

former GEONOVA

**RHODE ISLAND COASTAL RESOURCES MANAGEMENT COUNCIL
REPORT OF FINDINGS -- PRELIMINARY DETERMINATION**

STATEMENT OF LIMITATIONS

The contents of this staff determination report shall be valid only for the period on and preceding the date of this report. This report is neither an approval nor denial of the subject proposal. It is an evaluation of CRMC regulations in effect as of **February 24, 2021** as they pertain to the below stated proposal, including preliminary staff recommendations.

Modifications to the below stated proposal may, upon the discretion of the CRMC, render this determination null and void.

APPLICANT INFORMATION

NAME: W. Mark Russo (Special Master) Noble Development, LLC **CRMC FILE NO.** 2021-01-027

LOCATION: Roger Williams & Borne Avenue(s)

CITY/TOWN: East Providence

PLAT(S): Map 303 Block 13

LOT(S): 4 & 5

CONTACT PERSON(S) & ADDRESS:

- W. Mark Russo, Esq., Special Master, 55 Pine Street, 4th Floor, Providence, RI 02903
- Noble Development, LLC, 10 Green Street, Providence, RI 02903
- Geralyn Small, PE, Northeast Engineers and Consultants, Inc., 6 Valley Rd., Middletown, RI 02842

PRELIMINARY REVIEW INFORMATION

PROPOSAL: Construct a multi-family development to consist of 385 residential units to include single family homes, duplex homes, multi-unit homes and townhouses, apartment structures and garages. The project includes new roadways and parking areas with stormwater treatment areas for impervious surfaces. City water and sewer service will be provided. A public greenway with public parking is proposed in accordance with CRMC's Metro Bay Special Area Management Plan.

PLAN(S) REVIEWED: "Map 203 Block 1, Lot 4, Roger Williams Avenue, East Providence, Rhode Island – Site Plan", in two sheets, site plan (coastal side) and site upland (upland side), by Northeast Engineers and Consultants, Inc., dated 11Jan21.

INVESTIGATOR

DATE

TIME

David Reis

Office Review Only

MEASUREMENTS & OBSERVATIONS: CRMC Staff is familiar with the site through prior development proposal assessments and other permitting actions including site remediation. No site inspection was conducted for purposes of this review.

PREVIOUS CRMC ACTIONS FOR SITE: Amongst other CRMC actions which can be reviewed through CRMC's Database, a prior development was approved for this site which was never constructed. See CRMC File No. 2007-02-058.

SUMMARY OF FINDINGS

CRMC JURISDICTION: **(YES)** **TYPE WATER:** Type 4, Multi-Purpose Waters, Seekonk River and Type 6, Industrial Waterfronts and Commercial Navigation Channels, Seekonk River Federal Navigation channel.

For the purpose of this review the coastal feature(s) shall be the manmade shoreline (fill slope) and coastal wetland and the inland edge of coastal(s) feature shall be the top of the manmade fill slope.

Applicability of CRMP and SAM Plans (as amended):

CRMP (Red Book/650-RICR-20-00-01) Sections: The Buffer and Setback sections are not applicable if the project review is conducted under the Metro Bay SAMP. However, companion sections of the Red Book may be relevant to the project review. An example is policies for the water types adjacent to the site and standards for earthwork (filling removing and grading).

FW Wetlands: The Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast (650-RICR-20-00-2) will be applicable to Omega Pond and bordering wetlands.

SAM PLAN: Based on the submitted plans, the project review will be conducted primarily under the Metro Bay Special Area Management Plan (MB SAMP/650-RICR-20-00-5).

BUFFER (ref. Section 1.1.11 CRMP): Absent review under the Metro Bay SAMP, the applicable buffer zone would be 150 feet.

SETBACK (ref. Section 1.1.9 CRMP): Absent review under the Metro Bay SAMP, the applicable setback would be 175 feet.

STAFF CONCERNS/COMMENTS/INFORMATION REQUIREMENTS:

General: The submitted plans indicate the applicant has chosen to proceed under the Metro Bay Special Area Management Plan (MB SAMP) as opposed the “standard” buffer zone and setback provisions contained in the ‘Redbook’. In addition, where the RI Department of Environmental Management (RI DEM) defers freshwater wetlands jurisdiction to CRMC for the area bordering Omega Pond; the CRMC will allow greenway practices to occur within the “area of land within fifty feet” (perimeter wetland). However, native vegetation should be retained and restored within this area with habitat quality being a key consideration in the greenway development plans for the Omega Pond shoreline.

The following sections of the MB SAMP apply to the project proposed:

- 1. MB SAMP applicability:** It is important that the MB SAMP be reviewed in its entirety. Although certain key policies and regulatory standards are highlighted in this Preliminary Determination, this report does not provide and all-inclusive evaluation of the project against the entirety of the SAMP. The applicant is advised to address any and all applicable MB SAMP requirements.

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2. **Coastal Feature and Wetland Edge Verification:** The coastal feature and wetland edges of regulated resources have not been verified as part of this Preliminary Determination review. However, based on CRMC Staff knowledge of the area and review against the plans contained in CRMC File No. 2007-02-058, the coastal feature delineation appears to be sufficiently accurate for review and project permitting. It should be considered that the inland edge of the coastal feature on the “coastal” (Seekonk River) side is considered to be the top of the manmade fill slope. This manmade slope is not considered to be a coastal bluff or bank. In some areas, the lower portion and bottom of the fill slope is inhabited by coastal wetland plant communities and is considered “coastal wetland”. The freshwater wetland edge on Omega Pond requires future verification. The wetland edge in the vicinity of flag A13 appears to be of concern,
3. **MB SAMP §5.9 - Development Zone:** The project is located within an area designated a “Development Zone” by the MB SAMP and thereby subject to MB SAMP §5.9. The project plans indicate the applicant has chosen to adhere to “Option 3” which provides for a 50’ wide compact greenway. The applicant is advised that the standard greenway width is 100’ but Option 3 allows for a compact 50’ (reduced width) greenway with compensation as described by MB SAMP §5.3. Based on a review of the current project plans, the 50’ compact greenway requirement is met but few compensation measures are noted.

Regarding compensation, the Urban Coastal Greenway Trust has not been authorized by the RI General Assembly and on that basis, on-site compensation measures and amenities should be considered. A review of the project plans indicates the southwest point (coastal side, sheet 1 of 1) where the water quality device is proposed may be included in an enlarged greenway as compensation and greenway averaging if the treatment device is designed as a vegetated (appropriately landscaped) treatment practice and co-designed for aesthetic and recreational enjoyment. Perimeter amenities may include a gazebo (shelter), benches, informational kiosks, trash receptacles, etc. Additional “public seating areas” (with appropriate details) as shown in the southeast corner of the site may be added throughout the greenway.

Similarly, the entire area south of the main access roadway on the upland side (sheet 2 of 2) may be designated as a public greenway bordering Omega Pond and the water quality treatment device should also be designed as a vegetated treatment practice co-designed for aesthetic and recreational enjoyment. A “small” public fishing pier at Omega Pond may provide an appropriate greenway compensation method provided site conditions are determined to be conducive to pier construction. Appropriate site conditions include sufficient water depth and sediment characteristics necessary to support fixed pier pilings. Any fixed pier provided should be ADA compliant and have appropriate railings consistent with State building code requirements.

4. **MB SAMP §5.5.1(A)- Standards Applicable to the Entire Development:** The following standards must be met:
 - **Minimum 15% Vegetation requirement:** The project plans must demonstrate that at least 15% of the surface area of the entire development parcel is appropriately vegetated with native or sustainable plants. Qualifying areas must provide an appropriate mix of trees, shrubs and ground cover with minimum use of lawn sod or grasses.

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- **Stormwater Management:** The project should provide 100% on-site management of stormwater consistent with the MB SAMP requirements. The project plans currently provide few treatment practice details and, on that basis, the CRMC has limited comments at this time. However, treatment practices involving vegetated surface treatment which provides recreational and aesthetic values may be contained within an expanded greenway area as herein discussed. It further appears the treatment areas should be further disconnected, and areas shown as “parking islands and medians” in the parking lots should be used vegetated stormwater treatment.
 - **Public Access:** As required, public access pathways are shown along the Seekonk River and Omega Pond shorelines. Public pathways must be a minimum of 8 feet wide and compliant with the American and Disabilities Act (ADA) requirements. The pathway should be pervious unless stormwater management is provided for the path.
 - **Construction Setback:** The project appears to meet the required 25’ setback from the Urban Coastal Greenway. It is recommended that continued adherence to the setback be provided as the project plans advance.
5. **Urban Coastal Greenway (UCG) Easement:** Consistent with MB SAMP procedures, a UCG Easement must be submitted to the CRMC for review and approval. Once approved by the CRMC, the Easement shall be recorded in the Land Evidence Records in the City of East Providence. All rules for public use of the greenway and a greenway management plan must be included as attachments (exhibits) to the easement. Public parking for the UCG must also be addressed through a permanent easement.
 6. **Greenway Parking:** The greenway parking locations shown on the development plans should include appropriate signage to delineate these spaces as public parking. All signs and greenway rules and access provisions shall be subject to CRMC approval.
 7. **Vegetative Cover:** All site plantings, greenway plantings and plantings utilized for vegetated water quality treatment must be restricted to species included on the most recent list of native, sustainable and coastal plants posted on CRMC’s Web site.
 8. **Abandoned Barge:** The barge located along the western shoreline segment shall be removed for disposal at an appropriate upland location.
 9. **Future Marina Consideration:** Please be advised that future marina development has been considered for other projects evaluated at this location. During these discussions, the applicants were advised that there are significant concerns for the construction of a marina due to the following: On the south side of the site, concerns include proximity to the anadromous fish restoration project at the Omega Pond Dam which provides the only link to the Ten Mile River/Turner Reservoir System. The Omega Pond Dam fishway further provides an enhanced sport fishery in the vicinity of the Dam due to predatory sportfish (bluefish and striped bass) being attracted to the herring run. And, on the west side of the project, the federal navigation channel for the Seekonk River runs immediately along the western shoreline of the project thereby preventing marina development along this shoreline.

NAME: W. Mark Russo (Special Master) Noble Development, LLC

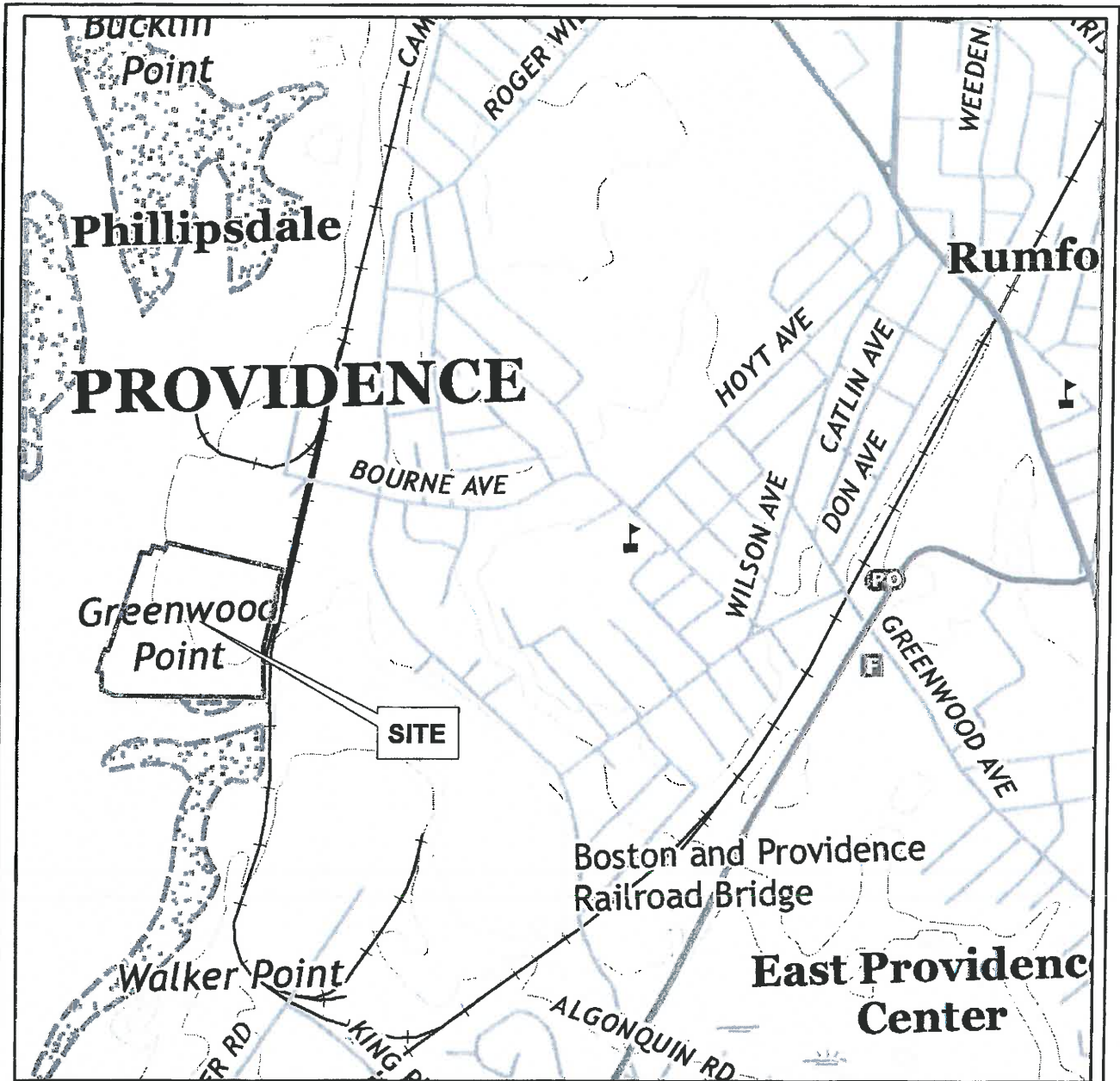
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10. Due to known environmental contamination and former industrial uses, all project development must be coordinated with the RI Department of Environmental Management, Office of Land Revitalization and Sustainable Materials Management. The required reviews and authorizations from RIDEM are considered prerequisite approvals to CRMC approval. However, it is recommended that application materials be forwarded to the CRMC and RIDEM concurrently to allow a coordinated review of the project.

SIGNATURE: David S. Reis

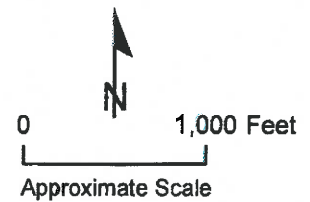
STAFF ENVIRONMENTAL SCIENTIST



Sources: 2018 USGS Topographic Map for East Providence, RI

Approximate Location:

 SiteBoundsRI



East Pointe Development
East Providence, Rhode Island

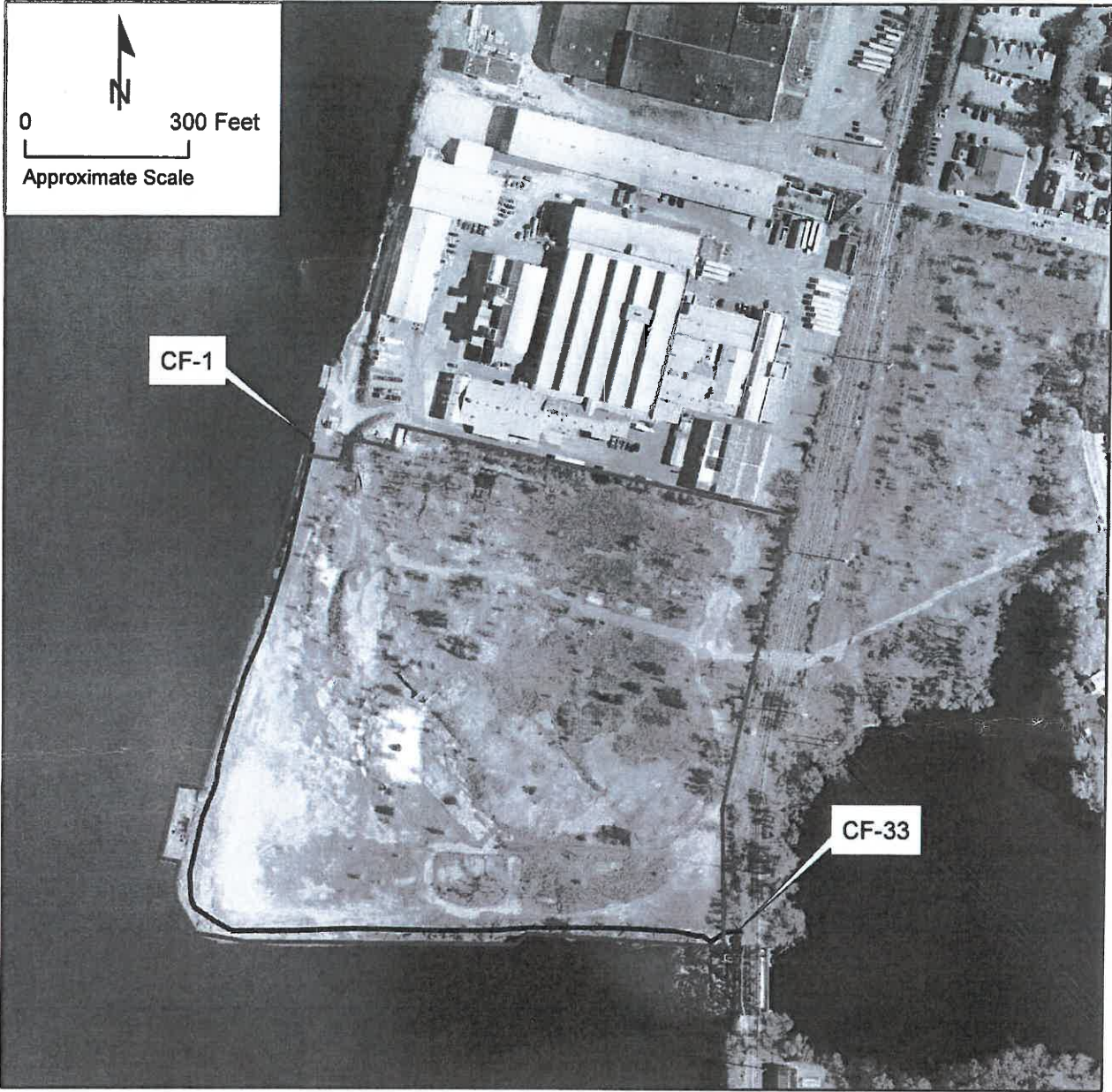
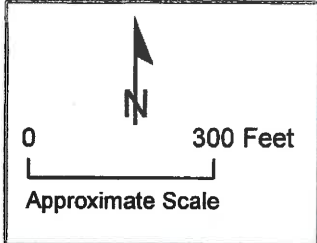
MA MASON & ASSOCIATES, INC.
Environmental Consulting & Projects
771 Plainfield Pike, North Scituate, Rhode Island 02857

SITE LOCATION

Project No. 201103

Figure

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JAN 12 2021
COASTAL RESOURCES
MANAGEMENT COUNCIL



Sources: RIGIS 2019 Digital Color Orthophotography

Approximate Location:



Site



Flagged Coastal Feature
to be survey located

East Pointe Development
East Providence, Rhode Island

M MASON & ASSOCIATES, INC.
Environmental Consulting & Projects
771 Plainfield Pike, North Scituate, Rhode Island 02857

**APPROXIMATE LOCATION
OF WETLANDS**

Project No. 201103 Figure 2

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MANAGEMENT COUNCIL



Meeting Minutes **East Point 300 Bourne Avenue – East Providence**

Meeting held via Conference Call on November 16, 2020

Meeting Participants

Lyn Small, Northeast Engineers
Richard Baccari, Churchill & Banks

Kelly Owens, RIDEM – Site Remediation
Joseph Martella, RIDEM – Site Remediation
James Boyd, CRMC
David Reis, CRMC
Richard Lucia, CRMC
Ron Gagnon, RIDEM - OCTA *BG*

Purpose of the Meeting

The purpose of the meeting was to review permitting issues for the proposed development of the former GeoNova facility located in East Providence, Rhode Island.

Meeting Minutes

- As previously noted in a conference call on September 25, 2020, the site is currently in receivership. An Environmental Land Use Restriction (ELUR) with three restrictions identified as A, B, and C has been applied. A Settlement Agreement was completed with the prior owner. Work ceased in 2009 when the site went into receivership.
- A preliminary plan for the site was provided. A “coastal” parcel consisting of a mix of townhomes, single family homes and apartments was provided. An “upland” parcel consisting of townhomes and apartments was also included. Access to the site will be from Roger Williams Avenue and will require the crossing of an active railroad line between the “coastal” and “upland” parcels. The “coastal” parcel is within the jurisdiction of the Coastal Resources Management Council (CRMC). The “upland” parcel is within the jurisdiction of the Department of Environmental Management (DEM).

- It was indicated that the property is being purchased out of receivership and nine (9) months have been provided for permitting. It was noted that this project was formerly permitted by GeoNova under CRMC assent 2007-02-058.
- The permitting approvals required were identified as a local municipal Master Plan Approval from the East Providence Waterfront Commission slated for a January/February 2021 timeframe. Prior to the issuance of the Master Plan Approval, the owner should submit a Preliminary Determination application to the CRMC within the next month to satisfy the major land development review requirements pursuant to R.I. Gen. Laws § 45-23-40. Once the Master Plan is approved by the City, a CRMC Assent Application may be filed for the project.
- It was suggested that a letter be submitted by the applicant to the DEM requesting that the “upland” parcel be reviewed and approved through the CRMC Assent process in accordance with the agencies’ Memorandum of Agreement (September 2001). This request would be reviewed by both Agencies and a decision issued within the timeframe of the CRMC Preliminary Determination review.
- CRMC indicated that this project is eligible for review under the Metro Bay Region Special Area Management Plan (SAMP). See: <https://rules.sos.ri.gov/regulations/part/650-20-00-5>.

If the SAMP requirements for public access, stormwater, and vegetation coverage requirements are met, the application may be processed as a Category A application with a 15-day public notice requirement. It was recommended that Low Impact Development (LID) stormwater best management practices (BMPs) be utilized to meet the SAMP requirements. Vegetated BMPs should be included in the 15% vegetation cover requirement in the Metro Bay SAMP. CRMC noted that the SAMP Urban Coastal Green Way requirement be proposed on both parcels. It was noted that a portion of the “coastal” parcel was in a V Zone and will require elevated foundations and a coastal hazards analysis. It was also noted that coverage under the RIPDES General Permit for Construction Activity would be issued through the CRMC Assent process. CRMC agreed that an abandoned barge adjacent to the site may be removed by using a clamshell bucket to break up the barge and dispose of the resulting debris at a licensed facility.

- DEM noted that it had received an ELUR inspection submission from Sage Environmental. The report noted that a portion of the geotextile cover in ELUR areas A and B were exposed and the cap in those areas needed to be repaired. The applicant also noted that it was considering moving the ELUR Area B contaminates to an area

under a proposed parking lot to allow more waterfront units. DEM indicated that prior to relocating areas covered by the ELUR, the type of soil contaminates should be identified to determine if additional regulatory issues need to be considered, such as management of hazardous waste, and an Alteration to ELUR Area Plan needed to be submitted to the DEM Office of LRSMM for review and approval.

- DEM indicated that an Interim Letter of Compliance had been issued for the Site back in 2006 indicating all remedial work was completed except for groundwater monitoring. A Groundwater Monitoring Plan will still be required that may include the installation of new wells. The plan should also indicate sampling frequencies proposed for future years pre and post development. DEM also confirmed that the subject property is a Brownfield site based on its history, review through the DEM Site Remediation process and the negotiation of a Settlement Agreement.

To facilitate review of the permit applications, please include a copy of these notes with your application submittal. This meeting summary does not relieve the property owner from his/her obligation to obtain any local, state, or federal approvals or permits required by ordinance or law.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, R.I. 02879-1900

(401) 783-3370
FAX: (401) 783-3767

Prior Assent

ASSENT

CRMC File No.: 2007-02-058

CRMC Assent No.: A2007-02-058

Whereas,
of

**City of East Providence
East Point Development Project
145 Taunton Avenue
East Providence, RI 02914**

has applied to the Coastal Resources Management Council for assent to: Construct a mixed use (commercial/residential) development at the former Ocean State Steel property in East Providence; the project includes construction on the Omega Pond and Seekonk River shorelines; construction on the Omega Pond shoreline has been deferred to RIDEM; work on the Seekonk River shoreline (19.5 acres) includes the construction of a riprap revetment backed by a vertical concrete flood zone protection wall and a steel sheet-pile bulkhead to be constructed along the northwest portion of the site; a fringe salt marsh will be established along the shoreline to compensate for wetland filled for revetment construction; included with the project is the construction and establishment of a 50' wide shoreline greenway which will include a public access pathway; the project is being considered under CRMC's Urban Coastal Greenway Policy for the Metro Bay Region; a Special Exception is required for the filling of coastal wetlands bordering the Type 4 waters of the Seekonk River; and represents that they are the owners of the riparian rights attached to the property involved and submitted plans of the work to be done.

Now, said Council, having fully considered said application in accordance with all the regulations as set forth in the Administrative Procedures Act does hereby authorize said applicant, subject to the provisions of Title 46, Chapter 23 of the General Laws of Rhode Island, 1956, as amended, and all laws which are or may be in force applicable thereto: **Construct a mixed use (commercial/residential) development at the former Ocean State Steel property in East Providence; the project includes construction on the Omega Pond and Seekonk River shorelines; construction on the Omega Pond shoreline has been deferred to RIDEM; work on the Seekonk River shoreline (19.5 acres) includes the construction of a riprap revetment backed by a vertical concrete flood zone protection wall and a steel sheet-pile bulkhead to be constructed along the northwest portion of the site; a fringe salt marsh will be established along the shoreline to compensate for wetland filled for revetment construction; included with the project is the construction and establishment of a 50' wide shoreline greenway which will include a public access pathway; the project is being considered under CRMC's Urban Coastal Greenway Policy for the Metro Bay Region; a Special Exception is required for the filling of coastal wetlands bordering the Type 4 waters of the Seekonk River; located at plat Map 203, Block 1, Parcel 4; Map 203, Block 13, Parcels 14 & 15; Map 304, Block 1, Parcel 8; Roger Williams & Bourne Avenue, East Providence, RI, in accordance with said plans submitted to this Council and approved by this Council. All work being permitted must be completed on or before July 24, 2010 after which date this assent is null and void, (unless written application requesting an extension is received by CRMC sixty (60) days prior to expiration date).**

Applicant agrees that as a condition to the granting of this assent, members of the Coastal Resources Management Council or its staff shall have access to applicant's property to make on-site inspections to insure compliance with the assent.

Licensee shall be fully and completely liable to State, and shall waive any claims against State for contribution or otherwise, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, directors, and agents with respect to any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying, and investigating costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response, cleanup, or remediation costs assessed against or imposed upon Licensee, State, or the Property, as a result of Licensee's control of the Property, or Licensee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Licensee's employees, agents, assigns, sublicensees, contractors, subcontractors, permittees, or invitees.

Nothing in this assent shall be construed to impair the legal rights of this granting authority or of any person. By this assent the granting authority by no manner, shape, or form assumes any liability or responsibility implied, or in fact, for the stability or permanence of said project; nor by this assent is there any liability implied or in fact assumed or imposed on the granting authority. Further, the granting authority by its representatives or duly authorized agents shall have the right to inspect said project at all times including, but not limited to, the construction, completion, and all times thereafter.

This Assent is granted with the specific proviso that the construction authorized therein will be maintained in good condition by the owner thereof, his heirs, successors, or assigns for a period of fifty (50) years from the date thereof, after which time this permission shall terminate necessitating either complete removal or a new application.

Permits issued by the CRMC are issued for a finite period of time, confer no property rights, and are valid only with the conditions and stipulations under which they are granted. Permits imply no guarantee of renewal, and may be subject to denial, revocation, or modification.

If this matter appeared before the full Council, a copy of the legal decision from this proceeding may be acquired by contacting the CRMC office in writing.

A copy of this Assent shall be kept on site during construction.

Application for future alteration of the shoreline or other construction or alteration within the CRMC jurisdiction shall be submitted to the CRMC for review prior to commencing such activity.

All applicable policies, prohibitions, and standards of the RICRMP shall be upheld.

All local, state or federal ordinances and regulations must be complied with.

Please be advised that as a further conditions of this Assent, it is hereby stipulated that you and/or your agents shall comply at all times with Federal and State Water Quality Standards and other State

standards and regulations regarding water quality, and shall exercise such supervision over and control of these facilities to prevent the dumping or discarding or refuse, sanitary wastes and other pollutants in the tidal waters, either from vessels docked at said facilities or from land adjacent thereto.

No work that involves alteration to wetlands or waters of the United States shall be done under this Assent until the required Federal Permit has been obtained.

Non-compliance with this assent shall result in legal action and/or revocation of this permit.

CAUTION:

The limits of authorized work shall be only for that which was approved by the CRMC. Any activities or alterations in which deviate from the approved plans will require a separate application and review. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then this permit may be found to be null and void. Plans for any future alteration of the shoreline or construction or alteration within the 200' zone of CRMC jurisdiction or in coastal waters must be submitted for review to the CRMC prior to commencing such activity.

Permits, licenses or easements issued by the Council are valid only with the conditions and stipulation under which they are granted and imply no guarantee of renewal. The initial application or an application for renewal may be subject to denial or modification. If an application is granted, said permit, license and easement may be subject to revocation and/or modification for failure to comply with the conditions and stipulations under which the same was issued or for other good cause.

ATTENTION: ALL STRUCTURES AND FILLED AREAS IN THE TIDAL, COASTAL, OR NAVIGABLE WATERS OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS ARE SUBJECT TO:

1. The Superior Property Rights of the State of Rhode Island and Providence Plantations in the Submerged and Submersible Lands of the Coastal, Tidal, and Navigable Waters;
2. The Superior Navigation Servitude of the United States;
3. The Police Powers of the State of Rhode Island and the United States to regulate Structures in the Tidal, Coastal, or Navigable Waters.

THE SUBMERGED AND SUBMERSIBLE LANDS OF THE TIDAL, COASTAL, AND NAVIGABLE WATERS OF THE STATE ARE OWNED BY THE STATE AND HELD IN TRUST FOR THE PUBLIC. CONVEYANCE OF THESE LANDS IS ILLEGAL; TITLES PURPORTING TO TRANSFER SUCH LANDS ARE VOID. ASSENTS THAT INVOLVE THE FILLING OR USE OF THE STATES SUBMERGED LANDS ARE GRANTED WITH THE PROVISIO THAT IT IS SUBJECT TO THE IMPOSITION OF A USAGE FEE TO BE ESTABLISHED BY THE COASTAL RESOURCES MANAGEMENT COUNCIL.

SPECIFIC STIPULATIONS OF APPROVAL

General Stipulations

A. The applicant shall record this assent in its entirety in the land evidence records of the City of East Providence within thirty (30) days of the date of assent issuance. Certification by the Town Clerk's office that this stipulation has been complied with shall be furnished to Coastal Resources Management Council by the applicant within fifteen (15) days thereafter. Failure to comply with provision will render this assent null and void.

B. The approved site plan shall be those entitled "East Pointe, East Providence, Rhode Island," in 31 sheets by North East Engineers and Consultants, Inc, having a final cover sheet revision date of February 11, 2008 and bearing CRMC's approval stamp dated 5-22-2008. Except as stipulated or modified herein, all details and specifications thereon shall be strictly adhered to. Any and all changes require written approval from this office.

C. The approved landscaping plans shall be "Landscape, signage and lighting plans for East Pointe..." sheets L-1 through L-5 by the Gifford Design Group, Inc., having a cover sheet last revised 5/22/2007.

D. This CRMC Assent shall be valid only for the project specified by the plans approved by this CRMC Assent. No changes to the shoreline protection facilities, wetland mitigation plan, greenway, public access or associated parking facilities, etc., shall be allowed under this Assent or by any future application to modify this Assent. In addition, other than minor "footprint" modifications which retain the approved setback, there shall be no changes to the residential buildings which comprise the seaward row of proposed multi (3-4) family dwelling units bordering the Seekonk River Shoreline. Any and all changes including those noted herein and/or any other changes which the CRMC determines to represent a substantive modification to the approved development shall require a new CRMC review and approval.

E. Prior to any work associated with this project, a UCG Easement shall be submitted to the CRMC for review and approval. Once approved by the CRMC, the Easement shall be recorded in the Land Evidence Records in the City of East Providence. All rules for use of the greenway and a greenway management plan shall be included as attachments to the easement.

F. Prior to any work associated with this project, the applicant shall obtain Sewer connection approvals from the Narragansett Bay Commission and the City of East Providence Sewage Treatment Facility.

G. A work plan detailing construction sequencing and timing shall be submitted to the CRMC for written approval upon selection of construction contractor and prior to initiation of construction.

H. The RIDEM Soils Management Plan and Remedial Action Work Plan shall be strictly adhered to (“ELUR Permit 96-014”). Final RIDEM permit resolution shall be required for “ELUR Area A” disturbance, prior to initiation of construction.

I. Within 30 days of Assent issuance of the CRMC Assent, the applicant shall submit a greenway parking plan which specifically identifies the public parking spaces available for public access to the greenway. This plan shall provide “mock-ups” of appropriate signage to delineate these spaces on site. In addition, all “perpendicular” (access) pathways to the greenway shall be specifically identified along with mock-ups of appropriate signage which directs public access to the greenway. Finally, a mock-up of signage which identifies the rules for public use of the greenway shall be provided. All signs and greenway rules and access provisions shall be subject to CRMC approval.

J. The “Soil Surcharge Plans for Structural Filling and Settlement” shall be submitted to for written approval prior to construction.

K. Prior to initiation of construction, the applicant is required to schedule a meeting between the contractor and the CRMC staff. This meeting will be held to clarify and stress the terms of the permit, and to discuss details of erosion and sedimentation controls, methods of construction, construction timing, dewatering, etc.

L. The proposed shoreline protection structures (steel sheet-pile bulkhead and revetment with backing vertical concrete seawall) shall be constructed prior to the construction of any buildings on the subject property (Seekonk River portion). The greenway and wetland mitigation area (fringe marsh with subaqueous revetment) shall be constructed and established in a linear fashion proceeding along the shore commensurate with the construction of the shoreline protection structures. The construction of any buildings prior to the completion of the shoreline protection facilities will require a separate CRMC authorization and must be consistent with any approval of the Federal Emergency Management Agency.

M. The barge located along the western shoreline segment shall be removed for disposal at an appropriate upland location. The barge shall be removed prior to the construction of shoreline protection structures proposed for this area of the shoreline.

N. All greenway plantings shall be restricted to species included on the most recent list of native, sustainable and coastal plants posted on CRMC’s Web site.

O. All Low-Impact Development (LID) techniques to be incorporated into the final design of “large scale” buildings and associated areas (including green roofs and tree box filters) shall require CRMC review and approval.

P. All project lighting including any shoreline bollards installed in the Greenway shall utilize shielding and glare control to avoid and minimize any illumination of the Seekonk River and its shoreline. No spotlights or other directed or bright lights or illumination shall be directed toward the Seekonk River. The CRMC reserves the right to approve any project lighting and may order the removal or shielding of any lighting determined to be excessive or which results in excess illumination

of the shoreline. All potential purchasers or renters of homes, businesses or other real estate within this development shall be made aware of this requirement through deed restrictions, lease agreements, association covenants and any other appropriate legal doctrines or instruments.

Q. This CRMC Assent does not include any consideration, evaluation or authorization of a future marina. However, due to marina plans on prior preliminary plans submitted for this project, the CRMC herein notifies the applicant that there are significant concerns for the construction of a marina at this site. These concerns include potential interference with an Anadromous fish run restoration project for the Omega Pond / Ten Mile River / Turner Reservoir System, valuable fish habitat and fishing opportunities on the Seekonk River side of the Omega Pond Dam and the marine navigation channel which runs along the western shoreline of the project.

R. The approved wetland construction, monitoring and assessment protocol shall be that presented on pages 23- 26 of the applicant's application narrative entitled "East Pointe, A Mixed Use Development..., Category "B" Application..., prepared for GeoNova Development Company LLC, by Northeast Engineers and Consultants, revised May 2007. On this basis, the specifications contained on pages 23-26 of this document shall be considered stipulations/conditions of approval. Any failure to abide by this protocol shall be considered an enforceable violation of the CRMC Assent. Furthermore, the protocol approved herein may only be modified by the CRMC by a prior written approval. In addition, prior to any work on the project shoreline protection structure, greenway or mitigation wetland, the chosen contractor shall submit a work plan consistent with this protocol for CRMC review and approval.

S. The final subaqueous revetment (breakwater) elevation and the composition and elevation of the wetland substrate to be contained between the shoreline revetment and subaqueous revetment shall be determined and verified on site by the applicant's biologist in cooperation with CRMC Staff.

T. Any and all observations of problems or concerns associated with the construction of the shoreline protection structure, greenway or mitigation wetland shall be reported to the CRMC immediately and, at a minimum, within 48 hours of occurrence.

U. This assent requires a Greenway as shown on the approved site plans.

V. This structure shall be connected to and serviced by municipal sewers.

Earthwork Stipulations

A. The approved soil erosion and sediment control plan(s) shall be that shown on the approved site plans.

B. Throughout the project construction duration, strict adherence to Erosion and Sedimentation control shall be required. Lack of E & S controls, resulting in sedimentation or turbidity to the waters of the State shall be deemed a violation of the permit conditions and subject to enforcement.

C. Prior to initiation of any grading, construction, or earthwork activity, the approved erosion and sediment controls shall be properly installed and inspected by the site construction foreman. This line shall be maintained as needed and by the proper upland disposal of accumulated sediments until permanent site revegetation is established. No soils nor any other materials shall be allowed to enter beyond this line, neither temporarily nor permanently.

D. Upon successful stabilization of exposed soils all erosion controls shall be removed from site and disposed of at a suitable, legal upland location.

E. All catch basins and drains in the area, into which sediment laden waters may flow shall be ringed with haybales staked and toed in 4 inches or protected per Standard "SD" of the RISESCH. These controls shall be properly maintained by timely removal of accumulated sediment and replacement of bales as needed.

F. All discharges which result from dewatering operations, must flow into sediment traps consisting of staked haybale rings enclosing crushed stone to disperse inflow velocity in accordance with RISESCH Standard "FB". Haybales shall be "toed in" 4 to 6 inches into the ground to prevent underwash of sediments. These devices shall be maintained by removal and proper disposal of accumulated sediments and by replacement of bales and stone as needed. The devices shall not be located on any coastal feature nor in any designated coastal buffer zone. If necessary, a matting device shall be used below the traps. These devices must be completely removed upon completion of dewatering operations.

G. There shall be no stockpiling or disposal of soils, construction materials, debris, etc., on the coastal feature, within 50 feet of the inland edge of the coastal feature or in coastal waters.

H. All excess excavated materials, excess soils, excess construction materials, and debris shall be removed from the site and disposed of at an inland landfill or a suitable and legal upland location outside of CRMC jurisdiction. No materials shall be deposited on the coastal feature, within 200 feet of the inland edge of the coastal feature, in coastal waters, or in any areas designated as a CRMC setback or coastal buffer zone.

I. All fill materials shall be clean, free of debris and rubble, and free of materials which may cause pollution of surface waters or groundwater.

J. All areas of exposed soil which are disturbed by construction and related activities shall be revegetated as immediately as is physically possible so as to minimize erosion and sedimentation. If the season is not conducive to immediate revegetation, all exposed soils shall be temporarily stabilized with hay mulch, jute mat netting or similar erosion control materials. Soil stabilization methods shall be employed during, as well as after, the construction phase to the maximum extent possible.

K. Excavation and grading shall be limited to the area approved. Excess earthwork beyond that authorized by this assent is not permitted.

L. There shall be no discharge or disposal of hazardous wastes or hazardous materials which may be associated with construction machinery, etc. on the site or in the waterway. All used oil, lubricants, construction chemicals, etc. shall be disposed of in full compliance with applicable State and Federal regulations.

Stormwater Management Stipulations

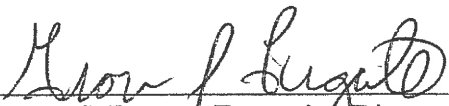
A. A Final Stormwater Management Plan shall be submitted to CRMC for written approval prior to initiation of construction. The plan shall incorporate Low Impact Development (LID) technology and shall treat, to the maximum extent practicable, 100% of the "water quality volume" (one inch rainfall generated from the total site impervious area). The plan shall be consistent with RICRMP Section 300.6 and UCG Section 150.6 standards.

B. A final Operations and Maintenance Plan, reflecting the final Stormwater Management Plan. Shall be submitted to CRMC for written approval prior to initiation of construction.

C. The stormwater management detention ponds shall be installed as soon as practical considering construction scheduling. These ponds must be vegetatively stabilized and functional prior to directing stormwater runoff into the ponds. The applicant shall request a meeting with CRMC staff for an inspection of the detention ponds at the appropriate time and prior to their use.

D. The "Water Quality Drains" shall be inspected by CRMC staff prior to final cover.

In Witness Whereof, said Coastal Resources Management Council have hereto set their hands and seal this 28th day of May in the year two-thousand-eight.



Grover J. Fugate, Executive Director
Coastal Resources Management Council

CRMC DECISION WORKSHEET

D). Hearing Date: _____ Work at/below MHW: _____
Approved with/without stipulations _____ Denied /Vote: _____
Contested _____ Uncontested _____ Uncontested but requires full decision _____

II). CRMC File No.: 2007-02-058 Appl. Date: 2007-02-20 Date Compl. _____
Project Location: Roger Williams & Bourne Avenue
Town: East Providence Plat 203|303|304 Lot 1|13|1
Owners Name and address: City of East Providence
East Point Development Project 145 Taunton Avenue
East Providence, RI 02914

III). Project: Construct mixed use commercial / residential development – See Staff Report Description

Engineer	<u>KWA</u>	Recommendation:	<u>No Objections</u>
Biologist	<u>DSR</u>	Recommendation:	<u>No Objections (APPROVE)</u>
Staff	_____	Recommendation:	_____

IV). Coastal Feature(s): Manmade / man-altered (remnant timber bulkhead, fill) with fringe wetlands.

V). Type Water: 4, Multi-Purpose Waters
100.4, 120, 130, 140, 150, 160, 200.1, 200.2, 200.3, 200.4, 200.5, 200.6, 210.1, 210.2, 210.3, 210.4, 210.5,
CRMP 210.6, 210.7, 220, 300.1, 300.2, 300.3, 300.4, 300.5, 300.6, 300.7, 300.8, 300.9, 300.10, 300.11, 300.12,
300.13, 300.14, 300.15, 300.16, 300.17, 300.18, 310, 320, 325, 330, 335, 400.
SAMP: Metro Bay SAMP

VI). Variances and/or Special Exception: A Special Exception is required per Section 210.3 (matrix) and Section 300.10 To fill 11,149 sq. ft. of coastal wetland, and fill approx 22,400 sq. ft. for wetland protection berm. The created wetland Includes an additional 22,545 sq. ft. of filling below MHW.

VII). Comments/Council Requirements:

Kenneth W Anderson
Engineering Supervisor Sign-Off
Harold J. Puzal
Executive Director Sign-Off

David S. Pen
Supervising Biologist Sign-off

Staff Sign off on Hearing Packet (Eng/Bio)

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

Date: July 5, 2007

TO: Grover J. Fugate, Executive Director
DEPT: Coastal Resources Management Council
FROM: Kenneth W. Anderson, P.E.
DEPT: CRMC Engineering Section

SUBJ: CRMC File No.: 2007-02-058

Owner: City of East Providence / Geonova Development Co., LLC

Site Address: Roger Williams & Bourne Avenue Plat: 203|303|304 Lot: 1|13|1

Site Town: East Providence

Project: Construct a mixed use (commercial/residential) development project at the former Ocean State Steel Property in East Providence consisting of 495 dwelling units, 49,800 square feet of office space, approximately 33,250 s.f. of retail/restaurant space (seven story height, maximum) and public access amenities, landscaping and stormwater management. The project includes construction on the Omega Pond and Seekonk River shorelines. The project is planned to be constructed in four (4) phases and be complete by 2012. Work on the Seekonk River shoreline includes the construction of 1,600 linear feet of riprap revetment backed by a vertical concrete flood zone protection wall and a steel sheet-pile bulkhead to be constructed along the northwest portion of the site (19.5 acre site, total.). A fringe salt marsh will be established along the shoreline to compensate for wetland filled for revetment construction. Included with the project is the construction and establishment of a 50' wide shoreline greenway which will include a public access pathway. The project is being considered under CRMC's Urban Coastal Greenway Policy for the Metro Bay Region. A (RICRMP) Special Exception is required for the filling of coastal wetlands bordering the Type 4 waters of the Seekonk River. (11,149 square feet to be mitigated by a 2:1 replacement).

Water Type/Name: Type 4 (Multipurpose Waters, southern shoreline), Type 6 (Industrial Waterfront and Commercial Navigation Channel, western shoreline) – Seekonk River.

Coastal Feature: Manmade/altered shoreline (remnant timber bulkhead, filled riverbank/bluff), sparsely vegetated, maximum crest elevation +8' MHW+/-.

Staff Comments: See Staff Biologist report regarding general programmatic discussion. Additional Staff review provided herein is specific to engineering issues pertaining to the project's proposed structural shoreline protection, and stormwater management.

Regarding Urban Coastal Greenway (UCG) **Section 150.1.(b)** (Stormwater Management): The stormwater management standards for the Metro Bay region (Section 150.6) requires the incorporation of "Low Impact Development" techniques to reduce the generation of runoff, as well as compliance with RICRMP Section 300.6 performance standards (peak flow control, water quality treatment). Review and approval of a final stormwater management plan has been stipulated for inclusion with any permit granted by the CRMC, as the submitted plan is incomplete and insufficient to demonstrate

CRMC File No.: 2007 – 02-058
Name: City of East Providence / Geonova
City: East Providence

adequate compliance with applicable LID treatment goals. Due to the conceptual nature of portions of the development (“high rise buildings”, etc.), the application has stated that the final designs will incorporate “green roofs, additional tree box filters, and bio-retention filtration planters”. Lack of adequate compliance is based on the presentation that “the residential structures and roadways have their required treatment accounted for by the traditional stormwater control basins” (Drainage Report, page 11). (The two proposed detention ponds have been sized to treat approx. 39% of the total water quality volume generated on site, while 61% is proposed to be treated by LID techniques (tree box planters and “other” LID techniques.) All rainfall events are routed through the two ponds without “peak” control of post-development volume, which is allowable per RICRMP Section 300.6.E.2.(b), but undesirable per Section 300.6.E.2.(a) in shallow estuarine environments. Staff recommends that additional LID techniques, consistent with UCG Section 150.6.(a), be incorporated within the development to further increase treatment for up to 100% of the water quality volume. (see recommended stipulations)

Regarding **UCG Section 150.7** (Structural Shoreline Protection Standards for all Urban Coastal Greenways): This section adds to general standards required per **RICRMP Section 300.7**. The proposal includes a riprap revetment shoreline and vertical concrete retaining wall. The site is proposed to be extensively filled and the shoreline revetted with riprap armor stone (seaward of the proposed Greenway) and a vertical concrete retaining wall (landward of the Greenway). The proposed revetment height is +8’ NGVD (~MSL) and the finished grade of the filled site landward of the concrete wall is 19’ – 20’ NGVD. A maximum of approximately 14’ of fill (depth) is proposed, to elevate the site and allow revision of the FEMA-designated high hazard flood zone to a zone (“X”) of minimal flooding. (This will allow for conventional building foundation construction at the proposed grades.) A Conditional Letter of Map Revision (CLOMR) has been submitted to FEMA. Approval of the CLOMR is required prior to CRMC permit issuance, and is so stipulated. Based on direction from CRMC Executive Director regarding interpretation of fill issues pertaining to UCG construction, and, provided FEMA issues approval of the CLOMR revetment design, there is no staff engineering objection to the proposal.

The following permit stipulations are recommended should the CRMC grant approval of the project :

- (A) – A Final Stormwater Management Plan shall be submitted to CRMC for written approval prior to initiation of construction. The plan shall incorporate Low Impact Development (LID) technology and shall treat, to the maximum extent practicable, 100% of the “water quality volume” (one inch rainfall generated from the total site impervious area). The plan shall be consistent with RICRMP Section 300.6 and UCG Section 150.6 standards.
- (B) A final Operations and Maintenance Plan, reflecting the final Stormwater Management Plan. Shall be submitted to CRMC for written approval prior to initiation of construction.
- (C) A work plan detailing construction sequencing and timing shall be submitted to CRMC for written approval upon selection of construction contractor, prior to initiation of construction.
- (D) The RIDEM Soils Management Plan and Remedial Action Work Plan shall be strictly adhered to (“ELUR Permit 96-014”). Final RIDEM permit resolution shall be required for “ELUR Area A” disturbance, prior to initiation of construction.
- (E) Throughout the project construction duration, strict adherence to Erosion and Sedimentation control shall be required. Lack of E & S controls, resulting in sedimentation or turbidity to the waters of the State shall be deemed a violation of the permit and subject to enforcement.

CRMC CRMC File No.: 2007 – 02-058
Name: City of East Providence / Geonova
City: East Providence

- (F) The “Soil Surcharge Plans for Structural Filling and Settlement” shall be submitted to for written approval prior to construction.
- (G) The “Water Quality Drains” shall be inspected by CRMC staff prior to final cover.
- (H) Additional “Standard Construction Stipulations”.
- (I) Additional Staff Biologist Stipulations.

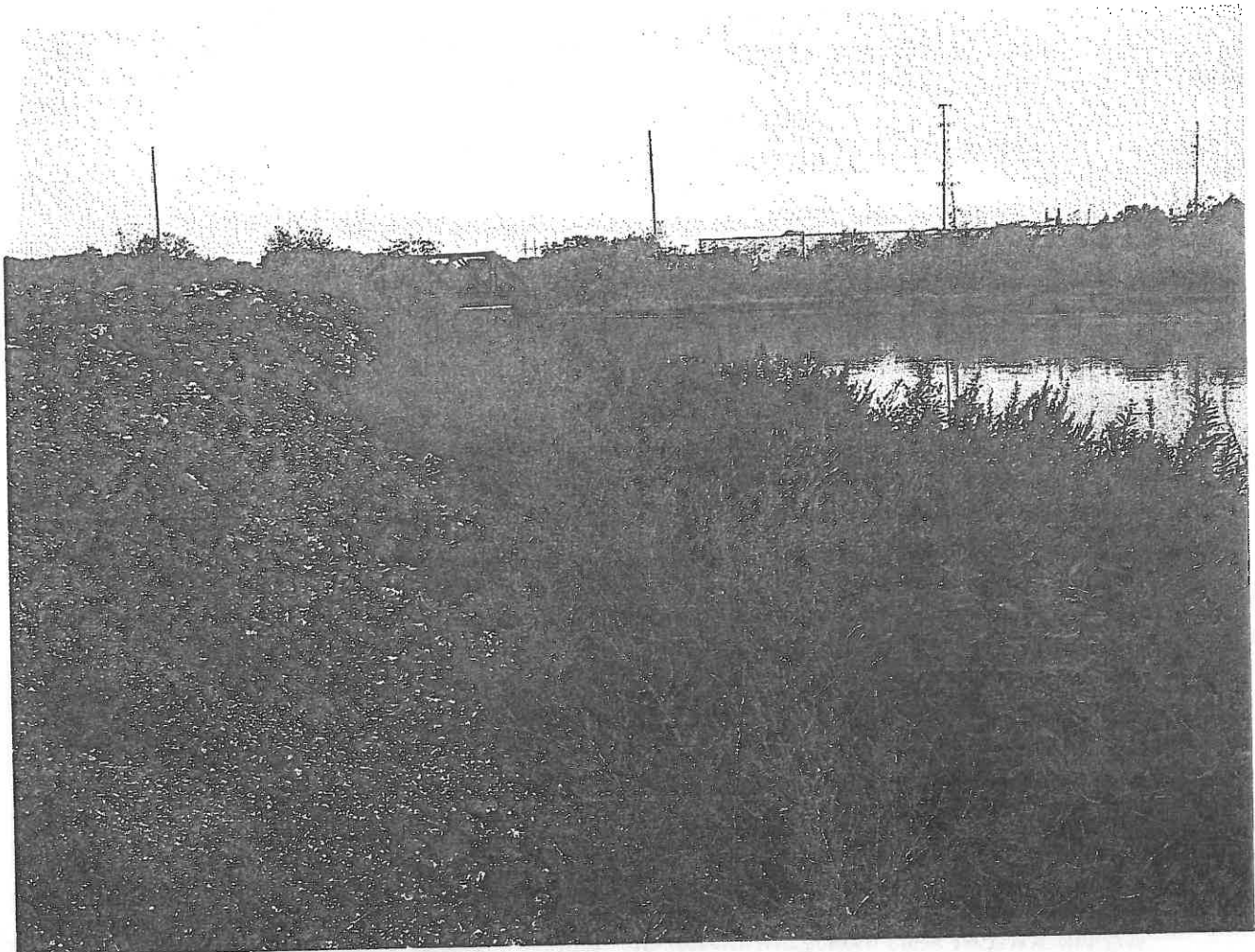


Figure 1 - Looking easterly from SW point

Signed Kenneth W Anderson PE Staff Engineer

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

TO: Grover J. Fugate, Executive Director
DEPT: Coastal Resources Management Council
FROM: Kenneth W. Anderson, P.E.
DEPT: CRMC Engineering Section

Date: July 5, 2007

SUBJ: **CRMC File No.:** 2007-02-058

Owner: City of East Providence / Geonova Development Co., LLC

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Site Town: East Providence

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Water Type/Name: Type 4 (Multipurpose Waters, southern shoreline), Type 6 (Industrial Waterfront and Commercial Navigation Channel, western shoreline) – Seekonk River.

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Staff Comments: See Staff Biologist report regarding general programmatic discussion. Additional Staff review provided herein is specific to engineering issues pertaining to the project's proposed structural shoreline protection, and stormwater management.

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CRMC File No.: 2007 – 02-058
Name: City of East Providence / Geonova
City: East Providence

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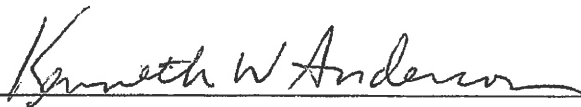
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CRMC CRMC File No.: 2007 – 02-058
Name: City of East Providence / Geonova
City: East Providence

- (F) The “Soil Surcharge Plans for Structural Filling and Settlement” shall be submitted to for written approval prior to construction.
- (G) The “Water Quality Drains” shall be inspected by CRMC staff prior to final cover.
- (H) Additional “Standard Construction Stipulations”.
- (I) Additional Staff Biologist Stipulations.

Signed



Staff Engineer

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL
BIOLOGIST SIGN-OFF**

TO: Grover J. Fugate
DEPT: Executive Director, CRMC
FROM: David S. Reis, Supervising Environmental Scientist
DEPT: CRMC PERMITTING SECTION
SUBJECT: Category A Application

PAGE: 1 of 8
DATE: 6/19/07

CRMC File Number: 2007-02-058 **Name:** City of East Providence (GeoNova)
Location: 301 Bourne Avenue, East Providence **AP:** 203, 303, 304 **Lot(s):** 1-4, 13-4 & 5, 1-8
Water Type/Name: Type 4, (Multipurpose Waters) and Type 6, (Industrial Waterfronts and Commercial Navigation Channels), Seekonk River
Coastal Feature: Manmade Shoreline (bulkhead and fill/riverbank)
Project Description: Construct a mixed use (commercial/residential) development at the former Ocean State Steel property in East Providence. The project includes construction on the Omega Pond and Seekonk River shorelines. Construction on the Omega Pond shoreline has been deferred to RIDEM. Work on the Seekonk River shoreline (19.5 acres) includes the construction of a riprap revetment backed by a vertical concrete flood zone protection wall and a steel sheet-pile bulkhead to be constructed along the northwest portion of the site. A fringe salt marsh will be established along the shoreline to compensate for wetland filled for revetment construction. Included with the project is the construction and establishment of a 50' wide shoreline greenway which will include a public access pathway. The project is being considered under CRMC's Urban Coastal Greenway Policy for the Metro Bay Region. A Special Exception is required for the filling of coastal wetlands bordering the Type 4 waters of the Seekonk River.

Plans Reviewed:

- "East Pointe, East Providence, Rhode Island", in 31 sheets by Northeast Engineers and Consultants, Inc., last revised May 31, 2007.
- "Landscape, Signage, and Lighting Plans For: East Pointe....", in 6 sheets (L1-L5 plus cover sheet), by The Gifford Design Group, Inc., last revised 5/22/07.

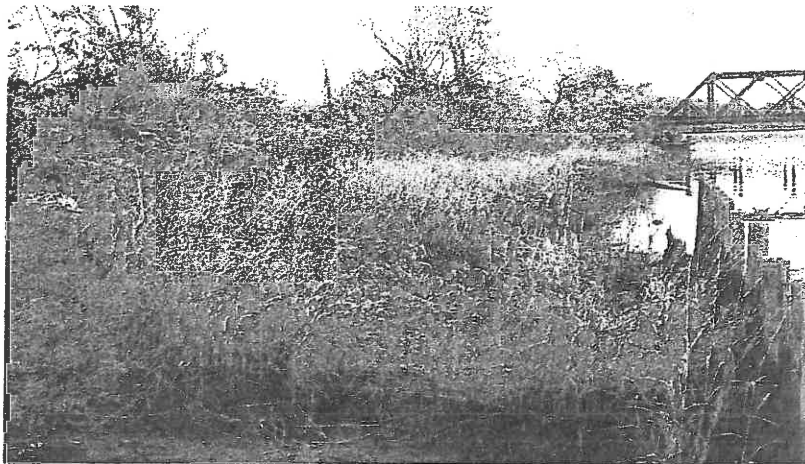
Comments:

The proposed project is located within the "Metro Bay Region" where the applicant has the option of adhering to the Urban Coastal Greenway Program (UCG) or the setback and buffer standards contained in RICRMP Sections 140 and 150 respectively. The applicant has chosen to adhere to the UCG. In addition, the project must be evaluated against other pertinent sections of the RICRMP. In accordance with the Executive Director's determination; regulatory review of the portion of the project bordering Omega Pond has been deferred to RI DEM (due to the RIDEM/CRMC jurisdiction line which bisects the project). Therefore, only the "waterfront" (Seekonk River) portion of the project is reviewed herein.

Signed David S. Reis Staff Biologist

Comments regarding consistency with the RI CRMP:

While the primary review of this project falls under the Urban Coastal Greenway Policy for the Metro Bay Region, the project must also be weighed against the standards contained in the RI Coastal Resources Management Program (RI CRMP). In this regard, the construction of the proposed shoreline revetment will result in the filling of coastal wetland (ref. RI CRMP Section 210.3) and tidal waters (ref. RI CRMP Section 300.10). Although the project plans and accompanying narrative indicates filling is proposed out to a historic timber bulkhead, due to erosion and bulkhead disrepair, tidal waters and wetland now exist landward of the timber bulkhead as shown in the photograph below.



- **RI CRMP Section 210.3 - Filling Coastal Wetland:** The filling of coastal wetland bordering Type 4 waters is prohibited pursuant to the Type 4 waters “activity matrix” contained in RI CRMP Table 1. Additionally, section 210.3 states that coastal wetlands bordering Type 4 waters may be altered if “*the alteration is made to accommodate a designated priority use for that water area*” (additional criteria apply, see 210.3.C.5). Although designated priority uses for Type 4 waters are not clearly identified by RI CRMP Section 200.4; Staff concludes that wetland filling associated with a shoreline revetment constructed to serve a commercial/residential development does not serve a designated priority use. Further, the revetment is **not** constructed as “close as practicable to the shoreline feature it is designed to protect”. This results in wetland filling which is prohibited pursuant to RI CRMP Sections 300.7.D.3, 300.7.D.4 and 300.7.F.1. On this basis, Staff concludes that a special exception is required.

Signed _____

David S. Rea

Staff Biologist

- **RI CRMP Section 300.10 - Filling in Tidal Waters:** Section 300.10.D.3 states: *"Filling in Type 3, 4, 5, and 6 waters is prohibited unless (a) the filling is made to accommodate a designated priority use for that water area (b) the applicant has examined all reasonable alternatives and the Council has determined that the selected alternative is the most reasonable and (c) the filling is the minimum necessary to support the priority use."* As with the filling of coastal wetland, CRMC Staff is of the opinion that the filling of tidal waters for the construction of a shoreline revetment associated with a commercial/residential development does not serve a designated priority use. On this basis, staff concludes that a special exception is required. Fill is also required in tidal waters to construct the mitigation wetland. However, due to the environmental benefits of replacing the impacted wetland on a 2:1 basis, there is no Staff objection to fill associated with wetland creation.
- **RICRMP Section 300.12 Coastal Wetland Mitigation:** As described above, the impacted area of wetland (11,149 sq. ft.) will be replaced on a 2:1 basis resulting in a 22,545 sq. ft. replacement area. The replacement area will consist of a 13' wide fringe low marsh bordering the south and west shoreline segments (except the northwest shoreline segment where a steel sheet-pile bulkhead will be built).
- **RI CRMP Section 130 - Special Exceptions:** Section 130 states: *Special exceptions may be granted to prohibited activities to permit alterations and activities that do not conform with a Council goal for the areas affected or which would otherwise be prohibited by the requirements of this document only if and when the applicant has demonstrated that: The proposed activity serves a compelling public purpose which provides benefits to the public as a whole as opposed to individual or private interests. The activity must be one or more of the following: (a) an activity associated with public infrastructure such as utility, energy, communications, transportation facilities; (b) a water-dependent activity that generates substantial economic gain to the state; and/or (c) an activity that provides access to the shore for broad segments of the public. All reasonable steps shall be taken to minimize environmental impacts and/or use conflict. There is no reasonable alternative means of, or location for, serving the compelling public purpose cited.*

CRMC Staff completed a preliminary determination report for this project in July 2004 (ref. CRMC File 2004-05-096). CRMC Staff has further been involved in the coordination and review of this project since that time. During this period the "Urban Coastal Greenway Policy for the Metro Bay Region" (the "UCG") was developed. In an effort to be more consistent with the UCG, slight changes have been made to the project over time. However, the applicant has been reluctant to make more significant changes.

Signed _____

David J. Reis

Staff Biologist

**City of East Providence, GeoNova
Biologist's Report
Page 4 of 8**

Significant changes would include relocating the proposed buildings landward, reducing their size or reducing the overall scope of the project to provide a greater greenway or buffer and setback. Although some adjustments have been made, the primary cause of the seaward encroachment which results in the filling of tidal waters and coastal wetlands (particularly along the southern shoreline) appears to be the applicant's effort to accommodate the greenway and the associated setback between the proposed buildings and tidal waters. The end result is the filling becomes necessary to accommodate the required UCG greenway and setback. With regard to the special exception, the greenway itself appears to serve a compelling public purpose since it provides access to the shore for broad segments of the public. However, this must be balanced against the fact that the greenway appears to have been "pushed" seaward by the development resulting in the fill. Additional considerations include the "brownfield" nature of the site and the cost of cleaning up environmental contamination. The applicant has consistently stated that the scope of the project is necessary to offset the environmental clean-up requirements necessary to develop the site. This claim is likely valid and should be considered when reviewing a brownfield development having high environmental clean-up costs. Staff also believes it is appropriate to consider the "dilapidated" nature of the existing shoreline and the re-use benefits of developing this highly degraded site. Overall, in consideration of all these factors, it is the Staff Biologist's opinion that the project qualifies for the granting of a special exception. The proposed greenway and bordering restored fringe marsh will provide significant habitat benefits and provide public access to a restored shoreline. **The Staff Biologist therefore supports the granting of a Special Exception for this project.**

Comments regarding consistency with the UCG:

The proposed project is located within a designated "Development Zone" pursuant to the Urban Coastal Greenway Program (UCG). The following comments address project consistency with the policies and standards contained in the UCG.

- **UCG Section 190 - Development Zone:** The project is subject to UCG Section 190 which is the policies and standards applicable to a "Development Zone". The applicant has chosen to adhere to Option 3 which provides for a 50 greenway with compensation. (The standard greenway width is 100' but Option 3 allows for a compact (reduced) 50' greenway with compensation as described by UCG Section 230.) Based on a review of the current project plans, the 50' compact greenway requirement is met and compensation is provided (see UCG Section 230 review below).

Signed _____

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- **UCG Section 150.1 - Standards Applicable to the Entire Development:** The submitted application indicates the following standards have been met:
 - **150.1(a) - 15% Vegetation requirement:** The application indicates 32% of the site will be vegetated thereby significantly exceeding the 15% requirement.
 - **150.1(b) - Stormwater Management:** As proposed, the project's intent is to provide 100% on site management of stormwater consistent with the UCG requirements. The project relies primarily upon two extended detention ponds for stormwater treatment. However, the applicant has stated that additional Low-Impact Development (LID) techniques will be incorporated into the project for "large scale" buildings which are only conceptual at this design stage. The additional LID techniques proposed include tree box filters and green roofs. A stipulation is herein included to require these measures for future design implementation. Additional technical review of the stormwater facility design is deferred to the staff engineer's report.
 - **150.1(c) - Public Access:** The project provides a 10' wide public pathway along the Seekonk River and indicates the public parking requirements for access to the Greenway are met. However, no specific public parking spaces are identified on the plan. Appropriate stipulations are recommended in this regard.
 - **150.1(d) - Construction Setback:** The project meets the 25' setback along the southern shoreline segment and provides an 11' setback on the western shoreline. There is no objection to the 11' setback due to conformance with the following: Pursuant to Section 150.1(d).2, it appears the project will not result in the "privatization" of the greenway. And, pursuant to Section 150.1(d).3, there is minimal staff concern with regard to shoreline erosion due to the shoreline protection structures proposed.
- **UCG Section 230 – Compensation:** The applicant has chosen to adhere to UCG Section 190.3 - Option 3 which is the compact (50') greenway with compensation (for relief from the 100' wide standard greenway requirement). The applicant has provided monetary compensation calculations based on the purchase price of the property per acre. While the purchase price appears low, Staff assumes the purchase price was reflective of the environmental contamination present and the associated remediation cost necessary to develop the site. However, the Staff Biologist is not -

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qualified to question the appraisal value of the property or its basis (purchase price or other "representative waterfront value per acre" as specified by UCG section 230). Absent such qualifications, the Staff Biologist offers an opinion that the purchase price for contaminated properties may be a fair "benchmark" for monetary compensation. Regardless of the monetary basis for analysis, the Staff Biologist believes the proposed compensation option consisting of the installation of benches, trash receptacles and bollard lights represents appropriate compensation in terms of valuable greenway amenities associated this particular development.

- **UCG – Miscellaneous:** Additional sections of the UCG are either met, of minor significance or are covered by the stipulations recommended in this report.

Recommendations:

The Staff Biologist recommends approval of the Project including the Special Exception for the filling of coastal wetland. The following stipulations are recommended for inclusion in any assent issued by the Council:

Recommended Stipulations:

1. This CRMC Assent shall be valid only for the project specified by the plans approved by this CRMC Assent. No changes to the shoreline protection facilities, wetland mitigation plan, greenway, public access or associated parking facilities, etc., shall be allowed under this Assent or by any future application to modify this Assent. In addition, other than minor "footprint" modifications which retain the approved setback, there shall be no changes to the residential buildings which comprise the seaward row of proposed multi (3-4) family dwelling units bordering the Seekonk River Shoreline. Any and all changes including those noted herein and/or any other changes which the CRMC determines to represent a substantive modification to the approved development shall require a new CRMC review and approval.
2. Prior to any work associated with this project, a UCG Easement shall be submitted to the CRMC for review and approval. Once approved by the CRMC, the Easement shall be recorded in the Land Evidence Records in the City of East Providence. All rules for use of the greenway and a greenway management plans shall be included as attachments to the easement.
3. All prerequisite permits must be obtained prior to issuance of the CRMC Assent. This includes the FEMA CLOMR, RIDEM WQ Certification and ACOE permits.

Signed _____



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4. Prior to any work associated with this project, the applicant shall obtain Sewer connection approvals from the Narragansett Bay Commission and the City of East Providence Sewage Treatment Facility.
5. The proposed shoreline protection structures (steel sheet-pile bulkhead and revetment with backing vertical concrete seawall) shall be constructed prior to the construction of any buildings on the subject property (Seekonk River portion). The greenway and wetland mitigation area (fringe marsh with subaqueous revetment) shall be constructed and established in a linear fashion proceeding along the shore commensurate with the construction of the shoreline protection structures. The construction of any buildings prior to the completion of the shoreline protection facilities will require a separate CRMC authorization and must be consistent with any approval of the Federal Emergency Management Agency (FEMA – approval pending).
6. The barge located along the western shoreline segment shall be removed for disposal at an appropriate upland location. The barge shall be removed prior to the construction of shoreline protection structures proposed for this area of the shoreline.
7. The stormwater management detention ponds shall be installed as soon as practical considering construction scheduling. These ponds must be vegetatively stabilized and functional prior to directing stormwater runoff into the ponds. The applicant shall request a meeting with CRMC staff for an inspection of the detention ponds at the appropriate time and prior to their use.
8. Prior to issuance of the CRMC Assent, the applicant shall submit a greenway parking plan which specifically identifies the public parking spaces available for public access to the greenway. This plan shall provide “mock-ups” of appropriate signage to delineate these spaces on site. In addition, all “perpendicular” (access) pathways to the greenway shall be specifically identified along with mock-ups of appropriate signage which directs public access to the greenway. Finally, a mock-up of signage which identifies the rules for public use of the greenway shall be provided. All signs and greenway rules and access provisions shall be subject to CRMC approval.
9. All greenway plantings shall be restricted to species included on the most recent list of native, sustainable and coastal plants posted on CRMC’s Web site.
10. All Low-Impact Development (LID) techniques to be incorporated into the final design of “large scale” buildings and associated areas (including green roofs and tree box filters) shall require CRMC review and approval.

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11. All project lighting including any shoreline bollards installed in the Greenway shall utilize shielding and glare control to avoid and minimize any illumination of the Seekonk River and its shoreline. No spotlights or other directed or bright lights or illumination shall be directed toward the Seekonk River. The CRMC reserves the right to approve any project lighting and may order the removal or shielding of any lighting determined to be excessive or which results in excess illumination of the shoreline. All potential purchasers or renters of homes, businesses or other real estate within this development shall be made aware of this requirement through deed restrictions, lease agreements, association covenants and any other appropriate legal doctrines or instruments.
12. This CRMC Assent does not include any consideration, evaluation or authorization of a future marina. However, due to marina plans on prior preliminary plans submitted for this project, the CRMC herein notifies the applicant that there are significant concerns for the construction of a marina at this site. These concerns include potential interference with an Anadromous fish run restoration project for the Omega Pond / Ten Mile River / Turner Reservoir System, valuable fish habitat and fishing opportunities on the Seekonk River side of the Omega Pond Dam and the marine navigation channel which runs along the western shoreline of the project.
13. The approved wetland construction, monitoring and assessment protocol shall be that presented on pages 23- 26 of the applicant's application narrative entitled "East Pointe, A Mixed Use Development..., Category "B" Application..., prepared for GeoNova Development Company LLC, by Northeast Engineers and Consultants, revised May 2007. On this basis, the specifications contained on pages 23-26 of this document shall be considered stipulations/conditions of approval. Any failure to abide by this protocol shall be considered an enforceable violation of the CRMC Assent. Furthermore, the protocol approved herein may only be modified by the CRMC by a prior written approval. In addition, prior to any work on the project shoreline protection structure, greenway or mitigation wetland, the chosen contractor shall submit a work plan consistent with this protocol for CRMC review and approval.
14. The final subaqueous revetment (breakwater) elevation and the composition and elevation of the wetland substrate to be contained between the shoreline revetment and subaqueous revetment shall be determined and verified on site by the applicant's biologist in cooperation with CRMC Staff.
15. Any and all observations of problems or concerns associated with the construction of the shoreline protection structure, greenway or mitigation wetland shall be reported to the CRMC immediately and, at a minimum, within 48 hours of occurrence.

Signed _____



Staff Biologist

