

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COASTAL RESOURCES MANAGEMENT COUNCIL  
STAFF REVIEW**

TO: Grover J. Fugate, Executive Director  
Coastal Resources Management Council

Date: March 16, 2012

FROM: Danni Goulet, PE, Marine Infrastructure Coordinator  
Tracy Silvia, Senior Environmental Scientist  
Janet Freedman, Coastal Geologist  
James Boyd, Coastal Policy Analyst  
Dave Reis, Supervising Environmental Scientist

SUBJ: **CRMC File No.:** 2011-09-005

**Owner:** Town of South Kingstown

**Site Address:** Matunuck Beach Road (Town roadway easement)

**Site Town:** South Kingstown

**Project:** To construct and maintain a sheet pile wall along Matunuck Beach road within the Town-controlled right of way to protect the road against future undermining from ongoing coastal erosion. The proposal includes a sidewalk on top of the wall for public access within the existing right of way. The wall will be constructed in 3 phases as conditions warrant.

**Water Type/Name:** 1, Conservation Areas

**Coastal Feature:** Coastal beach (210.1) and coastal headland bluff (210.4)

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**Staff Recommendation:**

Based on the facts presented herein CRMC Staff are of the opinion that the pending application requires a Special Exception. This report details the history of the application, the pertinent sections of the RICRMP and Salt Ponds Region SAMP that apply, along with staff analysis and comment. Since this matter has been before the Council on several occasions, staff defers to the Council for a final decision as to the Special Exception issue and whether to approve the Town's proposed sheet pile wall.

Signed \_\_\_\_\_ **Supervising Biologist**

Signed \_\_\_\_\_ **Staff Engineer**

Signed \_\_\_\_\_ **Staff Biologist**

Signed \_\_\_\_\_ **Staff Geologist**

Signed \_\_\_\_\_ **Coastal Policy**

**Staff Evaluation Summary:**

Based on the review herein conducted, CRMC staff offers the following itemized summary of our evaluation:

1. The west end of the phase 1 sheet pile wall will be exposed either during construction or shortly thereafter due to recent (2011-2012) erosion that has critically reduced the setback between the exposed coastal bluff and the proposed wall location.
2. Staff only considered Phase 1 construction as shown on the plans for evaluation of a Special Exception, other segments do not appear to meet the Special Exception criteria.
3. Based on the expected exposure of the sheet pile wall, CRMC Staff believes the structure will function as a structural shoreline protection device immediately upon its installation or very shortly thereafter.
4. CRMC Staff believes that the structure once exposed will redirect and amplify wave energy along the shore resulting in greater erosion and the progressive exposure of the structure resulting in its function as a shoreline protection device (as designed).
5. The construction of a facility that functions as a structural shoreline protection device bordering Type 1 waters is prohibited thereby requiring a Special Exception.
6. Accordingly, CRMC Staff concurs with the portion of the Save The Bay Letter (dated February 17, 2012) that the structure should be considered a structural shoreline protection device which is prohibited by current rules.
7. CRMC Staff concurs with a portion of the objection letter submitted by Blish and Cavanagh (dated November 4, 2011) on behalf of Hang Ten, LLC and the Tipperary Tavern, LLC with regard to their claim that the proposed structure will exacerbate erosion problems and ultimately destabilize their buildings.
8. CRMC Staff concurs with a portion of the objection letter submitted by Burns and Levinson (dated November 4, 2011) on behalf of abutting homeowners that the proposed structure will amplify the forces of wave action placing their structures in greater danger. However, Staff recommends that only Phase 1 be eligible for a Special exception which makes this point moot.
9. CRMC Staff concurs with a portion of the Save The Bay letter (dated February 17, 2012) that the structure will not only increase erosion on adjoining properties but will result in the loss of the beach, associated marine habitat and the recreational opportunities provided by the beach including public shoreline access.
10. CRMC Staff have evaluated the application against the applicable policies, goals, standards and prohibitions contained in the RI Coastal Resources Management Program (RICRMP) and the Salt Pond Special Area Management Plan (SAMP) and believe the proposed structure is inconsistent with the RICRMP and SP SAMP as discussed in this report.
11. Based on this review, CRMC Staff offers an opinion that the proposed sheet pile wall is inconsistent with the Coastal Program, will exacerbate erosion, reflect and amplify wave energy in a manner which will cause significant impact to abutting properties and the

structures contained thereon, will damage the coastal environment resulting in a loss of public access and recreational opportunities thereby adversely affecting tourism and the values of nearby properties landward of the proposed structure.

12. CRMC Staff further believes the proposed structure will not protect Matunuck Beach Road during severe coastal storm events from flooding or wave action. Specifically, overtopping of the structure and associated flooding will eliminate the ability of Matunuck Beach road to be utilized as an evacuation route. The structure is likely to protect the roadway from erosion in the areas where the wall is installed.
13. CRMC Staff concurs portions of the objection letter submitted by the Surfrider Foundation (dated November 18, 2011) that approval of this application will set a precedent for other areas of the State that are also suffering from shoreline erosion. Specifically, Staff concurs that the issues impacting Matunuck are not limited to Matunuck or are otherwise unique to this area of the RI South Shore.

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### **Staff Comments:**

The Application requests *“Town of South Kingstown seeks an Assent to drive a sheet pile wall within its right of way to guard against future undermining of Matunuck Beach Road due to severe coastal erosion occurring south of the road. A sidewalk will be constructed adjacent and to the north of the wall to increase public access. The sheet pile wall will be constructed in phases as needed. The first phase will be approximately 202 feet long and constructed west of AP 92-3, Lot 1”*. The proposed sheet pile wall will be constructed immediately adjacent to AP 92-3, Lot 1 and a portion of AP 92-2, Lot 47. Contained within the supplemental material provided as part of the application, Mr. Alfred, Town Administrator, states *“the town is required to maintain emergency and public access to the area and is proposing to install a protective sheet pile barrier as a pro-active measure to assure the road is passable should a major storm impact the area.”* While the sheet pile barrier may protect the road from storm induced erosion the wall will not prevent road flooding during a major storm or being overtopped by storm waves. Emergency personnel, property owners and the general public will not be able to access or evacuate Matunuck Point along Matunuck Beach Road during hurricanes and major extra-tropical storms (nor’easters) under the present conditions given the existing road elevation and location. This situation will exacerbate over time as sea level rises. The sheet pile wall is designed only to prevent undercutting of the roadbed. It is not designed to prevent flooding during a major storm. Rather, it will be overtopped and the road will flood at the proposed wall location and at locations farther west where the existing shoreline protection is inadequately designed. There will likely be storm damage to the proposed sidewalk and possibly the road surface with wave splash over and potential scour behind the wall resulting in regular maintenance work.

The coastal bluff as depicted on the Town’s site plans was located 10 to 12 feet from Matunuck Beach Road when surveyed in July 2011. Tropical Storm Irene in August 2011 and other storm conditions have caused further erosion. It is Staff’s opinion that one more significant storm will easily erode the remaining unconsolidated sediment that comprise the coastal bank/bluff and expose the road foundation and utilities. The proposed sheet pile wall is designed to protect the roadway from erosion. It is also designed as a zero pressure structure, which means that there must be equal pressure on each face of the wall. In other words if one side is exposed the sheet pile wall could fail

and collapse. During the CRMC staff site visit on March 6, 2012 the eroding coastal bank was now only 5 to 6 feet from the proposed wall location for Phase I.

It is the Staff Engineer's professional judgment that the construction activity of driving the sheet piling will cause the remainder of the existing thin coastal bank to collapse. Thus the installation of rip rap or other erosion resistant fill will be necessary on the seaward side of the sheet pile wall immediately following wall construction. This will be required to maintain the integrity of the structure and prevent failure. **Given these facts it is the opinion of Staff that the installation of the proposed sheet pile wall should be considered an activity conducted on a coastal feature, and therefore installation of structural shoreline protection, rather than the installation of an accessory structure within a CRMC coastal setback.**

The sheet pile wall was designed by the Town with guidance by CRMC staff to avoid construction on a shoreline feature and to keep the structure within the Town roadway easement located landward of the coastal feature. Given the current site conditions and further CRMC staff analysis it is staff's opinion that the proposed sheet pile wall would be on the shoreline feature. Section 200.1.C.3 of the Coastal Resources Management Program (CRMP) prohibits the installation of structural shoreline protection adjacent to Type 1 waters<sup>1</sup>. In addition, Section 950.C.1 of the Salt Pond Region SAMP prohibits the filling, removing or grading of shorelines adjacent to Type 1 waters<sup>2</sup>. Accordingly, the installation of the sheet pile wall and subsequent necessary placement of erosion-resistant fill material (e.g., rip-rap) to stabilize the seaward face of the wall are prohibited activities pursuant to the CRMP and Salt Pond Region SAMP. The Town, however, could demonstrate a compelling public purpose and be eligible for a Special Exception from the Council pursuant to CRMP Section 130. This issue is detailed further herein but it is the opinion of Staff that the proposed Phase 1 meets the criteria for a Special Exception if the stipulations provided at the end of the report are required by the Council. Based on these findings, the staff asked the Town to supply the necessary documentation to address the Special Exception criteria specified in CRMP Section 130.

The application site plans and details have three phases outlined. There are no criteria provided in the application for the installation of Phases II and III, nor do these phases appear to meet the Special Exception criteria. The Staff recommends that only Phase 1 as shown on the plans be considered for a Special Exception at this time. The need for short-term maintenance (rip rap) and long-term maintenance were not detailed in the application material. This proposal will require significant maintenance and should be detailed to the Council's satisfaction prior to the installation of such a significant amount of additional infrastructure.

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<sup>1</sup> CRMP Section 200.1.C.3 states "In Type 1 waters, activities and alterations including dredging, dredged materials disposal, and grading and excavation on abutting shoreline features are all prohibited unless the primary purpose of the alteration or activity is to preserve or enhance the area as a natural habitat for native plants and wildlife or a beach renourishment/ replenishment project. **Structural shoreline protection facilities shall not be permitted** to preserve or enhance these areas as a natural habitat or **to protect the shoreline feature.**" (emphasis added)

<sup>2</sup> Salt Pond region SAMP Section 950.C.1 states in part "**Filling, removing or grading is prohibited on** beaches, dunes, undeveloped barrier beaches, coastal wetlands, **cliffs and banks**, and rocky shores **adjacent to Type 1** and Type 2 waters, and in the Salt Pond Region unless the primary purpose of the alteration is to preserve or enhance the area as a natural habitat for native plants and wildlife or as part of a beach nourishment/ replenishment project. In no case shall structural shoreline protection facilities be utilized in this manner. (emphasis added)

The history of the matter leading up to this application is as follows:

- February 25, 2011 Inter-Office Memorandum from CRMC Executive Director Grover Fugate to South Kingstown Town Manager Steven Alfred summarizing options to address Matunuck erosion issues as discussed at February 18, 2011 meeting of CRMC and Town staff.
- March 29, 2011 Joint CRMC and Town Council work session at the South Kingstown Town Hall. CRMC staff were directed during this meeting to suspend all enforcement actions against property owners that had constructed erosion control measures without a CRMC Assent. There have not been additional enforcement actions, but staff has received numerous calls concerning ongoing activities on the beach and slope.
- April 20, 2011 CRMC staff complete a detailed report on the Matunuck erosion issues that includes temporary shoreline protection guidelines and long-term erosion recommendations.
- April 22, 2011 CRMC staff provides to the Town guidelines and special permit application (attached) for Temporary Erosion control measures for residents. To date there have not been any applications for Temporary Erosion controls submitted even though the temporary structures “permit” was the short-term solution requested by the Town at the March 29, 2011 meeting.
- PLEASE NOTE:** There has not been an application filed or an “As-Built” application for the timber structure (wall) located around the Ocean Mist.
- May 31, 2011 2<sup>nd</sup> Joint CRMC and Town Council Work Session at the South Kingstown Town Hall.
- June 24, 2011 CRMC staff complete an Interoffice memo to the Council to clarify and correct issues discussed at the May 31, 2011 meeting.
- CRMC staff meets with Town officials numerous times from May though August to discuss application options (other purposes?).*
- September 1, 2011 Application for sea wall project from the Town received by the CRMC
- October 3, 2011 CRMC receives a letter from RI Historical Preservation & Heritage Commission stating that the proposed project will have no effect on significant cultural resources.
- October 4, 2011 Public Notice for project issued with 30-day comment period
- October 25, 2011 CRMC receives a letter from Save the Bay requesting a public hearing and stating concerns about the project being considered as a Special Exception under CRMP Section 130.
- November 2, 2011 CRMC reply to Save the Bay letter stating the application would not invoke a Special Exception or emergency assent (CRMP Section 180) and that a public hearing would be scheduled for the matter.
- November 18, 2011 Public Notice period ends. It was extended two weeks at the request of

objectors.

47 letters of support were received – 42 were the a form letter (sample included) and 7 were unique (also included)

4 Letters of Objection were received (included) from Save the Bay, Surfrider Foundation, and two different groups of homeowners in the area.

- December 1, 2011 CRMC requests the Town to address the issues/concerns raised in the Objector's letters and provide a written response.
- January 12, 2012 CRMC receives the written response from the Town
- January 25, 2012 CRMC requests the Town provide written response to section 120, 140 and 300.1 as required by RICRMP
- February 14, 2012 Town of South Kingstown submits the response to the required information requested on January 25, 2012
- March 7, 2012 CRMC requests Special Exception criteria from the Town.
- March 13, 2012 CRMC receives the Special Exception material from the Town.

### **Synopsis of the Objectors' Letters**

**Surfrider Letter** (attached) – This letter states that there is no permanent solution to erosion but they are concerned about the choices being made to address the erosion issue in Matunuck. The concern is that this is the first part of a slippery slope of coastal armoring along the Rhode Island South Shore. Surfrider notes that places like Roy Carpenters Beach, Misquamicut and Green Hill Beach are all experiencing erosion that is putting millions of dollars worth of real estate at risk. The precedent of allowing this structure will make it unfair to deny similar shoreline protection measures in these other locations. Surfrider advocates relocation of the road and soft solutions rather than armoring. They believe that this project will lead to widespread armoring of the shoreline.

**Save the Bay Letter** (attached) – They state that this letter still has the same concerns from the October 25 letter (contend that is a Special Exception) as well as the following concerns. STB considers the proposal, a sheet pile wall 10' back from the shoreline feature in some locations to be shoreline protection which is prohibited in Type 1 waters. The reasons for the support of the prohibition are; the loss of beaches and marine habitat, loss of public access, loss of recreational opportunities and tourism, increased erosion on adjoining properties, increased exposure of the population and property to risks from storms and hazards, and the long-term decrease in non-waterfront property values for owners in communities in which beach access is significantly reduced. STB contends that there are cost effective short-term alternatives. The main contention is that since the beach has been retreating for decades it will continue to retreat and expose the sheet pile wall which will need to be supported with riprap (or some other support) which is clearly detailed on the proposed plans. They also feel that setbacks and erosion rates need to be utilized as part of this proposal, currently there are none since it is being done in the Town's right of way for the roadway. STB made a point of reiterating that this location was found to have the highest erosion rate of the US eastern shoreline (USGS). The ultimate point they make is that since they

feel this proposal is a prohibited activity that does not conform to Council goals it should be considered a special exception so a full range of alternatives and significant public trust and coastal policy issues be decided.

**Blish & Cavanagh LLP letter** (attached) – This letter is from two owners; Ocean Mist Restaurant and Tara’s Family Pub. The issues raised in this letter are summarized as follows: the bulkhead will come within 3 inches of the buildings in some locations; the wall and sidewalk will essentially seal off the properties from the street; the sealing off of the property will have devastating impacts on the businesses; the wall will exacerbate the erosion problem on the seaward side and have significant effects on their property; the area prohibits shoreline protection and this is shoreline protection; and non-structural alternatives are the preferred method and that all reasonable alternatives must be exhausted prior to proposing structural shoreline protection. They claim that the Town has not demonstrated that non-structural methods have not worked in the past, and will not work in the future. They also claim that their property rights are violated by sealing them off from the road and subjecting them to stormwater flows.

**Burns & Levinson letter** is very similar to the Blish & Cavanagh letter but from the remaining homeowners in the area. They incorporate the Blish & Cavanagh letter by reference and make a point of explaining that the proposal by the Town will increase and amplify the forces of wave action placing these properties in greater danger. They also reiterate that the Town has not tried non-structural methods nor is it an “emergency”.

**The portions of the RICRMP and Salt Ponds Region SAMP that are deemed by Staff to be applicable:**

Section 120 Variances  
Section 130 Special Exceptions  
Section 140 Setbacks  
Section 145 Climate Change and Sea Level Rise  
Section 200.1 Type 1 Conservation Areas  
Section 210.1 Coastal Beaches  
Section 210.4 Coastal Headlands, Bluffs and Cliffs  
Section 300.3 Residential, Commercial, Industrial, and Recreational Structures  
Section 300.7 Construction of Shoreline Protection Facilities  
Section 300.13 Public Roadways, Bridges, Parking Lots, Railroad Lines and Airports  
Section 325 Activities Located within Critical Coastal Areas  
Section 335 Protection and Enhancement of Public Access to the Shore  
Section 950 of the Salt Pond Region SAMP

The April 20, 2011 Staff memo and the June 24, 2011 Inter-Office Memorandum are appended to this report. A significant effort was put into these documents to outline the programmatic and policy issues that are raised by this application. Staff has supplemented these documents with issues raised by the application, objections, and the current site conditions. The sections of the Rhode Island Coastal Resources Management Plan (RICRMP) or the “Red Book” that pertain to this application are detailed as this is a significant portion of the Objectors’ claims.

**Section 120 Variance:** The need for a variance is based on what the Council decides to call the proposed structure. Staff has concluded that it is shoreline protection and that there is no need for a

variance since the proposal requires a Special Exception. The staff opinion is bolstered by the applicant themselves which has called the proposal shoreline protection in the title of the project drawings. The notes and call outs within the drawing call the proposed structure a steel bulkhead and sheet pile wall. Section 300.7 defines structural shoreline protection facilities to include revetments, bulkheads, seawalls, groins, breakwaters, jetties and other structures, the purpose or effect of which is to control the erosion of coastal features.

**Section 130 Special Exception:** The proposal was submitted without the request for a Special Exception. After careful review of the RICRMP and a site inspection on March 6, 2012 staff requested that the Town submit the Special Exception criteria for this proposal. The Town's response contends that the project is not a Special Exception but a roadway "shoulder reinforcement". If the proposal is determined to be shoreline protection by the Council, a Special Exception is required for that prohibited activity. A Special Exception may be granted for a prohibited activity if the proposed activity serves a compelling public purpose and the project provides benefits to the public as a whole as opposed to individual or private interests. The RICRMP also states that the activity must be associated with public infrastructure, a water-dependent activity that generates substantial economic gain to the state, and/or an activity that provides access to the shore for broad segments of the public. The activity must have taken all reasonable steps to minimize environmental impacts or use conflicts and that there are no reasonable alternatives. When granting a Special Exception, the Council shall apply conditions that minimize the adverse impacts, control the sequence of development, control the use and removal of any temporary structures, assure satisfactory installation and maintenance, and require detailed records, etc. Given that the activity is a roadway protection structure this proposal (Phase 1 only) may be eligible for consideration under Section 130 Special Exception.

**Section 140 Setbacks:** The Town has requested a variance (100%) to the setback requirement for non-water dependent structures. It is the opinion of staff that this request is moot as the proposal is for shoreline protection that does not require a setback if a Special Exception is granted.

**Section 145 Climate Change and Sea Level Rise:** While there are no standards in this section, it is the Council's policy to accommodate a base rate of expected 3 to 5 foot rise in sea level by 2100 in the siting, design, and implementation of public and private coastal activities. Given the fact that this infrastructure is represented as something that will maintain the roadway in its current location for some time it does not appear that increases in the sea level were a consideration in the design. The current design wave crest elevation is higher than the top elevation of the concrete wall on top of the sidewalk. It is the policy of the Council to take into account the different risks (sea level rise and direct storm impacts) for different types of public and private infrastructure. It is clear that this proposal will not prevent roadway flooding so emergency vehicle access will continue to be limited or non-existent during storms. This wall will not protect buildings in the vicinity or behind the wall and in fact may ramp up wave forces with rip rap installed. Long term maintenance given current and future hazards was not addressed.

**Section 200.1 Type 1 Conservation Areas:** The definition for this water type has three portions, the third section is pertinent to the designation; water areas that are particularly unsuitable for structures due to their exposure to severe wave action, flooding and erosion.

**Section 210.1 Coastal Beaches:** The Council's goals are (a) to preserve the qualities of, and public access to those beaches which are an important recreational resource (adjacent to Type 1 and 2



waters); (b) to prevent activities that will significantly disrupt longshore and/or onshore-offshore beach processes, thereby creating an erosion or flooding hazard; and, (c) to prevent construction in high hazard areas; and (d) to protect the scenic and ecologic value of beaches. Alterations to beaches adjacent to Type 1 and Type 2 waters are prohibited except where the primary purpose of the project is to preserve or enhance the area as a natural habitat for native plants and wildlife. The RICRMP states that in no case shall structural shoreline protection facilities be used to preserve or enhance these areas as a natural habitat or to protect the shoreline feature. The beach adjacent to the proposed sheet pile wall is highly altered by the construction of shoreline protection structures and building infrastructure, including old septic tanks, pilings, concrete foundations and various unpermitted erosion control contraptions. These structures do impact the sediment transport to an extent; however there is still onshore transport after significant storms. They also curtail lateral access and thus the recreational value. The area is built out so this project will not increase construction in a high hazard area. The active beach is currently underneath some of the buildings. The ecological value of portions of the beach under the structures is considered limited.

**Section 210.4 Coastal Headlands, Bluffs and Cliffs:** The Council's goals are to: (a) protect coastal cliffs and bluffs from activities and alterations that may damage the value of these features as sources of sediment to beaches and as a buffer against storm waves and flooding. The Council shall encourage the use of non-structural methods to diminish frontal erosion associated with coastal cliffs and bluffs adjacent to Type 1 and Type 2 waters. Some, but certainly not all, non-structural methods have been tried. Traditional sandbags have been the primary method used to control erosion along the bluff until the installation of several unauthorized wooden fences and bulkheads last year. Other methods not used include large coir sandbags, beach replenishment and monitored experimental structures that receive CRMC approval.

**Section 300.3 Residential, Commercial, and Recreational Structures:** It is the policy of the Council to require a public access plan for commercial structures if they impact coastal resources. The proposed structure, upland wall with sidewalk falls within the grey area of the RICRMP. It is the opinion of staff that the project is Shoreline Protection and this section does not apply. The RICRMP does require a more stringent set of standards be applied to structures in High Hazard Area such as this; however the guidelines don't consider this type of "upland" structure as the sheet pile wall was proposed.

**Section 300.7 Construction of Shoreline Protection Facilities:** The Town has applied for an upland structure, but as stated above, the Council may choose to consider this a shoreline protection structure. It also states in Section 300.7.D.2 that the Council shall prohibit the use of limited applications of riprap to protect structures ancillary to the primary structure. The proposed structure is described as an upland structure that is ancillary to the roadway, but it is designed to have zero pressure which means that any loss of soil or supporting material seaward of the wall will need to be replaced (previously discussed). It obviously can't be replaced with easily erodible soil so riprap will likely be used. If the Council considers this a shoreline protection structure, it can address this issue as part of the special exception. The RICRMP 300.7.E.1.f requires that the applicant describe the long-term maintenance program for the facility including financial commitments to pay for said maintenance. If the Council determines that this is a shoreline protection structure, then the Town needs to submit a long term maintenance plan. Even if the Council determines this structure to be an upland structure, maintenance will be required in the near future. The Town has not addressed the maintenance of the structure under either definition.

**Section 300.13 Public Roadways, Bridges, Parking Lots, Railroad Lines and Airports:** The application does not address this section of the RICRMP. The RICRMP standard for public roadways requires that permeable materials shall be utilized, where practicable, to surface roadways and parking lots on shoreline features adjacent to Type 1, 2, and 3 waters. The proposed six inch thick concrete sidewalk will cover a currently unpaved, albeit hard packed, area.

**Section 325 Activities Located within Critical Coastal Areas:** The proposed project area is located within the watershed of the salt ponds and therefore subject to the policies of the Salt Pond Region SAMP, lands developed beyond carrying capacity. Unless otherwise superseded by SAMP requirements all applicable CRMP standards shall apply to the project in accordance with CRMP Section 325.C.3.

**Section 335 Protection and Enhancement of Public Access to the Shore:** It is the Council's policy to protect, maintain and, where possible, enhance public access to and along the shore for the benefit of all Rhode Islanders. It is well documented that hard structures eliminate the beach in front of them. This is seen in the western portion of the proposed area. It is recommended that the Council require a meaningful Public Access plan with access from the roadway and water as part of any shoreline protection since lateral access in front of the wall will likely be eliminated.

**Salt Pond Region SAMP:** Section 950.C.1 states in part "Filling, removing or grading is prohibited on beaches, dunes, undeveloped barrier beaches, coastal wetlands, cliffs and banks, and rocky shores adjacent to Type 1 and Type 2 waters, and in the Salt Pond Region unless the primary purpose of the alteration is to preserve or enhance the area as a natural habitat for native plants and wildlife or as part of a beach nourishment/ replenishment project. In no case shall structural shoreline protection facilities be utilized in this manner." As noted above, CRMC staff have concluded that the proposed sheet pile wall is a prohibited activity, and therefore the project may not proceed unless the Council grants a Special Exception pursuant to CRMP 130.

### **Staff Recommendations / Stipulations**

1. Staff recommends that only Phase 1, as shown on the plans, be considered eligible for a Special Exception at this time. If the Council does grant a Special exception, the approval should be limited to the Phase 1 area and all subsequent phases shall require a separate application process.
2. If a Special Exception is granted, the Town must provide a detailed design for the Rip Rap or other method of maintaining a zero pressure design. If it is rip rap, required permit applications from RIDEM and Army Corps of Engineers must be submitted prior to Assent issuance.
3. If a Special Exception is granted the Town must supply an Operations and Maintenance plan for the wall and rip rap that includes the anticipated funding mechanism (prior to Assent issuance).
4. If a Special Exception is granted, the Town must provide a Public Access Plan that includes lateral access, and perpendicular access from the roadway (prior to Assent issuance).