

CRMC DECISION WORKSHEET

2020-12-040

Ballards Wharf Realty, LLC.

Hearing Date:	
Approved as Recommended	
Approved w/additional Stipulations	
Approved but Modified	
Denied	Vote

APPLICATION INFORMATION						
File Number	Town	Project Location		Category	Special Exception	Variance
2020-12-040	New Shoreham	Water Street		A	<input type="checkbox"/>	<input type="checkbox"/>
		Plat	6			
		Owner Name and Address				
Date Accepted		Ballards Wharf Realty, LLC.		Work at or Below MHW		<input checked="" type="checkbox"/>
Date Completed		P.O. Box 298 Block Island, RI 02807		Lease Required		<input type="checkbox"/>

PROJECT DESCRIPTION

maintenance dredging & Beneficial reuse of material on Town Beach

KEY PROGRAMMATIC ISSUES

Coastal Feature: Manmade Shoreline, Coastal Beach
Water Type: Type 5, Commercial and Recreational Harbors
Red Book: 1.2.1(E), 1.3.1(D), 1.3.1(I)
SAMP: <list relevant SAMP sections> *N/A*

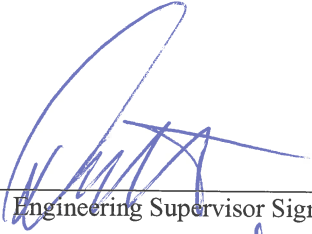
Variations and/or Special Exception Details: *None*

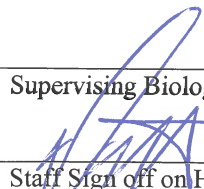
Additional Comments and/or Council Requirements: This application received two comments regarding non-compliance with prior marina assent stipulations.

Specific Staff Stipulations (beyond Standard stipulations): Yes, See Staff Report.

STAFF RECOMMENDATION(S)

Engineer DRG Recommendation: Approval
 Biologist _____ Recommendation: _____
 Other Staff _____ Recommendation: _____


 Engineering Supervisor Sign-Off _____ date _____
James Boyd, Deputy 5/18/22
 Executive Director Sign-Off _____ date _____


 Supervising Biologist Sign-off _____ date _____
 Staff Sign off on Hearing Packet (Eng/Bio) _____ date _____

**STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
ENGINEERING REVIEW**

TO: Jeffrey M. Willis, Executive Director
DEPT: Coastal Resources Management Council
FROM: Danni Goulet, PE
DEPT: CRMC Engineering Section

Date: April 14, 2022

SUBJ: **CRMC File No.:** A2020-12-040

Owner: Ballards Wharf Realty, LLC. Ballards Wharf Realty, LLC.

Site Address: Water Street Plat: 6 Lot: 159

Site Town: New Shoreham

Project: Maintenance dredging within an existing Marina Perimeter Limit with beneficial reuse of the dredge material at Crescent Beach by the Town of New Shoreham.

Water Type/Name: Type 5, Commercial and Recreational Harbors

Coastal Feature: Manmade Shoreline (bulkhead)

Staff Comments/Recommendation:

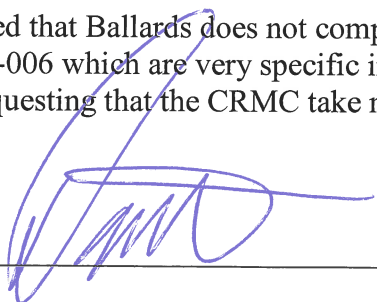
The extended time for the review of this application was due to delays in the Army Corps of Engineers approval of the beneficial reuse area and permission from the Town of New Shoreham to use the beach for the material reuse. Once these permissions were in place it took until early December 2021 for the applicant to develop a work plan that is protective of the adjacent resources and property owners.

The dredge material was tested according to the RIDEM standards and found to be sand that is suitable for beneficial reuse on beaches. The dredging method will include multiple steps to remove it from the marina using a clamshell dredge and placing the sand onto the dredge deck or adjacent barge. The material will then need to be restacked into a dewatering basin being constructed on the adjacent property where it will quickly dry to a level that is suitable for trucking to the Town beach. The material will be stacked onto the upper portion of the beach and spread as needed just prior to the beach season.

The project was put out for a joint Public Notice with RIDEM on December 21, 2020. That notice elicited two responses, one from the Town of New Shoreham Harbormaster and the other from Interstate Navigation who is the adjacent property owner. These letters and additional material are in the Council Package.

The Towns stated that Ballards does not comply with the Stipulations contained in the marina Assent 2013-12-006 which are very specific in terms of boat count, length and berthing orientation. The Town is requesting that the CRMC take measures to insure compliance with the Assent if the

Signed _____



Staff Engineer

council approves the dredging permit. Interstate Navigation has similar complaints/issues with much more documentation of violations that include photographs that are in the Council package. Interstate is asking to deny the dredging until the violations are sorted out and a consent agreement can be reached that addresses specific issues at the site. The list of remedies are contained in the December 22, 2020 letter by Oliverio & Marcaccio, LLP that is contained in the Councils package. There is no current CRMC enforcement action currently against CRMC Assent 2013-12-006 therefore the Council may proceed with the dredging application.

The dredging proposed has the potential to impact the adjacent resources and property owners due to the very tight operating spaces and the number of times the material must be handled to get it loaded onto trucks. If the proponent hires a contractor with extensive experience, adheres to the work plan submitted and there is close adherence to the proposed stipulations at the end of this report, the project can be accomplished with limited impacts.

The dredging plans reviewed are entitled: “Proposed Maintenance Dredge for: Ballards Wharf Realty, LLC – AP 6, Lot 159, New Shoreham, RI” prepared by Warren Hall, Civil Engineer, dated December 2, 2020 and sheet 3 dated October 2021. There are 5 sheets total. The work plan is dated December 2, 2021 and is 3 sheets total.

The above synopsis describes the travel of the application and the significant issues encountered during the review. The table below detail the pertinent standards of the Redbook and how the proposed dredging has met the standards.


Red Book Section Number	Section Title	Staff Comment
1.1.6(G)	Substantive Objections	1.1.6(G)(b) States that the substantive objections are defined by “direct evidence that the proposed alteration or activity does not meet all of the polices, prerequisites and standards contained in the applicable sections of this document”. While it is the Councils role to determine if the elements outlined by the objectors is a substantial objection, it is the opinion of Staff that the specificity of the issues raised by the objectors elevates this application to a Category A application before the Council for a public hearing.
1.2.1(E)	Type 5 Commercial and Recreational Harbors	One of the Councils priority uses for Type 5waters is the berthing, mooring, and servicing of recreational craft, commercial fishing vessels and ferries. The proposed maintenance dredging will allow for safe berthing of vessels at the marina and potentially larger or deeper draft vessels.
1.3.1(D)	Recreational Boating Facilities	This proposal does not contain any work on the actual marina structures but the removal and reinstallation of the piles at a marina as part of a dredging project is a typical practice.
1.3.1(I)	Dredging and Dredged Materials Disposal	The Council’s policies and state law require that when dredge material is suitable for beneficial reuse it shall be. This proposal

		meets this standard. The material was tested in accordance with the RIDEM standards and the proposed dredge footprint meets the Category B standards for footprint design as well as dredge material disposal. Staff recommends the standard dredge stipulations along with additional stipulations outlined at the end of this report. These additional stipulations are recommended due to the limited area for dewatering and multiple handling operations that will be required with this proposal.
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If the Council should chose to approve the project the following special stipulations are recommended in addition to the standard dredging stipulations.

1. A Contractor prepared work plan shall be submitted and APPROVED at least 7 days prior to any work. This plan shall detail the exact equipment, personnel (with contact information) and procedures to be utilized for the project.
2. Any deviation from the approved work plan WILL result in an immediate cease and desist order of the work until the CRMC has inspected the site and is satisfied that no resources or adjacent property has been impacted.
3. At the conclusion of the dredge material transportation to the beach (within 3 days) the applicant shall conduct a street sweeping operation along the travel route and the adjacent work areas. All construction related sediment shall be removed.

**STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
ENFORCEMENT SUMMARY**

TO: Jeffrey M. Willis, Executive Director
FROM: Laura Miguel, CRMC Enforcement 
DATE: May 18, 2022

RE: Ballard's Wharf Realty, LLC
Plat 6, Lot 159, Water Street, New Shoreham

Violations:

CRMC Cease and Desist Order no. 06-0072 and Notice of Administrative Fine (\$2,500.00) issued to Ballard's Wharf Realty, LLC on June 16, 2006 for the unauthorized opening of a marina in nonconformance with CRMC assent B2003-12-061.

CRMC Cease and Desist Order no. 06-0090 and Notice of Administrative Fine (\$2,500.00) issued to Ballard's Wharf Realty, LLC on July 6, 2006 for the unauthorized opening of a marina in nonconformance with CRMC assent B2003-12-061.

CRMC Cease and Desist Order no. 06-0090 and Notice of Administrative Fine (\$2,500.00) issued to Ballard's Wharf Realty, LLC on August 4, 2006 for the unauthorized opening of a marina in nonconformance with CRMC assent B2003-12-061.

The above-referenced violations were resolved through a consent agreement dated June 15, 2007.

CRMC Notice of Violation no. 16-0142: Complaint letter received September 26, 2016 alleging that vessels were being berthed in nonconformance with CRMC assent B2003-12-061. In response, CRMC Notice of Violation no. 16-0142 was issued to Marion Fillippi on October 12, 2016.

Complaints:

Complaint letter received September 17, 2013 alleging that vessels were being berthed at the 8-slip marina owned by Ballard's Wharf Realty, LLC in nonconformance with CRMC assent B2003-12-061. Follow up letter received October 7, 2013.

Complaint file 19-0206: Complaint received September 13, 2019 alleging that the marina has consistently violated CRMC assent B2003-12-061. CRMC enforcement staff conducted a site inspection on September 14, 2019 and determined that the marina was in conformance with the assent.

Complaint file 21-0003: Complaint received December 22, 2020 alleging nonconformance with CRMC assent B2003-12-061. Enforcement staff conducted site inspection on January 15, 2021. Staff followed up with owner and determined that site was in conformance with B2003-12-061 and 2007-05-039 (authorizing electrical hook-ups).

Note: According to the CRMC database, an earlier complaint was received around Labor Day, 2020 but not logged in at the time due to database problems.

Status:

As of the last site inspection of the site on January 15, 2021, there were no violations at this site.