

STATE OF RHODE ISLAND  
COASTAL RESOURCES MANAGEMENT COUNCIL  
INTER-OFFICE MEMORANDUM

DATE: September 20, 2024  
TO: Raymound Coia, CRMC Chair; Planning & Procedures Subcommittee Members  
CC: Jeffrey Willis, CRMC Executive Director  
FROM: CRMC Policy Staff  
SUBJECT: Staff Report CRMC File 2024-04-071–Petition for Change to Map of Water Type Classification for North Kingstown (north) filed by Quidnessett Country Club

## 1 Overview

Quidnessett Country Club (QCC) is petitioning the Council to change the Water Type Classification (WTC) along an approximate 1,430 foot segment of shoreline from a Type 1 to a Type 2 classification. The shoreline area extends from the northeastern portion of the QCC’s property (950 North Quidnessett Road) line north to the northern property line of the property owned by the Pios Society of Missionaries (860 North Quidnessett Road).<sup>1</sup> A WTC change in this matter would constitute a regulation change to the WTC Map for North Kingstown found at § 650-RIRC-20-00-1 (Red Book) sections 1.6(I)(5).

## 2 Background

On August 17, 2023, CRMC Enforcement Staff received a complaint concerning an unauthorized rip rap revetment at the QCC. Staff conducted a subsequent site inspection of the area on August 18, 2023, and found the unauthorized rip rap revetment. On August 28, 2023, Staff issued Cease and Desist Order 23-0185 to the QCC for the unauthorized construction of the rip rap revetment.

On April 12, 2024, the CRMC received a Petition for the Promulgation of Rules (Petition) submitted on behalf of the QCC.<sup>2</sup> As stated above, the Petition seeks a WTC change from Type 1 to Type 2 waters for the water body adjacent to an approximate 1,430 foot segment of shoreline. In the cover letter submitted with the Petition, counsel for the QCC indicated that, “[i]f the water type change is approved, the QCC will evaluate all alternatives for shoreline protection allowed by the CRMC in Type 2 Waters and apply for a Category B Assent to address the pending enforcement action for the rock revetment along its northeast shoreline.”

---

<sup>1</sup> See *infra* Figure 1 and Figure 2 at 5-6.

<sup>2</sup> See Petition at 1.

### 3 Staff Recommendation

Based on the evidence and facts presented herein, it is CRMC Staff’s opinion that the Petition be denied for the following reasons:

1. The appropriateness of the current Type 1 WTC;
2. Inconsistency with coastal planning mandated by the CRMC’s enabling legislation and state regulations contained in the Redbook<sup>3</sup>; and
3. The potential negative impacts to public shoreline lateral access, coastal habitat, and marine resources

The CRMC Staff recommends the Planning and Procedures Subcommittee deny the Petition for the Promulgation of Rules and not initiate rule making, and that the Planning and Procedures Subcommittee adopt the Staff’s recommendations as grounds for the denial in this instance.

### 4 Petition Proposed Text Amendment and Map Amendment

The Petition proposes the following text amendments to amend § 650-RICR-20-00-1 (Red Book) Section 1.6 (I). Proposed text from removal is shown in ~~red with strikethrough~~. The new proposed text is shown in blue.

#### I. North Kingstown

26 - A straight line extension of the southern border of the open-space zone on the eastside of the Pettaquamscutt River.
27 - A straight line extension of the boundary between the RL and RH zones.
28 - A straight line along the north side of Waldron Avenue.
29 – A straight line across the entrance to Duck Cove at its narrowest point from the northern side of the small peninsula, running generally southeasterly to where it meets the opposite shore on Little Tree Point.
30 - A straight line across the southwestern side of the old railroad causeway.
31 - A line along the south side of Hussey Bridge.
32 - A line along the western side of the bridge on Brown Street.

<sup>3</sup> See R.I. Gen. Laws § 46-23-1(a)(1); see also 650-RICR-20-00-1.

33 – A straight line across the entrance to Wickford Cove from the tip of Big Rock Point to the tip of the northern peninsula at the end of West Main Street.
34 - A line along the western side of the breakwater from Sauga Point, running across the entrance channel to Wickford Harbor and along the western side of the break water from Poplar Point.
35 - A straight line from the base of the breakwater at Sauga Point to the eastern tip of Cornelius Island.
36 - A straight line extension of Pleasant Street
37 - A straight line extension of the northeast side of Enfield Avenue.
38 - A straight line from the southern tip of Rabbit Island to the western side of the launching ramp at Long Point.
39 - A straight line from the northeast side of Rabbit Island to the tip of Calf Neck.
40 - A straight line extension from the end of the fence separating former Navy lands from private lands, extending offshore two thousand (2,000) feet, then turning generally easterly and running to a point where it meets the southern side of the Navy channel.
41 - A line along the east bulkhead wall in the small embayment on the south side of the Allen Harbor entrance channel to where it meets the opposite shore.
42 - A straight line from the northern boundary of Navy property.
43 - A straight line from the northern end of Narragansett Street.
44 - A straight line from the southeast tip of Marsh Point to the tip of Pojac Point.

1. Bissel Cove

- a. Straight line extension perpendicular to shore at northernmost boundary of Bissel Cove DEM property (from point at approximately 170,087N/347,011E to 170,261N/347,659E RIsf83). Straight line extending from northernmost boundary on

western side of Bissel Cove DEM property southwesterly to a shoreline point at the end of Shady Cove Road (from point at approximately 170,085N/346,999E to 168,678N/346,603E RIspf83). The area east of these lines and bounded by the shoreline and line 27 are Type 1 waters. (Adopted by the Council January 22, 2008)

2.-Online Maps:

[http://www.crmc.ri.gov/maps/maps\\_wateruse/watertypemaps\\_northkingsto\\_wn\\_south.pdf](http://www.crmc.ri.gov/maps/maps_wateruse/watertypemaps_northkingsto_wn_south.pdf);  
[http://www.crmc.ri.gov/maps/maps\\_wateruse/watertypemaps\\_northkingsto\\_wn\\_wickford.pdf](http://www.crmc.ri.gov/maps/maps_wateruse/watertypemaps_northkingsto_wn_wickford.pdf)  
and [http://www.crmc.ri.gov/maps/maps\\_wateruse/watertypemaps\\_northkingstown\\_north.pdf](http://www.crmc.ri.gov/maps/maps_wateruse/watertypemaps_northkingstown_north.pdf)

2. Quidnessett (between Lines 43 and 44)

a. Straight line extension 500 feet offshore and perpendicular to shore at the northernmost boundary the coastal wetland/barrier east of Quidnessett Country Club and North of Line 43 (from point at approximately 204,197N/352,897E RIspf83). Straight line extending 500 feet offshore of and parallel to the northern property line of 862 North Quidnessett Rd., AP 167, Lot 1, N. Kingstown. (from point at approximately 205,756N/353,143E RIspf83). The area between these lines is Type 2 Waters.

3. Online Maps:

[http://www.crmc.ri.gov/maps/maps\\_wateruse/watertypemaps\\_northkingsto\\_wn\\_south.pdf](http://www.crmc.ri.gov/maps/maps_wateruse/watertypemaps_northkingsto_wn_south.pdf);  
[http://www.crmc.ri.gov/maps/maps\\_wateruse/watertypemaps\\_northkingsto\\_wn\\_wickford.pdf](http://www.crmc.ri.gov/maps/maps_wateruse/watertypemaps_northkingsto_wn_wickford.pdf)  
and [http://www.crmc.ri.gov/maps/maps\\_wateruse/watertypemaps\\_northkingstown\\_north.pdf](http://www.crmc.ri.gov/maps/maps_wateruse/watertypemaps_northkingstown_north.pdf)

The Petition is proposing the following amendment to North Kingstown (north) Water Type Classification Map in § 650-RICR-20-00-1 (Red Book) Section 1.6 (I) (5).

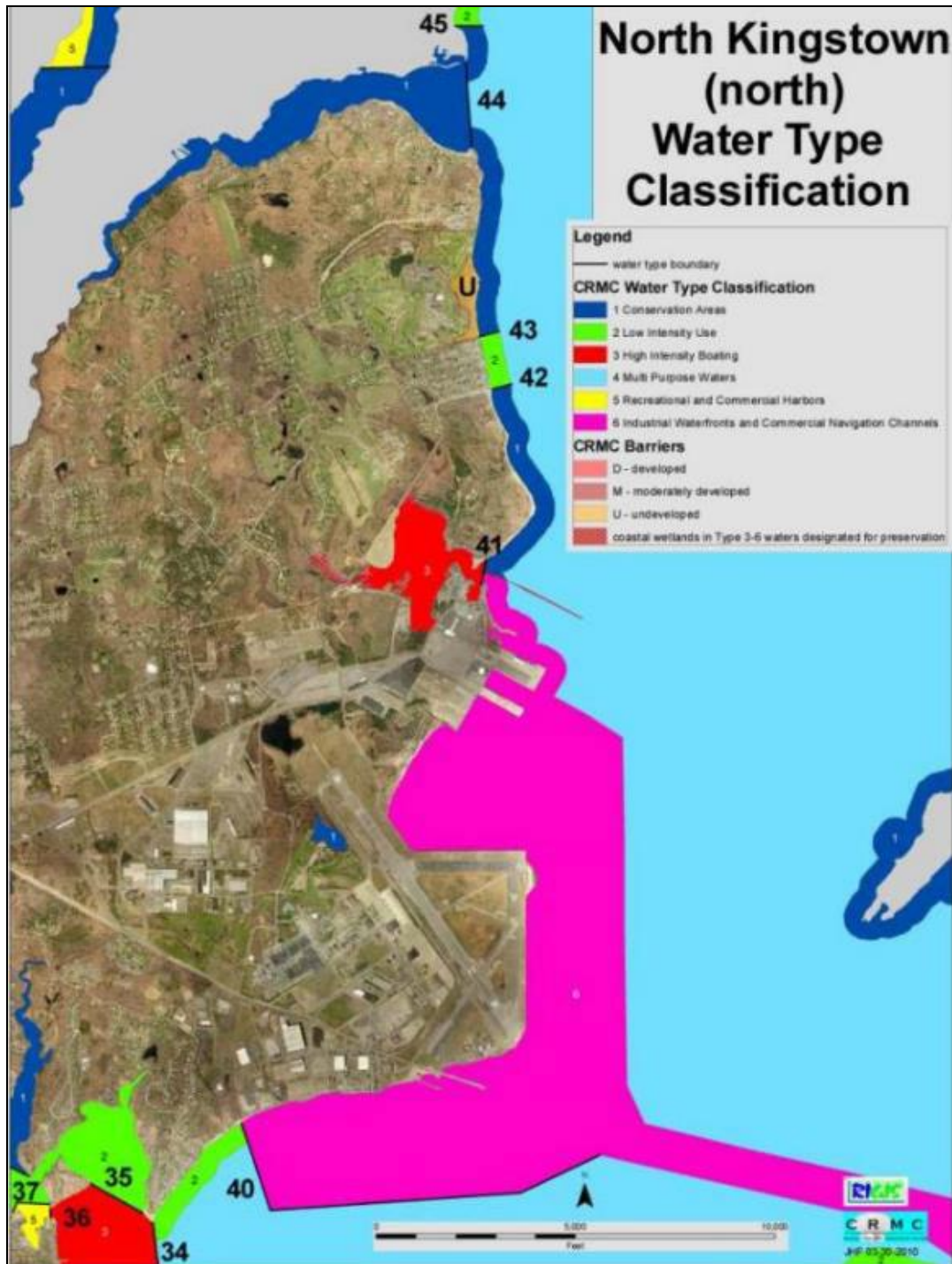


Figure 1: Current Water Type Classification map for North Kingstown (north) [http://www.crmc.ri.gov/maps/maps\\_wateruse.html](http://www.crmc.ri.gov/maps/maps_wateruse.html)



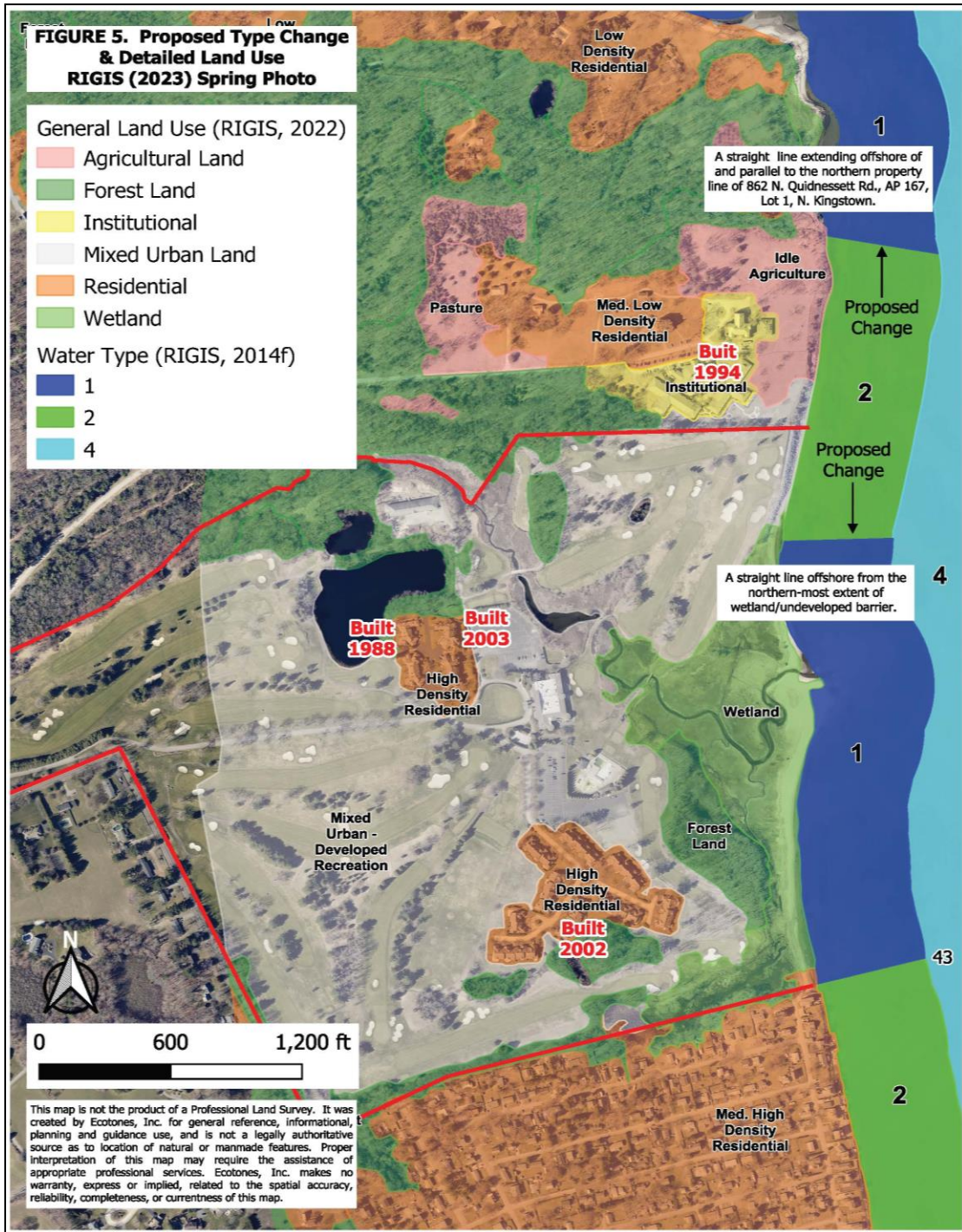


Figure 2: Petition proposed change from Tye 1 to Tye 2 waters

## **5 Petition History, Status, and Process**

The Petition was submitted in accordance with R.I. Gen. Laws § 42-35-6 of the R.I. Administrative Procedures Act and the CRMC’s Management Procedures (650-RICR-10-00-01) Section 1.4.9.

R.I. Gen. Laws § 42-35-6 states the following:

*“Any person may petition an agency to promulgate a rule. An agency shall prescribe, by rule, the form of the petition and the procedure for its submission, consideration, and disposition. Not later than thirty (30) days after submission of a petition, the agency shall:*

*(1) Deny the petition in a record and state its reasons for the denial; or*

*(2) Initiate rulemaking.”*

As stated above, the Agency has 30 days from receipt of the Petition to either deny the petition in a record or initiate the rulemaking process. However, on April 18, 2024, the Applicant provided CRMC with written statement waiving the 30-day response requirement to allow the agency to conduct a full investigation. CRMC Staff scheduled the petition at the first regularly scheduled Planning and Procedures Subcommittee meeting after the petition was received which was held on May 14, 2024.

On May 14, 2024, the Planning and Procedures Subcommittee voted to direct CRMC Staff to issue an Advanced Notice of Proposed Rulemaking (ANPRM) under R.I. Gen. Laws § 42-35-2.5. The purpose of the ANPRM was to gather relevant information and solicit comments and recommendations from the public in response to the petition and a potential rulemaking action. The ANPM itself is not an act of rulemaking by the CRMC.

The CRMC posted the ANPRM on May 21, 2024 with a public comment period ending on June 28, 2024. During the public comment period, CRMC received over 300 pages of comments both in support of and in opposition to the Petition. The CRMC also received multiple requests to hold a public meeting to offer the public an opportunity to provide in-person comments to the Planning and Procedures Subcommittee.

To accommodate these requests, the CRMC scheduled a Planning and Procedures Subcommittee meeting to accept additional in-person public comments on the ANPRM to aid in CRMC Staff’s investigation. This meeting was held on July 23, 2024 and over 30 individuals provided additional information both in support of and in opposition to the Petition. The meeting concluded the informational gathering stage of the ANPRM and CRMC Staff began to complete its investigation and formulate a recommendation for the Planning and Procedures Subcommittee.

## **6 Water Type Designations**

The Rhode Island Coastal Resources Management Plan (RICRMP) defines Type 1 waters as those abutting shorelines in a natural undisturbed condition where water dependent uses of the

shoreline, like docks and dredging, are unsuitable.<sup>4</sup> The RICRMP further defines Type 1 waters as follows:

#### Type 1 Waters Section 1.2.1 (B) Conservation Areas

##### *Section 1.2.1 (B) Type 1 Conservation Areas*

1. *Included in this category are one or more of the following:*
  - a. *Water areas that are within or adjacent to the boundaries of designated wildlife refuges and conservation areas;*
  - b. *Water areas that have retained natural habitat or maintain scenic values of unique or unusual significance; and*
  - c. *Water areas that are particularly unsuitable for structures due to their exposure to severe wave action, flooding, and erosion.*

The RICRMP defines Type 2 waters as those waters abutting residential areas where residential docks are common and support low intensity recreational water uses.<sup>5</sup> The RICRMP further defines Type 2 waters as follows:

#### Type 2 Waters Section 1.2.1 (C) Type 2 Low Intensity Use

##### *Section 1.2.1 (C) Type 2 Low Intensity Use Waters*

1. *This category includes waters in areas with high scenic value that support low intensity recreational and residential uses. These waters include seasonal mooring areas where good water quality and fish and wildlife habitat are maintained.*

## **6.1 Water Type Comparison and Shoreline Characteristics**

As previously stated, the shoreline at issue has been designated as Type 1 waters since the early 1980s. Staff has compared the existing shoreline to Type 1 Waters and Type 2 water type definitions.

##### *Section 1.2.1 (B) Type 1 Conservation Areas*

1. *Included in this category are one or more of the following:*
  - a. *Water areas that are within or adjacent to the boundaries of designated wildlife refuges and conservation areas;*

The open space/golf course portion of the QCC property is subject to an open space easement held by the Town of North Kingstown (who objected to the Petition) and was recorded in the Town's lands evidence records in 1999. The easement area directly abuts tidal areas, shoreline features, and is located within the contiguous areas of the shoreline. The purpose of the open space easement is to "*benefit the Town through the preservation of natural, recreation and scenic values of the easement area.*" The easement area is also restricted from further

---

<sup>4</sup> See 650-RICR-20-00-1.2.1(A).

<sup>5</sup> *Id.*



development and any change of use other than “*recreational, agricultural, or conservation uses and developments for the aesthetic and recreational satisfaction of the residents and club members.*” The Town of North Kingstown’s Comprehensive Plan’s Future Land Use Map designates the majority of the adjacent properties as “Open Space.” Open Space is defined in the plan as a “*designation [that] identifies public and private land identified for conservation or recreational use.*”<sup>6</sup> Thus, the shoreline meets this definition of Type 1 waters.

Additionally, this shoreline is included within the U.S. Fish & Wildlife (USFWS) designation of a Coastal Barrier Resource System (CBRS) identified as unit D02B. The CBRS is a system of protected coastal areas that were identified as important coastal barriers protecting properties on land from flood damage and providing protective habitat for aquatic plants and animals.

The tidal areas associated with the Petition are also located within the Rhode Island Department of Environmental Management’s High Banks Shellfish Management area. The Management Area is designated to better manage and promote sustainable shellfish resources. As such the tidal areas are considered to be an important marine resource and are further managed through the current Type 1 water classification.

- b. Water areas that have retained natural habitat or maintain scenic values of unique or unusual significance; and*

A Type 1 WTC implies that the tidal areas, shoreline features, and contiguous areas of the shoreline retained natural habitat and were of high scenic value at the time of designation.<sup>7</sup> Although inland activities beyond the contiguous areas may have changed since the WTC was determined, the tidal areas, shoreline features, and contiguous areas remained consistent aside from natural coastal processes and recent unauthorized activity.

As stated above, the open space easement is in place to in part maintain scenic values of the contiguous areas immediately adjacent to the shoreline on the QCC property.

- c. Water areas that are particularly unsuitable for structures due to their exposure to severe wave action, flooding, and erosion.*

The majority of the shoreline associated with the Petition is comprised of a coastal bluff and rocky shoreline. As evidenced in the Petition, and in the CRMC Shoreline Change Maps in Figure 3 below, the shoreline is subject to severe wave action and has experienced erosion, with the annual erosion rate in the area averaging approximately 1.7 feet per year. The shoreline areas and contiguous areas located within the CBRS designation are prohibited from federal funding and financial assistance including flood insurance for new construction. Federal law stresses the importance of these areas for flood and habitat protection and disincentivizes new structural development. Thus, the shoreline area is particularly unsuitable for structures due to the area’s exposure to severe wave action and erosion.

---

<sup>6</sup> See North Kingstown Comprehensive Plan, Final, September 2019 at 201. <https://planning.ri.gov/sites/g/files/xkgbur826/files/2024-06/North%20Kingstown%20Comprehensive%20Plan-September%202019-FINAL%20REV.pdf>

<sup>7</sup> See *infra* pg. 12. Definition and discussion of the “contiguous area” as related to Water Type Classifications.

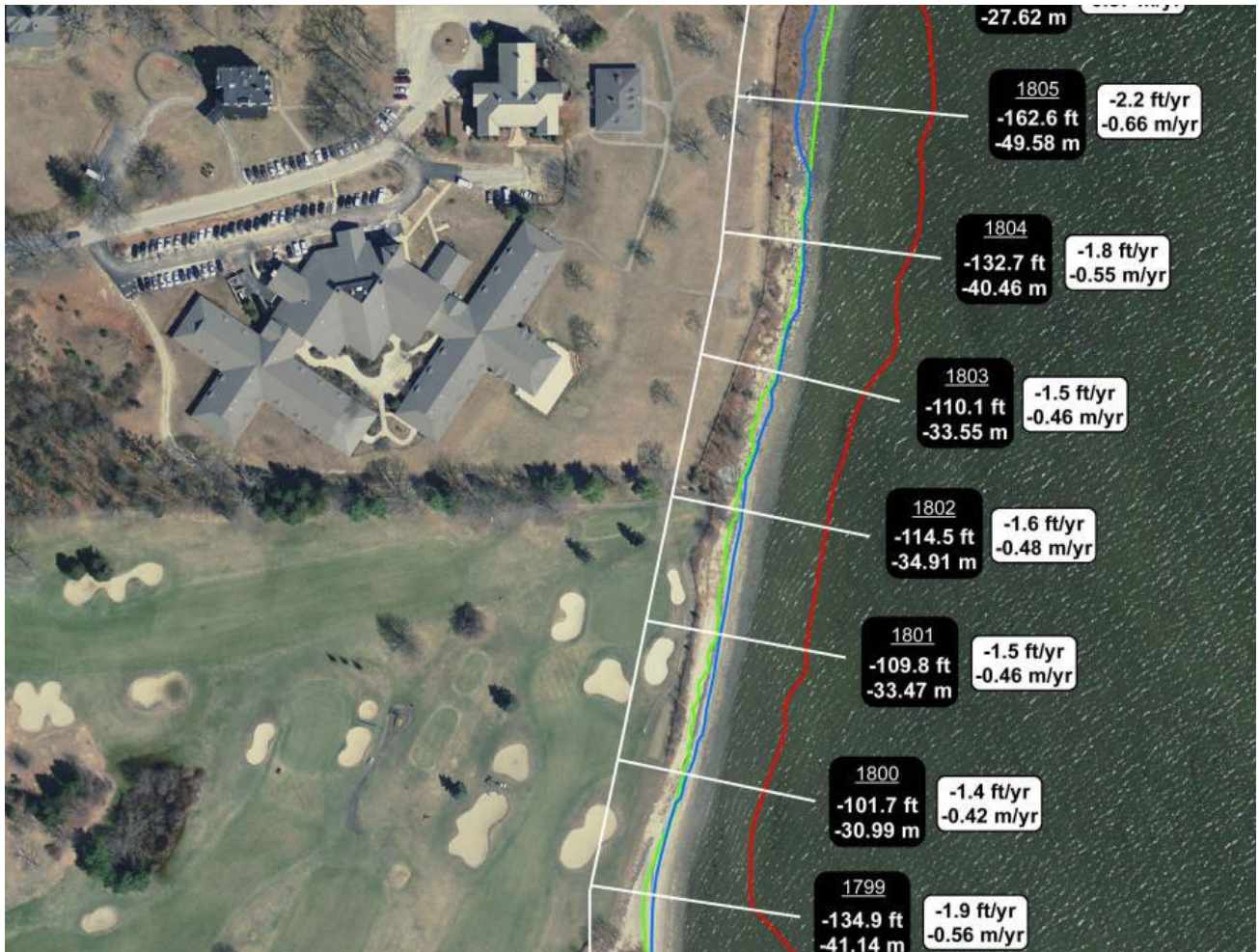


Figure 3: CRMC Shoreline Change Maps indicate erosion rates between 1.4' and 2.2' feet per year. Source: [North Kingstown Quidnessett.pdf \(ri.gov\)](https://www.ri.gov/north-kingstown-quidnessett)

*Section 1.2.1 (C) Type 2 Low Intensity Use*

*1. This category includes waters in areas with high scenic value that support low intensity recreational and residential uses. These waters include seasonal mooring areas where good water quality and fish and wildlife habitat are maintained.*

The tidal areas, shoreline features, and contiguous areas of the shoreline associated with the Petition are identified as high scenic value and support low intensity recreational uses. However, there are no residential structures within the contiguous area of the shoreline, as opposed to other Type 2 waters adjacent to the nearby neighborhoods of Mount View and Potowomut that contain medium to high density residential structures in the contiguous area and large segments of hardened shorelines that predate the CRMC and its regulations. The tidal areas associated with the site do not include any seasonal mooring areas or residential or commercial docks.

## 6.2 Land Use Analysis

The parcels directly abutting the petitioned WTC change area include Plat 167, Lots 1, 2 and 3.

Lot 1 is owned by Pious Society of Missionaries, is approximately 39.12 acres in size, and is located in a Pojac Point Residential Zoning District, per North Kingstown municipal zoning. The lot contains a total of 9 structures, one (1) commercial apartment complex, one (1) multi-unit apartment house, three (3) commercial/industrial structures, two (2) residential single-family dwellings/cottage, one (1) garage, and (1) day care facility. The shoreline area associated with the petition is approximately 180 feet from the nearest commercial structure, approximately 275 feet from the nearest commercial apartment complex, and approximately 633 feet from the multifamily apartment house. The North Kingstown Comprehensive Plan's Future Land Use Map designates this parcel as low density residential.

Lot 2 is owned by Quidnessett Country Club Inc., is approximately 71.5 acres in size, and is located in a Rural Residential Zoning District, per North Kingstown municipal zoning. The lot contains a clubhouse, a commercial structure adjacent to the outdoor swimming pool, and an additional commercial structure. The remaining portions of the site contain portions of the golf course, coastal and freshwater wetlands and associated open space. There are no residential units on Lot 2. The shoreline area associated with the petition is approximately 1,000 feet from the nearest structure (clubhouse) on Lot 2. The open space/golf course portion of the lot is subject to an open space easement held by the Town of North Kingstown. Therefore, the open space portion of the lot nearest the adjacent shoreline is restricted from further development and any change of use other than "*recreational, agricultural, or conservation uses and developments for the aesthetic and recreational satisfaction of the residents and club members.*" The North Kingstown Comprehensive Plan's Future Land Use Map designates this parcel as Open Space and Protected Land.

Lot 3 is owned by Bayview Real Property LLC, is approximately 19.8 acres in size and is located in a Rural Residential Zoning District, per North Kingstown municipal zoning. The lot contains a nursing home. The shoreline area associated with the petition is approximately 250 feet from the nearest structure. The North Kingstown Comprehensive Plan's Future Land Use Map designates this parcel as Open Space.

The condominiums located on an adjacent lot near the golf course are zoned RR Cluster (RRC). The area around the condominiums is zoned RRCOS or RR cluster open space. The condominium development is owned privately. These units were approved by the North Kingstown Planning Commission in 2001 in several phases. The shoreline area associated with the petition is approximately 1,469 feet from the nearest condominium unit. The North Kingstown Comprehensive Plan's Future Land Use Map designates the condominium areas as low density residential.

Based on the CRMC Staff land use analysis, the underlying zoning, and proximity to the petitioned shoreline, CRMC disagrees with the Petition's analysis that the associated land uses are high density and medium-high density residential.

## 6.3 Discussion of Relationship Between Water Type Classifications and Shoreline Characteristics

### 6.3.1 Geographic link between shoreline characteristics and water type classifications

Section 1.2.1 clearly establishes geographic limitations as to where mainland activities occur and at what point they may be considered characteristics of the shoreline which influence a (WTC) designation. The first sentence of § 1.2.1(A) states, “*The six categories of waters defined in this Program are directly linked to the characteristics of the shoreline, since the activities on the adjacent mainland are the primary determinant of the uses and qualities of any specific water site*” (emphasis added).<sup>8</sup> A plain reading of this language indicates that the link between WTC’s and shoreline characteristics must be immediate and as activities occur farther inland beyond the contiguous area, the link between WTC’s and shoreline uses diminish. Additionally, all municipal comprehensive plans and their subsequent updates and revisions are required to be consistent with RICRMP Policies and regulations.

The two hundred (200) foot contiguous area is the geographic extent to which WTC’s influence mainland uses. The RICRMP at § 1.1.4(A)(1)(C) clearly establishes the jurisdictional areas of Tidal waters, shoreline features, and contiguous areas. The contiguous areas are the farthest upland extent of tidal waters and shoreline features and the inland extent of CRMC jurisdiction based on coastal features.<sup>9</sup> The CRMP also clearly differentiates Tidal waters, shoreline features, and contiguous areas separately from inland of shoreline features and contiguous areas as described § 1.1.4 (B) by establishing different standards and levels of jurisdiction outside of areas 200 feet from the inland border of the shoreline feature.<sup>10</sup> Therefore, it is clear that the RICRMP considers the 200 foot contiguous area as the upland inland extent of regulated activities where WTCs impact the shoreline uses and areas beyond that line are considered inland activities. For the purposes of this discussion and the Petition, CRMC’s inland jurisdiction is not relevant.

The CRMP’s intent to geographically limit the link between the shoreline and an adjacent water site is further exemplified throughout § 1.2.1(A)’s discussion of various WTC uses and qualities and the associated characteristics of the adjacent shorelines. For example, Type 1 waters abut natural undisturbed shorelines but do not allow for shoreline dependent uses like residential docks and dredge activities.<sup>11</sup> The CRMP clearly limits Type 1 waters to shorelines of limited development with an intent to protect both the coastal resources, uses, and qualities while limiting coastal development that could threaten the objectives of the water classification. In contrast, Type 2 waters are adjacent to shorelines characterized by residential areas with residential docks, thus, Type 2 WTCs facilitate low intensity recreational water uses.<sup>12</sup> The residential area south of the Quidnessett Country Club is a prime example of the proximal, water

---

<sup>8</sup> See 650-RICR-20-00-1.2.1(A).

<sup>9</sup> *Id.* at § 1.1.4.

<sup>10</sup> See generally 650-RICR-20-00-1.1.5. Tables 1, 2, and 3 clarify what activities are prohibited in tidal waters and the adjacent shorelines based on water type. Table 1 lists regulated activities for shoreline features and tidal waters, Table 2 lists regulated activities for areas the two hundred (200) foot area contiguous to shoreline features and Table 3 lists regulated activities for inland areas.

<sup>11</sup> *Id.* at § 1.1.2(A)-(B).

<sup>12</sup> *Id.* at § 1.1.2(A), (C).

dependent link between residential areas with residential docks and the WTC.<sup>13</sup> Therefore, based on the plain language of § 1.2.1(A), any shoreline characteristics alleged to define a WTC designation must have actually exuded an influence on the water site’s uses and qualities and be within a reasonable proximity to the water site.

### **6.3.2 Water type classifications as a long-range planning tool**

The WTC system is a long-range coastal planning and development tool which furthers the purpose and intent of the CRMC as a regulatory body as provided by the General Assembly via the agency’s enabling legislation. The General Assembly states that providing adequate resource planning is essential for the control and regulation of the state’s natural environment.<sup>14</sup> Additionally, “[the] unplanned or poorly planned development of [Rhode Island coastal resources] has already damaged or destroyed, or has the potential of damaging or destroying, the state’s coastal resources.”<sup>15</sup> As such, the CRMC is charged with implementing the “*comprehensive and coordinated long range planning and management*” of Rhode Island’s coastal regions through regulation (emphasis added).<sup>16</sup> This long-range planning and management responsibility is focused on the “*preservation and restoration of ecological systems*” rather than site specific conditions (emphasis added).<sup>17</sup> As explained below, the WTC system is a comprehensive long-range planning and management tool that is intended to be consistent both geographically and temporally to allow for proper regulation of state coastal systems.

Once established, the WTC system intentionally limited shoreline development/mainland upland activities (MLA) to effectively manage future coastal development, coastal systems, and water uses and qualities. When the WTCs were originally designated in the late 1970s and early 1980s, they were based on the characteristics of the Rhode Island shoreline at that time. By making these designations, the state and the CRMC undertook an important act of state planning. The WTCs sought to bring a cohesiveness to coastal planning and management by linking shoreline development to water site uses and qualities.

Based on the CRMC’s enabling legislation and the WTC system’s long-range management goals of the WTCs, once a water type was established, that water type began to influence the adjacent shoreline characteristics with the intent to maintain balance between the shoreline and water site uses and qualities. In essence, the link between WTCs and shoreline characteristics still exists, only now the WTC also influences how the shoreline may be developed in the future. This shift towards a balanced relationship is evidenced throughout § 1.2.1 via limitations on adjacent shoreline development and water uses.<sup>18</sup> Additionally, the WTCs prohibit certain activities from occurring all together as established in the WTC matrix.<sup>19</sup> Following this rationale, to suggest that shoreline characteristics have changed to the point where there is no longer a balanced relationship between the shoreline characteristics MLAs and the

---

<sup>13</sup> See supra Figure 2 at 6.

<sup>14</sup> See R.I. Gen. Laws § 46-23-1(a)(1).

<sup>15</sup> *Id.* at § 46-23-1(a)(2).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> See supra footnote 8.

<sup>19</sup> See 650-RICR-20-00-1.1.5; see also 650-RICR-20-00-1.2.1.



WTC, is to admit that a party has altered the shoreline's characteristics in violation to the RICRMP WTC rules and regulations.

### **6.3.3 Shoreline Analysis and Consistency**

The shoreline traveling north from Calf Pasture Point in North Kingstown to the southwestern side of East Greenwich Cove in East Greenwich is predominantly designated as Type 1 waters. The segment of shoreline analyzed is approximately 14 miles long. Of the 14 miles of shoreline, approximately 12.44 miles or 89% is classified as Type 1 waters. The remaining 1.5 miles or 11% of shoreline is designated as Type 2 waters.<sup>20</sup> The areas designated as Type 2 waters are the shorelines adjacent to the high-density residential neighborhoods of Mount View in North Kingstown (approximately 0.26 miles of shoreline) and Potowomut in Warwick (approximately 1.3 miles of shoreline). Both neighborhoods were subdivided prior to 1950 and were largely built out by 1970. The residential structures along the shorelines are predominantly built on 5,000 to 10,000 square foot lots and are located within 100' of the coastal feature. In addition, the shoreline of these residential areas is largely armored with structural shoreline protection including rip-rap revetments and concrete sea walls. As much of this development occurred prior to 1970, these structures and associated shoreline protection predate the CRMC and Redbook regulations. CRMC classified water types along the entirety of the shoreline in the 1980s to reflect preexisting land uses and shoreline types. As such, CRMC correctly designated Type 2 waters in these areas. The remaining 89% of the study area was designated as Type 1 waters to reflect the areas of low-density residential uses, open space and conservation areas, and intact natural shorelines. Since the 1980s, the shoreline areas and waterways designated as Type 1 in the study area remain relatively unchanged, as do the associated upland land uses immediately adjacent to the coastal features.

CRMC Staff opines that the petition to reclassify a 0.27 mile segment of shoreline could be deemed to be inconsistent with the larger area of consistent shoreline over the 14 mile study area. Although there are other areas of Type 2 waters in the study area, the Mount View and Potowomut shorelines have been structurally developed and are adjacent to high density residential neighborhoods with structures that predate the CRMC. The petitioned shoreline is not consistent with the other segments of Type 2 waters in the study area and would further fragment the larger area of consistent shoreline.

## **8 Shoreline Lateral Access**

In 2012, the QCC proposed a cantilever steel sheet pile wall approximately 25' inland of the coastal feature (CRMC File No 2012-05-071). The CRMC Staff determined that this structure would eventually function as a shoreline protection facility as erosion reached the face of the wall. In the application, CRMC Staff determined that once the structure was exposed to erosion, "Loss of coastal beach can be expected to impact natural functions and values of beaches, including fish and wildlife habitat and associated recreational uses including lateral shoreline access." CRMC staff continues to share the same concerns, as a water type reclassification may lead to a permitting path for future structural shoreline protection along this segment of shoreline. Sediment eroded from the bluff provides the sediment source responsible for the

---

<sup>20</sup> See Figure 1: Current WTC map for North Kingstown (north) at 5 providing a visual depiction of existing waters along this segment of shoreline.

creation, preservation, and continued existence of the coastal beach along the shoreline. CRMC Staff also note that this potential loss of coastal beach and lateral access could extend beyond the area of proposed reclassification. Long shore currents in this area of the Narragansett Bay result in a longshore drift of sediment from north to south parallel to the shoreline. If structural shoreline protection is authorized along the eroding coastal bluff, the existing coastal beach south to the mouth of Tibbets Creek may become sediment starved and erosion may accelerate. Therefore, lateral access may be lost along a larger segment of shoreline. Section 1.3.6 Protection and Enhancement of Public Access to the Shore of the Red Book establishes policies to protect public access to and along the shore. Section 1.3.6 (G)(B) states that:

*“All structural shoreline protection facilities should be designed and constructed in a manner which does not reasonably interfere with the public's right to pass and re-pass along the shore.”*

In addition, the CRMC Shoreline Change (Beach) Special Area Management Plan (Beach SAMP) guidance states that *“hardening of the shoreline can create barriers to public access along lateral access ways as erosion takes place”* and that *“structural shoreline protection measures can have a broad range of negative impacts on adjacent beaches and properties, on the natural environment, and on shoreline public access.”*

If a structural shoreline application is submitted to CRMC, the policies to protect public access along the shore shall be considered in any design and review of structural shoreline protection.

## **9 Impacts to Coastal Habitat**

CRMC Staff have similar concerns regarding impacts to coastal habitat. A coastal wetland and salt marsh exists at the mouth of Tibbets Creek immediately south of the petitioned shoreline area. Coastal wetlands and tidal marshes are one of the most susceptible ecosystems to climate change and sea level rise (SLR). To respond to SLR, tidal marshes must either retreat or naturally build elevation through accumulation of sediment. In the case of the coastal wetlands and tidal marshes near Tibbets Creek, upland migration is limited due to the existing golf course, and elevation gain through sedimentation transportation is dependent on the natural erosion of the coastal bluff and longshore drift of sediment from the north. If this sediment source is reduced (i.e., structured shoreline protection), the coastal marsh will not build elevation at the same rate to compensate for effects of SLR. Therefore, the long-term resiliency of the coastal marsh will be reduced, and habitat loss may accelerate. This coastal wetland and tidal marsh may also be an area of particular concern as the state-endangered and protected diamondback terrapin (*Malaclemys terrapin*) has been documented in the area. The diamondback terrapin thrives in brackish water salt marsh habitat.

## **10 Long Range Planning and Other Considerations**

When considering a policy decision such as this, the interrelatedness of decisions and potential long-term impacts must be considered. In section 1.1.5 (A), the RICRMP identifies activities prohibited and regulated through assent applications in each WTC.

The primary difference between a Type 1 and 2 designation in the tidal waters category is related to, with several footnotes and caveats provided in § 1.1.5(A), the ability to apply for an assent for the following activities: mooring areas, marinas, launching ramps, residential docks, other point discharges, structural shoreline protection, energy-related activities/structures, maintenance dredging, open-water dredged material disposal, and construction of roads etc. The

above listed activities are prohibited in Type 1 but may be applied for in Type 2. An assent application can also be submitted for a residential dock on beaches and dunes, bluffs and rocky shore in Type 2 waters whereas new docks are prohibited in Type 1. Municipal sewage treatment facilities on rocky shores can also be requested though a category B assent in Type 2 waters. Shoreline structural protection can also be requested though a category B assent for bluffs and rocky shores. They are prohibited adjacent to Type 1 waters.

## **Addendum A**

### **Comments Received during the ANPRM Public Comment Period**

The CRMC issued an Advance Notice of Proposed Rulemaking pursuant to R.I. Gen. Laws § 42-35-2.5 the Coastal Resources Management Council (CRMC) to gather relevant information and solicit comments and recommendations from the public in response to the petition. This notice was issued on May 21, 2024, and the public comment period ended on June 28, 2024. During the public comment period, the CRMC received over 300 pages of comments and recommendations from various stakeholders including the State of Rhode Island Office of the Attorney General, the Town of North Kingstown, chambers of commerce, non-profit organizations, abutting property owners and residents of North Kingstown, and members of the public. In addition, to the written comments received, the CRMC held a Planning and Procedures subcommittee meeting on July 23, 2024, to hear public comments/recommendations. During this meeting over 30 individuals provided verbal comments. The CRMC has synthesized these comments in the section below and provides comments/responses as necessary.

#### **Impacts to Public Access**

##### **Public Comment**

The CRMC received several comments regarding concerns on lateral access as it relates to the Petition.

##### **Staff Response**

As stated in the Staff Report, the CRMC Staff does not recommend a WTC change. If a structural shoreline application is submitted to CRMC, the policies to protect public access along the shore shall be considered in any design and review of structural shoreline protection. CRMC Staff agrees that structural shoreline protection may result in loss of coastal beach along the shoreline. See Shoreline Lateral Access section for more details.

#### **Impacts to Wildlife**

##### **Public Comment**

The CRMC received several comments regarding concerns about wildlife and marine resources as it relates to the Petition.

##### **Staff Response**

As stated in the Staff Report, the CRMC Staff does not recommend a WTC change. If a structural shoreline application is submitted to CRMC, the policies to protect coastal habitat and wildlife shall be considered in any design and review of structural shoreline protection. During the public comment period, CRMC staff became aware of possible sittings of the state-endangered and protected diamondback terrapin (*Malaclemys terrapin*). See Impacts to Impacts to Coastal Habitat Section for more details.

#### **Regulatory and Permitting Procedures**

##### **Public Comment**

During the public comment period, CRMC received several comments regarding the unauthorized rip rap structure currently located on the shoreline.

### Staff Response

The unauthorized structure is currently under active enforcement action by CRMC Enforcement Staff. Regardless of the outcome of this petition, the enforcement case will remain separate. CRMC also received comments regarding CRMC regulations that require all new structural shoreline protection structures be certified by a registered professional engineer. CRMC Staff agrees that Section § 1.3.1(G)(5)(j) requires this. This element is not pertinent to the Petition or the rulemaking process but must be addressed if a future structural shoreline application is submitted.

## **Water Type vs Petition's Argument**

### Public Comment

During the public comment period, CRMC received several comments regarding the Petition's interpretation of Type 1 vs Type 2 shorelines.

### Staff Response

CRMC Staff agree that the petition does not provide sufficient evidence that the shoreline and tidal areas are consistent with the Type 2 designation. CRMC Staff also opine that the shoreline exemplifies the characteristics of a Type 1 shoreline and that it is appropriately designated. See pages 8-11 in the report for further information.

## **Conservation and Scenic Easement**

### Public Comment

During the public comment period, CRMC Staff became aware of an open space and conservation easement along the golf course portion of the property nearest the petitioned shoreline.

### Staff Response

The owners and co-owners of the easement also objected to the Petition. CRMC Staff confirmed the details of the easement through land evidence record research and have incorporated this element into the analysis section of the report. Per § 1.2.1(B)(1)(a), Type 1 waters are adjacent to conservation areas.

## **Effects of neighboring shorelines erosion/sedimentation and Ecological Impacts**

### Public Comment

The CRMC Staff received several comments regarding coastal habitat, and ecological, and geologic impacts if the Petition was approved.

### Staff Response

The CRMC Staff has addressed potential impacts to the shoreline adjacent to the petitioned area. Based on the longshore currents and drifts in this area, CRMC Staff was primarily concerned with the areas immediately south of the petitioned shoreline area, including the coastal beach, coastal wetlands and marsh, and Tibbets Creek. Please see the Shoreline Lateral Access and Impacts to Coastal Habitat sections for full analysis.



## **Spot Zoning and Inconsistencies in Shoreline Planning**

### Public Comment

During the public comment period, CRMC Staff received comments regarding the Petitions request and spot zoning.

### Staff Response

The CRMC Staff provided an analysis of a 14 mile segment of shoreline from Calf Pasture Point to East Greenwich Cove. This area of the West Bay is largely Type 1 shoreline, with the exception of a two high density residential areas. These high density residential areas adjacent to Type 2 waters have structures and hardened shorelines within 200' of the coastal feature and predate the RICRMP.

## **Impacts to the Overall Economy and Employment at QCC**

### Public Comment

At the Planning and Procedures Subcommittee meeting on 7/23/24 several employees of Jan Companies, and several QCC members provided comments regarding the economic impacts of the petition and the QCC. In summary, the said members and employees supported the petition and made several comments stating that if the Council were to deny the petition it would cause economic hardship to the operations of the QCC. In addition, other public comments consisted of QCC importance to the local economy, local nonprofits, and tourism.

### Staff Response

Comments in support of the Petition based on economic impacts to employees, QCC, the local economy, local nonprofit organizations and tourism were anecdotal. If Rulemaking is initiated, a full cost/benefit analysis may be required at that time.

## **Historic Importance of QCC and Designation Status**

### Public Comment

During the public comment period, it was stated that QCC is old enough to be considered a historic landmark. CRMC Staff reviewed the National Park Services list of National Historic Places, and the State of Rhode Island's Historical Preservation & Heritage Commission's State register.

### Staff Response

CRMC Staff did not find Quiddnessett Country Club golf course or any of its associated structures listed in either database. Nor were any structures located on adjacent properties associated with the Petition. The area of the petitioned shoreline is also not located within or adjacent to a designated national or local historic district.

## **Land Use Analysis and Proximity of Structures to the Shoreline**

### Public Comment

The CRMC Staff received comments regarding the Petition's land use analysis, specifically the density analysis provided by the petitioner and the location of structures in relation to the shoreline.

### Staff Response

CRMC completed a full analysis in the Land Use section of this report.

### **Prohibited/permissible Activities in Type 1 vs Type 2**

#### Public Comment

The CRMC Staff received comments regarding other potential permissible activities that may occur if the petitioned shoreline was reclassified to Type 2. Specifically, the comments spoke of several more intensive activities allowed in Type 2 waters that are prohibited in Type 1.

#### Staff Response

CRMC Staff agree that it is important to consider unintended consequences and long-term planning when considering a policy change such as this. CRMC Staff are aware that QCC intends to evaluate alternatives for shoreline protection with the expectation of submitting a Category B application if the Petition proceeds to Rulemaking and the water type change is adopted by the Council. However, CRMC is not aware of any other planned activities that adjacent property owners may have in the event a WTC is changed. Irrespective of currently planned activities it is important to analyze the Petition and the shoreline considering all possibilities. As such, CRMC Staff discussed this in more detail in the Long Range Planning and Other Considerations section of the report.

### **Violations and Permits Required from USACE and RIDEM**

#### Public Comment

The CRMC received comments regarding the Army Corps of Engineers violation and a possible permit State Water Quality Certification required by RIDEM.

#### Staff Response

The unauthorized rip rap structure currently situated on the shoreline of the QCC, or a possible future assent application to authorize it, is not pertinent to the Petition. However, CRMC has corresponded with RIDEM and USACE and these agencies are aware of the unauthorized activities. It is CRMC's understanding that both agencies are pursuing their own review to seek remedies to ensure compliance with stated laws and any permits that may be required. CRMC will continue to work with RIDEM and USACE as appropriate.

### **Changes in Sea Level Rise and Climate Change**

#### Public Comment

During the public comment period, CRMC received several comments regarding the emergence of climate change and SLR since original CRMC water classification designations and increased development along the shoreline. The comments suggested that CRMC should reevaluate its policy approach to respect the shoreline of Rhode Island and the development along it.

#### Staff Response

CRMC continually evaluates its policies as it relates to the latest data and research available. This is a long-range planning activity that would need to be completed comprehensively to avoid a piecemeal approach to shoreline planning.