

STAFF REPORT

Application for Beachfront Construction Certificate (BCC) for Large-Scale Project

Applicant: Infra Tech Ventures, LLC

Case No.: BD8346

Site Address: 6961 State Highway 361

Legal Description: 11.82 acres out of Mustang Island Sec 2 Lot 52, Block 1

Description of the proposed construction: To complete previously authorized wetland fill activities approved by the City in 2023. Following approval and during site filling activities, unauthorized impacts to dunes and dune vegetation occurred. To resolve these impacts the applicant developed a mitigation plan to resolve these impacts. No structures are proposed. Construction activities are limited to dune compensation.

Concurrent Beach Dune/Committee (Committee):

If the following apply, the committee must make a determination as to approval, approval with conditions or denial of this application:

- ☒ Proposed construction activities are seaward of the Erosion Area Line
- ☐ Proposed construction is located on an existing beach access or future beach access
- ☐ Proposed construction encroaches on the public beach
- ☐ Proposed construction includes an imperious surface within 200 feet landward of the vegetation line
- ☐ Proposed construction includes a dune walkover (not to be constructed under GLO standards)

Staff Analysis:

Staff reviewed and considered the following:

- Compliance with all aspects of the City's beach access and erosion response regulations
- Impacts on access to public beaches, off-beach parking, or the size of the public beach due to erosion
- Impacts on the natural drainage patterns of the site and adjacent property
- Whether all practicable alternatives to the proposed activity, proposed site, or proposed methods of construction have been considered
- Any material change between the County No Dune Permit Required Determination (Attachment 1) and this application (Attachment 2)

Staff Recommendation:

Conditional approval pending the following:

- Comments from the Texas General Land Office (GLO)

Attachments:

1. BCC Application
2. Dune Protection Permit – Nueces County (February 26, 2025)
3. Letter to GLO – Request for Review (BCC Large-Scale)
4. Site Plan
5. Color Photos
6. Dune Compensation Plan



Development Services Dept.
2406 Leopard Street
Corpus Christi, TX 78469-9277
(361) 826-3240

BEACHFRONT CONSTRUCTION CERTIFICATE

☐ Small Scale ☐ Large Scale ☐ Dune Walkover¹ ☐ Public Beach Access, or Closure, Relocation, or Reduction

Submit a record at City of Corpus Christi Rhythm for Civics and upload application form.

FEE WORKSHEET FOR APPLICANT USE ONLY

	Small Scale ($\leq 5,000$ SQF, and \leq Two Stories)	Large Scale ($> 5,000$ SQF, and $>$ Two Stories)
Base Application		
Master Planned Development		
Erosion Response Permit		
Total Fees		
Administrative Surcharge (4.5%)		
Public Notice Surcharge		
Total		

* Refer to Development Services Beachfront Construction Certificate Fees Year 4

1. Applicant: Infra Tech Ventures, LLC (c/o Mr. Ajit David) Applicant Type: Owner Contact Person: Ajit David
Mailing Address: 5821 Ocean Dr. City Corpus Christi State TX Zip 78412
E-mail: ajitdavid@gmail.com Cell: (361) 455 - 1873

2. Property Owner (s): Infra Tech Ventures, LLC (c/o Mr. Ajit David) Contact Person: Ajit David
Mailing Address: 5821 Ocean Dr. City Corpus Christi State TX ZIP 78412
E-mail: ajitdavid@gmail.com Cell: (361) 455 - 1873

2. Engineer/Surveyor: Anchor QEA Contact Person: Chris Belaire
Mailing Address: 1217 Highway 35 South City Rockport State TX ZIP 78382
E-mail: cbelaire@anchorqea.com Cell: (361) 450 - 6934

3. Subject Property Address (es): MUSTANG ISLAND SECTION 2, BLOCK 1, LOT 52 Current Zoning District: RS
Geographic ID (Tax ID): 5491 - 0002 - 5200 ;
Legal Description: MUSTANG ISLAND SEC 2 LT 52 BLK 1 11.82 ACS
Proposed Construction Description: No structures or amenities are proposed. Construction is limited to a dune compensation area that totals 10,117 square feet.
Number of Stories: N/A ; Height of lowest habitable floor: N/A ; FEMA Base Flood Elevation: 9-11 Feet
Area of Proposed Construction (including area of temporary impact on dunes and dune vegetation): 22,530 SQF
Distance of proposed construction landward of **Mean High Tide (MHT)**: 235 Ft; landward of the **Line of Vegetation (LOV)**: 100 Ft X
☐ Proposed construction is seaward of the 350-Foot Setback Line³; X ☒ Construction is seaward of the Dune Protection Line⁴

4. Required Documents/Forms:
☒ Land Use Statement ☒ Disclosure of Interest ☒ DPP Permit ☒ Site Plan² ☒ Photographs ☒ FEMA Certificate
Associated Platting/Subdivision, Public Improvement, Building, or other Permit Application Numbers: DPP-04062023-NA

5. I certify that I have provided the City of Corpus Christi with a complete application for review; that I am authorized to initiate this rezoning as or on behalf of the Property Owner(s); and the information provided is accurate.

Owner or Agent's Signature
Ajit David
Owner or Agent's Printed Name

Engineer/Surveyor/Designer's Signature
Chris Belaire
Engineer/Surveyor/Designer's Printed Name

Applicant's Signature
Ajit David
Applicant's Printed Name

OFFICE
USE
ONLY

Case BD _____; Received: ___/___/___; Completeness Review: ___/___/___; Sent to GLO: ___/___/___; Issued: ___/___/___
Beach Dune Committee Hearing: ___/___/___; Notices: ___ Inside; ___ Outside; ___ In Favor; ___ Opposed (___ %); Action: _____

¹Construction of walkover (s) to be pursuant to TXGLO's Dune Protection and Improvement Manual of the Texas Gulf Coast; otherwise attach explanation: ²According to Site Plan Requirements Checklist; ³An Erosion Response Permit is required, if seaward of the 350-foot line; ⁴A Dune Protection Permit or Exemption must be provided, if seaward.

Appendix A

Required Documents/Forms

Land Use Statement

LAND USE STATEMENT

1. State the purpose of the request and include applicable background information as to the development plan for the property, i.e., usage of property, number and square footage(s) of existing and/or proposed building(s)/unit(s), building(s)/unit(s) height, parking plans/spaces, phasing schedule of development, number of employee(s) associated with the office, business or industrial development, hours of operation, modification or demolition plans for existing structure(s), type, area and setback of signage, etc.

The Applicant proposes to complete previously authorized wetland fill activities that were approved by the City on November 6, 2023. Following City approval and during site filling activities, unauthorized impacts to dunes and dune vegetation occurred. To resolve these impacts, the applicant has worked collaboratively with the County and GLO to develop dune compensation plan to offset past impacts. A dune protection permit, included a dune compensation plan was approved by the County on February 26, 2025. Proposed construction is limited to the completion of fill activities in previously approved areas and implementation of the dune compensation project. Filling activities total approximately 22,530 square feet (12,413 square feet of filling in low-lying depressions and 10,117 square feet associated with the dune compensation area). The property is unimproved and no new structures are proposed.

2. Identify the zoning and land uses adjoining the area of request, and the designated future land uses.

	<u>Existing Zoning</u>	<u>Existing Land Use</u>	<u>Future Land Use</u>
Site	Residential Land	Undeveloped land	TBD
North	Residential Land	Private Residential Development	TBD
South	Commercial Land	Mustang Island Conference	TBD
East	N/A	Gulf Beach	TBD
West	Residential Land	State Highway 361	TBD

Disclosure of Interest



DISCLOSURE OF INTERESTS

Development Services Department

2406 Leopard St. Corpus Christi, TX 78408 | Phone: 361.826.3240 | platapplication@cctexas.com

City of Corpus Christi Ordinance 17112, as amended, requires all persons or firms seeking to do business with the City to provide the following information. Every question must be answered. If the question is not applicable, answer with "NA".

NAME: Infra Tech Ventures, LLC

STREET: 5821 Ocean Drive

CITY: Corpus Christi

ZIP: 78412

FIRM is: ☐ Corporation ☐ Partnership ☒ Sole Owner ☐ Association ☐ Other _____

DISCLOSURE QUESTIONS

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm".

Name

Job Title and City Department (if known)

N/A

N/A

2. State the names of each "official" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm".

Name

Title

N/A

N/A

3. State the names of each "board member" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm".

Name

Board, Commission, or Committee

N/A

N/A

4. State the names of each employee or officer of a "consultant" for the City of Corpus Christi who worked on any matter related to the subject of this contract and has an "ownership interest" constituting 3% or more of the ownership in the above named "firm".

Name

Consultant

N/A

N/A

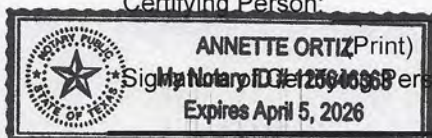
CERTIFICATE (To Be Notarized)

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Corpus Christi, Texas as changes occur.

Certifying Person:

AJIT DAVID

Title: OWNER / MEMBER



Signature of Certifying Person: [Signature]

Date: MAR. 11, 2025

Annette Ortiz

Approved Dune Protection Permit



Date: Wednesday, February 26, 2025

From: Nueces County Coastal Parks

To: Infra Tech Ventures
Attn: Ajit David
5821 Ocean Drive
Corpus Christi, Texas 78412
Email: ajitdavid@gmail.com

RE: Approval of the Exemption Request for Dune Impact Compensation for Violations - Mustang Island Section 2 Block 1 Lot 52 11.82 acres - DPP-04062023-na.

The subject project request has been reviewed and compensation activities for the subject project have been approved. After review by the appropriate agencies Nueces County has determined that a Dune Protection Permit is required and approved for the project as summarized below. A copy of the application, the cease-and-desist letter from the County, the notice of non-compliance from The Texas General Land Office (GLO), a copy of the GLO's comments on the application, the judge's letter to the GLO, and BMAC's memo to the judge are attached to this letter of approval.

Project Summary:

The project is compensation for impacts that have already occurred to critical dunes. The applicant's contractor impacted dunes and dune vegetation without authorization. The violation resulted in unpermitted impacts to approximately 426 cubic yards (cy) and 10,117 square feet (sq ft) of dune and dune vegetation landward of the 350-ft building setback line and seaward of the 1,000-ft dune protection line on the approximately 11.82-acre property located at Mustang Island Section 2 Block 1 Lot 52 State Highway 361.

The proposed on-site compensation for the violation includes construction of a new dune and revegetating the new dune. The proposed dune compensation area is approximately 235 feet landward of the MHW line and 100 feet landward of the October 14, 2024, line of vegetation. The proposed dune compensation area is situated entirely seaward of the 1,000-ft dune protection line and shaped such that the resulting compensation dune volume is a one-to-one ratio (1:1) with the impacted critical dune volume. The compensation area will be formed using mechanical equipment and sand fences or other approved method of dune restoration as appropriate. Reconstruction of critical dunes shall be achieved in the compensation area with no disturbance to adjacent unimpacted critical dunes. The sand to be utilized for compensation shall be from an offsite source that meets GLO standards listed in the conditions below. Successful re-vegetation

is required to have occurred within 3 years from the date of the beginning of the mitigation. A full description of the impacts and compensation plan is included in the attached application.

Approval Conditions:

1. Any sand, soil, sediment, or dredged spoil deposited seaward of the dune protection line must be of an acceptable mineralogy or grain size as compared to the sediments found onsite.
2. Fill material must be clean and free of debris and free of toxic materials listed in Title 40 of the CFR, § 302.4, in concentrations which are harmful to people, flora, and fauna as determined by applicable requirements for toxicity standards established by the local, state, and federal governments.
3. Comply with all rules and regulations of the Nueces County Beach Management Plan and the GLO, and The Joint Erosion Response Plan for Nueces County and the City of Corpus Christi.
4. Upon receipt of this approval, you shall notify the County of the planned schedule for construction. This includes a notice at least 10 working days prior to starting construction, significant construction schedule updates, and the end of construction.
5. Before construction commences, the applicant must apply for and obtain a Beachfront Construction Certificate from the City of Corpus Christi. Should the requirements to obtain a certificate from the City of Corpus Christi result in a material change to the proposed activities, the applicant must obtain a new or amended Dune Protection Permit from Nueces County.
6. The applicant does not propose to adversely impact dunes or dune vegetation, but the compensation construction will occur near critical dunes. The applicant must take measures to avoid adversely impacting dunes and dune vegetation during construction, such as, temporarily installing silt fencing adjacent to the critical dune area to prevent construction equipment or materials from being placed in critical dune areas. Applicant understands that any unauthorized adverse impacts to dunes or dune vegetation are in violation of the Dune Protection Act and may be subject to enforcement action by Nueces County and the GLO, which may include administrative penalties of \$50 to \$2,000 per violation per day.
7. The proposed project must not result in the potential for increased flood damage to the property or adjacent property, result in runoff or drainage patterns that aggravate erosion, cause significant changes to dune hydrology, adversely affect dune complexes or dune vegetation, or significantly increase the potential for washovers or blowouts to occur.
8. The proposed construction activities must minimize impacts on natural hydrology and not cause erosion of adjacent properties or critical dune areas.
9. Ensure the proposed construction is consistent with FEMA minimum requirements or with the FEMA approved local ordinance.

10. The Nueces County Commissioners approved this application with the condition that the applicant provides a construction monitor while the compensation dune is constructed. Prior to beginning construction, you must provide the monitors contact information to the county.


This approval is valid for three (3) years from the date of issuance. 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, this project shall not be eligible for renewal but will require the application for a new permit.

The County and GLO reserves the right to access the property to inspect and monitor the permitted activity during construction and until expiration of the dune protection permit. If at any time the County finds that the activity is not consistent with the conditions of this permit, the County may order the activity to cease until a plan for compliance is agreed upon.

Within thirty (30) days of completion of this project, submit to the County an affidavit signed and sealed by your engineer, architect, geologist, or surveyor licensed in the State of Texas. The affidavit must attest that the provisions of this approval have been met, and that the permitted work has been completed. The County will then verify that the provisions have been met and will send a letter of acceptance or rejection of the attestation to you for initial construction then will monitor the compensation area until it has revegetated and is similar to adjacent unaffected dunes. Once the compensation dune is restored similar to adjacent unaffected dunes the county and GLO will conduct a final site visit and issue a letter confirming that the compensation for violation is complete. This may take place 1 to 4 years after initial construction is complete.

Attachments

1. Application
2. GLO Letter to the Judge
3. Judge's Letter to GLO
4. BMAC Memo


2-26-25

Application

November 4, 2024

The Honorable Connie Scott
County Judge Nueces County
901 Leopard Street,
Corpus Christi, Texas 78401

Re: DPP-04062023-NA—Request for Dune Protection Permit, Large Scale Construction Project,
Mustang Island Section 2, Block 1, Lot 52, Port Aransas Texas 78373

Dear Judge Scott,

On July 13, 2023, the applicant (Infra Tech Ventures, LLC) received approval from Nueces County for an exemption request and a no dune protection permit-required request DPP-04062023 for wetland fill activities at Mustang Island Section 2, Block 1, Lot 52 (property). An approved beachfront construction certificate from the City of Corpus Christi (City) was received on November 6, 2023, BD8043. Work associated with these approvals included the placement of 2,000 cubic yards (cy) of material in 104,153 square feet (sf) of wetlands between the 1,000-foot dune protection line and the 350-foot building setback line and the placement of 504 cy of material in 12,588 sf of wetlands seaward of the 350-foot building setback line.

Following approval by the County and City, the applicant initiated work on approximately February 26, 2024. The applicant received notices from the Texas General Land Office (GLO) and the County related to violations of the Texas Natural Resources Code (TAC) §§ 61.013(b) and 63.091, 31 TAC §§ 15.3(s)(l)(A-B) and 15.3(s)(3), and Nueces County Beach Management Plan § II(E). These notices included a cease and desist order issued by the County on March 21, 2024, and a Notice of Noncompliance issued by Texas GLO on March 26, 2024. Within Texas GLO's Notice of Noncompliance, Texas GLO indicated that 426 cy of dunes and 10,117 sf of dune vegetation were adversely impacted by the wetland fill activities. No site activities have occurred since receipt of the Texas GLO and County notices.

Upon receipt of the Texas GLO and County notices, the applicant contracted Anchor QEA and BFS to assist with resolving the violations. On April 19 and 20, 2024, Anchor QEA and the applicant met with Texas GLO, the County, and the City to review the violations and determine the appropriate corrective actions. Based on the results of the meeting, the applicant agreed to develop an on-site dune mitigation/compensation plan that offset 426 cy of dune and 10,117 sf of dune vegetation impacts. The applicant and their agent worked collaboratively with Texas GLO and County staff to develop an acceptable mitigation/compensation plan to resolve this issue. An application was developed based on the meeting and was submitted to the County for review on June 5, 2024. The

application was reviewed by Nueces County Beach Management Advisory Committee's (BMAC) at their July 17, 2024, meeting. During the BMAC meeting, the committee voted unanimously to not recommend approval and recommended the applicant revise the application for mitigation in place to return the dune volume and vegetation to its location prior to the violation occurring and bring it back for BMAC review. The judge sent a letter to GLO requesting their review of the application on August 16, 2024. And the GLO provided their comments on September 17, 2024. The project was placed on the October 2, 2024 Nueces County Commissioners Court meeting and was tabled at the meeting to review the concerns of BMAC. Due to the concerns from BMAC the commissioners requested that the applicant meet with the county, BMAC chair, and Commissioner Brent Chesney before bring the application back to the commission for review.

A meeting was held on October 10, 2024, with the applicant, adjacent landowners, County staff, BMAC Chair Cliff Schlabach, Commissioner Brent Chesney, Anchor QEA, and BFS to discuss options for in-place mitigation and the potential relocation of the previously proposed compensation dune. A compensation change was discussed to reinforce the existing dunes parallel to the beach. After examining existing topography, it was decided that this change to the compensation plan will provide continuation of the existing dune system on the site and would minimize vegetation disturbance by utilizing already approved permit areas. The compensation dune was aligned to the 9-ft contour (critical dune elevation for this lot) to raise a low area on the landward side of critical dunes and to provide a continuation of the existing dune system. Additionally, the applicant will provide a construction monitor while equipment is onsite. This measure will help ensure compliance with permit requirements and prevent further violations.

Enclosed for your review is a completed Large Scale Construction Project Application for Dune Protection Permit Form (Appendix A), and dune compensation plan (Appendix B). Beachfront Construction Certificate (BCC) application will be submitted upon DPP approval and will be obtained prior to construction.

We appreciate your assistance in resolving this matter. Please do not hesitate to contact me directly if you have any questions or require additional information.

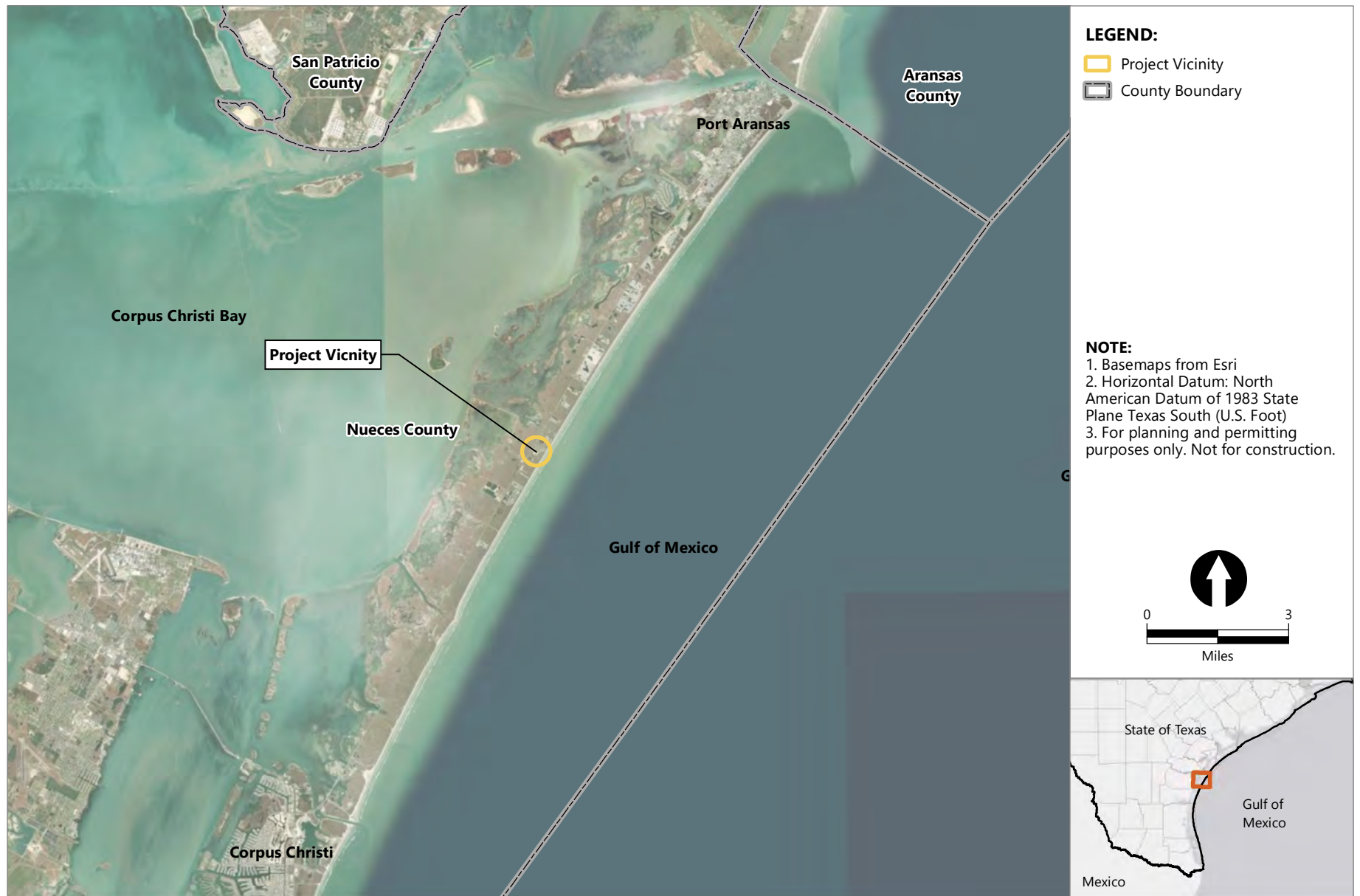
Sincerely,
Nicole Guigou, PhD
Environmental Scientist
BFS

cc: Ajit David, Infra Tech Ventures
Michelle Culver, Texas General Land Office
Natalie Bell, Texas General Land Office
Scott Cross, Nueces County Coastal Parks
Chris Belaire, Anchor QEA
John Bell, Wood, Boykin & Walter

Attachments

Figure 1	Vicinity Map
Figure 2	Grading and Layout Plan
Figure 3	Site Map
Appendix A	Large Scale Construction Project Application for Dune Protection Permit Form
Appendix B	Dune Compensation Plan

Figures



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Figure 1
Vicinity Map

Dune Protection Permit and Beachfront Construction Certificate Application
 Infra Tech Ventures Dune Mitigation (DPP-04062023-NA)



Figure 2 - Grading and Layout Plan

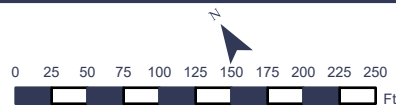


FIGURE 2 - GRADING AND LAYOUT PLAN
AJIT DAVID DUNE VIOLATION COMPENSATION
NUECES COUNTY, TEXAS
DPP-04062023



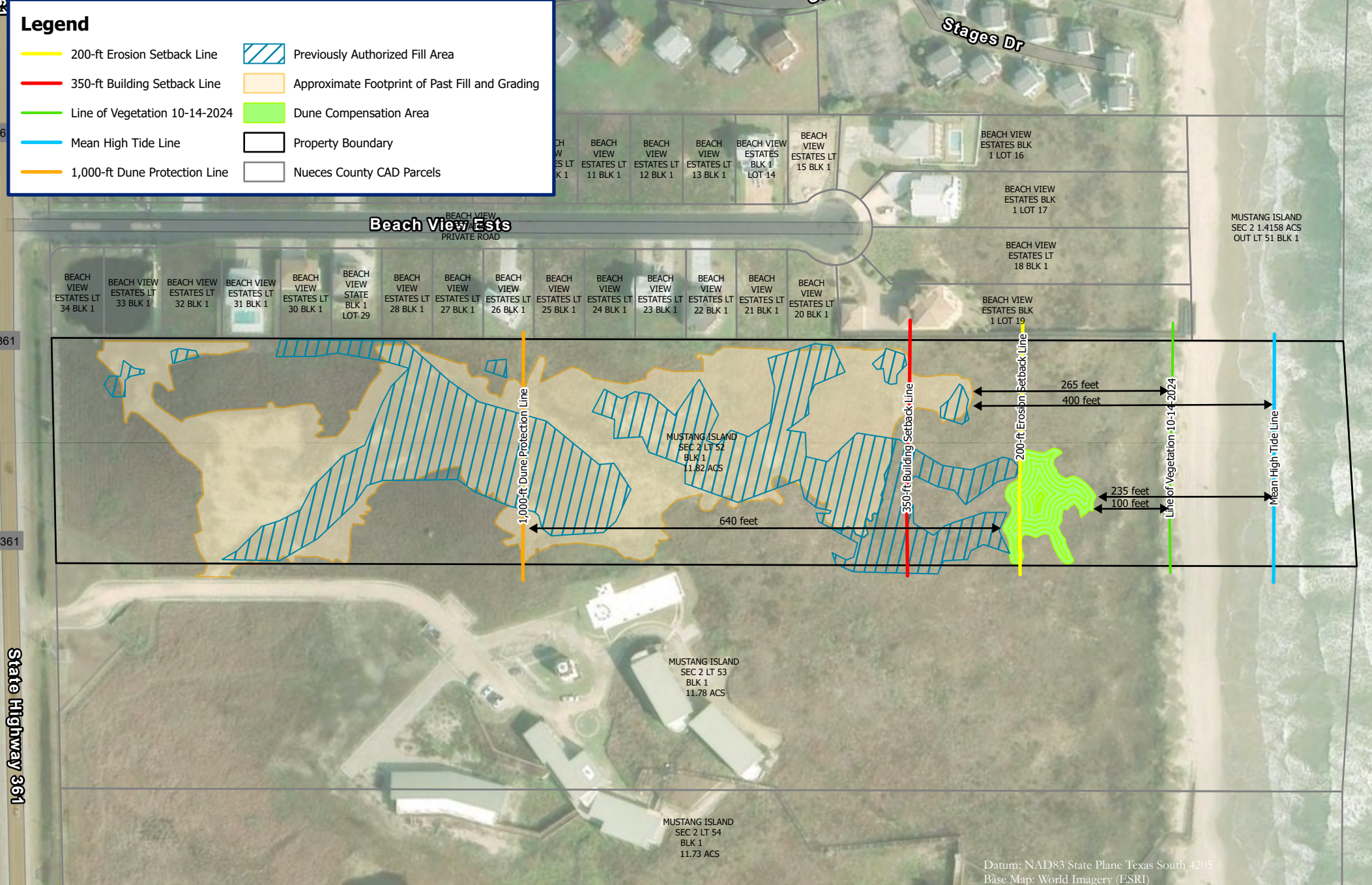


Figure 3 - Site Map



FIGURE 3 - SITE MAP
AJIT DAVID DUNE VIOLATION COMPENSATION
NUECES COUNTY, TEXAS
DPP-04062023



Appendix A
Large Scale Construction Project
Application for Dune Protection Permit
Form

Nueces County Dune Protection Permit Program

Large Scale Construction Project Application for Dune Protection Permit

Infra Tech Ventures Dune Violation Compensation Plan – DPP-04062023

1. Name, address, phone number, email contact and, if applicable, fax number of the applicant, agent, and the property owner, if different from the applicant.

Property Owner/Applicant:

Ajit David
Infra Tech Ventures, LLC
5821 Ocean Drive
Corpus Christi, Texas 78412
361-455-1873
ajitdavid@gmail.com

Agent:

Nicole Guigou
Balcones Field Services, LLC
10201 S. Padre Island Dr #210
Corpus Christi, TX 78418
423-432-1940
nguigou@bfsusa.com

2. A complete legal description of the tract and a statement of its size in square feet, include the street address, if known.

Legal Description: Mustang Island Section 2, Lot 52, Block 1 11.82 ACS

Property Size: 11.8 acres

Address: The property is located along State Highway 361. However, the property does not maintain a physical address. The location of the property is provided in Figure 1.

3. The number of proposed structures and whether the structures are amenities or habitable structures.

The project associated with this dune protection permit application does not include the construction of any structures. A dune protection permit is being requested to authorize implementation of a dune compensation plan to offset past violations that occurred during wetland fill activities. The only earthwork proposed outside of the dune compensation activities is the completion of wetland fill activities landward of the 200-ft Erosion Setback line that were previously authorized by the July 13, 2023, no-permit-required and exemption approval by Nueces County (DPP-04062023-NA). No structures, including habitable structures, or amenities are proposed as part of this request.

4. The number of parking spaces.

N/A

5. The approximate percentage of existing and finished open spaces (those areas completely free of structures).

The project associated with this dune protection permit application does not include the construction of open spaces. The property is currently 100% open space and will remain 100% open space following construction of the dune compensation project.

6. Provide surface area of project that is located seaward of the 350' building setback line and provide explanation to demonstrate that every attempt has been made to minimize the use of impervious surfaces in this zone.

The project includes only dune compensation for the violation and completion of wetland fill activities landward of the building setback line authorized by the July 13, 2023, no-permit-required and exemption approval by Nueces County (DPP-04062023-NA). The overall footprint of dune compensation work seaward of the 350-foot building setback line is approximately 10,117 sf. No impervious cover is proposed.

7. The floor plan and elevation view of the structure proposed to be constructed or expanded.

The project associated with this dune protection permit application does not include the construction or expansion of any structures.

8. The approximate start date and length of the construction process.

Based on the anticipated timeline associated with obtaining a dune protection permit and a beachfront construction certificate, approval is expected to be received in December 2024. The applicant proposes to initiate earthwork activities within 45 days of final approval. To maximize project success, the applicant proposes to initiate dune vegetation restoration in February/March. Doing so provides the highest likelihood for project success because the newly established vegetation's exposure to summer heat will be reduced and seasonal precipitation will likely increase.

9. A description (including location) of any existing or proposed walkways or dune walkovers on the tract.

No existing or proposed walkways or dune walkovers occur on the site.

10. A grading and layout plan identifying all elevations (in reference to The National Oceanic and Atmospheric Administration datum), existing contours of the project area (including the location of dunes and swales), and proposed contours for the final grade.

Figure 2 provides a grading and layout plan depicting both existing (prior to past fill and grading operations) and proposed contours (approximate contours following dune compensation activities and currently existing contours following past fill and grading work). All contours are depicted in feet North American Vertical Datum of 1988 (NAVD88). Existing contours were derived from the Bureau of Economic Geology, University of Texas at Austin 2018 Light Detection and Ranging (LiDAR) data that was provided by Texas GLO on April 29, 2024. It should be noted that this LiDAR dataset was used by Texas GLO to determine the volume and surface area of unauthorized dune impacts. The proposed contours were derived from a combination of the aforementioned LiDAR data, on-site topographic surveying results recorded in March and April 2024 by Anchor QEA, and elevations proposed at dune compensation areas and areas remaining to be filled. All contours are approximate and may vary slightly based on the dynamic nature of topography at the property and the accuracy of LiDAR data.

11. Photographs of the site which clearly show the current location of the line of vegetation and the existing dunes on the tract.

Photo 1
View of Main Dune Ridge and Line of Vegetation



Photo 2
Additional View of Main Dune Ridge and Line of Vegetation



Photo 3
View of Backdune Habitat in Which Compensation Will Integrate



Photo 4
View of Impacted Area and Backdune Habitat



<p>Photo 5 View of Approximate Dune Compensation Area</p>	<p>Photo 6 Additional View of Dune Compensation Area</p>
	

12. The effects of the proposed activity on the beach/dune system which cannot be avoided should the proposed activity be permitted.

The project associated with this dune protection permit does not include any adverse impacts on the beach/dune system. The purpose for this request is to authorize dune compensation activities to offset unauthorized impacts from past fill and grading operations. The compensation dune proposed would have a positive effect on the existing dunes by providing additional dune volume and vegetation adjacent to the existing dunes.

13. If required, 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. *Mitigation is for impacts replaced in place post construction and compensation is for impacts that are replaced away from the project site.* Additional details of mitigation planning may be found in Section III.A.3. and Section IV of this order:

<https://www.nuecesbeachparks.com/home/showpublisheddocument/28600/637825918724430000>

Appendix B includes a comprehensive compensation plan detailing the methods proposed to offset previous adverse impacts to dunes and dune vegetation.

14. An accurate map or plat of the site identifying:

- (a) the site by its legal description including, where; applicable, the subdivision, block, and lot;

See Figure 3.

- (b) the location of the property lines and a notation of the legal description of adjoining tracts;

See Figure 3.

- (c) the location of the structures, the footprint or perimeter of the proposed construction on the tract;

The project associated with this dune protection permit application does not include the construction of any structure. The only activities proposed herein are the completion of wetland fill activities landward of the building setback line authorized by the July 13, 2023, no-permit-required and exemption approval by Nueces County (DPP-04062023-na) and implementation of the dune compensation plan to offset unauthorized adverse impacts to dunes and dune vegetation. See Appendix B for additional details.

- (d) proposed roadways and driveways and proposed landscaping activities on the tract;

No roadways, driveways, or landscaping is proposed. Construction equipment will access the project area from the adjacent property driveway at Mustang Island Conference Center. Using this access reduces impacts to the lot versus accessing the area from SH 361.

- (e) the location of any seawalls or any other erosion response structures on the tract and on the properties immediately adjacent to the tract; and

There are no seawalls or other erosion-response structures on the tract or on properties immediately adjacent to the tract.

- (f) if known, the location and extent of any pre-existing human modifications on the tract.

The only pre-existing modification to the tract is the footprint of past fill and grading operations. See Figure 3.

- (g) A site map which shows the location of the proposed activity and the distance between the proposed construction activity and mean high tide, the distance between the proposed construction and the vegetation line, and the distance between the proposed construction and the dune protection line. *The 350' Building Setback line is 350' landward of the vegetation line and the 1,000' Dune Protection Line is 1,000' landward of the MHW line.*

See Figure 3.

Previous fill and grading activities occurred seaward of the 1,000-ft dune protection line.

The proposed dune compensation area is approximately 235 feet landward of the MHW line and 100 feet landward of the October 14, 2024, line of vegetation. The proposed dune compensation area is situated entirely seaward of the 1,000-ft dune protection line.

15. For subdivision development, except for that authorized in an unexpired master planned development, a statement that the applicant or owner shall include the following notice on the plat: "A dune protection permit is required for any construction activity on each lot seaward of the Dune Protection Line (1,000 feet from the mean high tide line)."

N/A

16. A preliminary determination by the applicant as to whether the proposed construction complies with all aspects of the county's dune protection plan.

The proposed construction activities comply with all aspects of the county's dune protection plan. Further, the contents of this permit application have been coordinated with Nueces County and will be reviewed by Texas GLO.

17. A preliminary determination by the applicant as to how the proposed beachfront construction complies with the local government's dune protection plan and the beach access plan provisions adopted by the local government with such authority relating to public beach ingress/egress, off-beach parking, and avoidance of reduction in the size of the public beach due to erosion including, but not limited to:

- (a) evidence of the applicant's co-application to the local government with beachfront construction certification responsibility, as defined in Section 61 of the Texas Natural Resources Code, for the proposed project.

The applicant understands they will need to apply for a Beachfront Construction Certificate (BCC) from the City of Corpus Christi once the county DPP is issued.

18. The permit fees required by Section II.J of this order.

The applicant understands an application fee will need to be paid once the final project footprint is determined from review and comment by the County, Beach Management Advisory Committee, and Texas GLO. The permit fee must be paid before the County will provide an approval letter.

Large-Scale Construction

For all proposed large-scale construction, applicants shall submit the following additional items and information:

1. 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 copy of the preliminary plat of the subdivision as filed with the local government having jurisdiction over subdivision development of the site, such preliminary plat having been certified by a licensed surveyor, and a statement of the total area of the subdivision in acres or square feet;

The project associated with this dune protection permit application is not associated with a subdivision, and the applicant is not the owner or developer of a subdivision.

2. In the case of multiple-unit dwellings, the number of units proposed;

The project associated with this dune protection permit application does not include any structures or multi-unit dwellings.

3. Alternatives to the proposed location of construction on the tract or to the proposed methods of construction which would cause fewer or no adverse effects on dunes and dune vegetation; and

No construction activities outside of implementation of dune compensation activities and completion of wetland fill activities previously authorized are proposed. Consistent with Texas GLO's dune manual and Nueces County's Beach Management Plan, on-site compensation is required for offsetting unauthorized impacts to dunes and dune vegetation, where feasible. As such, off-site alternatives were not considered. The applicant proposes dune compensation methods that will avoid further impacts to dunes and dune vegetation. Dune compensation will occur in low-lying areas that lack dunes and dune vegetation. Access to these areas will be achieved by crossing disturbed areas from the adjacent property and will avoid impacting additional critical dunes. The first alternative compensation dunes proposed in the application submitted on June 5, 2024, was determined to not provide in kind dunes similar to those currently on the property and has been revised as proposed in this application. Neither alternative impacts additional critical dunes or dune vegetation.

4. the proposed activities' impact on the natural drainage pattern of the site and the adjacent lots.

While approximately 10,117 square feet of low-lying areas will be converted to dune habitat, the project is not anticipated to have any effect on natural drainage patterns at the site or at adjacent lots. The existing dune system contains a series of low-lying areas that collect surface runoff immediately following precipitation events. A majority of these low-lying areas will remain after completion of dune-compensation activities.

For all proposed construction (large and small-scale), if applicants already have the following items and information, local governments shall require the following items and information to be submitted in addition to the other information required:

- (1) a copy of a blueprint of the proposed construction, such print to indicate detailed floor plans and structural layout of the proposed project;

N/A

- .
- (2) a copy of a topographical survey of the site;

A standalone topographic survey has not been completed. However, topography of the site based on LiDAR data and field work completed in 2024 is depicted in Figure 2.

- (3) the most recent local historical erosion rate data (as determined by the University of Texas at Austin, Bureau of Economic Geology) and the activity's potential impact on coastal erosion; and

According to the University of Texas Bureau of Economics Geology, this segment of the Texas Gulf Coast has a local historical erosion rate of -0.57 meters/-1.87 feet per year from 2000 to 2019.

- (4) a copy of the FEMA "Elevation Certificate."

The applicant does not possess a FEMA Elevation Certificate.

Appendix B

Dune Compensation Plan

Memorandum

November 4, 2024

To: The Honorable Connie Scott

From: Infra Tech Ventures

cc: Michelle Culver, Natalie Bell, Texas General Land Office
Scott Cross, Nueces County Coastal Parks
Chris Belaire, Anchor QEA
John Bell, Wood, Boykin & Walter
Christine Magers, Consultant to Nueces County Coastal Parks

Re: **Dune Compensation Plan—Infra Tech Venture, LLC, State Highway 361, Port Aransas, Nueces County, Texas**

Introduction

As detailed in the March 26, 2024, Notice of Noncompliance letter received from Texas GLO, Texas GLO determined that 426 cy of dunes and 10,117 sf of dune vegetation was adversely impacted. Impacts to dunes and dune vegetation occurred on the applicant's approximate 11.8-acre property, which is located along State Highway 361 in Port Aransas, Texas (Exhibit 1). Impacts documented by Texas GLO staff occurred during the February 2024 wetland fill activities. To achieve compliance, the applicant has developed the following dune compensation plan to offset unauthorized impacts.

Consistent with the *Dune Protection and Improvement Manual for the Texas Gulf Coast – 6th Edition* (dune manual) (Texas GLO 2021), mitigation/compensation is required when dunes or dune vegetation is adversely affected by construction. As part of a dune mitigation/compensation plan, applicants must demonstrate that the mitigation sequence is followed. Based on the nature of this project, avoidance and minimization was not feasible to offset impacts because adverse impacts have already occurred. Therefore, the applicant evaluated potential dune mitigation and compensation activities to achieve compliance. Consistent with the dune manual, mitigation and compensation projects must be located as closely as possible to the area where dunes and dune vegetation were adversely affected, to provide a similar level of protection from the Gulf. Due to past grading activities, restoring dunes at the specific impact site would result in small, isolated dunes disconnected from the existing dune system. Therefore, Texas GLO and the County advised that compensation activities occur in lower elevation areas seaward of the 350-foot building setback line adjacent to the existing critical dunes on the property.

The methods for developing the dune compensation plan and procedures for constructing the project are outlined in the following section.

Dune Restoration

Design

We used a combination of computer-aided design (CAD) and geospatial information system (GIS) software, global mapper software, and desktop datasets documenting site contours prior to the impact, and survey data recorded on-site following the impact to develop specifications for dune compensation activities. Consistent with Texas GLO and County input, the applicant proposes compensation seaward of the 350-foot building setback line. The compensation dune was aligned to the 9-ft contour (critical dune elevation for this lot) to raise a low area on the landward side of critical dunes. This placement will provide a continuation of the existing dune system. Placing dune compensation in this area will further fortify the property's dune system and will result in the creation of back dune habitat similar to those that were adversely affected. In addition, the creation is a continuation of the adjacent dune based on contours (See Figure 2). Once the approximate location of dune compensation areas was selected, BFS used global mapper software to create a fill and grading plan that results in 430 cy of dune and 10,117 sf where dune vegetation will be restored.

To achieve the required 426 cy/10,117 sf requirement, the applicant proposes one continual dune compensation area to expand the dunes on the lot. The compensation area (Proposed Dune) will be constructed using 430 cy with an approximate 10,117 sf footprint and at elevations between approximately +8 and +14.5 feet NAVD88. In total, construction of the proposed dune will result in 430 cy of dunes and 10,117 sf of dune areas where dune vegetation will be restored. The cubic yard necessary to construct these dunes is slightly more than the unauthorized impacts to ensure adequate volume and surface area of critical dunes are created.

A previous grading plan developed for the dune compensation areas was coordinated with Texas GLO and County staff on April 20, 2024, and submitted in an application on June 5, 2024. Based on a meeting with the applicant, Achor QEA, BFS, County Commissioner Brent Chesney, adjacent landowners and BMAC chairperson on October 10, 2024, the compensation plan has been revised as described above and detailed below and is being sent to the Texas GLO for review. Construction of the proposed dune compensation area will result in naturally formed dunes and successfully mimic the contours of surrounding existing dunes. The plan view of the dune compensation area and a typical cross section view are illustrated in Exhibit 2.

Additionally, the applicant will provide a construction monitor on-site the entire time equipment is moving materials for this violation compensation should this application be approved.

Construction

The applicant will collaborate with the selected contractor to ensure each dune area is constructed consistent with the aforementioned detailed specifications. Fill material necessary to achieve the dune compensation plan will be sourced from ERF Real Estate, Inc. (ERF) property, which is located

on Mustang Island and is approximately 4.4 miles from the property (Exhibit 3). This source material is the same material that was approved for use during wetland fill activities. Based on a review of the *United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) Web Soil Survey* (USDA 2024), previous dunes impacted at the property are mapped as the Coastal Dunes map unit. The source property is mapped as a combination of coastal dunes and Mustang fine sand, 0- to 1-percent slopes, occasionally flooded, frequently ponded. These two map units are the most prevalent across Mustang Island and have similar color, grain size, and mineral content to other naturally occurring dunes in the area.

Prior to initiating sand import operations, the applicant will install sand fencing surrounding the dune compensation area and remaining previously authorized wetland fill areas to ensure no additional dunes or dune vegetation are impacted by the project. If it is determined feasible, the selected contractor will begin by excavating approximately 12 inches from the area to be filled landward of the 350-ft building setback line. This material will be segregated and stockpiled on-site in an area free of dune or dune vegetation and will be used during dune compensation activities. Once topsoil is excavated and stockpiled, imported sand will be transported to the site via truck and placed within the previously authorized fill footprint. Trucks will access the site via the adjacent property and the existing access point, which is located landward of the 1,000-foot dune protection line. Completion of fill activities will provide direct access to the dune compensation area. Once fill activities are complete, additional imported sand will be trucked to and placed within the dune compensation area. All access to dune compensation areas will be done by crossing the previously disturbed portions of the property while taking care not to cross other dune habitat or dune vegetation. Once all trucking and rough grading activities are complete, the contractor will complete dune construction and final grading using the previously excavated and stockpiled topsoil material. If stockpiling of topsoil is not feasible, then additional imported fill will be used to complete final grading and construction of 430 cy of dune features. Upon completion of all earthwork activities, the contractor will be required to repair any rutting prior to demobilizing from the site. Silt fences will remain in place until fill areas have sufficiently stabilized (i.e., vegetated).

The applicant will collaborate with the selected contractor to ensure that the fill and grading plan is accurately achieved. This will be achieved by the use of grade-control excavator or by real-time survey support. If the selected contractor has grade-control capabilities, the contractor will follow the 3D surface for each dune compensation area. If grade control capabilities are not available, surveyor-grade GPS equipment will be used to ensure all proposed elevations are met.

Additionally, the applicant will provide a construction monitor while equipment is onsite. This measure will help ensure compliance with permit requirements and prevent further violations.

Dune Vegetation Restoration

Design

Consistent with the dune manual, the square footage of dune vegetation in a compensation project must be the same square footage of the area adversely affected. As detailed earlier, construction of the continuous dune compensation area results in 10,117 sf for a newly constructed dune area. Restoring vegetation in the compensation area meets the 10,117-sf requirement established by Texas GLO. Methods proposed for restoring dune vegetation are consistent with the dune manual.

Past survey results were relied upon in combination with Texas GLO guidance to determine the target species for dune compensation areas. Dune areas previously disturbed were positioned on the landward portion of the site in backdune habitat. Based on past survey results and experience in the region, species typically occupying these habitats include saltmeadow cordgrass (*Spartina patens*), gulf dune crown grass (*Paspalum monostachyum*), little false bluestem (*Schizachyrium scoparium*), and bushy bluestem (*Andropogon glomeratus*). Additional species identified in the dune manual include bitter panicum (*Panicum amarum*), sea oats (*Uniola paniculata*), beach morning glory (*Iopomea pes-carpa*), sea purslane (*Sesuvium portulacastrum*), seashore dropseed (*Sporobolus virginicus*), and seashore paspalum (*Paspalum vaginatum*). Bitter panicum, sea oats, beach morning glory, and sea purslane are more closely associated with frontal dune habitats and higher elevations associated with the main dune ridge; therefore, the applicant proposes to focus revegetation efforts to saltmeadow cordgrass, bluestem, and *Paspalum* species.

To achieve dune vegetation restoration objects, the applicant proposes to use a combination of topsoil segregation and installation, native hay material installation, and live root planting. Topsoil material will be sourced from the property in areas yet to be filled (12,413 sf). Based on past surveys, this area contains species consistent with dune habitat and those targeted for compensation activities. To the extent practicable, the applicant will use native material and living plants sourced from the property following the Texas GLO's Dune Protection Manual (6th Edition). It is possible, due to the extent of disturbed areas, that the property may not have adequate areas to meet vegetation needs. To address these potential shortages, the applicant is in negotiation with several nearby landowners to support the project. The applicant will harvest living plants or obtain hay material from the property itself and other Mustang and Padre Island property. Exhibit 3 shows additional properties that the applicant is negotiating with for obtaining project materials. Harvesting of plants, if needed, would be conducted following the Texas GLO's Dune Protection Manual (6th Edition).

Vegetation restoration objects will be achieved by using segregated topsoil from areas yet to be filled. This topsoil will be used to achieve final grading within the dune compensation area and will provide valuable seed bank and soil nutrients to promote vegetation establishment. If necessary and following topsoil placement and final grading, the applicant will spread a surface layer of hay atop the constructed dune. Hay will then be embedded into the sand material substrate. Embedding hay

serves multiple benefits in that it stabilizes the dune, helps combat wind erosion, promotes future accretion from windblown sand, and promotes propagation of the seed bank. It should be noted that segregated topsoil containing past plant material will likely reduce the hay needs for the newly constructed dune. The location and quantity of hay material will be adjusted based on site conditions and will be focused on areas that lack previous plant material. Once hay material is installed, the applicant will install live-root plants on approximately 2-foot centers. Installing plants on two-foot centers across the approximately 10,117-sf area will result in approximately 2,900 plants.

The property is currently unimproved and does not have reasonable access to freshwater. The most reasonable means for irrigating the dune compensation area would be via water trucks. To avoid impacts associated with water trucks traversing the site numerous times per watering event, the applicant does not propose irrigation at this time. Plant installation has been strategically planned for cooler Winter and Spring months that on average experience wetter hydrologic conditions. This timing reduces the need for post-planting irrigation. If it is determined during post-construction monitoring that plants do not successfully establish, irrigation options will be evaluated and coordinated with Texas GLO during adaptive management plan development.

Construction

In preparation for vegetation restoration, the applicant will identify and harvest suitable native hay material on site or from a suitable off-site location. Hay material will be baled in approximate 60-pound bales so that they can be easily transported to the site and spread through the dune compensation area without requiring heavy equipment. As previously discussed, topsoil originating from the property will be used to achieve final grading at the dune compensation area. Once earthwork is complete, the project team will evaluate the necessity for surface hay installation and modify the revegetation plan, as appropriate. The use of native hay may be negated entirely or reduced to areas lacking sufficient plant material. If determined necessary, the applicant will install native hay material across the dune compensation area that lacks embedded plant material in topsoil material. Hay will be applied at a maximum rate of 4,800 pound/acre, which equates to an approximate 2- to 3-inch thickness, unless a reduced rate is determined appropriate. Hay material will then be embedded in the sand material using either hand tools or a lightweight discing attachment pulled by an all-terrain vehicle. After installation, hay material may be watered to further stabilize the area and to promote seed bank propagation.

Following hay installation, the applicant will harvest living plants on site or from nearby properties. All harvest activities will be conducted consistent with relevant guidelines. Existing stands of healthy, vigorous plants exhibiting 100% coverage will be identified. Within fully vegetated areas, one 6-inch plug per square meter will be removed. Plugs will be removed using a post-hole digger, sharpshooter shovel, or similar. Harvested plugs will then be placed into tubs for transport. To the extent practicable, tubs containing harvested plants will remain moist. Harvested plants will then be

transported to the dune compensation area and installed on 2-foot centers. Plants containing fully intact root systems will be installed using shovels, dibble bars, or similar such that the plant roots achieve an adequate depth. Holes in which plants are placed will then be backfilled and gently compacted such that plants remain erect. Following installation, plants will be hand-watered to promote establishment. It is anticipated that permit issuance and earthwork will not be completed until at minimum the winter of early portion of 2025 (February/March). This anticipated timing is desirable for planting activities because hot and dry summer months will be avoided.

As previously discussed, irrigation beyond initial plant installation is not proposed. However, if dune vegetation does not succeed, the applicant will evaluate potential irrigation options as part of adaptive management.

Dune Compensation Timing and Monitoring

Earthwork and native hay installation associated with the dune compensation will commence within 45-days of permit and beachfront-construction certificate approval. Plant installation will commence immediately following hay installation. Planting efforts will occur in the early portion of 2025 (February/March) thus avoiding seasonally hot and dry months and maximizing the likelihood for successful plant establishment. Overall, implementation of the dune compensation project is expected to take less than 90 days.

Following construction, the applicant will conduct a topographic survey of the dune compensation area to document that a minimum of 426 cy of dune habitat have been achieved and that proposed contours have been met. The dune compensation area will also be monitored for a period of time to show compliance with the dune protection permit, as well as successful revegetation. The applicant proposes to conduct monitoring events at 3, 6, 12, 24, and 36 months, unless success criteria are met prior to 36 months and Texas GLO and the County concur that compensation has been adequately achieved. It should be noted that additional off-schedule monitoring events may be conducted if it is determined that 1:1 compensation has been achieved between the previously detailed monitoring schedule. During monitoring events, the applicant will evaluate the dune compensation area using photographic documentation. The overall percent coverage will also be assessed using a one-meter quadrat. Three quadrat locations will be evaluated in the compensation area. Results, including photography and estimates of percent coverage, will be summarized in a brief monitoring memorandum and will be provided to the County for review.

It is anticipated that the combination of natural recruitment via the use of topsoil material and native hay/live plant installation will successfully meet revegetation requirements within two growing seasons. If revegetation does not occur, the applicant will evaluate and coordinate suitable adaptive management approaches (i.e., soil amendments, additional planting, additional native hay installation, and hydroseeding) with the County to determine next steps.

Conclusion

The contents herein summarize relevant details of the proposed dune compensation project. It is the applicant's belief that this plan will adequately achieve all dune and dune vegetation compensation requirements. Execution of this plan will result in a minimum of 426 cy of dunes and 10,117 sf of dune vegetation. The applicant greatly appreciates the assistance received from Texas GLO, the County, and the City throughout development of this plan. The applicant is eager to achieve compliance and resolve the violation.

The applicant will notify adjacent landowners at least 10 days prior to the commissioners court meeting. Table 1 provides a list of adjacent landowners. Figure 3 depicts the legal description and property ID for each adjoining property listed in Table 1.

Table 1
Adjoining Property Owners

Property ID	Owner Name	Mailing Address
200111982 200111980 503055	Beach View Estates Owners Association	211 Costa Bella Drive Austin, Texas 78734-2662
200111958	Bradley & Anita Biber	544 Aviator Drive Fort Worth, Texas 76179-5434
200111968	Carmer C Canto	166 Shoalwater Way Rockport, Texas 78382-2331
200111976	Gary & Holly Daniel	153 Beach View #237 Port Aransas, Texas 78373-5058
271289	Episcopal Church Corp Inc	P.O. Box 6885 San Antonio, Texas 78209
200111970	Ivaylo & Haristina Georgieva	2205 Granger Lane Cedar Park, Texas 78613-5719
200111960	James, Mary & Charleen Handzel	121 Beach View Port Aransas, Texas 78373-5058
200111966	Machseh Properties LLC	5606 Ivory Mist Lane Houston, Texas 77041-6690
200111972	Leon & Virginia Matula	511 East Mayfield Street Karnes City, Texas 78118-2949
200111974 200111956	Pietrobon Children's Management Trust	W/Rosella Segreti, Trustee 5916 Sterling Drive Colleyville, Texas 76034-7631
200111964	Koushik Shaw	2909 Waterbank Cove Austin, Texas 78746-4136
200111962	Shyamali Shaw	27 Great Lakes Drive Corpus Christi, Texas 78413-5817
200111954 200111952	Ronald Wolfe & Pamela Burda-Wolfe	105 Beach View Port Aransas, TX 78373

References

Texas General Land Office, 2021. *Coastal Dunes Dune Protection and Improvement Manual for the Texas Gulf Coast—6th Edition*.

Memorandum

November 4, 2024

Dune Compensation Plan Exhibit

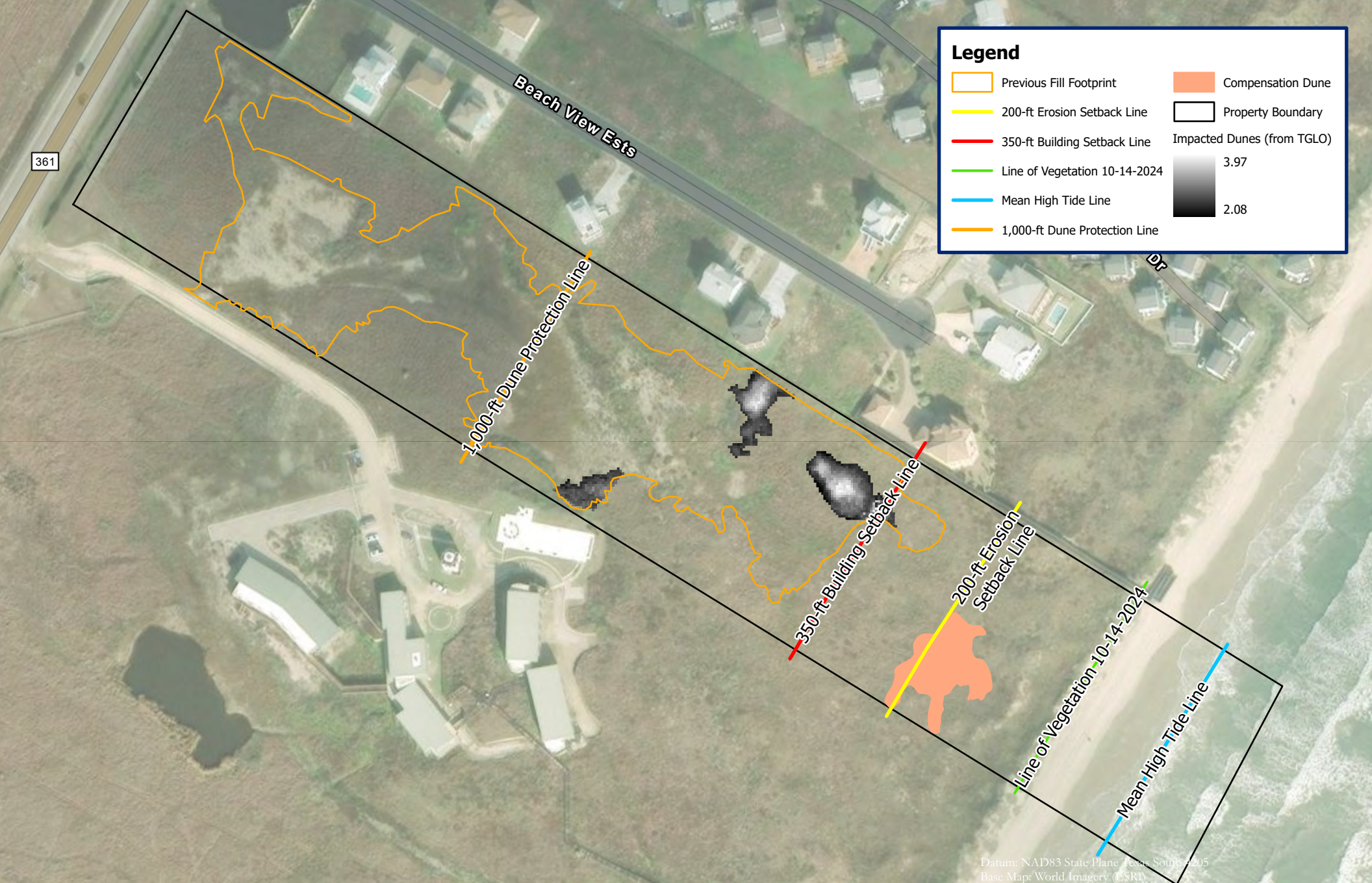


Exhibit 1 - Project Location Map



EXHIBIT 1 - PROJECT LOCATION MAP
AJIT DAVID DUNE VIOLATION COMPENSATION
NUECES COUNTY, TEXAS
DPP-04062023



Legend

- Cross Section A
- 200-ft Erosion Setback Line
- 350-ft Building Setback Line
- Line of Vegetation 10-14-2024
- Mean High Tide Line
- 1,000-ft Dune Protection Line
- Compensation Dune
- Property Boundary
- 1ft Contours from 2018 LiDAR
- Future Fill and Grading Footprint
- Impacted Dunes (from TGLO)
- 3.97
- 2.08

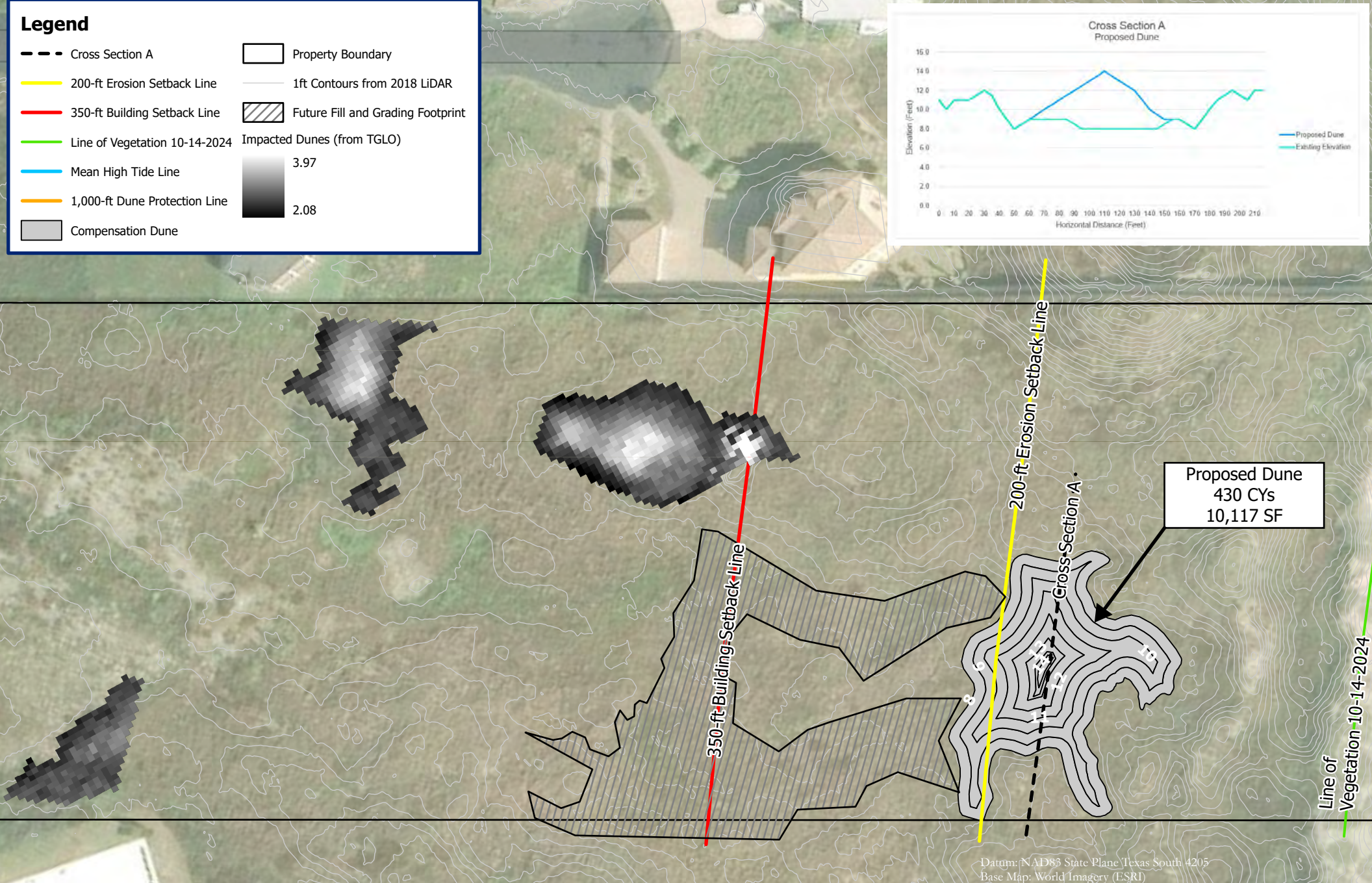
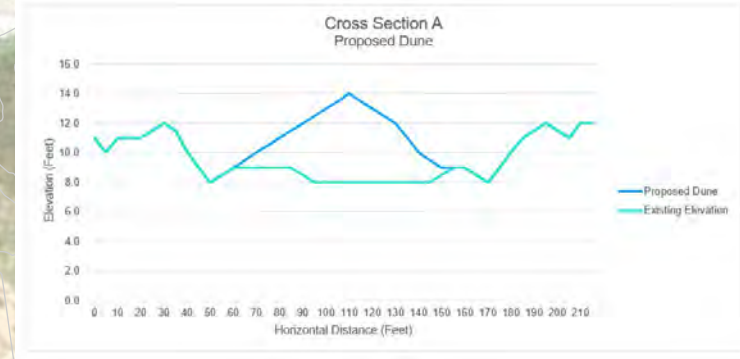


Exhibit 2 - Compensation Dune

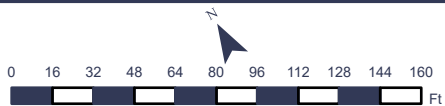
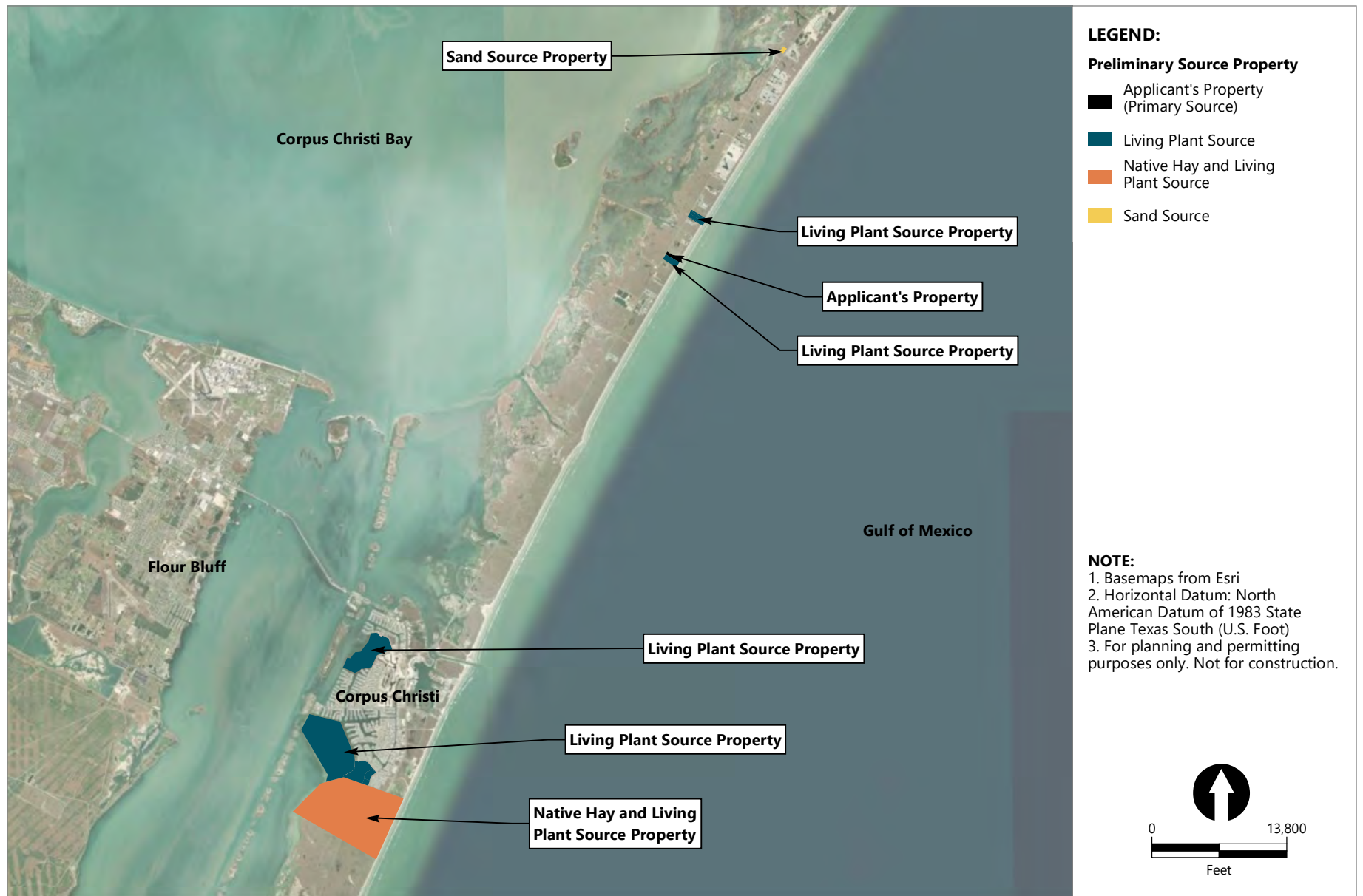


EXHIBIT 2
AJIT DAVID DUNE VIOLATION COMPENSATION
NUECES COUNTY, TEXAS
DPP-04062023





Publish Date: 2024/06/03, 4:39 PM | User: cbelaire
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Exhibit 3 Location of Preliminary Properties for Source Material

Dune Mitigation Plan
 Infra Tech Ventures Dune Mitigation (DPP-04062023-NA)

GLO Letter to the Judge



TEXAS GENERAL LAND OFFICE
COMMISSIONER DAWN BUCKINGHAM, M.D.

November 12, 2024

Via Electronic Mail

The Honorable Judge Connie Scott
Nueces County Judge
901 Leopard Street, Room 303
Corpus Christi, Texas 78401-3697

Application for a Dune Protection Permit in Nueces County

Site Address: 6981 SH 361, Corpus Christi
Legal Description: Mustang Island Sec 2 Lot 52 Block 1 11.82 ACS
Lot Applicant: Ajit David (Infra Tech Ventures)
County ID No.: DPP-04062023-na
GLO ID No.: BDNC-24-0157a

Dear Judge Scott:

The General Land Office has reviewed the amended application materials for a Dune Protection Permit for the above-referenced location. The applicant adversely impacted 426 cubic yards of dunes and 10,117 square feet of dune vegetation seaward of the Dune Protection Line without a Dune Protection Permit or Beachfront Construction Certificate, for which a cease-and-desist letter was issued by the County and a Notice of Noncompliance was issued by the GLO on March 26, 2024. The applicant previously proposed an on-site compensation area with 668 cubic yards of dunes and 10,117 square feet of dune vegetation. The applicant now proposes to move the compensation further seaward and an on-site compensation area with 430 cubic yards of dunes and 10,117 square feet of dune vegetation. The compensation area is located seaward of the Building Setback Line. According to the Bureau of Economic Geology, the area is eroding at a rate of three to five feet per year.

Based on the materials forwarded to our office for review, we have the following comments:

- All previous comments and requirements in the GLO comment letter BDNC-24-0157 still apply and are enforceable under the law.
- Before compensation proposed in this application commences, the applicant must apply for and obtain a Beachfront Construction Certificate from the City of Corpus Christi. Should the requirements to obtain a certificate from the City of Corpus Christi result in a material change to the proposed activities, the applicant must obtain a new or amended Dune Protection Permit from Nueces County.¹

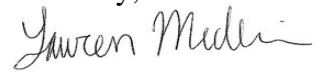
¹ 31 Tex. Admin. Code §§ 15.2(46) & § 15.3(t)(4).

November 12, 2024

Page 2 of 2

If you have any questions, please contact me at (512) 463-5234 or at lauren.medlin@glo.texas.gov.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Medlin".

Lauren Medlin
Beach Access & Dune Protection Program
Coastal Resources Division
Texas General Land Office

Judge's Letter to GLO



CONNIE SCOTT
NUECES COUNTY JUDGE

Date: Friday, August 16, 2024

From: Nueces County Judge Connie Scott

To: Lauren Medlin
Beach Access & Dune Protection program
Texas General Land Office

RE: Request for Review - Exemption Request for Compensation for Violations for DPP-04062023-na – Mustang Island Section 2 Block 1 Lot 52

The Nueces County Coastal Parks Department (Coastal Parks), the Nueces County Beach Management Advisory Committee (BMAC), and I have reviewed the subject application. Coastal Parks and I have determined that the proposed project to resolve violations for unauthorized impacts to critical dunes and critical dune vegetation meets county and state requirements for a large-scale dune construction project and requirements for an exemption request. The proposed project is on-site dune compensation related to the unauthorized impacts to 426 cubic yards (CY) of critical dunes and 10,117 square feet (SF) of critical dune vegetation. The compensation areas proposed are seaward of the 350' Building Setback Line on the property identified as Mustang Island Section 2 Block 1 Lot 52. A description of the project is summarized below and is more fully described in the attached application. Also attached are letters from Coastal Parks and BMAC summarizing their reviews and recommendations. We request your formal review of the application.

Project Description:

The applicant, Ajit David, and their agent, Chris Belaire, submitted a Dune Protection Permit Application (DPP-04062023-na) for the construction of compensation for unauthorized work associated with previously permitted activities. Following DPP approval by the County and BCC approval by the City for wetland fill, the applicant initiated work on approximately February 26, 2024. The applicant received notices from the Texas General Land Office (GLO) and Coastal Parks related to violations of the Texas Natural Resources Code (TAC) §§ 61.013(b) and 63.091, 31 TAC §§ 15.3(s)(1)(A-B) and 15.3(s)(3), and Nueces County Beach Management Plan § II(E). These notices included a cease and desist order issued by the County on March 21, 2024, and a Notice of Noncompliance issued by GLO on March 26, 2024. Within GLO's Notice of Noncompliance, they indicated that 426 cubic yards (CY) of dunes and 10,117 square feet (SF) of dune vegetation had been impacted without authorization. The applicant agreed to develop an on-site dune compensation plan that offsets the 426 CY of dune and 10,117 SF of dune vegetation impacts. The compensation would be located seaward of the 350' building setback line adjacent to the existing dune system on the project property. The applicant's agent worked

collaboratively with GLO and County staff in development of this compensation plan to resolve the violation.

Nueces County has reviewed the application and has made a preliminary determination that the proposed construction complies with all aspects of the Nueces County Beach Management Plan.

Application Timeline:

An administratively complete application for an exemption request for a large-scale construction dune protection permit for the project was received by Nueces County Coastal Parks Department on June 5, 2024. The application was reviewed by the Beach Management Advisory Committee (BMAC) at their July 17, 2024, meeting. During the BMAC meeting, the committee voted unanimously to not recommend approval and recommended the applicant revise the application for mitigation in place to return the dune volume and vegetation to its location prior to the violation occurring and bring it back for BMAC review.

Recommendation:

As Nueces County Judge, I have determined that the proposed activity is consistent with the requirements of the Nueces County Beach Management Plan. I request that the GLO review this recommendation for approval of the exemption request and issue a letter of response. If you have any questions, please contact Christine Magers at (214) 460-5962 or Scott Cross at (361) 960-6302.

Sincerely,



Connie Scott
Nueces County Judge

Attachment:

Coastal Parks Letter to Judge

BMAC Memo to Judge

Application - Mustang Island Section 2 Block 1 Lot 52 - Nueces County Dune Protection

Large-Scale Project Permit Exemption Request - DPP-04062023-na

BMAC Memo

DATE: August 14, 2024

TO: Connie Scott, County Judge

CC: Scott Cross, Nueces County Coastal
Parks Department

FROM: Cliff Schlabach, BMAC Chair

RE: Request for Review of Dune Protection Permit Exemption for Dune Impact Violations-
Mustang Island Section 2 Block 1 Lot 52 11.82 acres - DPP-04062023-na

An application request for the subject project has been reviewed by the Nueces County Beach Management Advisory Committee (BMAC) and Nueces County Coastal Parks Department (Coastal Parks). After confirming the application request is administratively complete it was placed on the agenda for review by the BMAC committee at a regular meeting on Wednesday July 17, 2024, at 2:00 P.M., at the Padre Balli Briscoe King Pavilion, 15820 Park Road 22, Corpus Christi, Texas 78418. A quorum of BMAC members, the applicant, the applicant's agent, County Parks representatives, and members of the public were present for discussion and review of the application. BMAC voted unanimously to **not recommend** approval of the application. A summary of the subject project and additional information on the recommendations of BMAC is provided below.

Project Description:

The applicant, Ajit David, and their agent, Chris Belaire, submitted a Dune Protection Permit Application (DPP-04062023-na) for the construction of compensation for unauthorized work associated with previously permitted activities by applicant, Ajit David. Following DPP approval by the County and BCC approval by the City for wetland fill, the applicant initiated work on approximately February 26, 2024. The applicant received notices from the Texas General Land Office (GLO) and Coastal Parks related to violations of the Texas Natural Resources Code (TAC) §§ 61.013(b) and 63.091, 31 TAC §§ 15.3(s)(1)(A-B) and 15.3(s)(3), and Nueces County Beach Management Plan § II(E). These notices included a cease and desisted order issued by the County on March 21, 2024, and a Notice of Noncompliance issued by GLO on March 26, 2024. Within GLO's Notice of Noncompliance, they indicated that 426 cubic yards (CY) of dunes and 10,117 square feet (SF) of dune vegetation had been impacted without authorization. The applicant agreed to develop an on-site dune compensation plan that offsets the 426 CY of dune and 10,117 SF of dune vegetation impacts. The compensation would be located seaward of the 350' building setback line adjacent to the existing dune system on the project property. Anchor QEA, the applicant's agent, worked collaboratively with GLO and County staff in development of this compensation plan to resolve the violation.

Recommendation:

BMAC voted unanimously to **not recommend** approval of this exemption request for on-site dune compensation. The decision to not recommend is based on the following concerns:

- The proposed plan is for compensation in a new location on the property seaward of the 350' Building Setback Line. The committee believes that they should be looking at dune mitigation in place that would be landward of the 350' Building Setback Line, rather than dune compensation in a new location seaward of the 350' Building Setback Line.
- For the original application for wetland fill at the May 17, 2023, meeting BMAC had voted unanimously to **recommend** approval of the request for no dune protection permit for placement of 104,153 sq ft of fill material in wetlands **landward** of the 350-ft Building Setback Line. However, BMAC voted unanimously to **not recommend** approval of the exemption request for placement of 12,588 sq ft of fill material in wetlands **seaward** of the 350-ft Building Setback Line. BMAC stands by their previous decision after review of this application.
- Residents of the neighboring Beach View Estates have commented to the BMAC chair that there has been no communication with existing landowners whose lands neighbor the property.
- The applicant's agent commented that the GLO has agreed to this plan; however, the BMAC committee stated that it is up to the County as to where the compensation and/or mitigation is located.
- BMAC requests that the applicant to return with a revised application that includes a mitigation plan to return the material and vegetation to its original location based on the following:
 - Texas Administrative Code (TAC) Title 31, Part 1, Chapter 15, Subchapter A, Rule §15.2 (19) and the Nueces County Beach Management Plan defines construction to include filling.
 - Therefore, the proposed activity is considered construction seaward of the Building Setback Line.
 - Texas Administrative Code (TAC) Title 31, Part 1, Chapter 15, Subchapter A, Rule §15.2 (25) and (72) and the Nueces County Beach Management Plan define the dune complex as including swales and swales are low areas within a dune complex that function as natural rainwater collection areas and are an integral part of the dune complex.
 - Therefore, this activity would be construction in the dune complex seaward of the Building Setback Line.
 - The Joint Erosion Response Plan for Nueces County and the City of Corpus Christi, Section III.D.1. states that an exemption for construction seaward of the setback line for properties where there is no practicable alternative. General Erosion and Flood Protection Requirements of the Nueces County Beach Management Plan 1.1.a states that a permittee shall locate all construction as far landward as is practicable.
 - Based on the size of the lot there is ample room to conduct the requested activity landward of the Building Setback Line as a practicable alternative.

BMAC asks that you review this application (attached) and, once reviewed, send it to the GLO for their review. Please let me know if you have any questions or concerns, my contact information is provided below.

Sincerely Yours,

A handwritten signature in blue ink that reads "Cliff M. Schlabach". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Cliff Schlabach

BMAC Chair

361-937-2115

Jettylord1@gmail.com

Attachment:

Application for a Dune Protection Permit Exemption Request for Dune Impact Violations-
Mustang Island Section 2 Block 1 Lot 52 11.82 acres - DPP-04062023-na

Site Plan

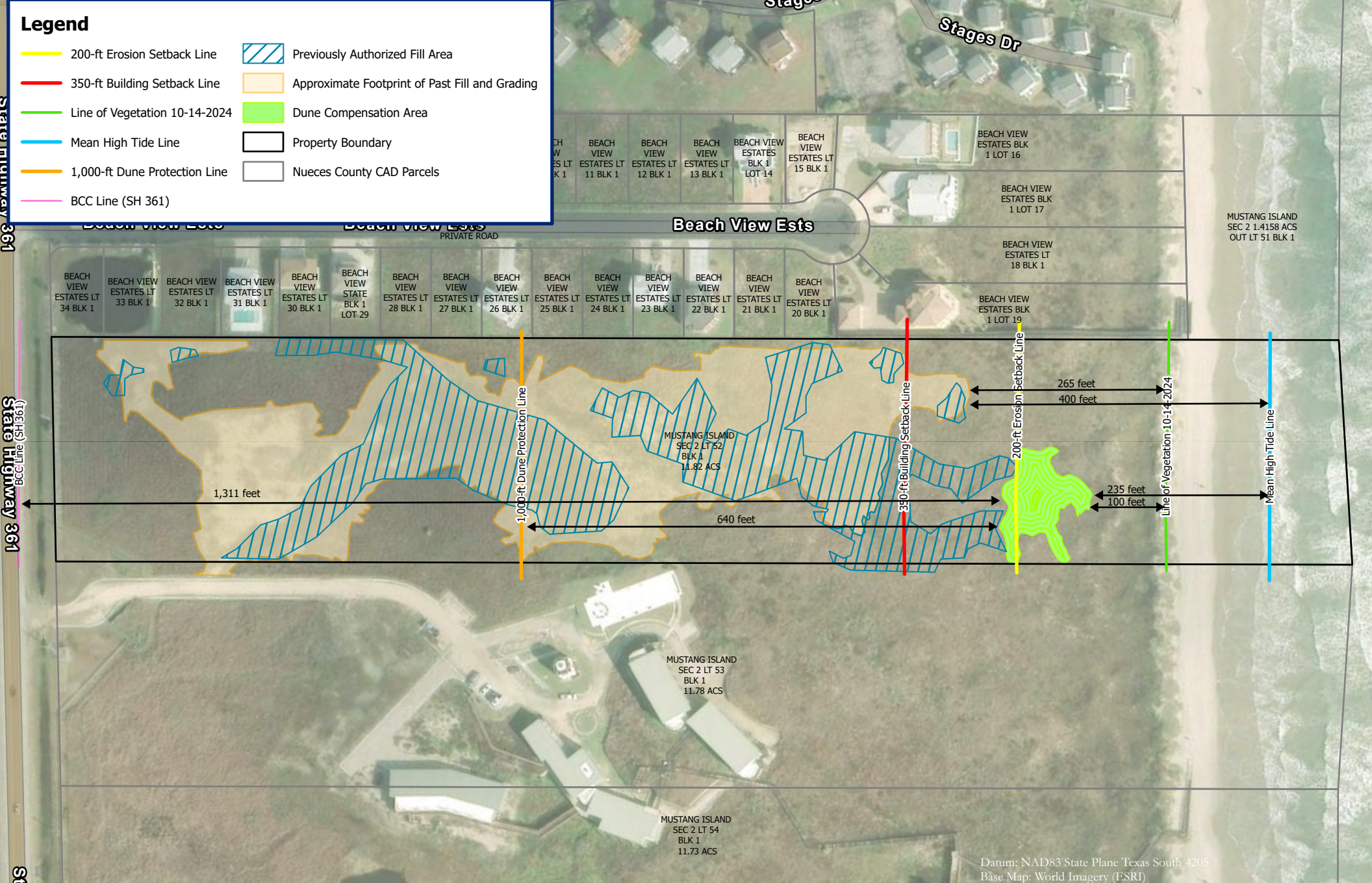


Figure 1 - Site Map



FIGURE 1 - SITE MAP
 AJIT DAVID DUNE VIOLATION COMPENSATION
 NUECES COUNTY, TEXAS
 DPP-04062023



Photographs

Photo 1
View of Main Dune Ridge and Line of Vegetation



Photo 2
Additional View of Main Dune Ridge and Line of Vegetation



Photo 3
View of Backdune Habitat in Which Compensation Will Integrate



Photo 4
View of Impacted Area and Backdune Habitat



Photo 5
View of Approximate Dune Compensation
Area



Photo 6
Additional View of Dune Compensation
Area

