



100 Westminster Street, Suite 1500  
Providence, RI 02903-2319

p: 401-274-2000 f: 401-277-9600  
hinckleyallen.com

**Christine E. Dieter**  
Direct Dial 401-457-5388  
cd Dieter@hinckleyallen.com

June 20, 2023

**VIA HAND DELIVERY**

Mr. Jeffrey Willis  
Executive Director  
Coastal Resources Management Council  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 3  
Wakefield, RI 02879-1900

**Re: Application for Buffer Zone Management at 132 Fishing Cove Road, North  
Kingstown, Rhode Island, submitted by Cedarhurst Condominium Association  
CRMC File No.: 2022-12-072**

Dear Mr. Willis:

Drew and Susan Davies hereby withdraw their Substantive Objection and Request for Assent with Certain Conditions filed on February 10, 2023. While the Davies remain concerned about the extensive presence of invasive species at the property, they do not intend to pursue the matter further at the June 27, 2023 hearing of the Coastal Resources Management Council.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads 'Christine Dieter'.

Christine E. Dieter

cc: Anthony DeSisto, Esq.  
Frank Lombardi, Esq.  
Carol Collins Purdum, Board President, Cedarhurst Condominium Association



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**Christine E. Dieter**  
Direct Dial 401-457-5388  
c Dieter@hinckleyallen.com

February 10, 2023

**VIA HAND DELIVERY**

Mr. Peter O'Rourke  
Coastal Resources Management Council  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 3  
Wakefield, RI 02879-1900

**Re: Application for Buffer Zone Management at 132 Fishing Cove Road, North  
Kingstown, Rhode Island, submitted by Cedarhurst Condominium Association  
CRMC File No.: 2022-12-072**

Dear Mr. O'Rourke:

Enclosed please find an original and four copies of the following documents:

- Notices of Appearance for Christine E. Dieter and Robin L. Main
- Motion to Intervene and accompanying Memorandum of Law
- Substantive Objection and Request for Assent with Certain Conditions of Drew and Susan Davies ("Substantive Objection")
- Exhibit 1 to the Substantive Objection: Report by Joseph McCue and Accompanying Attachments

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads 'Christine Dieter'.

Christine E. Dieter

CED:cw  
Enclosures

cc: Anthony DeSisto, Esq.  
David Bashaw, Property Manager, Cedarhurst Condominium Association

► ALBANY ► BOSTON ► CHICAGO ► HARTFORD ► MANCHESTER ► NEW YORK ► PROVIDENCE ►

**RECEIVED**

**FEB 10 2023**

**COASTAL RESOURCES  
MANAGEMENT COUNCIL**

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

IN THE MATTER OF:	)	CRMC File No.: 2022-12-072
	)	
CEDARHURST CONDOMINIUM	)	<b>HEARING REQUESTED</b>
ASSOCIATION	)	

**MOTION TO INTERVENE OF  
DREW DAVIES AND SUSAN DAVIES**

Drew Davies and Susan Davies (the “Davies”) move to intervene in this matter concerning Cedarhurst Condominium Association’s application for buffer zone management in Wickford Harbor at 132 Fishing Cove Road North Kingstown, RI (Plat 141, Lot 2). In support of their motion, the Davies rely upon their supporting memorandum and accompanying substantive objection. The Davies respectfully request a hearing in this matter.

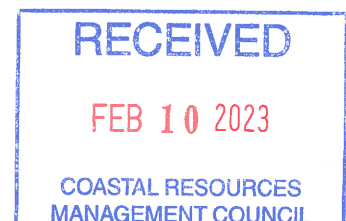
Respectfully submitted,

**DREW DAVIES AND SUSAN DAVIES**

By their attorneys,

/s/ Christine E. Dieter  
Robin L. Main (#4222)  
Christine E. Dieter (#9859)  
Hinckley, Allen & Snyder LLP  
100 Westminster Street, Suite 1500  
Providence, RI 02903-2319  
(401) 274-2000  
(401) 277-9600 (fax)  
rmain@hinckleyallen.com  
cdieter@hinckleyallen.com

Dated: February 10, 2023



**CERTIFICATE OF SERVICE**

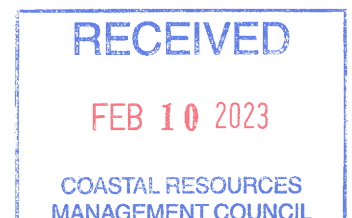
Coastal Resources Management Council  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 3  
Wakefield, RI 02879-1900

Anthony DeSisto, Esq.  
Anthony DeSisto Law Associates  
450 Veterans Memorial Parkway, Suite 103  
East Providence, RI 02914

David Bashaw, Property Manager  
Cedarhurst Condominium Association  
132 Fishing Cove Road  
North Kingstown, RI 02852

I hereby certify that I caused the within document to be hand delivered in quadruplicate to the CRMC in Wakefield, Rhode Island, on February 10, 2023, and to be mailed via first-class mail to the parties identified above.

/s/ Christine E. Dieter  
Christine E. Dieter



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

IN THE MATTER OF:                    )  
  )  
CEDARHURST CONDOMINIUM        )  
ASSOCIATION                         )

CRMC File No.: 2022-12-072

**HEARING REQUESTED**

**MEMORANDUM IN SUPPORT OF THE  
MOTION TO INTERVENE OF DREW DAVIES AND SUSAN DAVIES**

Pursuant to § 1.1(E)(2) of the Management Procedures, 650-RICR-10-00-1.1 *et seq.*, Drew Davies and Susan Davies (the “Davies”) move to intervene in the above matter concerning Cedarhurst Condominium Association’s (“Cedarhurst”) Application for Buffer Zone Management at 132 Fishing Cove Road, North Kingstown, Rhode Island, (the “Application”) to the Rhode Island Coastal Management Resources Council (“CRMC”). Cedarhurst proposes an invasive management plan for existing coastal buffer areas surrounding the Phase I and Phase II condominiums of the Property (the “Project”). The Davies are owners of a unit in Phase II, Building 5 at Cedarhurst. Although the Cedarhurst Board of Directors (the “Board”) has proposed an invasive management plan in the Application, as outlined in the Davies’ accompanying Substantive Objection (incorporated by reference as if set forth fully herein), the Board has determined to leave invasive vegetation within the view corridor designated as VC5A, which is immediately adjacent to the Davies’s unit in Building 5. Based on multiple discussions with the Board, it is the Davies’ understanding that VC5A is the only view corridor in which the Board intends to leave invasive vegetation to grow and potentially retake treated areas. Accordingly, the Davies have a concrete and particularized interest in this matter. They seek to intervene as a party to provide information to support CRMC in fully evaluating the Application

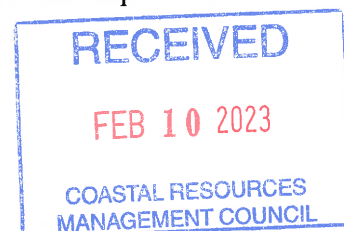


and ensuring that the proposed invasive management plan will succeed and meet the policies and standards of the Coastal Resources Management Plan.

**I. BACKGROUND**

The Davies have resided at Cedarhurst for more than ten years. Over the past five years, they have observed Cedarhurst’s coastal buffer zones and view corridors become overrun by invasive vegetation. They have raised concerns about the deterioration of the buffer zones and view corridors to the Board on numerous occasions. In response to the Davies’ – and many of their neighbors’ – insistence, the Board engaged Applied Bio-Systems, Inc. (“ABS”) to perform a buffer zone assessment, which occurred in July 2022. As a direct result of the Davies’ efforts, the ABS assessment uncovered that the buffer zone areas had become full of invasive vegetation, including honeysuckle and multiflora. After the assessment confirmed the Davies’ concerns – that the view corridors had become overrun by rapid-growing vegetation – ABS recommended that the Board submit the Application.

The Application indicates that, “There are approximately 84 invasive shrubs to be removed and replaced by natives.” See ABS Cedarhurst Buffer Zone Invasive Shrub Control Restoration Project, page 1. The Application does not, however, identify with any specificity the location of the invasive shrubs targeted for removal. In several discussions with the Board and ABS from July through December 2022, the Board has stated that the invasive management plan will leave numerous invasive shrubs within VC5A, notwithstanding the Application’s statements that it intends to target 100 percent removal of invasive plants. Attachment A to the report submitted by Professional Wetland Scientist Joseph McCue in support of the Substantive Objection (the “McCue Report”) identifies the area of concern in teal. The Board stated that it will not remove invasive shrubs from this teal area because the Buffer Management Plan map



approved as part of Cedarhurst's November 2, 1993 Assent to Perform Buffer Zone Management, No. A90-1-68 (the "Assent") identifies this area as one of many "moderately dense vegetative areas within the view corridors – to be thinned." See Assent.

As outlined in the accompanying Substantive Objection and McCue Report, the Board's position makes no sense as a matter of invasive species management and contradicts the Board's long-standing practice of thinning and pruning these areas. Further, the Application does not disclose the Board's intent to leave certain areas of invasive vegetation untreated. Based on their long-standing concern for the state of Cedarhurst's coastal buffer zones and view corridors, and their multiple interactions with the Board on this topic, the Davies have important and relevant information to further CRMC's comprehensive review of the Application.

## II. LEGAL STANDARD

The CRMC Management Procedures permit individuals to intervene in any proceeding on the grounds that 1) the person is entitled by law to the status of a party; 2) the person could have been a complainant in such proceedings; or 3) the person has a complaint or defense which has a question of law or fact in common with the main proceeding. 650-RICR-10-00-1.1(E)(2). "To satisfy the standing requirement a complaining party must allege such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues." *Watson v. Fox*, 44 A.3d 130, 135 (R.I. 2012) (internal quotations omitted). This requires the person seeking to intervene to allege injury in fact. *E. Greenwich Yacht Club v. Coastal Res. Mgmt. Council*, 376 A.2d 682, 684 (1977) ("The question is whether the person whose standing is challenged has alleged an injury in fact . . . if he has, he satisfies the requirement of standing.") (quoting *R.I. Ophthalmological Soc. v. Cannon*, 317 A.2d 124, 129 (1974)). The alleged "injury must be 'concrete and particularized[,] . . . not conjectural or



hypothetical.” *Benson v. McKee*, 273 A.3d 121, 129 (R.I. 2022) (quotation omitted). The Rhode Island Supreme Court has required that the person’s alleged injury must be “‘particularized’ and that he must ‘demonstrate that he has a stake in the outcome that distinguishes his claims from the claims of the public at large.’” *Watson*, 44 A.3d at 135-36 (quoting *Bowen v. Mollis*, 945 A.2d 314, 317 (R.I. 2008)).

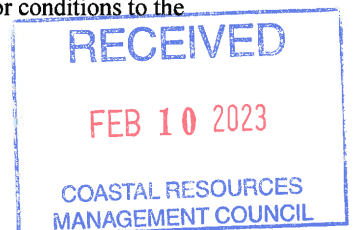
### III. ARGUMENT

The Davies satisfy the standard to intervene in this matter. Specifically, they have standing to intervene because they have a concrete and particularized interest in this matter that distinguishes their claim from the public at large. *See Watson*, 44 A.3d at 135-36. First, the Davies, as unit owners within Cedarhurst, are “entitled to an undivided interest in the common areas and facilities,” including the view corridors. R.I. Gen. Laws § 34-36-7. Although the Board has routinely and for decades pruned areas identified in the Assent as “moderately dense vegetative areas” “to be thinned,” the Board now has taken the position uniquely with respect to VC5A that it will leave invasive vegetation within VC5A to grow unchecked and to undermine the effectiveness of the invasive management plan. This aspect of the Application thus particularly disadvantages and injures the residents abutting VC5A, including the Davies in Building 5.<sup>1</sup> *See In re Narragansett Elec. Co.*, 276 A.3d 363, 373 (R.I. 2022) (permitting hotel to intervene in Energy Facility Siting Board matter where proposed power line project “would ‘obstruct views’ both within the hotel and of the hotel from other locations, constituting a concrete and particularized aesthetic injury.”).

Second, the Davies’s efforts in seeking to restore Cedarhurst’s coastal buffer zones and view corridors has led to the discovery of important information relevant to CRMC’s

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<sup>1</sup> The Davies anticipate that other abutters of VC5A may submit partial objections and requests for conditions to the Application to CRMC as well.





consideration of the Application. Notwithstanding the invasive management plan's assertion that it will remove 100 percent of invasive vegetation, the Davies have uncovered information that certain areas of invasive vegetation will remain untreated, undermining the plan and rendering it inconsistent with CRMC's coastal buffer zone policies and requirements. As described in the McCue Report, leaving invasive vegetation within VC5A compromises CRMC's policies. The Davies seek to intervene to ensure that CRMC has all relevant information in evaluating the Application and to ensure the overall success of the invasive management plan.

For these reasons, the Davies have the type of "personal stake in the outcome" of this matter "as to assure that concrete adverseness which sharpens the presentation of issues." *Watson*, 44 A.3d at 135. Accordingly, CRMC should permit the Davies to intervene in the Application.

#### IV. CONCLUSION

For these reasons, the Davies respectfully request that the CRMC grant their motion to intervene and permit the Davies to participate in this matter as parties. The Davies respectfully request a hearing on this motion.

Respectfully submitted,

**DREW DAVIES AND SUSAN DAVIES**

By their attorneys,

/s/ Christine E. Dieter  
Robin L. Main (#4222)  
Christine E. Dieter (#9859)  
Hinckley, Allen & Snyder LLP  
100 Westminster Street, Suite 1500  
Providence, RI 02903-2319  
(401) 274-2000  
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rmain@hinckleyallen.com  
cdieter@hinckleyallen.com

Dated: February 10, 2023



**CERTIFICATE OF SERVICE**

Coastal Resources Management Council  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 3  
Wakefield, RI 02879-1900

Anthony DeSisto, Esq.  
Anthony DeSisto Law Associates  
450 Veterans Memorial Parkway, Suite 103  
East Providence, RI 02914

David Bashaw, Property Manager  
Cedarhurst Condominium Association  
132 Fishing Cove Road  
North Kingstown, RI 02852

I hereby certify that I caused the within document to be hand delivered in quadruplicate to the CRMC in Wakefield, Rhode Island, on February 10, 2023, and to be mailed via first-class mail to the parties identified above.

/s/ Christine E. Dieter

Christine E. Dieter



Drew and Susan Davies  
201 Seabreeze Drive  
North Kingstown, RI 02852



February 10, 2023

Mr. Peter O'Rourke  
Coastal Resources Management Council  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 3  
Wakefield, RI 02879-1900

Re: Substantive Objection to Part of the Application for Buffer Zone Management at 132 Fishing Cove Road, North Kingstown, Rhode Island, submitted by Cedarhurst Condominium Association, No. 2022-12-072 (the "Application"), and Request for Assent with Certain Conditions

Dear Mr. O'Rourke:

We are condominium owners within the Cedarhurst Condominium Association ("Cedarhurst"). The purpose of this letter is to present our substantive objections to a portion of the Application, request that the Application be approved with certain conditions described below, and request the matter become a "contested" case that will be heard before the Coastal Resources Management Council ("CRMC" or the "Council"). In further support of our position, we rely on the accompanying report by Professional Wetland Scientist Joseph McCue (the "McCue Report") attached as Exhibit 1.

I. Overview of the Partial Objection

Over the past five years, Cedarhurst's buffer zones and view corridors have become overrun by invasive vegetation. Cedarhurst's November 2, 1993 Assent to Perform Buffer Zone Management, No. A90-1-68 (the "Assent") permits management of the buffer zones and view corridors. While the Cedarhurst Board of Directors (the "Board") has arranged for pruning of certain areas within the view corridors each fall, we have noticed over the past five years, however, that by late spring, the vegetation has overrun the view corridors, far exceeding the target heights identified in the Assent. We live in Building 5 of Phase II, which abuts View Corridor 5A ("VC5A"). The Assent requires VC5A be pruned to a height of 3-4 feet. *See* Assent, page 3. Attachment A to the McCue Report identifies Building 5 in red.

The Application states that, "There are approximately 84 invasive shrubs to be removed and replaced by natives." (*see* Applied Bio-Systems Cedarhurst Buffer Zone Invasive Shrub Control Restoration Project, page 1) The Application does not, however, identify with any specificity the location of the invasive shrubs targeted for removal. Based on numerous discussions with the Board and Applied Bio-Systems, it is our understanding that the invasive management plan intends to leave numerous invasive shrubs within VC5A, notwithstanding the Application's statements that it intends to target 100 percent removal of invasive plants. Attachment A identifies this area of concern in teal. The Board has informed us that it will not remove invasive shrubs from this teal area because the Buffer Management Plan map approved as part of the

Assent identifies this area as one of many “moderately dense vegetative areas within the view corridors – to be thinned.” (*see* Assent)

While we believe the Application and proposed invasive management plan represent an important step forward to restoring Cedarhurst’s coastal buffer zones, the Board’s position makes no sense as a matter of invasive species management and does not comport with the Board’s long-standing practice of thinning and pruning these areas. It does not meet the requirements of the Coastal Resources Management Plan and risks allowing the continuation of significant adverse impacts to the native vegetation onsite. For these reasons, as described below, we respectfully request that CRMC require removal of any invasive vegetation within this teal area as a condition of issuing an Assent.

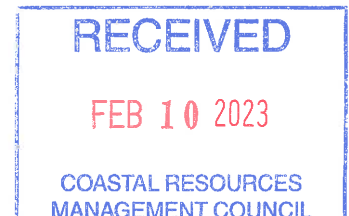
II. The proposed invasive management plan does not meet all of the policies, prerequisites, and standards contained in applicable sections of the Coastal Resources Management Plan.

The Red Book’s coastal buffer zone policies emphasize the importance of native plant species and state that “those buffers that possess vegetation native to the area provide more valuable habitat for sustaining resident species.” 650 RICR 1.1.11(B)(1)(c) (“Red Book”). The buffer management and maintenance requirements state that “[m]anagement of natural vegetation within a buffer zone to enhance wildlife habitat and control nuisance and non-native species of vegetation may be allowed.” Red Book § 1.1.11(D)(2)(c).

Undertaking an invasive management plan while leaving invasive vegetation squarely within the targeted area directly undermines CRMC’s coastal buffer zone policies and preference for native vegetation. As described in the McCue Report, this invasive vegetation will continue to spread. There are no onsite landforms or structures that separate these invasive plants from the ones the Board seeks to remove. Failure to remove the invasive vegetation in the area we have identified will render the overall invasive management plan less effective, pose an ongoing risk to any native species replanted where invasive vegetation is removed, and create additional burdens to CRMC and Cedarhurst to appropriately monitor the site and its vegetation.

Tellingly, the Board clearly recognizes the importance of removing all invasive plants from the site. The Application narrative indicates that the project will aim to “treat and remove 90+% of the invasive plants” in the first year and will aim to achieve “removal of 100% of the invasive plants” in year 2. (*see* Cedarhurst Buffer Zone Invasive Shrub Control Restoration Project, page 2) Yet these representations to CRMC are directly contradicted by the Board’s statements to us that it intends to leave invasive vegetation within VC5A. Thus, while the Application recognizes that all invasive plants must be removed for the plan to be effective, the Application does not disclose the underlying intent to leave many invasive plants in place.

Furthermore, there is no reason under the coastal buffer zone regulations not to remove the invasive vegetation in the area identified in Attachment A. The buffer management and maintenance requirements specifically allow for the management of buffer zone vegetation to



*"control nuisance and non-native species."* *Id.* (emphasis added). Removal of this invasive vegetation and replanting with native species constitutes just this sort of management of the coastal buffer. It is also consistent with Cedarhurst's historical practice, which has always involved pruning vegetation within the "moderately dense vegetative areas" identified in the Buffer Management Plan map. In fact, it is our understanding that the Board intends to remove invasive shrubs from all other "moderately dense vegetative areas," except the one in VC5A.

For these reasons, the Application does not meet all of the policies, prerequisites, and standards contained in applicable sections of the Coastal Resources Management Plan.

III. The proposed invasive management plan has the potential to permit the continuation of significant adverse impacts on native vegetative communities.

For these same reasons, the proposed invasive management plan has the potential to allow a significant adverse impact to the native vegetation to continue unchecked. Plainly, Cedarhurst needs an invasive management plan to help restore these coastal buffer zones to a native vegetative state. As described in the McCue Report, the invasive vegetation poses a substantial and ongoing risk to existing native vegetation. For the reasons provided above, allowing a portion of invasive vegetation to remain will continue that risk and threaten the project's success.

IV. Conclusion

Having resided at Cedarhurst for more than ten years, we take great joy in the protection of the scenic beauty of the property and its coastal views and in the habitat provided by the coastal buffer zone for native vegetation and animals. We have in the past enjoyed the view corridors to the waters of Fishing Cove and recognize the aesthetic, recreational, and commercial value that the view corridors bring to Cedarhurst.

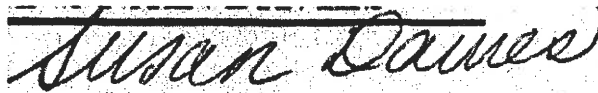
Leaving invasive vegetation within certain portions of VC5A represents a significant risk to the native vegetation at Cedarhurst and to the overall success of the project proposed in the Application. We want to see the invasive management plan succeed. For this reason, we ask that CRMC include as a condition of any Assent that the Applicant remove all invasive vegetation from within the area identified in teal in Attachment A.

Please do not hesitate to contact us with any questions.

Very truly yours,

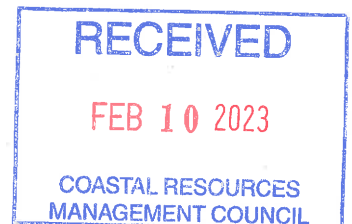


Drew Davies



Susan Davies

Enclosures



# EXHIBIT 1

RECEIVED

FEB 10 2023

COASTAL RESOURCES  
MANAGEMENT COUNCIL



February 2, 2023

Drew and Susan Davies  
Fishing Cove Road  
Cedarhurst Condominium, Building 5  
North Kingstown, RI 02852

Subject: Cedarhurst Condominium Buffer Zone Management Review  
North Kingstown, Rhode Island

Dear Mr. & Mrs. Davies:

I have reviewed several documents and files pertaining to prior approved and currently proposed Buffer Zone Management (BZM) at the Cedarhurst Condominiums in North Kingstown, RI. I reviewed the properties in the field on January 17, 2023, starting at your residence Building 5.

The CRMC permit for BZM issued in 1993 (CRMC Assent #A90-1-068, 11/2/1993) has several notable stipulations, including:

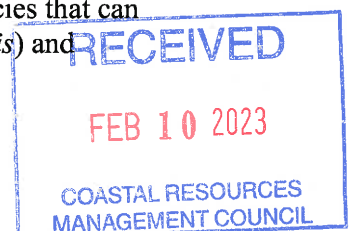
- For Zone VC5A (Building 5), the pruning height shall be 3 – 4 feet.
- Allowance for the removal of poison ivy and green briar within the 30 – 40% of the vegetated area within each view corridor that is undisturbed (cross-hatched areas)

Invasive species are prevalent in the vegetated areas of the buffer zone. Although maintaining the heights stipulated in the permit in the view corridors benefit all of the occupants in Phase 1 and 2, it does not stop these species from being dominant in these areas. During my walkthrough on January 17, I observed the existing management and cutting practices in various locations, and reviewed the buffer zone management as it relates to the policies found in Section 1.1.11 of the Coastal Resources Management Councils' Coastal Resources Management Plan (CRMP). The lack of invasive species control in the 'Moderately dense vegetative areas within the view corridors to be thinned' will likely have future impacts to the areas that will need to be actively managed. Specifically, section 1.1.11 B.1.b reads, in part:

*1.1.11 Coastal Buffer Zones*

*B1b. Protection of Coastal Habitat: Coastal buffer zones provide habitat for native plants and animals. Vegetation within a buffer zone provides cover from predation and climate, and habitat for nesting and feeding by resident and migratory species....Furthermore, those buffers that possess vegetation native to the area provide more valuable habitat for sustaining resident species. A diversity of plant species and types (e.g., grasses, shrubs and trees) promotes biodiversity within the buffer area, and the region overall*

At building 5, the vegetation in the view corridor and the area noted in the approved 1993 BZM plan as 'Moderately dense vegetative areas within the view corridors to be thinned' (herein referred to as 'hatched areas') consist of dominant invasive honeysuckle (*Lonicera* sp.) and invasive Asiatic bittersweet (*Celastrus orbiculatus*). Additional species include species that can easily overtake an area, albeit native, including black raspberry (*Rubus allegheniensis*) and



Davies  
February 2023

common greenbrier (*Smilax rotundifolia*) (greenbrier is allowed to be removed under the 1993 Assent).

By allowing invasive species in the 'hatched areas' to be left uncontrolled, this CRMP Buffer Zone Policy is compromised. Those adjacent areas where invasive species will be managed and controlled in the buffer zone (view corridors) risk the continued spread of those invasive species from the 'hatched areas'.

In addition, Sections B4, B5, D2 and D2.c. read:

*B4. The vegetation within a buffer zone must be either retained in a natural, undisturbed condition, or properly managed in accordance with the standards contained in this section. In cases where native flora (vegetation) does not exist within a buffer zone, the Council may require restoration efforts which include, but are not limited to, replanting the coastal buffer zone with native plant species.*

*B5. Coastal buffer zones shall remain covered with native flora and in an undisturbed state in order to promote the Council's goal of pre-serving, protecting, and restoring ecological systems. However, the Council may permit minor alterations to coastal buffer zones that facilitate the continued enjoyment of Rhode Island's coastal resources. All alterations to coastal buffer zones or alterations to the natural vegetation (i.e., areas not presently maintained in a landscaped condition) within the Council's jurisdiction shall be conducted in accordance with the standards contained in this section as well as all other applicable policies and standards of the Council. In order to ensure compliance with these requirements, the Council may require applicants to submit a buffer zone management plan.*

*D. Buffer management and maintenance requirements*

*2. In order to promote the Council's goal to preserve, protect and, where possible, restore ecological systems, coastal buffer zones shall be vegetated with native flora and retained in a natural, undisturbed condition, or shall be properly managed in accordance with Council's most recent edition of buffer zone management guidance. Such management activities compatible with this goal include, but are not limited to:*

*2c. Habitat management: Management of natural vegetation within a buffer zone to enhance wildlife habitat and control nuisance and non-native species of vegetation may be allowed.*

Again, if one area (e.g. the view corridor) is controlled for invasive species and the other ('hatched area') is not, it is likely that the uncontrolled invasive species in the 'hatched areas' will eventually spread and compromise the controlled/managed areas. I would recommend to control and remove the invasive species in both the view corridors and the hatched areas, and replace these species with native, low-lying shrubs. A dense planting of native shrubs would provide for a healthier buffer zone while outcompeting new invasive species growth. Native plant recommendations that would serve this purpose include inkberry (*Ilex glabra*), an evergreen species, meadowsweet (*Spiraea latifolia*), a low, but very broad growth pattern shrub, and sweet fern (*Comptonia peregrina*), another evergreen species. All of these species offer food, escape cover and pollinator benefits to wildlife, and these species do not grow as high every year and would not require constant maintenance.

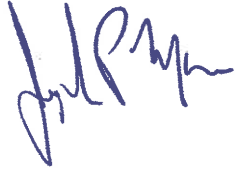




Davies  
February 2023

Thank you for the opportunity to work with you on this project. Please contact me at (401) 595-4276 if you have any questions regarding this work, or if you require additional information.

Sincerely yours,  
MCCUE ENVIRONMENTAL, LLC



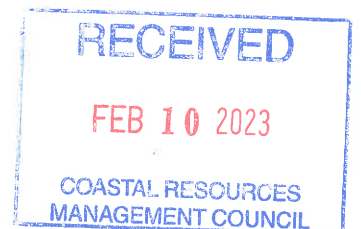
Joseph P. McCue, PWS  
President  
Principal Environmental Scientist

Figure 1: 1993 BZM Plan on Current Aerial Imagery; Building 5 Concerns

Joseph P. McCue resume



# Attachment A



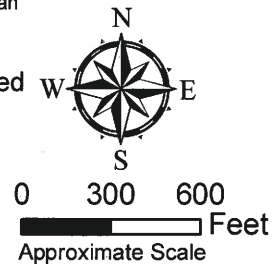


Sources: 2022 RIDEM Digital Color Orthophotography; Geo-referenced 1993 Buffer Zone Management Plan

Approximate Location of:

- Subject Property
- Coastal Feature
- View Corridors

- Moderately Dense Vegetated Areas within the View Corridors to be Thinned
- Area of Concern for Building #5



Cedarhurst Condominiums - Building 5  
North Kingstown, RI

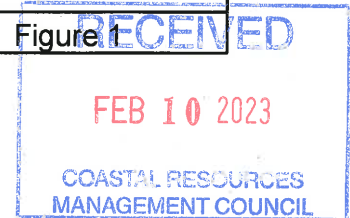


**MCCUE ENVIRONMENTAL, LLC**  
CONSULTING & WETLAND PERMITTING SERVICES  
(401) 595-4276

**APPROXIMATE LOCATION  
OF 1993 BUFFER ZONE MANAGEMENT  
PLAN ON CURRENT AERIAL IMAGE**

Project No. 230101

Figure 1



# Attachment B

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COASTAL RESOURCES  
MANAGEMENT COUNCIL



**PRESIDENT & PRINCIPAL SCIENTIST**

**TECHNICAL EXPERTISE**

- Wetland Delineation
- Impact Evaluation & Analysis
- Expert Testimony
- Permits & Environmental Compliance
- Construction Monitoring
- Wildlife Habitat Assessment
- Site Assessment & Remediation
- Aerial Photograph Interpretation

**EXPERIENCE**

- 2021 – Present**
- McCue Environmental, LLC
- Principal & Senior Scientist
- 2009 – 2021**
- Mason & Associates, Inc.
- Senior Environmental Scientist
- 2009**
- SAGE Environmental, Inc.
- Senior Project Manager
- 1996-2009**
- Natural Resource Services, Inc.
- Project Manager
- 1995-1996**
- Applied Bio-Systems, Inc.
- Wetland Biologist

**EDUCATION**

- 1992/BS/Soil and Water Resources
- University of Rhode Island

**PROFESSIONAL CERTIFICATIONS**

- Professional Wetland Scientist #2010**
- Society of Wetland Scientists
- Professional Soil Scientist**
- Society of Soil Scientists of Southern NE
- RI Certified Invasive Manager**
- RICRMC & University of Rhode Island
- NRCS Technical Service Provider**
- NRCS TSP-11-7617
- Pesticide Applicator #6344**
- RIDEM
- OSHA Certification**
- OSHA 30-Hour Construction Safety &
- OSHA 40-Hour HAZWOPER

**PROFESSIONAL ASSOCIATIONS**

- RI Association of Wetland Scientists
- Society of Wetland Scientists
- Society of Soil Scientists of Southern NE

**JOSEPH P. MCCUE**

**PROFESSIONAL PROFILE**

Mr. McCue is the President and Principal Scientist of McCue Environmental, LLC. He is responsible for state and federal wetland issues relating to wetland delineation, permitting, and regulatory procedures for environmental planning and natural resource management including commercial, residential, government and utility projects. Mr. McCue has been working in freshwater and coastal wetland identification, delineation, permitting, and wetland impact assessment since 1996. Mr. McCue is a Professional Soil Scientist certified by the Society of Soil Scientists of Southern New England (SSSSNE) and has experience in soil morphological analysis, mapping and interpretation. He is a Professional Wetland Scientist (PWS #2010) registered with the Society of Wetland Scientists (SWS). Mr. McCue has conducted numerous wildlife habitat assessments and vernal pool evaluations.

Mr. McCue has conducted well over ten thousand wetland delineations in the States of Rhode Island, Massachusetts, Connecticut, Maine and New York. His work includes analyzing wetland functions and values according to US Army Corps of Engineers (USACOE), Massachusetts Department of Environmental Protection (MADEP), the Rhode Island Department of Environmental Management (RIDEM), the Rhode Island Coastal Resources Management Council (RICRMC) and the Connecticut Department of Environmental Protection (CTDEP), preparation and submissions of RIDEM, RICRMC and MADEP wetland applications, project monitoring to ensure compliance with the terms and conditions of issued permits, and development of RICRMC Buffer Zone Management plans using ArcMap10 GIS software.

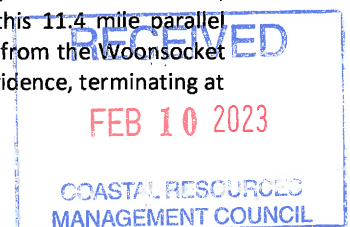
He has designed several replication and restoration wetlands, and has supervised their constructions as well as performing post-construction monitoring of replication and restored wetlands.

Mr. McCue has been accepted as an expert in wetland delineation, wetland biology and aerial photograph interpretation by planning and zoning boards in numerous municipalities in Rhode Island. He has also provided expert testimony in both wetland delineation and aerial photograph interpretation at Rhode Island Superior Court and the RIDEM Administrative Adjudication Division. He has appeared before Conservation Commissions in Massachusetts, Connecticut and Rhode Island.

**WETLAND EXPERIENCE**

**Project Permitting for Pond Excavation, Cranston Fish & Game Club – Foster, RI:** Mr. McCue delineated the subject pond and prepared the RIDEM Preliminary Determination application for the Club’s proposal to excavate three areas in the pond to provide overwintering habitat for trout and other fish. The project was submitted as a Preliminary Determination and was approved as an Insignificant Alteration under RIDEM file #16-0213.

**National Grid – RI:** Mr. McCue provided project planning, wetland delineation, environmental permitting, and agency coordination for this 11.4 mile parallel Q143 and R144 115KV electrical transmission line project from the Woonsocket substation in North Smithfield, through Lincoln, North Providence, terminating at



the Admiral Street substation in Providence. He conducted extensive wetland delineation, prepared permit plans and applications, and obtained all required permits including RIDEM Insignificant Alteration Permit, a USACOE Section 404 permit and all Town Soil Erosion and Sediment Control Ordinance approvals. Mr. McCue prepared the Stormwater Pollution Prevention Plan, performed weekly SWPPP inspections and coordinated with project team and site contractors for compliance with environmental permits.

**US Naval Facility – Newport, Middletown, Portsmouth, RI:** Mr. McCue delineated all of the freshwater wetlands within the 1,000+ acre US Naval Facility. He collected and prepared the necessary data for submission of a wetland edge verification with the RIDEM.

**RI Resource Recovery Corporation – Johnston, RI:** Mr. McCue photo-interpreted the entire RI Resource Recovery property and performed the subsequent delineation of all wetlands within the property. He also performed wildlife habitat assessments and assisted project engineers in the permit application submittals. Project phases have been reviewed by DEM and USACOE.

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#### RESTORATION/MONITORING EXPERIENCE

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**South Quay Wetland Mitigation – East Providence, RI:** Mr. McCue is instrumental in investigations of City owned properties to determine areas where 11 acres of both coastal and freshwater wetlands can be created as a requirement of the issued Assent, as mitigation for wetlands being lost as a result of the approved South Quay development. McCue Environmental has been working closely with the project team members in designing the replication wetlands, which includes preliminary site assessments, performing excavated soil profile interpretations in order to assess target depths to achieve wetland hydrology, providing GIS technical support and developing the replication wetland planting plans. This project is on-going.

**Peterson/Puritan Inc. Superfund Site Landfill Remediation – Cumberland/Lincoln, RI:** Mr. McCue performed wetland delineations within the OU2 mitigation site along the Blackstone River in accordance with the standards in the USACOE Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast regions. He evaluated all of the wetlands' functions and values using the Corps' Highway Methodology in order to assess wetland mitigation options. He assisted staff on creating maps of the superfund site to portray locations and classifications of wetlands and ecological communities within the project area through the use of the Federal Geographic Data Committee wetlands classification method and the RI Ecological Communities Classification method.

**University of Connecticut Wetland Restoration and Mitigation – Storrs, CT:** Mr. McCue has managed the wetland related studies in support of UConn's landfill closure and wetland restoration project. Work has involved wetland delineation in accordance with the standards in the USACOE Regional Supplement to the Corps Wetland Delineation Manual: Northcentral and Northeast regions. Mr. McCue is providing long term permit compliance monitoring, including vernal pool, vegetation and invasive species monitoring, water table data collection and wildlife monitoring data to assess functional assessment of the 2 acres of created wetland and 3 acres of restored wetlands.

**Long Pond Restoration – Little Compton, RI:** Mr. McCue performed detailed baseline habitat mapping (vegetation and wildlife) of Long Pond and adjacent wetland and upland habitats. Fifty acres of *Phragmites australis* was mapped using GIS. Under CRMC Assent # 2013-05-099, treatment of the *Phragmites a.* was performed by an outside firm and M&A monitored the project for treatment and eradication success for 5 years, providing detailed data plots documenting native species establishment in place of the *Phragmites a.* This is the largest phragmites eradication project in the state of RI.

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#### RECREATIONAL TRAILS EXPERIENCE

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**Recreational Trails:** Mr. McCue has conducted wetland delineation, permitting and maintenance activities for various recreational trails in southern New England. In Rhode Island, he was project manager for wetland permitting of the Aquidneck Land Trust's Sakonnet Greenway Phase III in Middletown. This work built on earlier



work by M&A for the Greenway – to date over a mile of wetland crossings including elevated walkways and bridges have been permitted and built for this highly successful project which connects the Phase I and II trail systems; in total the Sakonnet Greenway includes approximately 10 miles of trail system. He has also received RIDEM wetland permits for the Aguntaug Swamp (Westerly Land Trust), Camp Meehan Trails (Town of North Providence) and AMC bridge over the Wood River (Town of Exeter). In Connecticut, Mr. McCue is actively involved in invasive species management at the University of Connecticut’s Hillside Environmental Education Park, including extensive work along the Park’s trails and observation platforms.

**Richmond Heritage Trail – Richmond, RI:** Mr. McCue served on the Richmond Conservation Commission (RCC) as Treasurer from 2013 to 2018. During that time, he volunteered and was instrumental in both obtaining a \$97,000 grant from the State of RI and designing the layout of the Town of Richmond’s first handicap accessible trail. The project included 2.5 miles of trail, of which 0.5 mile is handicap accessible compacted stonedust, and approximately 300 feet of boardwalk spanning wetland and an intermittent stream. Mr. McCue delineated the subject wetlands, provided integral correspondence with the project engineer and RIDEM, and prepared the Impact Avoidance and Minimization Statement and project application in support of the RIDEM Preliminary Determination application for the proposed Richmond Heritage Trail. The project was submitted as a Preliminary Determination and was approved as an Insignificant Alteration under RIDEM file #15-0185. He also provided supervision to Troop 1 Richmond Boy Scouts in the installation of interpretive signage and other property and trail signs.

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**WILDLIFE EXPERIENCE/ VERNAL POOL ASSESSMENTS**

**Wildlife Habitat Evaluations – RI:** Mr. McCue has performed numerous wildlife habitat evaluations in the State of RI as required for any submission of an Application to Alter Freshwater Wetlands to RIDEM Wetlands Permitting Section. Field assessments include detailed review of the property for wildlife, including direct observations and indicators such as burrows, scat, tree cavities, tracks, nests, and observable signs or vocalizations. Written evaluations describing the Functions and Values of the wetlands are prepared; these evaluations describe and assess any anticipated impacts to the wetland’s functions and values, and management plans that will be employed to avoid or minimize impacts to freshwater wetlands to the maximum extent possible.

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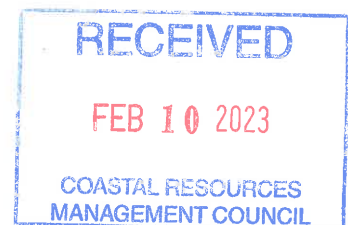
**EXPERT TESTIMONY EXPERIENCE**

**RI Superior Court, Lombardi vs. Town of Johnston, RI:** Mr. McCue was sworn in as an expert in Wetland Delineation and Aerial Photograph Interpretation. The case involved the installation of two thirty inch pipes by the Town of Johnston on property adjacent to the client (plaintiff). These pipes discharged high volumes of stormwater runoff onto the plaintiff’s property. Mr. McCue determined through aerial photograph interpretation of historical aerial photographs and current wetland delineation that the Town effectively created over one acre of wetland on the Plaintiff’s property. The Judge ruled in favor of the Plaintiff.

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**WETLAND ENFORCEMENT RESOLUTION AND COMPLIANCE**

**Enforcement Resolution and Wetland Restorations - RI:** Mr. McCue assists clients who have RIDEM enforcement actions against them and performs the necessary actions to resolve the enforcement matters. Work includes performing ‘forensic’ soil mapping to determine the extent and depth of wetland fill, being the liason between the client and RIDEM Office of Compliance and Inspection, designing wetland restoration plans and supervision of onsite restoration of wetlands. Restoration plans are required for most wetland violations to bring them into compliance; they include designing planting plans with recommended native tree and shrub species specific to each geographic location, providing plant distribution, spacings and heights after planting, and applicable wetland and/or upland seed mixtures.



Mr. Peter O'Rourke  
February 10, 2022  
Page 4

### CERTIFICATE OF SERVICE

Coastal Resources Management Council  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 3  
Wakefield, RI 02879-1900

Anthony DeSisto, Esq.  
Anthony DeSisto Law Associates  
450 Veterans Memorial Parkway, Suite 103  
East Providence, RI 02914

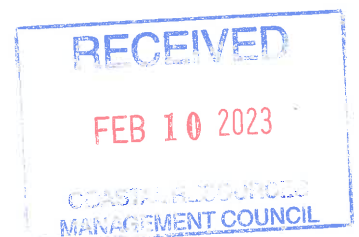
David Bashaw, Property Manager  
Cedarhurst Condominium Association  
132 Fishing Cove Road  
North Kingstown, RI 02852

I hereby certify that I caused the within document to be hand delivered in quadruplicate to the CRMC in Wakefield, Rhode Island, on February 10, 2023, and to be mailed via first-class mail to the parties identified above.

/s/ Christine E. Dieter

Christine E. Dieter

#63359088





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

IN THE MATTER OF:                    )  
  )  
CEDARHURST CONDOMINIUM        )  
ASSOCIATION                         )

CRMC File No.: 2022-12-072

**NOTICE OF APPEARANCE**

I, Christine E. Dieter, hereby enter my appearance on behalf of Drew Davies and Susan Davies in the above-referenced matter.

**DREW DAVIES AND SUSAN DAVIES**

By their attorneys,

/s/ Christine E. Dieter  
Christine E. Dieter (#9859)  
Hinckley, Allen & Snyder LLP  
100 Westminster Street, Suite 1500  
Providence, RI 02903-2319  
(401) 274-2000  
(401) 277-9600 (fax)  
cdieter@hinckleyallen.com

Dated: February 10, 2023



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/s/ Christine E. Dieter  
Christine E. Dieter



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

IN THE MATTER OF:            )  
  )  
CEDARHURST CONDOMINIUM )  
ASSOCIATION                    )

CRMC File No.: 2022-12-072

**NOTICE OF APPEARANCE**

I, Robin L. Main, hereby enter my appearance on behalf of Drew Davies and Susan Davies in the above-referenced matter.

**DREW DAVIES AND SUSAN DAVIES**

By their attorneys,

/s/ Robin L. Main  
Robin L. Main (#4222)  
Hinckley, Allen & Snyder LLP  
100 Westminster Street, Suite 1500  
Providence, RI 02903-2319  
(401) 274-2000  
(401) 277-9600 (fax)  
rmain@hinckleyallen.com

Dated: February 10, 2023



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/s/ Robin L. Main  
Robin L. Main

