

Coastal Features



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Volume 12, Issue 3

Special Issue

Mitigating the Impact of Coastal Development on Public Access to the Shore in Rhode Island



Part II

The Coastal Resources Management Council's Program to Enhance Public Access to the Shore in Rhode Island

The Coastal Resources Management Council's enabling legislation includes a mandate which charges "The council shall be responsible for the designation of all public rights-of-way to the tidal waters of the state, and shall carry on a continuing discovery of appropriate public rights-of-way to the tidal waters of the state" [RIGL 46-23-6 (E) (1)]. Over 200 public rights-of-ways (ROWs), which are typically pathways to the shore, have been designated by the CRMC through this legislation. But at the same time that the CRMC is providing shoreline public access through the ROW designation process, other access opportunities are being threatened by the steady march of development along the Rhode Island coast. Section 335 of the Rhode Island Coastal Resources Management Program is the CRMC's programmatic response to this growing dilemma. The magnitude and relative permanence of some types of coastal development have been shown to potentially reduce or eliminate public access to the shore in Rhode Island. Section 335 lists industrial and commercial development, the filling of tidal waters, and marina construction projects as types of development with a likelihood of impacting public access to the shore. In order to mitigate the inevitable impacts on public access by such developments, the CRMC requires a public access plan as a condition of permitting them. This two-part Special Issue of *Coastal Features* describes public access plans that were stipulated by Section 335, and other examples of public access that were created through the CRMC permit process prior to the addition of Section 335 to the Rhode Island Coastal Resources Management Program.

CRMC Assented Project: WATERFRONT REDEVELOPMENT

Location: Water Street, Town of Warren

Public Access Provided: New public access opportunities in the Warren Waterfront National Register Historic District have just been authorized by the CRMC at the site of the former Harbor Marina on Water Street. A redevelopment plan jointly proposed by the Trust for Public Land and the Town of Warren will transform this former working waterfront parcel into a mixed-use development. When complete, one of the site's three parcels will become a half-acre waterfront open space and public recreation area on the Warren River. CRMC public access stipulations related to the redevelopment of the site's other two parcels establish two six-foot wide pedestrian easements. The easements are located along the boundaries of each parcel such that they provide public access from Water Street to the waterfront open space and recreational site. The significance of this project as it promotes public access to the shore cannot be overstated. The public will now have unobstructed access to the waterfront in the heart of an otherwise

(continued on page 2)

When Section 335 amended the Rhode Island Coastal Resources Management Program in 1997, it streamlined and strengthened the CRMC's regulatory ability to require mitigation for the loss of public access to the shore by certain types of development. While the CRMC has always protected public access on a permit-by-permit basis whenever it has been threatened by development along the coast, Section 335 makes the inclusion of a public access plan standard operating procedure when certain industrial, commercial, or marina construction projects are permitted. Section 335 also applies to the filling of tidal waters, and publicly funded beach nourishment projects. This special two-part issue of *Coastal Features* illustrates the varied types of public access and ancillary benefits that have been achieved by the CRMC through Section 335 and other efforts to protect the public's constitutional privilege to enjoy Rhode Island's coastal resources.

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privately owned section of the Warren Waterfront National Historic Waterfront District.

The Town of Warren is a tiny waterfront hamlet with a significant maritime history. From the commercial oyster houses that disappeared from its waterfront decades ago, to the ship building operations that continue there today, Warren's waterfront has long been a special place to feel the town's pulse. And regardless of its changing face as time rolled on, the waterfront has typically consisted of private enterprises located on private property. Indeed, the very property from which the CRMC has worked with the Trust for Public Land and the Town of Warren to provide this public access opportunity, previously housed a private commercial marina.

The Waterfront Redevelopment project that can now take place at Water Street is due to a strong commitment to public access to the shore from both the Trust for Public Land and the Town of Warren. Of further note is the town's commitment to preserving and restoring the historical character of its storied waterfront areas. The CRMC is always ready to assist and enhance such high minded efforts through Section 335 of the Rhode Island Coastal Resources Management Program.

CRMC Assented Project: THE VILLAGE AT MOUNT HOPE BAY

Location: Sakonnet River and Mt. Hope Bay, Town of Tiverton

Public Access Provided: Extensive walking paths, access to a fixed pier, recreational fishing allowed, resting/viewing areas, a Gazebo, access to a sandy beach.

The CRMC assent granted to Charter International Oil Company to redevelop an old industrial site along the Sakonnet River in the Town of Tiverton, contains a well developed and extensive public access plan. Charter's proposal to construct a residential development containing 290 town houses constituted the redevelopment of an industrial facility, and as such, the project invoked Section 335 of the Rhode Island Coastal Resources Management Program. The CRMC found a willing partner in Charter, and discussions regarding the need to develop a public access plan in order to satisfy Section 335 requirements were formalized through a Public Access Easement and Covenant (The Covenant).

The Covenant established a legal relationship between the CRMC and Starwood Tiverton, LLC, a Delaware limited liability company authorized to conduct business in Rhode Island. It was prefaced in The Covenant, that both the Grantor (Starwood) and the Grantee (CRMC) recognized a common purpose to allow public access to the navigable waters and shores of Mount Hope Bay. Starwood's intentions regarding public access as it relates to the proposed redevelopment were enunciated in the Covenant by a conveyance of the right to preserve and protect the access of the public to the navigable waters and shores of Mount Hope Bay in accordance with the terms of The Covenant.

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There are several items in the Covenant that frame the nature of how, when, and where public access will be developed, allowed, and maintained within the bounds of The Village at Mount Hope Bay redevelopment.

One establishes an Exhibit B, a document entitled "Village at Mount Hope Bay Public Access and Management Plan" (the "Management Plan"). The Management Plan provides a narrative which describes how and where public access walkways will be laid out, and it does the same for some waterfront features.

An additional refinement of public access is provided for in the Covenant through a recital which makes a municipal memorandum (The "Memorandum") from the Tiverton Harbor and Coastal Waters Management Commission. The Covenant intends that the rules as set forth in the Memorandum shall "govern the rights of the public as set forth in the Covenant.

Another item in the Covenant that shapes the nature of public access at the Village at Mount Hope Bay, is an agreement between Starwood and the CRMC, that rights contained within the Covenant shall include and supercede the rights associated with a CRMC Public Right-of-Way to the Tidal Water Areas of the State, which is in effect a CRMC ROW located at the northerly end of Carey Lane, in Tiverton.

So for all the legal wrangling, what does the public get for access to the shore at the Village at Mount Hope Bay? A lot. The unimpeded right to access the entire 3,500 foot shoreline through various walkways and pathways, access via a new road and bridge, a 2,670 foot man-made walkway with developed overlooks, resting areas, and a Gazebo, plus access to a 400 foot long fixed pier, including the right to recreational fishing. And despite the fact that the municipal Memorandum does limit public access in some ways - i.e. sunrise to one-half hour after sunset - it also makes allowances for access in lighted areas, and recreational fishers are granted unlimited hours provided that they do have fishing gear with them.



This photo of the Warren River as it heads toward the sea, was taken from the bulkhead at the old Harbor Marine property. This entire site will become a public recreation and open space area when the Warren Waterfront Redevelopment project is completed. One of the most important aspects of this site's planned future is that it will also provide public parking, which can be hard to come by during the busy summer months along the town's waterfront.

A view of the old Harbor Marine property from the approximate location of a future public easement that will connect the public recreation and open space area (see above photo) to Water Street. The buildings shown in this photo, plus a small residential unit that is just visible at the right-center margin of the photo, will be improved and remain on-site as part of the waterfront redevelopment project and public access plan.



CRMC Assented Project: COLLIER POINT PARK

Location: Allens Avenue, City of Providence

Public Access Provided: 1) A public boat launching ramp with floats to accommodate loading and unloading passengers and gear; 2) A parking area capable of accommodating vehicles with trailers; 3) A public observation deck; 4) A public observation tower.

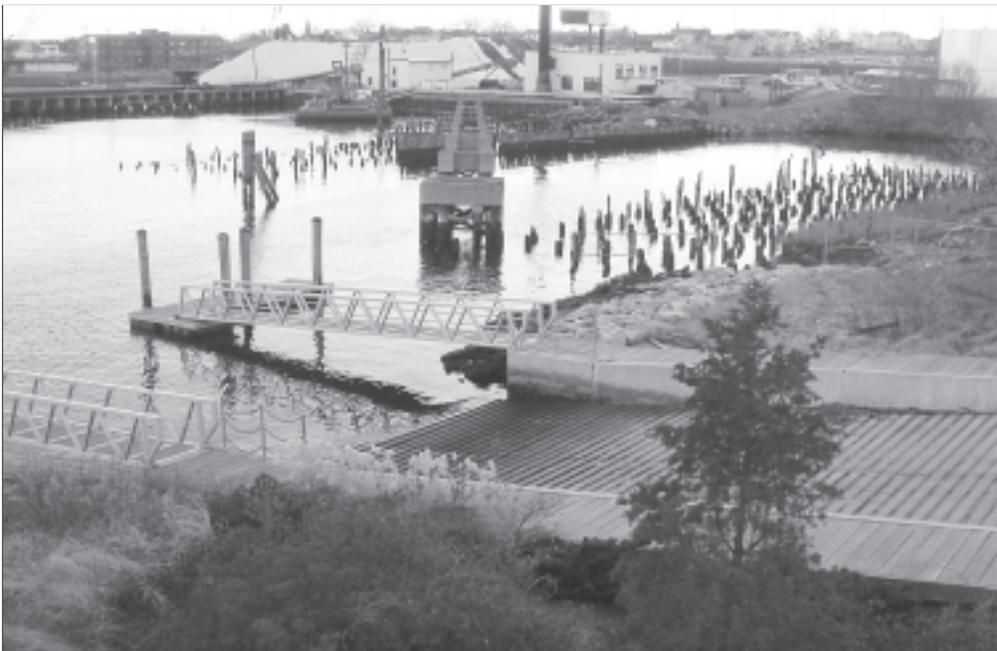
Collier Point Park is related to the Point Street Landing public access facilities (*see Coastal Features, Volume 12, Issue 2 - Special Issue on Public Access, Part I*) as both represent public access mitigation for the CRMC's permitting the re-powering of the Narragansett Electric Company and New England Power Company Manchester Street Station. Whereas the Point Street Landing facilities provide infrastructure for waterborne public transit (i.e. public ferry service), Collier Point Park provides a rare, significant, and free public boat ramp in the very heart of Rhode Island's urban core.

Also like the Point Street Landing project, Collier Point Park predates Section 335, and as such, it represents a good case study for its basis. The magnitude of the Manchester Street Station re-powering project provided significant impetus for the CRMC to negotiate significant public access mitigation. Prior to the construction for the Bold Point public boat launching facility in the neighboring City of East Providence, the Collier Point Park boat launching ramp was the only public boat launching facility on Rhode Islands urban waterfront.

An important source of the CRMC's impetus for negotiating for Collier Point Park is found in the agency's Providence Harbor Special Area Management Plan (SAMP). Adopted in 1983, the SAMP identified the need to increase balanced public uses of the City's waterfront resources, and specifically targeted the creation of public recreational boating opportunities among its policies. With this regulatory tool at its disposal during the Manchester Street Station assent process, the CRMC was able to make a strong case for the boat ramp and its ancillary facilities.

While the boat ramp is Collier Point Park's public access centerpiece, the facility is actively used by the public for numerous purposes. Pedestrian boardwalks are frequently used, as are the observation deck, which is set on pilings driven into the bottom of the Providence River. A public observation tower located just inland of the observation deck is also frequently used and provides a better vantage point from which to take in the surrounding vistas.

The newest addition to the Park is perhaps its most unusual and interesting feature. The former Soviet submarine K-77 which aimed nuclear missiles at the U.S. East Coast during the Cold War, is now tied down to rehabilitated piers, whose repair was stipulated under the CRMC's Collier Point Park assent. The submarine is currently owned by the USS Saratoga Museum Foundation, and is open to the public as a tourist attraction and educational exhibit



The background to the Collier Point Park boat ramp shows the industrial face of the working waterfront that surrounds it. Derelict remains of wood pilings that supported marine transportation of an earlier era, stand sentinel by salt piles that keep today's highways safe when winter storms blanket them in snow. The presence of a recreational boating facility in the midst of a decidedly developed urban waterfront is an unexpected boon to city dwelling boaters and others.

CRMC Assented Project: SAKONNET PT. CLUB**Location:** Sakonnet Point, Town of Portsmouth**Public Access Provided:** 1) A public walkway located along a portion of the project's perimeter; and, 2) a parking area designed to accommodate at least six vehicles.

When it is finally completed, the Sakonnet Point Club will include a dry rack boat storage facility to accommodate up to 94 boats, a marina club house with a pool and decks, a fixed pier, a boat launching facility including a crane lift and boat ramp, and a floating docks. But despite this extensive package of amenities, the greatest benefit to be realized by the club's members will be the access provided to one of the most spectacular stretches of the Rhode Island coast.

For the purpose of public access to the shore, and particularly to such a beautiful combination of shoreline, a charming little harbor, and a majestic expanse of coastal waters that merge to the Atlantic Ocean, Sakonnet Point has long been valued by those in the know as one of the best spots in the state. And for years, those in the know - this writer included - have been unimpeded in their use of this lands-end breakwater at Sakonnet Point.

And through a Section 335 stipulation, the CRMC ensured that public access to the breakwater would remain unimpeded. Much of the site, which includes a large parking area and the dilapidated remains of the old Fo'c'sle restaurant, is privately owned. But the breakwater itself is public property, and by including the public walkway along the project's perimeter as an assent stipulation, the CRMC was able to preserve the public's ability to access the breakwater. And while simply sitting by the breakwater to take in the stunning views and to smell the salt air is pleasure enough for many people, the public's traditional use of the breakwater for saltwater angling is also ensured by the CRMC's application of Section 335 to the Sakonnet Point Club assent.



The breakwater at Sakonnet Point curls toward the harbor it protects from the ravages of the open sea it would otherwise face at this location. The dayboats at anchor give a hint of the charm that marks Sakonnet Point. The public will still be able to access the breakwater after the Sakonnet Point Club is constructed, due to the CRMC section 335 assent stipulation for the public walkway which will lead to it.

A familiar old Sakonnet Point landmark, the weathered remains of the Fo'c'sle restaurant will make way for the Sakonnet Point Club. It had become an eyesore to some, but remained a virtual part of the land to others, who cherish an earlier time when the restaurant was a dining destination for seafood lovers near and far. Its decaying hulk will be demolished, and the overgrown, fenced in lot before it will become part of a new recreational boating facility on one of the most beautiful sites in Rhode Island.



CRMC Assented Project: THE INN AT LONG WHARF

Location: Long Wharf, City of Newport

Public Access Provided: 1) A public dinghy dock; and, 2) the use of a pier and a waterfront walkway

The public access that the CRMC derived from the assent it prepared for the Inn at Long Wharf project is similar to what was stipulated through the assent for the Waites Wharf project (See Coastal Features, Volume 12, Issue 2, Public Access Special Issue, Part I). The Inn at Long Wharf itself is also similar to the Waites Wharf development as both represent the private development of a congested waterfront, and both incorporate a land-side commercial venture into an area that is bustling with docks, piers, and boardwalks. And most important, both projects clearly benefit by the proximity to and use of the public trust resources that support the vibrant mixed-use character of Newport's world famous historic waterfront.

Keeping this point in mind, especially as private developments potentially impact public access to the shore in such cases, the CRMC attempts to ensure public access that is not only meaningful but consistent with the waterfront's characteristics. In the case of the Inn at Long Wharf, this meant keeping access to an existing pier open, and providing access to a walkway with views of the harbor. The Inn at Long Wharf property included a marina whose bulkhead was deteriorated to the point that it required repair. The applicant proposed to expand the repaired bulkhead further seaward, which required a special exception to the Coastal Resources Management Program.

In cases where a special exception is required as a condition of the CRMC's granting an assent, an applicant can help its position by demonstrating that public access will be served as a result of the proposed development or activity. The proposed repairs to the deteriorated bulkhead were approved by the CRMC when the applicant demonstrated that the bulkhead's rehabilitation would not only avoid any impairments to public access, but that it would actually result in enhanced public access along the waterfront by the Inn at Long Wharf.

In addition to the pedestrian access provided by the repair of the bulkhead, plus the stipulation that the public be allowed access to an existing pier at the site, the CRMC required signage along the eastern and western side of the Inn to indicate that the public access at this site includes the public walkway and a public dinghy dock.



The sign in this photo clearly marks the spot where the public can find unimpeded access along the walkway shown by the perimeter of the Inn at Long Wharf. The sign also alerts the public to the location of a dinghy dock, located just to the right of the walkway in this picture, that is available to them. Besides the public access identified by the sign, it also indicates that private and public partnerships in Rhode Island work well to promote the balanced private use of public resources, while the public's right to enjoy them is preserved.

Public Access Created through the CRMC Permitting Process

In addition to creating public access by legislative mandate to discover and designate public rights-of-ways to the shore, the CRMC creates public access via Section 335 regulations in “The Redbook.” This method of creating public access to the shore is accomplished by requiring that a public access plan be included when the CRMC issues a permit for the following project types:

- < commercial and industrial development and redevelopment projects
- < new and significant expansions to marinas
- < activities which involve the filling of tidal waters
- < publicly funded beach nourishment projects.

The following list shows projects that have created new public access opportunities in Rhode Island due to CRMC permit requirements for public access plans under Section 335, or through assent stipulations that were required by the CRMC prior to the addition of Section 335 to the Coastal Resources Management Program.

<u>CRMC Assented Projects with a Public Access Plan</u>	<u>City/Town</u>
Stone Harbour	Bristol
Thames Street Landing	Bristol
Weetamoe Farms	Bristol
Wharf Tavern	Bristol
Sakonnet Point Club	Little Compton
Knowlesway Extension (at Pt. Judith Pond)	Narragansett
Casey’s Marina	Newport
Newport Onshore	Newport
The Inn at Long Wharf (Marina)	Newport
West Wind Marina (Waite’s Wharf)	Newport
Blue Beach (Economic Development Corporation)	North Kingstown
Compass Rose Beach (Economic Development Corporation)	North Kingstown
Jamestown Bridge (RI Department of Transportation)	North Kingstown
Keiffer Park (Economic Development Corporation)	North Kingstown
North Kingstown Town Marina	North Kingstown
Spink’s Neck Beach (Economic Development Corporation)	North Kingstown
Carnegie Abbey	Portsmouth
Melville Marina	Portsmouth
Mt. Hope Marine Terminal	Portsmouth
Collier Point Park (Narragansett Electric)	Providence
Providence Place Mall	Providence
Shooters (Currently RIDOT property)	Providence
Village at Mt. Hope Bay (Starwood)	Tiverton
Dickerson’s Marina	Warwick
Greenwich Bay Marina	Warwick





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The Wharf Tavern is a popular restaurant on the Warren River, in the Town of Warren, that serves up more than fresh seafood dinners. The public’s right to access the walkway and deck that wraps around the building was made possible by CRMC assent stipulations. A sign posted just to the right of the staircase in this picture reads: *“This public access is being provided by the Coastal Resources Management Council in cooperation with the owners. Public access is permitted from 7:00 a.m. to 10:00 p.m. subject to local ordinances and laws.”*

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