

CRMC DECISION WORKSHEET

2021-06-074

City of East Providence

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
2021-06-074	East Providence	Roger Williams Avenue/Bourne Avenue		B	<input type="checkbox"/>	X
		Plat	203 303			
Date Accepted		7/6/2021		Work at or Below MHW		X
Date Completed		6/23/2022		Lease Required		no
Owner Name and Address			City of East Providence c/o W. Mark Russo, Esq. 55 Pine Street, 3rd Floor Providence, RI 02903			

PROJECT DESCRIPTION

Construct a three hundred fifty (350) unit Multifamily Development with public roadways, urban coastal greenways, canoe launch, and associated utilities and stormwater control.

KEY PROGRAMMATIC ISSUES

Coastal Feature: Manmade shoreline (fill slope) and coastal wetland

Water Type: Type 4, Seekonk River

§1.1.7, §1.1.10, §1.2.1.E, § 1.2.2.F, §1.2.2.C, §1.3.1.A, §1.3.1.B, §1.3.1.C, §1.3.1.F

Red Book: §1.1.4(D)

SAMP: MB (Metro Bay) §5.9, §5.5.1(A)

Variations and/or Special Exception Details:

Construction is proposed in the areas of the East Point Development within the required 25' setback from the inland edge of the UCG (Reference MB SAMP 5.5.1(A)(3)(d))

Additional Comments and/or Council Requirements:

Staff defer to council for granting of 7 year Assent.

Specific Staff Stipulations (beyond Standard stipulations): See Staff Report

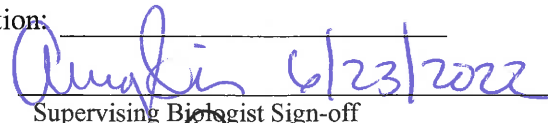
STAFF RECOMMENDATION(S)


Engineer RML Recommendation: Approval


Biologist TAS Recommendation: Approval

Other Staff _____ Recommendation: _____

 6/23/22
Engineering Supervisor Sign-Off date

 6/23/2022
Supervising Biologist Sign-off date

 23 June 22
Executive Director Sign-Off date

 6/27/2022
Staff Sign off on Hearing Packet (Eng/Bio) date

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STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
STAFF REPORT TO THE COUNCIL

DATE: June 20, 2022
TO: Jeffrey M. Willis, Executive Director
FROM: Richard M. Lucia, P.E, T. Silvia, Sr. Env. Scientist

Applicant's Name:	City of East Providence c/o W. Mark Russo Esq. (Noble Development)
CRMC File Number:	2021-06-074
Project:	Construct a three hundred fifty (350) unit Multifamily Development with public roadways, Urban Coastal Greenway (UCG), dock/canoe launch, and associated landscaping, utilities and stormwater control and to remove dilapidated barge/pier/pilings.
Location:	Roger Williams Avenue/Bourne Avenue; East Providence: Plat(s): 203 303; Lot(s): 4 4,5
Water Type/Name:	Type 4/Seekonk River, Multipurpose Waters
Coastal Feature:	Manmade shoreline (fill slope) and coastal wetland.
Plans Reviewed:	"East Point Multi-Family Development, Former Ocean State Steel Site, Map 203, Block 1 Lot 4 and Map 303 Block 13 Lots 4 and 5, Roger Williams Avenue and Bourne Avenue, East Providence..." last revised February 23, 2022, sheets 1-23 and Addendums Sheets 1 and Sheets L1-L8
Recommendations:	Approval, see stipulations

A) INTRODUCTION/HISTORY:

The site is located in the city of East Providence, southwest of the intersection of Bourne and Roger Williams Avenues. It is approximately 27 acres, containing three distinct plots of land, which are further separated east/west by a functional rail line owned by Rhode Island Department of Transportation (RIDOT). Omega Pond, an impounded freshwater body is also located in the eastern segment. The sites are the following:

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- 1) The RIDOT land is used by Genese & Wyoming, Inc. (G&W) but is owned by the state.
- 2) The site area east of the railroad tracks which abuts Roger Williams and Bourne Avenue contains 8.3 acres (referred to as “Pond Side”) and was previously reviewed under RIDEM’s Freshwater Wetlands jurisdiction (18-0122) as well.
- 3) The 18.8 acres located west of tracks is called the “Coastal Side” section of the development and is essentially vacant land.

The site has a history of industrial uses (Washburn Wire Company and Ocean State Steel), all structures have been removed and the site was environmentally remediated by a previous developer (Reference CRMC Assents #2003-10-059 / 2004-03-044, Geo Nova Development). This work was completed in 2005. The remediation included treatment and removal of soils to the state landfill and other authorized sites. As part of the cleanup, the site contains three (3) Environmental Land Use Restrictions (ELUR) issued by RIDEM.

It is staff’s understanding that the project site is currently controlled by the City of East Providence, through Court Action, and following receipt of all approvals control of the site will transfer to Noble Development.

Please note of importance, CRMC Assent #2007-02-058 was issued for a larger mixed-use development involving 495 dwelling units, office and commercial space. Work also consisted of structural shoreline protection facilities and extensive fill (up to 14’) proposed in the flood zone. A special exception was required for the extensive amount of filling of coastal wetland

The project permitted under #2007-02-058 was never constructed and the Assent expired with no extensions granted. A CRMC Preliminary Determination (PD #2021-01-027) was since issued addressing the current project. It is staff opinion’s that this latest proposal is a much scaled-down version of this previous approval.

Presently, there are only small amounts of natural vegetation on the site, mostly located along the River/Pond edges. Overall the site is generally barren. The Coastal Side has approximately 2000 feet of frontage along the Seekonk River and consists of manmade fill slopes that drop down to deteriorated wooden bulkheads and a small area of coastal wetland, predominately in the southwest section. Additionally, there is a deteriorating abandoned barge at the western tip of the site that will be removed.

The application was accepted on 7/6/2021 and sent to public notice on 7/28/2021. The only comments received were from RIHPHC which sought additional information, which staff forwarded to the applicant for response. On 9/3/2021 the HPHC sent a follow-up letter stating ‘no objection to the CRMC issuing the requested permit’. However, they recommended design changes as well.

Staff sent an informational request email on 12/21/21 seeking clarification on several points, including HPC, DEM Natural Heritage Area mapping, stormwater, barge removal, DEM ELUR standing, legal documents, MBSAMP, setback variances and other minor items. On 1/14/22 staff concurred with the consultant’s draft responses and requested final information, which was received 3/1/22. The City forwarded positive comments in mid-April and the CHA was received 6/21/22. Draft legal documents remain with CRMC Legal Counsel for review at the time of this report.

B) COMMENTS ON APPLICATION/APPLICABLE POLICIES, STANDARDS & ETC:

The proposed project (East Point Development) is described in the consultant’s narrative: “The entire East Point project is projected to contain three hundred fifty (350) units, two hundred ten (210) of which will be located on the Coastal Side and one hundred forty (140) on the Pond Side. The property is being purchased from the City in two phases over 18 months. The Coastal Side will be developed as Phase 1 and will likely take four (4) years to build all the units. The Pond Side will be acquired within a year or so thereafter and will be the second phase. Phase 2 will begin construction within two (2) years of the initial acquisition and likely take four (4) years start to finish to complete the buildout. The overall duration of the project is therefore estimated to take seven (7) years.”

1--Treatment of Sewage and Stormwater (§1.3.1(F)):

Stormwater treatment is being accomplished by installing two bioretention filters and one sand filter. Pretreatment for these devices will be provided by a combination of deep sump catch basins, hydrodynamic separators, sediment forebays and vegetated swales with checkdams.

There are no engineering objections to the proposed stormwater management and the applicant has met the requirements of RICMRP Section 1.3.1(F) (Treatment of Sewage and Stormwater) and the RI Stormwater Design and Installation Manual (RISDISM). The requirements are being accomplished through Low Impact Development Techniques using best management practices (BMPs) as described above. The RICMRP 1.3.1(F) (and in accordance with RISDISM Section 3.3.3) requires that the water quality volume (WQv) be treated, the WQv is considered to be the runoff associated with the first 1.2 inch of rainfall over the impervious area (i.e. 1 inch of runoff). Through the implementation of Low Impact Techniques/BMPs the required WQv will be treated. Additionally, the Minimum Stormwater Standards 1-11 are being met or exceeded.

It is CRMC staff’s understanding that any Assent issued for this project will serve as the RIDEM RIPDES authorization only.

2--Climate Change and Sea Level Rise (§1.1.10):

Referencing the submitted Coastal Hazard Analysis (CHA), the anticipated sea level rise for 2070 (50 year, chosen design life) is estimated to be 5.15 feet. The first floor elevation of the proposed structure(s) is 15 feet (NAVD88) minimum, which is above the sea level rise elevation. Also this is above FEMA flood map design elevation as shown on FEMA FIRM 4407C0328J dated October 2, 2015. The site is located in VE (el 15’) VE (el 13’) and AE (el 13’) zones. Furthermore, based on the Coastal Hazard Mapping Tool, no existing or proposed roads are predicted to be inundated from Sea Level Rise. Please note that the Sea Level Affecting Marshes Model (SLAMM) Maps indicates that the project site exposes the site to potential salt marsh migration by the chosen design life (5’SLR), much of which will be the area occupied by the proposed UCG. Given the site’s history, existing fill slopes and surrounds, it is staff’s opinion that the project site is not the optimal salt marsh habitat location.

3--Freshwater Wetlands in the Vicinity of the Coast (FWWVC/(\$1.1.4(D))

The “Coastal Side” of the site falls under CRMC’s Metro Bay SAMP and Redbook authority and the “Pond Side” of the site falls under DEM’s Office of Water Resources/Freshwater Wetlands Rules. Prior development permit #2007-02-058, CRMC deferred review to the DEM the proposed work located on the “Pond Side”, including the permitted dock/boat launch on Omega Pond was permitted under RIDEM #18-0112.

Subsequent CRMC PD #2021-01-027 provided comments for the entire parcel and indicated CRMC would take jurisdiction over both areas in the future. CRMC staff requested confirmation of prior DEM approvals as part of the information request. Other than minor changes to the project, including proposed Invasive Management (IM) and restorative planting as part of the proposed UCG, all work on the “Pond Side” is still valid under RIDEM permit #18-0112. The dock/launch site was not reviewed as part of this report, and as the work proposed within “The Area of Land Within 50” under the Rules is to create/enhance public access/UCG, it is staff’s opinion that the UCG requirements and benefits meet the minimization/functions and values policies of the FWWVC Rules.

4—Barge Removal

In correspondence dated January 24, 2022 from the design consultants (Northeast Engineers and Consultants, Inc.) the method of removing the existing rusting abandoned barge has been described. Details include pre-construction survey, protection of wildlife, turbidity control etc. It is recommended that this correspondence be a stipulation in the CRMC Assent if approved.

5--Environmental Contamination and Former Industrial Uses:

The applicant has indicated that they will coordinate with RIDEM, Office of Land Revitalization and Sustainable Material Management (OLRSMM) for the applicable required authorizations. The latest design plans have replaced the majority of previously permitted stormwater infiltration devices with lined and under-drained devices, as the prior infiltration devices would have been potentially contentious to the OLRSM. In addition, the applicant has stated the existing three ELURs will not be disturbed other than improving the existing cap.

C) METRO BAY SAMP (MBS)/ 650-RICR-20-00-5:

Consistent with prior 2007 Assent and 2021 PD recommendations, this project is being reviewed under the MBS’ Development Zone (Section 5.9). As such, rather than standard Redbook 150’ buffer zone/175’ construction setback, the applicant has chosen Option 3, which allows for a 50’ compact UCG, reduced with compensation from the required 100’ UCG.

As the UCG Trust has not yet been authorized by the RI General Assembly, monetary compensation cannot be allowed at this time. Instead, various amenities such as 5 primary accessible overlooks, 3 secondary accessible overlooks, UCG seating, accessible canoe/kayak launch, 5 educational sign panels, 5 sculpture locations, bike racks at public parking and an open park space with patio/walkways/seating and lawn area

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have been proposed as compensation for a reduced UCG width. Public pathways range from 5-8' and are accessible where possible. These amenities are codified in the January 24, 2022 Memorandum from Jeremy Rosa, PE (Northeast Engineers & Consultants, Inc) as well as on the revised planset and staff recommends stipulating such in any Assent.

Section 5.5.1(A) standards applicable to the entire development include minimum 15% vegetative requirement, 100% stormwater management, public access and 25' construction setback. All of these standards have been met with the chosen design with the exception of the setback variance noted herein. A lighting stipulation requiring shielding and glare control to avoid/minimize illumination of the River/Pond shorelines will be included in any Assent.

Greenway parking and signage requirements appear to have been met and an enhanced planting/IM restoration plan has been provided for work within the UCG. The Management Plan and Public Access Documents (easements) have been forwarded for Legal review and all of these documents will be required to be executed and recorded as part of any Assent granted by the Council.

Note, prior CRMC correspondence regarding this site contains particular comments for future proposed coastal marina projects. While not part of this review, the applicant is again cautioned that due to anadromous fish restoration and fishway, as well as the federal navigation channel's proximity, it is unlikely that staff could support such a future project.

D) COMMENTS ON VARIANCE REQUEST:

Construction is proposed for the East Point Development within the required 25' setback from the inland edge of the UCG (Reference MB SAMP 5.5.1(A)(3)(d)) This area includes:

1. A portion of the public access overlook parking located at the northwest corner of the Coastal Side of the Development.
2. A portion of the proposed public road from Roger Williams Avenue and areas of pedestrian public access on the Pond Side of the development.

The consultant has addressed the six (6) criteria listed in Section 1.1.7 of the CRMP (650-RICR-20.00.1) for the granting of a variance. A variance can be granted to the MB SAMP setback provided no privatization of the setback is occurring. Staff has no objection to the granting of the variance based on the submitted information, which is strictly for public benefit.

E) COMMENTS ON APPLICANT'S RESPONSE:

The submitted response to Information Request clarified staff's review of the project in several areas. In addition to those items addressed elsewhere herein, the applicant provided information relative to the Natural Heritage Mapping data (Area 74 in the RI Natural Heritage Database). The parcels are located within the mapped Area 74 of the RI Natural Heritage Database, however, applicant conversation with DEM noted that

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the two floral species of concern are not located on the project site and given the history of disturbance are unlikely to be found there during this project development.

The existing osprey pole which is to be relocated will be coordinated with DEM Fish and Wildlife staff or limited to after August 15th and prior to March 1st.

No additional revisions appear to have been made by the applicant in response to HPHC's recommendations. Staff defers to the Council for consideration of further required action in this regard.

F) CONCLUSION, RECOMMENDATION & RECOMMENDED STIPULATIONS:

The above described project appears to have minimal impact on coastal processes. There are no staff objections to Council approval of this project this project and due to the large scale and phasing of this project, staff recommends a seven-year (7yr) Assent timeframe.

Additionally, it is staff's understanding that an Assent cannot be issued until Legal Counsel is informed by the Court which party the Assent should be issued to. In the interim, the required easements and deed restrictions can continue to progress toward final execution. Should the Council approve the project as described, staff offers the following stipulations specific to this proposal:

Additional Stipulations:

(RL) In a correspondence dated January 24, 2022 from the design consultants (Northeast Engineers and Consultants, Inc.) the method of removing the existing rusting abandon barge has been described. The methods and procedures described in this correspondence shall be strictly adhered to. Any deviations from this correspondence will require CRMC approval. All pertinent and required approvals from US Coast Guard and/or ACOE shall be obtain prior to start of demolition of barge. This barge shall be removed prior to or concurrent with start of construction.

(RL) The RIDEM Soil Management Plan and Remedial Action Work Plan shall be strictly adhered to (ELUR Permit 96-014).

(TS) Consistent with the January 24, 2022 Memorandum from Jeremy Rosa, PE (Northeast Engineers & Consultants, Inc) as well as on the revised planset, the amenities and features documented therein serve as compensation for a reduced UCG width (compact) and are required to be installed and maintained.

(TS) Osprey pole relocation shall be conducted only during the August 15-March 1 timeframe or shall be conducted in coordination with RIDEM Fish and Wildlife personnel between March 1st-Aug 15th.

(TS) A monitoring report following conclusion of Invasive Management (IM) work shall be submitted to the CRMC no later than December 1 following each growing season of work. CRMC reserves the right to modify or halt proposed IM work, based on follow-up site visit and/or results of said reports.

(TS) The required public access/parking easements shall be recorded prior to issuance of CRMC Assent.

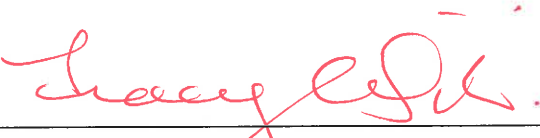
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(TS) The required UCG Management Plan/easement shall be recorded prior to issuance of CRMC Assent.

(TS) All work within the UCG shall be conducted in accordance with the approved UCG Management/Buffer Plan cited within the Assent. All plantings shall consist of native and/or sustainable species taken from the CRMC's plant list.

(TS) Shielding and glare control devices shall be utilized to control illumination of the Seekonk River/Omega Pond waters/shorelines.

(TS) All work on the Omega Pond dock and other amenities on the "Pond Side" not addressed herein shall be conducted in strict accordance with the prior RIDEM 18-0112 approval.

Staff Biologist:  _____ T. Silvia

Staff Engineer:  _____ R. Lucia

