port Aransas may approve a permit application only if it finds as a fact, after a full investigation and after considering any proposed mitigation that the particular conduct proposed will not materially weaken any critical dune or materially damage critical dune vegetation or

reduce the effectiveness of any critical dune as a means of protection against erosion and high wind and water. In making the finding as to whether such material weakening or material damage will occur, Port Aransas shall use the following technical standards. Failure to meet any one of these standards will result in a finding of material weakening or material damage and Port Aransas shall not approve the application for the construction as proposed.

- a. The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property.
- b. The activity shall not result in runoff or drainage patterns that aggravate shoreline erosion.
- c. The activity shall not adversely effect dune hydrology.
- d. The activity shall not adversely effect unique flora or fauna.
- e. The activity shall not significantly increase the potential for washovers or blowouts to occur.
- f. The activity shall not result in significant adverse effects to dune complexes or dune vegetation.

#### F. Mitigation of Adverse Affects

The mitigation sequence shall be used by The City of Port Aransas in determining if the applicants plan will adequately mitigate for adverse effects to critical dunes or critical dune vegetation which could not be avoided under subsection VI.F.1 "Requirements for Avoidance of Adverse Effects" of this plan. The mitigation plan must insure that no material weakening of critical dunes will occur as a result of the proposed activity. The mitigation sequence consists of the following steps: avoiding the impact altogether by not taking a certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of the action and its implementation; rectifying the impact by repairing, rehabilitating, or restoring the affected environment; and compensating for the impact by replacing resources lost or damaged. If, for any reason, an applicant cannot demonstrate the ability to mitigate adverse effects on critical dunes and critical dune vegetation, the City of Port Aransas is not authorized to issue the permit. The City of Port Aransas shall require a permittee to use the mitigation sequence as a permit condition if the City of Port Aransas finds that an activity will result in any adverse effects on critical dunes or critical dune vegetation. When the City of Port Aransas requires mitigation, as a permit condition, it shall require that the permittee follow the order of the mitigation sequence as provided in this subsection.

##### 1. Requirements for Avoidance of Adverse Effects

Avoidance means avoiding the effect on critical dunes and critical dune vegetation altogether by not taking a certain action or parts of an action. The City of Port Aransas shall not issue a permit allowing any adverse effects on critical dunes or critical dune vegetation unless the applicant proves there is no practicable alternative to the proposed activity which would have no adverse effects on critical dunes or critical dune vegetation. The City of Port Aransas shall require that permittees undertaking construction in critical dune areas or

seaward of a dune protection line use the following avoidance techniques.

- a. Routing of non-exempt pipelines. Non-exempt pipelines are any pipelines other than those subject to the exemption in subsection IV.E, "Activities Exempt from Dune Protection Permits" of this plan. The City of Port Aransas shall not allow permittees to construct non-exempt pipelines in a manner which would adversely effect critical dunes or critical dune vegetation unless there is no practicable alternative.
  - b. Location of beach access. The City of Port Aransas shall not restrict construction which provides access to and from the public beach pursuant to this provision.
  - c. Location of roads. Port Aransas shall require permittees constructing roads parallel to beaches to locate the roads in a manner to the greatest extent practicable to avoid adverse effects on critical dunes and critical dune vegetation and shall not allow permittees to locate such roads within 200 feet landward of the natural vegetation line.
  - d. Artificial runoff channels. The City of Port Aransas shall not permit construction of new artificial channels which adversely effect critical dunes and critical dune vegetation, including stormwater runoff channels, unless there is no practicable alternative.
2. Minimization. Minimization means minimizing effects on critical dunes and critical dune vegetation by limiting the degree or magnitude of the action and its implementation. The City of Port Aransas shall require that permittees minimize adverse impacts to critical dunes and critical dune vegetation by limiting the degree or magnitude of the action and its implementation. If an applicant, for a dune protection permit, demonstrates to the City of Port Aransas that adverse effects on critical dunes or critical dune vegetation cannot be avoided and when properly mitigated the activity will not materially weaken critical dunes and critical dune vegetation, the City of Port Aransas may issue a permit allowing the proposed alteration, provided that the permit contains a condition requiring the permittee to minimize adverse effects on critical dunes or critical dune vegetation to the greatest extent practicable.
- a. Routing of non-exempt pipelines. If a permittee demonstrates that there is no practicable alternative to crossing critical dune areas, the City of Port Aransas may allow a permittee to construct a pipeline across critical dunes and critical dune vegetation and to the greatest extent practicable shall require that non-exempt pipelines be located in previously disturbed areas such as blowout areas.
  - b. Location of construction and beach access.
    - (1) Port Aransas shall require permittees to minimize construction and pedestrian traffic on or across critical dune areas to the greatest extent practicable, accounting for trends of critical dune movement and beach erosion in that area.
    - (2) Port Aransas may allow permittees to route private and public pedestrian beach access to and from the public beach through washover areas or over elevated walkways. All public access

- routes shall be clearly marked as such.
- (3) Port Aransas shall, to the greatest extent practicable, minimize proliferation of excessive private access by permitting only the minimum necessary private beach access points to the public beach from any proposed subdivision, multiple dwelling, or commercial facility. This provision shall not serve to prohibit any Gulf beach property owner private access to the beach.
  - (4) Port Aransas, the owners and operators of commercial facilities, subdivisions, and multiple dwellings when appropriate, shall post signs in areas where pedestrian traffic is high, explaining the functions of critical dunes and the importance of vegetation in preserving critical dunes.
- c. Location of roads.
- (1) Wherever practicable, Port Aransas may require permittees to locate beach access roads in washover areas, blowout areas, or other areas where critical dune vegetation has already been disturbed; Port Aransas shall require permittees to build such roads along the natural land contours, to minimize the width of such roads, and where possible, improve existing access roads with elevated berms near the beach that prevent channelization of floodwaters. Where practicable, Port Aransas shall require permittees to locate roads at an oblique angle to the prevailing wind direction.
  - (2) Wherever practicable, Port Aransas shall provide vehicular access to and from beaches by using existing roads or from roads constructed in accordance with this plan. Port Aransas shall not apply this provision in a manner which restricts public beach access.
- d. Artificial runoff channels. Port Aransas shall only authorize construction of artificial runoff channels (that direct stormwater flow) if the channels are located in a manner which avoids beach erosion.
3. Restoration. Restoration means repairing, rehabilitating, or restoring affected dunes and dune vegetation. Port Aransas shall add conditions to all permits requiring that permittees restore all adverse effects on critical dunes and critical dune vegetation which will occur after a permittee has avoided and minimized such adverse effects to the greatest extent practicable. Port Aransas shall require that permittees restore such adverse effects by repairing, rehabilitating, or restoring the affected critical dunes and critical dune vegetation. Port Aransas shall require that the permittee restore affected critical dunes (to the same volume as the pre-existing dunes) and dune vegetation to be superior or equal to the pre-existing natural dunes. When determining the appropriate restoration method, Port Aransas may consider the recommendations of the General Land Office, federal and state natural resource agencies, and dune vegetation experts.
- a. Restoration standards for critical dunes. Port Aransas may allow a permittee to restore adverse effects on critical dunes using vegetative or mechanical means. Port Aransas shall require that a permittee

- proposing to restore critical dunes use the following techniques:
- (1) restore critical dunes to approximate the naturally formed dune position or location, contour, volume, elevation, vegetative cover, and sediment content in the area;
  - (2) allow for the natural dynamics and restoration of dunes;
  - (3) use sand fences or other approved method of dune restoration, where appropriate; and
  - (4) restore or repair critical dunes using indigenous vegetation that will achieve the same protective capability or greater capability as the surrounding natural dunes.
- b. Stabilization of critical dune areas. Port Aransas shall give priority for stabilization to blowouts and breaches when permitting restoration of dunes. Before permitting stabilization of washover areas, Port Aransas shall:
- (1) assess the overall impact of the project on the beach/dune system;
  - (2) consider any adverse effects on hydrology and drainage which will result from the project; and
  - (3) require that equal or better public beach access be provided to compensate for impairment of any public beach access previously provided by the washover area.
4. Compensation. Compensation means compensating for the effects on critical dunes and critical dune vegetation by replacing or providing substitute dunes and dune vegetation. Port Aransas shall prohibit a permittee from compensating for adverse effects on critical dune vegetation by removing existing vegetation from private or state-owned property unless the permittee has received prior written permission from the property owner or the state. In addition to the requirement that permission be obtained from the property owner, all persons are prohibited from removing vegetation from a critical dune area or seaward of a dune protection line unless specifically authorized to do so in a dune protection permit. Port Aransas shall include conditions in such permits requiring the permittee to provide a copy of the written permission for vegetation removal and to identify the source of any sand and vegetation which will be used to compensate for adverse effects on critical dunes and critical dune vegetation in the mitigation plan contained in the permit application.
- a. On-site compensation. On-site compensation consists of replacement of the affected critical dunes or critical dune vegetation on the site where the critical dunes and critical dune vegetation were originally located. Port Aransas shall require a permittee's compensation efforts to be located on the site, where practicable.
- (1) Critical Dune Compensation. Replacement of critical dunes shall, to the greatest extent practicable, be located no further landward than the affected critical dune. The manmade vegetated mound shall be of the same volume and where practicable, the same shape as of the affected critical dune.
  - (2) Critical Dune Vegetation. Critical dune vegetation shall to the greatest extent practicable be located on the same tract of land

and where practicable no further landward than the affected critical vegetation. The ratio for compensation shall be generally 1:1 except in cases where the applicant can establish that the compensation has the same or greater protective value as the affected critical vegetation.

- b. Off-site compensation. Port Aransas shall require that a permittee's compensation efforts take place on the construction site unless the permittee demonstrates the following facts to the City of Port Aransas.
    - (1) On-site compensation is not practicable.
    - (2) The off-site compensation will be located as close to the construction site as practicable.
    - (3) The off-site compensation will achieve a 1:1 ratio of compensation.
    - (4) the permittee has notified FEMA, Region 6, of the proposed off-site compensation.
  - c. Information required for off-site compensation. Port Aransas shall require permittees to provide the following information when proposing off-site compensation:
    - 1 the name, address, phone number, and fax number, if applicable, of the owner of the property where the off-site compensation will be located;
    - 2 a legal description of property intended to be used for the proposed off-site compensation;
    - 3 the source of sand and the dune vegetation;
    - 4 all information regarding previous permits and certificates issued for the restoration of critical dunes on the compensation site;
    - 5 all relevant information regarding the success, current status, and stabilization of the critical dune restoration efforts on the compensation site;
    - 6 any increase in potential flood damage to the site where the adverse effects on critical dunes and critical dune vegetation will occur and to the public and private property adjacent to that site; and
    - 7 the proposed date of initiation of the compensation. Port Aransas shall include a condition in each permit authorizing off-site compensation which requires permittees to notify Port Aransas in writing of the actual date of initiation within 10 working days after compensation is initiated. If the permittee fails to begin compensation on the date proposed in the application, the permittee shall provide the City of Port Aransas with the reason for the delay. Port Aransas shall take this reason into account when determining whether a permittee has violated the compensation deadline.
5. Mitigation deadline.
- a. Initiation of mitigation. Port Aransas shall require permittees to begin mitigation for any adverse effect(s) to critical dunes and critical dune



vegetation prior to or concurrent with the commencement of construction. If mitigation is not completed prior to commencement of construction, Port Aransas may require that the permittee provide the City of Port Aransas with proof of financial responsibility in an amount equal to that necessary to complete the compensation. This can be done in the form of an irrevocable letter of credit, performance bond, or any other instrument acceptable to the City of Port Aransas.

- b. Completion of mitigation. Port Aransas shall require permittees to conduct mitigation efforts continuously until the repaired, rehabilitated, and restored dunes and dune vegetation are equal or superior to the pre-existing critical dunes and critical dune vegetation. These efforts shall include preservation and maintenance pending completion of compensation.
  - c. Port Aransas' determination of completion of mitigation. Port Aransas shall determine a mitigation project complete when the dune restoration project's position, contour, volume, elevation, and vegetative cover has reached a level that matches or exceeds the surrounding naturally formed dunes.
6. State agency notification of mitigation certification. Port Aransas shall provide written notification to the General Land Office after determining that the mitigation is complete. The General Land Office may conduct a field inspection to verify compliance. If Port Aransas does not receive an objection from the General Land Office regarding the completion of mitigation within 30 working days after the General Land Office is notified in writing, Port Aransas may certify that the mitigation is complete.
  7. Violation of mitigation deadline. The General Land Office recognizes that the time necessary to restore dunes and dune vegetation varies with factors such as climate, time of year, soil moisture, plant stability, and storm activity. The permittee shall be deemed to have failed to achieve compensation if a 1:1 ratio has not been achieved within three years after beginning compensation efforts.

## VII. COMMON DUNE PROTECTION AND BEACHFRONT CONSTRUCTION STANDARDS

### A. Location of Construction.

The City of Port Aransas shall require permittees to locate all construction sufficiently landward so as not to become an encroachment on the public beach and shall not allow any construction which may aggravate beach erosion.

### B. Prohibition of Erosion Response Structures.

The City of Port Aransas shall not issue a permit or certificate allowing construction of an erosion response structure. However, the City of Port Aransas may issue a certificate authorizing construction of a retaining wall, as defined

herein. These conditions only apply to the construction of a retaining wall; all other erosion response structures are prohibited.

1. The City of Port Aransas shall not authorize the construction of a retaining wall within the area 200 feet landward of the line of vegetation.
2. The City of Port Aransas may issue a certificate authorizing construction of a retaining wall in the area more than 200 feet landward of the line of vegetation.

**C. Existing Erosion Response Structures.**

In no event shall the City of Port Aransas issue permits or certificates authorizing maintenance or repair of an existing erosion response structure on the public beach or the enlargement or improvement of the structure within 200 feet landward of the natural vegetation line. Also within 200 feet landward of the natural vegetation line, the City of Port Aransas shall not issue a certificate allowing any person to maintain or repair an existing erosion response structure if the structure is more than 50% damaged, except under the following circumstances.

1. When failure to repair the structure will cause unreasonable hazard to a public building, public road, public water supply, public sewer system, or other public facility immediately landward of the structure.
2. When failure to repair the structure will cause unreasonable flood hazard to habitable structures because adjacent erosion response structures will channel floodwaters to the habitable structure.

**D. Construction in Flood Hazard Areas.**

1. The City of Port Aransas shall not issue a permit or certificate that does not comply with FEMA's regulations governing construction in flood hazard areas.
2. For construction within the beachfront construction area, The City of Port Aransas shall inform the General Land Office and the FEMA regional representative in Texas before it issues any variance from FEMA regulations or allows any activity done in variance of FEMA's regulations found in Volume 44 of the Code of Federal Regulations, Parts 59-77. Variances may adversely affect the City of Port Aransas's participation in the National Flood Insurance Program.
3. The City of Port Aransas shall not issue a permit or certificate that does not comply with FEMA minimum requirements or with the FEMA-approved local ordinance.  
FEMA prohibits man-made alteration of sand dunes and mangrove stands within Zones V1-30, V, and VE on the community's flood insurance rate maps which would increase the potential for flood damage.

**E. Construction in Eroding Areas.**

For construction seaward of the 60 year erosion line the City of Port Aransas shall follow the standards provided in V "STANDARDS FOR ISSUANCE OF

BEACHFRONT CONSTRUCTION CERTIFICATES". In addition, because of the higher risk of damage from flooding or erosion in such areas, The City of Port Aransas shall:

1. require that structures built in eroding areas constructed in accordance with FEMA minimum construction standards and elevations;
2. require that structures located on property adjacent to the public beach be designed for feasible relocation; for the purpose of this plan, designed for practical relocation is presumed to have been met if the structure is elevated on pilings above the natural ground elevation.
3. prohibit a permittee from paving or altering the ground below the lowest habitable floor (however, gravel or crushed limestone may be used to stabilize driveways);

F. Construction Affecting Natural Drainage Patterns.

The City of Port Aransas shall not issue a permit or certificate authorizing construction if the proposed improvements will increase the natural drainage to the public beach. Construction effecting natural drainage shall not cause erosion to adjacent property, critical dune areas or the public beach.

VIII. THE CITY OF PORT ARANSAS MANAGEMENT OF THE PUBLIC BEACH

A. Beach Advisory Committee

The City Council recognizing the beach area of the City as an area of importance to the economy and to the aesthetics of the City and recognizing the functions and obligations of the City to maintain and enhance this area and recognizing the fact that the beach area is an area with unique problems deserving of special attention and in order to effectively carry out the duties of the City with respect to this area does hereby establish the beach advisory committee.

1. Membership

- a. The beach advisory committee shall be composed of seven (7) members who shall be qualified voters of the City.
- b. All members of the committee shall be appointed by the City Council. All members of the committee shall be appointed to serve two (2) year terms. The terms of three (3) members of the committee shall expire every odd numbered year. The terms of four (4) members of the committee shall expire every even numbered year.
- c. Whenever a vacancy is created in the membership of the committee, the City Council shall appoint a qualified individual to fill the remainder of the term of the departing member. The members of the committee shall elect a chairman from their membership and shall meet at the call of their chairman or at the request of the City Council.

## 2. Authority

The beach advisory committee shall act in a purely advisory capacity to the City Council with respect to all matters pertaining to the beach area.

### B. General Standards.

#### 1. Regulated activities on the beach

##### a. Commercial activity prohibited

- (1) All peddling, vending, selling, leasing and renting of goods, wares, commodities, merchandise, food and services, and all other commercial activity including the dispensing without charge of any such items in connection with a commercial activity or transaction where people are contacted or solicited on the public beach is hereby prohibited, which prohibited activities are referred to in this article as prohibited commercial activities, with the exception of beach rentals pursuant to a valid concession agreement made and entered into by and between the City and a concessionaire, which concession agreement must be authorized by resolution. (Section 18-51 Port Aransas Code)
- (2) The City Council, in its discretion, shall define the locations where the business shall be conducted, the items to be rented at each such location, the hours of business of such business at each location, and may impose any other conditions to ensure a minimum level of service to the public, and may impose such other rules and regulations on the concessionaire as it deems reasonable or necessary, in its discretion, to insure that the recreational potential of the public beach is maximized and that no such permitted activity or activities, or combination thereof, substantially interferes with the recreational enjoyment of the beach area by the public, presents a traffic or other safety or health hazard, or otherwise unreasonably and adversely affects the public health, safety or welfare, so long as such limitations, rules and regulations are in conformity with the provisions of this section. (Section 18-51 Port Aransas Code)

##### b. Playing sports or games on beach

No person shall participate or play sports or games including but not limited to baseball, football, volleyball and frisbee in or across the main traveled roadway. (Section 18-52 Port Aransas Code)

##### c. Camping in the main traveled highway prohibited

No person shall camp on the beaches within the city limits between the main traveled highway and the vegetation line of the beach. Camping is allowed between the main traveled highway and the water's edge except that no motor vehicle shall be operated within fifty (50) feet of the water's edge. (Section 18-53 Port Aransas Code)

##### d. Glass bottles and containers prohibited on beach

No person shall take any glass bottles or any type of glass container onto the city beach. Any person in possession of such glass container or

bottle outside the confines of an automobile shall be in violation of this section. (Section 18-54 Port Aransas Code)

e Prohibition against littering

No person shall litter or cause littering on the city beach. (Section 18-55 Port Aransas Code)

f Fires

(1) Open campfires are prohibited on city beaches but contained charcoal or natural wood and bottle gas fires are allowed.

(2) Ceremonial bonfires shall be permitted only by written permit issued by the Police Chief. The permit shall contain the name of the organization, name and address of person responsible for containment of the fire, the purpose or occasion of the fire must be accompanied by a twenty-five dollars (\$25.00) permit fee. Permits must be in possession of the person responsible for containment of the fire. (Section 18-56 Port Aransas Code)

g Dunes

Vehicles are prohibited from traveling on or parking on the sand dunes. (Section 18-57 Port Aransas Code)

2. City beach traffic regulations

a. Public avenue and speed designations

(1) Public avenue designated. The city beach is hereby set apart, designated and declared to be a public avenue owned by the State and as such subject to all the regulations and ordinances of the City and the State relating to streets.

(2) Speed designated. No person shall operate or cause to be operated any motor vehicle at a speed in excess of fifteen (15) miles per hour upon the city beach.

(3) Main traveled roadways established

(a) The traveled roadway and parking areas are more specifically shown on the Beach Access Traffic Control Plan (See attachment #3)

(4) Traffic restricted to the main traveled roadway; applicability

(a) No person shall drive or operate a motor vehicle on any portion of the beach other than on the main traveled roadway.

(b) This subsection shall not apply to the driver of any vehicle while proceeding from the main traveled roadway on the beach toward that point fifty (50) feet from the water's edge designated for the purpose of parking such vehicle or returning therefrom. In those areas where rows of posts define designated diagonal parking areas removal of barriers which restrict access to "emergency vehicles only" or removal of posts to move vehicle closer than the distance established by the posts is prohibited.

- (c) This subsection shall not apply to the driver of any emergency vehicle while proceeding to any other area of the beach for the purpose of assisting in an emergency or in returning there from. (Section 23-141 Port Aransas Code)
- b. Operation of motor vehicles on the public beach
- (1) No person shall drive or operate a motor vehicle on the beach within fifty (50) feet of the water's edge for any purpose whatsoever including parking. (Section 23-143 Port Aransas Code)
- (2) Safety of persons and property to be regarded  
No person shall drive or operate a motor vehicle on the beach in willful or wanton disregard for the safety of persons or property. (Section 23-144 Port Aransas Code)
- (3) Standing, stopping, and parking on main traveled roadway.  
a. No person shall stop, park or leave standing any vehicle whether attended or unattended upon a main traveled roadway of the beach.  
b. This section shall not apply to the driver of any vehicle which is disabled while on a main traveled roadway of the beach in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. (Section 23-145 Port Aransas Code)
- (4) Other vehicles and objects on main traveled roadway of beach. No person shall place or park any trailer, house trailer, tent, umbrella, surfboard or other object upon a main traveled roadway of the beach. (Section 23-146 Port Aransas Code)
- (5) Removal of vehicles, etc.  
Whenever any peace officer finds a vehicle, trailer, house trailer, tent, umbrella, surfboard or other object placed, parked or standing upon a main traveled roadway of the beach in violation of section 23-145 et. seq., such officer is hereby authorized to require the driver or other person in charge to move the same to a position off a main traveled roadway of the beach. (Section 23-147 Port Aransas Code)
- c. Objects on beach not to obstruct traffic  
No person shall place, maintain or erect or cause to be placed, maintained or erected, any rope, wire, string, cord, streamer or other object on any portion of the beach in such a manner as to interfere with or obstruct vehicular or pedestrian traffic on any portion of the beach. (Section 23-148 Port Aransas Code)
- d. Free and unrestricted use of beach to be maintained  
No person shall park or place any vehicle, trailer, house trailer, tent, umbrella, surfboard or other object on any

- portion of the beach which when so parked or placed in conjunction with any other vehicle, trailer, house trailer, umbrella, surfboard or other object, interferes with or obstructs vehicular or pedestrian traffic on any portion of the beach or which shall constitute a restraint, barrier or obstruction which interferes with the rights of the public, individually or collectively, to the free and unrestricted use of the beach. (Section 23-149 Port Aransas Code)
- e. Erection of buildings and structures  
No person shall erect or maintain or cause to be erected or maintained, any building or other structure upon any portion of the beach. (Section 23-150 Port Aransas Code)
- f. Sand and other materials not to interfere with traffic  
No persons shall construct, erect or maintain or cause the construction or erection of any mound of sand or other such material on the beach which interferes with vehicular or pedestrian traffic. (Section 23-151 Port Aransas Code)
- g. Excavations not to interfere with traffic  
No person shall excavate or maintain, or cause the excavation of any ditch or similar excavation on the beach so as to interfere with vehicular or pedestrian traffic. (Section 23-152 Port Aransas Code)
- h. Traffic signs to be erected  
The City shall cause to be designed, made and posted, beach and traffic regulation and speed limit signs indicating the regulations prescribed in this article. Such signs shall be in compliance with the current provisions of the "Texas Manual on Traffic Control Devices for Streets and Highways," stating the applicable speed limits and motor vehicle traffic regulations or prohibitions and the applicable beach regulations or prohibitions. (Section 23-153 Port Aransas Code)
- i. Signs  
Signs shall be erected on the beach to indicate the area requiring a vehicle beach permit and the area of free parking. In the area where permits are required sufficient signs shall be provided to inform visitors who do not see the sign placed at all entrances to the beach. (Section 23-153 Port Aransas Code) Signage has been erected with the above Code and complies with the requirements of Title 31 Chapter 15 subchapter A.
- j. Parking and camping  
No parking or camping is allowed on the city beach in an area three hundred (300) feet North and three hundred (300) feet South of each access road. (Section 23-154 Port Aransas Code)

3. Maintaining access to the public beach

a. Abandonments of Public Access or Parking Areas Prohibited.

The city shall not abandon, relinquish, or convey any right, title, easement, right-of-way, street, path, or other interest that provides existing or potential beach access or parking area, unless an equivalent or better beach access or parking area is first provided by the City consistent with its beach access plan.

b. Interfering with Access Prohibited.

(1) No person shall create, erect, construct or maintain any obstruction, barrier, or restraint on or within a public beach or public access way to and from the beach, that will interfere with the free and unrestricted right of the public to use any public beach.

(2) No person shall display or cause to be displayed on or adjacent to any public beach any sign, marker, or warning, or make or cause to be made any written or oral communication or other representation that the public beach, or a public access way to and from the public beach, is private property not subject to use by the public. This provision does not prohibit signs or other written or oral communications that areas landward of the vegetation line and access ways thereon, other than public access ways, are private property.

c. Post-Storm Assessment.

The City of Port Aransas shall assess the status of the public beach boundary within 30 days after a major storm or other event causing significant landward migration of the public beach. After the assessment, the City shall inform the General Land Office and the Attorney General's Office of any encroachments on the public beach within 10 days of completing the assessment.

d. Beach Closures.

(1) The City of Port Aransas may by order close areas of the public beach in cases of public necessity. "Public necessity" shall be limited to environmental emergencies, public health and safety emergencies, and government entities' performance of government functions whose importance justifies the restriction of public access. The City of Port Aransas shall limit the closure to the smallest possible area and the shortest possible time necessary.

(2) This order does not restrict the ability of any peace officer or other official in any extraordinary emergency to protect safety or property, by exercising powers or carrying out duties conferred on the officer under generally applicable law.

(3) The City of Port Aransas may by order close part of the public beach for a maximum of three days each year to allow a nonprofit organization to hold an event on the beach to which the public is invited and to which the organization charges no more than a nominal admission fee.



4. Littering prohibited.

- a. Littering. No person shall litter any public beach. "Litter" includes leaving unattended at any place other than a proper disposal receptacle any trash or debris of any character, including food or vegetable material or any remnant or residue thereof, used containers or packaging, or other refuse such as glass, metal, wood, paper, or plastic materials.
- b. Fishermen leaving catch on beach or public places. It shall be unlawful for any person who shall catch or capture fish, crab or shrimp in the waters of the Gulf of Mexico or the inland waters within the limits of the City by any means or device whatever to leave any of such fish, crab or shrimp upon any beach or other public place in the City. It shall be the duty of any person catching or capturing such fish, crab or shrimp to make such disposition of the catch or capture that the same will not remain in or be found upon any beach or other public place. (Section 18-18 Port Aransas Code)

5. Camping.

No person shall camp on the City beach or in or upon any other public place or area within the corporate city limits of the City for a period of time in excess of three (3) nights, during any three (3) week period. This regulation will apply on an annual basis.

No person camping shall erect any wooden structure for the purpose of establishing a camp. (Section 18-20 Port Aransas Code)

6. Animal control.

a. Dogs on Beach

It shall be unlawful for any person owning, keeping or having in his possession or control any dog, to allow such dog to run at-large upon the City beach. Any dog on the City Beach shall be considered at-large unless the dog is under the control of the owner or a person by means of a chain, rope, cord or leash of not more than (10) feet in length. (Sec. 4-26 Port Aransas Code)

b. Animal Waste

- (1) The owner of every animal shall be responsible for the removal of any feces deposited by such owner's animal on public or private property.
- (2) Feces deposited by an animal upon public property or upon the private property of any person other than such animal's owner shall be collected and removed at once by such animal's owner. Animal feces deposited upon any other property shall be collected and removed daily. (Section 4-9 Port Aransas Code)

- c. Horseback Riding on the Public Beach  
It shall be unlawful for any person to ride a horse on the Port Aransas Public beach or in the adjacent Gulf waters (Sec. 4-78 Port Aransas Code)
- d. Livestock and Animals Not Allowed on Beach  
It shall be unlawful for any person owning a cow, horse, mule, donkey, cattle, goat, sheep, pig, rabbit, chicken, guinea, geese, turkey, duck or pigeon except carrier pigeon to allow such animals upon the beach within the city limits except when such animals are properly contained and in the process of being moved (Sec. 4-73 Port Aransas Code)

7. Construction of coastal and shore protection projects.

The City of Port Aransas shall encourage carefully planned beach nourishment and sediment bypassing for erosion response management and prohibit erosion response structures within the public beach and 200 feet landward of the natural vegetation line.

Monitoring - The City of Port Aransas or the state may require a permittee to conduct or pay for a monitoring program to study the effects of a coastal and shore protection project on the public beach. Further, permittees are required to notify the state and the City of Port Aransas of any discernible change in the erosion rate on their property.

8. Requirements for beach nourishment projects.

The City of Port Aransas shall not allow a beach nourishment project unless it finds and the project sponsor demonstrates that the following requirements are met.

- a. The project is consistent with the City of Port beach access plan.
- b. The sediment to be used is of effective grain size, mineralogy, and quality or the same as the existing beach material.
- c. The proposed nourishment material does not contain the toxic materials listed in Volume 40 of the Code of Federal Regulations, Part 302.4, in concentrations which are harmful to people, flora, and fauna as determined by applicable, relevant, and appropriate requirements for toxicity standards established by the local, state, and federal governments.
- d. There will be no adverse environmental effects on the property surrounding the area from which the sediment will be taken or to the site of the proposed nourishment.
- e. The removal of sediment will not have any adverse impacts on flora and fauna.
- f. There will be no adverse effects caused from transporting the nourishment material.

## 9. Restored dunes on public beaches.

Sand dunes, either naturally created or restored, may aid in the preservation of the common law public beach rights by slowing beach erosion processes. Except as otherwise provided, the City of Port Aransas shall allow restoration of dunes on the public beach only under the following conditions. Restored dunes may be located farther seaward than the 20-foot restoration area only upon an affirmative demonstration by the permit applicant that substantial dunes would likely form farther seaward naturally. Such seaward extension past the 20-foot area must first receive prior written approval of the General Land Office and the Attorney General's Office. In the absence of such an affirmative demonstration by the applicant, the City of Port Aransas shall require the applicant to meet the following standards relating to the location of restored dunes.

- a. The City of Port Aransas shall require persons to locate restored dunes in the area extending no more than 20 feet seaward of the landward boundary of the public beach. The City of Port Aransas shall ensure that the 20-foot restoration area follows the natural migration of the vegetation line.
- b. The City of Port Aransas shall not allow any person to restore dunes, even within the 20-foot corridor, if such dunes would restrict or interfere with the public use of the beach at normal high tide.
- c. The City of Port Aransas shall require persons to restore dunes to be continuous with any surrounding naturally formed dunes and shall approximate the natural position, contour, volume, elevation, vegetative cover, and sediment content of any naturally formed dunes in the proposed dune restoration area.
- d. The City of Port Aransas shall require persons restoring dunes to use indigenous vegetation that will achieve the same protective capability as the surrounding natural dunes.
- e. The City of Port Aransas shall not allow any person to restore dunes using any of the following methods or materials:
  - (1) hard or engineered structures;
  - (2) materials such as bulkheads, riprap, concrete, or asphalt rubble, building construction materials, and any non-biodegradable items;
  - (3) fine, clayey, or silty sediments;
  - (4) sediments containing the toxic materials listed in Volume 40 of the Code of Federal Regulations, Part 302.4 in concentrations which are harmful to people, flora, and fauna as determined by applicable, relevant, and appropriate requirements for toxicity standards established by the local, state, and federal governments; and
  - (5) sand obtained by scraping or grading dunes (within 1000' of MHT) or the beach.
- f. The City of Port Aransas may allow persons to use the following dune restoration methods or materials:

- (1) piles of sand having similar grain size and mineralogy as the surrounding beach;
  - (2) temporary sand fences conforming to General Land Office guidelines;
  - (3) organic brushy materials such as used Christmas trees; and
  - (4) sand obtained by scraping accreting beaches only if the scraping is approved by the City of Port Aransas and the project is monitored to determine any changes that may increase erosion of the public beach.
- g. The City of Port Aransas shall protect restored dunes under the same restrictions and requirements as natural dunes. All applications submitted to the City of Port Aransas for reconstructing dunes on the public beach shall be forwarded to both the General Land Office and the Attorney General's Office at least 10 working days prior to the City of Port Aransas's consideration of the certificate. Failure of the General Land Office or the Attorney General's Office to submit comments on an application for such restored dunes shall not waive, diminish, or otherwise modify the beach access and use rights of the public.
- h. The City of Port Aransas shall not allow a permittee to construct or maintain a private structure on the restored dunes within critical dune areas or seaward of a dune protection line, except for specifically permitted dune walkovers or similar access ways.
10. Dune walkovers.

The City of Port Aransas shall only allow dune walkovers, including other similar beach access mechanisms, which extend to the public beach under the following circumstances.

- a. The City of Port Aransas shall require that permittees restrict the walkovers, to the greatest extent possible, to the most landward point of the public beach.
- b. The City of Port Aransas shall require that permittees construct and locate the walkovers in a manner that will not interfere with or otherwise restrict public use of the beach at normal high tides.
- c. The City of Port Aransas shall require that permittees relocate walkovers to follow any landward migration of the public beach or seaward migration of dunes using the following procedures and standards.
  - (1) After a major storm or any other event causing significant landward migration of the landward boundary of the public beach, the City of Port Aransas shall require permittees to shorten any dune walkovers encroaching on the public beach to the

appropriate length for removal of the encroachment. This requirement shall be contained as a condition in any permit and certificate issued authorizing construction of walkovers. The City of Port Aransas is required to assess the status of the public beach boundary within 30 days after a major storm or other event causing significant landward migration of the public beach. After the assessment, the City of Port Aransas shall inform the General Land Office and the Attorney General's Office of any encroachments on the public beach within 10 days of completing the assessment.

- (2) In cases where the migration of the landward boundary of the public beach occurs slowly over a period of time or where a dune walkover needs to be lengthened because of the seaward migration of dunes, the permittee shall apply for a certificate authorizing the modification of the structure.

#### 11. Preservation and enhancement of public beach use and access.

The Port Aransas plan currently allows vehicles to drive and park along all or a portion of the public beach. To this extent, the City is not providing in this plan specific requirements or conditions for beachfront construction that would preserve or enhance public beach use and access upon closure of the beach to vehicles, e.g., owner-dedicated off-beach parking areas and access points and similar measures contemplated by 31 Tex. Admin. Code §15.5 and §15.7. The City of Port Aransas acknowledges that allowing beachfront construction to proceed without reservation or dedication for alternate public access effectively commits the City to allowing continued driving and parking on the beach, at least until such time as alternative public access is provided, as through subsequent dedications by owners, government purchase or other appropriate measures.

- a. For the purposes of this plan, beach access and use is presumed to be preserved if the following criteria are met.
  - (1) Parking on or adjacent to the beach is adequate to accommodate one car for each 15 linear feet of beach.
  - (2) Where vehicles are prohibited from driving on and along the beach, ingress/egress access ways are no farther apart than 1/2 mile.
  - (3) Signs are posted which conspicuously explain the nature and extent of vehicular controls, parking areas, and access points.
- b. This provision does not apply to any existing City of Port Aransas traffic regulations enacted before the effective date of Title A subchapter 31, and the former law is continued in effect until the regulations are amended or changed in whole or in part. New or amended vehicular

traffic regulations enacted for public safety, such as establishing speed limits and pedestrian rights-of-way, are exempt from the certification procedure but must nevertheless be consistent with the Open Beaches Act and Title A subchapter 31.

12. Maintaining the public beach.

The City of Port Aransas shall prohibit beach maintenance activities unless maintenance activities will not materially weaken dunes or dune vegetation or reduce the protective functions of the dunes. The City of Port Aransas shall prohibit beach maintenance activities which will result in the significant redistribution of sand or which will significantly alter the beach profile. All sand moved or redistributed due to beach maintenance activities shall be returned to a location seaward of a dune protection line or within critical dune areas.

C. Beach User Fees.

1. Eligibility.

The City of Port Aransas shall not amend a beach user fee unless it has a state approved beach access plan. The City of Port Aransas generates its user fee revenues from the sale of beach parking permits.

2. Reciprocity of Fees.

The City of Port Aransas has established and will maintain free parking areas to beach users with permits for areas other than Port Aransas access to and use of the public beach.

3. Use of fee revenue.

The City of Port Aransas shall not impose a fee or charge for the exercise of the public right of access to and from public beaches. The City of Port Aransas may charge beach users a fee in exchange for providing services to beach users in general. The City of Port Aransas may only impose a beach user fee if the fee is reasonable taking into account the cost to the City of Port Aransas of providing public services and facilities directly related to the public beach. A reasonable fee is one that recovers the cost of providing and maintaining beach-related services. In addition, any fee collected for off-beach parking to provide access to and from the public beach is considered a beach user fee. For each fiscal year, the City of Port Aransas shall not spend more than 10% of beach user fee revenues on reasonable administrative costs directly related to beach-related services. The City of Port Aransas shall send quarterly reports to the General Land Office stating the amount of beach user fee revenues collected and itemizing how beach user fee revenues are expended. All funds derived from the fee shall be utilized exclusively for the following purposes:

- (1) To pay the costs of administering requirements of this article;
- (2) for cleaning and maintenance of the public beach; and
- (3) for construction, maintenance, replacement and repair of facilities on the beach provided for the use and convenience of the public and traffic control or road signals, signs, devices or structures on the beach;
- (4) For the payment of all costs directly related to management; and
- (5) For public safety on the beach. (Section 23-156 Port Aransas Code) Beach user fees may only be spent on beach related services.

4. Beach user fee accounts.

The City of Port Aransas shall follow the following methods for administering beach user fee accounts.

- a. Beach user fee revenues shall be maintained and accounted for so that fee collections may be directly traced to expenditures on beach-related services. Beach user fee revenues shall not be commingled with any other funds and shall be maintained in separate bank accounts.
- b. Beach user fee revenues shall be maintained in a separate account and documented in a separate financial statement for each beach user fee. Beach user fee revenue account balances and expenditures shall be documented according to generally accepted accounting principles.

5. Vehicle beach parking permit

- a. No person shall park a motor vehicle upon a designated parking area of the city beach without a valid city parking permit securely attached above the inspection sticker on the vehicle.
- b. Each permit shall expire on December 31 of the same calendar year in which it is used.
- c. Permits shall be issued by the City or its authorized agent upon payment of a fee of six dollars (\$6.00) plus tax.
- d. No permit shall be required to park in the County Park or in the area of the City managed beach between mile marker 52 and mile marker 58. This shall be designated as a free parking zone.
- e. From the month of October through the month of December, vehicle beach permits for the next year may be issued by the City for the normal permit fee plus one dollar and seventy-five cents (\$1.75) plus tax. Such permits will be valid from the date sold through December 31 of the following year. (Section 23-155 Port Aransas Code)

6. Failure to have beach parking permit

There is hereby established a fine of fifty dollars (\$50.00) for failure to comply with this permit requirement. (Section 23-157 Port Aransas Code)

7. Designation of access ways, parking areas, and beaches closed to motor vehicles
  - a. Access ways. Where vehicles are prohibited from driving on and along the beach, access ways providing both ingress and egress shall be no farther apart than 1/2 mile.
  - b. Parking areas. If on beach parking is eliminated adjacent off beach parking will be provided and shall accommodate one car for each 15 linear feet of beach.
  - c. Free beach access. The City of Port Aransas shall maintain free public beach access by providing areas where no fee is charged for parking on or off the beach and for pedestrian access.
  - d. Access for disabled persons. The City of Port Aransas shall establish, preserve, and enhance access for disabled persons.
  - e. Identification of fee and non-fee areas. The City of Port Aransas does conspicuously mark and shall both fee and non-fee beach areas with signs that clearly indicate the location of both the fee and non-fee areas and that identify the City of Port Aransas as the entity collecting the fee.

#### IX. PENALTIES

- A. In addition to any penalties assessed by the City of Port Aransas, any person (as defined herein) who violates either the Dune Protection Act, the Open Beaches Act, Title 31 Chapter 15 Subchapter A of the General Land Office Regulations, or a certificate condition is liable to the General Land Office for a civil penalty of not less than \$50 nor more than \$1,000 per violation per day. Each day the violation occurs or continues constitutes a separate violation. Violations of the Dune Protection Act, the Open Beaches Act, and the rules adopted pursuant to those statutes are separate violations, and the General Land Office may assess separate penalties. The assessment of penalties under one Act does not preclude another assessment of penalties under the other Act for the same act or omission. Conversely, compliance with one statute and the rules adopted thereunder does not preclude the General Land Office from assessing penalties under the other statute and the rules adopted pursuant to that statute.
- B. The City of Port Aransas is included in the definition of "person" in Title 31 Chapter 15 Subchapter A of the General Land Office Regulations, and as such, it is liable for penalties for any violations of this Title 31 Chapter 15 Subchapter A of the General Land Office Regulations and the Open Beaches Act. The City of Port Aransas will be liable for penalties for such violations, including, but not limited to, failure to submit a dune protection and beach access plan to the General Land Office and the Attorney General's Office; failure to maintain and enforce its plan; and failure to implement the plan.
- C. In determining whether the assessment of penalties is appropriate, the General Land Office will consider the following mitigating circumstances: acts of God, war, public riot, or strike; unforeseeable, sudden, and natural occurrences of a violent nature; and willful misconduct by a third party not related to the permittee by employment or contract.



X. GENERAL PROVISIONS.

A. Construction.

The City of Port Aransas's ordinances shall be read in harmony with this plan. If there is any conflict between them which cannot be reconciled by ordinary rules of legal interpretation, this plan controls. Certification of the City of Port Aransas's beach access and use plan by the General Land Office may not be construed to expand or detract from the statutory or constitutional authority of that the City of Port Aransas, nor may any person construe such certification to authorize the City of Port Aransas to alienate public property rights in public beaches.

B. Boundary of the Public Beach.

The attorney general shall make determinations on issues related to the location of the boundary of the public beach and encroachments on the public beach pursuant to the requirements of the Open Beaches Act. The General Land Office and the City of Port Aransas will consult with the attorney general whenever questions of encroachment and boundaries arise with respect to the public beach.

C. Public Beach Presumption.

Except for beaches on islands or peninsulas not accessible by public road or ferry facility, in administering its plan the City of Port Aransas shall presume that any beach fronting the Gulf of Mexico within its jurisdiction is a public beach unless the owner of the adjacent land obtains a declaratory judgment otherwise under the Open Beaches Act.

D. Violations.

No person shall violate any provision of the City of Port Aransas beach access plan, or any certificate or the conditions contained therein.

E. Reporting Violations.

The City of Port Aransas upon obtaining knowledge of a violation or a threatened violation of a certificate, this plan, the Open Beaches Act, or Title 31 Chapter 15 subchapter A shall inform the General Land Office of the violations within 24 hours.

F. Withdrawal of Plan Certification.

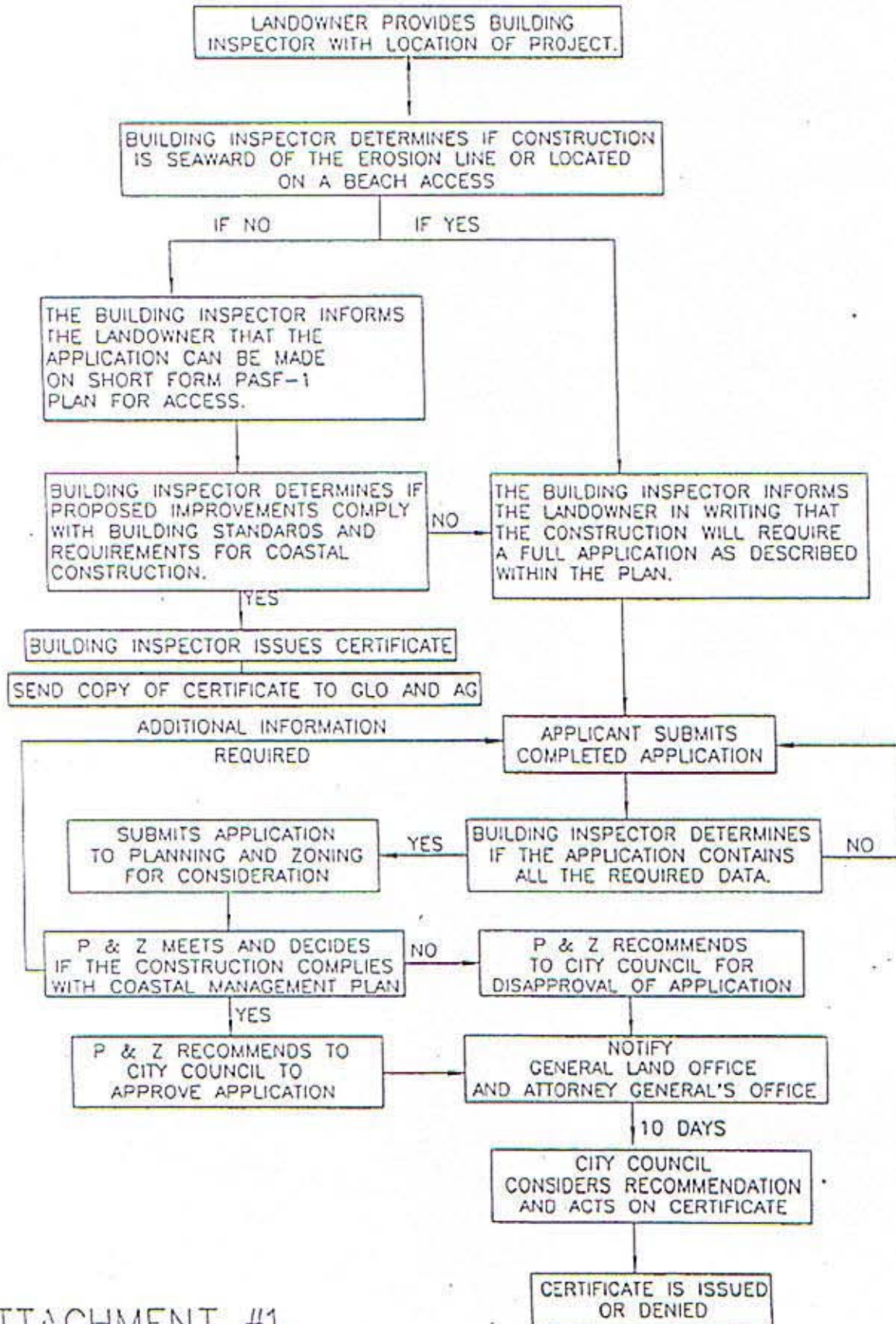
The General Land Office may withdraw certification of all or any part of the City of Port Aransas's beach access plan if the City of Port Aransas does not comply with its plan, Title 31 Subchapter A of the General Land Office Regulations, or the Open Beaches Act. Without further action by the General Land Office, the City of Port Aransas loses, by operation of law, the authority to issue certificates authorizing construction within the geographic scope of Title

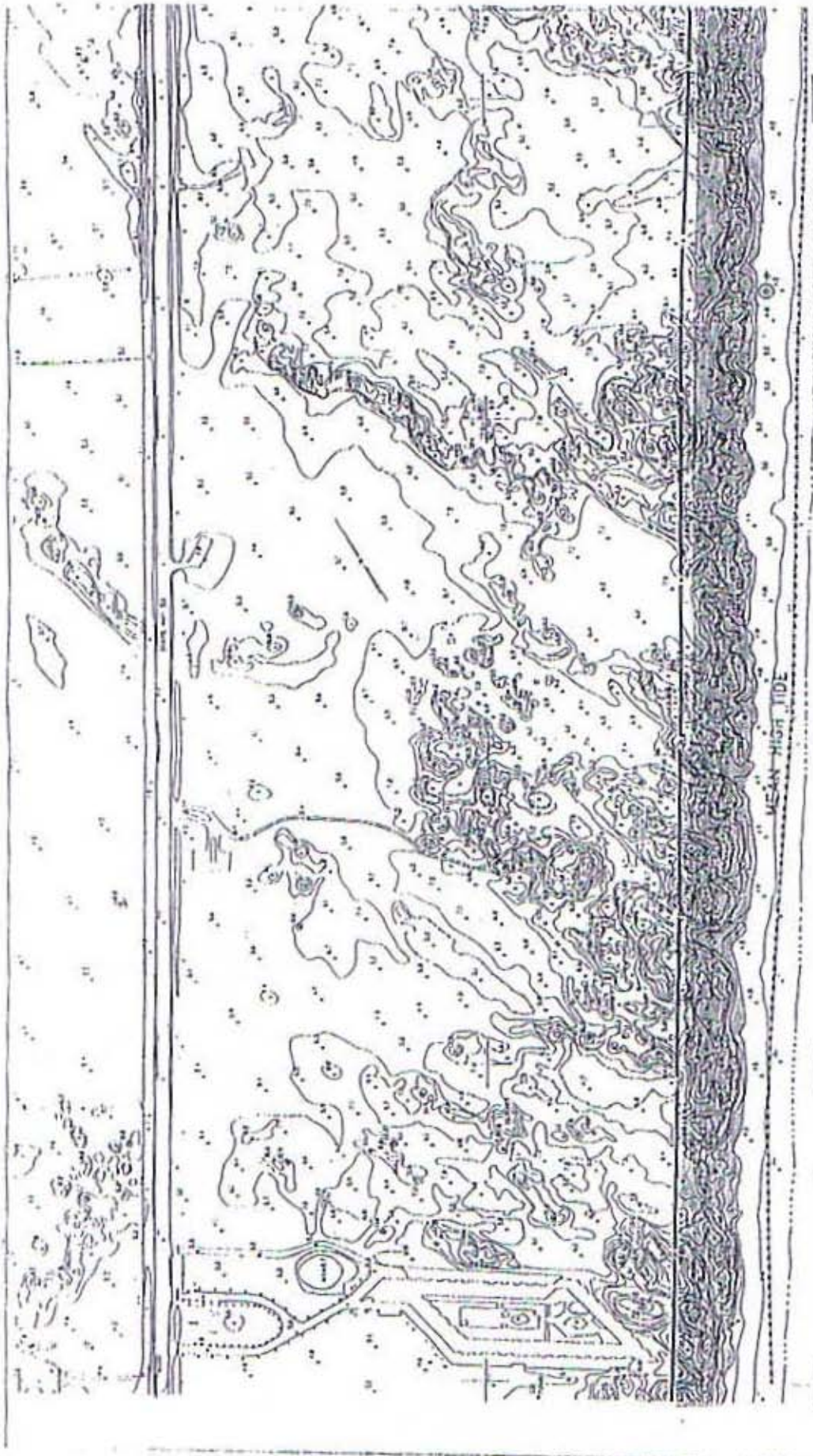
31 Chapter 15 Subchapter A of the General Land Office Regulations and the privilege to collect beach user fees if state agency certification of its beach access plan is withdrawn.

**1. Notice of withdrawal of plan certification.**




The General Land Office will notify the City of Port Aransas and the Attorney General's Office 60 days prior to withdrawing General Land Office certification of the City of Port Aransas's plan. The City of Port Aransas may submit to the General Land Office any evidence demonstrating full compliance with its plan, Title 31 Chapter 15 Subchapter A of the General Land Office Regulations, and the Open Beaches Act. The General Land Office will consider the good faith efforts of any the City of Port Aransas to immediately and fully comply with those laws during the 60-day period after the notification of intent to withdraw certification.

# BEACHFRONT CONSTRUCTION CERTIFICATE: APPLICATION PROCESS





**RESTRICTED CONSTRUCTION ZONES**

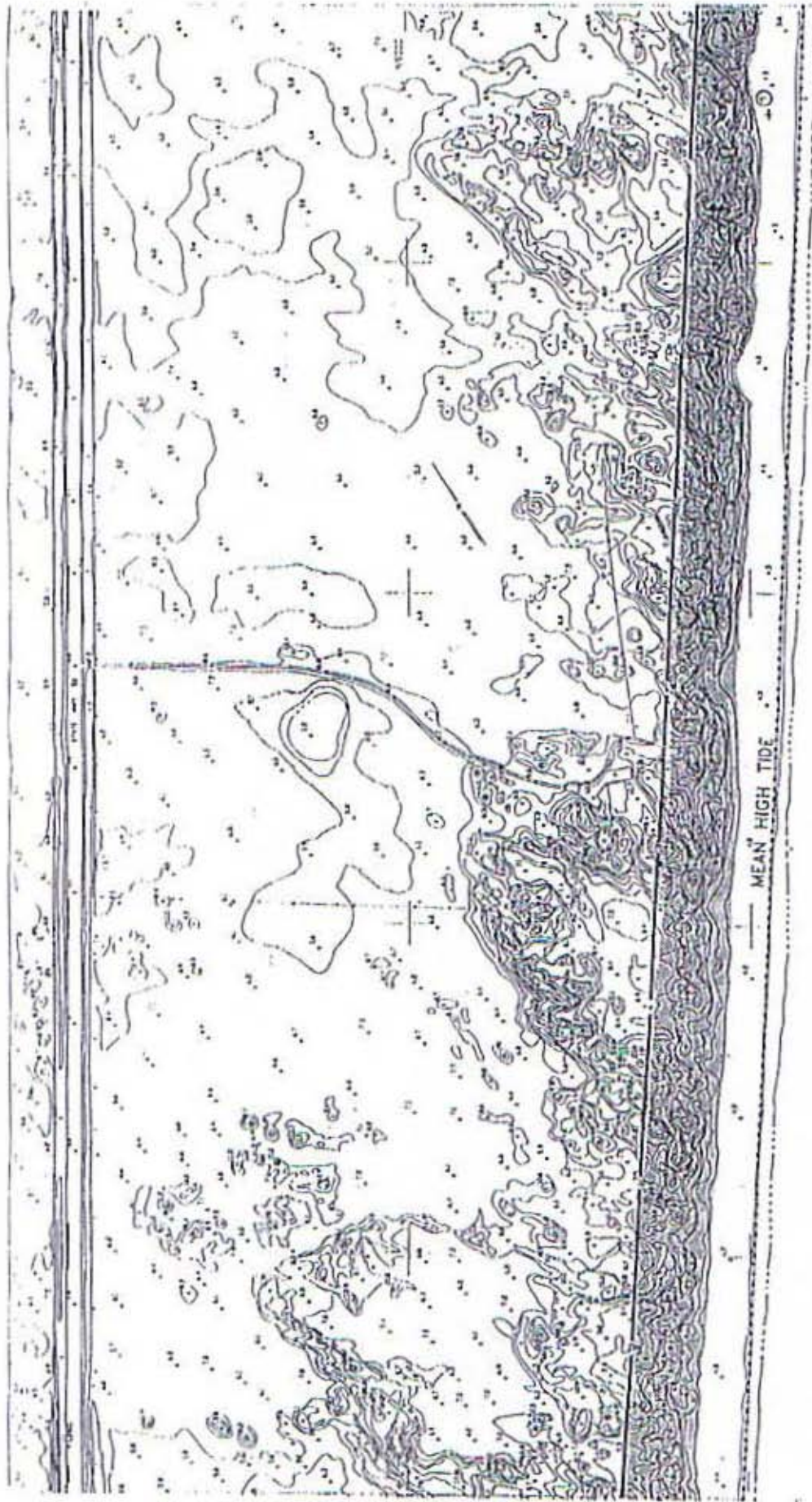
-  BEACH ACCESS (VEHICULAR)
-  RETAINING WALL PROHIBITED ZONE  
SEE (V, F, & G)
-  EROSION LINE

Scale: 1" = 40'






BLACKFRONT CONSTRUCTION  
POST ARKANSAS COASTAL  
MANAGEMENT PLAN

ATTACHMENT #2 DATE: \_\_\_\_\_ SHEET 1 OF 8



**RESTRICTED CONSTRUCTION ZONES**

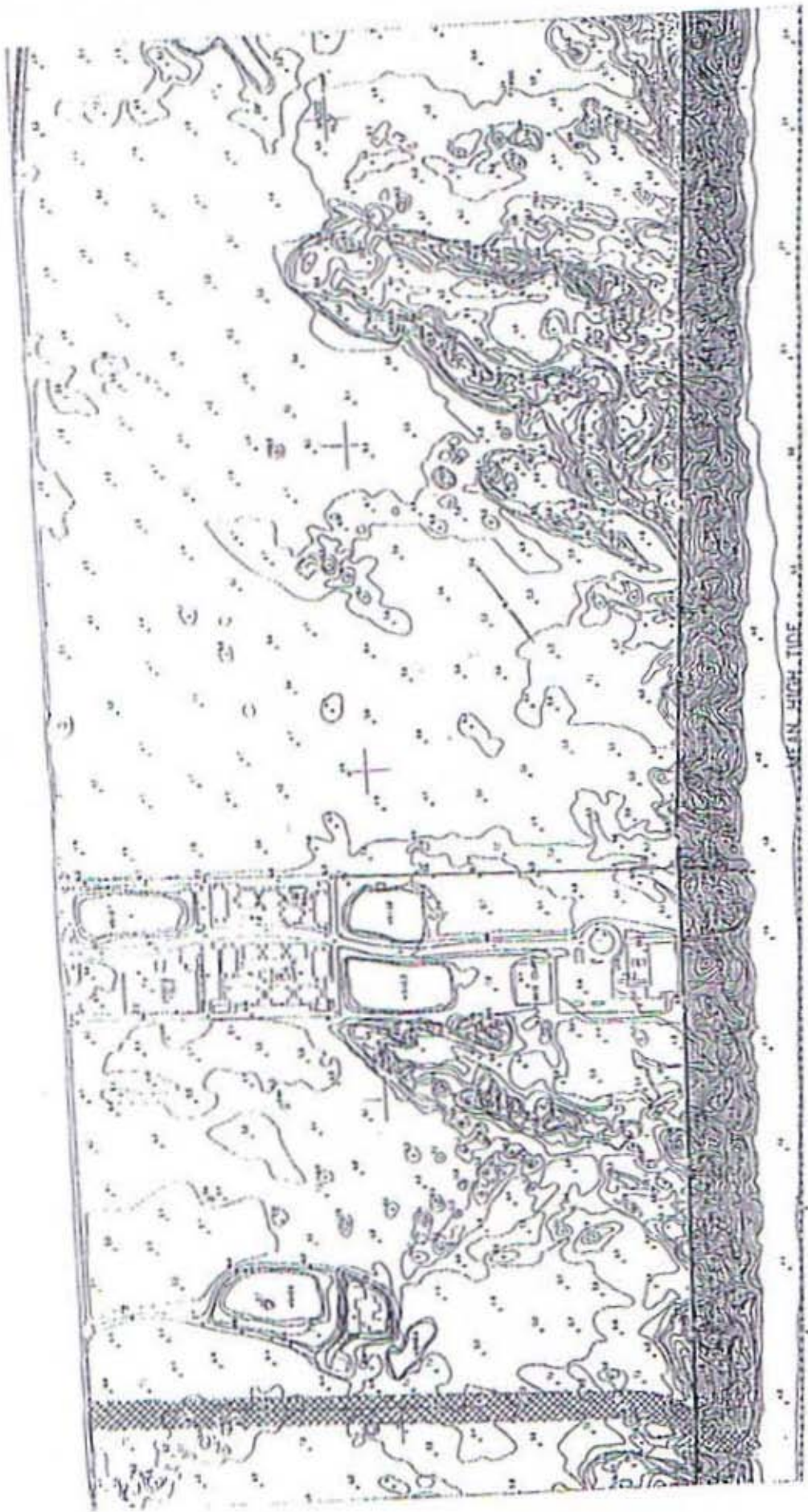
-  BEACH ACCESS (VEHICULAR)
-  RETAINING WALL PROHIBITED ZONE  
SEE (V, F, & G)
-  EROSION LINE






**URBAN**  
ENGINEERING  
SINCE 1967

SEACHFRONT CONSTRUCTION  
MAP  
PORT ANAGAS COASTAL  
MANAGEMENT PLAN

ATTACHMENT #2 DATE: \_\_\_\_\_ SHEET 2 OF 9



**RESTRICTED CONSTRUCTION ZONES**

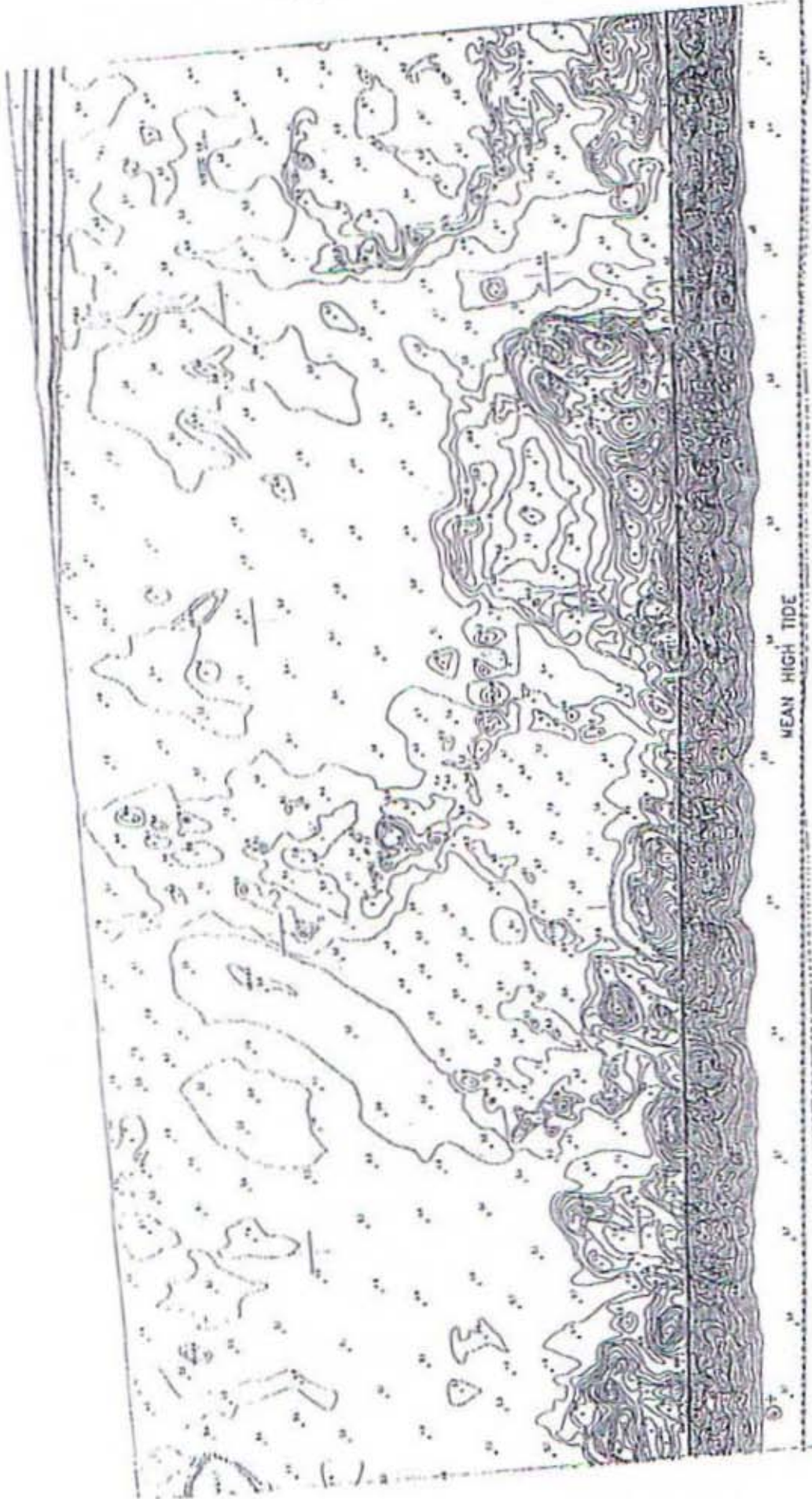
-  BEACH ACCESS (VEHICULAR)
-  RETAINING WALL PROHIBITED ZONE  
SEE (V, F, & G)
-  EROSION LINE

**URBAN**  
ENGINEERING  
INCORPORATED  
1000 W. 10TH ST., SUITE 100  
PORT ARANSAS, TEXAS 78373

BEACHFRONT CONSTRUCTION  
MANAGEMENT PLAN  
SHEET 3 OF 3

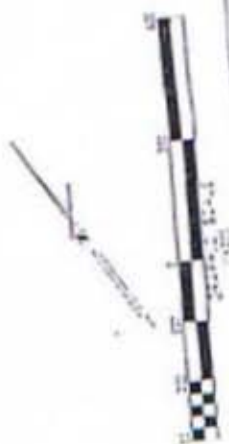
ATTACHMENT #2 DATE



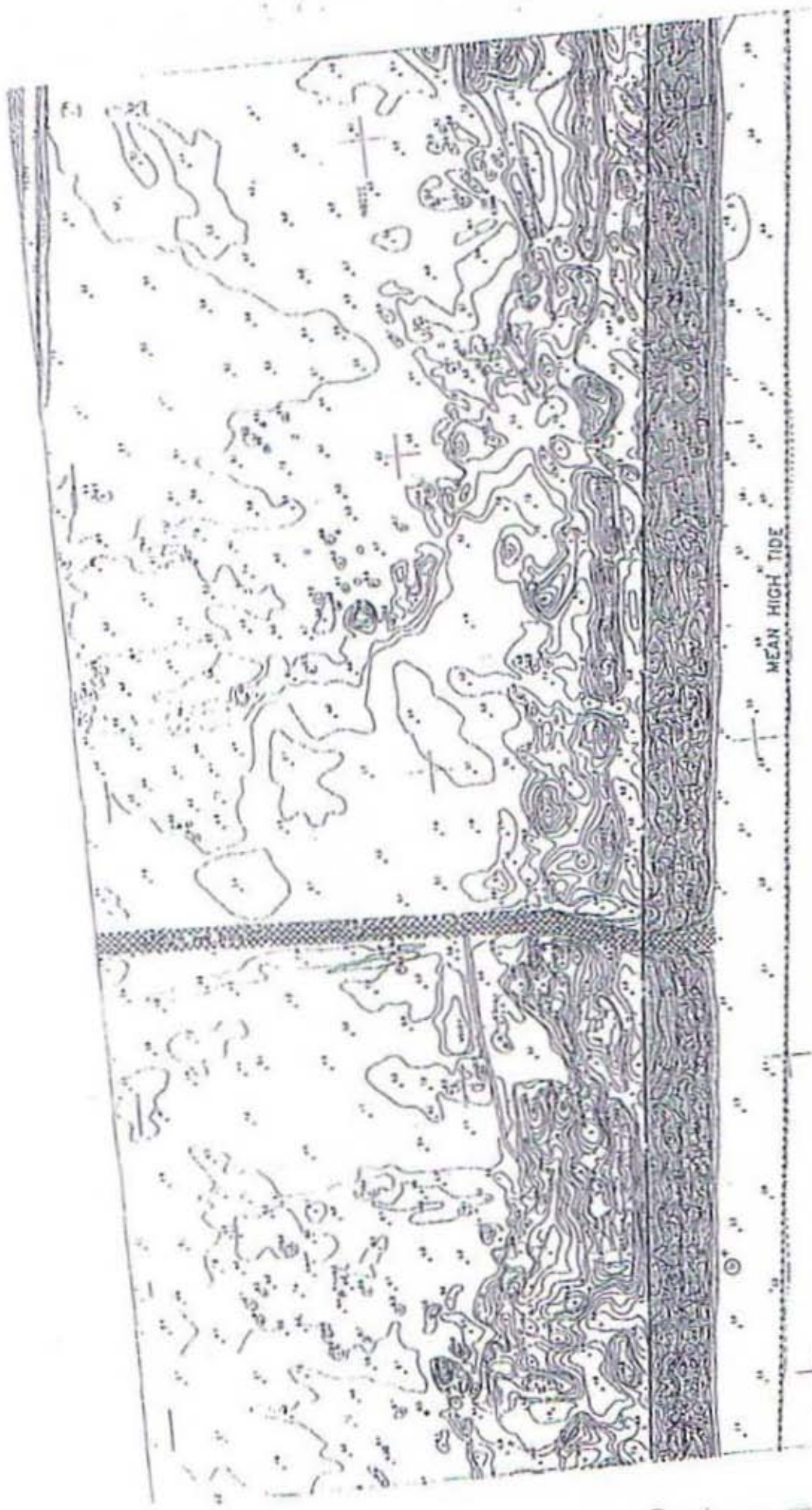



  
 BEACHFRONT CONSTRUCTION
   
 MAP
   
 MANAGEMENT PLAN
   
 SHEET # OF 3

RESTRICTED CONSTRUCTION ZONES
   
 BEACH ACCESS (VEHICULAR)
   
 RETAINING WALL PROHIBITED ZONE
   
 SEE (V, F, & G)
   
 EROSION LINE



ATTACHMENT #2 DATE \_\_\_\_\_






**UFURBAN**  
ENGINEERING  
INCORPORATED

BLACK/WHITE CONSTRUCTION  
MAP  
PORT ARCADIA COASTAL  
MANAGEMENT PLAN

ATTACHMENT #2 DATE: \_\_\_\_\_ SHEET 3 OF 3

**RESTRICTED CONSTRUCTION ZONES**

-  BEACH ACCESS (VEHICULAR)
-  RETAINING WALL PROHIBITED ZONE  
SEE (N, F, & G)
-  EROSION LINE










MEAN HIGH TIDE

**LEURBAN**  
ENGINEERING  
INCORPORATED  
1988

BACKLIFT CONSTRUCTION  
PORT ARCADIS COASTAL  
MANAGEMENT PLAN

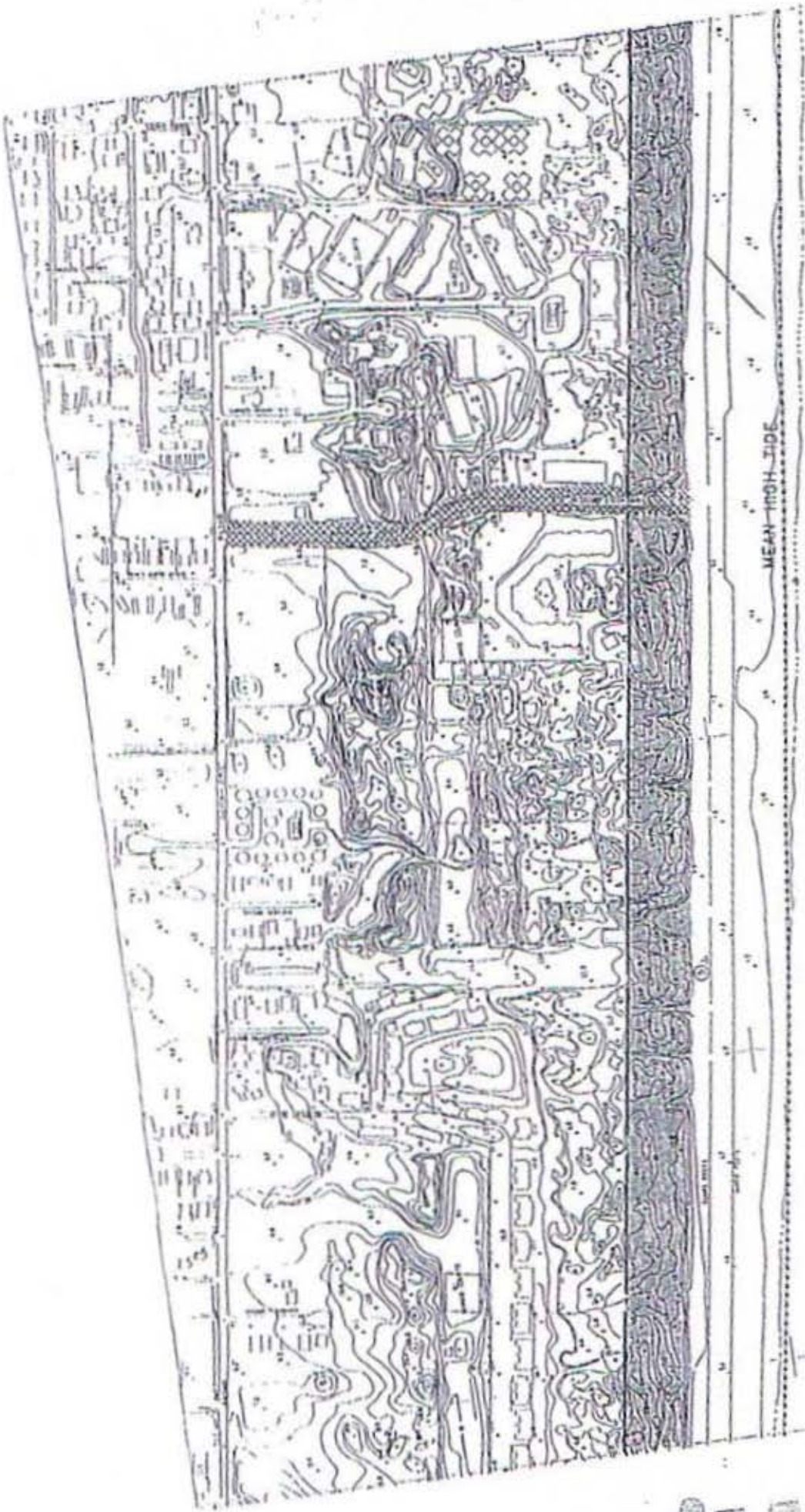
ATTACHMENT #2 DATE: SHEET 8 OF 8

**RESTRICTED CONSTRUCTION ZONES**

-  BEACH ACCESS (VEHICULAR)
-  RETAINING WALL PROHIBITED ZONE  
SEE (V, F, & G)
-  EROSION LINE

SCALE








**URBAN**  
ENGINEERING  
INCORPORATED  
1910 S. 10th St.  
DENVER, CO. 80202

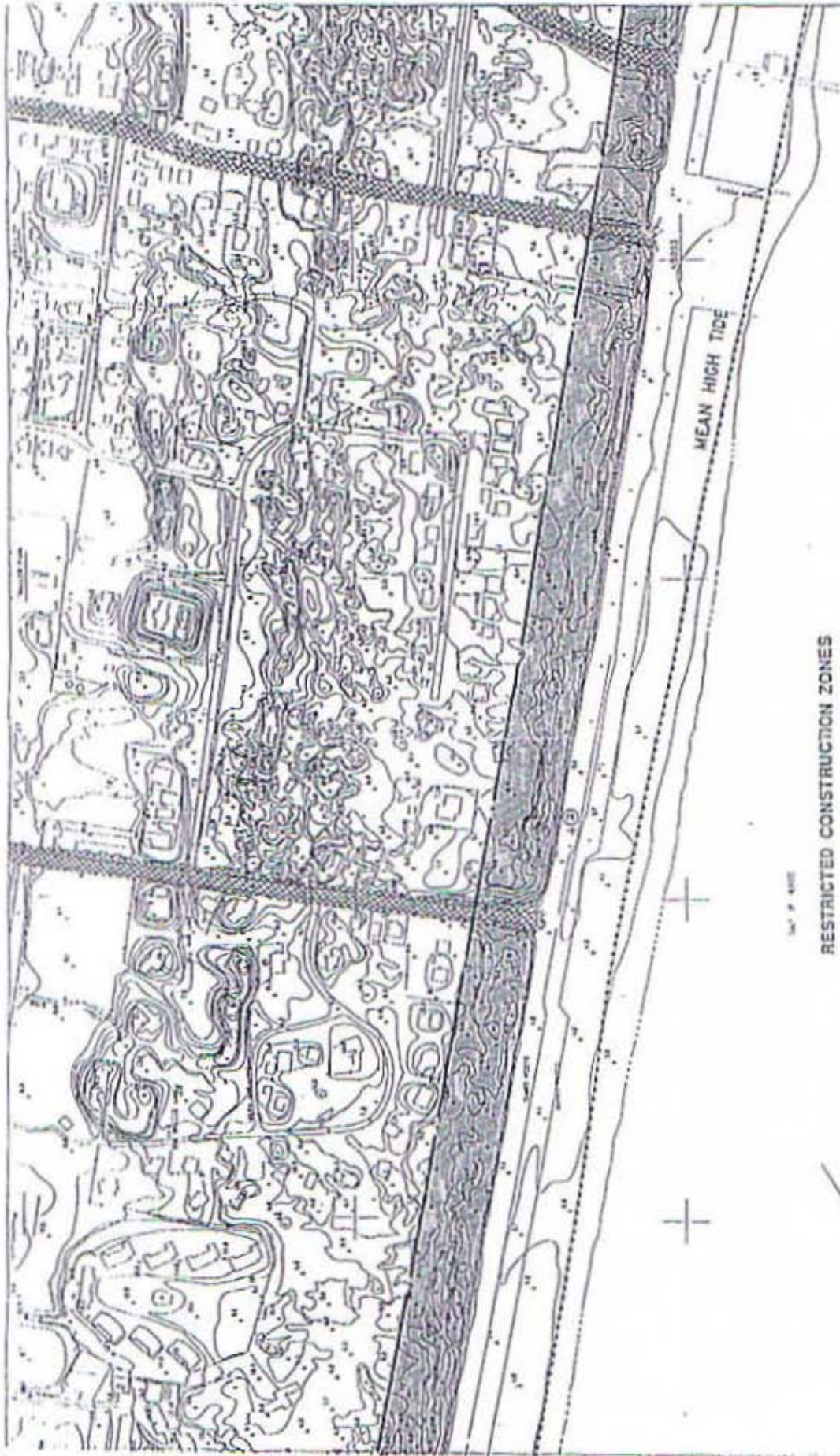
BEACHFRONT MAP  
PORT ANAKIAS COASTAL  
15122 - WASHINGTON, ILL.  
SHEET 7 OF 8

**RESTRICTED CONSTRUCTION ZONES**

-  BEACH ACCESS (VEHICULAR)
-  RETAINING WALL PROHIBITED ZONE  
SEE (V, F, & G)
-  EROSION LINE






ATTACHMENT #2 DATE



BEACHFRONT CONSTRUCTION  
MANAGEMENT PLAN  
PORT ARANSAS COASTAL  
MANAGEMENT PLAN

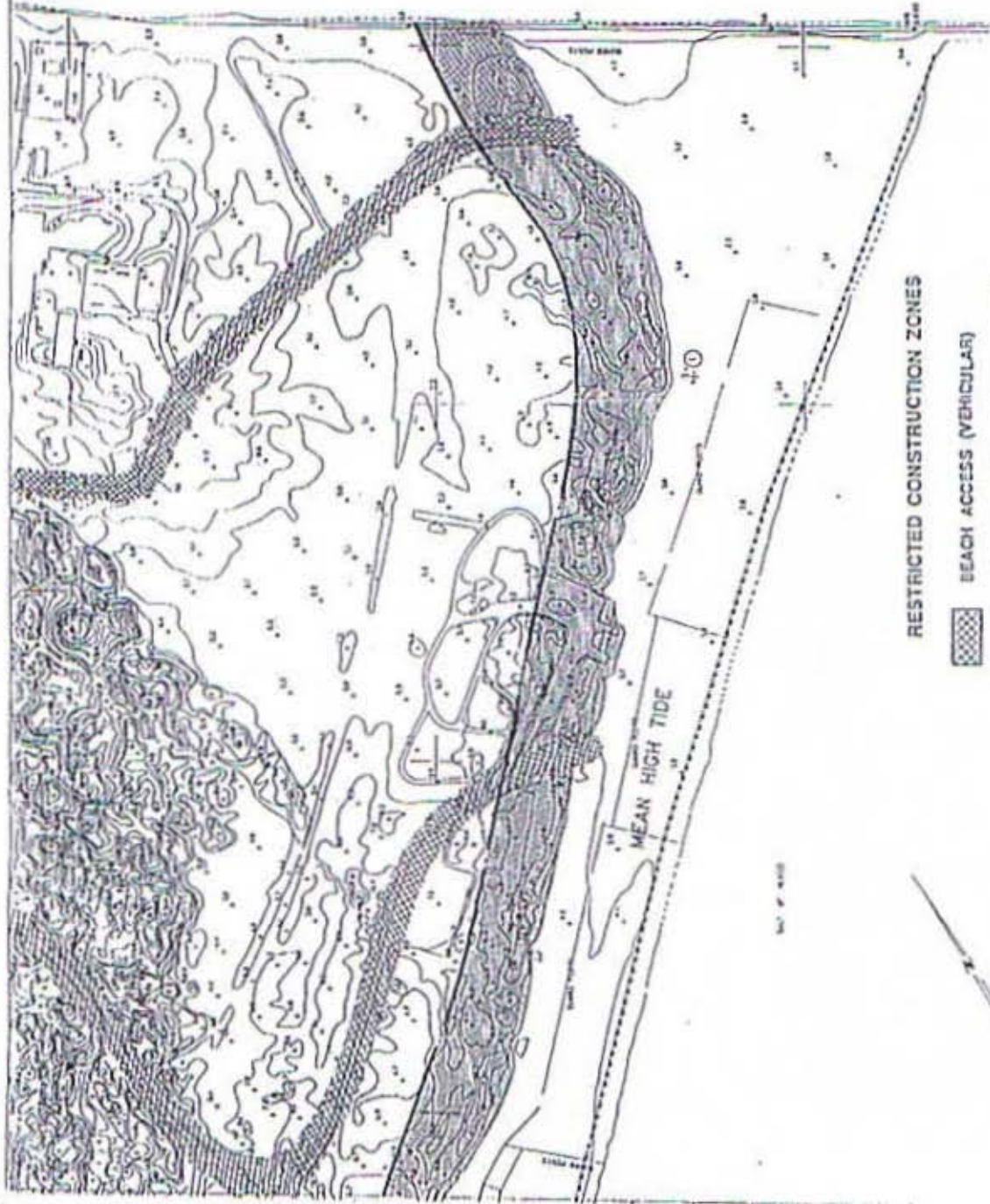
ATTACHMENT #2 DATE \_\_\_\_\_ SHEET 3 OF 8

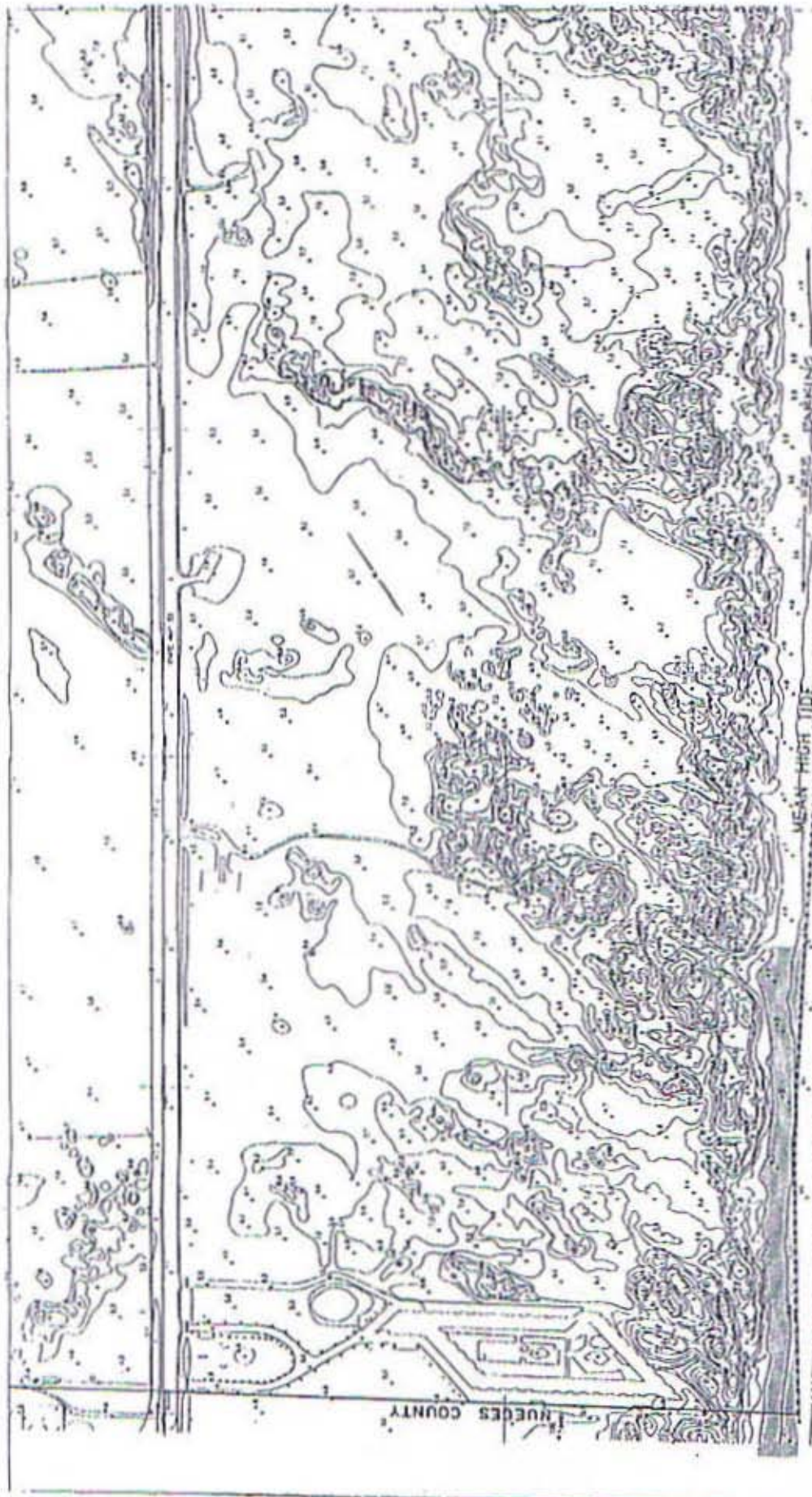
**RESTRICTED CONSTRUCTION ZONES**





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-  RETAINING WALL PROHIBITED ZONE  
SEE (V, F, & G)
-  END-OF-WALL LINE

1/4" = 400'







-  BEACH ACCESS (VEHICULAR)
-  BEACH PARKING PERMIT REQUIRED
-  NO PARKING ZONE
-  PEDESTRIAN ONLY AREA

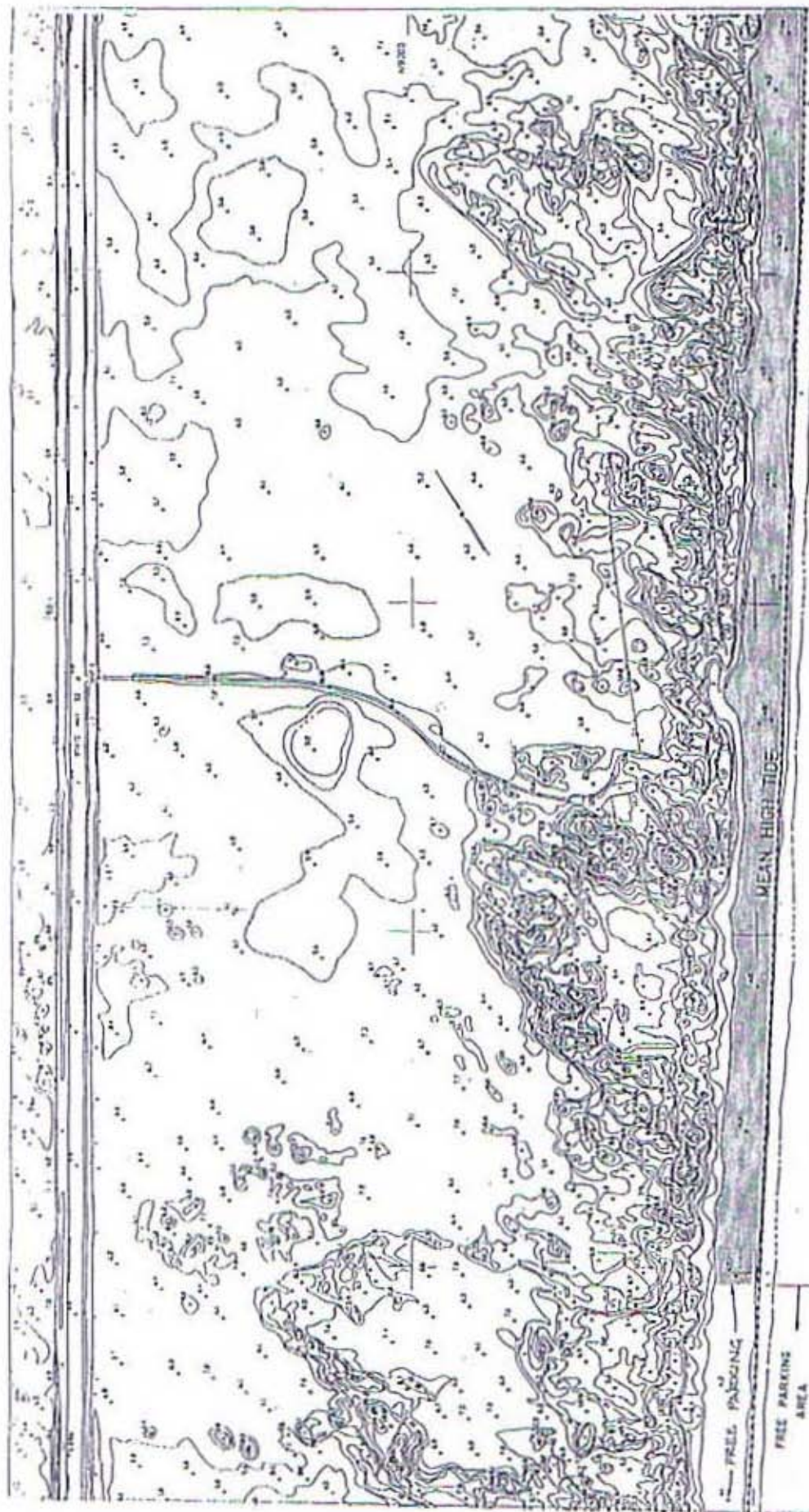






URBAN  
ENGINEERING  
PLANNING  
ARCHITECTURE  
LANDSCAPE ARCHITECTURE

PORT ARKANSAS COASTAL  
MANAGEMENT PLAN  
ATTACHMENT #3 DATUM LINE 092... SHEET 1 OF 8

1" = 200'

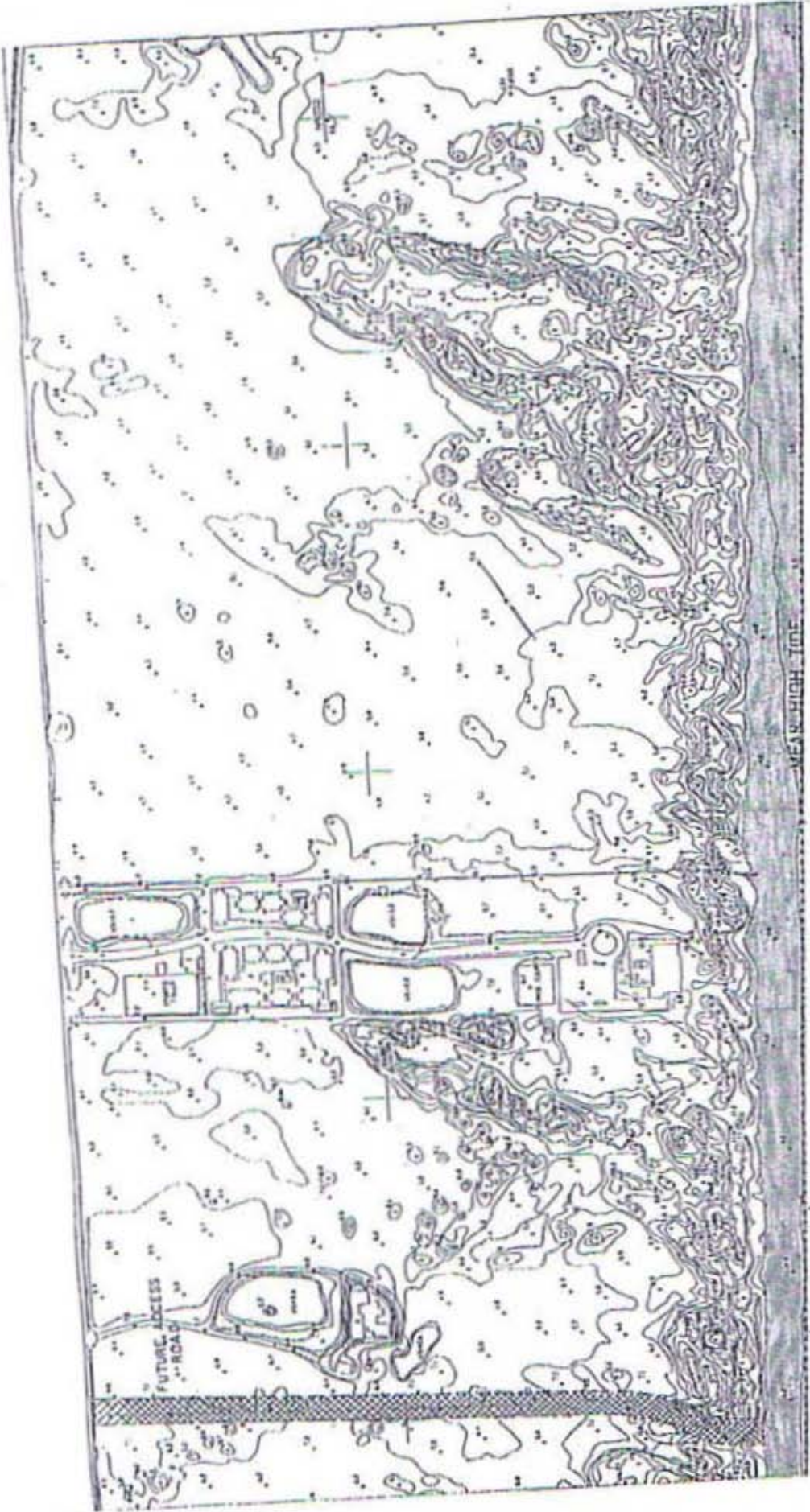




-  BEACH ACCESS (VEHICULAR)
-  BEACH PARKING PERMIT REQUIRED
-  NO PARKING ZONE
-  PEDESTRIAN ONLY AREA

1/4" = 1' N.T.S.









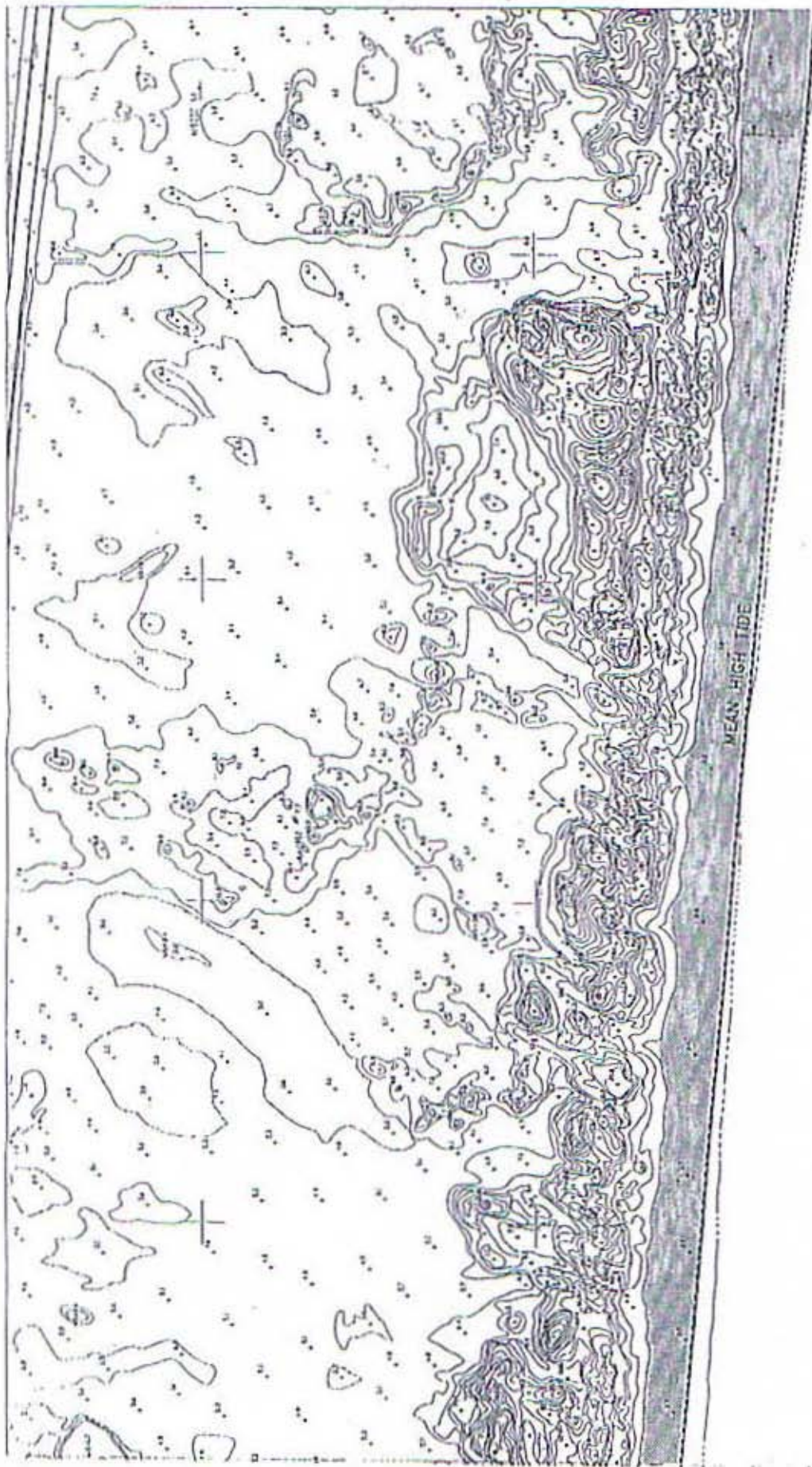
**LE URBAN**  
ENGINEERING  
PLANNING  
DESIGN  
CONSULTANTS

SEASIDE ASSESSMENT CONTROL  
PORT ARABAS COASTAL  
MANAGEMENT PLAN

ATTACHMENT #3 DWT/MS. 893. SHEET 3 OF 8

- 1:10,000
-  BEACH ACCESS (VEHICULAR)
  -  BEACH PARKING PERMIT REQUIRED
  -  NO PARKING ZONE
  -  PEDESTRIAN ONLY AREA









**URBAN**  
ENGINEERING  
INCORPORATED  
1910 S. 10th St.  
TAMPA, FL 33606  
TEL: 813-287-1111

BEACH ACCESS/VEHICULAR CONTROL  
PLAN  
PORT MANGLIS COASTAL  
MANAGEMENT PLAN

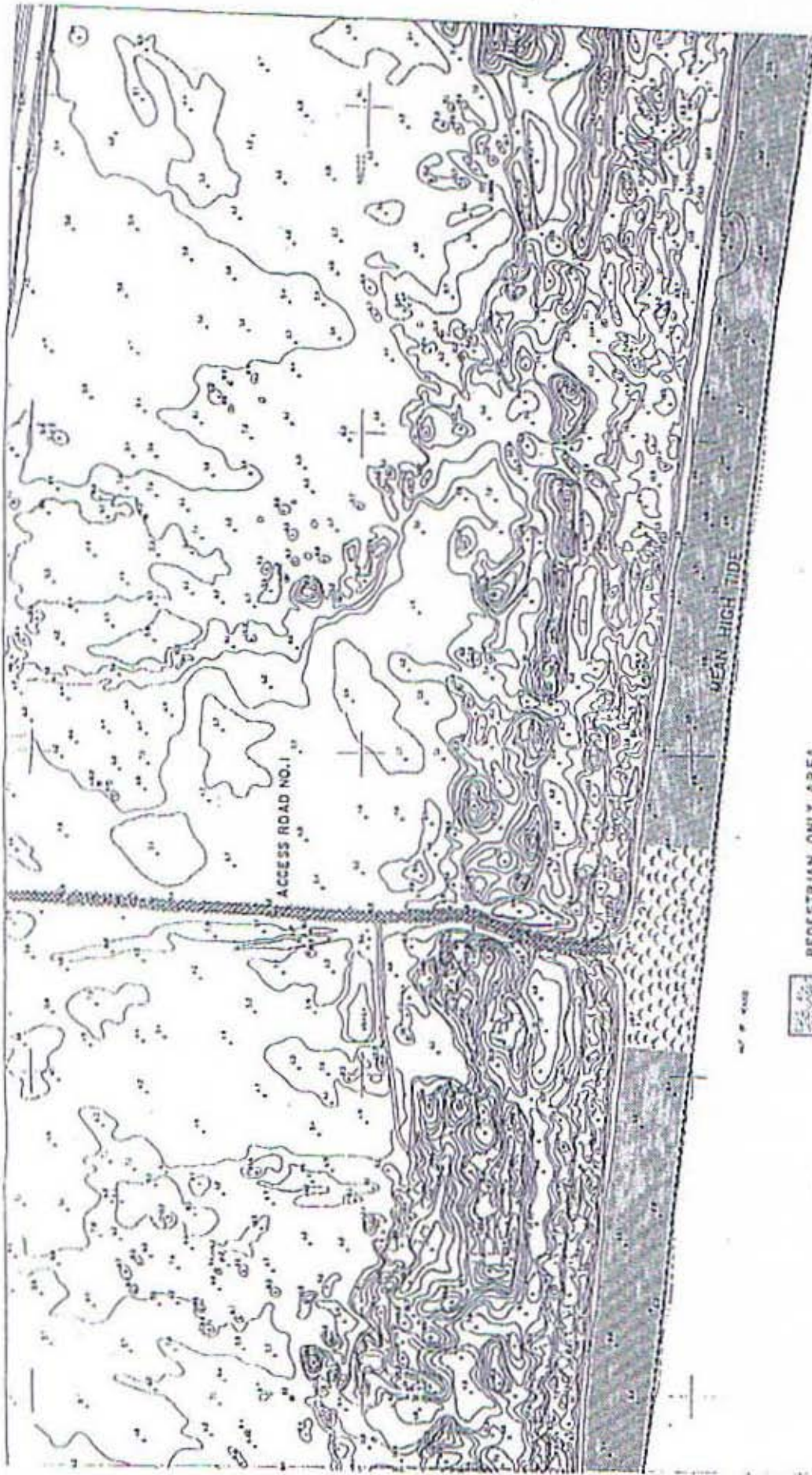
DATE: 8/20/02

-  BEACH ACCESS (VEHICULAR)
-  BEACH PARKING PERMIT REQUIRED
-  NO PARKING ZONE
-  PEDESTRIAN ONLY AREA



ATTACHMENT #3 DATE: 08/20/02 SHEET 4 OF 5









**UFURBAN**  
ENGINEERING  
(Professional Seal)

BEACH ACCRETIONARY EMBANKMENT  
PLAN  
PORT ANAGAS COASTAL  
MANAGEMENT PLAN

DATE: JUNE 1993 SHEET 5 OF 9

ATTACHMENT #3





-  PEDESTRIAN ONLY AREA
-  BEACH ACCESS (VEHICULAR)
-  BEACH PARKING PERMIT REQUIRED
-  NO PARKING ZONE





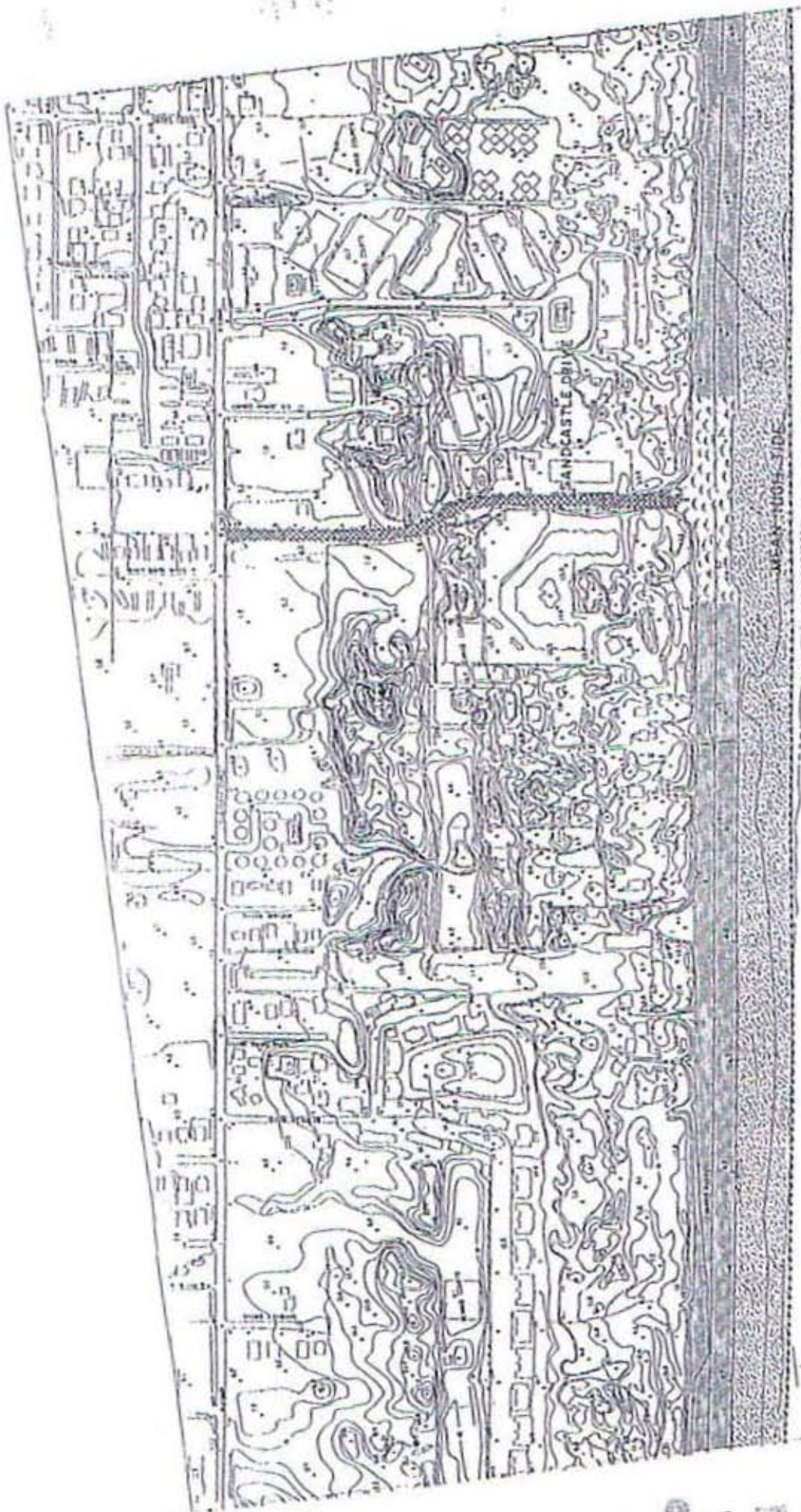
SCALE

**URBAN**  
ENGINEERING  
CONSULTANTS  
INCORPORATED  
2111  
POST AVENUE, COASTAL  
MANAGEMENT PLAN  
ATTACHMENT #3 DATE JAN. 2003 SHEET 3 OF 9

-  BEACH ACCESS (VEHICULAR)
-  BEACH PARKING PERMIT REQUIRED
-  NO PARKING ZONE
-  PEDESTRIAN ONLY AREA





MAP # 11111





MEAN-HIGH-TIDE

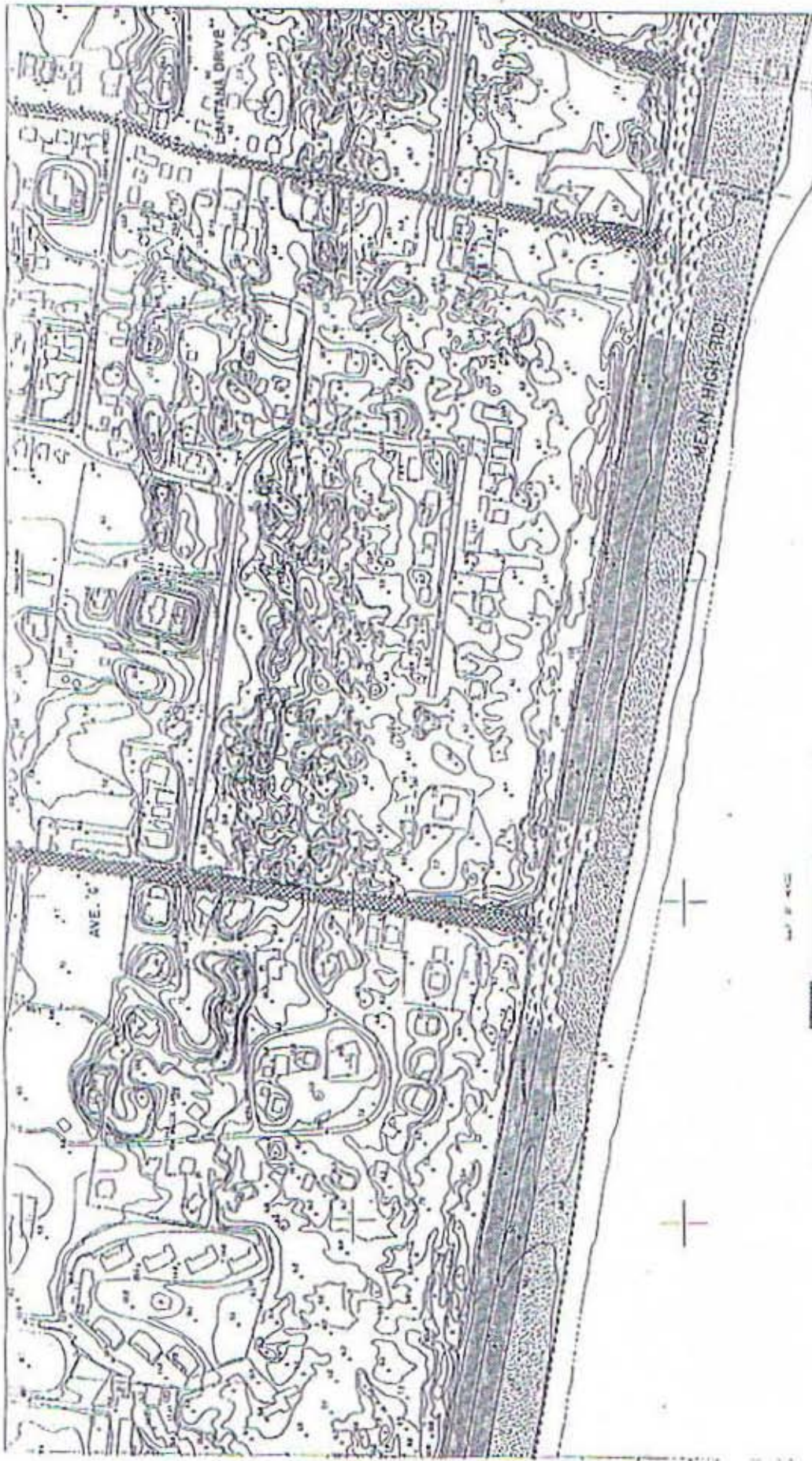
**LEURBAN**  
ENGINEERING  
INCORPORATED  
11111  
POST AVENUE, OAKLAND  
CALIF. 94612  
MANAGEMENT PLAN

-  BEACH ACCESS (VEHICULAR)
-  BEACH PARKING PERMIT REQUIRED
-  NO PARKING ZONE
-  PEDESTRIAN ONLY AREA

1" = 100'



ATTACHMENT #3 DATE: JUNE 2013 SHEET 7 OF 9



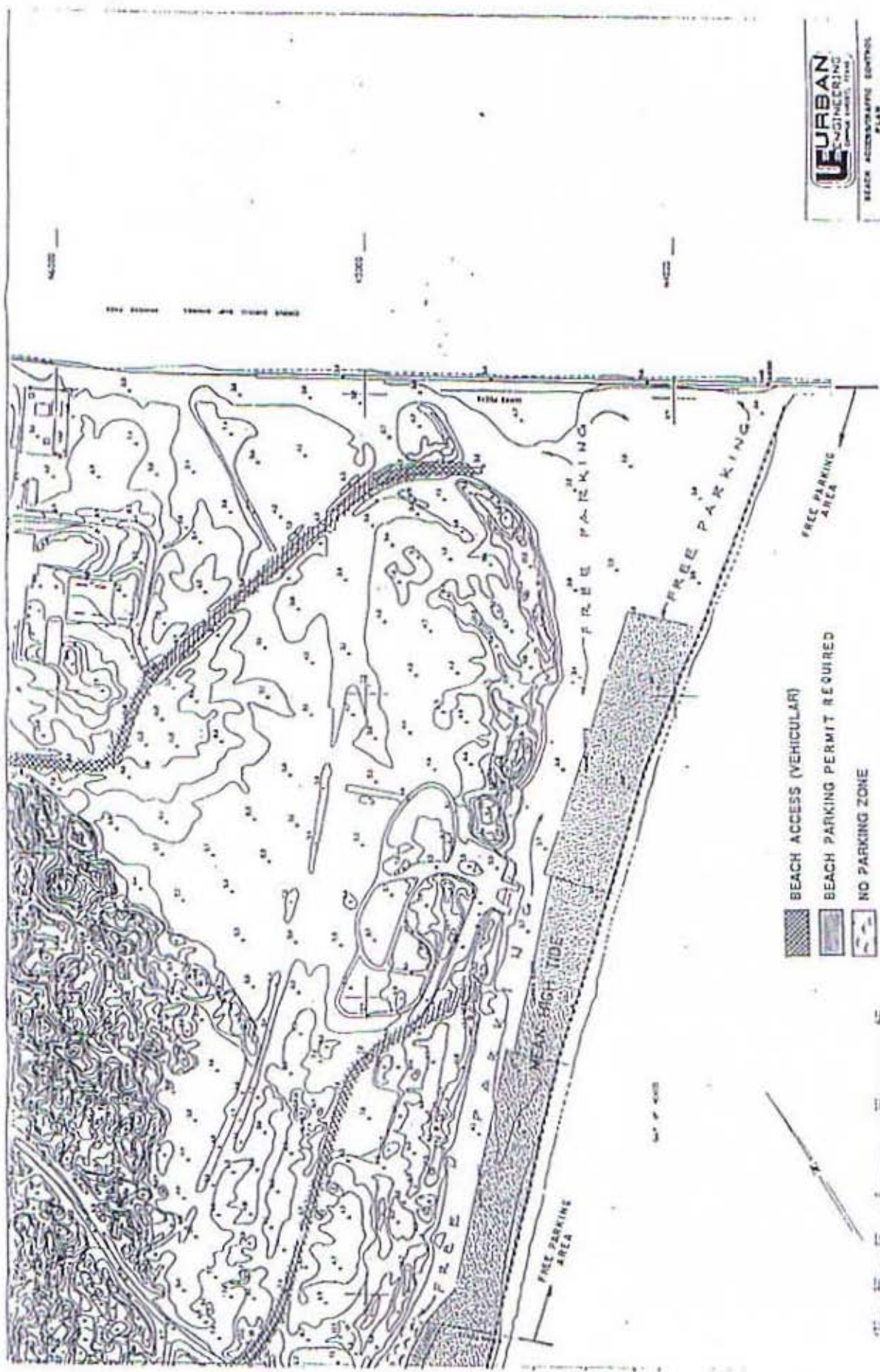
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-  BEACH PARKING PERMIT REQUIRED
-  NO PARKING ZONE
-  PEDESTRIAN ONLY AREA





SCALE 1" = 100'



BEER ACCESSIBILITY CONTROL  
 PLAN  
 PORT ARCADIA COASTAL  
 MANAGEMENT PLAN

ATTACHMENT #3 DATE: JAN, 1993 SHEET # OF 9



-  BEACH ACCESS (VEHICULAR)
-  BEACH PARKING PERMIT REQUIRED
-  NO PARKING ZONE
-  PEDESTRIAN ONLY AREA



ATTACHMENT #3

BEACHFRONT CONSTRUCTION CERTIFICATE APPLICATION  
(SHORT FORM PASF-1)

A. General Information:

Name \_\_\_\_\_  
Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone Number \_\_\_\_\_ Fax No. \_\_\_\_\_  
Lot & Block \_\_\_\_\_

B. Proposed Construction:

Describe the proposed construction

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Location of Proposed Construction:

- 1) Distance from the seaward edge of the proposed improvements to line of vegetation \_\_\_\_\_ feet.
- 2) The location of proposed structures has been shown on a copy of Attachment #2 from the Port Aransas Coastal Management Plan and is herein attached.

D. FEMA Standards:

The lowest habitable floor of the proposed structure is \_\_\_\_\_ which is at or above the FEMA base flood elevation for the area.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date

**BEACHFRONT CONSTRUCTION CERTIFICATE  
(FOR PASF-1)**

The following items must be accomplished. Check box to indicate completion of item or that the statement is true.

The project has been located on a copy of Attachment #2 of the Coastal Management Plan and the location of the construction is not on an existing or future access easement. A drawing is herein attached.

The construction does not functionally support or depend on, or otherwise relate to, proposed or existing structures that encroach on the public beach.

The construction, if within 200 feet landward of the line of vegetation, does not include a retaining wall or improved surfaces.

The construction, is landward of the 60 year erosion line, as depicted in Attachment #2 of the Port Aransas Coastal Management Plan.

*City of Port Aransas*

The applicant has been informed of the need to contact the ~~County of Nueces~~ for a dune permit if the construction is within 1000 feet from mean high tide.

I, \_\_\_\_\_ as the City of Port Aransas building inspection representative herein certify that I have reviewed the information presented above and any other information necessary to establish that the proposed construction is consistent with the City of Port Aransas Coastal Management Plan and that the proposed construction will not adversely effect the public access to and from the public beach.

Signed: \_\_\_\_\_  
Port Aransas Building Official

Date: \_\_\_\_\_

Certificate # ~~94~~ \_\_\_\_\_

**ATTACHMENT #4-2**

# BEACHFRONT CONSTRUCTION CERTIFICATE APPLICATION

## A. General Information:

Name \_\_\_\_\_  
Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone Number \_\_\_\_\_ Fax No. \_\_\_\_\_  
Lot & Block \_\_\_\_\_

## B. Proposed Construction:

Provide as an attachment to this application, all information required under the appropriate sub-sections of Section IV H (pages 10, 11 & 12) of this plan.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date



## BEACHFRONT CONSTRUCTION CERTIFICATE

FOR CONSTRUCTION SEAWARD OF THE 60 YEAR EROSION LINE OR WITHIN 200' LANDWARD OF THE LINE OF VEGETATION.

The following items must be accomplished. Check box to indicate completion of item or that the statement is true.

### SECTION 1 - TO BE FILLED OUT BY PLANNING & ZONING COMMISSION

The Planning & Zoning Commission has reviewed the Application and has made the following recommendation:

Recommend Approval \_\_\_\_\_ Recommend Disapproval \_\_\_\_\_

Signed: Chairman of Planning & Zoning Commission \_\_\_\_\_ Date \_\_\_\_\_

### SECTION 2 - TO BE FILLED OUT BY CITY COUNCIL

The construction does not functionally support or depend on, or otherwise relate to, proposed or existing structures that encroach on the public beach.

The construction, if within 200 feet landward of the line of vegetation, does not include a retaining wall or improved surfaces.

The construction is seaward of the 60-year erosion line as depicted in Attachment #2 of the Port Aransas Coastal Management Plan.

The applicant has been informed of the need to contact the County of Nueces for a dune permit if the construction is within 1000 feet from mean high tide.

I, \_\_\_\_\_ as the Mayor of Port Aransas, herein certify that the City has reviewed the information presented above and any other information necessary to establish that the proposed construction is consistent with the City of Port Aransas Coastal Management Plan and that the proposed construction will not adversely effect the public access to and from the public beach.

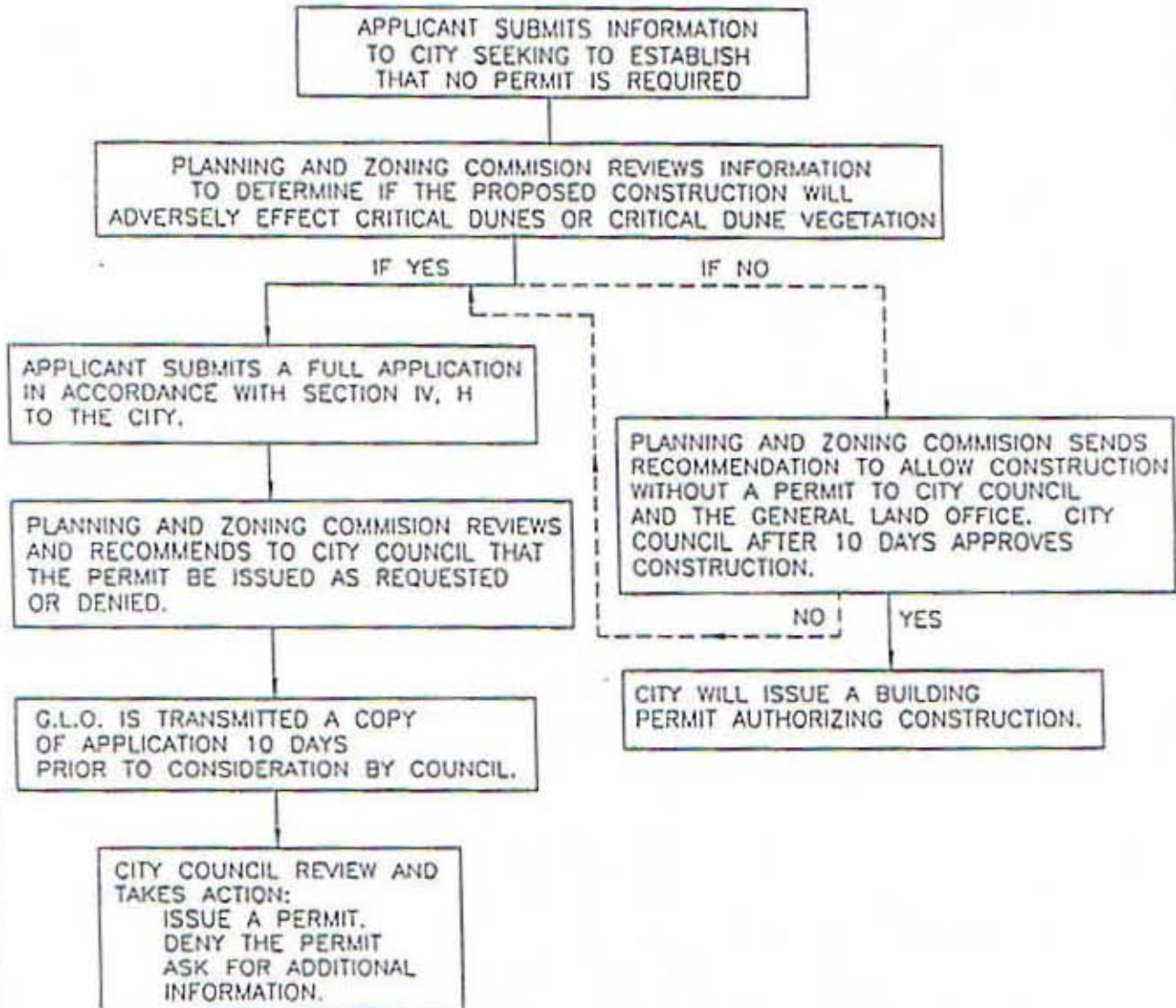
Signed: \_\_\_\_\_  
Port Aransas Mayor

Date: \_\_\_\_\_

Certificate #94- \_\_\_\_\_

ATTACHMENT #5-2

# DUNE PERMIT APPLICATION PROCESS



## DUNE PROTECTION PERMIT APPLICATION

### A. General Information:

Name \_\_\_\_\_  
Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone Number \_\_\_\_\_ Fax No. \_\_\_\_\_  
Lot & Block \_\_\_\_\_

### B. Proposed Construction:

Provide as an attachment to this application, all information required under the appropriate sub-sections of Section IV H (pages 10, 11 & 12) of this plan.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date

## DUNE PROTECTION PERMIT

For construction requiring a Dune Protection Permit the following items must be accomplished. Check box to indicate completion of item OR statement is true.

### SECTION 1 - To be filled out by Planning and Zoning Commission.

The Planning and Zoning Commission has reviewed the application and has made the following recommendations:

Recommend Approval \_\_\_\_\_

Recommend Disapproval \_\_\_\_\_

Signed: \_\_\_\_\_

Chairman, Planning & Zoning Commission

Date: \_\_\_\_\_

### SECTION 2 - To be filled out by City Council.

- The proposed activity is not a prohibited activity as defined in subsection VI.D "Prohibited Activities" of the Port Aransas Coastal Management Plan.
- The proposed activity will not materially weaken critical dunes or materially damage critical dune vegetation based on the application of technical standards under subsection VI.E, "Technical Standards for Determination of Material Weakening" of the Port Aransas Coastal Management Plan.
- The design of the proposed activity has incorporated the provisions for avoidance in accordance with subsection VI.F, "Requirements for Avoidance of Adverse Effects" of the Port Aransas Coastal Management Plan.
- The applicant's mitigation plan will adequately minimize, mitigate, and/or compensate for any unavoidable adverse effects, as provided in subsection VI.G, "Mitigation" of the Port Aransas Coastal Management Plan.

I, \_\_\_\_\_ as Mayor of \_\_\_\_\_ is consistent with the Port Aransas Coastal Management Plan.

Signed: \_\_\_\_\_

Mayor

Date: \_\_\_\_\_

Permit #94 \_\_\_\_\_

ATTACHMENT #7-2

ORDINANCE NO. 2012- 07

AN ORDINANCE BY THE CITY OF PORT ARANSAS, AMENDING THE PORT ARANSAS COASTAL MANAGEMENT PLAN (CONTINGENT UPON GENERAL LAND OFFICE COASTAL MANAGEMENT PLAN AMENDMENT APPROVAL) REGARDING PROVISIONS OF COASTAL MANAGEMENT PLAN, PROVIDING A SAVINGS CLAUSE, SEVERABILITY CLAUSE AND EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARANSAS, TEXAS.

**SECTION 1**

THAT, The Coastal Management Plan is hereby amended as follows to include the following new Attachment 8:

**ATTACHMENT 8. EROSION RESPONSE PLAN**

The ERP establishes a building setback line, explains criteria for construction seaward of the setback line, identifies opportunities for mitigation and preservation of public beach access areas and dune system, describes criteria for acquiring property seaward of the setback line, and identifies measures for post-storm damage assessment to beach access infrastructure and critical dune areas. Public outreach and interaction with the public, including a public educational meeting, were held as required.

**SECTION 2  
SAVINGS CLAUSE**

THAT, any ordinance or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

**SECTION 3  
SEVERABILITY CLAUSE**

THAT, if any word, phrase, sentence, paragraph or section is found to be illegal, invalid or unconstitutional, the remaining portion of this ordinance shall remain in full force and effect.

**SECTION 4  
EFFECTIVE CLAUSE**

THAT, this ordinance shall take effect and be in full force immediately upon its final passage, approval and publication in the official newspaper.

AND, IT IS SO ORDAINED, ORDERED, PASSED AND APPROVED this 16  
Day of August, 2012.


COASTAL MANAGEMENT PLAN

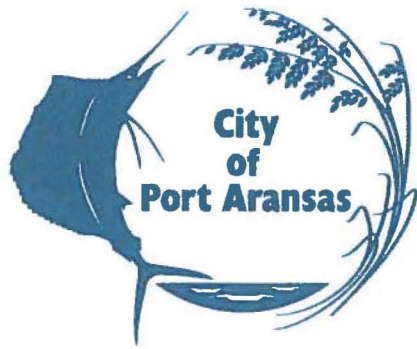
CITY OF PORT ARANSAS

A handwritten signature in black ink, appearing to read 'Keith McMullin', written over a horizontal line.

The Hon. Keith McMullin, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read 'Esther Arzola', written over a horizontal line.  
Esther Arzola, City Secretary



## **CITY OF PORT ARANSAS EROSION RESPONSE PLAN**



An amendment to the City of Port Aransas's Coastal Management Plan

Submitted To:

Prepared by:  
Matthew Mahoney, P. G.  
1701 Rabb Road  
Austin, TX 78704



June 2011

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**APPENDICES**

Appendix A.

City of Port Aransas Erosion Response Plan Maps

Appendix B.

Beach Access Points – Site Photographs

Appendix C.

Potential Dune Enhancement Areas – Site Photographs

# Erosion Response Plan – City of Port Aransas

## 1. INTRODUCTION

This Erosion Response Plan (ERP) was developed by Matthew Mahoney, a professional geologist, under a Memorandum of Agreement with the City of Port Aransas, pursuant to Section 33.607 of the Texas Natural Resources Code (TNRC). This plan includes the entire Gulf of Mexico shoreline within the jurisdiction of the City of Port Aransas and was developed in consultation with the Texas General Land Office (GLO). Under the Texas Administrative Code §15.17(d)(4) and Section 33.607(g) of the TNRC, the Texas Land Commissioner may adopt rules for the preparation and implementation by a local government of a local plan for reducing public expenditures for erosion and storm damage losses to public and private property, including public beaches. Pursuant to the authority granted to the GLO under Section 33.605 (b)(6)(B) of the TNRC, the Land Commissioner shall approve all expenditures from the Coastal Erosion Planning and Response Act (CEPRA) funding account. In determining whether to approve an expenditure, the Land Commissioner shall consider whether a local government prepared an ERP. By implementing this ERP, the City of Port Aransas is in compliance with GLO requirements and will continue to be eligible for funding under CEPRA. The ERP shall serve as an amendment to the City of Port Aransas Coastal Management Plan.

The ERP establishes a building setback line, explains criteria for construction seaward of the setback line, identifies opportunities for mitigation and preservation of public beach access areas and dune system, describes criteria for acquiring property seaward of the setback line, and identifies measures for post-storm damage assessment to beach access infrastructure and critical dune areas. Public outreach and interaction with the public, including a public educational meeting, were held as required. The ERP was developed in coordination with the City of Port Aransas, Nueces County, and the GLO.

## 2. GEOMORPHOLOGY

The City of Port Aransas is a coastal community within Nueces County and is located along the mid-Texas coast on the northeast end of Mustang Island adjacent to Aransas Pass. The City consists of approximately 7.5 miles of Gulf of Mexico shoreline. Regionally, the coastal area is composed of fluvial deltaic headlands (McGowen and others, 1976) with a series of marginal marine embayments separated from the Gulf by a system of sandy barrier islands and peninsulas (Lankford and Rehkemper, 1969). The shoreline within the City's jurisdiction is a microtidal environment that is wave dominated. Because the longshore transport along Mustang Island is wind dominated and prevailing winds are out of the southeast, sediment movement is bidirectional.

The natural geological setting of the Mustang/North Padre Island coast has created a shoreline that is low in sand supply and that is undergoing long-term relative sea-level rise. For these reasons, the shoreline will continue to undergo long-term retreat unless human intervention prevails (Gibeaut 2001).

One major anthropogenic feature that influences the City's shoreline is the jetties at Aransas Pass, which borders the City to the northeast. The jetties have a major effect on coastal processes as they influence sediment dynamics, disrupt sediment flow and deteriorate the delta.

### **3. COASTAL EROSION**

Texas has some of the highest erosion rates in the country. Sixty-four percent of the total Texas coast is eroding at an average (mean) rate of -5.9 feet/year with some areas experiencing greater than -30 feet/year (McKenna2009). When the Texas coast erodes, homes are lost, property values decrease, tourism suffers, and local economies are negatively impacted. Additionally, without a healthy beach/dune system to protect the coast, the impact of major storms is more severe. Overall, the Gulf of Mexico shoreline between Aransas Pass and the north boundary of the Padre Island National Seashore is retreating. However, there are several scales of alongshore variability in the average annual rate of shoreline change. Some of this variability is caused by human alterations. Engineering modifications at Aransas Pass have changed the sediment budget by trapping sand in the littoral drift system on both sides of the pass. As a result, the shoreline position is more stable for a distance 6 km to the south of the pass than it otherwise would be. Farther to the south of the pass, the overall retreat of the shoreline is probably enhanced because of the sand trapping (Gibeaut 2001).

At the northeastern end of the City's boundary are the jetties at Aransas Pass. This area is accreting and gradually decreases toward the southwest with an erosion trend emerging 3.5 miles from the jetty.

### **4. DEVELOPMENT OF BUILDING SETBACK LINE**

This ERP and the building setback line were developed in anticipation of coastal erosion and are intended to restore and enhance the critical dune system, protect and restore beach access infrastructure, and minimize loss to private and public infrastructure during storm events. The setback line was established to provide guidelines for new construction seaward of the setback line in order to reduce damage to these structures during storm events. By statute, the building setback line may not be located further landward than the established Dune Protection Line (DPL) and must encompass as much of the critical dune area as practicable. The criteria evaluated and utilized in the establishment of the building setback are described below.

#### **4.1 Criteria Considered**

Data was collected from the GLO, the Bureau of Economic Geology (BEG), the Texas Natural Resources Information System (TNRIS), Nueces County and the City of Port Aransas, and include:

- Aerial Photography/Lidar Data
- Historical Erosion Rates
- Coastal Management Plan
- Approximate Line of Vegetation
- Base Flood Elevation (BFE) Zones
- Mean High Tide
- Dune Protection Line

#### **4.1.1 Aerial Photography/Lidar Data**

Aerial photography and lidar data for Mustang Island has been acquired, rectified, and used as the basis to construct an updated map of the width and topography of the critical dune area. The topography of the foredunes, width of the area of fore-island dunes, and breaches of the foredune ridge are depicted on the aerial photographs on the City maps located in Appendix A.

#### **4.1.2 Historical Erosion Rates**

Historical erosion rates, as determined by the BEG Shoreline Change Study (2011), in conjunction with onsite observations by coastal professionals were reviewed and considered in the development of the setback line. It should be noted that although the Shoreline Change Study is a recent release, erosion rates provided by the BEG in this study do not include data from Hurricane Ike or any data post-Ike.

The latest shoreline change study data has been procured and the data has been transformed into coastal maps of coastal Port Aransas depicting the erosion rates in feet per year at approximately 175 foot intervals. Shoreline change rates for the City of Port Aransas are depicted in the city maps located in Appendix A.

#### **4.1.3 Coastal Management Plan**

The Coastal Management Plan establishes a basis for managing and regulating human impacts on the beach/dune system. The City of Port Aransas adopted a Coastal Management Plan on February 15, 1995 and was approved by the GLO in March of 1996.

#### **4.1.4 Approximate Line of Vegetation**

The line of vegetation (LOV) is the extreme seaward boundary of natural vegetation, which spreads continuously inland typically, and is used to determine the landward extent of the public beach. A natural LOV is visible in Port Aransas and is documented on the city maps in Appendix A. The LOV was manually delineated from the rectified aerial photography. In areas where the LOV was not present, the line was extrapolated from one existing point of vegetation to another and, for the purposes of this plan, will be referred to as the approximate LOV. The approximate LOV was visually verified during a site visit conducted in June 2011. The approximate LOV depicted on the maps is not intended to be used to identify, delineate, or fix the landward boundary of the public beach, but merely to be used as a reference point in determining the location of the building setback line.

#### **4.1.5 Base Flood Elevation Zones**

The Federal Emergency Management Agency (FEMA) thru the National Flood Insurance Program (NFIP) has created flood zone determination maps. The maps indicate a Velocity Zone or V- Zone, an area predicted by FEMA to contain high velocity flowing flood water during meteorological events. Because of the potential for damage, stringent regulatory requirements seek to ensure that work and construction in V-zones will minimize environmental and structural impacts, as well as economic loss. Base flood elevations (BFE) have been designated by FEMA for coastal zones. A BFE is the level that flood waters are calculated to reach during a 100-year event. The BFEs for the City of Port Aransas are depicted on the maps in Appendix A. V-zone BFEs within the City range from 11 to 13 feet above mean sea level.

#### **4.1.6 Mean High Water**

The Texas Gulf Coast experiences approximately two tidal cycles per solar day, referred to as a semidiurnal tide. The tide cycles through high and low waters twice each day, with one of the two high tides being higher than the other and one of the two low tides being lower than the other. The Mean High Water (MHW) is the average of the two high water heights. For the purpose of developing a setback line, the MHW datum was used.

#### **4.1.7 Dune Protection Line**

The City of Port Aransas has established a dune protection line (DPL) for the purpose of protecting critical dune areas. The line runs parallel and adjacent to the Gulf of Mexico and extends a distance landward of MHW. The DPL for the City is located 1,000 feet landward of the MHW and is depicted on the maps in Appendix A.

#### **4.2 Established Setback Line**

Based on an assessment of erosion rates along the City of Port Aransas coastline and the location of the DPL relative to MHW and the approximate LOV, as well as the location and condition of critical dune areas, the City of Port Aransas has developed a building setback line in anticipation of coastal erosion. The building setback line was established to delineate the extent to which construction can occur within the beach/dune complex and is likely to affect beach access and use. Per Section 15.17 of Title 31 of the Texas Administrative Code, the building setback line may not be located further landward than the DPL and must protect as much of the critical dune area as practicable.

The building setback line for the City of Port Aransas shall be located 200 feet landward of the LOV or a distance 60 times the historical annual erosion rate as published by the BEG, whichever is greater. The line is depicted on the maps in Appendix A and as measured landward from the LOV, whichever is greater.

The City shall adopt an alternative setback line that only applies in circumstances when the dunes are destroyed by a meteorological event or do not exist. On the chance that there is not a LOV present, a backup reference line shall be the MHW delineation, with the building setback line located 320 feet landward of the MHW or a distance 70 times the BEG historical annual erosion rate and as measured landward from the MHW, whichever is greater. The building setback line for the City of Port Aransas is depicted on the maps in Appendix A.

### **5. NEW CONSTRUCTION GUIDELINES**

Prohibition on new construction shall be the same for all of Port Aransas. To the maximum extent practicable, all structures should be constructed landward of the building setback line.

Construction of structures landward of the building setback line must comply with mitigation sequence requirements for avoidance and minimization of effects on dunes and dune vegetation as specified in Texas Administrative Code (TAC) §15.4(f) Mitigation. The permittee is not exempt from compliance with compensatory mitigation requirements for unavoidable adverse effects on dunes and dune vegetation.

#### **5.1 Exemption Considerations**

Exemption from prohibition of construction seaward of the setback line shall be the same for all of Port Aransas. Dune walkovers, beach access roadways, public parking and associated public facilities shall be constructed in accordance with the GLO construction standards.

The City of Port Aransas may consider exemptions from the prohibition of residential and commercial construction seaward of the setback line for:

1. Properties for which the owner has demonstrated to the satisfaction of the City that no practicable alternatives to construction seaward of the building setback line exist. For purposes of this section, practicable means available and capable of being done after

taking into consideration existing building practices, siting alternatives, and the footprint of the structure in relation to the area of the buildable portion of the lot, and considering the overall development scheme for the property.

2. Properties for which construction is permitted under the Coastal Management Plan certified by the GLO prior to the effective date of this section and if there are no changes from the originally permitted construction plans.
3. Structures located seaward of the building setback line prior to the effective date of this section for which modifications are sought that do not increase the footprint of the structure. However, structures seaward of the building setback line that are damaged more than 50% or abandoned for a period of more than 12 months should be subject to this section before any repairs or reconstruction may be conducted.

## **5.2 Construction Requirements for Exempt Properties**

Where the City allows an exemption from the prohibition for building seaward of the building setback line, the City will require the following conditions of construction or provide a reasoned justification for a variance from the minimal standards that will demonstrate that the provisions will reduce public expenditures due to erosion and storm damage.

1. Plans and certifications for the structure shall be sealed by a registered professional engineer licensed in the State of Texas, providing evidence of the following:
  - a. a minimum of two-foot freeboard above FEMA's BFE to the finished floor elevation of the lowest habitable floor;
  - b. no enclosures below BFE;
  - c. consistency with the latest edition of specifications outlined in American Society of Civil Engineers, Structural Engineering Institute, Flood Resistant Design and Construction, ASCE 24-05;
  - d. that habitable structures will be feasible to relocate; and
  - e. all construction shall be designed to minimize impacts to natural hydrology.
2. Location of all construction should be landward of the landward toe of the foredune ridge and as far landward as practicable.

## **6. PRESERVATION AND RESTORATION**

This section presents procedures for (1) preserving and enhancing the public's right of access to and use of the public beach from losses due to erosion and storm damage, and (2) preserving, restoring, and enhancing critical dunes for natural storm protection and conservation purposes.

A conditions assessment was performed on June 28, 2011 to determine the existence, location, and condition of all vehicular and pedestrian beach access points along the City of Port Aransas shoreline. The beach access points were evaluated to determine their functionality, condition, and need for protection, enhancement, or restoration. A similar assessment was also performed for the existing dune system along the Gulf of Mexico shoreline within the city limits.

### **6.1 Evaluation of Beach Access Points**

The assessment of beach access points gave a snapshot of the condition, location, and functionality of the accesses and serves as a starting place for planning the preservation and enhancement measures to be implemented by the City as funding becomes available. The City continually monitors beach access points and maintenance of these accesses was evident in the conditions assessment.

The conditions assessment consisted of a site visit by a coastal geologist, who evaluated, prioritized, indexed, and photographed all public beach access points within the City of Port Aransas. Site visit photographs of access points are located in Appendix B.

There are seven public vehicular beach access points within the City of Port Aransas. They are located at:

1. East Cotter Avenue
2. Beach Street
3. Lantana Drive
4. Avenue G
5. Sand Castle Drive
6. Beach Access 1A
7. Beach Access 1 (Newport)

All of these accesses have been evaluated and are functioning properly. There are no drainage or runoff infrastructures associated with the accesses. Drainage/runoff during storm events normally does not adversely affect accesses or the beach.

The following section summarizes the conditions assessment of all access points and describes measures to improve and protect beach access. Improvements identified herein will be designed and constructed using methods that will reduce costs associated with repair, rebuilding, or replacement due to storm damage and erosion.

#### **6.1.1 East Cotter Avenue**

The access at East Cotter Avenue is located adjacent to the jetty and is elevated to 11.0 feet above Mean Sea Level (MSL). This access is over 1000 feet landward of MHW and landward of the DPL. This access has a low priority due to its distance from the shoreline and lack of development.

#### **6.1.2 Beach Street**

The access at Beach Street is located 0.6 miles southwest of East Cotter Avenue and is elevated to 12.2 feet above MSL. The road and access are in good condition. The access is connected to the on-beach paved parking at Horace Caldwell Pier. Due to its connection to the pier, alteration of the access is not currently recommended.

#### **6.1.3 Lantana Drive**

The access at Lantana Drive is located 0.1 miles southwest of Beach Street and is elevated to 12.9 feet above MSL. The road and access are in good condition. The access is perpendicular to the beach. To reduce erosion and storm damage loss, the access could benefit by adjusting the road 45% to the north so the access is at an angle to the beach and the prevailing wind direction. In order to do this, acquisition of private property and dune mitigation would be required. Any improved protection project would be subject to available funding.

#### **6.1.4 Avenue G**

The access at Avenue G is located 0.41 miles southwest of Lantana Drive and is elevated to 12.4 feet above MSL. The road and access are in good condition. The access is also perpendicular to the beach and could benefit from an oblique entrance. In order to do this, acquisition of private property and dune mitigation would be required. Any improved protection project would be subject to available funding.

#### **6.1.5 Sand Castle Drive**

The access at Sand Castle Drive is located 0.61 miles southwest of Avenue G and is elevated to 13.6 feet above MSL. The road and access are in good condition. The access is also perpendicular to the beach and could benefit from an oblique entrance. In order to do this, acquisition of private property and extensive dune mitigation would be required. Quantities of loose sand tend to build up at the entrance to the beach on the northeast side of the access. This is due to a lack of dune vegetation where the foredune ridge terminates at the access. The dunes could benefit from revegetation efforts. The installation of dune plants would help stabilize the dunes and keep loose sand from accumulating at the entrance. Any improved protection project would be subject to available funding.

#### **6.1.6 Beach Access 1A**

The access at Beach Access 1A is located 1.14 miles southwest of Sand Castle Drive and is elevated to 13.6 feet above MSL. The road and access are in good condition. The access is also perpendicular to the beach and could benefit from an oblique entrance. In order to do this, acquisition of private property and dune mitigation would be required. Quantities of loose sand tend to build up at the entrance to the beach. This is due to a lack of dune vegetation where the foredune ridge terminates on each side of the access. The dunes could benefit from revegetation efforts. The installation of dune plants would help stabilize the dunes and keep loose sand from accumulating at the entrance. Any improved protection project would be subject to available funding.

#### **6.1.7 Beach Access 1**

The access at Beach Access 1 is located 0.84 miles southwest of Beach Access 1A and is elevated to 14 feet above MSL. The road and access have recently been reconstructed with a grant from the Department of Rural Affairs. In addition, vegetation was planted on the dunes around the entrance to help stabilize the dune and to keep loose sand from accumulating at the entrance.

The access is also perpendicular to the beach and could benefit from an oblique entrance. In order to do this, acquisition of private property and dune mitigation would be required. The current grant did not have sufficient funding to accomplish this task. This task will have to be done at a later date and will be subject to available funding.

#### **6.1.8 Private Beach Accesses**

Private beach accesses were also evaluated for this plan. There are several private beach access points within the City of Port Aransas. These accesses cut through the dunes to private property for vehicle and pedestrian access. It is recommended that as access to these properties becomes available from the landward side, that landward access be acquired and the current beach access through the dune be closed down. The dune should then be restored to the height and width of the surrounding dunes. The dunes should also be revegetated according to the revegetation plan located in Section 6.2.



Private accesses that remain through the dunes need to be upgraded to meet a minimum height of at least 75% of the BFE to reduce erosion and storm damage loss. Accesses perpendicular to the shoreline would also benefit from an oblique entrance. In addition, landowners with individual private foot paths through the dunes will be encouraged by the City to abandon use of these paths and build walkovers in accordance with the GLO's Dune Protection and Improvement Manual. These efforts shall be conducted by the City in coordination with individual private landowners. Grants will be sought to fund these efforts and projects will be conducted as funding becomes available.

### 6.1.9 Prioritization of Improvements

The prioritized improvements/repairs, location, and type of repair of beach access points are listed in Table 1. The Table lists the projects in order of priority for construction, with the highest priority listed as number 1. Priority levels for the access points were based upon usage, need of repair, inability to provide safe access to the beach, and need to reduce storm damage loss.

**Table 1. Improvement Prioritization of Beach Access Locations**

PRIORITY	LOCATION	REPAIR
1	Private Accesses	Raise elevation of entrances. Establish oblique entrances.
2	Beach Access 1A	Revegetation of both sides of dune terminus. Establish oblique entrance.
3	Sand Castle Drive	Revegetation of northeast side of dune terminus. Establish oblique entrance.
4	Avenue G	Establish oblique entrance.
5	Lantana Drive	Establish oblique entrance.

### 6.1.10 Post-Storm Assessment Procedures

All publicly funded existing amenities and access points were inventoried to qualify for FEMA post-storm funding. Post-storm monitoring of the access points will be conducted by the City on a routine basis and within 72 hours after meteorological events of significance for compliance with the Coastal Management Plan and associated rules. A report will be generated detailing noncompliance and required repairs/replacements of parking, pedestrian and vehicular access, signage, etc. along with schedules for repair/replacement based on available local funding, claims, and grants.

### 6.1.11 Beach Access Goals and Implementation Schedule

Short-term beach access goals include addressing concerns listed in Table 3, as funding becomes available, and to continually monitor and maintain existing accesses.

Long-term goals include upgrading access points as needed to adapt to changing environmental conditions, increases in localized erosion, increases in storm activity, and changes in development in an attempt to mitigate impacts from erosion, minimize storm damage, and to continue to provide

realizable and safe beach accesses to the public. Specific long-term goals are to have the elevation of all accesses a minimum height of at least 75% of the BFE. All accesses within the City of Port Aransas have an elevation greater than 75% of the BFE. Potential funding/grant programs available that would assist the City with improvements with access points include the Coastal Management Program and the Statewide Transportation Enhancement program. These programs as well as any other programs that can provide funding opportunities to the City for restoration will be leveraged. Implementing these goals shall be contingent upon available funding and potential grant requirement timelines.

#### **6.1.12 Publicly Funded Existing Amenities**

The following is a list of publicly funded existing amenities within the City of Port Aransas jurisdiction:

1. 48 portable toilets. Replacement cost \$600/each
2. 3 ADA portable toilets. Replacement cost \$1,000/each
3. 122 disposal receptacles. Replacement cost \$25/each
4. Two sets of on-beach showers consisting of 5 individual showerheads, with a wooden base that is separated from traffic with bollards. Replacement cost \$14,000/set

Note: Horace Caldwell Pier is maintained by Nueces County

## **6.2 Evaluation of Critical Dunes**

Coastal sand dunes are an important component of the beach/dune system and protect public and private property by serving as natural barriers to storm surge and erosion. Dunes provide protection to landward structures by blocking storm tides and waves, and by providing sediment to the beach. Wide beaches and high continuous dunes are the best defense against coastal storms. High, continuous dunes tend to block storm surge, whereas lower, discontinuous dunes can be overrun by storm surge and flood low-lying areas behind them (McKenna 2009). In Texas, critical dunes are those located within 1,000 feet from MHT. They protect landward properties and infrastructure as well as the beaches from erosion and storm surge.

Port Aransas and Mustang Island are fortunate to be protected by a high and wide band of strong, heavily vegetated dunes fronted by a wide beach. This dune system is classified as continuous and is one of the best dune systems in the entire state. The heights of these dunes average 12 to 15 feet and exceed 75% of the BFE. Erosion by tropical storms has narrowed the width of the beach in some areas, while beach maintenance with concurrent building of man-made dunes has helped to sustain the height of the dune system in other areas.

Within the City of Port Aransas, there are very few breaks or gaps in the dunes with no natural washouts and only minor blowouts at three locations. Areas that would benefit from restoration have been identified on the maps in Appendix A. Site visit photographs of the potential dune enhancement areas are located in Appendix C.

### **6.2.1 Revegetation of Dunes**

Vegetation is a critical component to the dune system. Mowing/cutting of vegetation within the setback area will not be allowed except for exempt areas. Mitigation projects requiring dune vegetation shall include:

- bitter panicum (*Panicum amarum*),

- sea oats (*Uniola paniculata*), and
- marshhay cordgrass (*Spartina patens*).

Bitter panicum has proved to be the best species for dune stabilization on the Texas coast. This native beach plant has a higher salt tolerance than many other coastal species and is a hardy grower. Sea oats are less tolerant of salt spray than bitter panicum but grow rapidly enough to avoid being smothered in rapidly shifting sand. Interplanting sea oats and bitter panicum will reduce the risk of disease or pest infestation. Marshhay cordgrass is a small, wiry perennial which spreads by rhizomes. This grass shall be planted on the landward side of dunes.

Beach morning glory and seagrape vines can form a dense cover on the seaward side of dunes within a few growing seasons. Low-growing plants and shrubs to be used on the backside of the dunes include seacoast bluestem, cucumber leaf sunflower, rose ring gallardia, partridge pea, prickly pear, and lantana. The optimum time for transplanting in Port Aransas is February, March, or April.

### 6.2.2 Post-Storm Assessment Procedures

All critical dune areas were inventoried to qualify for FEMA post-storm funding. Post-storm monitoring of the dune system will be conducted by Nueces County and the City of Port Aransas on a routine basis and within 72 hours after meteorological events of significance. A report will be generated detailing dune restoration needs along with schedules for repair based on available local funding, claims, and grants.

### 6.2.3 Critical Dune Goals and Implementation Schedule

Short-term goals include the filling in of gaps and blowouts in the foredune ridge and revegetation of these areas. Gaps will be filled to match existing dune height and width. Areas that would benefit from restoration have been identified on the maps in Appendix A. They have been numbered to indicate prioritization. Prioritization of these critical areas was based on the rate of erosion and the need to protect public and private property and infrastructure from erosion and storm damage. Specific ranking criteria for dune restoration include:

1. Existing development or high likelihood of development
2. Proximity of development to the Gulf
3. Extent or absence of fore-dune development as a high, wide, continuous ridge

Specific criteria included whether a site has fore-dunes <15' high, existing development or was platted for development seaward of the SBL. Areas were prioritized for restoration based on these specific criteria:

**Priority 1** - Existing development or pre-platted vacant lots seaward of SBL and fore dunes <15' high.

**Priority 2** - Existing development landward of SBL and foredunes <15' high (may include small sites where landward infill of the fore-dune complex is advisable due to a locally high erosion rate and a narrow fore-dune complex)

**Priority 3** - Private lands with high potential for development based on current zoning, and dunes <15" high

**Priority 4** - Publically owned lands with no current development but dunes <15' high

**Priority 5** – Areas with existing development or high potential for development where primary dune are >15’ but exceptionally narrow and infilling/strengthening is advisable

Long-term goals shall promote the formation of a continuous foredune ridge throughout the length of the county shoreline. The dune shall be a minimum of 10 feet in height, with a minimum width of 100 feet measured perpendicular to the gulf beach and include a vegetation planting plan consisting of 85% vegetative cover. The minimum dune height shall exceeds 75% of the BFE height from mean sea level for the highest V-Zones within the City of Port Aransas. It is recommended that dune restoration projects be designed to meet USACE standards as defined in Chapter 4 of the Coastal Engineering Manual (USACE, 2008).

Potential funding/grant programs available that would assist the City with dune restoration include the Coastal Management Program, the Coastal Erosion Planning and Response Act program. These programs as well as any other programs that can provide funding opportunities to the City for dune restoration will be leveraged. Implementation of these goals depends on the availability of funding and procurement of grants. The City is constantly pursuing opportunities for restoration and shall continue to pursue potential grants as well as other sources of funding.

The City of Port Aransas does not currently have any ongoing restoration projects other than stacking of sargassum in accordance with the USACE permit and general maintenance, but will continue to look for opportunities to fund restoration efforts.

## **7. ACQUISITION OF PROPERTY SEAWARD OF SETBACK LINE**

The City of Port Aransas has developed criteria for identifying properties for voluntary acquisition of fee simple title or a lesser interest acquisition. These properties, which may have structures located entirely seaward of the building setback line, experience severe damage during storms, impede the development of a natural dune system and restrict the use of the public beach. To be considered for acquisition, a structure must:

- be entirely seaward of the building setback line,
- impede beach access,
- be more than 25% on the public beach,
- affect hydrology as determined by a registered professional geologist/engineer licensed in the State of Texas,
- deemed to be a hazard to health and safety, or
- cause erosion of adjacent property.

Property to be acquired will be prioritized based on the severity and amount of criteria met. Acquisition strategy will consist of:

- identification of potential property,
- negotiation of acquisition,
- funding procurement,
- agreement execution, and
- removal or relocation of structure.

## **8. PUBLIC OUTREACH/INTERACTION**

The City of Port Aransas has conducted a public educational meeting to discuss the ERP prior to submittal of this document to the GLO. The meeting was held on June 27, 2011 at 6:00 pm. The meeting was advertised in the same manner as typical for public hearings on amendments to the Coastal Management Plan. The presentation provided data on current fore-island dune geomorphology and its relationship to the established setback line as well as prohibition on new construction, exemptions from the prohibition, construction requirements for exempt properties and other elements of the ERP. Public comment and input from Nueces County representatives were integrated and used to refine the plan.

The Port Aransas City Council gave consent on delivery of the draft ERP to the GLO at the June 16, 2011 meeting. In accordance with TAC Title 31 Chapter 15 Rule §15.17, the Port Aransas City Council will formally approve the ERP at a formal hearing. The date, time, and location of this hearing has not been determined and will be finalized once comments from the GLO have been received and implemented into the final ERP.

## **9. REFERENCES**

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McKenna, K. K., 2009 Update, Texas Coastwide Erosion Response Plan, Report to the Texas General Land Office.

## **APPENDIX A**

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City of Port Aransas Erosion Response Plan Maps

## **APPENDIX B**

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Beach Access Points – Site Photographs



Vehicle Beach Access Point at East Cotter Avenue



Vehicle Beach Access Point at Beach Street





Vehicle Beach Access Point at Lantana Drive



Vehicle Beach Access Point at Avenue G



Vehicle Beach Access Point at Sandcastle Drive



Vehicle Beach Access Point at Beach Access 1A



Vehicle Beach Access Point at Beach Access Road 1



Private Vehicle Beach Access Point

## **APPENDIX C**

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Potential Dune Enhancement Areas – Site Photographs



Potential Dune Enhancement Area - Example of Priority Ranking 1



Potential Dune Enhancement Area - Example of Priority Ranking 2



Potential Dune Enhancement Area - Example of Priority Ranking 3

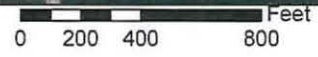


Potential Dune Enhancement Area - Example of Priority Ranking 5



**Legend**

- BEG Shoreline Change
- ⋯ Vegetation Line
- - - Erosion Line
- - - 1,000' Dune Protection Line
- - - Mean High Water
- Dune Restoration Area
- 2** Priority Rating

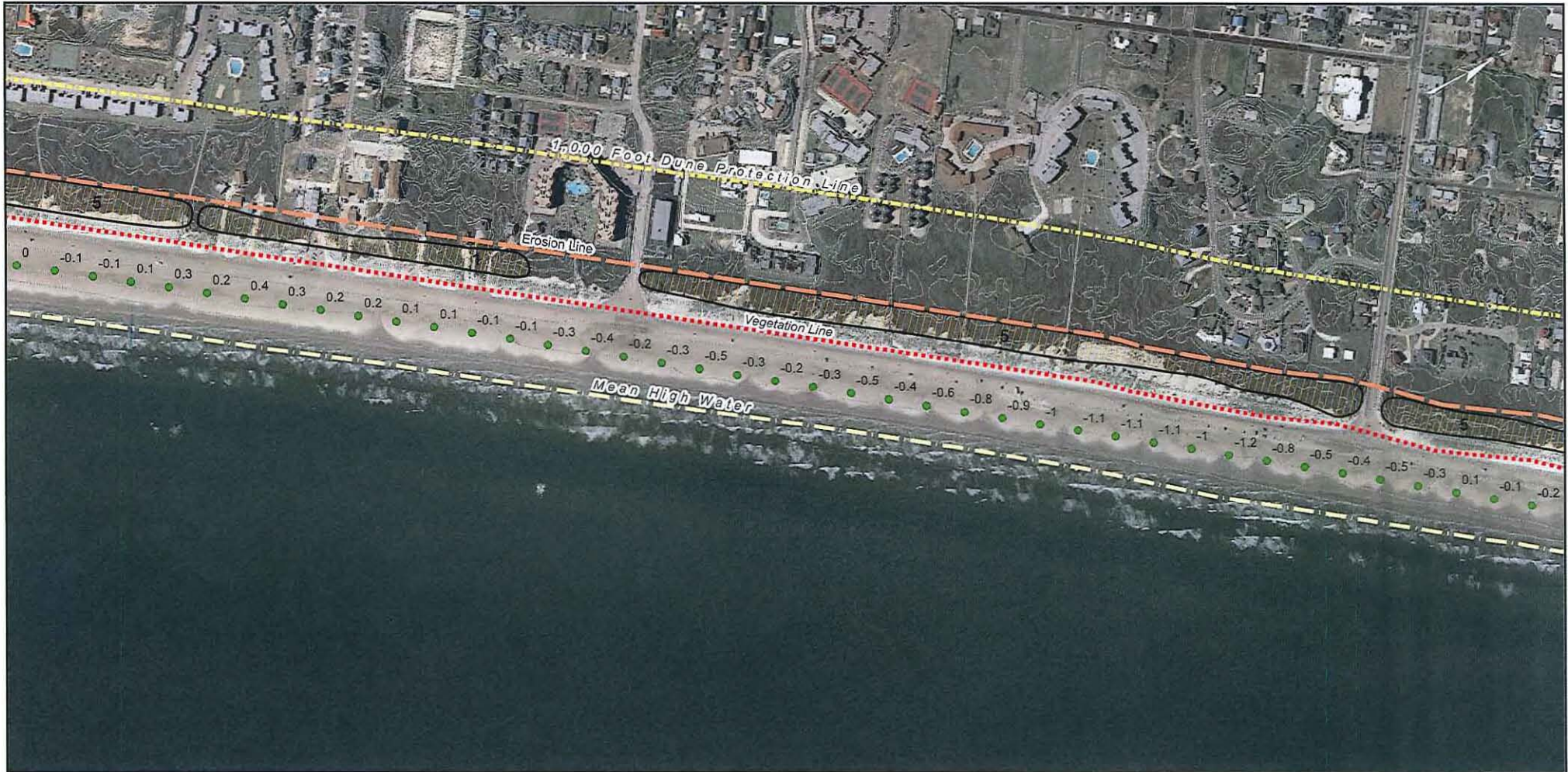


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CITY OF PORT ARANSAS, TEXAS

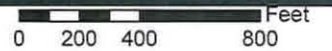


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**Legend**

- BEG Shoreline Change
- ⋯ Vegetation Line
- - - Erosion Line
- - - 1,000' Dune Protection Line
- - - Mean High Water
- Dune Restoration Area
- 2 Priority Rating



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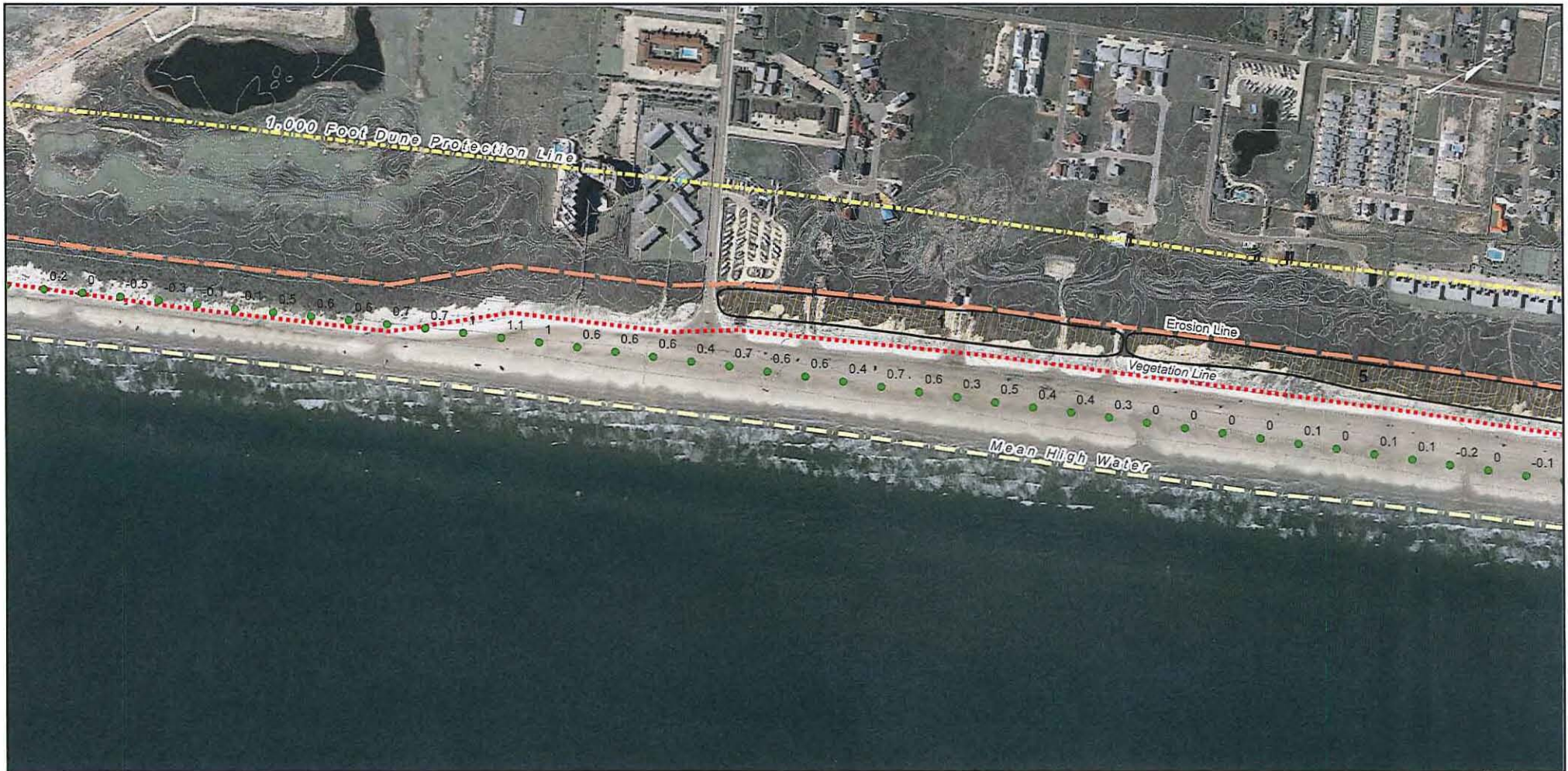


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**Legend**

- BEG Shoreline Change
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**Legend**

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**Legend**

- BEG Shoreline Change
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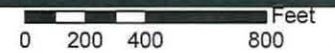
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