

across the top of their concrete seawall. The only basis for this demand is a thirty-year-old assent obtained by a onetime owner of adjacent property. Whatever intentions the landowner or CRMC may have had, the assent was never recorded in the land evidence records, and the Sheffields did not have the faintest notion of its existence until *after* they purchased the property and *after* they and received assurances that the seawall was their private property. Indeed, it was the cease-and-desist orders themselves that alerted the Sheffields to the existence of the unrecorded (and unenforceable) assent.

Rhode Island law is unequivocal. An unrecorded restrictive covenant—including an agreement to allow public access—is unenforceable against a subsequent bona fide purchaser who lacks actual knowledge of the restriction. CRMC failed to take any action whatsoever within the period mandated by statute on the Sheffields’ petition within, which presents a pure question of law. Accordingly, this Court should resolve the issue of the right of public access to the Sheffields’ property without delay and issue a declaratory ruling finding (1) CRMC has violated R.I. Gen. Laws § 42-35-8(c); (1) CRMC Assent No. 1981-12-003 is unenforceable with respect to the Petitioners, and (3) the cease-and-desist orders issued on in September 2021 and May 2022 must be vacated.

FACTUAL BACKGROUND

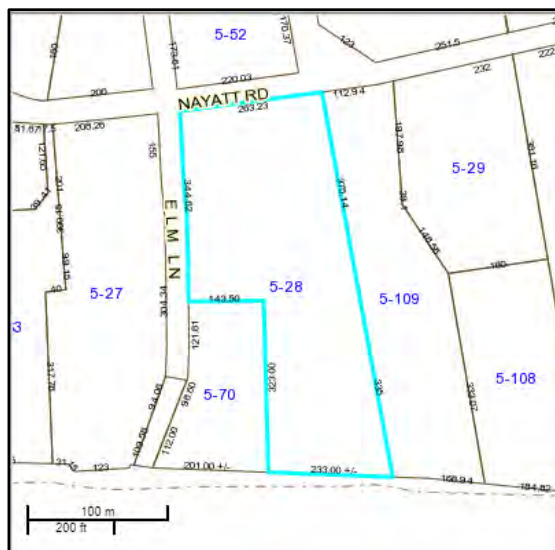
1. The Ownership of 85 Nayatt Road and 56 Elm Lane.

The property at 85 Nayatt Road consists of a lot bordered to the south by an adjacent lot (Plat 5, Lot 70) and Narragansett Bay. A riprap retaining wall and a narrow concrete seawall lie between Narragansett Bay and the upland property. The property’s present boundaries are the result of the merging of Plat 5, Lot 28 (the “original” 85 Nayatt Road) with a portion of Plat 5, Lot 70 (also known as 56 Elm Lane), which similarly abuts Narragansett Bay to the South.

In November 1969, Robert and Mary Kilmarx purchased 56 Elm Lane (Lot 70). Affidavit of Daniel Procaccini (“Procaccini Aff.”) ¶ 2, Exhibit 1. On August 13, 2014, David Goulden, the Sheffields’ predecessor in title, purchased the “original” 85 Nayatt Road property (Lot 28), which was adjacent to the northerly boundary of 56 Elm Lane (Lot 70). *Id.* ¶ 3, Exhibit 2. On March 2, 2017, Robert Kilmarx conveyed 56 Elm Lane (Lot 70) to David Goulden by warranty deed. *Id.* ¶ 4, Exhibit 3. At that time, the properties were oriented as follows:



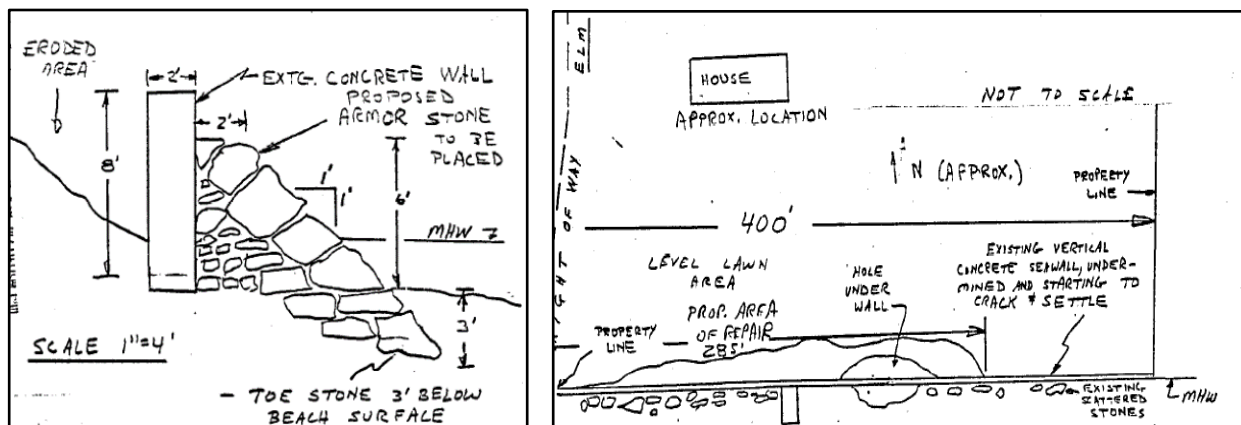
In May 2021, David Goulden conveyed Lot 28 and a portion of Lot 70 to the Sheffields by warranty deed. *Id.* ¶ 5, Exhibit 4. There is no dispute that the Sheffields purchased 85 Nayatt Road in its new configuration, for value. The conveyed portion of Lot 70 merged into Lot 28, as shown in the following illustration, which represents the current configuration of 85 Nayatt Road:



A. The 1982 Assent

In 1981, Robert and Mary Kilmarx owned 56 Elm Lane, which ran the length of the relevant waterfront until May 2021. On December 3, 1981—three decades before the Sheffields knew 85 Nayatt Road existed—the Kilmarxes applied to CRMC for an assent to repair the existing seawall on the property. *See* Exhibit A (1982 Assent Application). The application noted that the date of the seawall’s construction was unknown, but that it was likely built around 1950. *See id.* at ##. The Kilmarxes specifically described the proposed construction: “Repair and protect 285’+ of existing concrete seawall which is critically undermined, cracked and eroded, by shoring up undermined sections of wall with stone, filling eroded lawn area inland of the wall and protecting the seaward side of wall against continuing wave action damage by a sloping riprap of 3-5 ton granite stones anchored 3 feet below the surface.” *Id.* at 2.

The application also contained illustrations of both the proposed riprap retaining wall, the separate concrete seawall, and the overall scope of the project:



Id. at 3. The application expressly proposed a “2’ wide flat, lateral access walkway for the public along the top of the riprap which will improve . . . the public’s access to seaward of the wall.” *Id.* at 2 (emphasis added). The proposed riprap did not extend across the entire length of the Kilmarxes’ property, but rather terminated after 285 feet.¹ *See id.*

On January 15, 1982, CRMC granted the application and issued an assent to “repair and protect 285’ of existing concrete seawall which is critically undermined . . . by shoring up undermined sections of wall with stone . . . and protecting the seaward side of the wall against continuing wave action damage by a sloping riprap of 3-5 ton granite stones[.]” *See* Exhibit B (CRMC Assent 1981-12-003) (“1982 Assent”). CRMC granted the 1982 Assent subject to several stipulations related to public access along “the riprap,” which was to be constructed with a “sign or plaque [sic] . . . placed at each end of the proposed riprap . . . indicating that passage atop the

¹ Because the Sheffields’ Petition seeks a declaration that the 1982 Assent is wholly unenforceable, the Sheffields did not ask CRMC to construe whether public access is permitted anywhere other than “the top of the riprap,” or whether public access is permitted on any portion of the concrete seawall that extends more than 285 feet from the southeastern boundary of 56 Elm Lane. The Sheffields reserved all rights regarding both issues in their Petition submitted to CRMC.

riprap shall not be denied the public, per order of CRMC.” *Id.* The parties also stipulated that “[t]he riprap shall be constructed so that it will be readily passable by pedestrian traffic along the shore.” *Id.*

Whatever its terms, the 1982 Assent was not recorded in the land evidence records. According to its own internal correspondence, CRMC staff knows that the assent was not properly recorded and may therefore be unenforceable. *See* Exhibit C (May 2, 2022 Email from L. Miguel) (“How is 1981-12-003 enforceable if it wasn’t recorded in the land evidence records?”); Exhibit D (May 4, 2022 Email from L. Miguel) (“FYI – In the past, we haven’t had much success in enforcing assents (mostly buffers) that were not recorded in the land evidence records when there is a new owner.”). There is no public record of any CRMC enforcement proceedings involving 85 Nayatt Road except for this dispute.

B. The 2011 Maintenance Certification

In 2011, ten years before the Sheffields purchased 85 Nayatt Road, Robert Kilmarx petitioned CRMC for permission to “[r]eplace loose concrete on the existing seawall.” *See* Exhibit E (2011 Maintenance Certification Request). CRMC authorized the repair of the seawall but expressly stated that “no expansion is authorized by this assent.” *See id.* at 1. The Maintenance Certification Request addressed neither the riprap retaining wall nor any provisions about requiring public access. *See id.* Regardless, like the 1982 Assent, the 2011 Certificate of Maintenance was *not recorded* in the land evidence records. *See* Exhibit F (2011 Maintenance Certification).

C. The 2017 Maintenance Certification

In 2017, shortly after acquiring 56 Elm Lane from Robert Kilmarx, David Goulden filed a maintenance certification request with CRMC to demolish the single-family house on the property. *See* Exhibit G (2017 Maintenance Certification Request). On August 24, 2017, CRMC issued a Certificate of Maintenance granting Mr. Goulden’s request. *See* Exhibit H (2017 Maintenance

Certification). The 2017 Maintenance Certification does not reference the 1982 Assent or 2011 Maintenance Certification. *See id.* It does not reference the seawall, the riprap, or purported stipulations of public access. *Id.* The 2017 Maintenance Certification does, however, expressly state:

The applicant shall record this assent in its entirety in the land evidence records of the Town of Barrington 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.”**

Id. (emphasis added).

Mr. Goulden recorded the 2017 Maintenance Certification in the Barrington land evidence records, Book 1559, Page 149, on November 27, 2017. *See id.* The 2017 Maintenance Certification is the *only* recorded CRMC authorization pertaining to 85 Nayatt Road or 56 Elm Lane.

D. The Sheffields’ Acquisition of 85 Nayatt Road

As explained above, the Sheffields purchased 85 Nayatt Road in May 2021. A title search of the land evidence records did not uncover any evidence of the 1982 Assent or a public right of access. *See* Affidavit of Lance Sheffield (L. Sheffield Aff.) ¶ 5; Affidavit of Holly Slater Sheffield (H. Sheffield Aff.) ¶ 5. The deed conveyed to the Sheffields by Mr. Goulden also omits any reference to the 1982 Assent or a public right of access. Shortly after the acquisition, the Sheffields commissioned a land survey. *See* L. Sheffield Aff. ¶ 8, Exhibit 1; H. Sheffield Aff. ¶ 8, Exhibit 1. The land survey also did not describe any public right of access along the seawall and noted the approximate location of the mean high-water mark as the southern boundary of the property along Narragansett Bay. *See id.* In sum, the Sheffields purchased the property with no knowledge whatsoever of the 1982 Assent, which purports to give the public a right of access to any portion of their property, including the seawall. *See* L. Sheffield Aff. ¶ 4; H. Sheffield Aff. ¶ 4.

E. CRMC’s Cease-and-Desist Orders

After purchasing the property, the Sheffields regularly observed members of the public using their seawall to sightsee, fish and traverse along the water.² Solely based on concerns for public safety and their own privacy, the Sheffields built a small wire fence and posted no trespassing signs along their section of the concrete seawall.³ On September 23, 2021, CRMC issued a cease-and-desist order alleging that the fences and signs were improper and did not conform with the 1982 Assent. *See* Exhibit I (September 23, 2021 Cease-and-Desist Order). On May 27, 2022, CRMC issued a second cease and desist order alleging that (1) public access “along the top of your riprap retaining wall” was being restricted in violation of the 1982 Assent, and (2) that the riprap wall was not properly constructed. *See* Exhibit J (May 27, 2022 Cease-and-Desist Order).

F. Appellants’ Petition for Declaratory Ruling

On December 12, 2022, the Sheffields filed a Petition for Declaratory Ruling with CRMC pursuant to R.I. Gen. Laws § 42-35-8 and R.I. Code R. 650-10-00-1.12 (“Petition”). The Petition sought a declaratory ruling from CRMC that the 1982 Assent is unenforceable with respect to the 85 Nayatt Road and the Petitioners, and requested that CRMC vacate the September 21, 2021 and May 27, 2022 cease-and-desist orders. The Sheffields argued that the 1982 Assent was never recorded in the land evidence records and is therefore unenforceable against them as a matter of law, as they were bona fide purchasers for value.

CRMC was required to “issue a declaratory order in response to the petition, decline to issue the order, or schedule the matter for further consideration respond to the Petition” within 60

² The recently enacted shoreline expansion legislation amending R.I. Gen. Laws § 46-23-26 does not apply to the Sheffield’s seawall or riprap wall, which constitutes a “seawall[] or other legally constructed shoreline infrastructure.”

³ Prior to doing taking any action along the seawall, and out of an abundance of caution, Lance Sheffield contacted both CRMC and the Barrington Tax Assessor’s office to inquire about ownership of the seawall. Representatives from both agencies assured Mr. Sheffield that the seawall was private property. *See* L. Sheffield Aff. at ¶ 10.

days of receipt. R.I. Gen. Laws § 42-35-8(c), CRMC failed to satisfy its statutory obligations under § 42-35-8(c); CRMC did not issue a declaratory order, decline to issue an order, or schedule the matter for further consideration within 60 days of receipt of the Petition. On February 13, 2022—64 days after CRMC received the Petition—counsel for the Sheffields contacted CRMC to inquire about when or whether they could expect a hearing or a ruling. CRMC’s legal counsel acknowledged that the statutory period had passed, but he did not provide any reasonable timeframe for consideration by CRMC. *See* Exhibit K. By letter dated March 8, 2023, and directed to CRMC’s legal counsel, counsel for the Sheffields noted that 90 days had passed since the deadline to issue a formal response. *See* Exhibit L. The Sheffields’ counsel explained that the undue delay of CRMC in issuing a formal response had caused significant prejudice to the Sheffields. Therefore, counsel informed CRMC that the Sheffields intended to exercise their right to seek an immediate ruling from the Superior Court under § 42-35-8(d) and § 42-35-15 based on CRMC’s failure to act.

G. Superior Court Litigation

Section 45-35-8(d) provides that an agency that fails to act within the applicable time under § 45-35-8(c) “is subject to judicial action under § 42-35-15.” The Sheffields commenced the present action pursuant to § 45-35-8(d) and § 42-35-15 on March 10, 2023. As of that date, CRMC still had not acted upon the Petition and failed to provide any substantive response to the Sheffields concerning the enforceability of the 1982 Assent.

CRMC accepted service of process on March 28, 2023, and filed an answer to the complaint on April 3, 2023. CRMC also filed a Certification of Lisa A. Turner, Programming Services Officer and CRMC Records Keeper, on April 27, 2023, which certifies “that the attached

documents are a true and accurate copy of the Coastal Resources Management Council records.”

See Exhibit M.⁴

STANDARD OF REVIEW

When reviewing an administrative appeal brought under the Administrative Procedures Act, the Superior Court’s review “is limited to questions of law.” *J.M.Z. Auto Sales, Inc. v. Rhode Island Motor Vehicle Dealers’ License and Hearing Bd.*, No. PC-2022-05454, 2023 WL 2286961, at *4 (R.I. Super. Ct. Feb. 22, 2023) (quoting *Blais v. Rhode Island Airport Corp.*, 212 A.3d 604, 611 (R.I. 2019)). The Superior Court “does not substitute its judgment for that of the agency concerning the credibility of witnesses or the weight of the evidence concerning questions of fact.” *Id.* (quoting *Blais*, 212 A.3d at 611). Questions of law, however, including statutory interpretation, “are reviewed *de novo*.” *Id.* (quoting *Iselin v. Retirement Bd. of Emps’ Retirement Sys. of R.I.*, 943 A.2d 1045, 1049 (R.I. 2008)).

ARGUMENT

This administrative appeal squarely presents a question of law and is void of any factual disputes. The issue presented is whether the unrecorded 1982 Assent—a restrictive covenant that purportedly allows public access to otherwise private property—is unenforceable against the Sheffields, who are bona fide purchasers for value who lacked either actual or constructive knowledge of the restriction. Because this case presents a question of law, requiring the Sheffields to exhaust their administrative remedies would be futile. Moreover, CRMC’s failure to satisfy its

⁴ Although CRMC certified the record, it failed to file any of the documents comprising the record. See § 42-35-15(d) (“Within thirty (30) days after the service of the complaint, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review.”). CRMC provided hard copies of the documents in the record to counsel for the Sheffields upon request. In the interests of efficiency and avoidance of unnecessary delay, the Sheffields have provided the Court with an appendix containing copies of the documents provided by CRMC.

statutory obligations under § 42-35-8(c) has caused—and continues to cause—substantial prejudice to the Sheffields. This Court should therefore rule that the Sheffields’ administrative appeal is properly before the Court. The Court should also declare that the 1982 Assent is unenforceable with respect to 85 Nyatt Road and the Sheffields and vacate the September 21, 2021 and May 27, 2022 cease-and-desist orders.

I. The Sheffields’ Administrative Appeal is Properly Before the Superior Court Because the Exhaustion of Administrative Remedies Would be Futile.

Generally, “a plaintiff first must exhaust his administrative remedies before seeking judicial review of an administrative decision.” *Almeida v. Plasters’ & Cement Masons’ Local 40 Pension Fund*, 722 A.2d 257, 259 (R.I. 1998). “Typically, the exhaustion ‘doctrine enables the agency to develop a factual record, to apply its expertise to the problem, to exercise its discretion, and to correct its own mistakes, and is credited with promoting accuracy, efficiency, agency autonomy, and judicial economy.’” *Power v. City of Providence*, 582 A.2d 895, 899 (R.I. 1990) (quoting *Christopher W. v. Portsmouth School Committee*, 877 F.2d 1089, 1094 (1st Cir. 1989)).

Rhode Island courts, however, have recognized several exceptions to the exhaustion doctrine, including, for example, when the pursuit of relief in the administrative agency would be futile. *Arnold v. Lebel*, 941 A.2d 813, 818 (R.I. 2007) (“[T]his Court has made exceptions when the exhaustion of administrative remedies would be futile.”). Futility exists where the purposes of the exhaustion doctrine would not be furthered by the Superior Court’s refusal to hear the case. *See Power v. City of Providence*, 582 A.2d 895, 899 (R.I. 1990). Courts, moreover, give less deference to the exhaustion doctrine when the case presents “a pure matter of law,” because, among other things, there is no need to develop a factual record. *Id.*

In *Power*, the plaintiff brought a claim for age discrimination under the Federal Employment Practices Act directly in the Superior Court before exhausting his administrative remedies. *Id.* at 899. The sole issue presented was whether FEPA invalidated the Rhode Island Fair

Employment Practice Act. *Id.* The Supreme Court held that the plaintiff's case fell within the futility exception and was properly brought before the Superior Court. *Id.* The court reasoned that the only question that would be before the agency would have been "one of statutory construction void of any factual issues" and thus there was no factual record to develop at the agency level. *Id.*

Returning this dispute to CRMC for a hearing would not further the principles underlying the exhaustion doctrine. This case presents a straightforward question of law: whether stipulations in an unrecorded CRMC asset are enforceable against a subsequent bona fide purchaser who lacks actual knowledge of the restriction. There are no factual issues in dispute, and any contrary ruling by CRMC will be appealed to this Court for *de novo* review.⁵ Requiring the Sheffields to bring their claim back to CRMC would be futile. Accordingly, this case is properly before this Court for determination.

II. The 1982 Assent Was Never Recorded in the Land Evidence Records and is Unenforceable Against the Sheffields, who are Bona Fide Purchasers for Value.

The failure to record the 1982 Assent in the land evidence records is outcome-determinative in this case. The 1982 Assent is unenforceable against the Sheffields because they are bona fide purchasers for value, having no actual or constructive notice of the 1982 Assent when they purchased 85 Nayatt Road. CRMC implicitly recognized this basic principle in the 2017 Maintenance Certification, which expressly warned the applicant that the failure to record the document "will render th[e] assent null and void." *See* Exhibit H at 1, 11; *see also* Exhibit C ("How is 1981-12-003 enforceable if it wasn't recorded in the land evidence records?"); Exhibit D ("FYI – In the past, we haven't had much success in enforcing assents (mostly buffers) that were not

⁵ In the year and a half this dispute has been pending, CRMC has not produced any information to contest the Sheffield's understanding of the land evidence records or otherwise suggesting that they should have known about the CRMC assent.

recorded in the land evidence records when there is a new owner.”). The same is true regarding the 1982 Assent as applied to the Sheffields.

As the Rhode Island Supreme Court wrote in *Shappy v. Downcity Capital Partners*, “Rhode Island has long recognized the defense of bona fide purchaser for value and the protections to which such a purchaser is entitled.” 973 A.2d 40, 44 (R.I. 2009) (citing *Coombs v. Aborn*, 29 R.I. 40, 68 A. 817 (1908); *Babcock v. Wells*, 25 R.I. 23, 54 A. 596 (1903); *Arnold v. Carpenter*, 16 R.I. 560, 18 A. 174 (1889)). A “bona fide purchaser” is a person who purchases property “for value, in good faith, and without knowledge of any adverse claims,” such as a restrictive covenant or public easement. *Id.* An encumbrance cannot be enforced against a bona fide purchaser who—by definition—lacks actual or constructive notice of the condition.⁶ *Id.* “The theory behind the rule is to protect innocent purchasers and to allow them to obtain and convey unsullied interests.” *Shappy*, 973 A.2d at 44 (quoting *Sun Valley Land and Minerals, Inc. v. Burt*, 853 P.2d 607, 611 (Id. Ct. App. 1993)). In other words, this tried-and-true doctrine prevents sandbagging honest parties like the Sheffields with undetectable restrictions on their property.

The bona-fide-purchaser rule is decisive concerning the Sheffields’ right to limit public access to their property. The 1982 Assent was not uncovered by the Sheffields’ pre-purchase due diligence because it was never recorded. In addition, neither the Sheffields’ predecessor-in-title, Mr. Goulden, nor his agents disclosed the existence of any public right of way (assuming, *arguendo*, he even knew of its existence). See L. Sheffield Aff. ¶ 5; H. Sheffield Aff. ¶ 5. The Sheffields are

⁶ Bona fide purchasers like the Sheffields are entitled to rely on the land evidence records to provide constructive notice of encumbrances. *Id.* Under R.I. General Laws § 34-13-2, a recorded instrument “shall be constructive notice to all persons of the contents of instruments and other matters so recorded, so far as they are genuine.” See *In re Barnacle*, 623 A.2d 445, 447 (R.I. 1993) (“Section 34-13-2 by its terms gives the broadest possible effect to constructive notice. The purpose of constructive notice is to bind subsequent purchasers and all other affected parties by restrictions that are clearly set forth in prior conveyances or other instruments appropriately recorded.”).

paradigmatic “innocent purchasers” as described in *Shappy*, thus the terms and conditions of the 1982 Assent are unenforceable.

The circumstances in *Bazarsky v. City of Newport*, No. C.A. 81-240, 1985 WL 663450 (R.I. Super. Ct. July 16, 1985) are analogous. In that case, the plaintiff sought a declaratory judgment that a maintenance agreement granting the City of Newport and the public a right-of-way over a fifty-foot strip of land was unenforceable. *Id.* at *6. This Court agreed, reasoning that “there is a total lack of evidence as to any knowledge on the part of the [subsequent purchasers] as to the existence of the maintenance agreement which had been filed in the City Solicitor’s office twenty (20) years before.” *Id.* The court continued:

This unaccepted and unrecorded agreement cannot be held effective against a person in the position of the plaintiff who purchased the property without notice of the agreement, or of anything which would put her on notice that the City or the public had any right in or over the strip.

Id. Like the purchasers in *Bazarsky*, the Sheffields did not have actual or constructive notice of the 1982 Assent or any obligation to permit public access it may have created. Nothing on or around the seawall itself suggests the existence of a public right of access. Notwithstanding the stipulations, no placards disclosing a public right of access are known to have existed; even if signs were posted at some point, they did not exist when the Sheffields’ purchased the Property. *See* L. Sheffield Aff. ¶ 9; H. Sheffield Aff. ¶ 9.

In CRMC’s own words, the failure to record an assent “render[s] th[e] assent null and void.” *See* Exhibit H at 1, 11. The Sheffields had no actual or constructive notice of the assent or its public access stipulations. Accordingly, they are entitled to the full benefit of the bona fide purchaser rule under Rhode Island law.

CONCLUSION

For the foregoing reasons, this Court should issue a declaratory ruling that (1) CRMC has violated R.I. Gen. Laws § 42-35-8(c); (2) the 1982 Assent is unenforceable with respect to the 85 Nayatt Road and the Petitioners, and (3) the September 21, 2021 and May 27, 2022 cease-and-desist orders shall be vacated.

Respectfully submitted,

**LANCE SHEFFIELD
HOLLY SLATER SHEFFIELD**

By their attorneys,

/s/ Stephen D. Lapatin
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Date: July 14, 2023

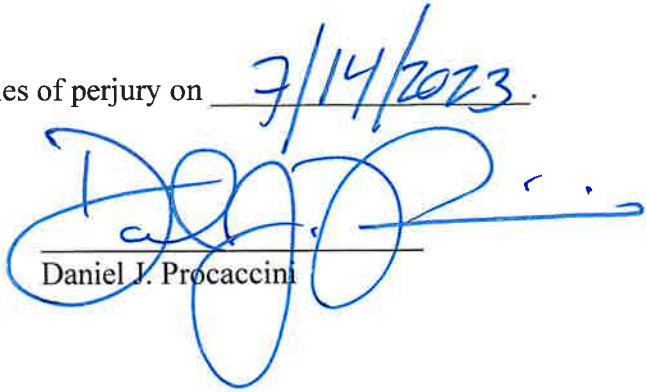
CERTIFICATE OF SERVICE

I hereby certify that, on July 14, 2023, I electronically filed and served this document via the Rhode Island Judiciary's Electronic Filing System with notice to all parties in the system. The document is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Stephen D. Lapatin

4869-7372-1197, v. 3


Signed under the pains and penalties of perjury on 7/14/2023.



Daniel J. Procaccini

State of Rhode Island
County of Newport

On this 14th day of July, 2023, before me, the undersigned notary public, personally appeared Stephen D. Lapatin, personally known to the notary to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to the notary that the contents of the document are truthful and accurate to the best of his knowledge and belief.



Notary Public
My Commission Expires: 06-22-25
Notary Number: 767145

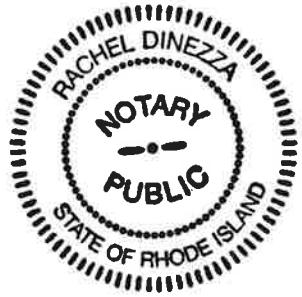
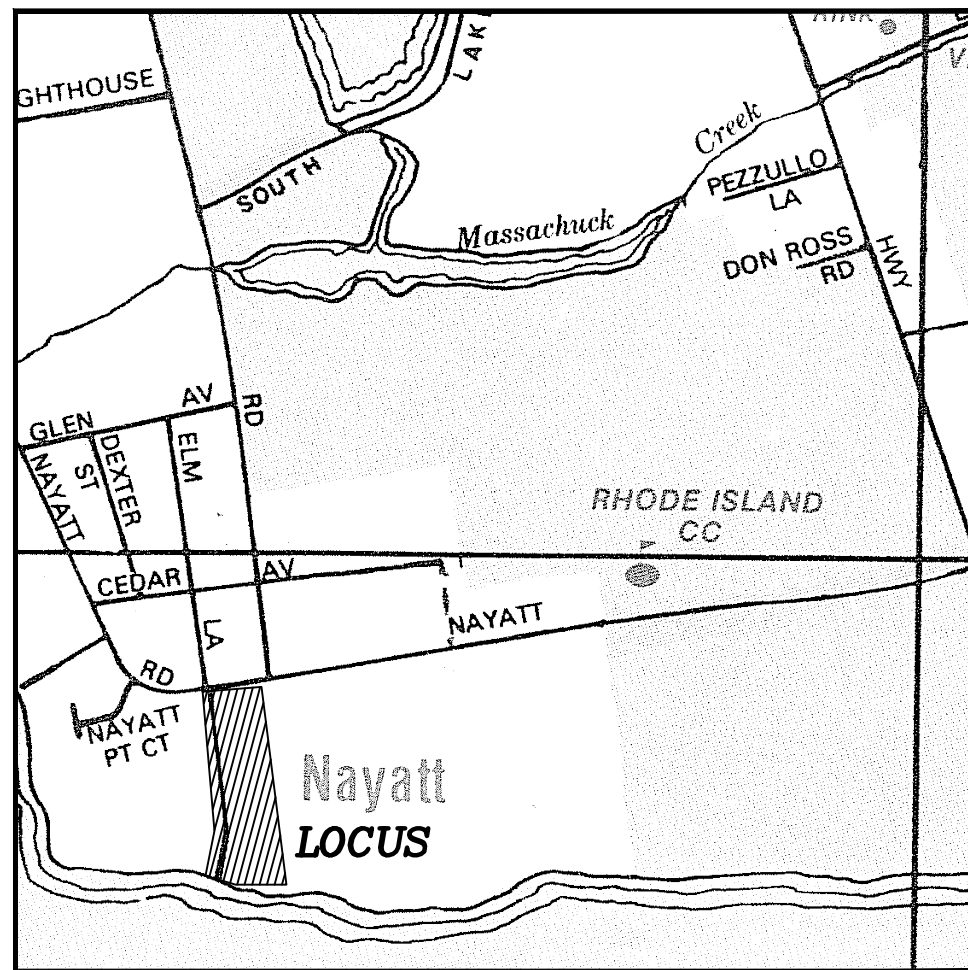


EXHIBIT 1

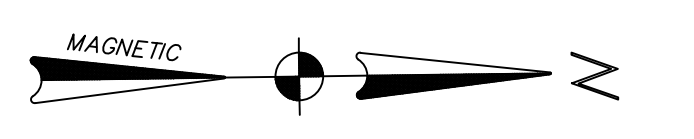


LOCATION MAP

LEGEND

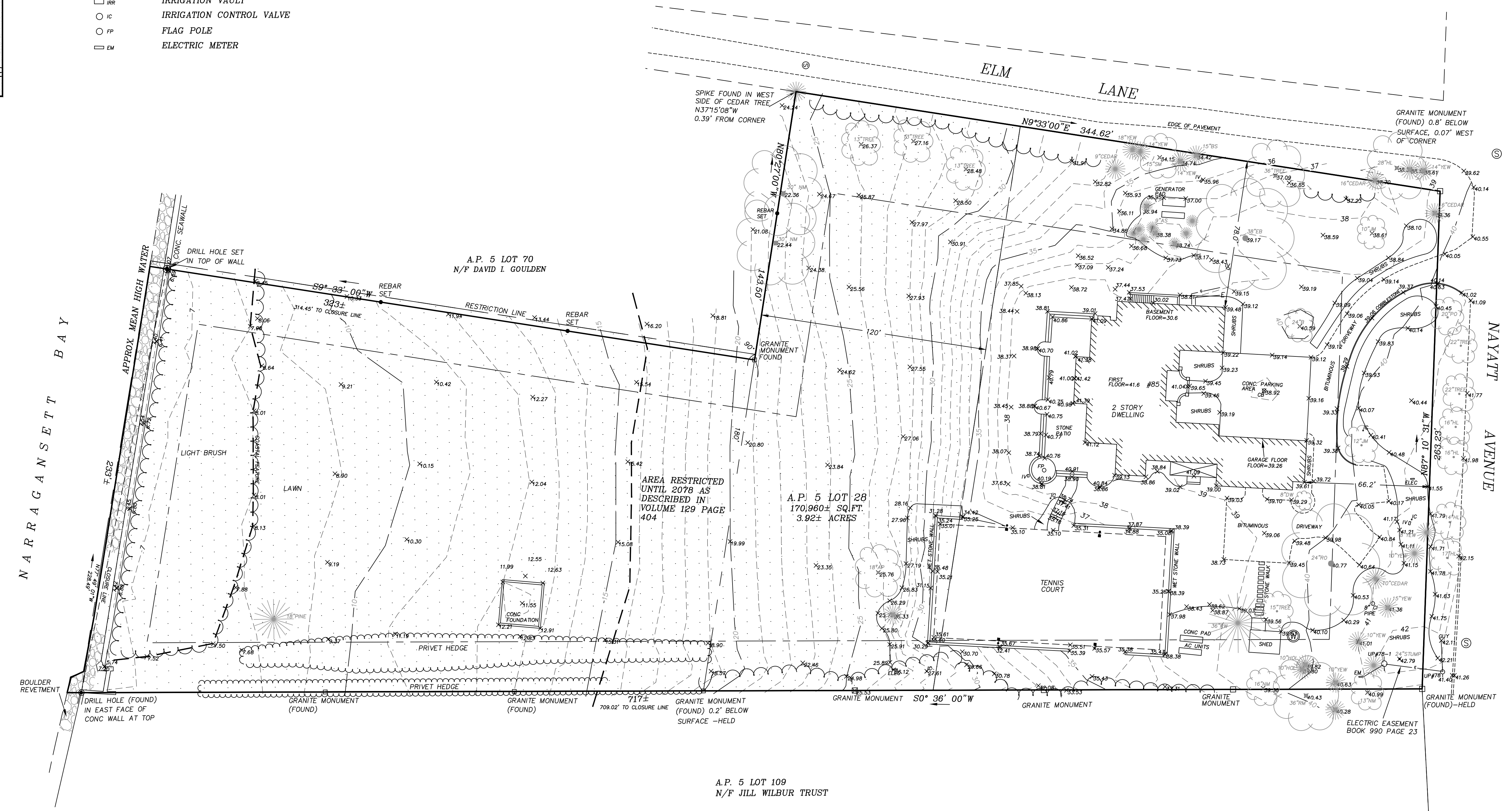
	EDGE OF SHRUBS/TREES
	RAIL FENCE
	EDGE OF PAVEMENT
	ZONING SETBACK LINE
	GAS LINE
	ELECTRIC LINE -SUBSURFACE
	SANITARY SEWER MANHOLE
	EXISTING WELL
	UTILITY POLE
	CATCH BASIN
	IRRIGATION VAULT
	IRRIGATION CONTROL VALVE
	FLAG POLE
	ELECTRIC METER

ZONING R-40
 MINIMUM LOT AREA 40,000 SQ. FT.
 MINIMUM LOT FRONTAGE 180 FEET
 SETBACK REQUIREMENTS
 FRONT 50 FEET
 SIDE 18 FEET OR 10% OF FRONTAGE
 REAR 30 FEET
 MAXIMUM STRUCTURE HEIGHT 35 FEET
 MAXIMUM BUILDING LOT COVERAGE 15%



LEGEND - TREES

NM	NORWAY MAPLE
SM	SYCAMORE MAPLE
JM	JAPANESE MAPLE
RM	RED MAPLE
HL	HONEY LOCUST
PO	PIN OAK
RO	RED OAK
RW	REDWOOD
AP	APPLE
HOL	HOLLY
DW	DOGWOOD
EB	EUROPEAN BEECH
B	BIRCH
AS	ALBERTA SPRUCE



REFERENCES

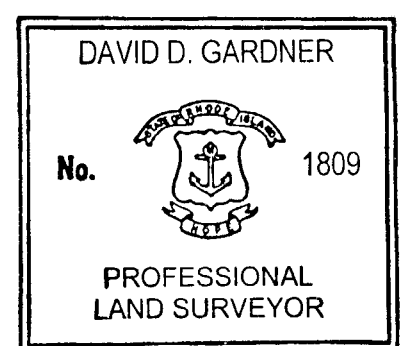
- 1.) "BOUNDARY SURVEY PLAN A.P. 5 LOT 109 #91 NAYATT ROAD BARRINGTON, RHODE ISLAND BILL WILBUR 91 NAYATT ROAD BARRINGTON, RHODE ISLAND 02806 BY WATERMAN ENGINEERING CO. 04/22/08 " UNRECORDED
- 2.) "BALLOU ESTATES BARRINGTON, R.I. FOR GEORGE M. GROSS JR. AND ROBERT W. LISTER JR. BY STANLEY ENGINEERING, INC. SCALE-1"=40' JULY, 1964" SEE PLAT # 607
- 3.) "MAP OF LAND IN BARRINGTON, R.I. BELONGING TO ESTATE OF DOROTHY G. CHAFFEE BY WATERMAN ENG. CO. FEBRUARY 1980
- 4.) "MAP OF LAND BELONGING TO RICHARDS, POTTER AND CODDING BY J.A. LATHAM NOV. 17, 1863

NOTES

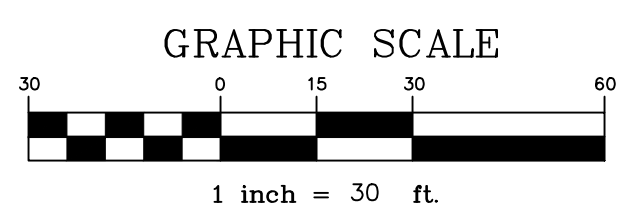
- 1.) LOT 70 IS SUBJECT TO AND ENJOYS THE BENEFIT OF THE FOLLOWING EASEMENTS, AGREEMENTS OR RESTRICTIONS.
 VOLUME 42 PAGE 478 - (SUBJECT TO) SEA WEED RIGHTS
 VOLUME 56 PAGE 327 - (AGREEMENT) MAINTENANCE OF WATER LINE AND ELECTRIC LINES IN ELM LANE
 VOLUME 129 PAGE 404 - RESTRICTIONS AND EASEMENT
 VOLUME 990 PAGE 23 - (SUBJECT TO) ELECTRIC EASEMENT FROM POLE #78

CERTIFICATION

THIS SURVEY HAS BEEN CONDUCTED AND THE PLAN HAS BEEN PREPARED PURSUANT TO 435-RICR-00-00-1.9 OF THE RULES AND REGULATIONS ADOPTED BY THE RHODE ISLAND STATE BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS EFFECTIVE NOVEMBER 25, 2015 AND ARE FOLLOWS:
 COMPREHENSIVE BOUNDARY SURVEY MEASUREMENT SPECIFICATION I
 DATA ACCUMULATION SURVEY MEASUREMENT SPECIFICATION III
 TOPOGRAPHIC SURVEY T-1
 THE PURPOSE FOR THE CONDUCT OF THE SURVEY AND FOR THE PREPARATION OF THE PLAN IS AS FOLLOWS:
 EXISTING CONDITIONS PLAN FOR PROPOSED POOL AND LANDSCAPING



BY DAVID D. GARDNER PLS LICENSE NO. 1809
 COA NO. A359



DATE	9/21/21	PROJECT NO.	21-063
SCALE	1"=30'	DRAWING NO.	
REVISIONS		DESIGNED BY	D.D.G.
		DRAWN BY	D.D.G.
		CHECKED BY	
SHEET NO.	1	TOPOGRAPHY AND BOUNDARY SURVEY 85 NAYATT AVENUE BARRINGTON, R.I. FOR LANCE SHEFFIELD A.P. 5 LOT 28 DAVID D. GARDNER & ASSOCIATES, INC. 1 HOPE COURT BARRINGTON, RHODE ISLAND 02806 (401) 738-3200 ENGINEERS • SURVEYORS • PLANNERS	
SHEET	1 OF 1		

EXHIBIT 1

EXHIBIT 2

INST: 1882 Bk: 1412 Pg: 106
WARRANTY DEED

We, **Bradford J. Faxon, Jr. and Dorothea R. Faxon**, of Barrington, Rhode Island (the "Grantors"), for consideration paid in the amount of Four Million Five Hundred Twenty-Five Thousand (\$4,525,000.00) DOLLARS, grant to **David I. Goulden, Trustee of the David I. Goulden 2011 Revocable Trust**, of 33 Marlborough Street, Unit 1, Boston, Massachusetts, 02116, with WARRANTY COVENANTS:

That certain parcel of land with all the buildings and improvements thereon, situated at the southeasterly corner of Nayatt Road and Elm Lane in the Town of Barrington, County of Bristol, and State of Rhode Island, bounded and described as follows:

Beginning at the northeasterly corner of said parcel at a granite bound in the southerly line of said Nayatt Road; thence westerly bounding northerly on said Nayatt Road, two hundred sixty-three and 41/100 (263.41) feet, more or less, to a granite bound at the junction of the southerly line of Nayatt Road with the easterly line of a highway which runs from Nayatt Road southerly to Narragansett Bay, now called Elm Lane; thence southerly bounding westerly on said last mentioned highway, three hundred forty-four and 94/100 (344.94) feet, more or less, to a granite bound; thence turning an interior angle of 90° and running easterly bounding southerly on land now or lately of Robert D. Kilmarx et al, three hundred twenty and 55/100 (320.55) feet, more or less, to a granite bound; thence turning an interior angle of 81° 03' and running northerly bounding easterly on land now or lately of Nathaniel M. Vose Jr. et al, three hundred seventy-five and 14/100 (375.14) feet, more or less, to the place of beginning, and containing about 104,576 square feet of land.

Subject to easements, restrictions, agreement and covenants arising under that certain Easement and Restrictive Covenants recorded in Book 129, at Page 404.

Subject to Zoning Board Decision recorded in Book 753 at Page 289, Easement recorded in Book 100 at Page 40, Easement recorded in Book 990 at Page 23, and Board of Assessment Review Decision Notice recorded in Book 1297 at Page 181.

Meaning and intending to describe the same premises conveyed to the Grantors by Warranty Deed dated November 12, 2002 and recorded November 13, 2002 in Book 659 at Page 194.

Subject to real estate taxes assessed December 31, 2013.

Grantors hereby covenant that no withholding is required as they are residents of Rhode Island in compliance with R.I. Gen. Laws § 44-30-71.3, as evidenced by affidavits. Grantors hereby certify that they have complied with the provisions of the Rhode Island Fire Safety Code regarding smoke and carbon monoxide detector inspections.

TAX 120,815.00
DATE 8-13-24
RECORDER *dlb*
TOWN OF BARRINGTON

007932
RHODE ISLAND
REAL ESTATE CONVEYANCE TAX

IN WITNESS WHEREOF, Grantors have signed, acknowledged and delivered these presents this 8th day of August, 2014.

[Signature]
Bradford J. Faxon, Jr.

[Signature]
Dorothea R. Faxon

STATE OF Rhode Island
COUNTY OF Providence

In the City/Town of East Providence on the 8th day of August, 2014, before me personally appeared Bradford J. Faxon, Jr. to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument by him so executed, to be his free act and deed.

[Signature]
Notary Public
Print Name: **JAMES J. BELLIVEAU**
My Commission Expires: **Notary Public**

STATE OF Rhode Island
COUNTY OF Providence

Notary Public
State of Rhode Island
My Commission Expires
January 17, 2017

In the City/Town of Patuxent on the 8th day of August, 2014, before me personally appeared Dorothea R. Faxon to me known and known by me to be the party executing the foregoing instrument and she acknowledged said instrument by her so executed, to be her free act and deed.

[Signature]
Notary Public
Print Name: **JAMES J. BELLIVEAU**
My Commission Expires: **Notary Public**

For Reference Only:
Property Address:
85 Nayatt Road
Barrington, RI
AP: 5 Lot: 28

Grantee Mailing Address:
85 Nayatt Road
Barrington, RI 02806

JAMES J. BELLIVEAU
Notary Public
State of Rhode Island
My Commission Expires
January 17, 2017

RECEIVED FOR RECORD
Aug 13, 2014 01:46:44P
Barrington, R.I.
Meredith J. DeSisto
TOWN CLERK

EXHIBIT 3

TAX \$ 7360.00
DATE 3/2/17
RECORDER mpc
TOWN OF BARRINGTON

WARRANTY DEED

Robert D. Kumarx, of Barrington, Rhode Island, as surviving Tenant by the Entirety (the "Grantor"), for consideration paid in the amount of **One Million Six Hundred Thousand and 00/100 Dollars (\$1,600,000.00)**, the receipt and sufficiency of which is hereby acknowledged, hereby grant to **David I. Goulden, Trustee of the David I. Goulden 2011 Revocable Trust, u/d/t March 30, 2011** of 85 Nayatt Point, Barrington, RI 02806 (the "Grantee"), with **WARRANTY COVENANTS**:

That parcel of land with all buildings and improvements thereon, situated in the Town of Barrington in the State of Rhode Island, bounded and described as follows:

Beginning at a granite bound set in the easterly line of Elm Lane, sometimes called the highway which runs from Nayatt Road southerly to Narragansett Bay, said granite bound being at the northwesterly corner of said parcel and at the southwesterly corner of land conveyed by deed of Henry D. Sharpe to Fred B. Perkins dated March 15, 1946, and recorded with the Records of Land Evidence in said Barrington in Book 41 at page 268; thence easterly in a line which forms a right angle with the easterly line of Elm Lane and bounding northerly on said Perkins land three hundred twenty and 55/100 (320.55) feet, more or less, to a granite bound at land now or lately of Frederick A. Ballou Estate; thence turning and running southerly bounding easterly on said Ballou land three hundred thirty five (335) feet, more or less, to the face of the sea wall near the shore of Narragansett Bay; thence continuing southerly bounding easterly on said Ballou land to Narragansett Bay; thence westerly bounding southerly on Narragansett Bay four hundred thirty (430) feet, more or less, to the easterly line of Elm Lane; thence northerly bounding westerly on Elm Lane one hundred five (105) feet, more or less; thence turning an interior angle of 181° 05' and continuing northerly bounding westerly on Elm Lane ninety eight and 60/100 (98.60) feet, more or less; thence turning an interior angle of 196° 05' and continuing northerly bounding westerly on Elm Lane one hundred twenty one and 81/100 (121.81) feet, more or less, to the granite bound at the point of beginning.

Together with all riparian and littoral rights in Narragansett Bay which are appurtenant to the above described premises.

Subject to rights and easements contained in deed recorded in Book 42 at Page 478.

Together with and subject to the terms, provisions, rights, easements, obligations and covenants set forth in that certain agreement dated July 2, 1957 and recorded in Book 56 at Page 327.

Subject to easement and right of way and covenants and restrictions set forth in Book 129 at Page 404.

Subject to right of way and easement as set forth in Book 41 at Page 268; as affected by Deed recorded in Book 100 at Page 40.

Subject to rights set forth in Book 56 at Page 332.



Subject to Town of Barrington Assessing Board of Review Decision recorded in Book 1194 at Page 41.

Subject to Consent Agreement recorded in Book 1417 at Page 68.

Subject to real estate taxes assessed as of December 31, 2016.

Meaning and intending to describe the same premises conveyed by deed dated November 15, 1965 and recorded with the Land Evidence Records in the Town of Barrington on November 16, 1965 at 12:00 P.M. in Book 73 at Page 65.

Grantor hereby covenants that no withholding is required under R.I. Gen. Laws § 44-30-71.3 as he is a resident of Rhode Island, as evidenced by affidavit.

IN WITNESS WHEREOF, the undersigned Grantor has signed, acknowledged and delivered these presents this 20th day of February, 2017.

Robert D. Kilmarx

Robert D. Kilmarx

STATE OF RI
COUNTY OF Allegheny

In the City/Town of Verona, in said County, on the 20th day of February, 2017, before me personally appeared the above-named **Robert D. Kilmarx** to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument by him so executed to be his free act and deed.

Ellen Maye

Notary Public

Print Name: Ellen Maye

My Commission Expires: 4/11/2020

FOR REFERENCE ONLY
56 ELM LANE
BARRINGTON, RI 02806
APLAT: 05 LOT: 070

GRANTEE MAILING ADDRESS:

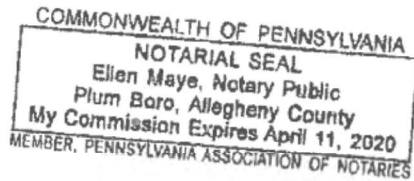


EXHIBIT 4

RECORDED
5/12/2021
LD

TRUSTEE'S DEED

010429
010429
DAVID I GOULDEN, as Trustee of the DAVID I. GOULDEN 2011 REVOCABLE TRUST, dated March 30, 2011, of New Canaan, Connecticut (the "Grantor"), for consideration paid in the amount of Four Million Five Hundred Eighty Seven Thousand Five Hundred and 00/100 Dollars (\$4,587,500.00), the receipt and sufficiency of which is hereby acknowledged, grants to LANCE SHEFFIELD and HOLLY SLATER SHEFFIELD, husband and wife, as tenants by the entirety, presently of 109 Memorial Parkview Drive, Houston, Texas 77024 (the "Grantees"), the following described property:

That certain lot or parcel of land with all the buildings and improvements thereon, situated in the Town of Barrington, County of Bristol, and State of Rhode Island, laid out and delineated as "PROPOSED A.P. 5 LOT 28 170,960 +/- SQ. FT, 3.92 +/- ACRES" on that plat entitled "GOULDEN PLAT IN BARRINGTON, R.I. for DAVID GOULDEN A.P. 5 LOTS 28 & 70 by David D. Gardner & Associates, Inc. Scale 1" = 40' dated April 25, 2017" and which plat is recorded on October 2, 2017 at 12:50 pm as Plat No. 1065.

Subject to:

- i) rights set forth in Book 42 at Page 478 and in Book 56 at Page 332, insofar as the same is in force and effect;
- ii) Agreement in Book 56 at Page 327;
- iii) Easement and restrictive covenants in Book 129 at Page 404, as affected by Consent Agreement in Book 1417 at Page 68, to the extent that it affects the herein conveyed premises;
- iv) Decision of the Barrington Zoning Board in Book 753 at Page 289;
- v) Easement in Book 990 at Page 23;
- vi) Zoning Board of Review Decision in Book 1413 at Page 5; and
- vii) Coastal Resources Management Council Assent in Book 1559 at Page 149.

Meaning and intending to convey and hereby conveying the same premises conveyed by Warranty Deed dated August 8, 2014 and recorded with the Land Evidence Records in the Town of Barrington on August 13, 2014 in Book 1412 at Page 106, and a portion of that premises conveyed by Warranty Deed dated February 20, 2017 and recorded on March 2, 2017 in Book 1524 at Page 278.

Subject to Real Estate Taxes assessed as of December 31, 2020.

Grantor hereby covenants that it has complied with R.I. Gen. Laws § 44-30-71.3 and that a discharge of lien is forthcoming from the Rhode Island Division of Taxation. Grantor hereby certifies that it has complied with the provisions of the Rhode Island Fire Safety Code regarding smoke and carbon monoxide detector inspections.

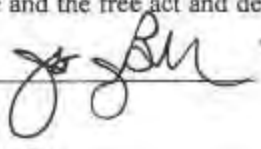
IN WITNESS WHEREOF, Grantor has signed, acknowledged and delivered these presents this 5th day of May, 2021.

**DAVID I. GOULDEN 2011
REVOCABLE TRUST,
dated March 30, 2011**

By: 
DAVID I. GOULDEN, Trustee

STATE OF RHODE ISLAND
COUNTY OF BRISTOL

In the Town of Barrington, in said County, on the 5th day of May, 2021, before me personally appeared the above-named **DAVID I. GOULDEN, as Trustee of the DAVID I. GOULDEN 2011 REVOCABLE TRUST, dated March 30, 2011**, to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument by him so executed to be his free act and deed in said capacity as Trustee and the free act and deed of said Trust.


Notary Public
Print Name:
My Commission Expires:

FOR REFERENCE ONLY:
85 NAYATT ROAD
BARRINGTON, RI 02806
PLAT: 5 LOT: 28

GRANTEES' MAILING ADDRESS:
109 Memorial Parkview Drive
Houston, TX 77024

JAMES J. BELLIVEAU
Notary Public, State of Rhode Island
My Commission Expires Jan. 17, 2025
Commission # 36337

RECEIVED FOR RECORD
May 12, 2021 11:38A
Barrington, R.I.
Meredith J. DeSisto
TOWN CLERK

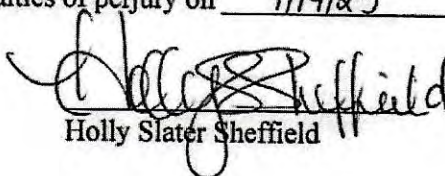
6. The warranty deed conveyed to us by our predecessor in title, David I. Goulden, does not reference the 1982 Assent or any type of public right-of-way across the seawall.

7. Neither Mr. Goulden nor his agents disclosed the existence of the 1982 Assent or any alleged right of the public to use or traverse the seawall or rip rap.

8. The land survey of 85 Nayatt Road conducted in September 2021 by David D. Gardner, a professional land surveyor, does not reference the 1982 Assent or any public right of access across the seawall. The survey shows the southerly property boundary along Narragansett Bay as the approximate mean high water line, which is south of the seawall and below the riprap retaining wall. A true and accurate copy of the Land Survey is attached hereto as Exhibit ___.

9. I have never observed any placards or signage indicating that the seawall or riprap is subject to a right of public access. I observed nothing on or around the seawall itself at any time suggesting the existence of any CRMC assent or a right of public access regarding the seawall or the riprap.

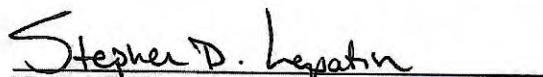
Signed under the pains and penalties of perjury on 7/14/23.


Holly Slater Sheffield

State of Rhode Island
County of Providence

On this 14 day of July, 2023, before me, the undersigned notary public, personally appeared Stephen D. Lapatin, personally known to the notary to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to the notary that the contents of the document are truthful and accurate to the best of his knowledge and belief.




Notary Public
My Commission Expires: 8-17-2024
Notary Number: 765702

STATE OF RHODE ISLAND
PROVIDENCE, sc.

SUPERIOR COURT

LANCE SHEFFIELD and
HOLLY SLATER SHEFFIELD
Plaintiffs/Appellants,

v.

COASTAL RESOURCES
MANAGEMENT COUNCIL,

Defendant/Appellee.

C.A. No. PC-2023-01199

AFFIDAVIT OF LANCE SHEFFIELD

I, Lance Sheffield, being duly sworn, depose and say as follows:

1. I, along with my wife, Holly Slater Sheffield, have owned the property located at 85 Nayatt Road in Barrington (Plat 5, Lot 28 on the Assessor's Plat Map), since May 2021.
2. The southern portion of 85 Nayatt Road includes a concrete seawall reinforced with rip-rap armor stone abutting Narragansett Bay.
3. After we purchased 85 Nayatt Road, Holly and I observed members of the public sightseeing, traversing, and fishing from the seawall on a regular basis. Because the seawall is part of our property, we were, and remain to this day, concerned about the safety, liability, and privacy issues arising from having members of the public traversing the seawall without limitation at all times of the day or night throughout the year.
4. Before we received CRMC's Cease and Desist Order dated September 23, 2021, I had no knowledge whatsoever of CRMC Assent 1981-12-003 ("1982 Assent"), or any alleged right enjoyed by members of the public to use or traverse the seawall or riprap.
5. The 1982 Assent was not disclosed during the pre-purchase due diligence for the purchase of 85 Nayatt Road, including in the title search conducted regarding the property.

Signed under the pains and penalties of perjury on 7/14/2023.


Lance Sheffield

State of Rhode Island
County of Providence

On this 14 day of July, 2023, before me, the undersigned notary public, personally appeared Stephen D. Lapatin, personally known to the notary to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to the notary that the contents of the document are truthful and accurate to the best of his knowledge and belief.



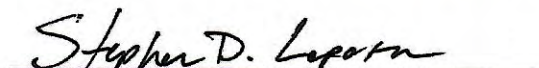
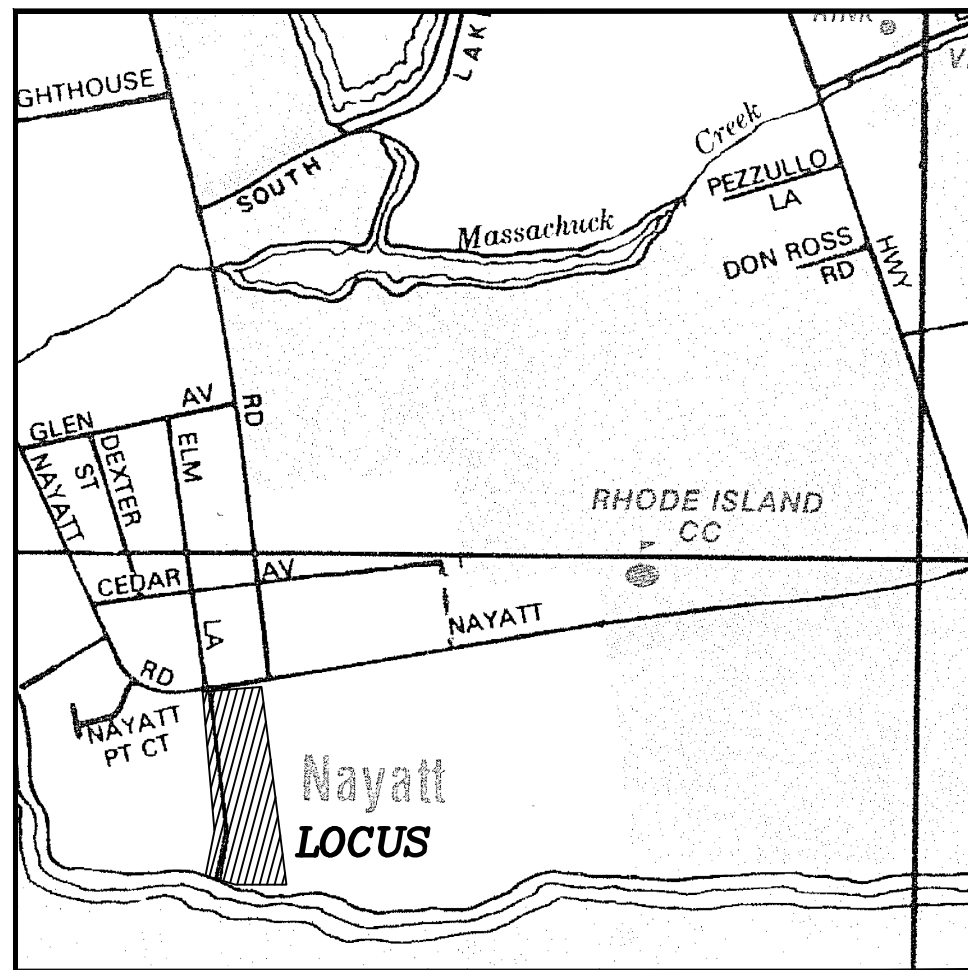

Notary Public
My Commission Expires: 8-17-2024
Notary Number: 765702

EXHIBIT 1

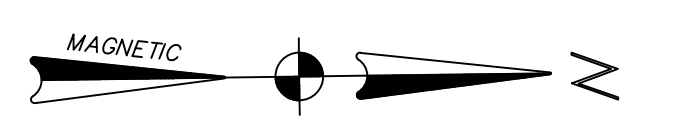


LOCATION MAP

LEGEND

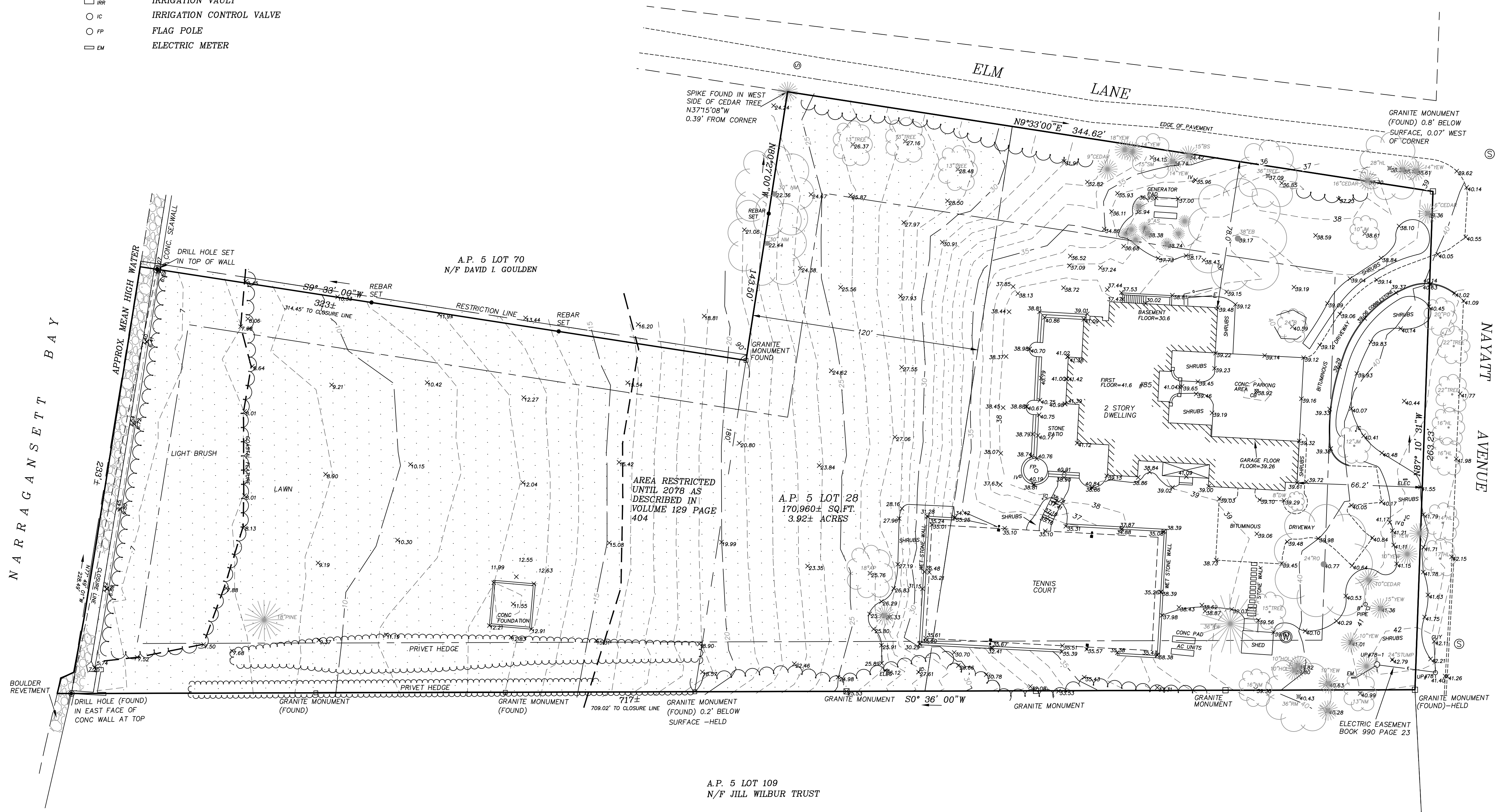
	EDGE OF SHRUBS/TREES
	RAIL FENCE
	EDGE OF PAVEMENT
	ZONING SETBACK LINE
	GAS LINE
	ELECTRIC LINE -SUBSURFACE
	SANITARY SEWER MANHOLE
	EXISTING WELL
	UTILITY POLE
	CATCH BASIN
	IRRIGATION VAULT
	IRRIGATION CONTROL VALVE
	FLAG POLE
	ELECTRIC METER

ZONING R-40
 MINIMUM LOT AREA 40,000 SQ.FT.
 MINIMUM LOT FRONTAGE 180 FEET
 SETBACK REQUIREMENTS
 FRONT 50 FEET
 SIDE 18 FEET OR 10% OF FRONTAGE
 REAR 30 FEET
 MAXIMUM STRUCTURE HEIGHT 35 FEET
 MAXIMUM BUILDING LOT COVERAGE 15%



LEGEND - TREES

NM	NORWAY MAPLE
SM	SYCAMORE MAPLE
JM	JAPANESE MAPLE
RM	RED MAPLE
HL	HONEY LOCUST
PO	PIN OAK
RO	RED OAK
RW	REDWOOD
AP	APPLE
HOL	HOLLY
DW	DOGWOOD
EB	EUROPEAN BEECH
B	BIRCH
AS	ALBERTA SPRUCE



REFERENCES

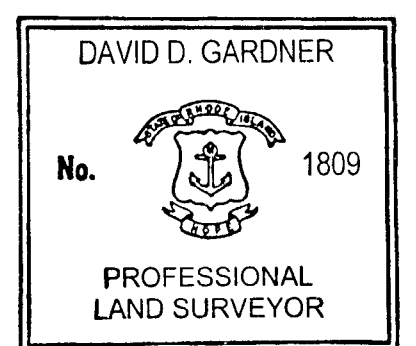
- 1.) "BOUNDARY SURVEY PLAN A.P. 5 LOT 109 #91 NAYATT ROAD BARRINGTON, RHODE ISLAND BILL WILBUR 91 NAYATT ROAD BARRINGTON, RHODE ISLAND 02806 BY WATERMAN ENGINEERING CO. 04/22/08 " UNRECORDED
- 2.) "BALLOU ESTATES BARRINGTON, R.I. FOR GEORGE M. GROSS JR. AND ROBERT W. LISTER JR. BY STANLEY ENGINEERING, INC. SCALE-1"=40' JULY, 1964" SEE PLAT # 607
- 3.) "MAP OF LAND IN BARRINGTON, R.I. BELONGING TO ESTATE OF DOROTHY G. CHAFFEE BY WATERMAN ENG. CO. FEBRUARY 1980
- 4.) "MAP OF LAND BELONGING TO RICHARDS, POTTER AND CODDING BY J.A. LATHAM NOV. 17, 1863

NOTES

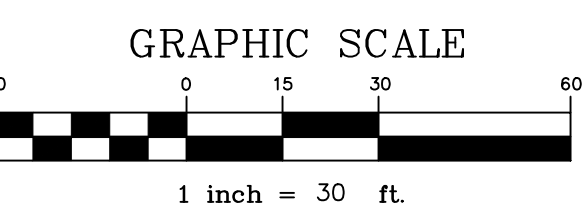
- 1.) LOT 70 IS SUBJECT TO AND ENJOYS THE BENEFIT OF THE FOLLOWING EASEMENTS, AGREEMENTS OR RESTRICTIONS.
 VOLUME 42 PAGE 478 - (SUBJECT TO) SEA WEED RIGHTS
 VOLUME 56 PAGE 327 - (AGREEMENT) MAINTENANCE OF WATER LINE AND ELECTRIC LINES IN ELM LANE
 VOLUME 129 PAGE 404 - RESTRICTIONS AND EASEMENT
 VOLUME 990 PAGE 23 - (SUBJECT TO) ELECTRIC EASEMENT FROM POLE #78

CERTIFICATION

THIS SURVEY HAS BEEN CONDUCTED AND THE PLAN HAS BEEN PREPARED PURSUANT TO 435-RICR-00-00-1.9 OF THE RULES AND REGULATIONS ADOPTED BY THE RHODE ISLAND STATE BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS EFFECTIVE NOVEMBER 25, 2015 AND ARE FOLLOWS:
 COMPREHENSIVE BOUNDARY SURVEY MEASUREMENT SPECIFICATION I
 DATA ACCUMULATION SURVEY MEASUREMENT SPECIFICATION III
 TOPOGRAPHIC SURVEY T-1
 THE PURPOSE FOR THE CONDUCT OF THE SURVEY AND FOR THE PREPARATION OF THE PLAN IS AS FOLLOWS:
 EXISTING CONDITIONS PLAN FOR PROPOSED POOL AND LANDSCAPING



BY DAVID D. GARDNER PLS LICENSE NO. 1809
 COA NO. A359



DATE	9/21/21	PROJECT NO.	21-063
SCALE	1"=30'	DRAWING NO.	
REVISIONS		DESIGNED BY	D.D.G.
		DRAWN BY	D.D.G.
		CHECKED BY	
SHEET NO.	1	TOPOGRAPHY AND BOUNDARY SURVEY 85 NAYATT AVENUE BARRINGTON, R.I. FOR LANCE SHEFFIELD A.P. 5 LOT 28 DAVID D. GARDNER & ASSOCIATES, INC. 1 HOPE COURT BARRINGTON, RHODE ISLAND 02806 (401) 738-3200 ENGINEERS • SURVEYORS • PLANNERS	
SHEET	1 OF 1		

EXHIBIT A

State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

ROOM 508, VETERANS MEMORIAL BUILDING
 83 PARK STREET, PROVIDENCE, R. I. 02903

Application for State Assent to perform work regulated by the provisions of Chapter 279 of the Public Laws of 1971, amended.

PLEASE TYPE OR PRINT		File No. <i>A-12-3</i>	Application Date December 3, 1981	
Location No. 56 Elm Lane	Street	City/Town Barrington		
Owner's Name Robert and Mary Kilmarx		Plat No. 5	Lot No. 70	
Address 56 Elm Lane, Barrington		Telephone No. 273-9000		
Contractor Roy Grinell Grinell-Phillips Corp.	Address Davisville, R. I.		Telephone No. 1-294-3827	
Name of Waterway Narragansett Bay	Estimated cost of Project \$15,000		\$35 ^{Fee}	
Have the extensions of riparian boundary lines been established to determine the area of riparian rights?			Yes	No
Proof of riparian ownership (written statement from tax assessor) N. A.				
Name and address of adjacent property owners whose property adjoins the waterway.				
Town of Barrington (Elm Lane adjoining to west);				
Mr./Mrs. Robert D. Usen, 69 Nayatt Road; Mr./Mrs. George West, 85 Nayatt Road				
Mr./Mrs. Andrew M. Hunt, 91 Nayatt Road				

Describe accurately the work proposed
 (Use additional sheets of paper if necessary and attach to this form.)

(attached)

Robert Kilmarx

Owner's Signature

Note: See reverse side-consult information booklet-application must be fully completed.

COASTAL RESOURCES MANAGEMENT COUNCIL
Robert and Mary Kilmarx Permit Application

Description of Proposed Work

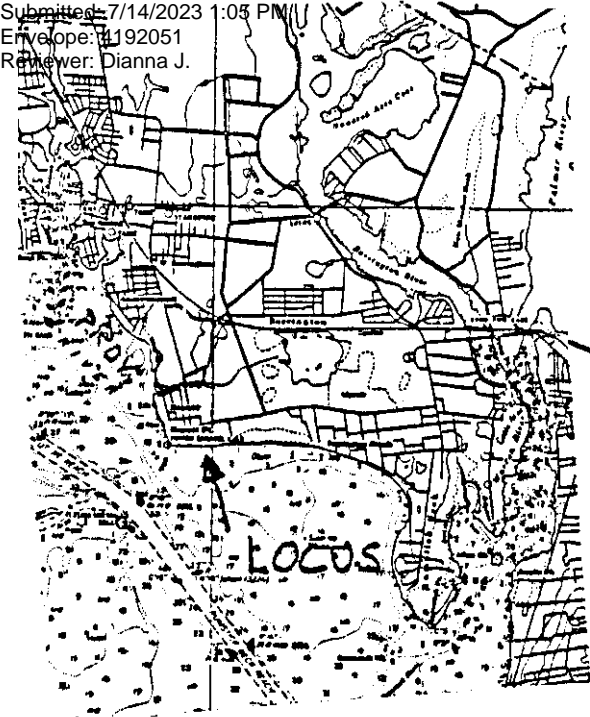
Repair and protect 285'+ of existing concrete seawall which is critically undermined, cracked and eroded, by shoring up undermined sections of wall with stone, filling eroded lawn area inland of the wall and protecting the seaward side of wall against continuing wave action damage by a sloping rip rap of 3-5 ton granite stones anchored 3 feet below the surface (attached drawing).

This repair and protection is essential to prevent the imminent collapse of the whole wall and resulting damage and erosion of our and adjacent residential and public land, as well as the connecting seawalls protecting the property on either side of ours.

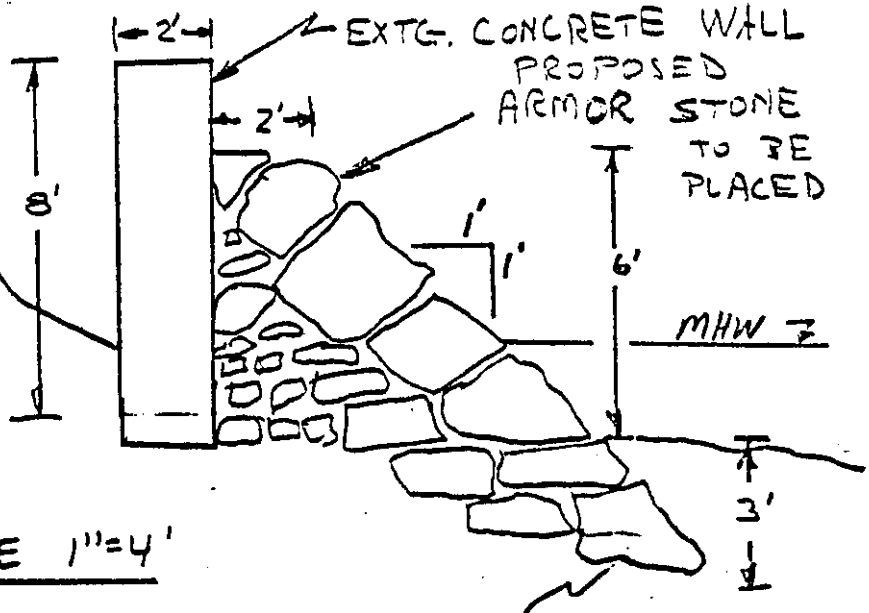
This long standing seawall is footed below Mean High Water level, and public access to seaward of it is only possible at low water, and then only with great difficulty due to a rocky, boulder strewn beach condition and a concrete ramp extending to low water, perpendicular to the seawall. As a result, such limited public traffic as exists does not traverse the beach area but travels along the 2' wide top of the seawall itself. This proposed project will create an additional 2' wide flat, lateral access walkway for the public along the top of the rip rap which will improve, rather than limit, the public's access to seaward of the wall.

KILMARX

NAYATT RD., BARRING



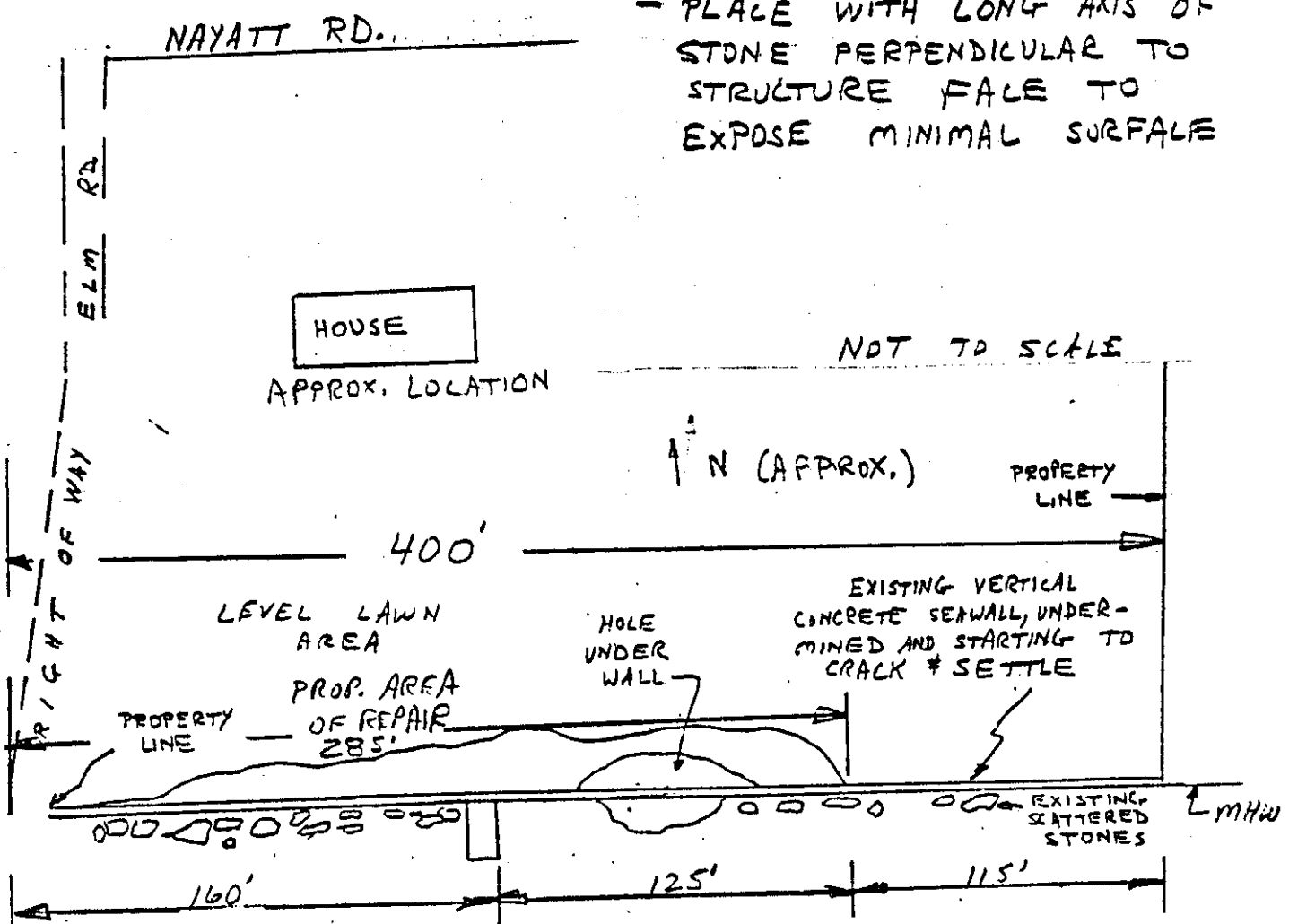
ERODED AREA



SCALE 1"=4'

- TOE STONE 3' BELOW BEACH SURFACE

- USE 3 to 5 TON ARMOR STONE
- PLACE WITH LONG AXIS OF STONE PERPENDICULAR TO STRUCTURE FACE TO EXPOSE MINIMAL SURFACE



NAYATT RD.

ELM RD

HOUSE

RIGHT OF WAY

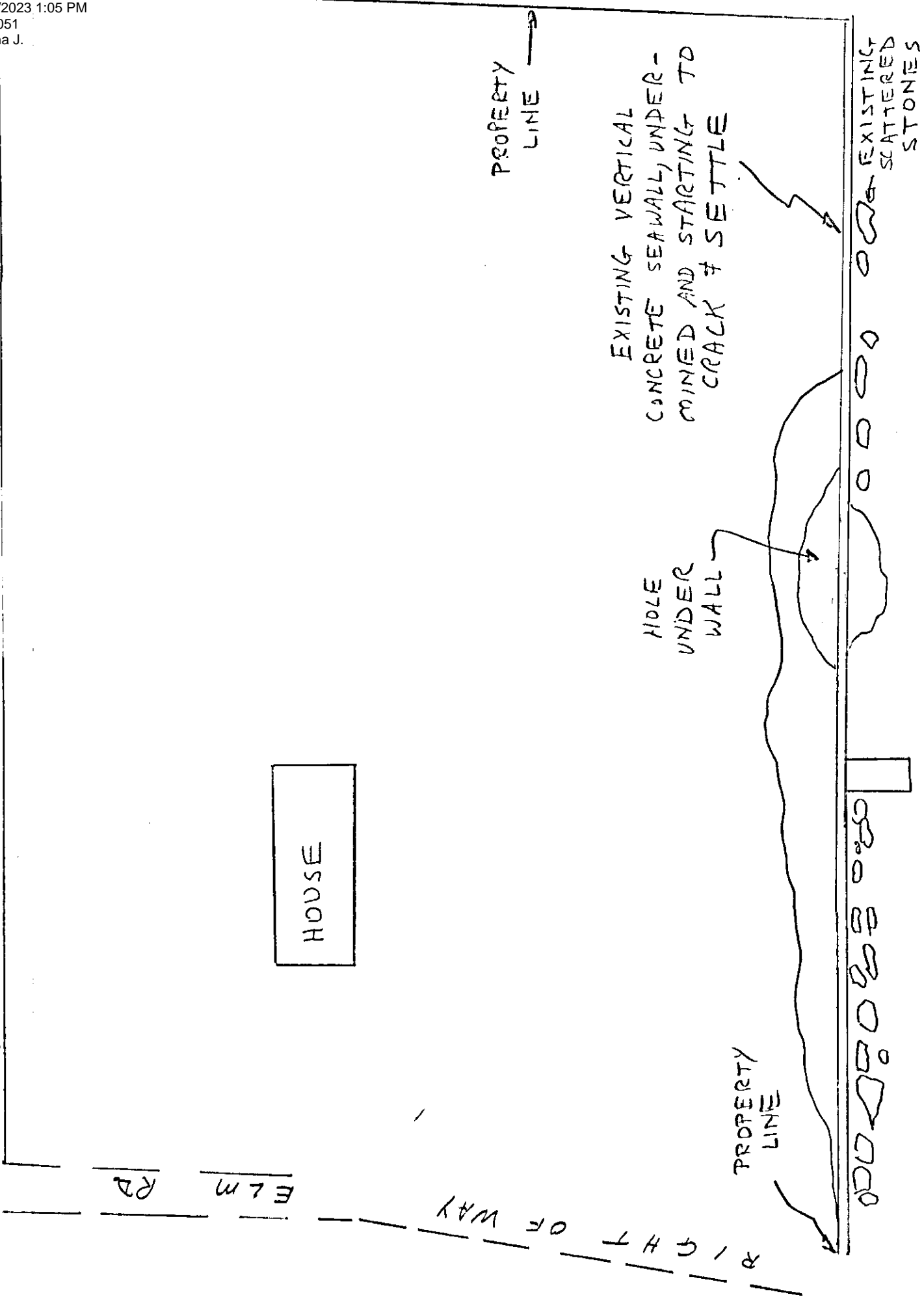
PROPERTY LINE

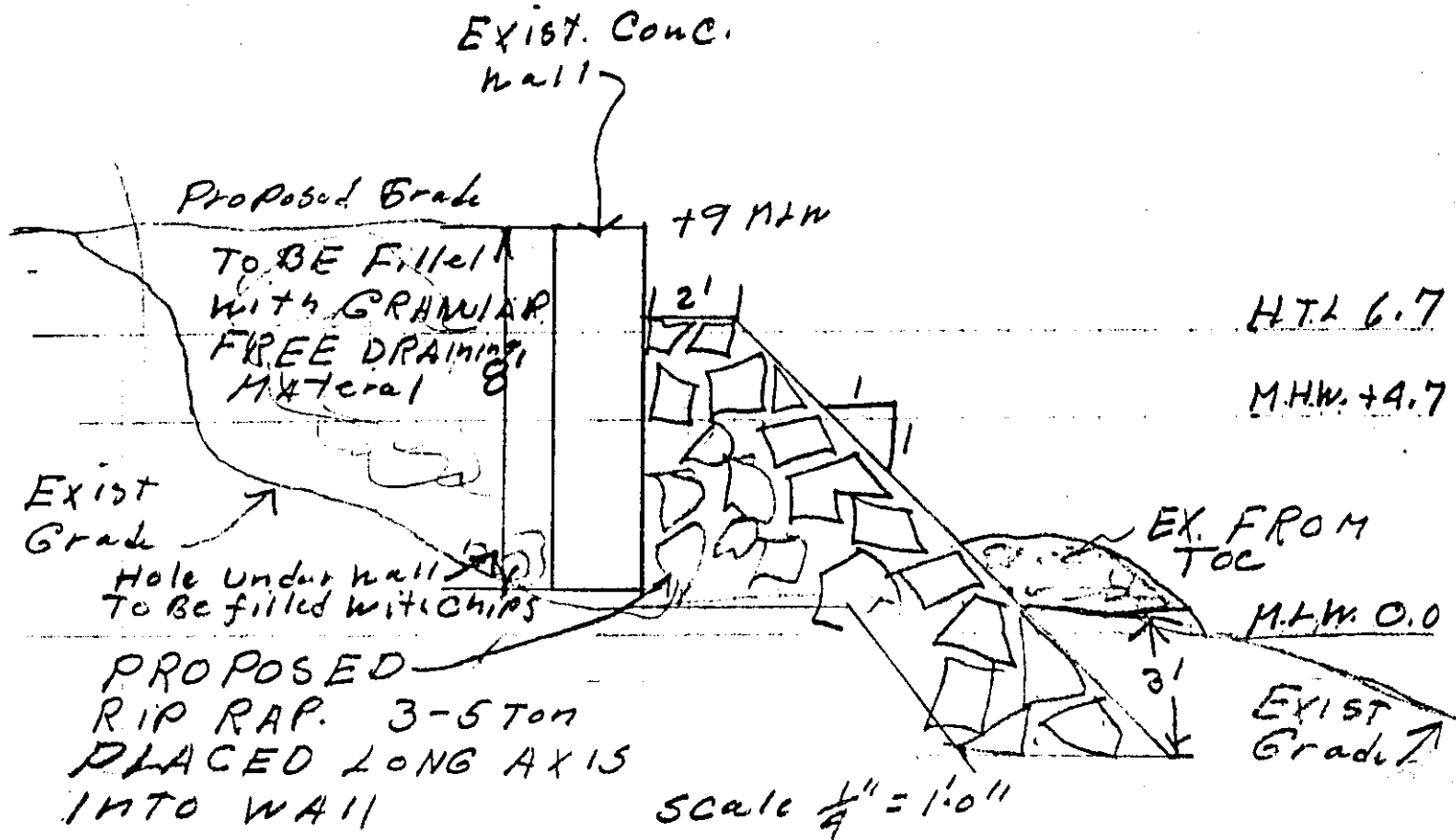
PROPERTY LINE

EXISTING VERTICAL
CONCRETE SEAWALL, UNDER-
MINED AND STARTING TO
CRACK & SETTLE

HOLE
UNDER
WALL

EXISTING
SCATTERED
STONES





TOC EX. 95 CY EX. BY CLAM BUCKET.

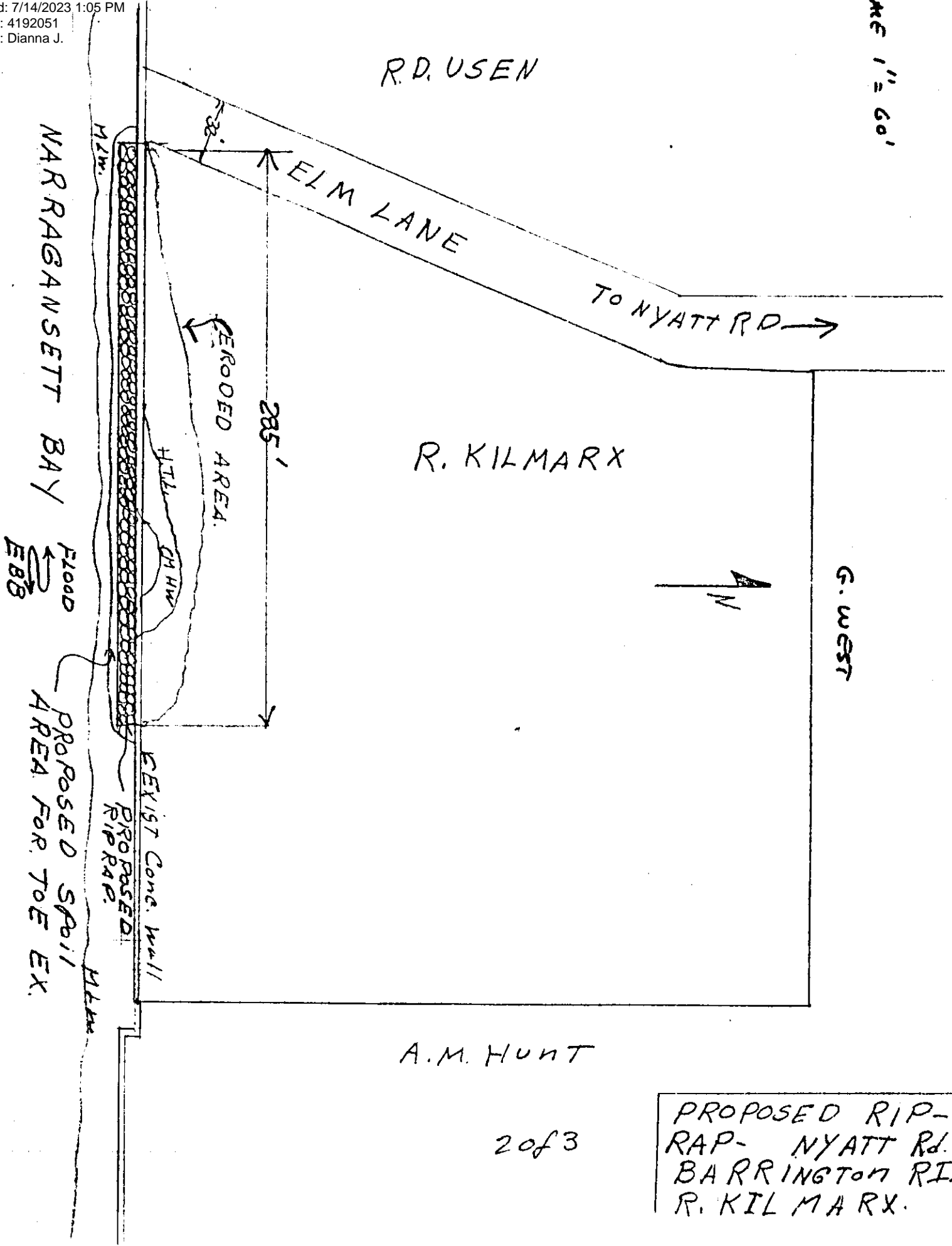
VOL MATERIAL PLACED BELOW

High Tide Line BY CLAM BUCKET.

BAY side wall 348 CY
SHORE side wall 63 CY

PROPOSED RIP
RAP - NAYATTE
BARRINGTON RI.
R. KILMARX

Scale 1" = 60'



PROPOSED RIP-RAP - NYATT Rd. BARRINGTON RI. R. KILMARX.

EXHIBIT B



State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

File No. 81-12-3

Assent No. 2-Narragansett Bay-82

== ASSENT. ==

Whereas, ROBERT AND MARY KILMARX
of 56 Elm Lane, Barrington, RI 02806

has applied to the Coastal Resources Management Council for assent to repair existing concrete seawall

and hereby represents that they ~~is~~ are the owner(s) 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

repair and protect 285' of existing concrete seawall which is critically undermined, cracked and eroded, by shoring up undermined sections of wall with stone, filling eroded lawn area inland of the wall and protecting the seaward side of the wall against continuing wave action damage by a sloping riprap of 3-5 ton granite stones anchored 3 feet below the surface on Lot 70, Plat 5, Barrington, Rhode Island, on Lot 70, Plat 5.

in accordance with said plans submitted to this Council and approved by this Council. All work being permitted must be completed on or before January 15th 1985, after which date this assent is null and void, (UNLESS WRITTEN NOTICE REQUESTING AN EXTENSION IS RECEIVED BY CRMC SIXTY (60) DAYS PRIOR TO EXPIRATION DATE).

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 subject to the following stipulations:

(Stipulations set forth on reverse side) A. B. C. D. E.

In Witness Whereof, said Coastal Resources Management Council have hereto set their hands and seal this 15th day of January in the year nineteen hundred eighty-two.

 Chairman
Coastal Resources Management Council

USE THIS SPACE FOR ADDITIONAL DESCRIPTION OF WORK:

ASSENT SUBJECT TO STIPULATIONS CIRCLED:

A. Please be advised that as a further condition 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 pier facilities to prevent the dumping or discarding of refuse, sanitary wastes and other pollutants in the tidal waters, either from vessels docked at said pier facilities or from land adjacent thereto.

B. 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 hereof, after which time this permission shall terminate necessitating either complete removal, or a new application.

C. In accordance with a decision of the Coastal Resources Management Council on October 9, 1973, this Assent is granted with the proviso that it is subject to the imposition of a usage fee to be established by the Coastal Resources Management Council.

D. No work shall be done under this Assent until the required Federal Permit has been obtained.

E. Additional Stipulations.

A. Base stone of proposed riprap shall be buried to the MLW level. Beach materials excavated shall be placed in front of the toe of the structure, to protect this base from scour.

B. Both ends of the proposed wall shall be "feathered" out to beach grade so as to minimize erosion and scour at these end locations.

C. A suitable layer of crushed rock, quarry run, class "C" riprap or similar rocky, angular material shall be placed beneath the proposed riprap.

D. All beach materials to be excavated for the toe of the proposed wall shall remain on the beach and be graded fairly level in front of the proposed riprap.

E. The proposed riprap shall have a maximum slope of 1/1.

F. Riprap armor stone shall be durable, angular stone, of generally cubical or approx. equidimensional (neither breadth nor thickness shall be less than 1/3 the length) shape, with minimum unit weight of 165 lbs/cubic foot.

G. Weight of riprap armor stones shall be 3 to 5 ton.

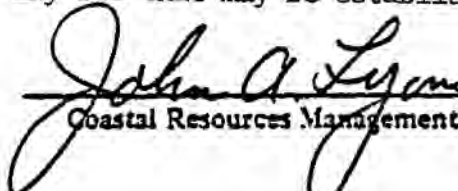
H. A sign or placque shall be placed at each end of the proposed riprap, to be clearly visible to the public, indicating that passage atop the riprap shall not be denied the public, per order of CRMC. Suitable language may be decided upon by the CRMC.

I. The riprap shall be constructed so that it will be readily passable by pedestrian traffic along the shore. Stone at ends of the wall may have to be arranged in a step fashion to accomplish this.

J. All backfilled areas shall be properly graded and seeded immediately after completion of work. A mix of commercially available seed is recommended consisting of 70% red fescue, 20% perennial rye grass, 10% colonial bent grass, variety 'astoria'.

K. After construction, all excess materials shall be removed from the site and disposed of in a suitable upland disposal site.

L. Applicant shall be aware that this work entails the placement of materials below the Mean High Water line and will be subject to any fee that may be established by the CRMC at a future date.


John A. Lyons Chairman
Coastal Resources Management Council

State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

ROOM 508, VETERANS MEMORIAL BUILDING
 83 PARK STREET, PROVIDENCE, R. I. 02903

Application for State Assent to perform work regulated by the provisions of Chapter 279 of the Public Laws of 1971, amended.

PLEASE TYPE OR PRINT		File No. <i>A-12-3</i>	Application Date December 3, 1981	
Location No. 56 Elm Lane	Street	City/Town Barrington		
Owner's Name Robert and Mary Kilmarx		Plat No. 5	Lot No. 70	
Address 56 Elm Lane, Barrington		Telephone No. 273-9000		
Contractor Roy Grinell Grinell-Phillips Corp.	Address Davisville, R. I.		Telephone No. 1-294-3827	
Name of Waterway Narragansett Bay	Estimated cost of Project \$15,000		\$35 ^{Fee}	
Have the extensions of riparian boundary lines been established to determine the area of riparian rights?			Yes	No
Proof of riparian ownership (written statement from tax assessor) N. A.				
Name and address of adjacent property owners whose property adjoins the waterway.				
Town of Barrington (Elm Lane adjoining to west);				
Mr./Mrs. Robert D. Usen, 69 Nayatt Road; Mr./Mrs. George West, 85 Nayatt Road				
Mr./Mrs. Andrew M. Hunt, 91 Nayatt Road				

Describe accurately the work proposed
 (Use additional sheets of paper if necessary and attach to this form.)

(attached)

Robert Kilmarx

Owner's Signature

Note: See reverse side-consult information booklet-application must be fully completed.

GENERAL LAWS OF RHODE ISLAND (1956) As Amended

Sec. 46-23-6. **POWER AND DUTIES.**-In order to properly manage coastal resources the council shall have the following powers and duties:

A. Planning and Management. The primary responsibility of the council shall be the continuing planning for and management of the resources of the state's coastal region. The council shall be able to make any studies of conditions, activities, or problems of the state's coastal region needed to carry out its responsibilities.

The resources management process shall include the following basic phases:

- a) Identify all of the state's coastal resources, water, submerged land, air space, fin fish, shellfish, minerals, physiographic features, and so forth.
- b) Evaluate these resources in terms of their quantity, quality, capability for use, and other key characteristics.
- c) Determine the current and potential uses of each resource.
- d) Determine the current and potential problems of each resource.
- e) Formulate plans and programs for the management of each resource, identifying permitted uses, locations, protection measures, and so forth.
- f) Carry out these resources management programs through implementing authority and coordination of state, federal, local, and private activities.
- g) Formulation of standards where these do not exist, and re-evaluation of existing standards.

An initial series of resources management activities shall be initiated through this basic process, then each phase shall continuously be recycled and used to modify the council's resources management programs and keep them current.

Planning and management programs shall be formulated in terms of the characteristics and needs of each resource or group of related resources. However, all plans and programs shall be developed around basic standards and criteria, including:

- a) The need and demand for various activities and their impact upon ecological systems.
- b) The degree of compatibility of various activities.
- c) The capability of coastal resources to support various activities.
- d) Water quality standards set by the department of health.
- e) Consideration of plans, studies, surveys, inventories, and so forth prepared by other public and private sources.
- f) Consideration of contiguous land uses and transportation facilities.
- g) Consistency with the state guide plan.

B. Implementation.-The council is authorized to formulate policies and plans and to adopt regulations necessary to implement its various management programs.

Any person, firm or governmental agency proposing any development or operation within, above, or beneath the tidal water below the mean high water mark, extending out to the extent of the state's jurisdiction in the territorial sea shall be required to demonstrate that its proposal would not (1) conflict with any resources management plan or program; (2) make any area unsuitable for any uses or activities to which it is allocated by resources management plan or program; or (3) significantly damage the environment of the coastal region. The council shall be authorized to approve, modify, set conditions for, or reject any such proposal.

The authority of the council over land areas (those areas above the mean high water mark) shall be limited to that necessary to carry out effective resources management programs. This shall be limited to the authority to approve, modify, set conditions for, or reject the design, location, construction, alteration, and operation of specified activities or land uses when these are related to a water area under the agency's jurisdiction, regardless of their actual location. The council's authority over these land uses and activities shall be limited to situations in which there is a reasonable probability of conflict with a plan or program for resources management or damage to the coastal environment. These uses and activities are:

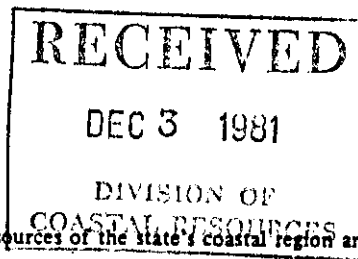
- a) Power generating and desalination plants.
- b) Chemical or petroleum processing, transfer, or storage.
- c) Minerals extraction.
- d) Shoreline protection facilities and geographical features.
- e) Intertidal salt marshes.
- f) Sewage treatment and disposal and solid waste disposal facilities.

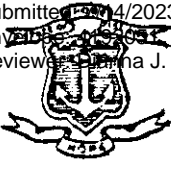
C. Coordination.-The council shall have the following coordinating powers and duties:

- a) Functioning as a binding arbitrator in any matter of dispute involving both the resources of the state's coastal region and the interests of two (2) or more municipalities or state agencies.
- b) Consulting and coordinating actions with local, state, regional, and federal agencies and private interests.
- c) Conducting or sponsoring coastal research.
- d) Advising the governor, the general assembly, and the public on coastal matters.

D. Operations.-The council shall be authorized to exercise the following operating functions, which are essential to management of coastal resources:

- a) Issue, modify or deny permits for any work in, above, or beneath the water areas under its jurisdiction, including conduct of any form of aquaculture.
- b) Issue, modify or deny permits for dredging, filling or any other physical alteration of intertidal salt marshes.
- c) Licensing the use of coastal resources which are held in trust by the state for all its citizens, and imposing fees for private use of such resources.
- d) Determining the need for and establishing pierhead, bulkhead, and harbor lines.
- e) Developing, leasing, and maintaining state piers and other state-owned property assigned to the agency by the department of natural resources, the governor, or the general assembly.
- f) Investigating complaints alleging violations of state laws or riparian rights in the state's tidal waters.





State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

File No. 81-12-3

Assent No. 2-Narragansett Bay-82

== ASSENT. ==

Whereas, ROBERT AND MARY KILMARX
of 56 Elm Lane, Barrington, RI 02806

has applied to the Coastal Resources Management Council for assent to repair existing concrete seawall

and hereby represents that they ~~is~~ are the owner(s) 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

repair and protect 285' of existing concrete seawall which is critically undermined, cracked and eroded, by shoring up undermined sections of wall with stone, filling eroded lawn area inland of the wall and protecting the seaward side of the wall against continuing wave action damage by a sloping riprap of 3-5 ton granite stones anchored 3 feet below the surface on Lot 70, Plat 5, Barrington, Rhode Island, on Lot 70, Plat 5.

in accordance with said plans submitted to this Council and approved by this Council. All work being permitted must be completed on or before January 15th 1985, after which date this assent is null and void, (UNLESS WRITTEN NOTICE REQUESTING AN EXTENSION IS RECEIVED BY CRMC SIXTY (60) DAYS PRIOR TO EXPIRATION DATE).

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 subject to the following stipulations:

(Stipulations set forth on reverse side) A. B. C. D. E.

In Witness Whereof, said Coastal Resources Management Council have hereto set their hands and seal this 15th day of January in the year nineteen hundred eighty-two.

Chairman
Coastal Resources Management Council

USE THIS SPACE FOR ADDITIONAL DESCRIPTION OF WORK:

ASSENT SUBJECT TO STIPULATIONS CIRCLED:

A. Please be advised that as a further condition 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 pier facilities to prevent the dumping or discarding of refuse, sanitary wastes and other pollutants in the tidal waters, either from vessels docked at said pier facilities or from land adjacent thereto.

B. 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 hereof, after which time this permission shall terminate necessitating either complete removal, or a new application.

C. In accordance with a decision of the Coastal Resources Management Council on October 9, 1973, this Assent is granted with the proviso that it is subject to the imposition of a usage fee to be established by the Coastal Resources Management Council.

D. No work shall be done under this Assent until the required Federal Permit has been obtained.

E. Additional Stipulations.

A. Base stone of proposed riprap shall be buried to the MLW level. Beach materials excavated shall be placed in front of the toe of the structure, to protect this base from scour.

B. Both ends of the proposed wall shall be "feathered" out to beach grade so as to minimize erosion and scour at these end locations.

C. A suitable layer of crushed rock, quarry run, class "C" riprap or similar rocky, angular material shall be placed beneath the proposed riprap.

D. All beach materials to be excavated for the toe of the proposed wall shall remain on the beach and be graded fairly level in front of the proposed riprap.

E. The proposed riprap shall have a maximum slope of 1/1.

F. Riprap armor stone shall be durable, angular stone, of generally cubical or approx. equidimensional (neither breadth nor thickness shall be less than 1/3 the length) shape, with minimum unit weight of 165 lbs/cubic foot.

G. Weight of riprap armor stones shall be 3 to 5 ton.

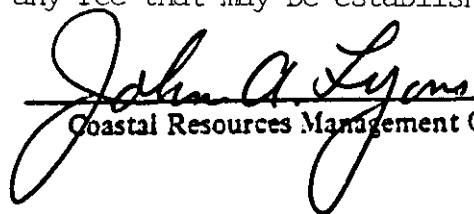
H. A sign or placque shall be placed at each end of the proposed riprap, to be clearly visible to the public, indicating that passage atop the riprap shall not be denied the public, per order of CRMC. Suitable language may be decided upon by the CRMC.

I. The riprap shall be constructed so that it will be readily passable by pedestrian traffic along the shore. Stone at ends of the wall may have to be arranged in a step fashion to accomplish this.

J. All backfilled areas shall be properly graded and seeded immediately after completion of work. A mix of commercially available seed is recommended consisting of 70% red fescue, 20% perennial rye grass, 10% colonial bent grass, variety 'astoria'.

K. After construction, all excess materials shall be removed from the site and disposed of in a suitable upland disposal site.

L. Applicant shall be aware that this work entails the placement of materials below the Mean High Water line and will be subject to any fee that may be established by the CRMC at a future date.

 Chairman
Coastal Resources Management Council

State of Rhode Island
INTER-DEPARTMENTAL COMMUNICATION

TO: Mr. John A. Lyons, Chairman
Coastal Resources Management Council
DEPT: Environmental Management

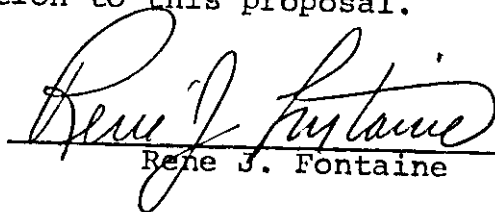
January 7, 1982

FROM: Rene J. Fontaine, Principal Planner
Statewide Planning Program
DEPT: Administration

SUBJECT: Robert and Mary Kilmarx (Application No. 81-12-3)

This proposal is not in direct accordance with Policy #5, Shore Region Section of the State Guide Plan; however, information received from the CRMC staff states that this proposal is necessary to preserve and protect the area in question.

We, therefore, offer no objection to this proposal.


Rene J. Fontaine

RJF/MTM/bam
cc: Dan Schatz

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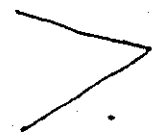
OFFICE REPORT

FILE NUMBER: 81-12-3	DATE OF REPORT:
NAME: KILMARX, ROBERT AND MARY	January 6, 1981

1. SITE DESCRIPTION CHARACTERISTICS:

- A. **Local Zoning:** RL-40, residential low
- B. **Existing Land Use:** Residential
- C. **Recreation Area & Jurisdiction:** N/A
- D. **Soil Type & Characteristics:** No wetlands appear on mapped information base
- E. **National Register of Historic Places:** N/A
- F. **Scenic Vista/Significant Natural Area:** N/A
- G. **Water Quality Classification/Standard:** SA
- I. **Slope:** Steep rise along shore to 10 foot contour; vertical wall in place.
- K. **Flood Hazard Designation:** A-11 flood zone; base flood elevation 14 ft MSL. see 6

2. PUBLIC INFRASTRUCTURE CHARACTERISTICS:

- A. **Public Water:** Available  not applicable to this proposal
- B. **Public Sewers:** Installed or to be installed
- C. **Transportation Facilities:** Local road
- D. **Harbor Lines:** Harbor and channel lines are not affected by this proposal.

PERMIT REQUIREMENTS :

- A. ISDS
- B. LOCAL BUILDING
- C. CORPS OF ENGINEERS
- D. OTHER LOCAL, STATE, FEDERAL

N/A	RECEIVED	OUTSTANDING
X		
X		
		X
X		

RHODE ISLAND COASTAL RESOURCES MANAGEMENT PROGRAM (RICRMP) :

A. Designations: Waters are classified Multiple Use; area shown as conditionally closed shellfish area.

B. Findings & Policies: Tidal Waters and Coastal Ponds 110.0-2
 Coastal Erosion 140.0-2

C. Previous Activities at Site:

1. Cease and Desist Orders: None on file

2. Assents: December 18, 1981, letter of no objection to backfill along the wall.

5. OTHER STATE POLICIES: The following State Guide Plan Policies apply:

SHORE REGION POLICY #2, subpolicy: Residential and recreational development in a form which makes the best use of scarce shorelines, which does not interfere with the public right of access to the shore, and which does not damage important natural areas or scenic vistas.

SHORE REGION POLICY #5: Prevent filling of coastal waters and wetlands except when necessary to the health or welfare of the people of the state, and there is no other alternative.

SHORE REGION POLICY #6: Protect selected areas from the effects of flooding and extreme tidal action; limit the intensity of development of unprotected areas.

- Reduce the effects of shoreline erosion through structures, plant materials, and control of the frequency and intensity of use.

OTHER PERTINENT INFORMATION: Revised flood maps propose site to be a V-21 flood zone; base flood elevation 19 feet MSL.

1. PRELIMINARY IMPACT ASSESSMENT, REGULATORY FINDINGS & RECOMMENDATIONS:

Proposal requests permission to place riprap in front of a badly deteriorated seawall. Riprap will extend out beyond mean high water along 285 ft ± of shoreline. The provisions of section 110.0-2 C 2, apply to these waters:

2. It shall be further demonstrated by reliable and probative evidence that the coastal resources are capable of supporting the proposed activity including the impacts and/or effects upon:
 - a. Circulation and flushing patterns;
 - b. Sediment deposition patterns;
 - c. Biological systems, including vegetation, shellfish and finfish resources, and wildlife habitat;
 - d. Aesthetic and/or recreational value;
 - e. Water quality;
 - f. Public access to and along the shore;
 - g. Erosion and flood hazards;
 - h. Runoff patterns;
 - i. Biological productivity

Section 110.0-2 D 6 also applies:

- a. Any person proposing to fill tidal waters shall apply for a Council permit.
- b. In addition to the general permit requirements and regulations listed under C above the applicant shall demonstrate:
 1. Some benefit to the general public;
 2. That there is no reasonable alternative means to achieve this public benefit.

The requirements of section 140.0-2 of the RICRMP apply to Erosion Control projects. Section 140.0-2 A favors non-structural controls; and section 140.0-2B established the following criteria for siting structural controls:

1. has a reasonable probability of controlling erosion on the immediate site,
2. that it will not significantly increase erosion to nearby areas by interrupting or cutting off supplies of sand to adjacent beaches, and
3. will not have a significant adverse impact on the environmental quality of the areas.

7. PRELIMINARY IMPACT ASSESSMENT, REGULATORY FINDINGS & RECOMMENDATIONS: (continued):

The site is not in a critical erosion area as defined by the Corps of Engineers and the RICRMP.

(The CRMC, on February 24, 1981, denied an application by Henry Wood(file 80-12-11) for a nearly identical proposal, with the exception being the less severely deteriorated condition of the seawall, Approx. 2,000 ft² of filling was proposed).

The staff engineer reports that the rock material is proposed to extend out to 6-8 feet beyond the base of the wall at the Kilmarx property. This wall is now below MHW, therefore filling of approx. 1700-2200 ft² is proposed.

**RHODE ISLAND COASTAL RESOURCES MANAGEMENT COUNCIL
 ENGINEER'S FIELD REPORT**

Date of Preparation December 23, 1981		File No. 81-12-3	Date of Application December 7, 1981
56 Elm Lane		Street	City/Town Barrington
Owner's Name Robert and Mary Kilmarx		Plat No. 5	Lot No. 70
Address 56 Elm Lane, Barrington, Rhode Island 02806		Telephone No. 273-9000	
Tractor Roy Grinnel	Address Davisville, RI		Telephone No. 294-3827
Names of Adjacent Waterways Narragansett Bay			

Nearest Utility Pole # _____

Project Type: Place 285' of sloping riprap against existing eroding & undermined vertical concrete seawall. Toe of both existing wall and proposed riprap is 2'-2½' below MHW.

Preapplication _____ CRMC Permit Application XX

Review for other agency _____ (specify _____)

Complaint _____ (specify _____)

Project completion follow up _____

Name(s) of investigator(s)

<u>Nick A. Pisani</u>	Date <u>12/1/81</u>	Time <u>2:30 p.m.</u>
_____	Date _____	Time _____
_____	Date _____	Time _____

1. Elevation of Proposed Activities:
 The toe of the existing wall in the area of proposed work is approximately 2 to 2½ below MHW. Wall has a top elevation of approximately 5½' to 6' above MHW. In back of the major portion of the length of the wall, the land is eroded to well below the top of the wall height. Land reaches the 8' MHW elevation at approx. 10'-20' past the top of wall. This is past the eroded area.

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CORRECTIONS

2. Corroboration of Application Engineering Drawings (distances, etc.):

Submitted plans are generally accurate. MHW elevation was noted and supplied by staff for the notice drawing.

3. Corroboration of Information in Office Report:

Not available

4. Geologic and Hydrologic Characteristics (note evidence of erosion):

Shore of this site is subject to moderate wave energy from a maximum southerly fetch of approximately 5 to 8 miles. Shore abuts a large embayment (Narragansett Bay). Wave action against the existing vertical concrete seawall has apparently eroded beach material from the shore in front of the wall, because the base of the wall presently exists at approximately the grade of the beach.

The shoreline at this site consists of cobble and boulder beach. Along most, if not all of the property, this beach is below the level of MHW. Backing this beach is a vertical concrete seawall. Presently, a large eroded area exists behind the wall. This eroded area is generally about 10'-20' wide and in one spot, even extends below the wall, being continuous with the beach in front of the wall.

A level to gently sloping residential lawn area exists in back of the eroded area. However, salt tolerant vegetation (according to CRMC biologist) was noted as occurring at a distance of up to 60' back from the top of the wall, apparently from wave splash action on the wall. A dwelling is situated well over 150' back from the shore at this site.

5. Shoreline Protection Facilities Present (describe):

The existing wall is a vertical concrete seawall, approx. 8' tall from base to top. Height of wall above MHW level is approx. 5½'-6'. Similar vertical concrete walls exist on lots both to the east and west of the site.

At the west end of the wall, some boulder riprap exists in front of the wall. Boulder and riprap material also front the wall to the west of this property.

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5. Photographs Taken (describe):

None.

7. Persons Present Other than Investigator (s):

L. Steere, (F & W, Biologist).

3. Summary of Information and Views Exchanged:

Site conditions were discussed. It was the staff opinion that a sloping riprap wall may reduce the splash over problem that this wall has created. Toe scour from wave reflection and deflection will likely be reduced by a sloping riprap structure.

Staff approval was granted to place rock material in the eroded area behind the seawall to prevent some of the washout from beneath the wall. Staff opinion was that staff would not recommend a removal of the existing wall to place riprap back from the wall for two reasons:

1. There may be the possibility of damage to the adjacent vertical seawalls both in the process and by having the newer wall slightly upland of the adjacent walls (probable end scour).

2. The process of wall destruction and proper disposal would likely be a significant cost increase to the project.

9. Recommendations:

Both the existing wall toe and the proposed riprap have toe elevations below the MHW level (both by approx. 2½-2'). However, the proposal extends rock material out to approx. 6'-8' beyond the base of the wall (6' with intersection with MHW, 8' with intersection with beach).

It is notable that this wall appears to be in a precarious state of stability. This is essentially due to toe scour which has apparently occurred from waves hitting the vertical wall and being deflecting both downward against the beach as well as upward and over the wall causing washout of soil behind the wall. This problem will likely continue unless some method to break up or divert this wave energy is used. The sloping riprap which the applicant has proposed is a commonly accepted method to accomplish this.

The applicant has addressed the question of passage above MHW to some degree. The applicant has proposed to create a 2' wide level area atop the proposed riprap for pedestrian access. The CRMC should stipulate some form of small sign or permanent placque on the wall to identify that the entire riprap wall is under the public domain for lateral access (or some similar language). The CRMC may wish to address other aspects of further infringement upon tidal waters.

From an engineering and environmental standpoint, and aside from the question of work in tidal water, there is no objection to the proposal provided that the following stipulations are followed:

A. Base stone of proposed riprap shall be buried to the MLW level. Beach materials excavated shall be placed in front of the toe of the structure, to protect this base from scour.

B. Both ends of the proposed wall shall be "feathered out" to beach grade so as to minimize erosion and scour at these end locations.

C. A suitable layer of crushed rock, quarry run, class "C" riprap or similar rocky, angular material shall be placed beneath the proposed riprap.

Signature

— CONTINUED —

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DIVISION OF
COASTAL RESOURCES

Recommendations (continued):

- D. All beach materials to be excavated for the toe of the proposed wall shall remain on the beach and be graded fairly level in front of the proposed riprap.
- E. The proposed riprap shall have a maximum slope of 1/1.
- F. Riprap armor stone shall be durable, angular stone, of generally cubical or approx. equidimensional (neither breadth nor thickness shall be less than 1/3 the length) shape, with minimum unit weight of 165 lbs/cubic foot.
- G. Weight of riprap armor stones shall be 3 to 5 ton.
- H. A sign or placque shall be placed at each end of the proposed riprap, to be clearly visible to the public, indicating that passage atop the riprap shall not be denied the public, per order of CRMC. Suitable language may be decided upon by the CRMC.
- I. The riprap shall be constructed so that it will be readily passable by pedestrian traffic along the shore. Stone at ends of the wall may have to be arranged in a step fashion to accomplish this.

Nicholas A. Pisani 1/5/82

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DIVISION OF
COASTAL RESOURCES

2

RHODE ISLAND COASTAL RESOURCES MANAGEMENT COUNCIL

BIOLOGIST'S FIELD REPORT

Date of Preparation December 22, 1981	File No. 81-12-3	Date of Application December 7, 1981
56 Elm Lane Street	City/Town Barrington	
Owner's Name Robert & Mary Kilmarx	Plat No. 5	Lot No. 70
Address 56 Elm Lane; Barrington, RI 02806	Telephone No.	
Contractor	Address	Telephone No.

Names of Adjacent Waterways
Narragansett Bay

Nearest Utility Pole # _____

Project Type: **Repair & protect ±285 feet of existing concrete seawall by placing armor stone against the seaward side of the wall; filling eroded lawn area.**

Reapplication _____ CRMC Permit Application **XX**

Review for other agency _____ (specify _____)

Complaint _____ (specify _____)

Project completion follow up _____

Name (s) of investigator (s)
Linda Steere

Inspection Date December 1, 1981	Time 2:30 pm
Date _____	Time _____
Date _____	Time _____

Ecosystem Types

Shoreline Type: cliff _____ scarp _____ ledge _____ boulder beach _____
sand beach _____ mudflat _____ salt marsh _____
brackish marsh _____ freshwater marsh _____
cobble beach **XX** other **Concrete seawall**

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CONSULTANT

Water type: Narragansett Bay (specify where) Narragansett Bay

Other estuary (specify) _____ Sounds _____ Salt pond _____

Freshwater pond _____ Stream or river (specify) _____

Inland features: dune _____ woodland _____ open land XX

Comments: Site is located in the Nyatt Point section of Barrington,
south of Nyatt Road, east of Elm Lane.

2. Salt Marsh Vegetation Present: ---NONE---

Spartina alterniflora _____ Spartina patens _____ Spartina pectinata _____

Juncus gerardi _____ Limonium carolinianum _____ Distichlis spicata _____

Salicornia spp. _____ Phragmites communis _____ Typha angustifolia _____

Typha latifolia _____ Eleocharis rostellata _____ Scirpus americanus _____

Iva frutescens _____ Agrostis palustris _____ Hierochloa odorata _____

Elymus virginicus _____ Scirpus spp. _____ Other _____

3. Significant Environmental Features (biological, hydrological, geological):

Upland lawn portions of this property are bordered by an eroded, concrete
seawall which abuts Narragansett Bay. Many sections of upland directly
adjacent to the wall have been washed out. Small vegetative patches of
Spartina patens along the crest of the wall indicate the tremendous amount

4. Existing Land and Water Uses (note degree of development): of overwash.

The surrounding upland supports a low to medium density residential
development. Waters are closed to shellfishing although beds of Hard
and Soft Clam are found offshore. Much commercial and recreational boating
use is made of this areas waters.

5. Corroboration of Information in Office Report: Not available

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CLERK OF
COURT

6. Comments on Adjacent Activities Under CRMC Jurisdiction:

None, however, Mr. Kilmarx was recently sent a Letter of No Objection to backfill the areas along the seawall that have washed out.

7. Comments on Work in Progress:

None at the time of the site inspection.

8. Samples Taken, Tests Performed (note specific location, tide, weather, etc.)

Rough measurements were taken to verify site plan

9. Photographs Taken (describe):

None

10. Person(s) Present Other Than Investigator(s):

Nick Pisani--Engineer, Division of Coastal Resources

11. Summary of Information and Views Exchanged:

Condition of seawall and adjacent upland.

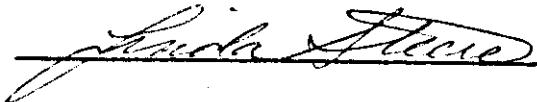
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CORRECTIVE INSTITUTIONS

12. Recommendations:

There are no biological objections to the proposed sloping rip-rap seaward of the existing seawall due to the severity of the erosion of the existing wall. Conditions of the site would not support non-structural erosional controls in my estimation. The applicant should:

- 1) Toe in the proposed rip-rap to a depth equal to MLW or as stipulated by the Staff Engineer.
- 2) Sufficient filler stone shall be placed behind the 3-5 ton armor stone as stipulated in the site plan.
- 3) All backfilled areas shall be properly graded and seeded immediately after completion of work.
A mix of commercially available seed is recommended consisting of
70% red fescue
20% perennial rye grass
10% colonial bent grass, variety 'astoria'
- 4) After construction, all excess materials shall be removed from the site and disposed of in a suitable upland disposal site.
- 5) This application will also require U.S. Army Corps approval.

Signature(s):



December 23, 1981

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DIVISION OF
COASTAL MANAGEMENT

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Kilmar



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

HISTORICAL PRESERVATION COMMISSION

Old State House
150 Benefit Street
Providence, R.I. 02903
(401) 277-2678

PROJECT: 81-12-3
LOCATION: Barrington
DATE: December 9, 1981

Mr. John Lyons, Chairman
Coastal Resources Management Council
60 Davis Street
Providence, Rhode Island 02908

Dear Mr. Lyons:

This office has reviewed plans for the above-referenced project in accordance with Section 450 of the Coastal Resources Management Plan:

- The proposed project will have no effect on historic or archeological properties on or eligible for the National Register of Historic Places. In accordance with the Coastal Resources Management Plan the project may proceed without further consideration of historic and archeological properties.
- The proposed project will affect significant historic properties as described below in "Site Specific Comments," and there is a reasonable probability that the effect will be adverse. In accordance with the Coastal Resources Management Plan the Council should require modification of, or prohibit the project to avoid or mitigate the identified adverse effect. Suggested modifications, if appropriate, are listed below in "Site Specific Comments."
- A field inspection of the project area revealed the cultural materials or other information described in "Site Specific Comments" below, which establishes a reasonable probability that significant archeological resources may be adversely affected by the proposed project. In accordance with the Coastal Resources Management Plan the Council should require modification of, or prohibit the project to avoid or mitigate the adverse effect, based on the results of additional investigations. Prior to issuance of a permit, this office recommends that the Council conduct a survey to determine the presence and disposition of archeological properties in the project area, and devise a program to avoid or mitigate the impact of the project upon significant archeological resources should they be found.

Eric Hartfelder
Deputy State Historic Preservation Officer

SITE SPECIFIC COMMENTS:

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DIVISION OF
COASTAL RESOURCES

DAVIS, JENCKES & KILMARX

ONE HOSPITAL TRUST PLAZA
PROVIDENCE, RHODE ISLAND 02903

ERNEST A. JENCKES
ANDREW H. DAVIS, JR.
ROBERT D. KILMARX
HENRY M. SWAN

LAW OFFICES
FOURTEENTH FLOOR
401/273-9000

November 4, 1981

Mr. John A. Lyons, Chairman
Coastal Resources Management Counsel
60 Davis Street
Providence, Rhode Island 02908

Dear John:

Confirming our phone conversation, Mary's and my residential lot on Nayatt Point in Barrington is bounded on the South by Narragansett Bay from which it is protected by a long-standing concrete seawall constructed many years ago. The lot location is shown on the attached sketch and the seawall is shown in the enclosed copy of a blueprint prepared, I believe, around 1950.

Over the years the seawall has been gradually deteriorating and is now in a serious state of disrepair, seriously cracked, undermined in one location, and greatly eroded on the land side. Several engineers and contractors have advised that the only way to save the wall and prevent further erosion of the land is to reenforce it on the water side with granite rip rap as shown in the enclosed sketch prepared last year by Wallace Burdick. He has since moved from Rhode Island, but the project has been accepted by Roy Grinnell of Grinnell-Phillips at Davisville (739-6170).

We are anxious to proceed with the repair and re-enforcement as quickly as possible before the next major southerly storm, and will therefore appreciate anything that can be done to expedite approval of the work.

Would you kindly advise how we should proceed to obtain the necessary approval from your office and what additional information is required.

Sincerely,



RDK:jmt

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DIVISION OF
COASTAL RESOURCES

DAVIS, JENCKES & KILMARX

ONE HOSPITAL TRUST PLAZA
PROVIDENCE, RHODE ISLAND 02903

ERNEST A. JENCKES
ANDREW H. DAVIS, JR.
ROBERT D. KILMARX
HENRY M. SWAN

LAW OFFICES
FOURTEENTH FLOOR
401/273-9000

December 3, 1981

Coastal Resources Management Council
60 Davis Street
Providence, Rhode Island 02903

Attention: Mr. Pisani

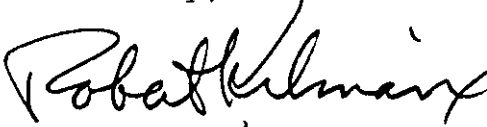
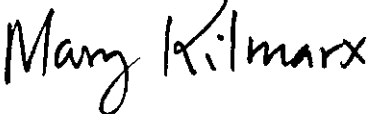
Dear Mr. Pisani:

Attached is our application for permission to effect essential repairs and protection of the existing seawall on our Nayatt Point, Barrington property.

Since the seawall is in a critical condition and in danger of collapse from undermining erosion and storm pressure, we also seek emergency permission to forthwith place supporting stones under the wall in the undermined areas to provide temporary protection against further erosion and storms during the application review period and pending approval and completion of the total project.

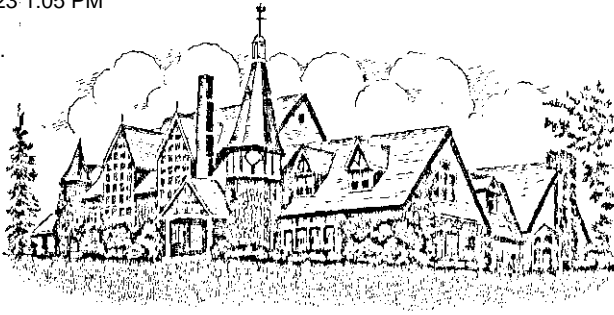
We shall very much appreciate your approval response to this special request as soon as possible.

Sincerely,

RDK:jmt

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DIVISION OF
COASTAL RESOURCES



TAX ASSESSOR

**TOWN OF BARRINGTON
RHODE ISLAND**

02806
TEL. 401-245-3103

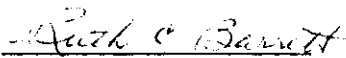
December 3, 1981

TO WHOM IT MAY CONCERN:

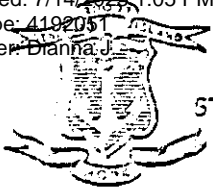
This is to verify ownership of property on 56 Elm Lane in the Town of Barrington, Rhode Island.

Assessor's Plat 5, Lot 70 is owned by and taxed to Robert D. & Mary N. Kilmarx as tenants by Entirety.

The property is assessed for 160,400.


Ruth C. Barrett
Assessing Clerk

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DIVISION OF
COASTAL RESOURCES



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

30 Davis Street
Providence, R.I. 02908

18 December 1981

Mr. Robert Kilmarx
56 Elm Lane
Barrington, R.I. 02806

RE: Placement of backfill behind eroded area of wall on applicants property
Plat 5, Lot 70 Elm Lane, Barrington, R.I.

Dear Mr. Kilmarx:

A site inspection and review of plans submitted to this office for the above cited project indicate it will have no adverse effect on the plan and program adopted by the Coastal Resources Management Council.

The Coastal Resources Management Council will interpose no objection to the work proposed, as long as all work is done in accordance with plans submitted to this office and provided the following stipulations are adhered to:

- (A) Rock chips or similar large graded material shall be used as backfill.
- (B) No materials shall be placed seaward of the wall.
- (C) Any and all areas of the property that are disturbed during construction are restored with suitable vegetative cover immediately following completion of work.
- (D) Plans for any future alteration of the shoreline or construction or alteration within the 200' zone of CRMC jurisdiction should be submitted to the CRMC for review prior to commencing such activity.
- (E) All local ordinances and regulations must be complied with.

Please be advised that all work must be completed within one year of the date of this letter.

The Coastal Resources Management Council wishes to thank you for being given the opportunity to assess and review these plans. If you need additional information, please feel free to contact this office.

Very truly yours,

A handwritten signature in cursive script that reads "John A. Lyons".

John A. Lyons, Chairman
Coastal Resources Management Council

JAL/drc

APPLICANT'S NAME: MILMEX

RECOMMENDATIONS: RE: Portion of application 81-12-3 which deals with backfill of eroded area behind wall. There is no engineering objection to this work and no conflict with the RICRMP, provided that:

- (A) Rock chips or similar large graded material ^{shall} be used as backfill.
- (B) No materials shall be placed seaward of the wall.

Inspector's Signature and Date:

Nicholas A. Pisani 12/15/01

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DIVISION OF
COASTAL RESOURCES

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

INTER-OFFICE MEMO

TO: John Lyons, Jim Beattie

DATE: December 8, 1981

DEPT: CRMC, DEM-Division of Coastal Resources

FROM: Linda Steere, Wildlife Biologist *ect.*

DEPT: DEM-Division of Fish & Wildlife

SUBJECT: Pre-application for Bob Kilmarx for construction of a rip-rap reinforcement of an existing concrete seawall at 56 Elm Lane, Barrington, RI (Plat 5, Lot 70)

A field inspection on December 1, 1981 to the above site was made with Nick Pisani, Engineer for the Division of Coastal Resources. Mr. Kilmarx proposes to structurally stabilize the existing wall by the placement of granite rip-rap along the seaward side of the wall. The existing wall is approximately 430 feet in length.

Upland sections of the property are grassy, sloping toward the shoreline. Many sections of the upland directly adjacent to the existing concrete wall have been washed out, exposing gravel and normally covered sections of the seawall. One section to the east has washed out all soils right down to the toe of the wall.

Measurements indicate that the wall is approximately 8 feet in height, and is 1½ to 2 feet below MHW. Severe deterioration was observed along the 430 foot length of the seawall. Patches of Salt Marsh Hay (Spartina patens) along the crest of the seawall tend to indicate that this area receives a lot of overwash.

It is recommended that this proposed rip-rap project be required to undergo formal application procedures because of the scope and need to place rip-rap below MHW (CRMP, Sections 110.0-2, 140.0-2).



DIVISION OF COASTAL RESOURCES

STAFF SUMMARY REPORT

FILE NO: 81-12-3
APPLICANT'S NAME: KILMARX, ROBERT AND MARY

PREPARATION DATE:
January 6, 1982

A. STAFF ENGINEER'S FIELD REPORT:

1. Toe of the existing wall in the area of proposed work is approximately 2 to 2½ feet below Mean High Water.
2. The land is eroded behind the 8ft vertical concrete wall.
3. Shoreline is exposed to moderate wave energy from a southerly fetch; similar walls exists on adjacent lots to east and west.
4. Some boulder riprap exists in front of the wall.
5. Toe scour will likely be reduced by a sloping riprap structure.
6. Removal of wall and replacement with sloped riprap may damage adjacent walls, and would be costly.
7. Wall appears to be in a precarious state of stability due to toe scour.
8. Rock material is proposed to extend out 6 to 8 feet beyond base of wall.
9. No engineering objections with stipulations.

B. STAFF BIOLOGIST'S FIELD REPORT:

1. Shoreline type is a cobble beach and concrete seawall.
2. Indications are there is a tremendous amount of overwash.
3. Upland supports low to medium density residential development.
4. Waters are closed to shellfishing.
5. Site will not support non-structural erosion controls.
6. No biological objections, with stipulations.

C. STATEWIDE PLANNING PROGRAM CERTIFICATION:

Not on file.

KILMARX, ROBERT AND MARY

FILE NO: 81-12-3

APPLICANT'S NAME:

D. WATER QUALITY CERTIFICATION:

Not on file.

E. HISTORIC PRESERVATION COMMISSION REVIEW:

1. The proposed project will have no effect on historic or archeological resources

F. COASTAL RESOURCES MANAGEMENT PROGRAM POLICIES AND REGULATIONS:

1. Tidal Waters and Coastal Ponds section 110.0-2
2. Coastal Erosion 140.0-2

G. OTHER REPORTS AND COMMENTS:

1. November 4, 1981, letter requesting approval from the applicant.
2. December 3, 1981, request for emergency repairs to the wall.
3. December 3, 1981, verification of ownership to town assessing clerk.
4. December 8, 1981, interoffice memo from staff biologist recommending formal application procedures.
5. December 15, 1981, staff engineer's memo regarding backfill for wall.
6. December 18, 1981, letter of no objection to perform the backfill work.

APPLICANT'S NAME:

KILMARX, Robert and Mary

FILE NO: 81-12-3

H. OFFICE REPORT:

1. The area is zoned residential low and is in residential use.
2. The site is in an area proposed by the Flood Insurance rate maps to be a velocity zone with a flood elevation of 19 feet MSL.
3. The waters are classified for Multiple Use by the RICRMP; section 110.0-2 D 2 applies to the deposition of fill in Multiple Use Waters.
4. Section 110.0-D6 of the RICRMP applies to the filling of tidal waters.
5. Section 140.0-2 pertains to placement of shoreline protection facilities for erosion control.
6. Proposal is for 1700-2200 ft² of riprap to be placed below MHW.

I. STAFF PLANNER'S REPORT:

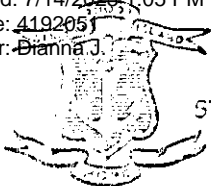
There are no certification on file from the Statewide Planning Program nor the Division of Water Resources. Telecons on 1/6/82 determined that said certifications were forthcoming. It is recommended that no assent be issued prior to receipt of these certifications.

This proposal involves the placement of riprap material seaward of an existing, deteriorating seawall. Because the toe of the existing wall is below Mean High Water, the placement of the riprap material constitutes a filling of an area approximately 1700 to 2200 square feet of tidal waters. The provisions of the RICRMP, section 110.0-2 D 6 especially apply to this project (ref. Office Report).

The staff field reports dismiss the possibility of nonstructural controls along this shoreline, as favored by section 140.0-2 of the RICRMP.

It is recommended that the burdens of section 110.0-2 be met by the applicant. If an Assent is granted, the Council should consider some form of recompensating the public for bottom lands taken to protect the applicant's property.

The staff engineering and biologist's field reports offer site impact mitigation, lateral access protection, and structural stipulations that are recommended to be attached to any assent issued for this proposal.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL

60 Davis Street
Providence, R.I. 02903

18 December 1981

Mr. Robert Kilmarx
56 Elm Lane
Barrington, R.I. 02806

RE: Placement of backfill behind eroded area of wall on applicants property
Plat 5, Lot 70 Elm Lane, Barrington, R.I.

Dear Mr. Kilmarx:

A site inspection and review of plans submitted to this office for the above cited project indicate it will have no adverse effect on the plan and program adopted by the Coastal Resources Management Council.

The Coastal Resources Management Council will interpose no objection to the work proposed, as long as all work is done in accordance with plans submitted to this office and provided the following stipulations are adhered to:

- (A) Rock chips or similar large graded material shall be used as backfill.
- (B) No materials shall be placed seaward of the wall.
- (C) Any and all areas of the property that are disturbed during construction are restored with suitable vegetative cover immediately following completion of work.
- (D) Plans for any future alteration of the shoreline or construction or alteration within the 200' zone of CRMC jurisdiction should be submitted to the CRMC for review prior to commencing such activity.
- (E) All local ordinances and regulations must be complied with.

Please be advised that all work must be completed within one year of the date of this letter.

The Coastal Resources Management Council wishes to thank you for being given the opportunity to assess and review these plans. If you need additional information, please feel free to contact this office.

Very truly yours,

A handwritten signature in cursive script that reads "John A. Lyons".

John A. Lyons, Chairman
Coastal Resources Management Council

JAL/drc

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DEC 3 1981
DIVISION OF
COASTAL RESOURCES

PA 2023-01199
To: Mr. Justice
From: Mr. Justice

SPAIR 13
A WALL ON
A TYPICAL

CLARENCE
LAW

DN, B. E.

1008

CEPER

Handwritten notes and signatures, including a large signature at the bottom right and various scribbles and markings throughout the page.

Case Number: PC-2023-01199
Filed in Providence/Bristol County Superior Court
Submitted: 7/14/2023 1:05 PM
Envelope: 4192051
Reviewer: Dianna J.



PROPOSED REPAIR
TO PLACE GRANITE
RIP RAP IN FRONT OF
EXISTING CONCRETE
WALL

HOUSE

CEP'S
TRAIL

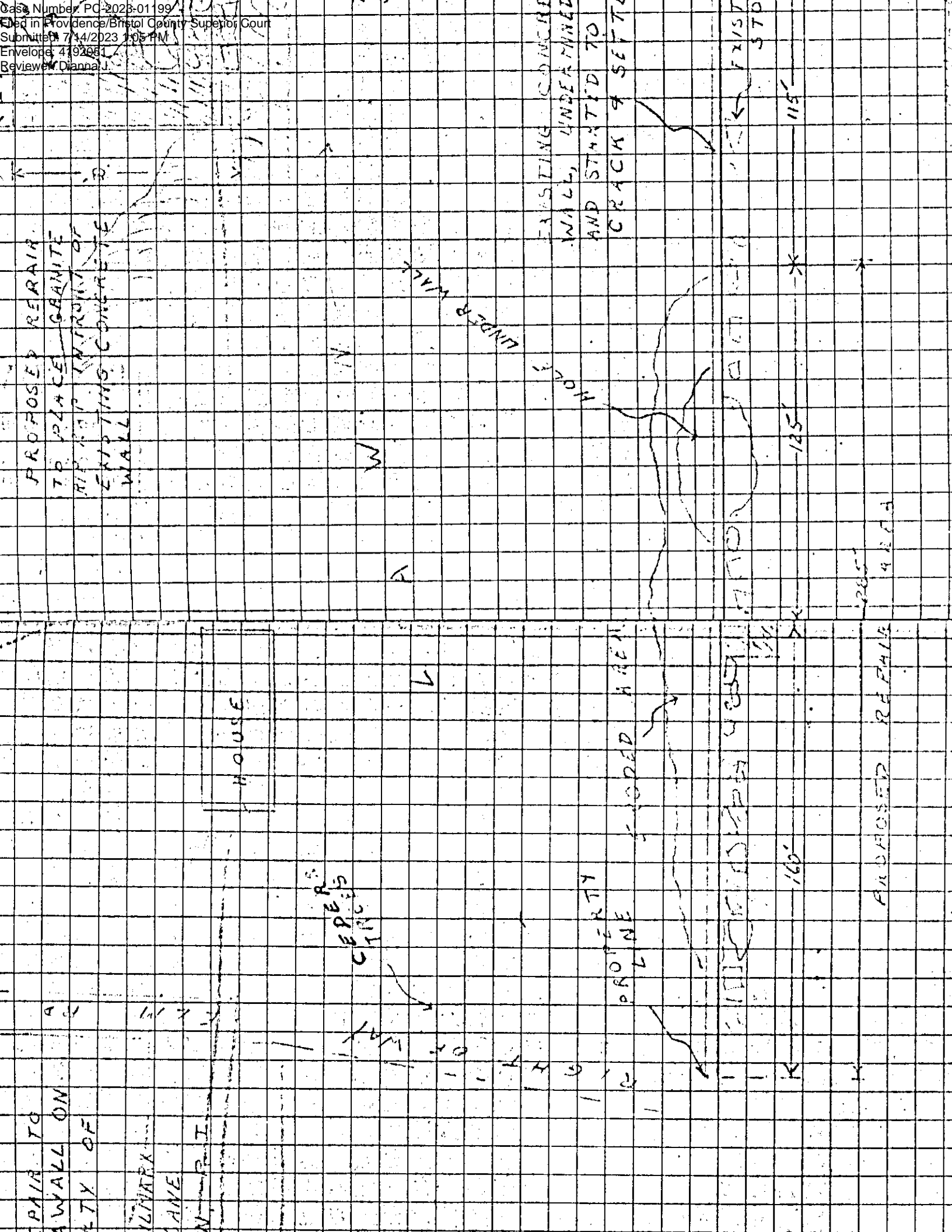
PROPERTY
PRONE
TO
FLOODING

UNDER
WALK

EXISTING CONCRETE
WALL, UNDERMINED
AND STARTED TO
CRACK & SETTLE

EXISTING
FOUNDATION

PROPOSED REPAIR AREA



Case Number: PC-2023-01199
Filed in Providence/Bristol County Superior Court
Submitted: 7/14/2023 1:05 PM
Envelope: 4192051
Reviewer: Dianna J.

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DIVISION
COASTAL RESC

Coastal Resources Management Council
Commencement of Work Notice

Name **ROBERT + MAEY KILMAREX**
File No. **81-12-3** Assent No. **2-MAR.SAY-82** Date Issued **1-15-82**

Date work begun: **MARCH 8, 1983**
Estimated Completion date: **APRIL 1, 1983**
Contractor: **WALLACE E. BURDICK
CHARLESTOWN, R.I.**

Inspected by: _____ Date: _____



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MAR 10 1983
DIVISION OF
COASTAL RESOURCES

**Coastal Resources Management Council
60 Davis Street
Providence, R. I. 02908**

State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

60 Davis Street, Providence, R.I. 02908

AMENDED NOTICE

FILE NUMBER: 81-12-3 DATE: December 7, 1981

~~This office has under consideration the application of:~~

ROBERT AND MARY KILMARX
56 ELM LANE
BARRINGTON, RI 02806

~~for a State of Rhode Island assent to construct and maintain~~ repair and protect 285' + of existing concrete seawall which is critically undermined, cracked and eroded, by shoring up undermined sections of wall with stone, filling eroded lawn area inland of the wall and protecting the seaward side of wall against continuing wave action damage by a sloping riprap of 3-5 ton granite stones anchored 3 feet below the surface.

Project Location: --

Street & Number: 56 Elm Lane

Pole Number: -- City/Town: Barrington

Plat Number: 5 Lot Number(s): 70

Block Number: -- ISDS Number: --

Waterway: Narragansett Bay

Plans of the proposed work may be seen at this office and at the clerk's Office, of City/Town of:
Barrington, Rhode Island

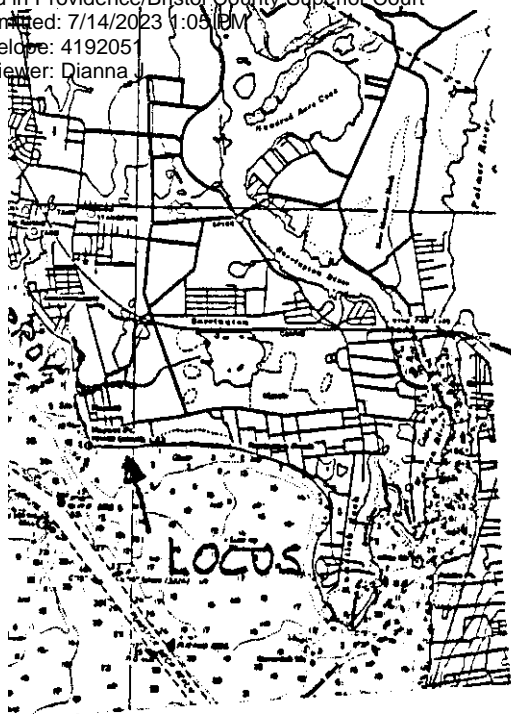
In accordance with the Administrative Procedures Act (Chapter 42-35 of the Rhode Island General Laws) you may request a hearing on this matter.

You are advised that if you have good reason to enter protests against the proposed work it is your privilege to do so. It is expected that objectors will review the application and plans thoroughly, visit site of proposed work if necessary, to familiarize themselves with the conditions and cite what law or laws, if any, would in their opinion be violated by the work proposed.

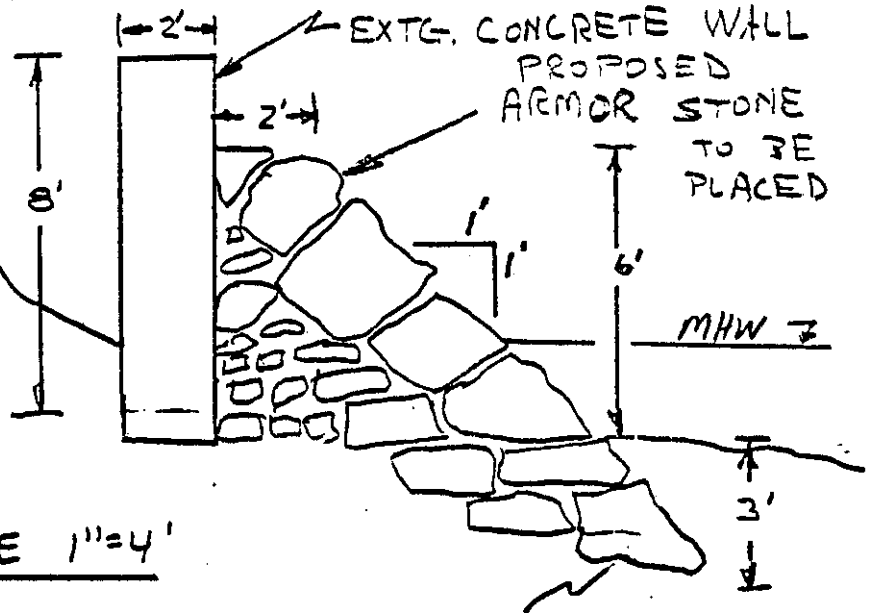
If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing and be received at this office on or before January 7, 1982.

KILMARX

NAYATT RD., BARRING



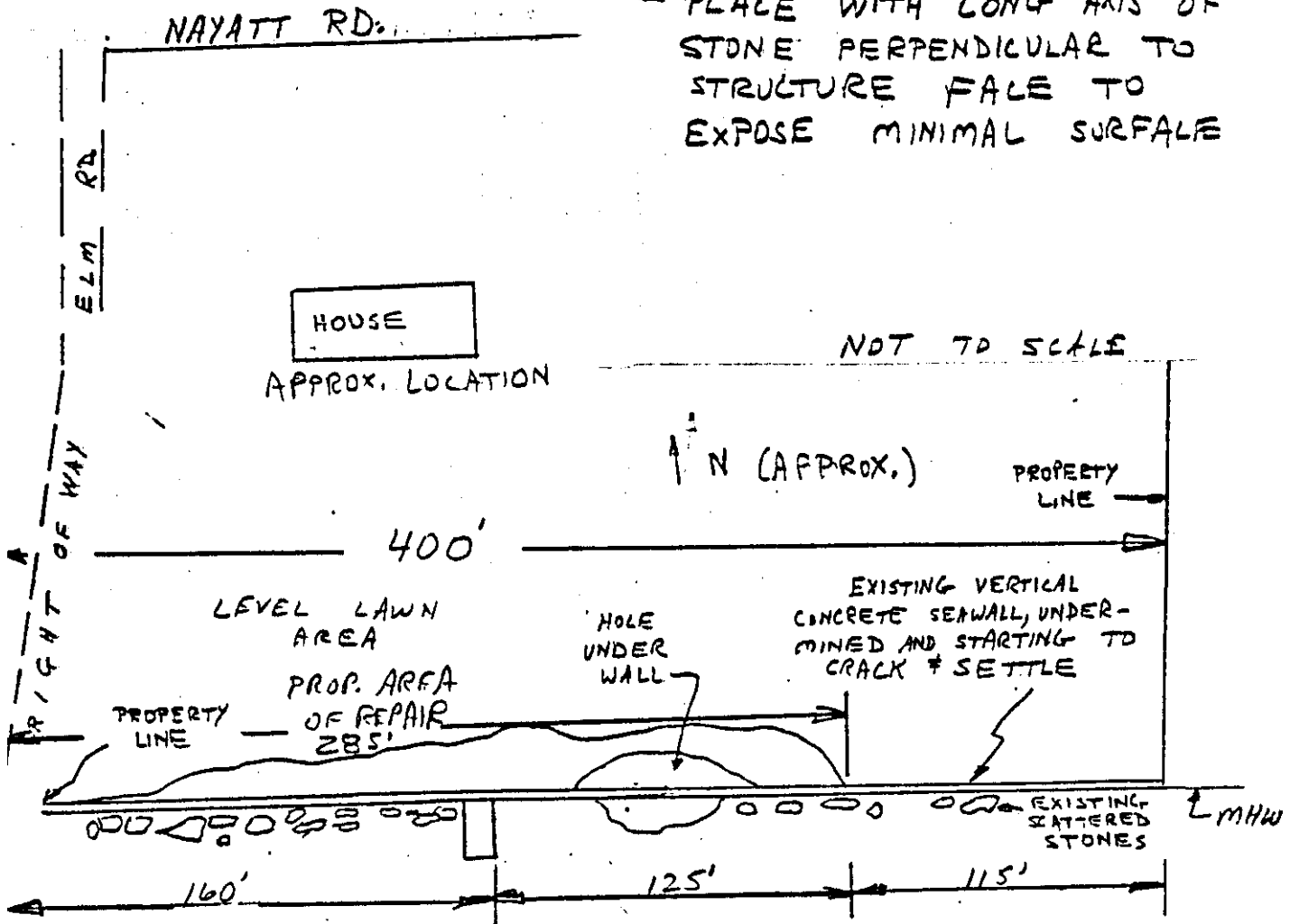
ERODED AREA



SCALE 1"=4'

- TOE STONE 3' BELOW BEACH SURFACE

- USE 3 to 5 TON ARMOR STONE
- PLACE WITH LONG AXIS OF STONE PERPENDICULAR TO STRUCTURE FACE TO EXPOSE MINIMAL SURFACE



NOT TO SCALE

N (APPROX.)

PROPERTY LINE

HOUSE

APPROX. LOCATION

NAYATT RD.

ELM RD.

RIGHT OF WAY

400'

LEVEL LAWN AREA

PROP. AREA OF REPAIR 285'

HOLE UNDER WALL

EXISTING VERTICAL CONCRETE SEAWALL, UNDERMINED AND STARTING TO CRACK & SETTLE

EXISTING SCATTERED STONES

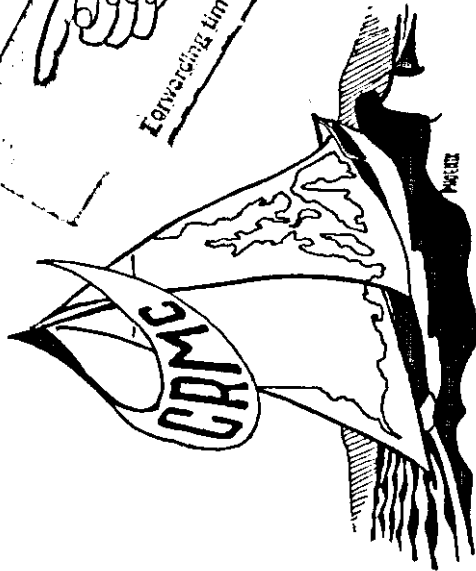
MHW

160'

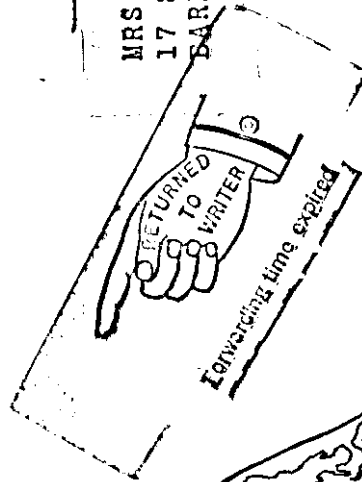
125'

115'

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL
60 Davis Street
Providence, R.I. 02908



~~MRS. MARY R. SELKE
17 STONE TOWER LANE
BARRINGTON, R.I. 02806~~



Walter
File in
Kelmait
81-12-3

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DEC 11 1981
DIVISION OF
COASTAL RESOURCES


1045

ROBERT D. KILMARX
1420 HOSPITAL TRUST TOWER
PROVIDENCE, R.I. 02903

Dec. 3 19 81 57-1
1150

PAY TO THE ORDER OF Coastal Resources Management Council \$ 35⁰⁰

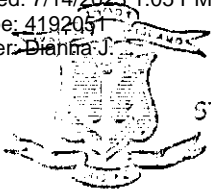
Thirty Five and 00/100 DOLLARS

 INDUSTRIAL NATIONAL BANK
PROVIDENCE, RHODE ISLAND

MEMO Relig Fee Robert D Kilmarx

⑆0115000101⑆ 15 1669878 1045

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DIVISION OF
COASTAL RESOURCES



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COASTAL RESOURCES MANAGEMENT COUNCIL
60 Davis Street
Providence, R.I. 02903

18 December 1981

Mr. Robert Kilmarx
56 Elm Lane
Barrington, R.I. 02806

RE: Placement of backfill behind eroded area of wall on applicants property
Plat 5, Lot 70 Elm Lane, Barrington, R.I.

Dear Mr. Kilmarx:

A site inspection and review of plans submitted to this office for the above cited project indicate it will have no adverse effect on the plan and program adopted by the Coastal Resources Management Council.

The Coastal Resources Management Council will interpose no objection to the work proposed, as long as all work is done in accordance with plans submitted to this office and provided the following stipulations are adhered to:

- (A) Rock chips or similar large graded material shall be used as backfill.
- (B) No materials shall be placed seaward of the wall.
- (C) Any and all areas of the property that are disturbed during construction are restored with suitable vegetative cover immediately following completion of work.
- (D) Plans for any future alteration of the shoreline or construction or alteration within the 200' zone of CRMC jurisdiction should be submitted to the CRMC for review prior to commencing such activity.
- (E) All local ordinances and regulations must be complied with.

Please be advised that all work must be completed within one year of the date of this letter.

The Coastal Resources Management Council wishes to thank you for being given the opportunity to assess and review these plans. If you need additional information, please feel free to contact this office.

Very truly yours,

Handwritten signature of John A. Lyons in cursive script.

John A. Lyons, Chairman
Coastal Resources Management Council

JAL/drc

RECOMMENDATIONS:

On 1/8/82 I revisited this site with J. Beattie & J. Lyons, prior to semi-monthly meeting. Area of work below MHW was observed & discussed.

Inspector's Signature and Date:

M. A. Pizani 1/28/82

RECEIVED
JAN 28 1982
DIVISION OF
COASTAL RESOURCES

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
INTER-OFFICE MEMO

TO : James T. Beattie, Chief
DEPT : Division of Coastal Resources
Environmental Management

DATE: 8 January 1982

FROM : James W. Fester, Chief
DEPT : Division of Water Resources
Environmental Management

FILE NO: 81-12-3
Barrington

SUBJECT: Application of Robert & Mary Kilmarx for an assent to construct a
riprap wall in front of an existing deteriorated concrete seawall
at 56 Elm Lane, Barrington, Rhode Island and to fill in an eroded
area on the landward side of the wall.

We have reviewed the subject application. The waters in the area
are classified SA.

It is our opinion said project will not violate applicable water
quality criteria for the area provided that material used for fill is
clean, free of matter which could cause pollution of the waters of the
State.

This is the State's water quality certification for this project.

JWF:PHA:sjc

cc: Frank Geremia

RECEIVED
JAN 15 10R2
DIVISION OF
COASTAL RESOURCES



DEPARTMENT OF THE ARMY
NEW ENGLAND DIVISION, CORPS OF ENGINEERS
424 TRAPELO ROAD
WALTHAM, MASSACHUSETTS 02254

REPLY TO
ATTENTION OF:

NEDOD-R-14-81-701C

PUBLIC NOTICE

8 April 1982

Mr. Robert D. Kilmarx, 56 Elm Lane, Barrington, Rhode Island 02806

has requested a permit under:

- (X) Section 10 of the River and Harbor Act of 1899.
- (X) Section 404 of the Clean Water Act.
- () Section 103 of the Marine, Protection, Research and Sanctuaries Act of 1972.

to: place and maintain riprap below the high tide line along 285 linear feet of an existing deteriorated concrete seawall in Narragansett Bay at Barrington, Rhode Island as shown on the attached plans. Approximately 255 cubic yards of riprap will be placed on a 1:1 slope extending an average of 8' beyond the existing seawall. 95 cubic yards of material will be excavated by clamshell to allow for the placement of the riprap, and be disposed of in a 4' x 285' area in front and adjacent to the proposed riprap. A 20' x 110' eroded area behind the existing seawall will be filled with approximately 65 cubic yards of clean granular fill below the high tide line. The project will restore the property to its original condition and prevent any further erosion.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted to us in writing by 10 May 1982. If you need additional information, please contact Mr. David Baker at the above address or by phone at 617-894-2400, extension 673. You may use our toll free line 1-800-343-4789 (use 1-800-362-4367 if calling from within Massachusetts).

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Sincerely,

Raymond Francisco

RAYMOND FRANCISCO
Chief, Processing Section
Regulatory Branch
Operations Division

SEE REVERSE SIDE FOR
DETAILS OF EVALUATION
FACTORS

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the people.

The evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of: Section 404(b) of the Clean Water Act., and/or Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972 as amended.

Based on experience with similar activities performed in the past, the Division Engineer has made a preliminary determination that an Environmental Impact Statement is not required under provisions of the National Environmental Policy Act of 1969.

Based on his initial review, the Division Engineer has determined that little likelihood exists for the proposed work to impinge upon properties listed in or eligible for listing in the National Register of Historic Places and no further consideration of the requirements of the Preservation of Historical and Archeological Data Act of 1974 is necessary. This determination is based on one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties or properties listed as being eligible for inclusion therein are in the permit area or general vicinity.

Presently unknown archeological, scientific, pre-historic or historical data may be lost or destroyed by work to be accomplished under the requested permit.

The Division Engineer has also consulted the latest published version of threatened or endangered species and made a preliminary determination that the proposed activity will not affect those listed or their critical habitat.

Evaluation of the proposed activity will include conformance with appropriate State or local floodplain protection standards; consideration of alternative sites and methods of accomplishment; and weighing of the positive and negative, concentrated and dispersed, and short-and long-term impacts upon floodplain.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice.

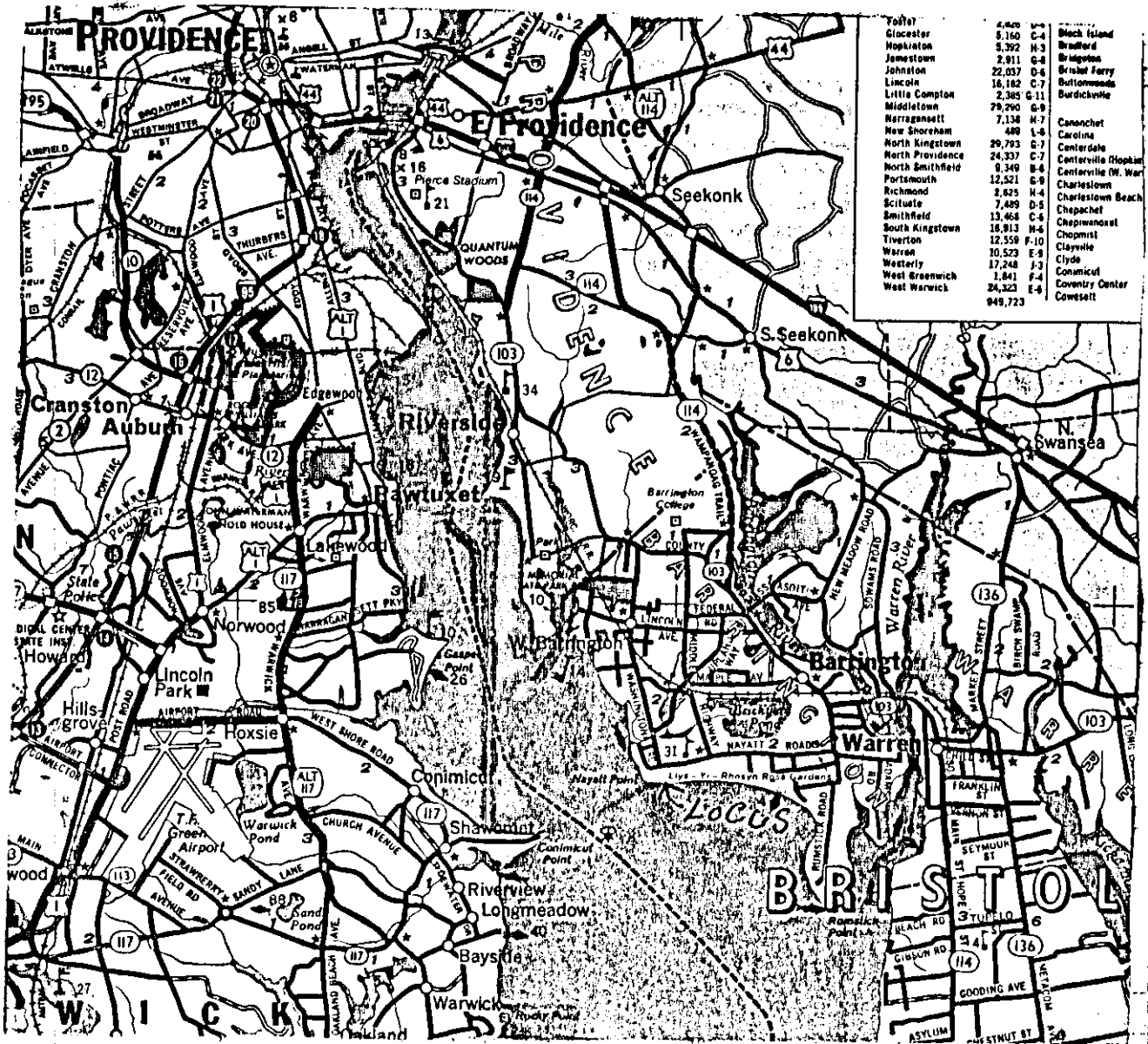
The following authorizations have been applied for or have been or will be obtained:

- Permit, License, or Assent from State.
- Permit from Local Wetlands Agency or Conservation Commission.
- Water Quality Certificate in Accordance with Section 401 of the Clean Water Act.

The States of Connecticut, Maine, Massachusetts and Rhode Island have approved Coastal Zone Management Programs. Where applicable, the applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with this approved Coastal Zone Management Program. Issuance of a State permit from the appropriate State agency will indicate concurrence with this Statement of Consistency.

All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

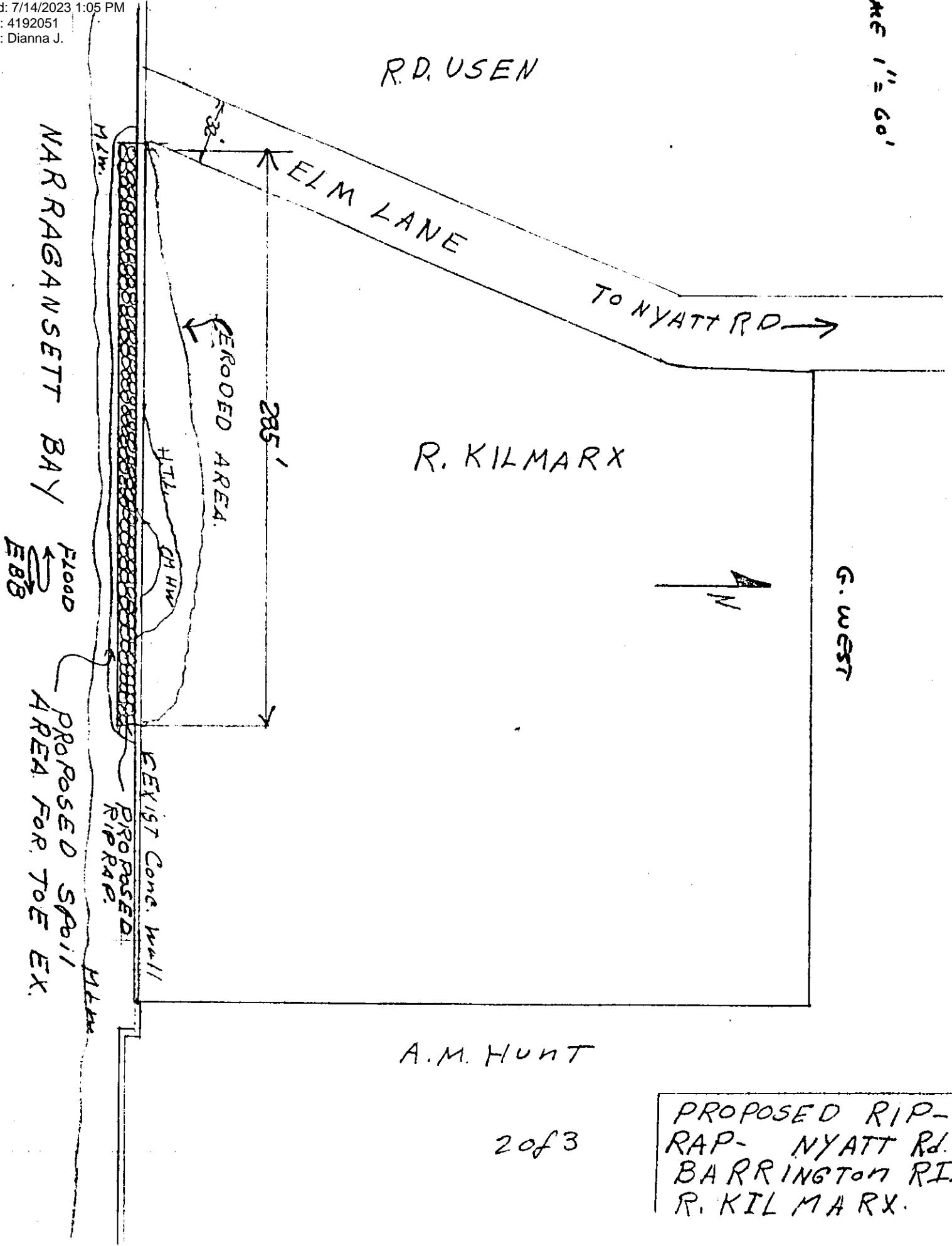
THIS NOTICE IS NOT AUTHORIZATION TO DO ANY WORK.



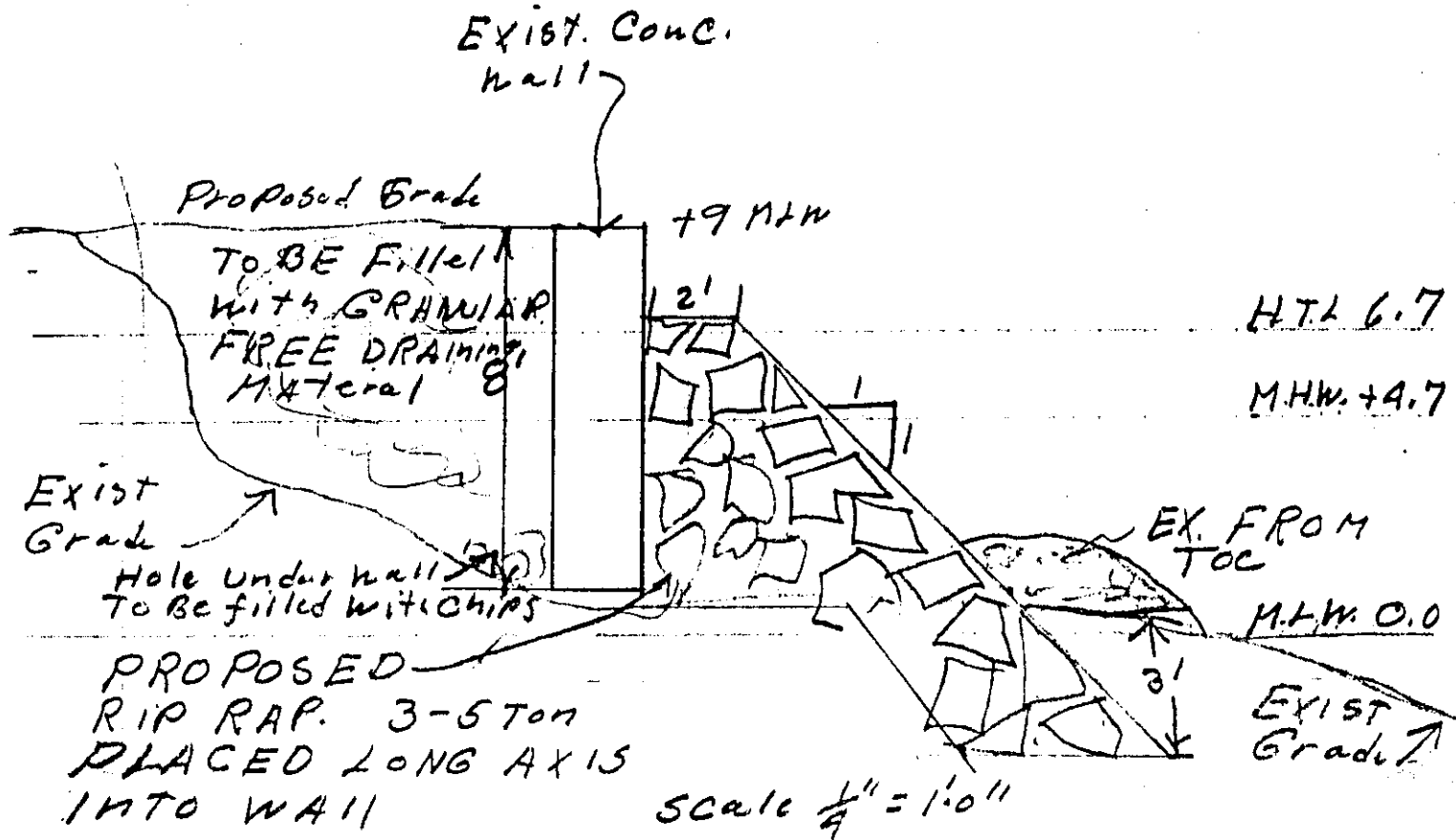
1 of 3

PROPOSED RIA
 RAP. NAYATT RD
 BARRINGTON RI
 R. KILMARX

SCALE 1" = 60'



PROPOSED RIP-RAP - NYATT Rd. BARRINGTON RI. R. KILMARX.



TOC EX. 95 CY EX. BY CLAM BUCKET.

VOL MATERIAL PLACED BELOW

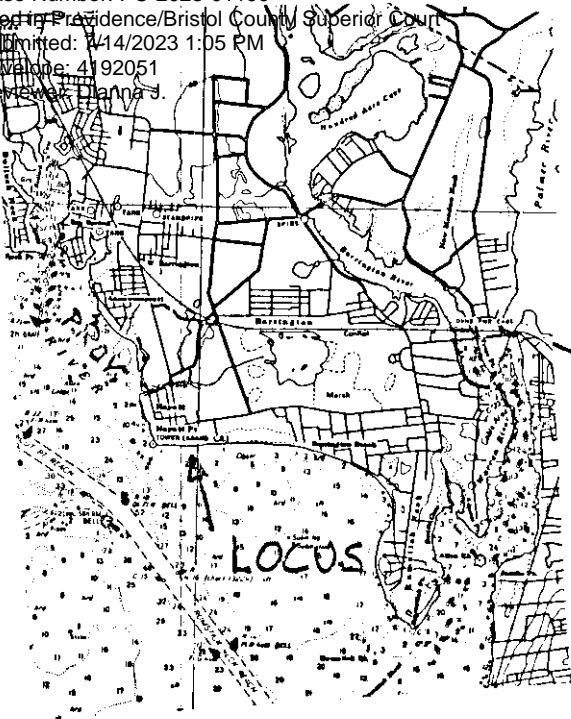
High Tide Line BY CLAM BUCKET.

BAY side wall 348 CY
SHORE side wall 63 CY

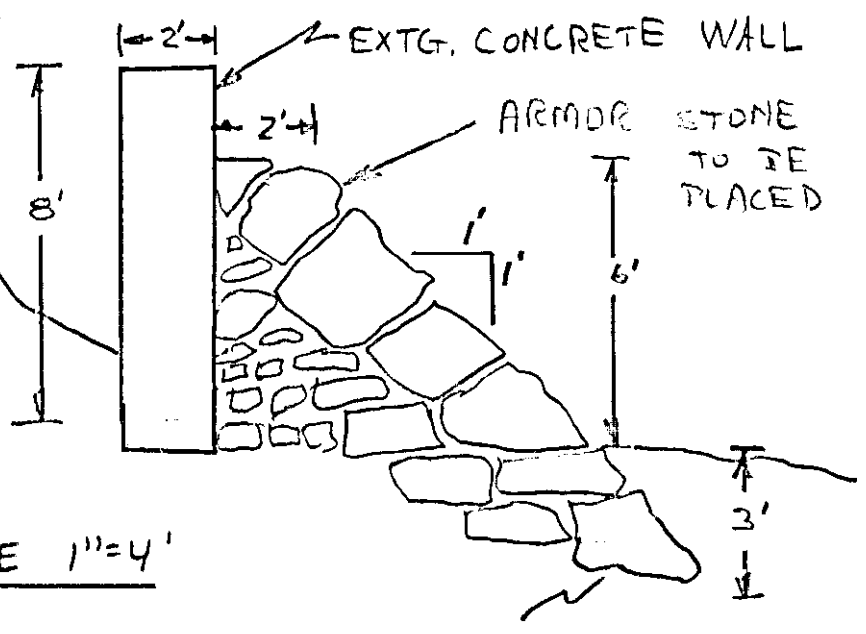
PROPOSED RIP
RAP - NAYATTE
BARRINGTON RI.
R. KILMARX

RECEIVED
APR 12 1982
DIVISION OF
COASTAL RESOURCES

KILMARK
 NAYATT RD., BARRING



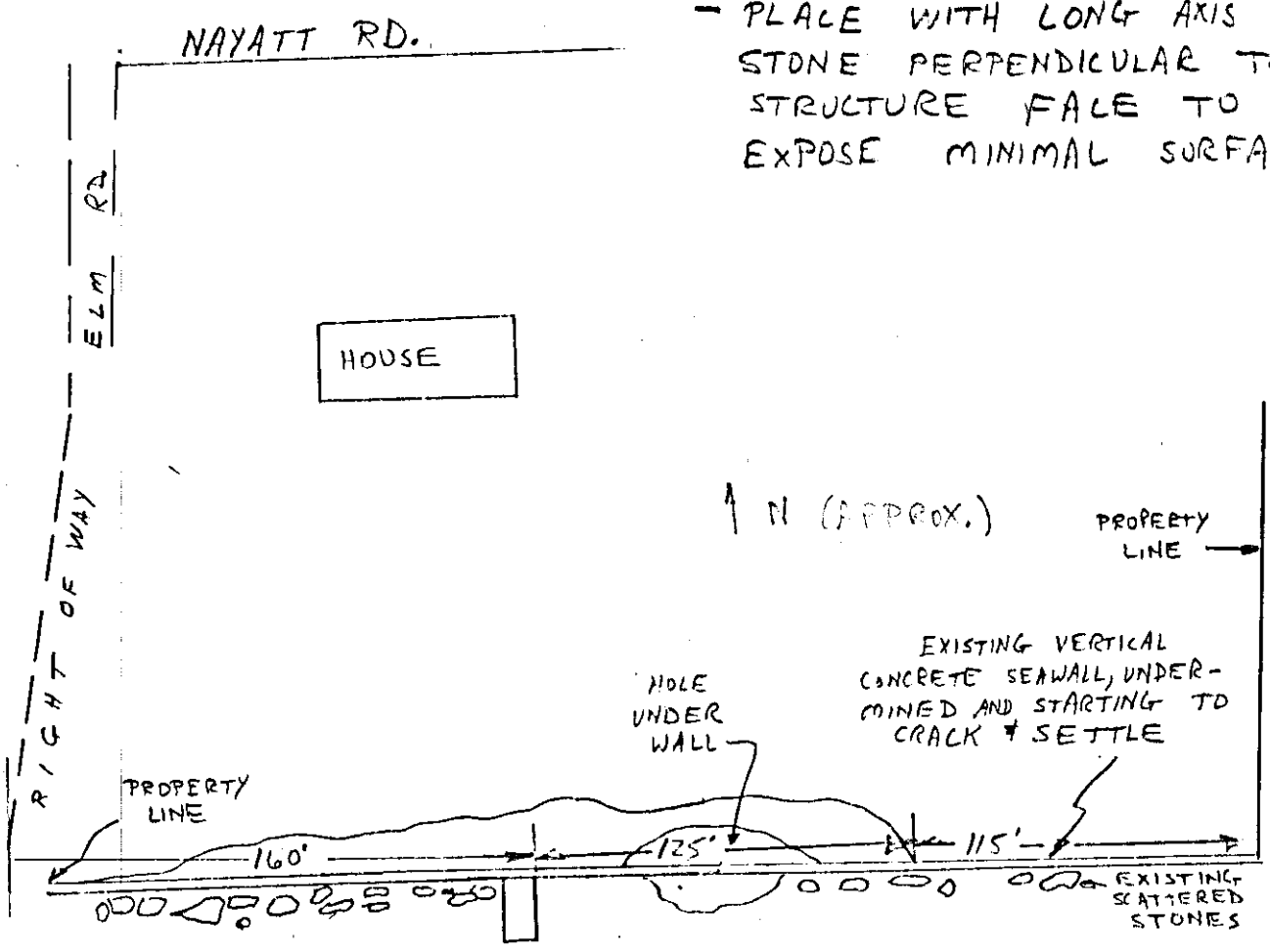
ERODED AREA



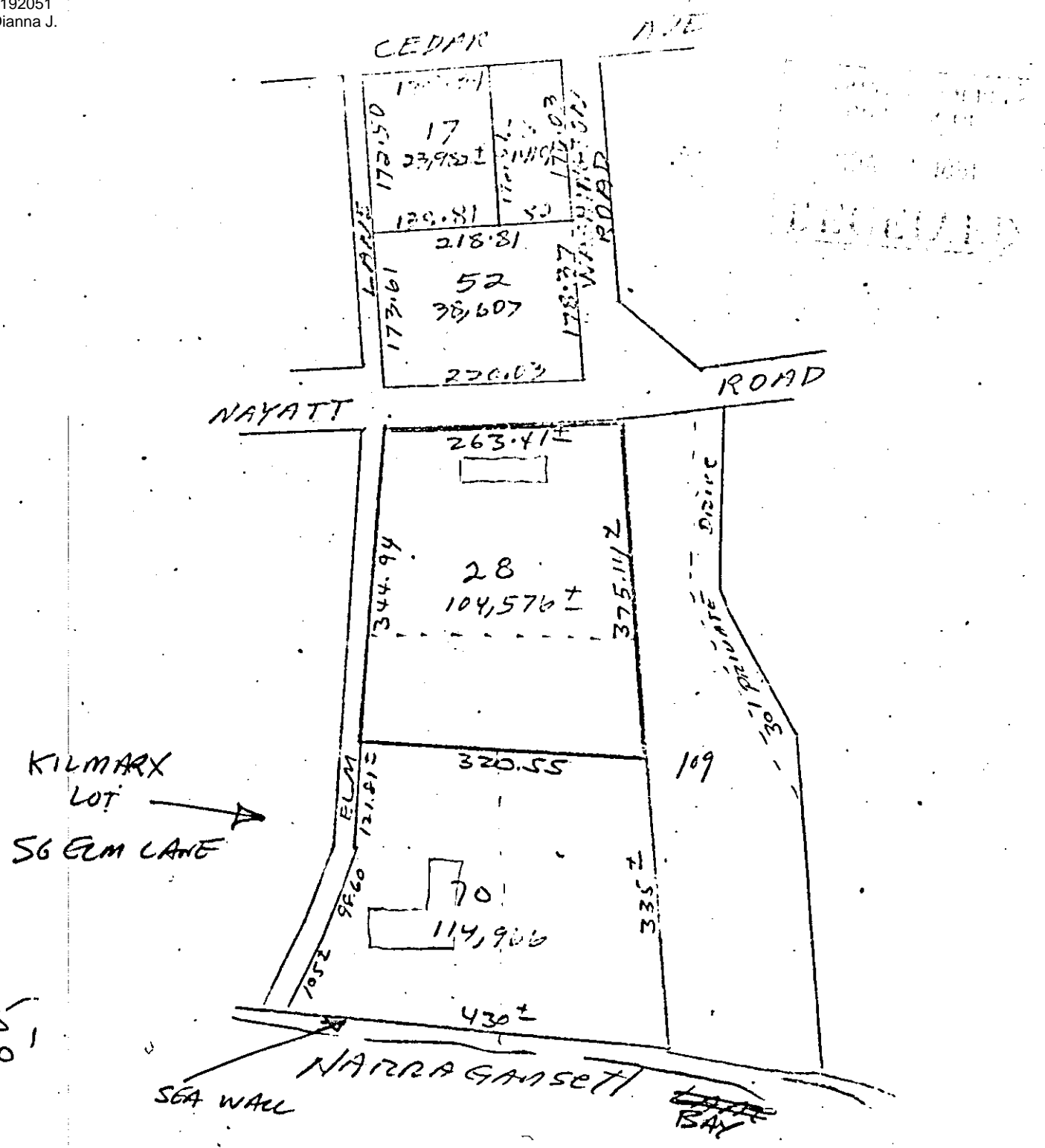
SCALE 1"=4'

- TOE STONE 3' BELOW BEACH SURFACE

- USE 3 to 5 TON ARMOR STONE
- PLACE WITH LONG AXIS OF STONE PERPENDICULAR TO STRUCTURE FACE TO EXPOSE MINIMAL SURFACE



BARRINGTON



KILMARX LOT
→
56 ELM LANE

P. 5
-1601

- lot 28 - FRED B. PERKINS
- 70 - ROBERT D + MARY N. KILMARX
- 109 - NATHANIEL M. VOSE JR. + DIANE L.

A

RECEIVED
NOV 6 1981
DIVISION OF
COASTAL RESOURCES

COASTAL RESOURCES MANAGEMENT COUNCIL
Robert and Mary Kilmarx Permit Application

Description of Proposed Work

Repair and protect 285'+ of existing concrete seawall which is critically undermined, cracked and eroded, by shoring up undermined sections of wall with stone, filling eroded lawn area inland of the wall and protecting the seaward side of wall against continuing wave action damage by a sloping rip rap of 3-5 ton granite stones anchored 3 feet below the surface (attached drawing).

This repair and protection is essential to prevent the imminent collapse of the whole wall and resulting damage and erosion of our and adjacent residential and public land, as well as the connecting seawalls protecting the property on either side of ours.

This long standing seawall is footed below Mean High Water level, and public access to seaward of it is only possible at low water, and then only with great difficulty due to a rocky, boulder strewn beach condition and a concrete ramp extending to low water, perpendicular to the seawall. As a result, such limited public traffic as exists does not traverse the beach area but travels along the 2' wide top of the seawall itself. This proposed project will create an additional 2' wide flat, lateral access walkway for the public along the top of the rip rap which will improve, rather than limit, the public's access to seaward of the wall.

RECEIVED
DEC 3 1981
DIVISION OF
COASTAL RESOURCES

NAYATT RD.

ELM RD

HOUSE

RIGHT OF WAY

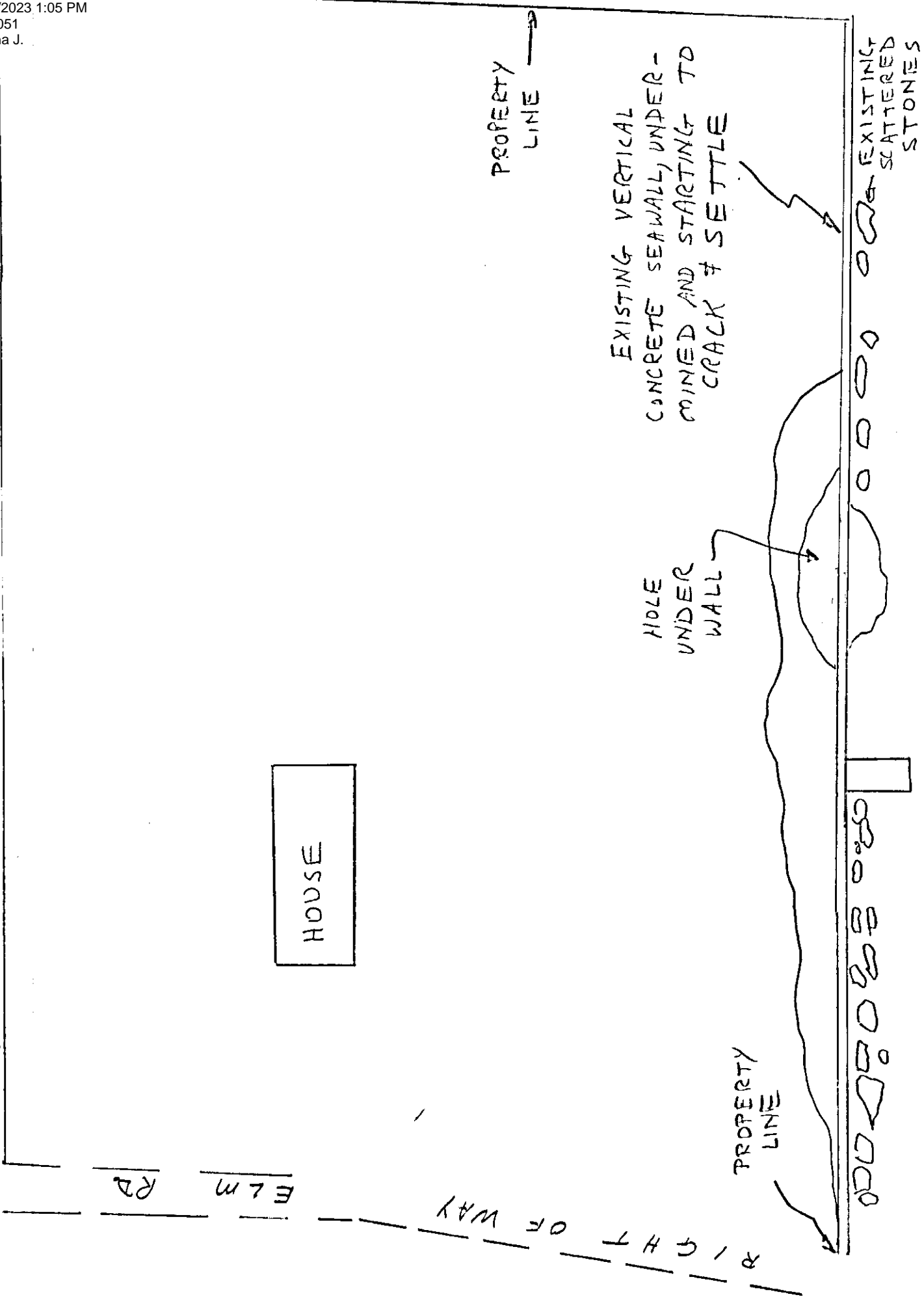
PROPERTY LINE

PROPERTY LINE

EXISTING VERTICAL
CONCRETE SEAWALL, UNDER-
MINED AND STARTING TO
CRACK & SETTLE

HOLE
UNDER
WALL

EXISTING
SCATTERED
STONES



State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

60 Davis Street, Providence, R.I. 02908

NOTICE

FILE NUMBER: 81-12-3 DATE: December 7, 1981

This office has under consideration the application of:

ROBERT AND MARY KILMARX
56 ELM LANE
BARRINGTON, RI 02806

Repair and protect 285'+ of existing concrete seawall which is critically undermined, cracked and eroded, by shoring up undermined sections of wall with stone, filling eroded lawn area inland of the wall and protecting the seaward side of wall against continuing wave action damage by a sloping rip rap of 3-5 ton granite stones anchored 3 feet below the surface (attached drawing). *ON LOT 70 (PART 5),*

BARRINGTON, R.I.
Project Location: _____

Street & Number: 56 Elm Lane

Pole Number: --- City/Town: Barrington

Plat Number: 5 Lot Number(s): 70

Block Number: --- ISDS Number: ---

Waterway: Narragansett Bay

Plans of the proposed work may be seen at this office and at the clerk's Office, of City/Town of:
Barrington, Rhode Island

In accordance with the Administrative Procedures Act (Chapter 42-35 of the Rhode Island General Laws) you may request a hearing on this matter.

You are advised that if you have good reason to enter protests against the proposed work it is your privilege to do so. It is expected that objectors will review the application and plans thoroughly, visit site of proposed work if necessary, to familiarize themselves with the conditions and cite what law or laws, if any, would in their opinion be violated by the work proposed.

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing and be received at this office on or before January 7, 1982.

State of Rhode Island and Providence Plantations

COASTAL RESOURCES MANAGEMENT COUNCIL

60 Davis Street, Providence, R.I. 02908

AMENDED NOTICE

FILE NUMBER: 81-12-3 DATE: December 7, 1981

~~This office has under consideration the application of:~~

ROBERT AND MARY KILMARX
56 ELM LANE
BARRINGTON, RI 02806

for a ~~State of Rhode Island assent to construct and maintain~~ repair and protect 285' + of existing concrete seawall which is critically undermined, cracked and eroded, by shoring up undermined sections of wall with stone, filling eroded lawn area inland of the wall and protecting the seaward side of wall against continuing wave action damage by a sloping riprap of 3-5 ton granite stones anchored 3 feet below the surface.

Project Location: ---

Street & Number: 56 Elm Lane

Pole Number: --- City/Town: Barrington

Plat Number: 5 Lot Number(s): 70

Block Number: --- ISDS Number: ---

Waterway: Narragansett Bay

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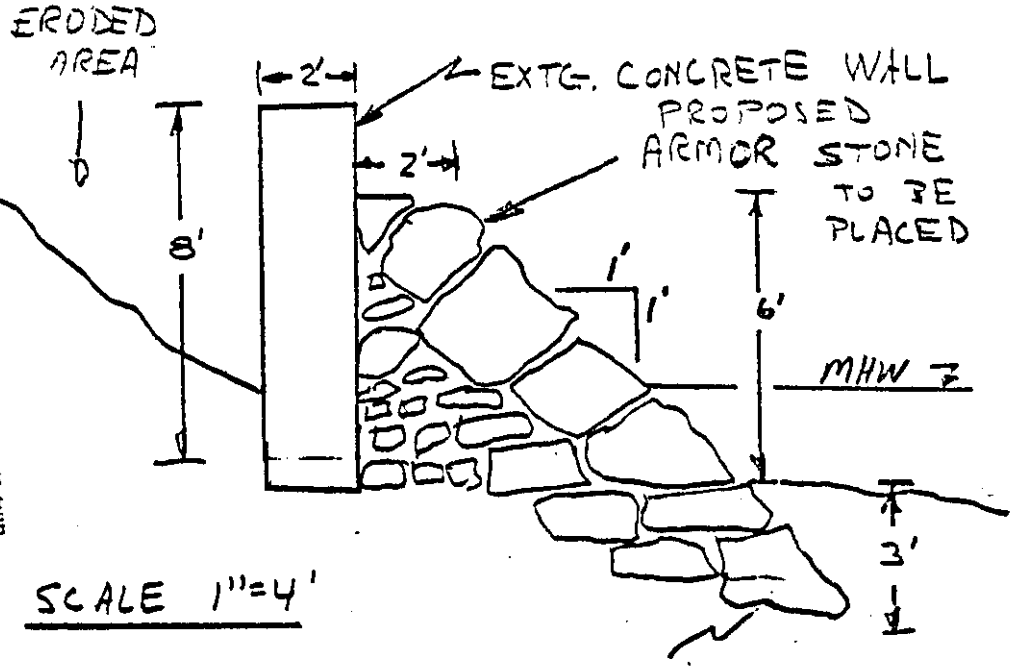
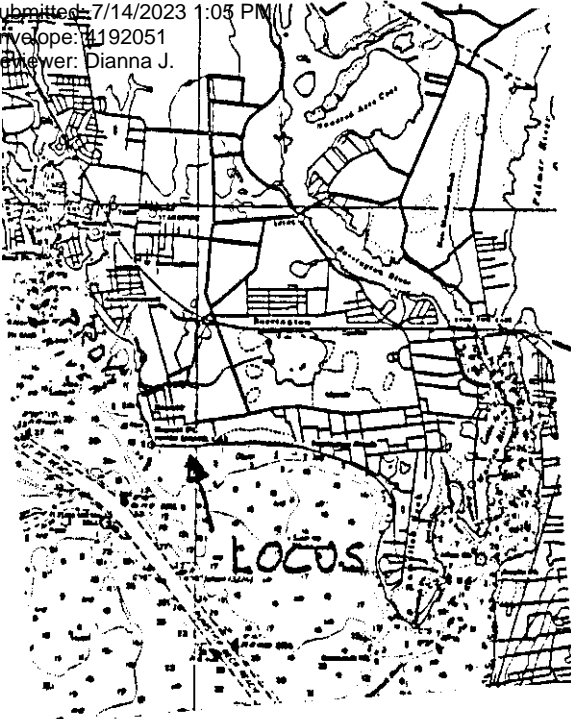
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KILMARX

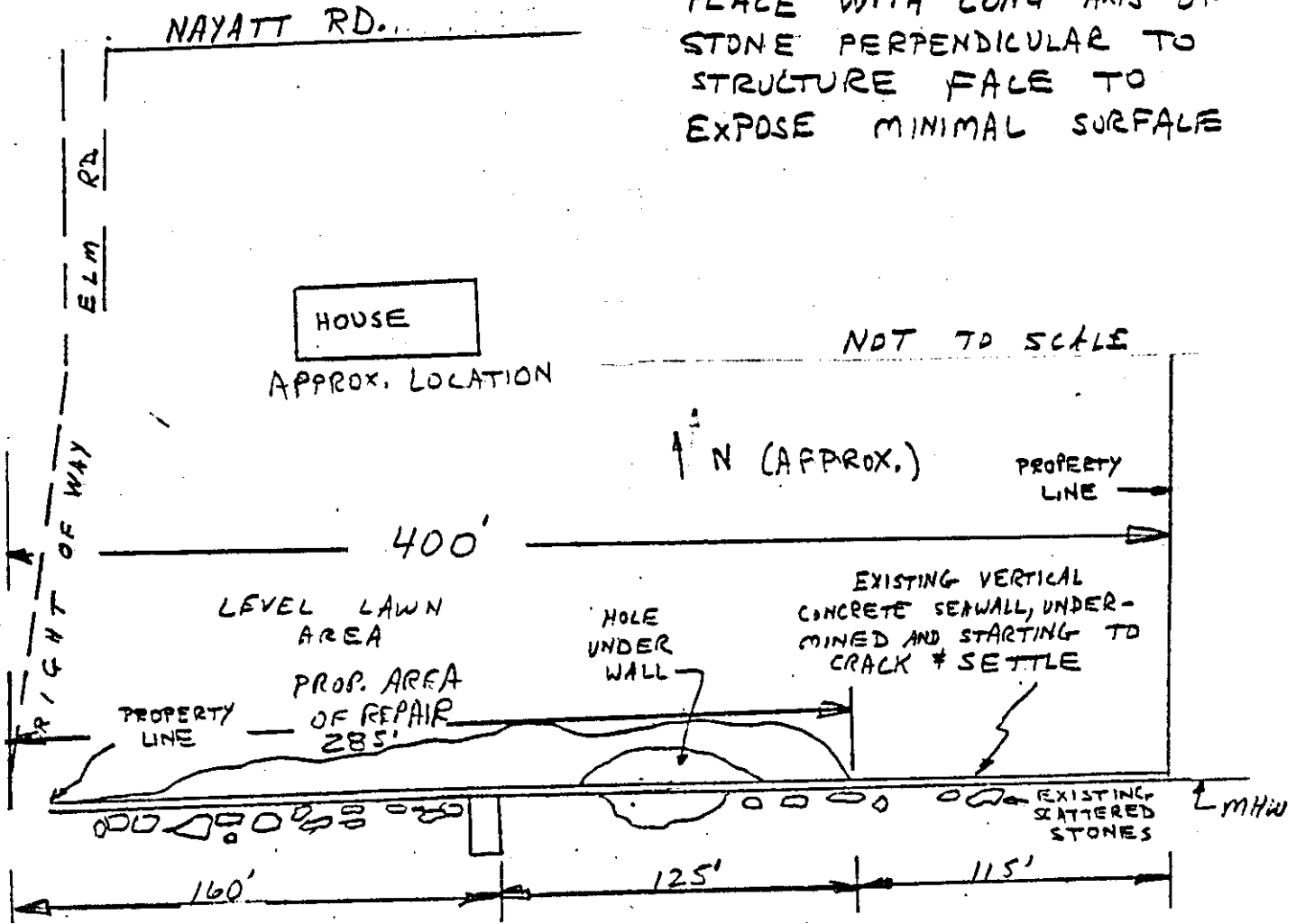
NAYATT RD., BARRING



SCALE 1"=4'

- TOE STONE 3' BELOW BEACH SURFACE

- USE 3 to 5 TON ARMOR STONE
- PLACE WITH LONG AXIS OF STONE PERPENDICULAR TO STRUCTURE FACE TO EXPOSE MINIMAL SURFACE



11/2023
34192051
Gianna J.

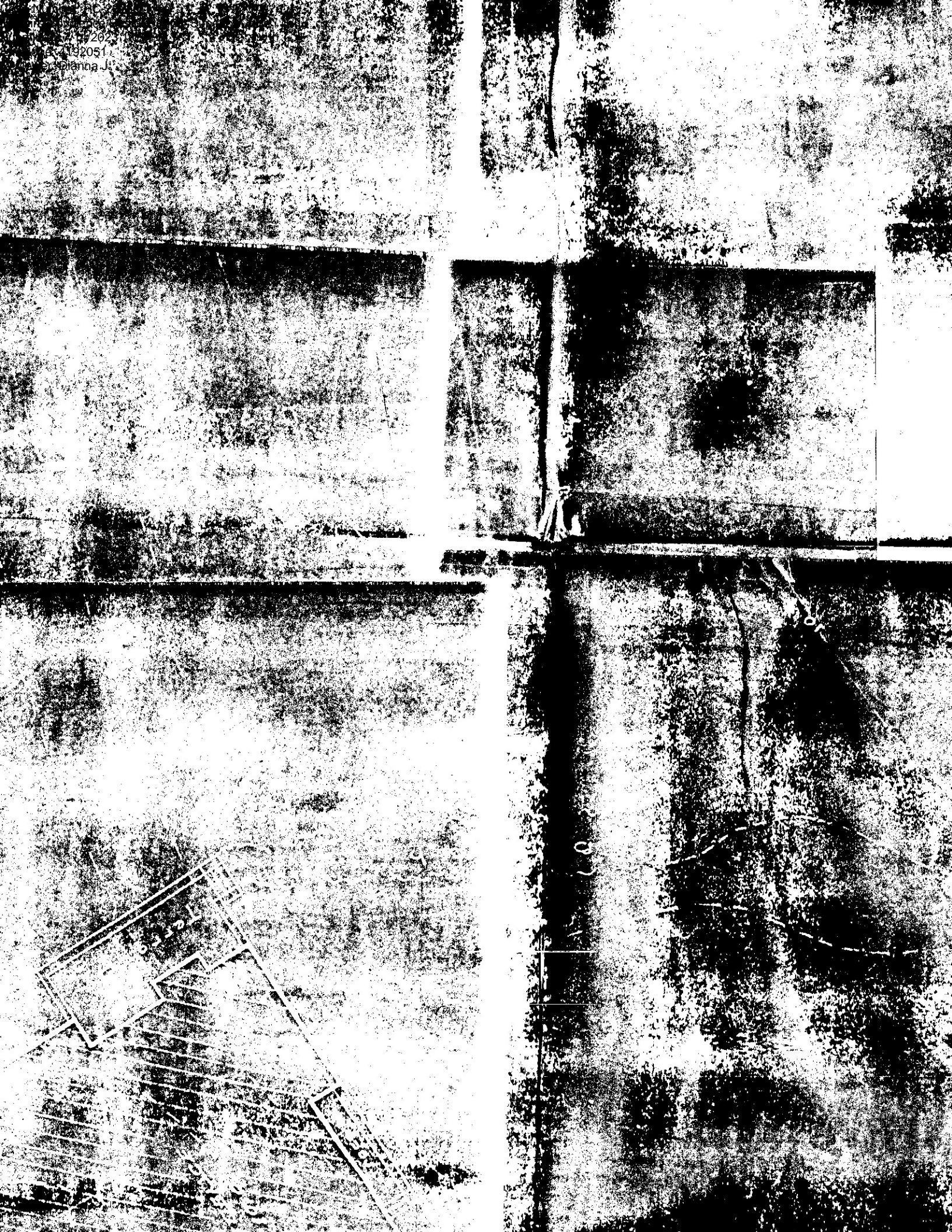


EXHIBIT C

Laura Miguel

From: Brian Harrington <bharrington@crmc.ri.gov>
Sent: Monday, May 02, 2022 3:18 PM
To: 'Laura Miguel'
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

Sure, I'll get working on that when I get back from Barrington tomorrow.

From: Laura Miguel [mailto:lmiguel@crmc.ri.gov]
Sent: Monday, May 2, 2022 3:16 PM
To: 'Brian Harrington' <bharrington@crmc.ri.gov>
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

How is 1981-12-003 enforceable if it wasn't recorded in the land evidence records?

Jeff emailed me saying he wants me to work with Amanda on a spread sheet of violations issued, resolved, etc. I'm going through 2021 right now and there are some others that you issued in Barrington that haven't been resolved or updated in the database. Maybe you could do some follow up visits, if that's what's needed. I'd like to get the database cleaned up as much as possible before sitting down with Amanda.

From: Brian Harrington [mailto:bharrington@crmc.ri.gov]
Sent: Monday, May 02, 2022 3:03 PM
To: 'Laura Miguel'
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

I just did. I'm going out there tomorrow.

From: Laura Miguel [mailto:lmiguel@crmc.ri.gov]
Sent: Monday, May 2, 2022 2:57 PM
To: 'Brian Harrington' <bharrington@crmc.ri.gov>
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

Thanks.

I'll put a new complaint in the database. Can you update the database regarding the previous violation?

From: Brian Harrington [mailto:bharrington@crmc.ri.gov]
Sent: Monday, May 02, 2022 2:50 PM

To: 'Jeff Willis'
Cc: drobinson@crmc.ri.gov; 'Laura Miguel'; 'Anthony DeSisto, Esq.'; 'Leah Feldman'
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

The fences blocking access along the seawall were removed so the violation was resolved. About a week ago a neighbor sent me a photo of a pole set back from the seawall with a sign on it that said you couldn't walk on the seawall. The pole had a camera on it and according to the email we just got, a siren.

I've spoken to two different people this morning about the security guard that they say is posted there all day, every day. I told both of them I would send them follow up emails later today. I spoke to Tony about the guard this morning during his zoom hours. I told him I would do a site visit soon (tomorrow) to confirm that there is a guard there. Once I do that I'll let him know and we will go from there. This is a very unique situation because of an assent (1981-12-003) that a previous owner received to repair the seawall. Stipulations H & I of that assent specifically reference access along the top of seawall. Stipulation H says "A sign or plaque shall be placed at each end of the proposed riprap, to be clearly visible to the public, indicating that passage atop the riprap shall not be denied the public, per order of the CRMC. Suitable language may be decided upon by the CRMC.". Stipulation I says "The riprap shall be constructed so that it will be readily passable by pedestrian traffic along the shore. Stone at the ends of the wall may have to be arranged to accomplish this.". I had sent this language to Tony back in September and he said that the stipulations in the should be determinative of this matter.

I'll keep everyone updated on this one.

-Brian

From: Laura Miguel [<mailto:lmiguel@crmc.ri.gov>]
Sent: Monday, May 2, 2022 2:11 PM
To: 'cstaff1' <cstaff1@crmc.ri.gov>; 'Brian Harrington' <bharrington@crmc.ri.gov>; 'Jeff Willis' <jwillis@crmc.ri.gov>; drobinson@crmc.ri.gov
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

Wow. Brian issued a violation for this back in September which I thought was resolved. Let's let him weigh in.

From: cstaff1 [<mailto:cstaff1@crmc.ri.gov>]
Sent: Monday, May 02, 2022 1:58 PM
To: Brian Harrington; Jeff Willis; Laura Miguel; drobinson@crmc.ri.gov
Cc: CStaff1
Subject: FW: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

From: [REDACTED]
Sent: Monday, May 2, 2022 1:08 PM
To: cstaff1@crmc.ri.gov
Subject: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

Dear Mr. Willis,

We are writing to you to ask for help from the CRMC in determining public access along a seawall in Barrington. This wall is located at the southern end of properties owned by Lance & Holly Sheffield of 85 Nayatt Road and 56 Elm Lane, the latter which is currently for sale by the Sheffields.

Our understanding is that the sea wall was deeded for shoreline access by the former owners. The Sheffields have been very aggressive about prohibiting people from walking on the sea wall, which many in the neighborhood use to get to the beach, and we have done so for 30 years. They initially blocked the wall with a fence and posted no trespassing signs, which they were made to take down, (not sure by whom) and now have a siren which goes off when you walk by and a security guard posted on the wall. He stopped us yesterday from walking on the wall.

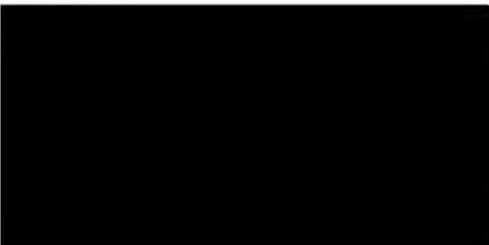
In one of the documents we found at the Barrington Tax Assessor's Office it stated that from the CRMC to owner David Goulden 8/24/2017 the Coastal features "are boulders/seawall and the inner edge of the coastal feature is the top of a low seawall."

The mean high-tide of the narrow beach in front of the seawall puts the wall within the 10' mean high tide range as water comes up to and over the boulders at mid-tide and often breaks over the sea wall at high tide and in wave conditions.

Many of our neighbors are upset by this and I understand that your office has heard from at least one other person with a similar complaint/inquiry.

We look forward to hearing from you as to how to rectify this situation and steps which can be taken.

Regards,



Virus-free. www.avg.com

EXHIBIT D

Brian Harrington

From: Jeff Willis <jwillis@crmc.ri.gov>
Sent: Wednesday, May 4, 2022 8:24 AM
To: 'Laura Miguel'; 'Brian Harrington'
Cc: drobinson@crmc.ri.gov; 'Anthony DeSisto, Esq.'; 'Leah Feldman'
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

Follow Up Flag: Follow up
Flag Status: Flagged

Is that the case here, that this Assent was never recorded in the municipal land evidence records?

Thanks,
Jeff

From: Laura Miguel [mailto:lmiguel@crmc.ri.gov]
Sent: Wednesday, May 4, 2022 8:07 AM
To: 'Jeff Willis CRMC' <jwillis@crmc.ri.gov>; 'Brian Harrington' <bharrington@crmc.ri.gov>
Cc: drobinson@crmc.ri.gov; 'Anthony DeSisto, Esq.' <adlawllc@gmail.com>; 'Leah Feldman' <lfeldman@crmc.ri.gov>
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

Good Morning,

Just a FYI - In the past, we haven't had much success in enforcing assents (mostly buffers) that were not recorded in the land evidence records when there is a new owner.

Laura

From: Jeff Willis CRMC [mailto:jwillis@crmc.ri.gov]
Sent: Tuesday, May 03, 2022 5:40 PM
To: Brian Harrington
Cc: drobinson@crmc.ri.gov; Laura Miguel; Anthony DeSisto, Esq.; Leah Feldman
Subject: Re: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

Since the Assent runs with the property then yes any subsequent owners are required to be in compliance with the terms of the Assent.

Thanks,
Jeff

On May 3, 2022, at 2:47 PM, Brian Harrington <bharrington@crmc.ri.gov> wrote:

I went to the site with Leah today and the security guard was there parked near the bottom of Elm Lane. He said the company he works for was hired to keep people off the wall because of the property owner's liability concerns. He said he wasn't stopping people from walking along the wall until they got to owner's property. The owner's property is approximately 205 feet from Elm Lane where we parked and then there is about 225 feet of seawall that the public is not being allowed to use.

This is a very unique situation that I haven't run into before so I'm looking for advice on what to do next. Is the site in violation because the property owner is not in compliance with CRMC assent 1981-12-003? The current owner did not own the property when 1981-12-003 was issued.

Thanks,
Brian

From: Brian Harrington [<mailto:bharrington@crmc.ri.gov>]
Sent: Monday, May 2, 2022 2:50 PM
To: 'Jeff Willis' <jwillis@crmc.ri.gov>
Cc: 'drobinson@crmc.ri.gov' <drobinson@crmc.ri.gov>; 'Laura Miguel' <lmiguel@crmc.ri.gov>; 'Anthony DeSisto, Esq.' <adlawllc@gmail.com>; 'Leah Feldman' <lfeldman@crmc.ri.gov>
Subject: RE: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

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From: cstaff1 [<mailto:cstaff1@crmc.ri.gov>]
Sent: Monday, May 02, 2022 1:58 PM
To: Brian Harrington; Jeff Willis; Laura Miguel; drobinson@crmc.ri.gov
Cc: CStaff1
Subject: FW: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

From: [REDACTED]
Sent: Monday, May 2, 2022 1:08 PM
To: cstaff1@crmc.ri.gov
Subject: Attn. Jeffrey Willis re. Barrington Nayatt Rd./Elm Lane seawall access

Dear Mr. Willis,

We are writing to you to ask for help from the CRMC in determining public access along a seawall in Barrington. This wall is located at the southern end of properties owned by Lance & Holly Sheffield of 85 Nayatt Road and 56 Elm Lane, the latter which is currently for sale by the Sheffields.

Our understanding is that the sea wall was deeded for shoreline access by the former owners. The Sheffields have been very aggressive about prohibiting people from walking on the sea wall, which many in the neighborhood use to get to the beach, and we have done so for 30 years. They initially blocked the wall with a fence and posted no trespassing signs, which they were made to take down, (not sure by whom) and now have a siren which goes off when you walk by and a security guard posted on the wall. He stopped us yesterday from walking on the wall.

In one of the documents we found at the Barrington Tax Assessor's Office it stated that from the CRMC to owner David Goulden 8/24/2017 the Coastal features "are boulders/seawall and the inner edge of the coastal feature is the top of a low seawall."

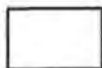
The mean high-tide of the narrow beach in front of the seawall puts the wall within the 10' mean high tide range as water comes up to and over the boulders at mid-tide and often breaks over the sea wall at high tide and in wave conditions.

Many of our neighbors are upset by this and I understand that your office has heard from at least one other person with a similar complaint/inquiry.

We look forward to hearing from you as to how to rectify this situation and steps which can be taken.

Regards,

[REDACTED]



Virus-free. www.avg.com

EXHIBIT E

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
Coastal Resources Management Council
Oliver Stedman Government Center
4808 Tower Hill Road; Suite 3
Wakefield, RI 02879
(401) 783-3370



File No. 2011-03-001

CRMC MAINTENANCE CERTIFICATION REQUEST

Owner's Name ROBERT D. KILMARX

Mailing Address 56 ELM LANE, BARRINGTON State R.I. Zip Code 02806

PROJECT LOCATION

Plat 05 Lot(\$)70

Street 56 ELM LANE

City/Town BARRINGTON, R.I. Tel. No. (Home) CELL (401) 575-6363 (Bus.)

Waterway NARR. BAY Contact Person Tel. No. CELL (401) 575-6363

Estimated Project Cost \$ 10,800

DESCRIPTION OF FACILITY TO BE MAINTAINED, TYPE OF FACILITY AND PRESENT CONDITIONS: 430' CONCRETE SEA WALL
MY LOT 5, ABUTTING SOUTH END OF ELM LANE PUBLIC RIGHT OF WAY TO THE BAY. FLAT LEVEL TOP SURFACE OF WALL
MUCH USED SAFELY THROUGHOUT THE YEAR BY PUBLIC FOR BAY VIEWING, FISHING, CLAMMING, ACCESS TO
WATER, EXERCISE, JOGGING AND DOG WALKING (ATT. EVIDENCE)
ALONG SOUTHERN SHORE OF

STORM WATERS HAVE DISLODGED AND DAMAGED SECTIONS OF THE WALL CAUSING UNEVEN SURFACES
AND CREATING HAZARDOUS PUBLIC USE CONDITIONS.

Contractor Name and RI Contractor's License Number: ALBERTO MEDINA, MEDINA CONSTRUCTION CO.
R.I LICENSE # 7320 CELL (401) 323-8252

PREVIOUS CRMC OR HARBORS AND RIVERS PERMIT NO. (ATTACH COPY): ---

YEAR WHICH FACILITY WAS BUILT: NOT KNOWN. EXISTED WHEN PRORTY ACQUIRED NOV. 1965 ROBERT D. AND
MARY N. KILMARX
PROVIDE A DETAILED DESCRIPTION OF THE PROPOSED MAINTENANCE ACTIVITY (See NOTE "A"-->)
REPAIR DAMAGED SECTIONS TO PREVIOUS CONDITION OF SAFE PUBLIC ACCESS (DEC'D)
(2002)

DESCRIBE EQUIPMENT TO BE USED, CONSTRUCTION METHODS, ACCESS ROUTES, ETC...

LOOSE SEA WALL CONCRETE ON LAND SIDE OF WALL TO BE REMOVED BY SMALL BOBCAT AND
DUMP TRUCK ACROSS MY LOT 5 TO ELM LANE FOR DISPOSAL. WOOD FORMS AND CONCRETE VEHICLE TO
REPAIR WALL TO BE ACCESS ACROSS MY LAND FROM ELM LANE. SMALL HAND TOOLS. NO ACCESS FROM BAY REQUIRED

IS THIS APPLICATION BEING SUBMITTED IN RESPONSE TO A COASTAL VIOLATION? YES NO NO

IF YES, YOU MUST INDICATE NOV OR C&D NUMBER: _____

Robert Kilmarx
Owner's Signature

NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible adhered to the policies and standards of the program. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. The filing of false information can result in the Coastal Resources Management Council revoking state assent.

SEE REVERSE SIDE ->



ASSESSING BOARD OF REVIEW
TOWN OF BARRINGTON
283 County Road
Barrington, Rhode Island, 02806

APPLICATION: 2009 - 5070

ASSESSING BOARD OF REVIEW DECISION LETTER

The Assessing Board of Review, at its **April 28, 2010** meeting heard a petition from;

Applicant: Kilmarx, Robert D.
56 Elm Lane
Barrington, RI 02806

Owner: Kilmarx, Robert D.

In Re: Plat/Lot: 05 - 070
56 Elm Lane



For a reduction in their property assessment, based on the 12-31-08 triennial revaluation.
Reason Abatement Sought: Overvaluation / Disproportionate Assessment / Incorrect Usage Classification
Other: _____

After deliberations, the Board made the following motion(s);

To reduce the neighborhood code from 400-to-300, reduce the Condition factor on the land from 3.00 to 2.90, decrease the grade of the structure from good to average, and decrease the condition from average to fair.

The above referenced motion resulted in the following action;

 x to reduce the assessment from \$ 2,855,800 to \$ 2,420,500
 to keep the assessed value at it's present level
 to increase the assessment from \$ - to \$ -

(See minutes for specific discussion of reasoning behind the motion)

On the above motion, the Board members voted as follows:

<i>Member:</i>	<i>Aye</i>	<i>Nay</i>	<i>Abstain</i>	<i>Recused</i>
E. Jenny Flanagan:	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
F. Christian Nelson III:	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Kevin B. Salvaggio:	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

Signed: _____
Kevin B. Salvaggio, Chairman

Date: May 10, 2010

approved by Town Council 6-7-10

BUILDING PERMIT

This certifies that _____ has permission to _____

Robert Kilmarx

repair cop on seawall & other minor seawall repairs

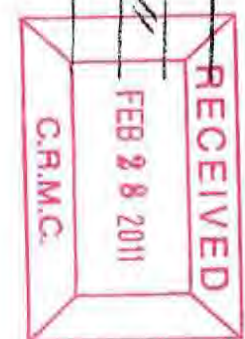
BCRB No. (if Applicable) *7320*

Fee Paid \$ *76*

Received By *[Signature]*

Date Granted *2/25* 20 *11*

Numerical Code *21*



Located at *56 Eton Lane* Plat/Map *5* Lot/Block *78* Parcel/File _____

Provided that the person accepting the Permit shall in every respect conform to the terms of the application on file in this office and to the provisions of the Statutes and Ordinances relating to Zoning, Construction, Alterations and Maintenance of Buildings in the municipality and shall begin work on said building within SIX MONTHS from the date hereof and prosecute the work thereon to a speedy Completion.

Any person who shall violate any of the Statutes and Ordinances relating to Zoning, Construction, Alteration and Maintenance in the municipality shall be punished by penalties imposed by the State Building Code and Local Zoning Ordinances.

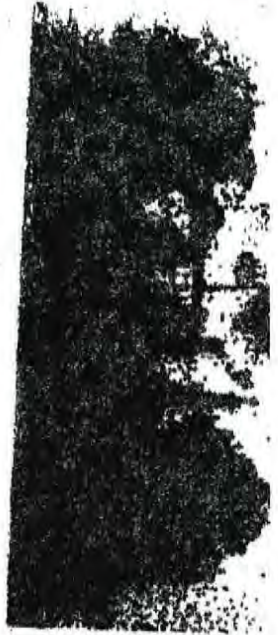
[Signature]
Building Official

BUILDING INSPECTION APPROVALS:

WORK SHALL NOT PROCEED UNTIL THE INSPECTOR HAS APPROVED THE VARIOUS STAGES OF CONSTRUCTION

STAGE OF CONSTRUCTION	SIGNATURE	STAGE OF CONSTRUCTION	SIGNATURE
1. _____	_____	5. _____	_____
2. _____	_____	6. _____	_____
3. _____	_____	7. _____	_____
4. _____	_____	8. _____	_____

This permit must be returned for Certificate of Occupancy



DEPARTMENT OF PUBLIC WORKS
ALAN CORVI, DIRECTOR



HIGHWAY/SEWER
NATURAL RESOURCES/RECYCLING
(401)297-1907

TOWN OF BARRINGTON
RHODE ISLAND
02806

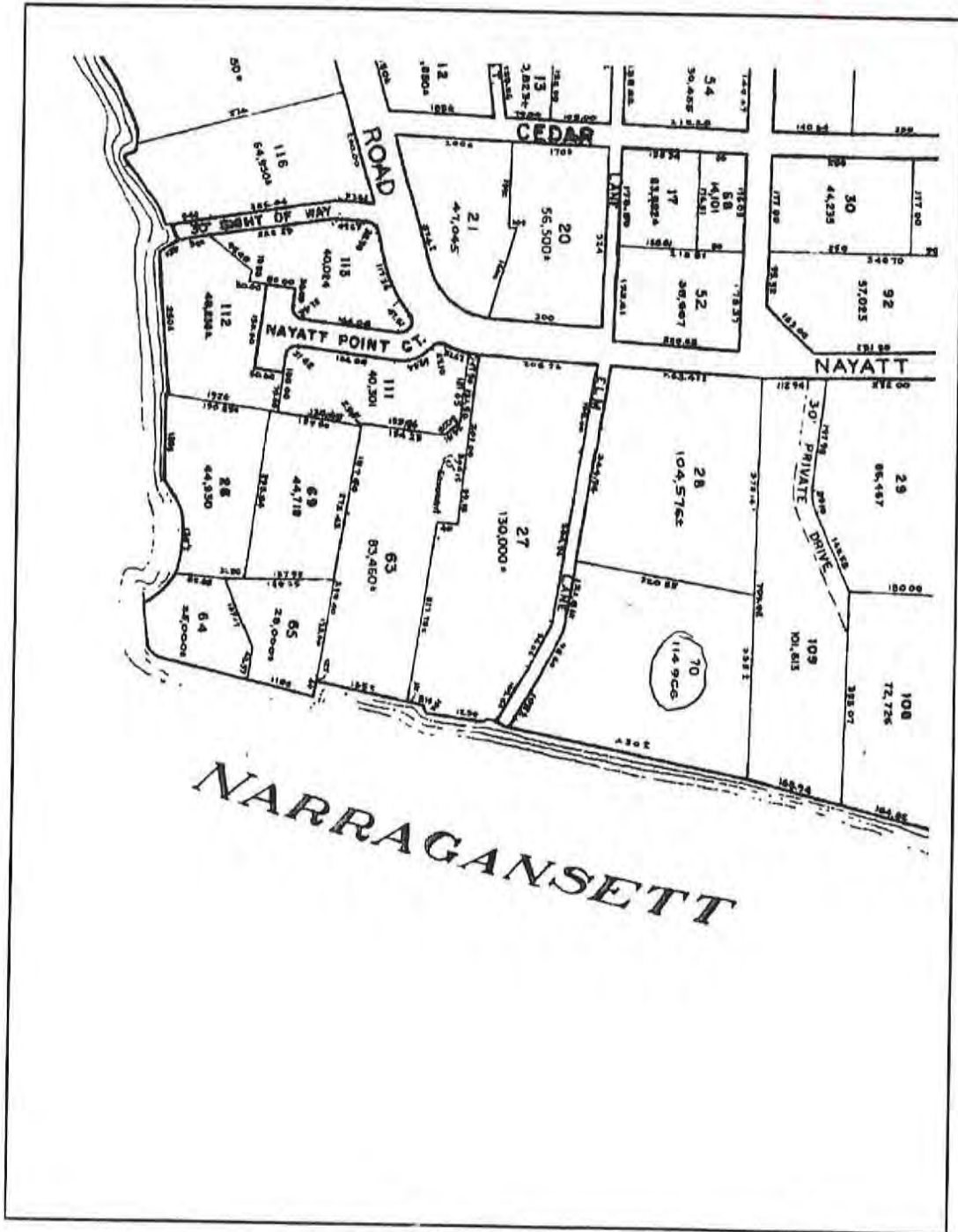
CONSTRUCTION DEBRIS

Be advised that the Town of Barrington WILL NOT be responsible for the removal of debris generated during a construction project. It shall be the responsibility of the Homeowner to dispose of all construction debris properly.

Alan Corvi
Director of Public Works

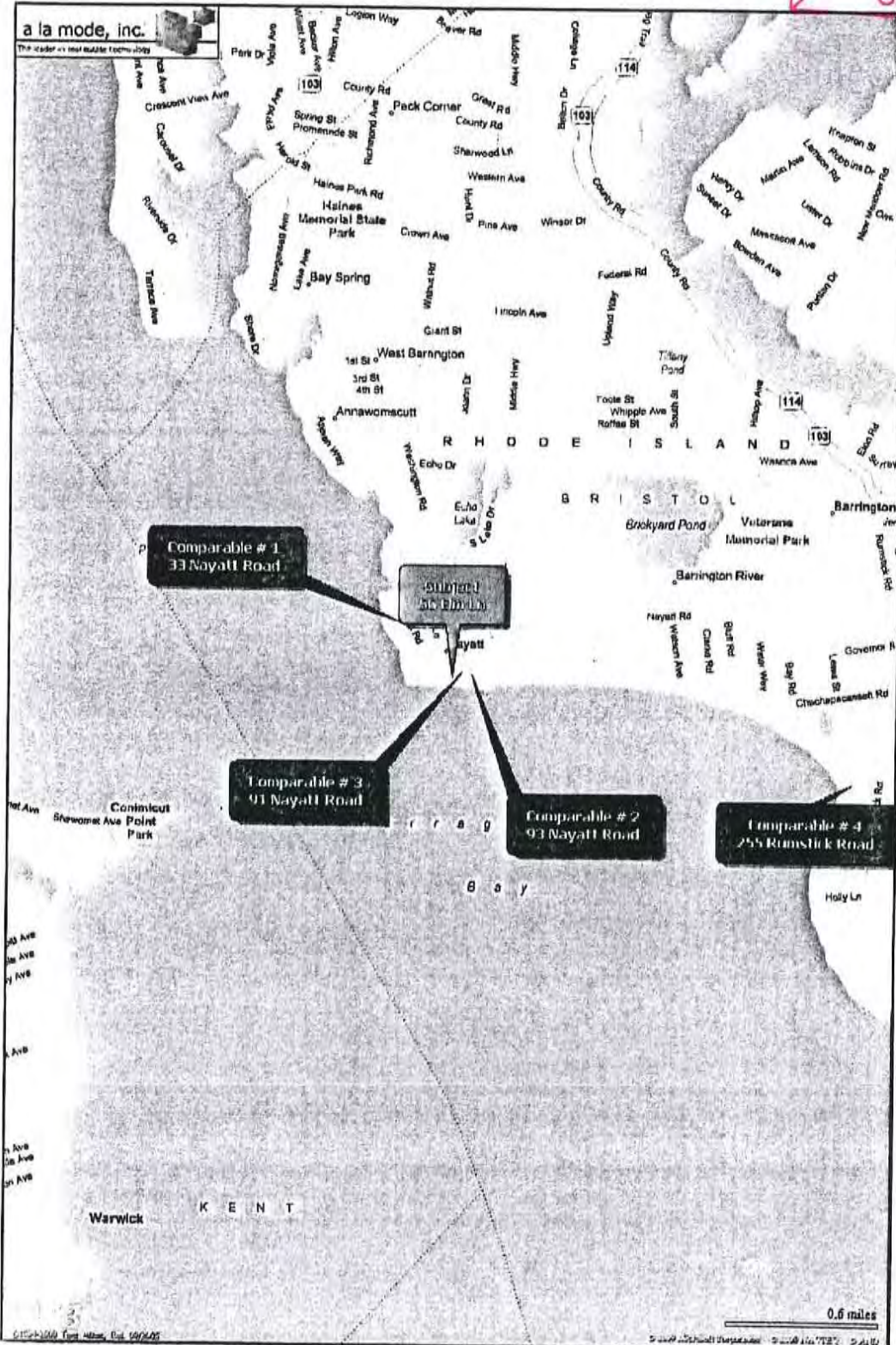
Site Map

Client	Davis, Kilmarx, Swan & Bowling		
Property Address	56 Elm Ln		
City	Barrington	County	Bristol
Owner	Kilmarx/Robert	State	RI
		Zip Code	02806-5328



Location Map

Client	Davis, Kilmarx, Swan & Bowling						
Property Address	56 Elm Ln						
City	Barrington	County	Bristol	State	RI	Zip Code	02806-3328
Owner	Kilmarx/Robert						



To the Barrington Board of Assessment
Review 56 ELM LANE CASE



My name is Raymond F. James of Attleboro, Ma. Before I retired a few years ago. I worked for a Civil Engineering company in Prov. R.I (The Maguire Group) for 25 years. I am now a Bird Carver & Bird Painter. When I am not painting or carving I do a lot of salt water fishing for Striped Bass and Bluefish. Being retired I do a lot of fishing at least 5 days a week. For over 30 years I have fished in Barrington along the shore at R.I.C.C and the Nayatt Point Area. At least 95% of my fishing is done by way of ELM LANE in Barrington at the sea wall at the south end of ELM LANE which is convenient public access to the bay. The sea wall in front of 56 ELM LANE is a favorite fishing spot not only to me but some of my friends, as well as many others. Since the "DAUNIS R.O.W. has no parking for the public, ELM LANE is the only access I know of. I have seen not only fisherman use the ELM LANE R.O.W. but people clamming, walking dogs, sight seeing and people just enjoying the water and the view.

2.

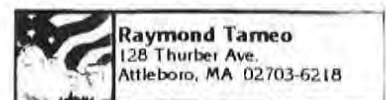


of Colt Park etc. I have seen guys fishing, using the R.O.W. in front of 56 ELM LANE down to dark and later into the nite I have observed this personally. Actually we (my fishing friends and I) have policed the area there of litter, so that no one can blame the fisherman for leaving a mess. Most fishing is done between around April 10 thru October. After that the fish have moved on further South. Even in the Fall and Winter ELM LANE is used by people jogging, walking dogs etc. As I have stated earlier the "DAUNIS" R.O.W has no parking for access to the creek there. Like most streets in Barrington there is no parking, so to get public access (by car to park) they park at ELM LANE to walk the sea wall.

To sum it all up the ELM LANE R.O.W is the most convenient place to park for the public for access to the Bay shore. It must be because I drive from Attleboro to go fishing there.

Thank You: I can be reached at (774) 218-0704 for further information

Sincerely: Raymond Tameo

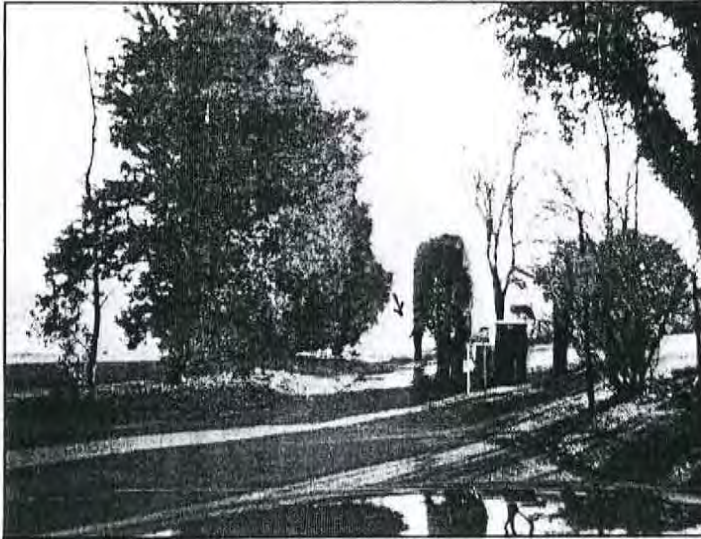


Photograph Addendum

Client	[Redacted]				
Property Address	56 Elm Lane				
City	Barrington	County	Bristol	State	RI
Zip Code	02806-3328				
Owner	KILMARX				

KILMARX

56 ELM LANE AT BAY END
street scene w/pedestrian walking DOG



pedestrian walking dog on 56
Elm Lane - Seawall - no privacy
if sitting in front yard - pedestrian
is on the subject's property w/dog



pedestrian walking in front of sub-
ject on subject's seawall

KILMARX - 56 ELM LANE, BARRINGTON

RECEIVED
FEB 28 2011
C.R.M.C.



KILMARRY-56 ELM LANE, BARRINGTON

RECEIVED
FEB 28 2011
C.R.M.C.



KILMARRX - 56 ELM LANE, BARRINGTON

RECEIVED
FEB 28 2011
C.R.M.C.



EXHIBIT F



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

Certificate of Maintenance

March 2, 2011

Robert Kilmarx
56 Elm Lane
Barrington, RI 02806

RE: CRMC Assent No. M2011-03-001: Replace loose concrete on existng sewall. **No expansion is authorized by this assent.**

Project Location: 56 Elm Lane; Barrington; Plat 05, Lot 70

Dear Applicant:

The Coastal Resources Management Council has reviewed your project proposal and has determined that it conforms to RICRMP Section 300.14 and applicable standards. Construction authorized by this approval shall be limited to replacement, reconstruction, or rebuilding to approved, pre-existing conditions and dimensions of the above noted structure. In accordance with revisions to RIGL 46-23-6.3 Expiration Tolling Periods (as amended effective June 25, 2010), all work being permitted must be completed on or before **July 1, 2014**. If this project involves excess construction materials or debris, these materials shall be removed from the site and disposed of at a suitable legal upland location. No equipment access or storage of equipment, construction material or debris shall occur on coastal features. If the project involves earthwork, appropriate erosion controls shall be utilized. All applicable conditions of original CRMC Assents that pertain to this property shall be upheld unless otherwise modified by the CRMC. All applicable policies, prohibitions, and standards of the RICRMP shall be upheld.

A copy of this maintenance authorization to perform maintenance work shall be kept on site and available for inspection. The maintenance (blue) card must be posted on site during the project duration.

Sincerely,

William J. Mosunic
Administrative Officer

Coastal Resources Management Council

/rcm

CAUTION:

Permits issued by the CRMC 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.

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.

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.

PT 2f

**FINDING OF NO SIGNIFICANT IMPACT
COMBINATION BIOLOGIST, ENGINEER REPORT**

_____ FONSI CERTIFICATE _____ _____ MAINTENANCE CERTIFICATE

NAME: Robert D Kilmarf File Number: 2011-03-001

ADDRESS: 56 Elm Lane Barrington

PROJECT LOCATION: Same

_____ Plat # 05 Lot# 70

PROPOSED PROJECT: Replace loose concrete on existing
seawall via property

Based on review of this proposed project, the CRMC staff has determined that the project will have minimal impact on the coastal resources and is consistent with applicable RICRMP standards, polices and prohibitions.

Gregory Baribault, Permitting Staff
Coastal Resources Management Council

W

William Mosunic, Permitting Staff
Coastal Resources Management Council

/lam/rhm
9/25/02

CRMC Application Review Sheet

File Number: 2011-03-001
Owner Name: Robert Kilmarx
Site Address: 56 Elm Lane, Barrington
 Plat: 05 Lot: 70

Administrative Review

Reviewer: WJM
Completed on _____
 Application Complete
 Application Deficient
 FONSI
 Enforcement compliance _____

Missing
 _____ **Application**
 _____ **Fee**
 _____ **ISDS**
 _____ **Proof of Ownership**
 _____ **Building Permit**
 _____ **Site Plans**

EXTENSION (Enforcement review)

Notes _____

Team Review for Acceptance

Application Deficient
 Deficiency Letter Required
 Notified Via Phone Call – waiting for _____

<input type="checkbox"/> Application Accepted Date _____	Assigned To:		Date Completed	Denial Recommendation	Management Sign-off
		Engineer			
	Biologist				
	Geologist				
	Aqua				
	Dredge				
	Other				

Category:
Project Type: _____
Water Type: _____
Water Area: _____
PGP Category: 1 2 IP **Public Access 355** **Public Access Easement**
Short Project Description:

EXHIBIT G



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-3767

File No. 2017-06-096

CRMC MAINTENANCE CERTIFICATION REQUEST

Owner's Name Dave Goulden

Mailing Address 85 Noyett Rd

Town Barrington State RI Zip Code 02806

PROJECT LOCATION

Plat 5 Lot(s) 70

Street 56 Elm Lane

City/Town Barrington Tel. No. (Home) _____ (Bus.) _____

Waterway Narragansett Bay Contact Person Tel. No. 617-407-4719

Estimated Project Cost 26,500.00

DESCRIPTION OF FACILITY TO BE MAINTAINED, TYPE OF FACILITY AND PRESENT CONDITIONS:

single residential home to be demolished
all debris to be hauled away.

Contractor Name and RI Contractor's License Number:

ELJ Inc. - Christopher Francis Lic # 1790 exp 6/1/18

PREVIOUS CRMC OR HARBORS AND RIVERS PERMIT NO. (ATTACH COPY):

YEAR WHICH FACILITY WAS BUILT: 1949

PROVIDE A DETAILED DESCRIPTION OF THE PROPOSED MAINTENANCE ACTIVITY (See NOTE "A"-->)

Demo existing single family home

DESCRIBE EQUIPMENT TO BE USED, CONSTRUCTION METHODS, ACCESS ROUTES, ETC...

Hydraulic excavator and hydraulic thumb
Demo trailers + dump trucks

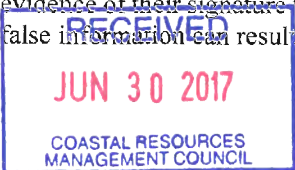
IS THIS APPLICATION BEING SUBMITTED IN RESPONSE TO A COASTAL VIOLATION? YES _____ NO

IF YES, YOU MUST INDICATE NOV OR C&D NUMBER: _____

IS THIS SITE WITHIN A DESIGNATED HISTORIC DISTRICT? no _____

[Signature]
Owner's Signature

NOTE: The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible adhered to the policies and standards of the program. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. The filing of false information can result in the Coastal Resources Management Council revoking state assent.



SEE REVERSE SIDE ->

Coastal Resources Management Council
4808 Tower Hill Road Suite 3
Wakefield, RI 02879
Phone: (401) 783-3370

DATE: 6/30/17

FROM: Building Official

SUBJ: Application of: McDonough / Goulden

Location: 56 Elm Ln. Barrington, RI 02806

Address: 56 Elm Ln. Plat No. 5 Lot No. 70

To Construct: Demolish single family home.

I hereby certify that I have reviewed ___ foundation plan(s) N/A
___ plan(s) for entire structure
___ site plans
Titled: McDonough single family home demolition

Date of Plan (last revision): _____

___ and find that the issuance of a local building permit is not required as in accordance with Section ___ of the Rhode Island State Building Code.

and find that the issuance of a local ^{demolition} building permit is required. I hereby certify that this permit shall be issued once the applicant demonstrates that the proposed construction/activity fully conforms to the applicable requirements of the RISBC.

___ and find that a Septic System Suitability Determination (SSD) must be obtained from the RI Dept. of Environmental Management.

N/A and find that a Septic System Suitability Determination (SSD) need not be obtained from the RI Dept. of Environmental Management.

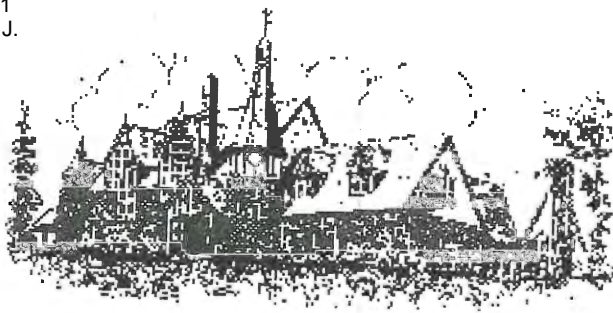
N/A and find that said plans conform with all elements of the zoning ordinance, and that if said plans require zoning board approval, that the applicant has secured such approval and that the requisite appeal period has passed with no appeal filed or appeal is final. The Zoning Board approval shall expire on _____.

[Signature] 6/30/17
Building Official's Signature Date

N/A and find that said plans conform with all elements of the zoning ordinance, and that if said plans require zoning board approval, that the applicant has secured such approval and that the requisite appeal period has passed with no appeal filed or appeal is final.

[Signature] 6/30/17
Zoning Officer's Signature Date





TOWN OF BARRINGTON
OFFICE OF THE ASSESSOR
283 COUNTY ROAD
BARRINGTON, RI 02806

Junw 29 2017

RI Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield RI 02879

To Whom It May Concern:

This is to verify ownership of property in the Town Of Barrington RI.

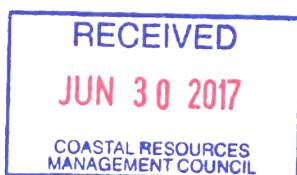
OWNER'S NAME: GOULDEN DAVID I (TRUST)

ADDRESS: 56 ELM LANE

PLAT: 05

LOT(S): 70

JoAnn Mangione
Assessor Clerk



Barrington

(Summary Data - may not be Complete Representation of Property)



Parcel: 05-070	Location: 56 ELM LANE	Owner: DAVID I. (TRUST) GOULDEN
Account: 692	User Acct: R-029284	LUC: 01

Parcel Values				
Total: \$2,130,000	Land: \$1,881,500	Land Area: 114,966 SF	Building: \$248,500	Assessed: \$2,130,000

Sales Information				
Book and Page	Instrument Type	Date	Price	Grantor
1524-278	Warranty	03/02/2017	\$1,600,000	KILMARX, ROBERT D.
0-0	Death Of One Of The Owners	06/11/2002	\$0	KILMARX, ROBERT D. & MARY N. (TE

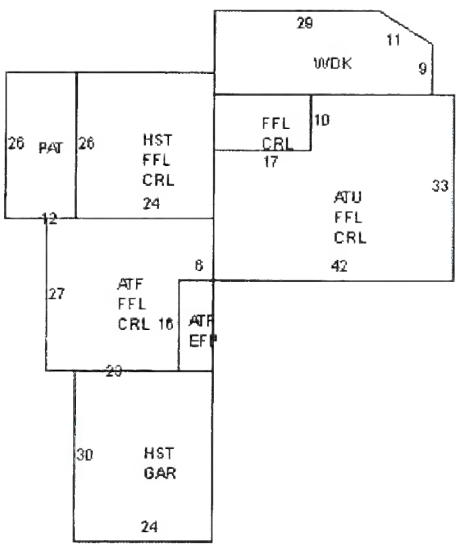
Building Type: Cape	Year Built: 1949	Grade: Q4	Condition: AV
Heat Fuel: Gas	Heat Type: FWA	% Air Conditioned: 0	Fireplaces: 2
Exterior Wall: Wood Shgle	Bsmnt Garage:	Roof Cover: Asph Shgle	# of Units: 1
# of Rooms: 10	# of Bedrooms: 7	Full Bath: 3	1/2 Baths: 2



Yard Item(s)						
Description	Quantity	Size	Year	Condition	Quality	Value

Building Areas	
Area	Finished Area
1st FLOOR	2,697 SF
ATTIC FINISHED	195.75 SF
ATTIC UNFINISHED	304 SF
CRAWL SPACE	2,697 SF
ENCLOSED PORCH	96 SF
GARAGE	720 SF
HALF STORY	672 SF
PATIO	312 SF
WOOD DECK	81.45 SF

Disclaimer: This information is for tax
 assessing purposes
 and is not warranted



TAX \$ 1360.00
DATE 3/2/17
RECORDER mgc
TOWN OF BARRINGTON

INST: 524 Bk: 1524 Pg: 278

WARRANTY DEED

~~Robert D. Kumar~~ **Robert D. Kumar**, of Barrington, Rhode Island, as surviving Tenant by the Entirety (the "Grantor"), for consideration paid in the amount of **One Million Six Hundred Thousand and 00/100 Dollars (\$1,600,000.00)**, the receipt and sufficiency of which is hereby acknowledged, hereby grant to **David I. Goulden, Trustee of the David I. Goulden 2011 Revocable Trust, u/d/t March 30, 2011** of 85 Nayatt Point, Barrington, RI 02806 (the "Grantee"), with **WARRANTY COVENANTS**:

That parcel of land with all buildings and improvements thereon, situated in the Town of Barrington in the State of Rhode Island, bounded and described as follows:

Beginning at a granite bound set in the easterly line of Elm Lane, sometimes called the highway which runs from Nayatt Road southerly to Narragansett Bay, said granite bound being at the northwesterly corner of said parcel and at the southwesterly corner of land conveyed by deed of Henry D. Sharpe to Fred B. Perkins dated March 15, 1946, and recorded with the Records of Land Evidence in said Barrington in Book 41 at page 268; thence easterly in a line which forms a right angle with the easterly line of Elm Lane and bounding northerly on said Perkins land three hundred twenty and 55/100 (320.55) feet, more or less, to a granite bound at land now or lately of Frederick A. Ballou Estate; thence turning and running southerly bounding easterly on said Ballou land three hundred thirty five (335) feet, more or less, to the face of the sea wall near the shore of Narragansett Bay; thence continuing southerly bounding easterly on said Ballou land to Narragansett Bay; thence westerly bounding southerly on Narragansett Bay four hundred thirty (430) feet, more or less, to the easterly line of Elm Lane; thence northerly bounding westerly on Elm Lane one hundred five (105) feet, more or less; thence turning an interior angle of 181° 05' and continuing northerly bounding westerly on Elm Lane ninety eight and 60/100 (98.60) feet, more or less; thence turning an interior angle of 196° 05' and continuing northerly bounding westerly on Elm Lane one hundred twenty one and 81/100 (121.81) feet, more or less, to the granite bound at the point of beginning.

Together with all riparian and littoral rights in Narragansett Bay which are appurtenant to the above described premises.

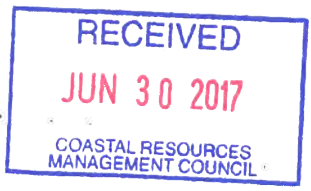
Subject to rights and easements contained in deed recorded in Book 42 at Page 478.

Together with and subject to the terms, provisions, rights, easements, obligations and covenants set forth in that certain agreement dated July 2, 1957 and recorded in Book 56 at Page 327.

Subject to easement and right of way and covenants and restrictions set forth in Book 129 at Page 404.

Subject to right of way and easement as set forth in Book 41 at Page 268; as affected by Deed recorded in Book 100 at Page 40.

Subject to rights set forth in Book 56 at Page 332.



Subject to Town of Barrington Assessing Board of Review Decision recorded in Book 1194 at Page 41.

Subject to Consent Agreement recorded in Book 1417 at Page 68.

Subject to real estate taxes assessed as of December 31, 2016.

Meaning and intending to describe the same premises conveyed by deed dated November 15, 1965 and recorded with the Land Evidence Records in the Town of Barrington on November 16, 1965 at 12:00 P.M. in Book 73 at Page 65.

Grantor hereby covenants that no withholding is required under R.I. Gen. Laws § 44-30-71.3 as he is a resident of Rhode Island, as evidenced by affidavit.

IN WITNESS WHEREOF, the undersigned Grantor has signed, acknowledged and delivered these presents this 20th day of February, 2017.

Robert D. Kilmarx

Robert D. Kilmarx

STATE OF RI
COUNTY OF Allegheny

In the City/Town of Verona, in said County, on the 20th day of February, 2017, before me personally appeared the above-named **Robert D. Kilmarx** to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument by him so executed to be his free act and deed.

Ellen Maye

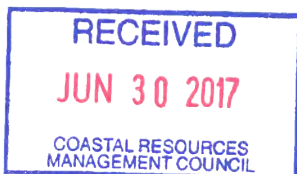
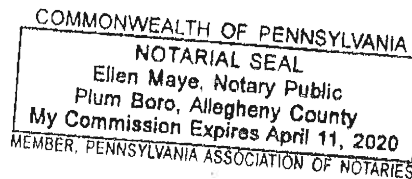
Notary Public

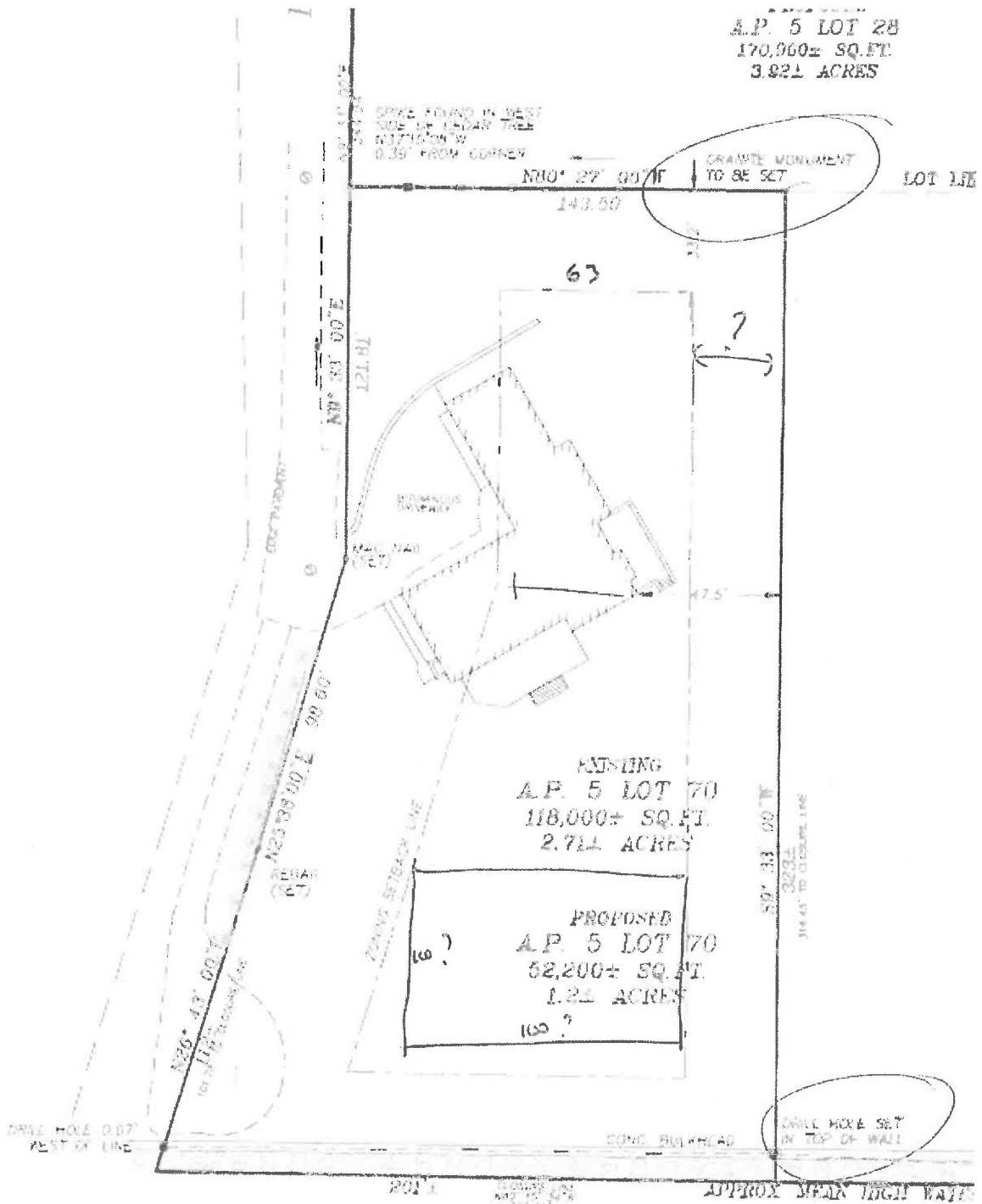
Print Name: Ellen Maye

My Commission Expires: 4/11/2020

FOR REFERENCE ONLY
56 ELM LANE
BARRINGTON, RI 02806
APLAT: 05 LOT: 070

GRANTEE MAILING ADDRESS:

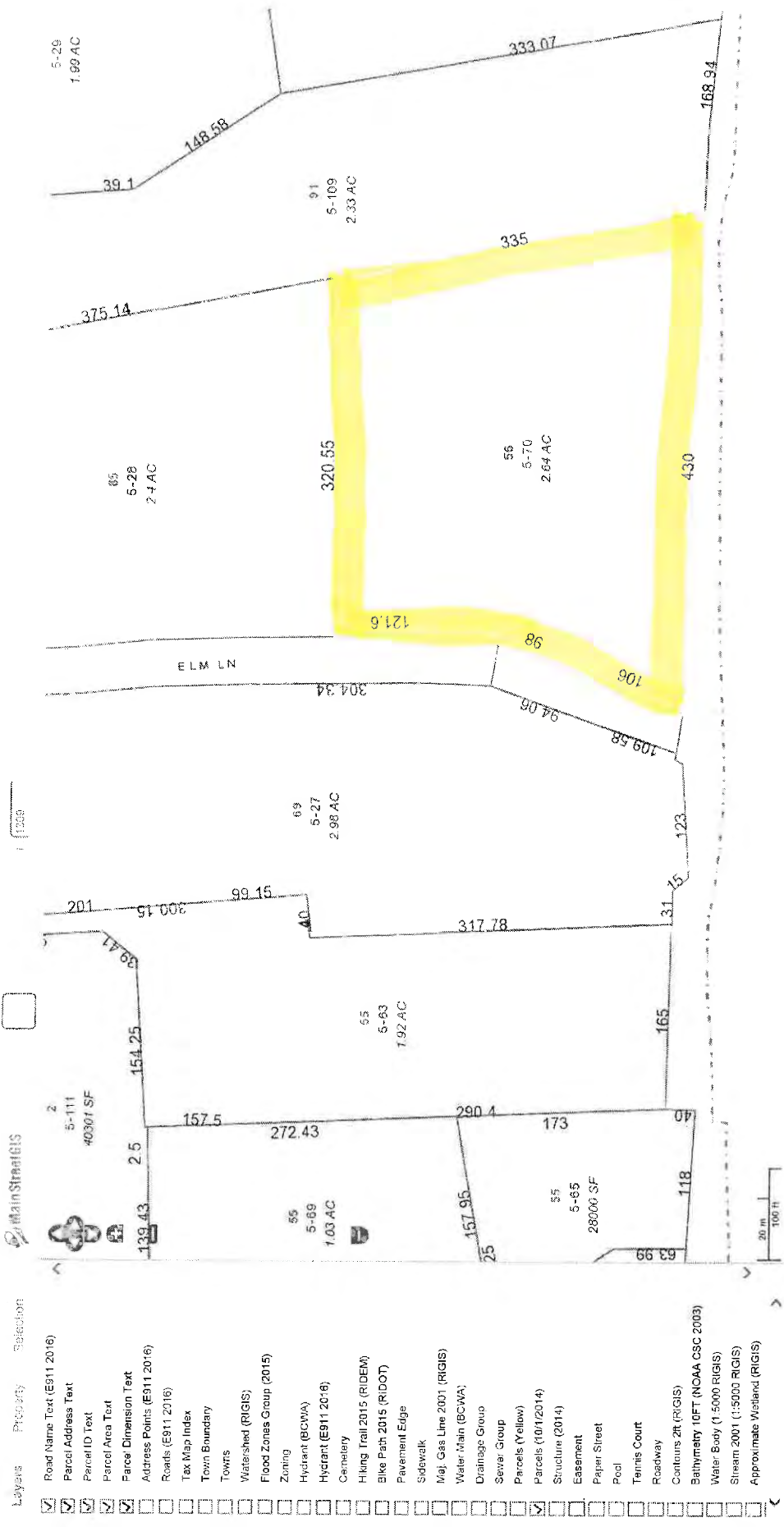




NARRAGANSE

Town of Barrington, Rhode Island
Web GIS Maps and Online Property Information

55-070
Town Basic Map
MainStreetGIS
Scale: 1:1000



- Layers: Property Selection
- Road Name Text (E911 2016)
 - Parcel Address Text
 - Parcel ID Text
 - Parcel Area Text
 - Parcel Dimension Text
 - Address Points (E911 2016)
 - Roads (E911 2016)
 - Tax Map Index
 - Town Boundary
 - Towns
 - Watershed (RIGIS)
 - Flood Zones Group (2015)
 - Zoning
 - Hydrant (BCWA)
 - Hydrant (E911 2016)
 - Cemetery
 - Hiking Trail 2015 (RIDEM)
 - Bike Path 2015 (RIDOT)
 - Pavement Edge
 - Sidewalk
 - Maj. Gas Line 2001 (RIGIS)
 - Water Main (BCWA)
 - Drainage Group
 - Sewer Group
 - Parcels (Yellow)
 - Parcels (10/12014)
 - Structure (2014)
 - Basement
 - Paper Street
 - Pool
 - Tennis Court
 - Roadway
 - Contours 2ft (RIGIS)
 - Bathymetry 10FT (NOAA CSC 2003)
 - Water Body (1:5000 RIGIS)
 - Stream 2001 (1:5000 RIGIS)
 - Approximate Wetland (RIGIS)

RECEIVED
JUN 30 2017
COASTAL RESOURCES
MANAGEMENT COUNCIL

IT

HOLE (FOUND)
 ST FACE OF
 WALL AT TOP

COASTAL RESOURCES MANAGEMENT COUNCIL
 APPROVED PLANS
 DATE 8/22/17
 STAFF MEMBER TS
 SUBJECT TO STIPULATIONS CONTAINED IN
 ASSENT NUMBER 2017-06-096

RECEIVED
 JUL 19 2017
 COASTAL RESOURCES
 MANAGEMENT COUNCIL

**CRMC SUBMISSION
 PLAN OF SURVEY**

IN
BARRINGTON, R.I.
 FOR
DAVID GOULDEN
A.P. 5 LOT 70

DATE 7/18/17	PROJECT NO. 17-001
SCALE 1"=30'	DRAWING NO.
REVISIONS	DESIGNED BY D.D.G.
	DRAWN BY D.D.G.
	CHECKED BY

SHEET NO.
1



**DAVID D. GARDNER
 & ASSOCIATES, INC.**
 200 METRO CENTER BOULEVARD
 WARWICK, RHODE ISLAND 02886
 (401) 738-3200 | FAX:(401) 739-4740

NER
 1809
 VAL
 YOR

EXHIBIT H



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 116
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

August 24, 2017

David Goulden
56 Elm Lane
Barrington, RI 02806

RE: CRMC Maintenance Certification M2017-06-096 - demolish existing single family residence; no rebuild is authorized by this Assent.
Site Location: 56 Elm Lane, Barrington
Plat(s): 5 Lot(s): 70

Dear Mr. Goulden:

A site inspection and review of plans submitted to this office for the above cited project indicates it is in conformance with and will have no adverse effect on the plan and program adopted by the Coastal Resources Management Council.

The Coastal Resources Management Council will interpose no objection to the work proposed, as long as all work is done in accordance with plans/and or notice submitted into this office and provided the following stipulations are adhered to.

ADDITIONAL STIPULATIONS

General Stipulations

A. The applicant shall record this assent in its entirety in the land evidence records of the Town of Barrington 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. For the purpose of this permit, the coastal feature shall be the coastal beach backed by manmade shoreline (boulder/seawall); and the inland edge of the coastal feature shall be the top of the low seawall.

C. The approved demolition plan shall be those entitled "CRMC SUBMISSION, PLAN OF SURVEY, BARRINGTON, DAVID GOULDEN, AP 5, LOT 70..." dated 7/18/17 by David D. Gardner & Associates, Inc. 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.

David Goulden
CRMC Assent No.: M2017-06-096
August 24, 2017
Page Two

INST# 3364 Bk: 1559 Pg: 150

D. The existing coastal buffer zone (Ref. CRMP Section 150) shall be the "brush" as shown on the approved plan, ranging from approximately 35'-60' in width.

E. This assent requires a setback (Ref. CRMP Section 140) of 50' feet in width as measured landward from the inland edge of the coastal feature and/or 25' from the existing buffer zone, whichever is greater.

F. As of the date of assent issuance, all vegetation in the coastal buffer zone is to remain in a permanently undisturbed condition.

G. Unless specifically approved as being within the accepted limits of disturbance, no alterations or activities shall be allowed in an area of beach grass; nor shall materials be stockpiled nor disposed of on the area of beach grass, nor shall any heavy machinery operate within this area.

H. No alterations (vegetative or otherwise) or activities are allowed on the coastal feature(s) or in the waterway adjacent to the site.

I. No changes are authorized to existing driveway and parking areas at this time.

J. All runoff of surface water into the existing coastal buffer zone shall be maintained as sheet flow. No concentrated sources of runoff flow (such as pipes or swales) shall be directed into the buffer zone.

K. **This demolition Assent recognizes the Structural Lot Coverage (SLC) of the structure prior to demolition and then for only a period of one (1) year from the date of this Assent. The "Pre-existing SLC" is 3,728ft².**

L. Provided a complete application for a replacement structure is submitted by an applicant within one (1) year of the date of this Assent, CRMC will use the "pre-existing SLC" as described above for the evaluation of RICRMP Section 1.1.9 (Section 150) Coastal Buffer Zone requirements. **Applications to rebuild after one year of the date of this Assent shall be subject to current regulations and any 'pre-existing SLC' shall not be recognized.**

M. Regardless of additional buffer zone assessment at the time of future application, the existing buffer zone shall continue to remain undisturbed.

Earthwork Stipulations

A. Prior to the initiation of site alterations or construction including the mobilization of construction vehicles, equipment or machinery, the Limit of Disturbance (LOD) shall be adequately delineated on site (by survey methods where appropriate). No equipment access, equipment or material storage or other activities including construction vehicle parking shall occur beyond the Limit of Disturbance, even on a temporary basis. The LOD shall be established a minimum of 25' inland of the existing buffer zone.

David Goulden
CRMC Assent No.: M2017-06-096
August 24, 2017
Page Three

B. Prior to conducting earthwork and other land disturbing activities, the erosion, runoff and sediment control measures found within the applicable details of the Rhode Island Soil Erosion and Sediment Control Handbook (as amended) shall be installed. These measures must be maintained until the site is stabilized through the establishment of vegetative cover and/or construction of the approved facilities (buildings, roadways, parking areas, etc.) has stabilized soils sufficiently to prevent erosion and sedimentation.

C. There shall be no activities (construction, stockpiling vehicle or equipment access, etc.) beyond the approved Limit of Disturbance (LOD), within buffer zones, on coastal features, in freshwater wetlands or in tidal waters, ponds, streams, rivers and other natural resource areas.

D. All excess excavated materials (soils, rock, gravel, etc.), excess construction materials, demolition debris, temporary erosion, runoff and sediment control measures, etc., shall be removed from the site for appropriate re-use and/or proper disposal at a suitable upland location or landfill. All toxic materials and waste shall be properly transported and disposed of in accordance applicable state and federal regulations.

E. All excavated material shall be cast on the upslope side of the excavation to minimize sedimentation. No excavated material shall be stockpiled beyond the Limit of Disturbance (LOD) or in unauthorized locations.

F. All areas of disturbed soils which are impacted by construction, site work and related activities shall be temporarily stabilized throughout the site construction period. Soil stabilization may be achieved through appropriate temporary measures as described by the Rhode Island Soil Erosion and Sediment Control Handbook (as amended). Where the season is not conducive to the establishment of vegetative cover, other temporary measures shall be employed including the application of mulch and/or use of fiber rolls (erosion control blankets, etc.). Temporary erosion, runoff and sediment controls shall be employed and maintained until temporary or permanent vegetative cover can be achieved and/or site improvements such as approved buildings, roadways and parking areas are constructed resulting in a lack of exposed soil.

G. There shall be no discharge or disposal of toxic waste, hazardous materials, oil, grease and other lubricants, excess fertilizer, pesticides or other chemicals or controlled materials either on site or in any area which may enter a wetland, watercourse or groundwater. All spills of such materials shall be reported to the RI Department of Environmental Management for appropriate remediation. All used lubricants, excess chemicals, fertilizers, pesticides, etc., shall be removed from the site for transport, handling and disposal in accordance with all applicable state and federal regulations.

H. Upon the successful stabilization of exposed soils, all temporary (interim) erosion, runoff and sediment control measures shall be removed from the site for re-use and/or for disposal at a suitable, legal upland location or landfill. All temporary sediment basins, sediment traps and channels, etc., shall be removed and/or restored in accordance with the approved site plans.

A copy of this certification to perform maintenance work shall be kept on site during construction. All conditions of original CRMC assents that pertain to this property will be adhered to unless otherwise modified by the CRMC.

David Goulden
CRMC Assent No.: M2017-06-096
August 24, 2017
Page Four

Applicant agrees that as a condition to the granting of this certification, members of the Coastal Resources Management Council or its staff shall have access to his 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.

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 all work must being permitted must be completed on or before August 24, 2020 (unless written application requesting an extension is received by CRMC sixty (60) days prior to expiration date).

Permits issued by the CRMC 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.

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 this assent or what was detailed on the CRMC approved plans will require a separate application and review. Additionally, 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.

David Goulden
CRMC Assent No.: M2017-06-096
August 24, 2017
Page Five

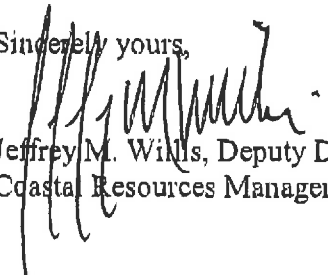
ATTENTION: ALL STRUCTURES AND FILLED AREAS IN THE TIDAL, COASTAL, OR NAVIGABLE WATERS OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS ARE SUBJECT TO:

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.

The Coastal Resources Management Council wishes to thank you for being given the opportunity to assess and review these plans. If you need additional information, please feel free to contact this office.

Sincerely yours,


Jeffrey M. Willis, Deputy Director
Coastal Resources Management Council

/ajt

RECEIVED FOR RECORD
Nov 27 2017 09:29A
Barrington, R.I.
Meredith J. DeSisto
TOWN CLERK

Official Receipt for Recording in:

Barrington Town Clerk
Town Hall
283 County Road
Barrington, Rhode Island 02806

Issued To: HALK IN

BARRINGTON RI 02806

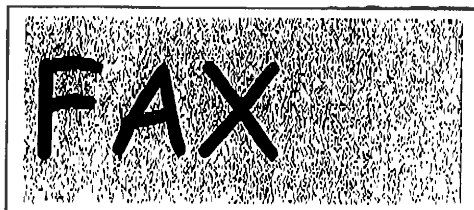
Recording Fees

Document Description	Number	Vol	Page	Recording Amount
RecOther	3364	01559	00149	49.00
Rec Fees Tech Account (10			4.90	
Recording Fees (902)			44.10	
GARDEN DR-GOULDEN DAVID L IN-COASTAL RESOURCES MANAGEMENT COUNCIL				
HistPresStat	3354			3.00
Historical Records State			3.00	
HistPresTown	3364			1.00
Historical Records Town			1.00	

Collected Amounts

Payment Type	Amount
Check	53.00
	53.00

Total Received : 53.00
Less Total Recordings: 53.00



Name: ELJ, Inc.

Phone: 401-253-9696

Fax: 401-254-0470

Address: 703 Metacom Ave Bristol, RI

To: Laura Miguel / CRMC

Fax #: 401-783-2069

of pages: 7 including cover

Message:

This is the recorded ^{assent} at the Town
of Barrington's clerks office. Please call
us if you have any questions.

Thank you.

Patty Francis



State of Rhode Island and Providence Plantations
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-3767

November 10, 2017

David Goulden
56 Elm Lane
Barrington, RI 02806

Re: Coastal Resources Management Council Assent 2017-06-096

Dear Owner (s):

“Our records indicate that we have not yet received “a copy” of your recorded Assent/Modification. ***The recording of this Assent/Modification is referred to in stipulation “A” as a requirement of this document.*** Please have your Assent/Modification, in its entirety, recorded in the land evidence records in the clerk's office in the town or city where the property is located

The Council wishes to resolve this issue with your cooperation, therefore, we would appreciate your forwarding to us, a “copy” of this recording, each and every page, within 30-days of the date of this letter. You may fax the copies if you wish. Please keep the original recorded Assent/Modification for your records, as this document remains with the property.

Please note: If a copy is not received within this time frame, the Council will be forced to take additional enforcement steps. Failure to do so could render this Assent null and void and may result in an administrative fine of up to \$1000.00 being assessed. If you need a new original Assent/Modification to record, or if you have any questions, please call our office at 783-3370. Our clerical staff will be pleased to assist you.

The Council and the staff at CRMC wish to thank you in advance for your cooperation.

Sincerely,

Jennifer Abbruzzese for
Grover J. Fugate, Executive Director
Coastal Resources Management Council

/jla

56 Elm Lane, Barrington

Write a description for your map.

Legend

- 0
- 24
- 56 Elm Ln



CRMC File Number: 2017-06-096

COMBINATION RECOMMENDATION/STIPULATIONS FORM
FOR CRMC BIOLOGIST'S & ENGINEER'S REPORTS

Owner/Applicant's Name: David Goulden
Address: 56 Elm Lane
Barrington, RI 02806

Also send to: N/A

Project: To demolish existing single family residence; No rebuild at this time.

Location: Plat(s): 5; Lot(s): 70
56 Elm Lane, Barrington

ACOE PGP CATEGORY 1 2 Not applicable

Staff review of the current proposal indicates that the following recommendations and/or stipulations are required to mitigate concerns in regard to the RICRMP. Provided that these stipulations are adhered to, there is no staff objection to this proposal.

See attached stipulation sheets. All initialed by either biologist or engineer apply.

Biologist's Signature: T. Silvia  Date: 8/22/17 Initials: TAS

~~Engineer's Signature: _____ Date: _____ Initials: _____~~

Owner: David Goulden
Site Address: 56 Elm Lane Plat: 5 Lot: 70
Site Town: Barrington
Proj. Desc: Demolish dwelling; No rebuild

File Number: 2017-06-096

General Stipulations (f10 and g1, g2, g3, g4.....)

1.ts	The applicant shall record this assent in its entirety in the land evidence records of the City/Town of Barrington 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.
2.ts	For the purpose of this permit, the coastal feature shall be <u>the coastal beach backed by manmade shoreline (boulder/seawall)</u> ; and the inland edge of the coastal feature shall be <u>the top of the low seawall</u> .
3.ts	The approved <u>demolition</u> plan shall be those entitled " <u>CRMC Submission, Plan of Survey, Barrington, David Goulden, AP 5, Lot 70...</u> " dated 7/18/17 by David D. Gardner & Associates, Inc. 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.
7.ts	The <u>existing</u> coastal buffer zone (Ref. CRMP Section 150) shall be <u>the "brush" as shown on the approved plan, ranging from ~35'-60' in width</u> .
9.ts	This assent requires a setback (Ref. <u>CRMP</u> Section 140) of <u>50'</u> feet in width as measured landward from the inland edge of the coastal feature <u>and/or 25' from the existing buffer zone, whichever is greater</u> .
11.ts	<u>As of the date of assent issuance, all vegetation in the coastal buffer zone is to remain in a permanently undisturbed condition.</u>
15.ts	Unless specifically approved as being within the accepted limits of disturbance, no alterations or activities shall be allowed in an area of beach grass; nor shall materials be stockpiled nor disposed of on the area of beach grass, nor shall any heavy machinery operate within this area.
16.ts	No alterations (vegetative or otherwise) or activities are allowed on the coastal feature(s) or in the waterway adjacent to the site.
17.ts	<u>No changes are authorized to existing driveway and parking areas at this time.</u>
19.ts	All runoff of surface water into the <u>existing</u> coastal buffer zone shall be maintained as sheet flow. No concentrated sources of runoff flow (such as pipes or swales) shall be directed into the buffer zone.
23.ts	This demolition Assent recognizes the Structural Lot Coverage (SLC) of the structure prior to demolition and then for only a period of one (1) year from the date of this Assent. The "Pre-existing SLC" is <u>3728sf</u> .

Staff: _____ Owner: David Goulden
File #: 2017-06-096

Owner: David Goulden
Site Address: 56 Elm Lane Plat: 5 Lot: 70
Site Town: Barrington
Proj. Desc: Demolish dwelling; No rebuild

24.ts	Provided a complete application for a replacement structure is submitted by an applicant within one (1) year of the date of this Assent, CRMC will use the "pre-existing SLC" as described above for the evaluation of RICRMP Section 1.1.9 (Section 150) Coastal Buffer Zone requirements. Applications to rebuild after one year of the date of this Assent shall be subject to current regulations and any 'pre-existing SLC' shall not be recognized.
25. ts	<u>Regardless of additional buffer zone assessment at the time of future application, the existing buffer zone shall continue to remain undisturbed.</u>

Earthwork Stipulations (f10 and e1, e2, e3...)

2.ts	Prior to the initiation of site alterations or construction including the mobilization of construction vehicles, equipment or machinery, the Limit of Disturbance (LOD) shall be adequately delineated on site (by survey methods where appropriate). No equipment access, equipment or material storage or other activities including construction vehicle parking shall occur beyond the Limit of Disturbance, even on a temporary basis. <u>The LOD shall be established a minimum of 25' inland of the existing buffer zone.</u>
5.ts	Prior to conducting earthwork and other land disturbing activities, the erosion, runoff and sediment control measures <u>found within the applicable details of the Rhode Island Soil Erosion and Sediment Control Handbook (as amended) shall be installed.</u> These measures must be maintained until the site is stabilized through the establishment of vegetative cover and/or construction of the approved facilities (buildings, roadways, parking areas, etc.) has stabilized soils sufficiently to prevent erosion and sedimentation.
10.ts	There shall be no activities (construction, stockpiling vehicle or equipment access, etc.) beyond the approved Limit of Disturbance (LOD), <u>within</u> buffer zones, on coastal features, in freshwater wetlands or in tidal waters, ponds, streams, rivers and other natural resource areas.
11.ts	All excess excavated materials (soils, rock, gravel, etc.), excess construction materials, demolition debris, temporary erosion, runoff and sediment control measures, etc., shall be removed from the site for appropriate re-use and/or proper disposal at a suitable upland location or landfill. All toxic materials and waste shall be properly transported and disposed of in accordance applicable state and federal regulations.
12.ts	All excavated material shall be cast on the upslope side of the excavation to minimize sedimentation. No excavated material shall be stockpiled beyond the Limit of Disturbance (LOD) or in unauthorized locations.
13.ts	All areas of disturbed soils which are impacted by construction, site work and related activities shall be temporarily stabilized throughout the site construction period. Soil stabilization may be achieved through appropriate temporary measures as described by the Rhode Island Soil Erosion and Sediment Control Handbook (as amended). Where the season is not conducive to the establishment of vegetative cover, other temporary measures shall be employed including the application of mulch and/or use of fiber rolls (erosion control blankets, etc.). Temporary erosion, runoff and sediment controls shall be

Staff: _____

Owner: David Goulden

File #: 2017-06-096



Owner: David Goulden
Site Address: 56 Elm Lane Plat: 5 Lot: 70
Site Town: Barrington
Proj. Desc: Demolish dwelling; No rebuild

	employed and maintained until temporary or permanent vegetative cover can be achieved and/or site improvements such as approved buildings, roadways and parking areas are constructed resulting in a lack of exposed soil.
16.ts	There shall be no discharge or disposal of toxic waste, hazardous materials, oil, grease and other lubricants, excess fertilizer, pesticides or other chemicals or controlled materials either on site or in any area which may enter a wetland, watercourse or groundwater. All spills of such materials shall be reported to the RI Department of Environmental Management for appropriate remediation. All used lubricants, excess chemicals, fertilizers, pesticides, etc., shall be removed from the site for transport, handling and disposal in accordance with all applicable state and federal regulations.
17.ts	Upon the successful stabilization of exposed soils, all temporary (interim) erosion, runoff and sediment control measures shall be removed from the site for re-use and/or for disposal at a suitable, legal upland location or landfill. All temporary sediment basins, sediment traps and channels, etc., shall be removed and/or restored in accordance with the approved site plans.

Staff: _____ Owner: David Goulden
File #: 2017-06-096



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL

BIOLOGIST SIGN-OFF

TO: Grover J. Fugate
DEPT: Executive Director, CRMC
FROM: T. Silvia
DEPT: CRMC PERMITTING SECTION
SUBJECT: Category M Application

PAGE: 1
DATE: 22 August 2017

CRMC File Number: 2017-06-096 **Name:** David Goulden
Location: 56 Elm Lane, Barrington **AP:** 5 **Lot(s):** 70
Water Type/Name: Type 1 Conservation Areas, Narragansett Bay
Coastal Feature: Coastal beach backed by manmade shoreline (low seawall)
Project Description: Demolish dwelling, delay rebuild

COMMENTS:

- 1) Consultant Scott Rabideau approached staff in early 2017 regarding a demo without rebuild of a single family dwelling. Concern was regarding the applicability of Section 150 in future building application.
- 2) Permitting staff discussed the project and it was agreed that to remain consistent with a single prior agency actions (arson, flood, etc) and also with a reasonable timeframe for guidance (PD timeframe of 1yr), that someone could apply for the demolition and the existing SLC would be considered grandfathered (for Section 150 purposes only) for a period of one year. Provided a new dwelling application was accepted within one year, the grandfathered SLC would be used for calculating applicable Section 150 requirements. This application would not be considered maintenance and a full site plan depicting existing SLC, coastal feature/buffer, etc would be required.
- 3) This application appears to be under P&S to a Ms. McDonough who has contacted staff regarding demolition of the residence. The same guidance was passed to Ms. McDonough and staff has spoken with several of her consultants prior to the filing of this application. Staff also conducted a site visit to the project location on 8/10/17.
- 4) There is a ~3728sf dwelling setback from the coastal feature 100+ feet. An existing area of buffer zone ranging from ~35' to ~60' from west to east is on-site and has been in that configuration since at least 1995 based on Google Earth review. This buffer is to remain intact and additional buffer may be required depending on future development proposals for this project.
- 5) There are no staff objections to the issuance of an administrative assent for this project.

Signed

Staff Biologist

Tracy Silvia

From: Tracy Silvia <tsilvia@crmc.ri.gov>
Sent: Tuesday, July 11, 2017 12:45 PM
To: 'Patricia Francis'
Subject: RE: 56 Elm St., Barrington

Hi Patricia,

Unfortunately, this does not satisfy the requirements. CRMC requires a scaled accurate site plan (ie, showing existing conditions and accurate coastal feature, including a title block, revision date, etc.) for these projects.

The plans need to also include the Structural Lot Coverage (SLC--ie, what is the existing footprint (roofed area) of the building--separating out any porches, decks, accessory structures, roofed entryways, etc. Reference RICRMP Section 150). If this needs to be updated by a surveyor, engineer or architect that may have to be done if the owner doesn't have something depicting the SLC already.

I spoke with and emailed Andrea this morning, re-advising what was required. Additionally, I provided the file number 2017-06-094 that the four hard copies of the full-sized plans need to be mailed attention to. Technically this application is deficient as it is lacking the required review information.

I am not sure where the confusion lies...the requirements for this project have been described to several consultants and the owner since April.

Please contact me for further clarification if necessary.

Tracy

Tracy A Silvia
Sr. Environmental Scientist
Coastal Resources Management Council
Oliver Stedman Govt. Center
4808 Tower Hill Rd
Wakefield, RI 02879
(401) 783-3370
From: Patricia Francis [<mailto:momtoncc@aol.com>]
Sent: Tuesday, July 11, 2017 12:32 PM
To: tsilvia@crmc.ri.gov; andreanahant@gmail.com
Subject: 56 Elm St., Barrington

Good afternoon Tracy,

Andrea came by and gave me this plan that I believe satisfies your request for the site plans and SLC calculations. Please let me know if you need anything else. Thank you and have a good day.

Patricia M. Francis

ELJ Inc.
Office Manager
703 Metacom Ave.
Bristol, RI 02809
401-253-9696
Fax # 401-254-0470

Tracy Silvia

From: Tracy Silvia <tsilvia@crmc.ri.gov>
Sent: Tuesday, July 11, 2017 11:00 AM
To: andreanahant@gmail.com
Cc: elj@eljbristol.com
Subject: CRMC Deficient Application 56 Elm, Barrington

Hi Andrea,

CRMC received an application on 7/3 for a demolition project as we have been discussing. Today, we received a call asking that Lynn or Nicola be added to the file for pickup of permit (253-9696).

The application has not yet been accepted. If you wish to preserve the existing SLC (as noted below in previous discussions), the application is currently deficient for site plans and SLC calculations. If you are choosing to not preserve the SLC, then please advise staff so that I can log this application in and begin review (this option would be a demo permit only with no 'grandfathered' SLC). Otherwise, the application can be held for a short time in our office pending receipt of the required information, thereafter it will be formally returned deficient and future re-submission will be required.

Please clarify whom your contact person is as we have spoken with yourself, Scott from NRS, Meridien, Patty at EU and now Lynn/Nicola from unknown. Please bear in mind that a written statement from you as owner needs to be supplied (email is sufficient) in order for CRMC to provide materials to someone on your behalf).

Please also be aware that no exterior work, no earthwork, no vegetative changes are allowed on the subject parcel prior to receipt of CRMC permit for this demolition.

Tracy A Silvia
Sr. Environmental Scientist
Coastal Resources Management Council
Oliver Stedman Govt. Center
4808 Tower Hill Rd
Wakefield, RI 02879
(401) 783-3370

From: Tracy Silvia [<mailto:tsilvia@crmc.ri.gov>]
Sent: Wednesday, June 28, 2017 11:16 AM
To: 'elj@eljbristol.com'
Subject: FW: 56 Elm, Barrington

Hi Patty,

Here are the emails related to this property and the demo/rebuild requirements in general.

Please be advised that all work (earthwork, vegetative alterations, demo/construction) within 200' of any coastal feature requires CRMC review, regardless of future proposed work on-site.

Hope this clarifies,
Tracy

Tracy A Silvia
Sr. Environmental Scientist
Coastal Resources Management Council
Oliver Stedman Govt. Center
4808 Tower Hill Rd

From: Tracy Silvia [<mailto:tsilvia@crmc.ri.gov>]
Sent: Thursday, April 06, 2017 3:28 PM
To: Scott Rabideau
Cc: Dave Reis
Subject: 56 Elm, Barrington

Hi Scott,

Chatted w/ Dave regarding this issue, here's the approach:

1—To-date the 1yr 'rule' has been applied in a few specific instances but was not intended as standard practice.

2—Going forward, a demo permit can be granted for one year which would 'grandfather' structural lot coverage (SLC). Provided the applicant re-applies within one year, the existing SLC will be utilized for Section 150 purposes in evaluating replacement dwellings. Should an application not be received to replace/rebuild the dwelling within one year of the demolition permit, current regulations would apply at the time of application and no SLC would be considered 'grandfathered'.

3—Category A applications with a proper plan (depicting coastal feature, existing SLC, existing buffer, etc.) are required for this purpose. A demo-only Assent will include a stip regarding one-year SLC and also require recording in Land Evidence Records. This application is not FONSI or Maintenance eligible.

Tracy

Tracy A Silvia
Sr. Environmental Scientist
Coastal Resources Management Council
Oliver Stedman Govt. Center
4808 Tower Hill Rd
Wakefield, RI 02879
(401) 783-3370



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION
Old State House • 150 Benefit Street • Providence, R.I. 02903-1209
TEL (401) 222-2678 FAX (401) 222-2968
TTY / Relay 711 Website www.preservation.ri.gov

Anne Maxwell Livingston
Coastal Resources Management Council
Stedman Government Center, 4808 Tower Hill Road
Wakefield, RI 02879

CRMC File Number: 2017-06096

Applicant: D. Gouder

Town: Pawtucket

Response Date: 7/27/17

Dear Ms. Livingston,

The Rhode Island Historical Preservation & Heritage Commission has reviewed the above- referenced project. It is our conclusion that this project will have no effect on any significant cultural resources (those listed on or eligible for listing on the National Register of Historic Places).

These comments are provided in accordance with Section 220 of the Coastal Resources Management Plan. If you have any questions, please contact Jeff Emidy, Project Review Coordinator, or Charlotte Taylor, Senior Archaeologist, at this office.

Very truly yours,

A handwritten signature in blue ink that reads "Edward F. Sanderson".

Edward F. Sanderson
Executive Director
State Historic Preservation Officer



CRMC Application Review Sheet

File Number: 2017-06-096
Owner Name: ~~Andrea McDonough~~ *David Goulden*
Site Address: 56 Elm Lane, Barrington
Plat: 5; **Lot:** 70

Administrative Review

Reviewer: WJM
Completed on: 7/3/17
 Application Complete
 Application Deficient
 FONSI
 Enforcement compliance _____
 EXTENSION (Enforcement review)

Missing
 _____ Application
 _____ Fee
 _____ ISDS
 _____ Proof of Ownership
 _____ Building Permit
 _____ Site Plans
Notes: *needs site plan & sq ft of removed dwellings*
Andrea McDonough lawyer?

Team Review for Acceptance

Application Deficient *TS*
 Deficiency Letter Required
 Notified Via Phone Call - waiting for *plans*
buyer? need plans/SIC
phd owner - TS/Party, Lynn, Nicola
archer

<input checked="" type="checkbox"/> Application Accepted Date: <u>7/19/17</u>	Assigned To:		Date Completed	Denial Recommendation	Management Sign-off
	Engineer	<i>TS</i>			
Biologist			<i>8/2/17</i>		
Geologist					
Aqua					
Dredge					
Other					

Category: *A*
Project Type: *So - Demo Only*
Water Type: *I*
Water Area: *Narragansett Bay*

PGP Category: 1 2 IP Public Access 355 Public Access Easement

Short Project Description:
demo only - Not for sale / notice
~~grandfather~~ *grandfather SIC*

EXHIBIT I



State of Rhode Island
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 116
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

September 23, 2021

Lance Sheffield
Holly Slater Sheffield
109 Memorial Parkview Drive
Houston, TX 77024

Cease and Desist Order

Dear Mr. Sheffield and Ms. Slater Sheffield:

Under the regulations of the Rhode Island Coastal Resources Management Program (RICRMP), any construction, grading, or filling activities or other alterations within 200 feet of coastal feature associated with tidal waters or coastal ponds of the state or in CRMC's freshwater wetlands in the vicinity of the coast jurisdiction, requires plans for the proposed work be submitted to the Coastal Resources Management Council (CRMC) for review, evaluation, and comment prior to the proposed activity. Failure to do so is a violation of the RICRMP. After evaluation of the plans by CRMC staff, their comments and the requirements for the proposed activities are forwarded to the applicant.

It has come to the attention of the CRMC that you or your agent have undertaken construction of two fences on a coastal feature and two signs within 200 feet of a coastal feature at your property located at Plat 5, Lot 28, 85 Nayatt Road, Barrington; without benefit of a CRMC assent or in violation of a Council order. These fences and signs are in nonconformance with CRMC assent 1981-12-003, stipulations H & I (attached).

This activity is in violation of the Rhode Island Coastal Resources Management Program. You are hereby issued a Cease and Desist Order Number 21-0214, dated September 23, 2021, and ordered to cease all unauthorized activity at this site, to remove all unauthorized fences and signs within 5 days of the date of this letter, and to contact this office within 10 days of this letter. CRMC assent 1981-12-003, Stipulation H states that "A sign or plaque shall be placed at each end of the proposed riprap, to be clearly visible to the public, indicating that passage atop the riprap shall not be denied the public, per order of the CRMC. Suitable language may be decided upon by the CRMC."

Failure to comply with this order shall be a violation of a duly adopted Council regulation, and subject to all fines and penalties established by law. Each day of noncompliance shall be deemed a separate and distinct violation in accordance with Section 46-23-7, G.L.R.I.

Sincerely,

A handwritten signature in black ink, appearing to read "BH".

Brian Harrington, Sr. Environmental Scientist
Coastal Resources Management Council

/ajt
Sent via Certified Mail

EXHIBIT J



State of Rhode Island
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 116
Wakefield, RI 02879-1900

(401) 783-3370
Fax (401) 783-2069

May 27, 2022

Lance Sheffield
Holly Slater Sheffield
85 Nayatt Road
Barrington, RI 02806

Cease and Desist Order

Dear Mr. Sheffield & Ms. Slater Sheffield:

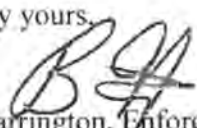
Under the regulations of the Rhode Island Coastal Resources Management Program (RICRMP), any construction, grading, or filling activities or other alterations within 200 feet of coastal feature associated with tidal waters or coastal ponds of the state or in CRMC's freshwater wetlands in the vicinity of the coast jurisdiction, requires plans for the proposed work be submitted to the Coastal Resources Management Council (CRMC) for review, evaluation, and comment prior to the proposed activity. Failure to do so is a violation of the RICRMP. After evaluation of the plans by CRMC staff, their comments and the requirements for the proposed activities are forwarded to the applicant.

It has come to the attention of the CRMC that: you or your agent are preventing lateral public access along the top of your riprap retaining wall in nonconformance with CRMC assent 1981-12-003, stipulation E and additional stipulation H; the riprap retaining wall was constructed in nonconformance with CRMC assent 1981-12-033, stipulation I, specifically the wall was constructed without the required two foot wide access path along the top of the riprap; and have failed to install and maintain a sign or plaque at each end of the riprap retaining wall, clearly visible to the public, indicating that passage atop the riprap shall not be denied the public, per order of CRMC, at your property located at Plat 5, Lot 28, 85 Nayatt Road, Barrington; without benefit of a CRMC assent or in violation of a Council order.

This activity is in violation of the Rhode Island Coastal Resources Management Program. You are hereby issued a Cease and Desist Order Number 22-0094, dated May 26, 2022, and ordered to cease all activity at this site and to contact the undersigned within 10 days of the date of this letter.

Failure to comply with this order shall be a violation of a duly adopted Council regulation, and subject to all fines and penalties established by law. Each day of noncompliance shall be deemed a separate and distinct violation in accordance with Section 46-23-7, G.L.R.I.

Sincerely yours,


Brian Harrington, Enforcement
Coastal Resources Management Council

/ajt
USPS TRACKING NUMBER
70180360000081801494

EXHIBIT K

Procaccini, Daniel

From: Anthony DeSisto <tony@adlawllc.net>
Sent: Monday, February 13, 2023 12:03 PM
To: Procaccini, Daniel
Cc: Mark Hartmann
Subject: Re: Sheffield/85 Nayatt Road - CRMC Violation File No. 22-0094

Hi Dan:

Yes, I'm aware that the sixty day time period referenced in RIGL § 42-35-8 (c) has passed. That said, I'm sure you're aware that the Council has had two very significant matters that have taken up its time in December, January and now February: (1) the Revolution Wind cable application and (2) the Raso aquaculture application (your firm represents the applicant). Raso, as you know, is not quite done, but once it is, the Council's schedule loosens up a bit.

I'll discuss the matter with the Executive Director, Jeff Willis, to determine what time this matter can be heard.

Tony

On Feb 13, 2023, at 11:23 AM, Procaccini, Daniel <DProcaccini@apslaw.com> wrote:

Hi Tony:

I'm checking in again on this matter. The statutory sixty day deadline for CRMC's response has now passed. Please let me know when (or if) I can expect something so I can advise my clients accordingly.

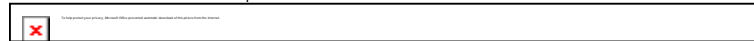
Thank you,
Dan

DANIEL J. PROCACCINI

V-CARD | BIO | WEBSITE | DProcaccini@apslaw.com

1 Citizens Plaza, 8th Floor, Providence RI 02903

Direct 401-427-6224 | Main 401.274.7200



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From: Procaccini, Daniel <DProcaccini@apslaw.com>
Sent: Friday, January 27, 2023 9:12 AM

To: Anthony DeSisto <tony@adlawllc.net>

Subject: Sheffield/85 Nayatt Road - CRMC Violation File No. 22-0094

Hi Tony:

I wanted to check in with you on the status of CRMC's response to the Sheffield's request for a declaratory ruling. It hasn't yet appeared on any CRMC agenda and the sixty day timeframe expires before the next meeting. Should I anticipate this will be heard on 2/14? Please let me know if that's the case or if there is some other timeframe you anticipate so we can plan accordingly. As I'm sure you understand, the Sheffields would like resolve this relatively narrow issue before the summer.

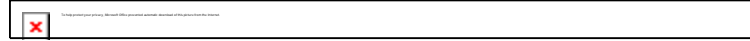
Thanks,
Dan

DANIEL J. PROCACCINI

[V-CARD](#) | [BIO](#) | [WEBSITE](#) | DProcaccini@apslaw.com

1 Citizens Plaza, 8th Floor, Providence RI 02903

Direct 401-427-6224 | Main 401.274.7200



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Anthony DeSisto
Anthony DeSisto Law Associates LLC
450 Veterans Memorial Parkway
Suite 103
East Providence, Rhode Island 02914
Telephone (401) 421-0170
Facsimile (401) 270-4878
[Email: tony@adlawllc.net](mailto:tony@adlawllc.net)

EXHIBIT L

ADLER POLLOCK & SHEEHAN P.C.

One Citizens Plaza, 8th floor
Providence, RI 02903-1345
Telephone 401-274-7200
Fax 401-751-0604 / 351-4607

175 Federal Street
Boston, MA 02110-2210
Telephone 617-482-0600
Fax 617-482-0604

www.apslaw.com

March 8, 2023

Anthony DeSisto, Esq.
Anthony DeSisto Law Associates LLC
450 Veterans Memorial Pkwy
East Providence, RI 02914

Re: Sheffield/85 Nayatt Road - CRMC Violation File No. 22-0094

Dear Mr. DeSisto:

I write in further follow up to your response to my e-mail of February 13, 2023 requesting action from the Coast Resources Management Council (“CRMC”) on the Petition for a Declaratory Ruling filed on December 12, 2022 (“Petition”).

As you have acknowledged, CRMC has failed to comply with the statutory requirement requiring a response within sixty (60) days. Ninety days have passed as of the date of this letter without any formal response by CRMC.

My clients were hopeful that this dispute could be resolved at the administrative level before CRMC, particularly given the wealth of documentary evidence supporting their request for a declaratory ruling and the clarity of the law. We appreciate that CRMC has a busy docket. My clients cannot afford, however, to wait until CRMC decides it is convenient to hear their Petition to resolve this issue. Indeed, since the Sheffields filed their Petition, they have continued to suffer unfounded, vulgar harassment by strangers who believe (incorrectly) that the Sheffields have no basis to contest CRMC’s allegations. There is every reason to believe such conduct will not only continue, but also increase in frequency as the warm weather returns.

Please be advised that, unless CRMC acts on the Sheffields’ Petition without delay, my clients reserve their right to seek an immediate ruling from the Superior Court pursuant to R.I. Gen. Laws § 42-35-8(d) and § 45-35-15 based on CRMC’s failure to act.

Thank you for your attention to this matter.

Very truly yours.

Daniel J. Procaccini
dprocaccini@apslaw.com
4884-5992-3029, v. 1

EXHIBIT M



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

(401) 783-3370
Fax (401) 783-2069

CERTIFICATION

I, Lisa A. Turner, Programming Services Officer and CRMC Records Keeper, being a duly appointed agent of the Coastal Resources Management Council, hereby certify that the attached documents are a true copy of the Coastal Resources Management Council records.

Case Name: Sheffield v. CRMC

C. A. Number: ~~PC-2023-01119~~ PC-2023-01199
Mark E. Hartman

Lisa A. Turner

Lisa A. Turner 4/27/23 date
Records Keeper
Programming Services Officer
Coastal Resources Management Officer

SUPERIOR COURT
FILED
CLERK'S OFFICE

23 APR 27 PM 3: 32