MICHIGAN'S CRITICAL DUNE AREAS PROGRAM

Frequently Asked Questions:
DRIVEWAYS IN CRITICAL DUNE AREAS

What is a Critical Dune Area?

There are approximately 225,000 acres of dunes in Michigan. Approximately 74,000 acres were designated as Critical Dune Areas (CDAs) in 1989. Critical dune areas represent the tallest and most spectacular dunes along Lake Michigan's shoreline in the lower and upper peninsulas, and the shores of Lake Superior. CDAs include public lands and private properties where developmental, silvicultural and recreational activities are currently regulated by Part 353, Sand Dunes Protection and Management, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451 as amended. The statute was amended on August 7, 2012.

How do I know if my property is in a Critical Dune Area?

Check the maps available at Michigan.gov/CriticalDunes for critical dune areas.

How are driveways reviewed for a permit in Critical Dune Areas?

The applicant applies for a permit with the driveway(s) drawn on scaled and dimensioned drawings and shown in the cross-sections. The drawings will include all existing and proposed driveways. Sample application drawings are available at Michigan.gov/CriticalDunes.

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) reviews the drawings and determines if a driveway meets the criteria of section MCL 324.35311a in Part 353, Sand Dunes Protection and Management, NREPA, 1994 PA 451, as amended. MCL 324.35311a describes the conditions and criteria for a driveway; its construction, improvement, and maintenance. Specific criteria are written for slopes between a one-foot vertical rise on a four-foot horizontal plane and a one-foot vertical rise on a three-foot horizontal plane, and for slopes exceeding a one-foot vertical rise on a three-foot horizontal plane. The section also describes temporary construction access and defines a driveway. There can be only one driveway determined as fulfilling MCL 324.35311a. Additional driveways are reviewed under criteria found in the rest of the statute.

There is a driveway on my lot that currently meets the criteria in MCL 324.35311a. Can I have another driveway?

Maybe. The additional driveway must be reviewed according to specific sections found in the rest of the Critical Dune Areas statute. It will not be reviewed under MCL 324.35311a. If the driveway cannot be permitted using the applicable section of the statute, the applicant may submit a request for a special exception to EGLE through MiEnviro Portal. A special exception is like a variance from the local zoning administrator. Applying for a special exception does not guarantee that EGLE can issue a permit for the driveway.

I want to design the driveway to meet the criteria in MCL 324.35311a. How wide can my driveway be?

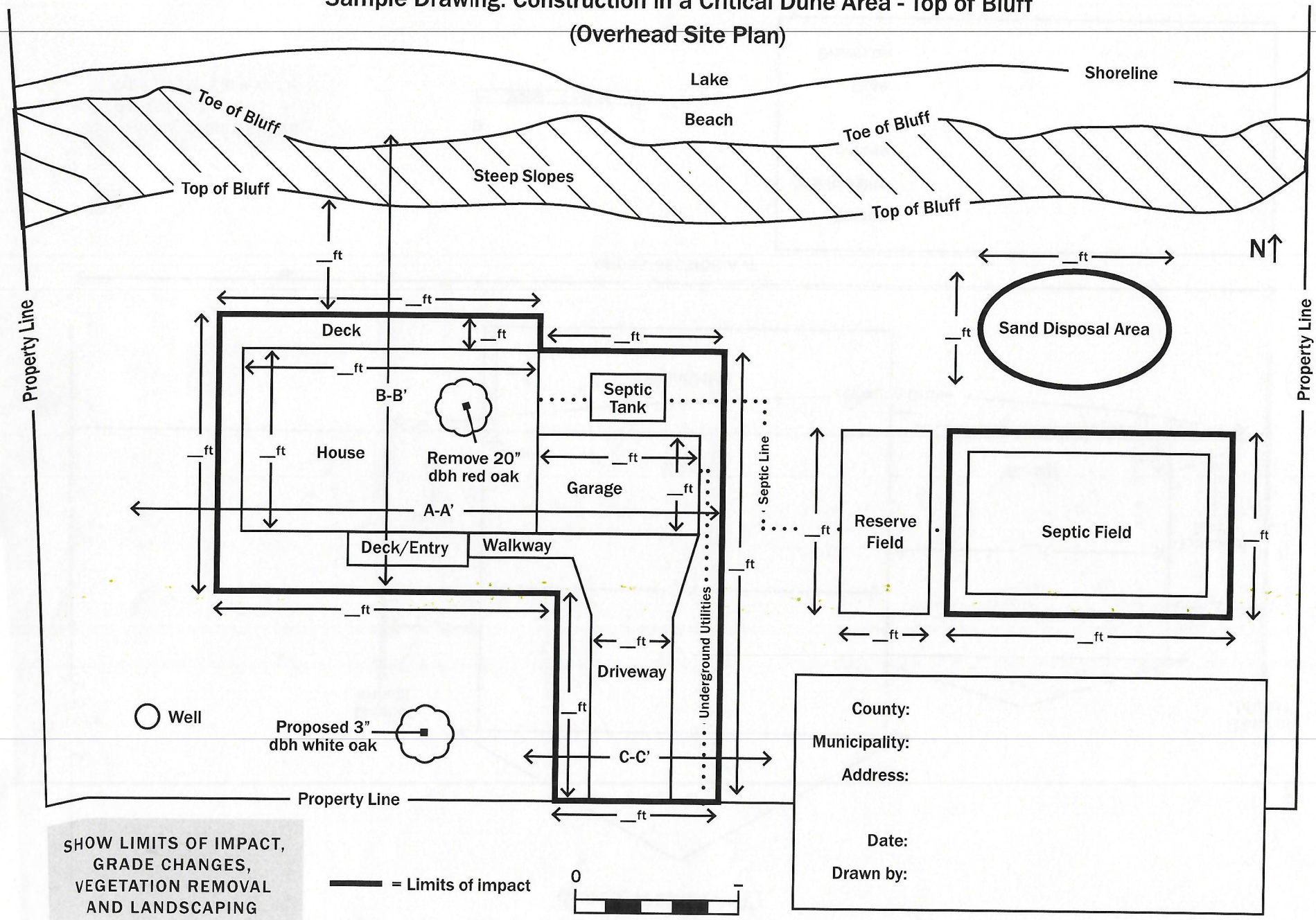
The driveway may only impact a width of 16 feet or narrower through the critical dune area, regardless of the width of the drivable surface of the driveway, MCL 324.35311a (3). The driveway impact includes the use of retaining walls, bridges, or similar measures.

I want a driveway as allowed by MCL 324.35311a, and with a width greater than 16 feet. Can I add an accessibility measure as defined in MCL 324.35311b?

No. An accessibility measure cannot be added to increase the width of a driveway. Accessibility measures must meet American National Safety Institute standards. MCL 324.35311b (2) states accessibility measures do not include driveways.

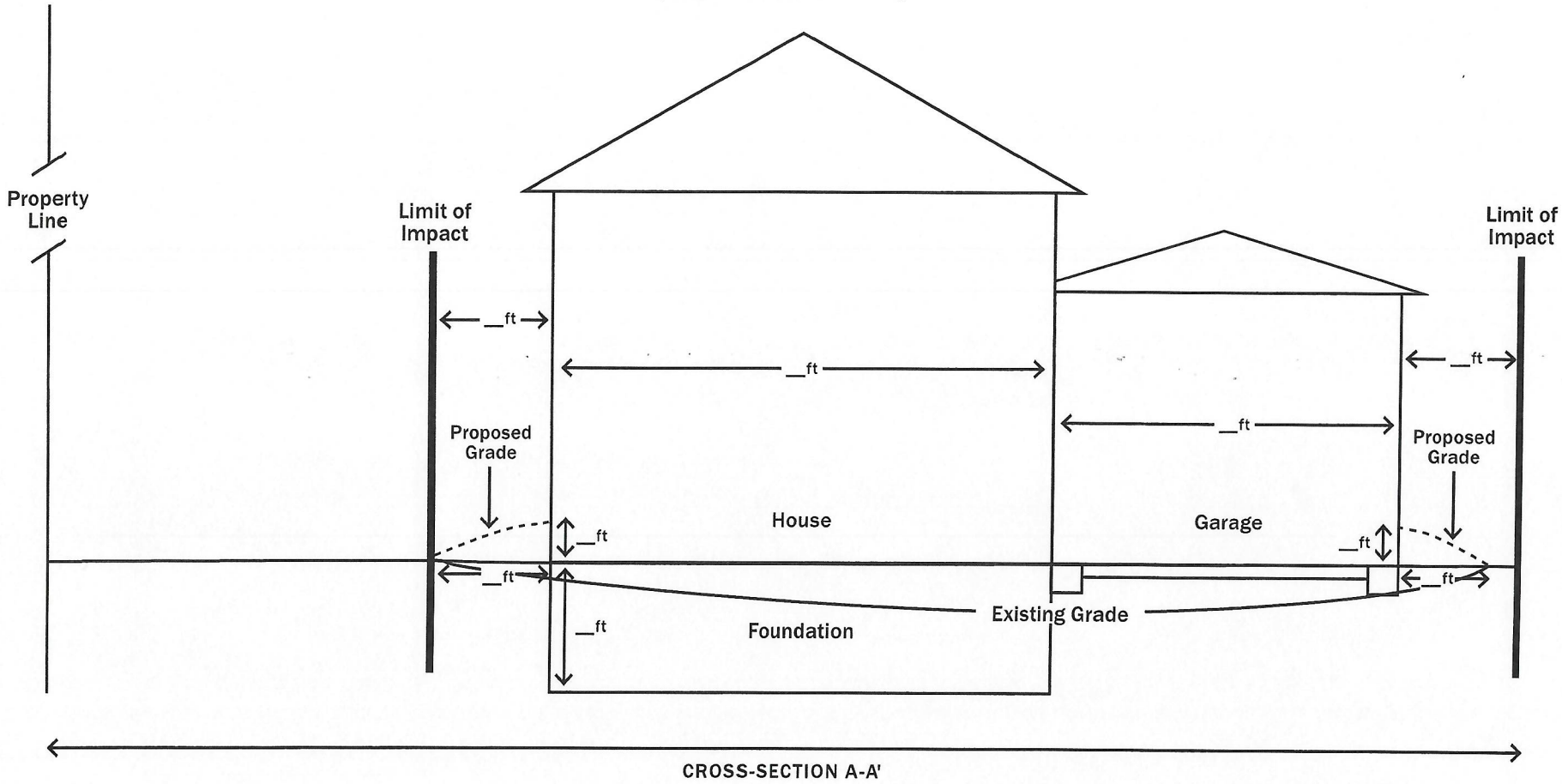
Financial assistance for this publication was provided by the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Sample Drawing: Construction in a Critical Dune Area - Top of Bluff
(Overhead Site Plan)



Sample Drawing: Construction in a Critical Dune Area - Top of Bluff

(Cross-section A-A')



SHOW DIMENSIONS, GRADE CHANGES, AND DEPTH OF EXCAVATION

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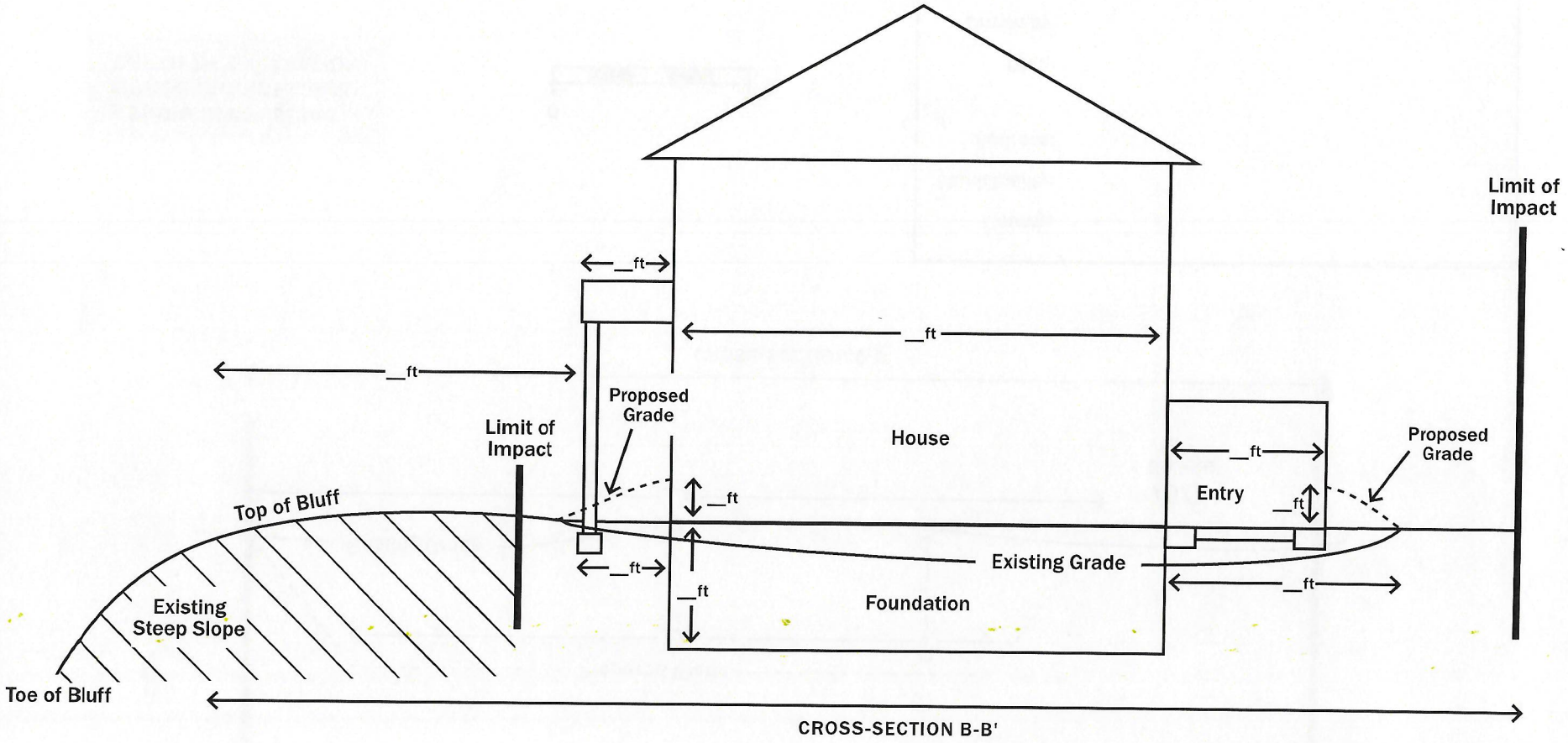
Date:

Drawn by:

Sample Drawing: Construction in a Critical Dune Area - Top of Bluff
(Cross-section B-B')



SHOW DIMENSIONS, GRADE CHANGES, AND DEPTH OF EXCAVATION

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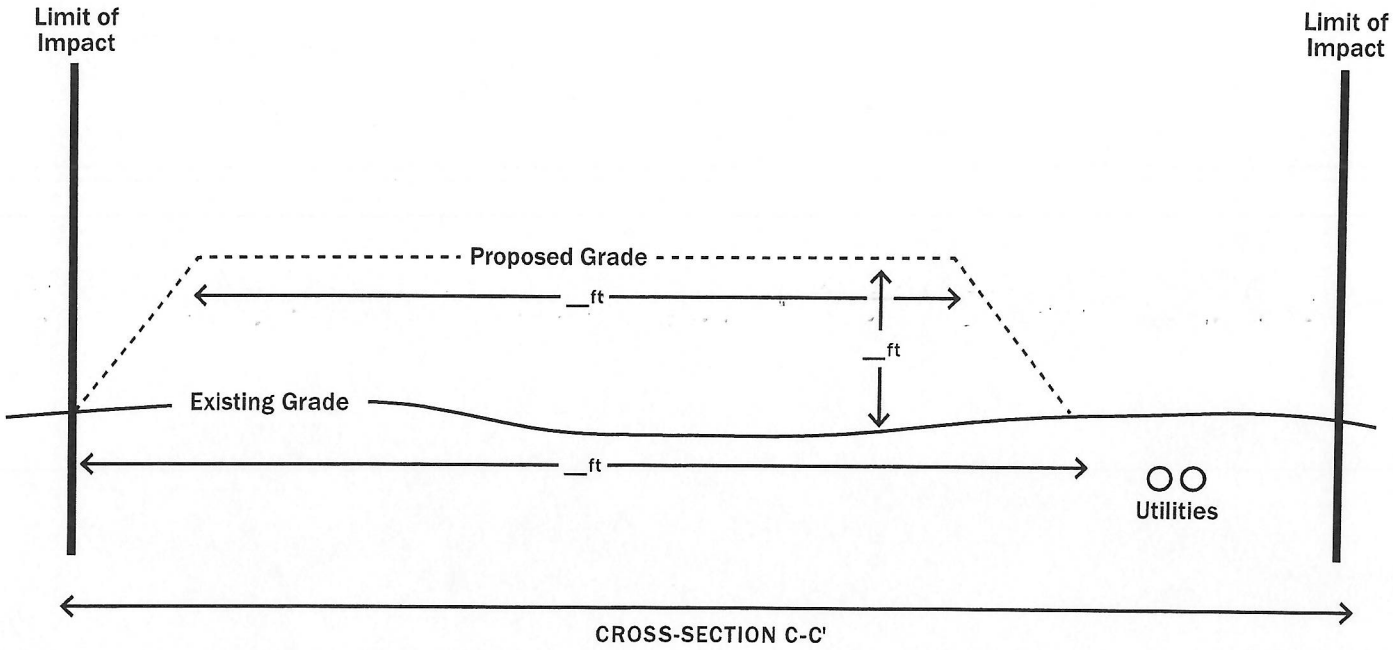
Sample Drawing: Construction in a Critical Dune Area - Driveway
(Cross-section C-C')



SHOW DIMENSIONS, GRADE CHANGES, AND DEPTH OF EXCAVATION

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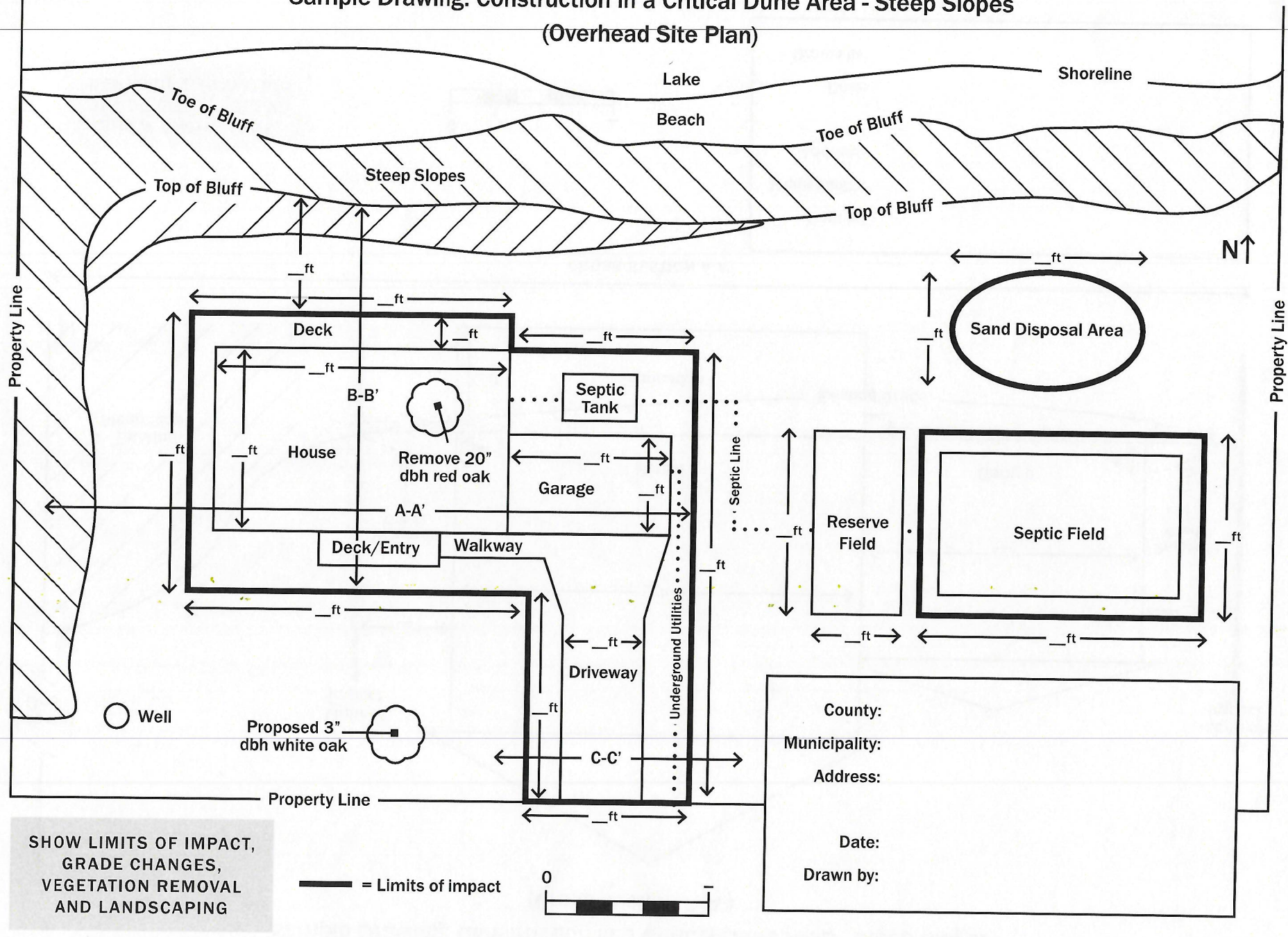
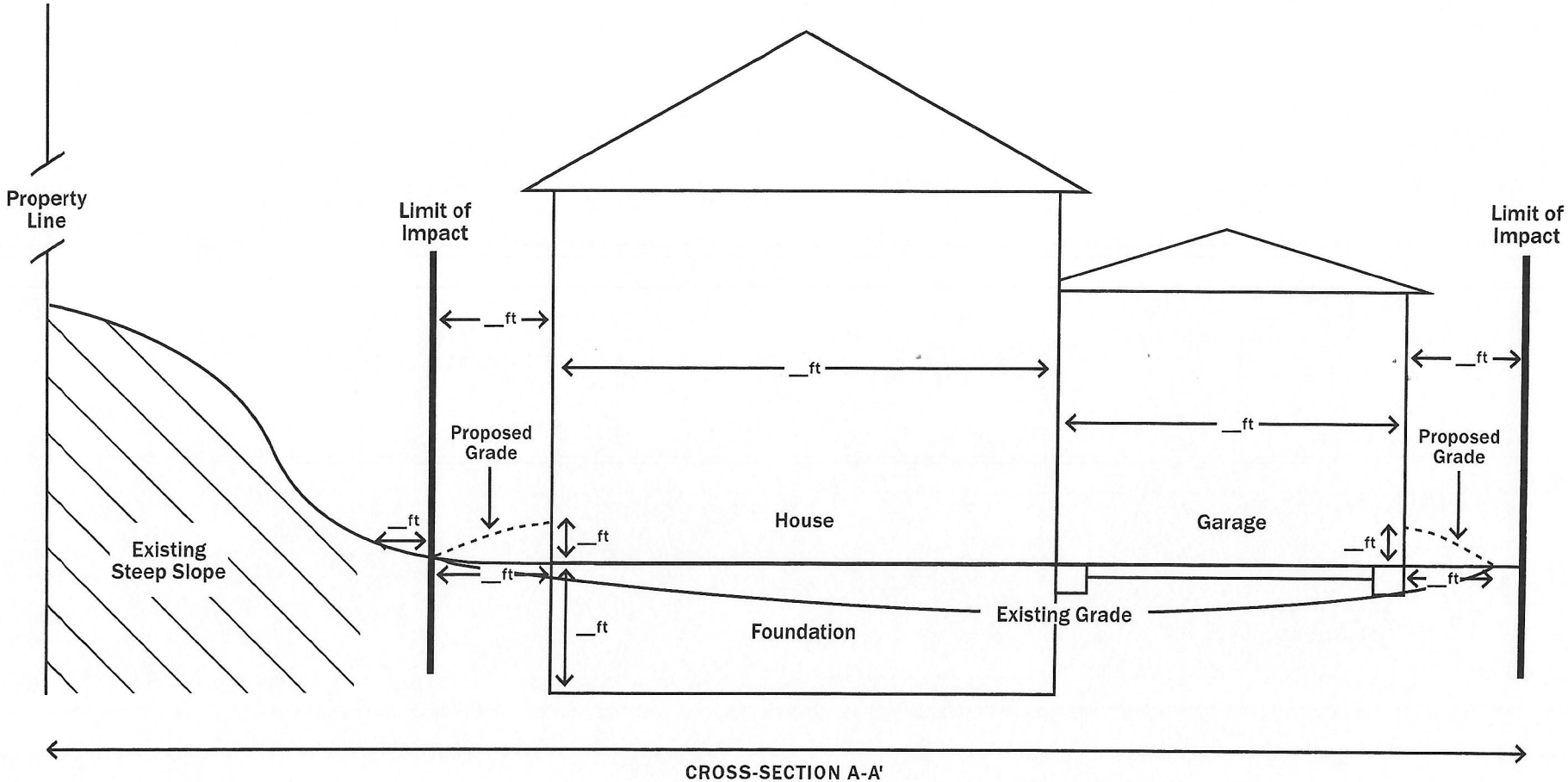
Sample Drawing: Construction in a Critical Dune Area - Steep Slopes
(Overhead Site Plan)



Sample Drawing: Construction in a Critical Dune Area - Steep Slopes

(Cross-section A-A')



SHOW DIMENSIONS, GRADE CHANGES, AND DEPTH OF EXCAVATION

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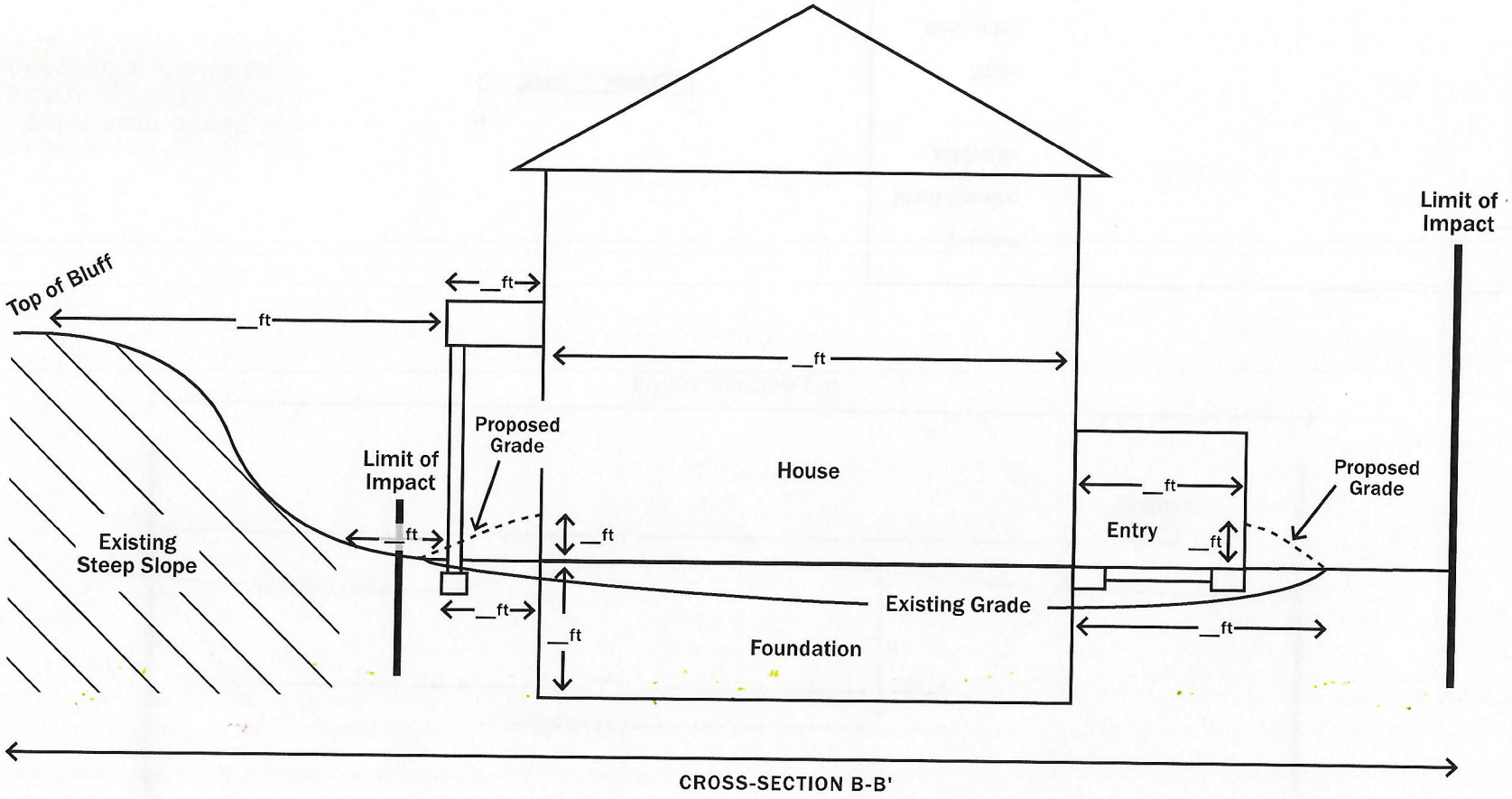
Sample Drawing: Construction in a Critical Dune Area - Steep Slopes
(Cross-section B-B')



SHOW DIMENSIONS, GRADE CHANGES, AND DEPTH OF EXCAVATION

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County:

Municipality:

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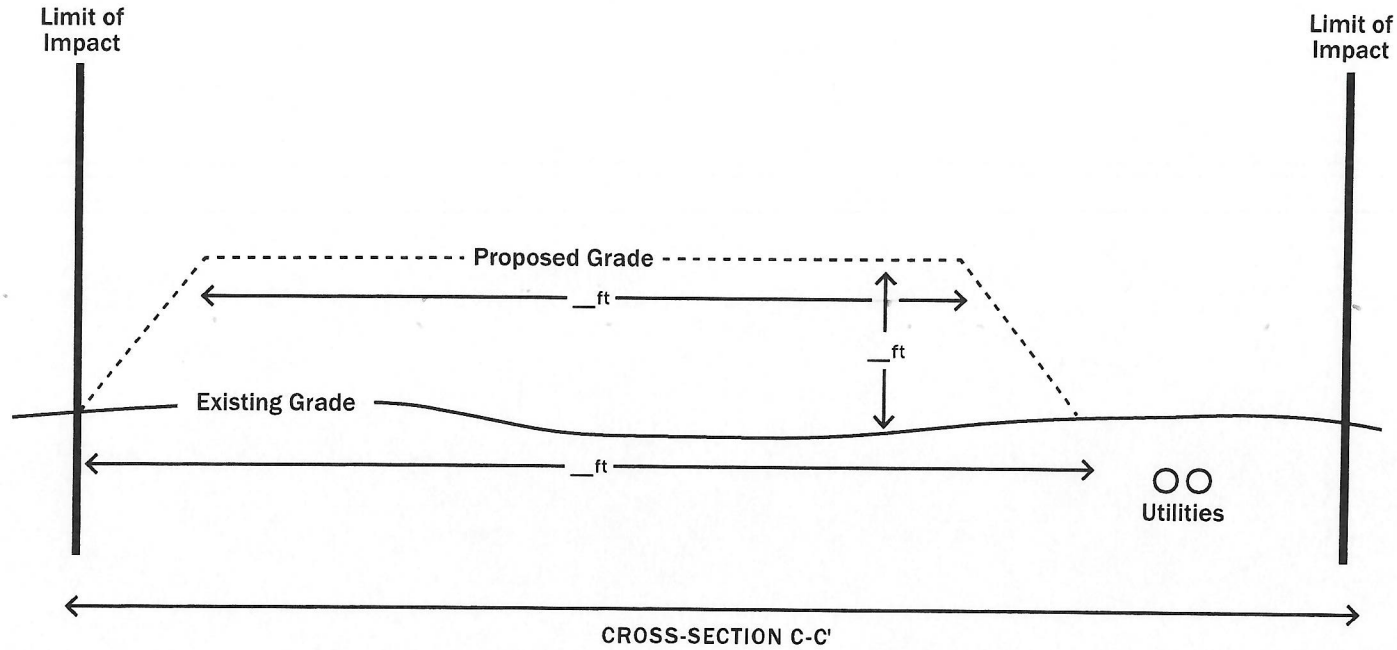
Drawn by:

Sample Drawing: Construction in a Critical Dune Area - Driveway
(Cross-section C-C')



SHOW DIMENSIONS, GRADE CHANGES, AND DEPTH OF EXCAVATION

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County:

Municipality:

Address:

Date:

Drawn by:

MICHIGAN'S CRITICAL DUNE AREAS PROGRAM

Frequently Asked Questions:

VEGETATION ASSURANCE FOR A PROJECT IN A CRITICAL DUNE AREA

Why is vegetation important?

The coastal sand dunes are home to unique vegetation communities each with its own mix of trees, shrubs, herbs, and grasses. This vegetation gives each project site its own character. The removal or damage to existing vegetation during construction may increase erosion on the site and lead to a decrease in the stability of the land. Sand is easily eroded when plants, and their roots, are removed. Vegetation stabilizes and holds the dunes in place. If the site is not stabilized the characteristics that make the site so appealing may disappear. There may also be increased costs for ongoing sand plowing and invasive plant removal on unstable sites. Replacing the vegetation removed during construction will lessen erosion and maintain the stability of the dune. Property owners will continue to enjoy the unique character of their dune property after construction on a site stabilized with native vegetation.

What does the law say?

The law requires the property owner provide an assurance that the cutting and removal of trees and other vegetation for a proposed use in a critical dune area will be in accordance with the Forest Management Guidelines for Michigan (Guidelines) prepared by the Michigan Society of American Foresters and updated in 2010, MCL 324.35313 (1)(c). The law also requires restabilization of the dune with native vegetation for a structure proposed within 100 feet landward of the crest, MCL 324.35304 (4)(c). Projects that are likely to increase erosion or decrease stability cannot be approved, MCL 324.35316. The permit application will ask you if vegetation will be removed. This question must be answered before submitting your application. Providing a thoughtful and meaningful vegetation assurance will help the Department of Environment, Great Lakes, and Energy (EGLE) evaluate the project for a timely permit decision.

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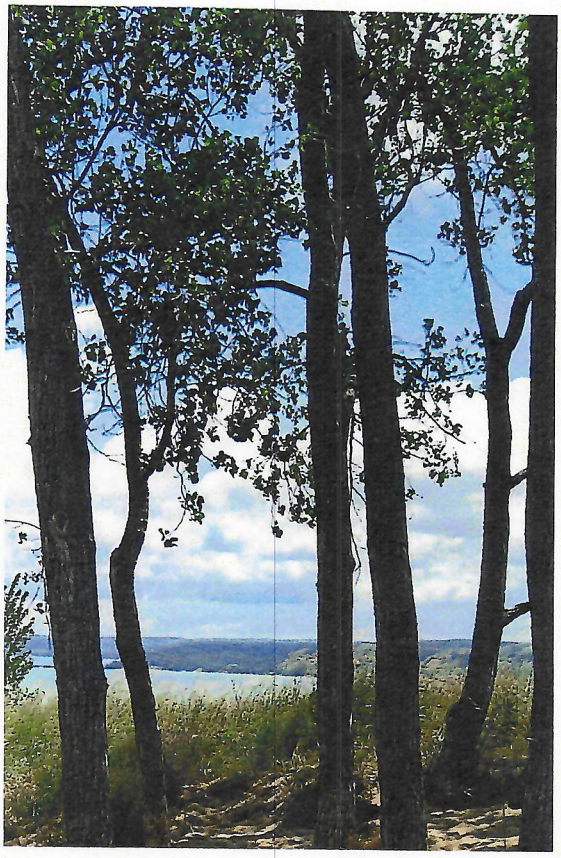
How do the Forest Management Guidelines apply to my site?



The Guidelines support providing a plan for the site's vegetation. The factors to consider in the plan include the ecological characteristics of the site, economic factors, social-legal constraints, and the landowner's objectives. The plan should consider seasonal issues such as the trimming of oak trees outside of the growing season to reduce the likelihood of oak wilt infecting and killing the trees on the site. Special considerations for the site may include storms, fire, drought, disease, wildlife habitat, and invasive plants.

The Guidelines describe the rules of thumb to remember when planting trees, treating trees, or selecting trees to leave on your property. An understanding of the limiting factors affecting the growth and survival of trees, including soil and site requirements, will help you decide the best tree species for your project site. How successful has the species been in neighboring areas on similar sites? If you have concerns regarding the health of a tree, consult a professional.

A common goal is to maintain or improve the scenic and recreational values of a site. Property owners should consider the design and layout of driveways and access roads to maximize their scenic and recreation objectives. They should avoid or modify disturbances where unique natural features such as rocky bluffs, sand dunes, or groups of unusual trees are located.

What information should be in my vegetation assurance?

A vegetation assurance describes the existing vegetation and proposes how the site will be revegetated to prevent erosion and stabilize the dune. In general, a vegetation assurance will contain the following sections:

- A project site description identifying the type of plant community and the existing vegetation.
- The proposed development of the site with the numbers of trees, shrubs, and plants proposed to be removed and identified on a dimensioned site plan. Identify all woody vegetation that is 3 inches in diameter, or greater, at breast height (dbh). Breast height is 4½ feet above the ground.
- Identify the seasonal issues that may impact the project, (e. g., possible infection of oaks with oak wilt in the late spring and summer resulting from damage to the trees.)

- Identify any special considerations on your site such as endangered or threatened species or the reasoning for the type of proposed planting plan.
- Describe the proposed actions for preventing erosion and destabilization of your site during construction. This may include leaving stumps in place, maintaining buffers, or protecting trees. See the best management practices (BMPs) for sand dune stabilization in the EGLE Nonpoint Source Best Management Practices Manual.
- Describe any proposed plantings.
    - Provide a description and a plan showing the type and amount of vegetation to be planted once construction is completed. For example, a native grass will be planted to replace a native grass removed.
    - If the construction occurs within 100 feet of the crest, include a list of the native plants to be planted for restabilization. While not required, if your project is outside of 100 feet of the crest, EGLE highly encourages the use of native species for restabilization.
    - Include a description on how you will prevent the establishment of invasive plants. The local Cooperative Invasive Species Management Area (CISMA) staff will have information about invasive plants in your area. The CISMA in your area may be the local conservation district or other local non-profit group.
    - Identify the length of time the new vegetation will be monitored to ensure success of the plantings and the stabilization of the site. A minimum monitoring period of two growing seasons is suggested.

Who writes the vegetation assurance?

The assurance can be written by the property owner or a qualified professional. Some local conservation districts offer the service for a fee. The cost will vary depending on the size and complexity of the project.

When do I submit my vegetation assurance?

Submit your assurance when you submit your application for a permit. Your application will be considered incomplete without the vegetation assurance if disturbance to the vegetation on the site is proposed. EGLE will review the assurance during the application review period. If more information is needed, EGLE will contact you.

My project will not impact vegetation on my site. Do I still need to submit a vegetation assurance?

No, but you need to tell us why it is not included. The law requires a vegetation assurance with every permit application proposing impacts to vegetation. On the permit application check the No box and tell us why you do not need to submit a vegetation assurance. If we find your project will impact vegetation on your site, we will require a vegetation assurance to complete your application. This will delay the processing of your application.

My project is small and impacts a couple trees and shrubs. Do I still need to submit a vegetation assurance?

Yes. Provide an assurance that answers the questions in "What information should be in my vegetation assurance?"

Will my permit include my vegetation assurance?

Yes. Read your permit carefully. There may be specific conditions in the permit relating to the vegetation and other specific aspects of your project.

After construction will EGLE check the vegetation at my site?

EGLE does periodic spot checks of completed projects to determine compliance with the permit. During the compliance check EGLE will review how well the site has revegetated and stabilized.

CRITICAL SAND DUNE AREA
SAMPLE VEGETATION ASSURANCE PLAN

The attached plan was developed by the Michigan Department of Environment, Great Lakes, and Energy. To use this sample Vegetation Assurance Plan (VAP) on Beaver Island, please consider the following.

The opening section should read:

Property: Tax ID No. _____. This lot is located within _____ Association (if any) and is Subdivision ___ and lot ____. The lot was recorded on _____.

The island's Terrestrial Invasive Species (TIS) Coordinator is qualified to create this VAP for your property. If you do not need this service, you do need the TIS Coordinator to complete a TIS evaluation.

SAMPLE: Vegetation Assurance for 1234 View Drive, Duneville
April 27, 2019

Project site description: The site is a forested dune with a mix of red oak *(Quercus rubra)*, hemlock *(Tsuga canadensis)*, white cedar *(Thuja occidentalis)*, white pine *(Pinus strobus)* and low growing plants typical of a mesic northern forest community.

Proposed development: Impacts to the existing vegetation are proposed within the building footprint and septic field. Trees over 3 inches diameter at breast height and saplings will be impacted. Total number of trees removed for the project will be six: two hemlock; one white cedar; two red oak; and one white pine. Low growing vegetation will be removed from the impact areas. Impact will occur to 0.5 acres of forested dune. See the attached site plan.

Seasonal issues: Oaks are at risk of being infected with oak wilt if trees are pruned or roots disturbed between April 15 and July 15.

Special considerations: The mature trees on the site will be protected. A survey for endangered and threatened species was conducted and noted Pitcher's Thistle *(Cirsium pitcheri)* on the lakeward facing slope. The thistle location is outside of the impact area and will not be disturbed during construction. Garlic mustard *(Alliaria petiolata)*, an invasive species, was found onsite.

Proposed actions for maintaining site stability during and after construction:

1. Stumps and roots of trees/shrubs cut down outside the building footprint and septic field will be left in place.
2. No disturbance will occur outside a 10-foot buffer surrounding the walls of the house and a 5-foot buffer surrounding walks, decks, septic, and well.
3. All trees outside this buffer will be marked/flagged and protected from construction activities with fencing installed at the drip line. Any damage to oaks will be painted with tree paint immediately to protect the trees from oak wilt.
4. To decrease the risk of oak wilt the oaks will not be pruned, or roots disturbed between April 15 and July 15. Any damage to branches will be painted immediately to prevent infection.
5. All hemlock branches and logs will remain onsite. If we need to move hemlock a compliance agreement with the Michigan Department of Agriculture and Rural Development will be in place.

Proposed revegetation of the site:

1. Upon completion of construction activities all exposed soils will be re-vegetated with native species or covered with a weed-free biodegradable mulch blanket to stabilize soils and allow dead leaf material to accumulate. Where possible, existing herbaceous layers of soils and seedling plant materials will be recovered and moved for re-establishment in disturbed areas.
2. Nine trees greater than 4 feet in height or greater than 2-inch caliper will be planted on the site as replacement for trees removed. Trees will be a mix of hemlock *(Tsuga canadensis)* from a hemlock woolly adelgid-free source, red maple *(Acer rubrum)*, sugar maple *(Acer saccharum)* and American basswood *(Tilia americana)*. Red oak *(Quercus rubra)* may be planted if there is no immediate threat of oak wilt. Hemlock will be

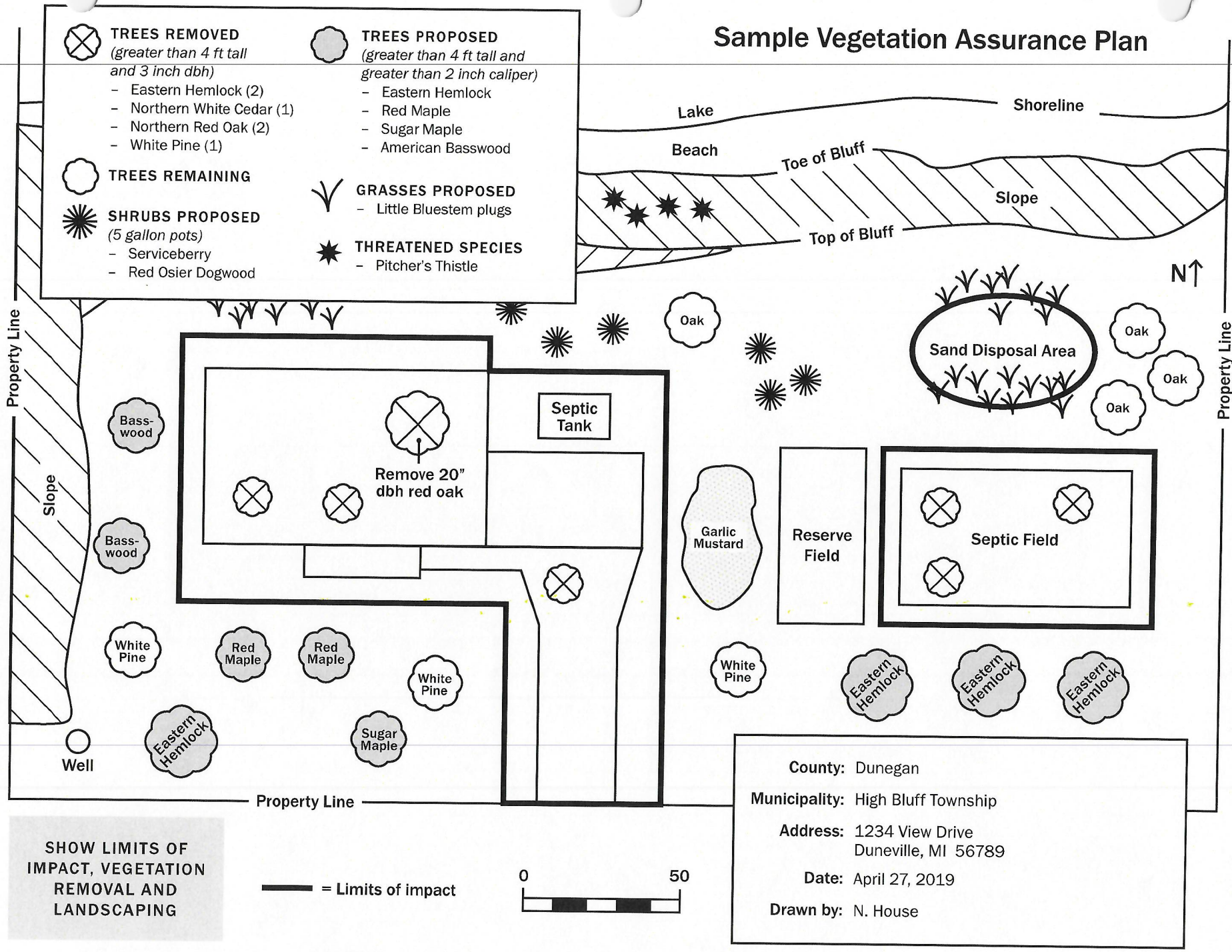
monitored for the occurrence of hemlock woolly adelgid. Trees will be replaced if mortality occurs within two growing seasons.

3. Shrub species, serviceberry (*Amelanchier* spp.) and red-osier dogwood *(Cornus stolonifera)* will be used as understory plantings. Shrubs will be from 5-gallon pots or larger.

4. Plugs of little bluestem (*Schizachyrium scoparium*), will be installed to stabilize the sand disposal area.

5. Garlic mustard will be removed by hand and the homeowner will be shown what garlic mustard looks like and the importance of continued removal. Monitoring for invasive species on the site will occur for two growing seasons. Invasive species will be removed with techniques using hand held tools as recommended by the staff of the Northwest Michigan Invasive Species Network, the local Cooperative Invasive Species Management Area (CISMA).

Sample Vegetation Assurance Plan



SHOW LIMITS OF IMPACT, VEGETATION REMOVAL AND LANDSCAPING

= Limits of impact

0 50

County: Dunegan

Municipality: High Bluff Township

Address: 1234 View Drive
Duneville, MI 56789

Date: April 27, 2019

Drawn by: N. House

MICHIGAN'S CRITICAL DUNE AREAS PROGRAM

Frequently Asked Questions:
PATH MAINTENANCE NEAR THE WATER'S EDGE

Why is the dune so steep near the water?

Coastal sand dunes often have a low dune called a foredune between the water and back-dunes. Waves reaching the foredune often erode the dune to a nearly vertical slope called the wave-cut face of the foredune. The lake's water levels change with the seasons. Depending on water levels, storms, and people this slope may be so high that it is hard to climb.

My path is not connected to the beach anymore. How do I get to the water's edge?

If you are in a Critical Dune Area you may apply for a permit to maintain an existing single file footpath, with handheld tools, to cut through the wave cut face of the foredune to the water's edge. A permit is not needed to construct stairs if they are built to meet specific criteria. The stairs must be elevated above the foredune enough to allow sand movement beneath the stairs, no wider than 5 feet, without roof or walls and constructed with handheld tools. The bottom of the stairs must be above the ordinary high water mark of the Great Lake. Remember the shoreline is always changing. Stairs constructed today may be washed away with the next storm. Maintaining your existing path over the wave-cut face of the foredune with a shovel may be less effort and will be lake friendly. A third option is to access the beach from a local park.

Continued on Next Page

What are the requirements for a permit?

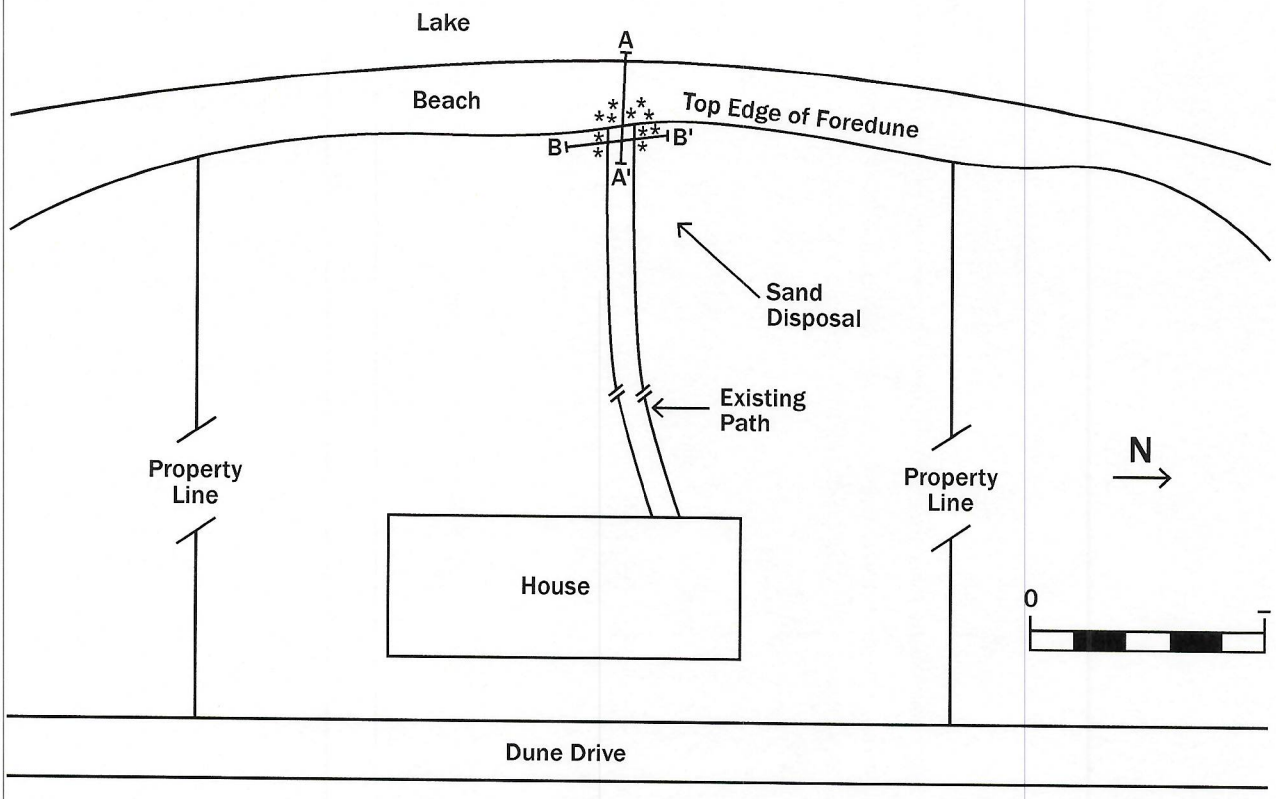
The path must be an existing path. The foredune must have a steep vertical drop adjacent to the water's edge that is preventing safe access. The path must be dug using handheld tools only and be no wider than five feet. All sand will be disposed within ten feet of the path on the dry beach and not below the ordinary high water mark of the Great Lake. This category does not apply to new paths, a non-foredune path on a lakeward facing slope, the clearing of vegetation outside the five-foot-wide path, work below the ordinary high water mark, or the installation of hard structures. Property owners are cautioned to use care when cutting through the foredune, as the foredune is the property's first defense against erosion. Cut the foredune only as deep as needed to provide safe access to the beach.

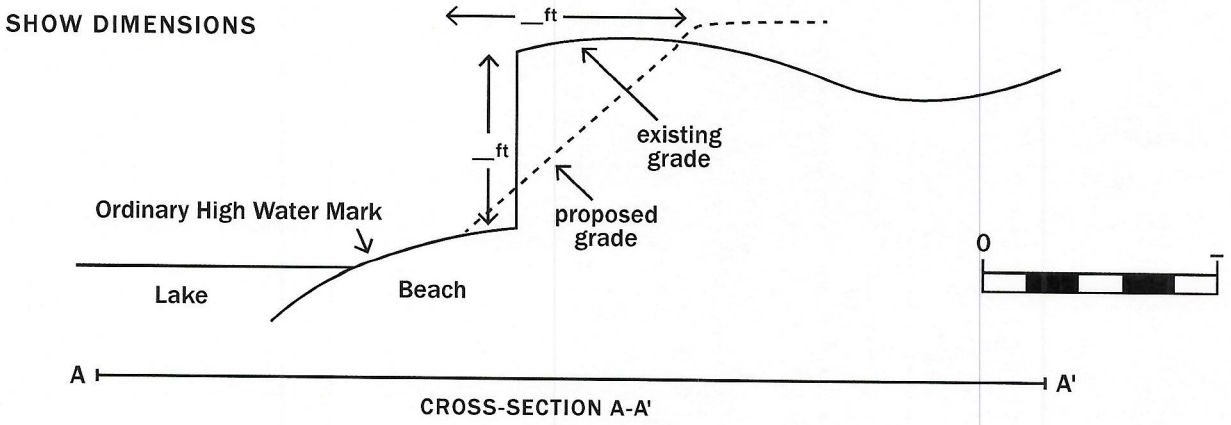
How do I apply for a permit?

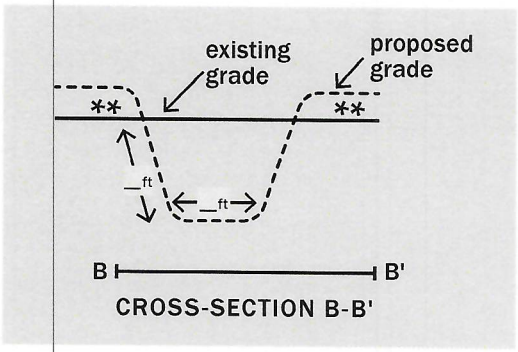
The application process is explained at Michigan.gov/CriticalDunes. The application is submitted in MiEnviro Portal. Be sure to include the fee, project location, and site plan with cross-sections in your application.

Financial assistance for this publication was provided by the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Sample Drawing: Path Maintenance Near the Water's Edge in a Critical Dune Area







** Sand Disposal Sand will be spread out to less than 12 inches thick adjacent to the cut in an area 10 feet wide or less. Sand will not be placed in the water.

County:

Municipality:

Address:

Date:

Drawn by:

MICHIGAN'S CRITICAL DUNE AREAS PROGRAM

Frequently Asked Questions:
DUNE RESTORATION

Why must dunes be restored?

Dune habitats are part of a unique and fragile resource found on Michigan's Great Lake coastlines. In 1989 the Michigan legislature identified specific dune areas to have an increased level of protection, MCL 324.35303. Proposed uses or development in these protected dunes require a permit from the state. Proposed impacts to the dunes are reviewed using criteria required by law, MCL 324.35301, *et seq*. Protected dunes which have been degraded, modified, or are no longer providing the functions of a dune are ordered to be restored as a condition of a permit or the resolution of a violation.

What does dune restoration mean?

Successful restoration recreates the predisturbance contours and vegetation at the disturbed site. A restoration plan should include the same information as a vegetation assurance required for a permit application. Monitoring vegetation establishment is a key component for dune restoration and a monitoring plan should span several years to ensure the site becomes established with the expected vegetation. A monitoring plan should also require the removal of invasive plant species that will compromise the restoration. A list of frequently asked questions about a vegetation assurance, a sample assurance, and lists of native and invasive plants are available at Michigan.gov/CriticalDunes. A restored site is expected to have the same contours, plant diversity, and function of the dune before disturbance.

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EGLE

How do I restore the dune next to the beach?

The installation of snow fence is an effective way to trap sand on the shoreline and rebuild the dune. Beach grass, also called marram grass, *Ammophila breviligulata*, is a dune-building plant common to our sandy Great Lake shorelines. Beach grass is an effective dune stabilizer along the shorelines. Review the Sand Dune Stabilization Best Management Practice available at Michigan.gov/CriticalDunes.

Who can help me restore my dune?

The Critical Dunes website, Michigan.gov/CriticalDunes, has information. Review the Sand Dune Stabilization Best Management Practice, the sample vegetation assurance, the list of common dune plant species, and the list of invasive plant species on the website. You may also contact your local conservation district to ask for assistance and additional resources in developing a restoration plan for your dune.

Financial assistance for this publication was provided by the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

MICHIGAN'S CRITICAL DUNE AREAS PROGRAM

Frequently Asked Questions: REMOVING SAND FROM PROPERTY IN COASTAL DUNES

Sand dunes are a prominent feature in Michigan. The dunes are enjoyed by homeowners and visitors and are a source of sand for commercial and industrial uses. Blowing sand is common along the shorelines of the Great Lakes. The wind continually reshapes the sand dunes and forms new dunes. Often the sand builds up around structures or is deposited on decks, patios, and driveways. The sand may restrict the use of a structure or hard surfaces. The removal of sand for mining, construction, or protection of a structure is regulated in specific areas designated as Sand Dune Areas (275,000 acres). Within the Sand Dune Areas are Critical Dune Areas (74,000 acres) where sand removal is subject to additional regulations. Depending on the project's purpose and where the project is located within a Sand Dune Area, either a Michigan Department of Environment, Great Lakes, and Energy (EGLE) permit or a letter of authorization may be required to remove sand. Landowners should also check with their local government as some local units have their own sand removal ordinances.

What is a Sand Dune Area?

It is an area designated by EGLE that includes landforms composed primarily of sand, whether windblown or of other origin, and lies within two miles of a Great Lake. Sand Dune Areas include all Critical Dune Areas.

What is a Critical Dune Area?

It is an area designated in the "Atlas of Critical Dune Areas" dated February 1989. Critical Dune Areas are located within Sand Dune Areas.

How do I know if my property is in a Critical Dune Area or a Sand Dune Area?

Check the maps available at **Michigan.gov/CriticalDunes** for critical dune areas.

Continued on next page

What is Sand Dune Mining?

Sand dune mining means the removal of sand from a sand dune area for commercial and/or industrial purposes. An example of a commercial use would be sand that is sold, donated, or traded and used for a purpose that has some value.

What is Grading?

Grading is moving sand from one contour to another such as leveling a parking area. Grading typically occurs during final site preparation, landscaping or road work. A permit is required in a critical dune area.

Do I need a permit to sweep off my deck, patio or driveway?

No, a permit is not required if the sand is recently blown in. There is a list of activities not needing a permit on properties in a critical dune area at the program Web site, Michigan.gov/CriticalDunes.

If I build a house in a Critical Dune Area, what do I do with excess sand after construction?

An EGLE permit will be required before building your house. During the permit application review you will be asked to identify where the excess sand will be placed. The sand can remain on site or be removed from the site. EGLE encourages leaving the sand in the critical dune area to help maintain the dune resource protected by the statute. If you choose to leave the sand on your site, you will be asked to show the location on your application drawings. There are examples of application drawings with the sand placement area identified at Michigan.gov/CriticalDunes.

Do I need an EGLE permit to remove a small amount of sand from a project site that is in a Sand Dune Area, but outside of a Critical Dune Area?

Yes. Depending on the location of the threatened home or structure within a sand dune area and the intended use for the removed sand, either a letter of authorization or a permit is required from EGLE to remove greater than 3,000 tons (2,222 cubic yards) of sand. Determine the type of approval needed from the following table.

Continued on next page

Can I remove the sand blown onto my property that is threatening my home or structure?

Yes. Depending on the location of the threatened home or structure within a sand dune area and the intended use for the removed sand, either a letter of authorization or a permit is required from EGLE to remove greater than 3,000 tons (2,222 cubic yards) of sand. Determine the type of approval needed from the following table.

Project Location	Disposal or Relocation	Required form EGLE before each removal
Within a Sand Dune Area but outside of a Critical Dune Area	The sand will be removed from a sand dune area and used for a commercial or industrial purpose.	A letter of authorization from EGLE, Oil, Gas and Minerals Division (OGMD). Contact the OGMD office at 517-284-6823
Within a Critical Dune Area	The sand will be removed from a sand dune area and used for a commercial or industrial purpose.	A letter of authorization from EGLE, OGMD. Contact the OGMD office at 517-284-6823.
Within a Critical Dune Area	The sand will remain within the critical dune area and sand dune area and will not be used for a commer-cial or industrial purpose.	A permit from EGLE, Water Resources Division. Apply at **Michigan.gov/MiEnviro Portal**. For more information go to **Michigan.gov/CriticalDunes**. Keeping the sand in the critical dune area helps maintain the dune resource protected by the statute. During the permit application review process, EGLE permitting staff will ask you where the sand will be relocated.

CRITICAL SAND DUNE AREA NATIVE PLANTS RESOURCE INFORMATION

This site is a great overall resource

https://www.shorelinepartnership.org/plants-for-inland-lakes.html

A list of some native plant suppliers in the northern lower peninsula and UP:

https://www.birdsfootnativenursery.com/

https://www.facebook.com/MistyRidgeGreenhouse/

https://www.fourseasonnurserytc.com/

http://www.otsegocd.org/native-plant-nursery.html

https://www.blackcapplants.com/

https://www.grulergardens.com/nativeplants (has Common Milkweed)

https://northernnativesec.com/current-plant-list-1 (has American Beachgrass)

https://www.upnativeplants.com/plant-list (has Little Bluestem)

Another resource is the Midwest Glacial Lakes Partnership.

https://midwestglaciallakes.org/what-we-do/