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February 11<sup>th</sup>, 2022

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**Re:   Application of William & Nancy Gilbane  
      (Residential Boating Facility) – # 2021-09-093**

Members of the Council:

Our office represents Benjamin Walker (“Walker”), d/b/a/ as Walker’s Marina, LLC. I am writing on behalf of Mr. Walker to note for the record his objection to the above-referenced residential boating facility application.

Walker owns the property at 1157 Succotash Road, Narragansett, Rhode Island, more particularly described as Town of Narragansett Tax Assessor’s Plat I-J, Lot 64-3. It is situated along Point Judith Pond, directly adjacent to the Applicants’ Property and the proposed residential boating facility. The Walker property contains a single-family residence and ten (10) slip marina which has operated since the 1950’s.

The submission proposes to replace an unauthorized existing boating dock with a more expansive and intrusive alternative. The existing boating lane is narrow in its existing configuration and the proposed facility will only narrow the lane further. The proposed dock doubles the size of the existing dock and is situated in a manner that would severely impact existing uses or eliminate them altogether.

The Applicants’ submission is heavily premised on the assumption that the Walker marina is “unauthorized” or otherwise “violates” CRMC regulations. However, a valid Assent expressly authorizes the use of the property for a ten-slip marina in its existing configuration. The Department of Public Works, Division of Harbors & Rivers issued the original assent in



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1955. In 1993, the Council issued a Corrected Assent further establishing the existing use as lawful. (See Assent #A94-9-44 and attached letter dated August 14<sup>th</sup>, 2014).

Clearly, the Applicants' attempt to invalidate the Walker's marina is a mere pretext to substantiate their own claim for relief. Applicants' submission seeks three (3) separate variances: 1) a 23' variance for dock length per Section 1.3.1(D)(11)(1)2); 2) a 22' property line setback variance per Section 1.2.1 (D)(11)(k) and 3) a variance pursuant to Section 1.3.1 (D)(11)(w) and 1.3.1 (R)(3)(e)(1) for activities over submerged aquatic vegetation. The Application also seeks a Special Exception under Section 1.3.1 (R)(2)(b) to facilitate construction of a floating dock over submerged aquatic vegetation.

Applicants requiring a variance from any CRMC regulation must establish the following: 1) The proposed alteration conforms with applicable goals and policies of the Coastal Resources Management Program; 2) The proposed alteration will not result in significant adverse environmental impacts or use conflicts, including but not limited to, taking into account cumulative impacts; 3) Due to conditions at the site in question, the applicable standards cannot be met; 4) The modification requested by the applicant is the minimum variance to the applicable standard(s) necessary to allow a reasonable alteration or use of the site; 5) The requested variance to the applicable standard(s) is not due to any prior action of the applicant or the applicant's predecessor's in title and 6) Due to the conditions of the site in question, the standard(s) will cause the applicant an undue hardship. (650 RICR 20-00-01 Sec. 1.1.7 Variances). Additionally, Applicants must demonstrate the nature of the hardship and that the hardship is shown to be unique or particular to the site. *Id.*

At a minimum, the proposed residential boating facility will have a severe impact on Walker's riparian rights. As set forth more fully above, the Walker marina has operated since 1950 and is a use expressly authorized by Council Assent. The submission presumes the Walker marina is "unauthorized" and calls for removal of the facility as a means to facilitate its own boating facility. For this reason alone, the application does not conform to the goals and purposes of the Coastal Resources Management Program.

Moreover, Gilbane's request is not the least relief necessary to facilitate the proposed use on the site. In fact, the application represents the *maximum* relief needed to facilitate a residential boating facility. The submission seeks three extensive variances related to size, location, and underwater vegetation, in addition to a Special Exception. However, the need for relief could be extinguished through modifications of the design.

The proposed boating facility is situated almost entirely along the southeasterly property line directly adjacent to and in direct conflict with the Walker property and marina. The proposed site plans indicate alternative locations available to the Applicant and the plans indicate alternatives are available that would result in lesser impacts to existing uses.



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Moreover, the submission acknowledges an existing unauthorized dock on the Applicant's property. Applicant suggests an attempt to "legalize" the existing dock through the relief requested. However, this contention implies that the need for relief is the direct result of Applicants' or the Applicants' predecessor in title's construction of the unauthorized dock and thus precludes the relief being requested.

In regard to Special Exceptions, the Applicant must demonstrate that: 1) The proposed activity serves a compelling public purpose which provides benefits to the public as a whole as opposed to individual or private interests and the activity must be one or more of the following: a) An activity associated with public infrastructure such as a utility, energy, communications, transportation facilities; b) a water-dependent activity or use 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.


The submission reflects a desire to construct a private residential boating facility for the sole use of the property owner. The Application does not purport convey any public benefit or inure to the benefit of any public infrastructure project or utility. For this reason alone, the application should be denied.

The proposed residential boating facility will have a significant impact on the riparian rights of abutting property owners, particularly Walker. The proposed will have an adverse effect upon submerged aquatic vegetation and presumes the invalidity and removal of an existing boating facility authorized by a Council Assent. To grant the application would fly in the face of the purposes and intent of the Coastal Resources Management Program.

On behalf of Mr. Walker, we respectfully request that the Council encourage the Applicants to reconsider the size, scale, and location of their boating facility in a manner more appropriate for the property and more respectful to existing uses on Point Judith Pond.

Thank you for your consideration.

Sincerely,



Matthew J. Landry, Esq.