

# CRMC DECISION WORKSHEET

2021-08-021

Coastal Coasters, LLC

Hearing Date:			
Approved as Recommended			
Approved w/additional Stipulations			
Approved but Modified			
Denied		Vote	

APPLICATION INFORMATION						
File Number	Town	Project Location		Category	Special Exception	Variance
2021-08-021	Narragansett	1201 Succotash Road		<b>A</b>	<input type="checkbox"/>	X
		Plat	I-J			
		<b>Owner Name and Address</b>				
Date Accepted	8/18/21	Coastal Coasters, LLC		Work at or Below MHW		<input type="checkbox"/>
Date Completed	8/17/22	123 Hogan Drive Lake Kiowa, TX 76240		Lease Required		<input type="checkbox"/>

PROJECT DESCRIPTION
To replace an existing dwelling with a new single family residence and upgrade to denitrifying septic system, serviced by public water service

KEY PROGRAMMATIC ISSUES
<b>Coastal Feature:</b> Coastal beach backed by timber seawall on developed barrier (across from coastal wetland)
<b>Water Type:</b> Type 5, Commercial/Recreational Harbors, Pt Judith Pond Breachway Channel
<b>Red Book:</b> 1.1.6(I), 1.1.7, 1.1.9, 1.1.10, 1.1.11, 1.2.1(F), 1.2.2(A), 1.2.2(B), 1.2.2(C), 1.2.2(F), 1.2.3, 1.3.1(B), 1.3.1(C), 1.3.1(D), 1.3.1(F), 1.3.5
<b>SAMP:</b> RI's Salt Pond Region, Lands Developed Beyond Carrying Capacity

Variances and/or Special Exception Details: The project requires a setback variance of 78% (39') for the dwelling and 80% (40') for the OWTS.

Additional Comments and/or Council Requirements: Defer for Consideration of Comments Received

Specific Staff Stipulations (beyond Standard stipulations): N/A

STAFF RECOMMENDATION(S)	
Engineer	Recommendation: _____
Biologist <b>TAS</b>	Recommendation: <b>Denial as Proposed</b>
Other Staff	Recommendation: _____

Engineering Supervisor Sign-Off \_\_\_\_\_ date \_\_\_\_\_

Executive Director Sign-Off \_\_\_\_\_ date **8/18/22**

**8/18/22**  
Supervising Biologist Sign-off \_\_\_\_\_ date \_\_\_\_\_

Staff Sign off on Hearing Packet (Eng/Bio) \_\_\_\_\_ date \_\_\_\_\_



STATE OF RHODE ISLAND  
COASTAL RESOURCES MANAGEMENT COUNCIL  
STAFF REPORT TO THE COUNCIL

DATE: 16 August 2022  
TO: Jeffrey M. Willis, Executive Director  
FROM: T. Silvia, Sr. Environmental Scientist

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Applicant's Name:	Coastal Coasters, LLC
CRMC File Number:	2021-08-021
Project:	To replace an existing dwelling with a new single family residence and upgrade to denitrifying septic system, serviced by public water service
Location:	1201 Succotash Road; Narragansett: Plat(s): I-J; Lot(s): 65-11
Water Type/Name:	5, Recreational and Commercial Harbors, Point Judith Breachway (Narragansett)
Coastal Feature:	Coastal beach backed by timber seawall located on back of developed barrier
Plans Reviewed:	<i>"Site Plan, Proposed Dwelling, Lot 65-11, AM I-J, Coastal Coasters, LLC, 1201 Succotash Road, Narragansett.."</i> dated September 18, 2020 as last revised 11-18-2021 by Jeffrey K. Balch, PLS and received by CRMC on 12/6/21.

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**Staff Recommendation:** Denial as proposed

**A) SITE/APPLICATION HISTORY:**

1—The site is a small land condominium lot located at the northern end of the village of Jerusalem, north of the "State Pier" on the backside of a developed barrier beach. It is bordered by Point Judith Pond Breachway to the east and Succotash Marsh to the west, situated in a small area of dense residential development (Figure 1). The controlling coastal feature is the coastal beach backed by low timber seawall which extends further inland on the northern portion of the site. An existing three-bedroom cottage with large decking is onsite.

2—Previous CRMC Applications for this site include: 1994-06-139 temporary dock permit, 2002-08-096 & 2022-01-061 dock maintenance, 2002-09-100 grandfather dock and as-built dock modification, and 2020-07-010 Preliminary Determination (PD) for dwelling/dock/seawall replacement. Note a 2<sup>nd</sup> modification request for #2002-9-100 remains pending (dock reconfiguration) at this time and is not part of this review.

3—Previous PD was requested by the current owner and the report included staff comments related to dock and seawall maintenance as well as dwelling replacement guidance. Specifically, the construction setback, Structural Lot Coverage (SLC), Coastal Hazard Analysis (CHA) and Redbook variance requirements were addressed in the report. The SLC was noted as 752sf (existing) and 1110sf (proposed), for a 47% expansion, which was not supported by staff and indicated as such in the report.

4—The current application was accepted on 8/18/21 and RI Historic Preservation and Heritage Commission (HPHC) provided a letter of no objection on 9/16/21.

5—On 10/20/21, staff requested edits from the applicant's project team (PE, PLS, contractor), which included plan edits, setback revisions, variance request and SLC updates as well as further CHA review. Staff noted the current proposal appeared to be a 50.5% SLC increase, greater than the previous PD plans and again advised the proposal should be reconfigured with a reduced SLC increase.

6—On 10/28/21, staff discussed minimization of SLC and the proposed deck with the applicant's attorney.

7—Revised plans were received on 11/16/21 and staff again requested revised SLC numbers from the PLS.

8—Revised plans with updated existing SLC were received on 12/6/21 along with updated variance criteria.

9—On 12/13/21, staff discussed the outstanding issues with the applicant, noting unfavorable staff reports as designed and confirmed the 11/18/21 plan date was the final design.

10—On 12/21/21 and 1/12/22, CRMC received a neighboring letter of objection and updated BO signoff.

11—The applicant emailed regarding proposed changes and process updates in April and in May also requested review of revised SLC numbers, which staff updated.

12—Letters of support from nearby owners were received in January and May by the CRMC.

13—Numerous applications requiring Council review were in the queue ahead of this project and the application remained pending since May. The application is before the Council for consideration of objector's comments as well as unfavorable staff support of the current design.

## **B) PROGRAMMATIC REQUIREMENTS/CONCERNS:**

1—*Redbook 650-RICR-20-00-01 Section 1.1.11* requires a vegetated coastal buffer zone for SLC expansions of 50% or greater. While the 2020 PD proposed a 50.5% increase, the current revised plans propose less than 50% SLC increase, therefore no new buffer zone is required at this time.

2—*Section 1.1.9* of the Redbook requires a 50' construction setback for all new work including demo/rebuild of existing dwellings and altered+6/new septic systems. The existing dwelling is located 13'-18' from the coastal features to the north/east. The current plans propose a setback for the new three-bedroom dwelling of 11'-20' (north/east), while moving slightly seaward toward the southeast feature. The proposed OWTS is

located 10' from the nearest coastal feature (north), while the existing cesspool is located 40' (east). The project requires a setback variance of 78% (39') for the dwelling and 80% (40') for the OWTS.

3—CRMC standard practice typically limits setback variance relief to 10' from the coastal feature. This 10' guidance is used for accessory structures as well which are not required to meet the 50' setback, such as decks. Relative to this guidance, the proposed dwelling and OWTS meet the minimum 10' for a variance request. As the existing deck does not meet the minimum 10' setback, staff advised the applicant that the proposed deck could be supported provided it was located no further seaward, which the current plans reflect.

4—Stormwater management per *Section 1.3.1(F)* on a barrier beach is required to be non-erosive sheet flow through vegetated areas where possible. The existing and proposed conditions will remain similar in this respect and additional treatment is not required. There are also no proposed changes to the existing gravel driveway. The upgraded onsite wastewater septic system (OWTS), which incorporates denitrification technology consistent with Salt Pond Special Area Management Plan's (SAMP) Lands Developed Beyond Carrying Capacity requirements, is much less environmental impact than the existing cesspools. The new OWTS does require a setback variance as the new system is classified as an alteration. Given the lot constraints (including shallow water table and existing water line) and current impact from the existing cesspools, staff supports the proposed OWTS design & required setback variance.

5—A CHA worksheet per *Section 1.1.10* was submitted with a chosen design life of thirty years (3'SLR). The assessment shows the site is subject to 3'SLR. Although the design elevation is higher than the required building code for this area, which staff supports, the proposed First Floor Elevation (FFE) of 16.5'+ does not meet the recommended Stormtools Design Elevation (SDE) of 19.5'. Accordingly, CERI indicates Extreme damage potential during future storm flooding events along this shoreline. The access road will be affected by 3'SLR as well and staff notes that site visits were twice delayed due to roadway stormwater flooding during project review. Also note that the project site, portions of the proposed work area, and the access road are likely to experience increased flooding by just 2'SLR.

6—The existing SLC for the project site is stated as 752sf and the proposed stated as 1112sf, an increase of 48% based on the current planset.

7—*Section 1.1.9* exempts setback requirements for minor modifications. This provides consistency amongst various review categories, including new development (vacant land), additions to existing development and demo/rebuild of existing development (current project). This long-standing CRMC practice allows projects which are deemed a minor modification (*<25% SLC increase*) to obviate the need for a setback variance. At the opposite end, those projects which propose a *50% or greater SLC increase* not only require a setback variance, but also trigger a vegetated buffer zone, similar to new development.

8—Between the two SLC increase thresholds fall a bulk of CRMC applications for additions and demo/rebuild projects. Those that meet the required construction setback require no setback variance. Those that propose *25-50% SLC increase* and do not meet the setback are advised to relocate landward where possible and/or reduce the proposed SLC increase. Another category includes those projects where the existing use is already variant; Similarly, they too are advised to relocate landward, reduce the proposed SLC increase and/or limit all expansion no further seaward. Such is the case on this lot, with a significant existing

setback variance (13' from the coastal feature). As noted above, in the prior PD report and throughout the review of this project, staff advised the applicant to relocate landward, reduce the SLC and encroach no further seaward.

9—Relative to the latter recommendation, the applicant's design encroaches slightly further seaward with the proposed dwelling. This would be negligible if the proposed SLC increase was <25% as the seaward edge is mostly consistent with the existing dwelling. The Council should note that the setback is measured from the dwelling foundation, not the existing or proposed deck (deck setback was addressed in #3 above).

10—Relative to the recommended SLC reduction, based on the current plans, the project does not appear to have significantly reduced the proposed SLC increase from the original PD report (50.5%) to the current design (48%) and various draft iterations fell within the same range.

11—Subsequent to the final design plans submitted by the PLS, in May 2022, the applicant requested staff include the shed (roofed laundry room), shower (detached roofed) and front entryway (unroofed stairs) as part of the existing SLC. Based on past practice, as well as review with Permitting Supervisors and Executive Director, staff advised the applicant that the roofed laundry room could be included, however the stairs and shower would not. An outdoor shower is clearly an accessory structure, whether detached or attached and is well under the minimum 200sf threshold for inclusion in SLC. The entry stairs do not constitute a roofed porch or entry landing and are also not included as SLC. Adjusting the existing SLC to include the laundry room shed results in an additional 40sf, for a total existing SLC of 792sf. The setback variance request remains unchanged.

12—Based on the revised SLC in #11 above, the proposal now represents an SLC increase of 40%. While this a reduction from the original submission, the Council should note that this is not the result of the applicant reducing the proposed SLC, as recommended. In fact, after previous PD comments, numerous email and telephone conversations with the applicant's large design team and the applicant, and several draft revisions and potential concepts from the contractor and/or PLS, there is no significant external design change that staff can determine in the proposed project. Essentially, there appears to be little reduction in proposed project scope since the original PD submission, even though a setback variance is still being sought. The Council may wish to note that the applicant has expressed potential reduction in SLC for the project during telephone conversations with staff, although none have been received to-date.

13—Lastly, in regard to the recommended relocation landward, it is clear to all that the lot constraints cannot support the full 50' construction setback. Staff also notes there is a 50' construction setback from the western coastal feature (which is met). However, it is staff's opinion that relocating the proposed dwelling landward (west/south/southwest) *before* proposing additional SLC on the lot has not been significantly explored. The area that could be utilized for situating a new dwelling is proposed as the expansion area for the site, leaving the existing use in roughly the same location.

14—As such, while not triggering a buffer zone requirement, the prior, current and revised SLC increases (40-50%) located within the required 50' setback result in a variance request which staff does not support.

**C) PUBLIC COMMENT:**

1—Staff received a letter of concern from the southern abutter’s attorney in response to the prior PD report. The letter cited both the proposed dock modification and dwelling replacement as issues. Staff advised the attorney to separate the objections and respond to each application as applicable (there was no pending house application at the time). As the current application does not require a public notice, staff reached out to the attorney following receipt of the applicant’s final 11/18/21 planset with a short timeframe in which to provide direct concerns regarding this particular application. The letter of objection was received 12/21/21.

2—In general, the objection is concerned with not meeting the criteria for a setback variance. Specifically, the letter is concerned with the size, scope and direction of the planned expansion. Much of the expansion has shifted development closer to this abutter. These same concerns are shared by staff. There was no formal response to the objection submitted by the applicant.

3—Several letters of support from the neighborhood were received in 2022.

#### **D) VARIANCE REQUEST:**

1—The applicant submitted a variance request in accordance with *Section 1.1.7*, seeking relief from the required 50’ construction setback. The Council should note staff comments below refer specifically to the proposed dwelling setback variance; The OWTS setback variance and proposed seaward deck location are supported by staff.

2—*Criteria A1* of the variance burdens of proof requires that the “*proposed alteration conforms with applicable goals and policies in.*” the Redbook. The applicant’s response indicates that “*home has been moved as far west as practical...almost all of the new home will be further from the coastal feature compared to the existing house...most of the deck will be further from the coastal feature...boardwalk...will be removed.*” and offers these examples the cesspool replacement and FEMA-compliant foundation as evidence of meeting the applicable program’s goals.

It is staff’s opinion that the proposed alteration does not conform with *Sections 1.1.9(B)(2), 1.1.9(D), 1.1.9(F) or 1.1.10(A)(2) & 1.1.10(A)(3)* which seek to limit exposure and impact from coastal hazards to existing and proposed development and protect coastal resources through consistent planning, including minimum setback distances. The applicant’s own response is speaking primarily of removing accessory structures (decks, boardwalk, stairway, shed, etc.) and implies that most of the existing house will not be relocated per requirement.

3—*Criteria A2* requires that the “*proposed alteration will not result in significant adverse environmental impacts or use conflicts, including...cumulative impacts*”. The applicant’s response indicates that all improvements are within existing developed areas reducing environmental impacts.

While staff concurs that elevating the building to meet flood elevations and replacing the existing cesspools with a denitrification OWTS will enhance the area environmentally, these two project components are related to state building code and RIDEM requirements and would likely be applicable to the site in the future regardless of this current proposal. It is staff’s opinion that the extremely dense nature of the existing

development in this area already creates environmental impacts (existing cesspools, benthic and beach habitat encroachment, sensitive coastal wetland complex nearby, etc), use conflicts (parking and berthing congestion, view concerns, shoreline access, etc.) and future cumulative impacts should all such residences also request permission to expand to such a degree. The applicant's opinion appears to be that an increase of 320sf is small, which it is when compared with a much larger home on larger lots. It is staff's opinion that relative to the size of the existing SLC, it is large, adding to the existing over-development of the area.

4—*Criteria A3* requires the applicant demonstrate that “*due to conditions at the site..the applicable standard cannot be met*”. The applicant's response notes the lot configuration and proposed location as reasons the standard cannot be met.

While staff concurs the lot is small and uniquely configured, staff also notes that the lot has supported an existing use (three-bedroom single story dwelling) for decades. This use is similar to nearby development along this shoreline. While staff also concurs that the full standard 50' setback cannot be met, staff is of the opinion that more setback than is existing (13') and proposed (11') can be achieved on this lot. Specifically, the proposed location is cited as over existing decks and dwelling area. Staff is of the opinion that the new dwelling should be relocated landward, increasing the setback (rather than enlarging the new dwelling).

5—*Criteria A4* requires the applicant demonstrate the modification is the “‘minimum variance...necessary ...to allow a reasonable alteration or use...”. The applicant's response cites the ‘relatively small’ proposed house, ‘developed areas of the lot’ and removal of boardwalk as providing separation and states that ‘the house and new deck will be further from most of the coastal feature’.

It is staff's opinion that the proposal is *not* the minimum variance necessary to support a reasonable use. An existing use currently is provided by the lot. There are alternative configurations which an applicant could design which could achieve a reasonable use of the lot while increasing the setback on the parcel. Staff has advised the applicant and design team since the original PD report to propose an alternative design. Although several concept plans were reviewed by staff and changes made to exterior/accessory structures such as decks and stairs, there is little change in the proposed SLC configuration from the original PD planset.

6—*Criteria A5* requires that the applicant demonstrate that the requested variance is not due “*to any prior action of the applicant..*”. The applicant's response indicates prior owners built the home in 1950 and the lot lines pre-exist. While staff accepts these two facts, the requested variance is not for existing use, it is for proposed use. The proposed use and subsequent setback variance request is a direct result of the applicant's chosen design SLC and location. Had the applicant proposed to replace the existing structure with no expansion or less than 25% SLC increase, no variance would be required. The current 40% variant design could also be reduced per the applicant.

7—*Criteria A6* relates to undue hardship and the applicant's response does not seem to answer this question. Staff defers to the Council for consideration of this *Criteria*.

8—*Criteria D* relates to relieving or reducing a CRMC variance request by seeking local variance relief first. The applicant received a Zoning Decision approval dated 8/5/2021 which included variances and special use permits from the municipality, mostly related to the pre-existing nature of the lot and development. While

the Zoning Board approved the project, the Planning Board recommended denial of the application on 6/9/2021, specifically noting that *“this project does not appear to protect or enhance the environmentally sensitive feature and could be reduced in size and scope to better meet that standard...”*. It also noted that the *“project substantially changes the appearance and size of the existing structure...the proposed structure has a much larger footprint...and will be 3 stories in height. The project appears to be too large for this nominally sized and environmentally compromised site...”*. Planning staff recommended *“that the dwelling is reduced in size to increase the distance to the coastal feature”*, consistent with CRMC recommendations.

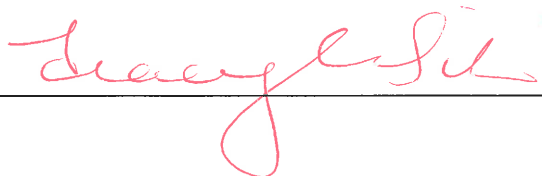
9—Overall, it is staff’s opinion that the variance criteria are not met with the current design and staff defers to the Council for consideration of the remainder of the variance concerns.

#### **E) STAFF RECOMMENDATION:**

Although various iterations were discussed with staff, the project has remained essentially unchanged for over two years. The overall extent of the proposed dwelling remains the same, with little increase in setback from the coastal feature to the new dwelling. There has been no minimization of the variance criteria by reducing the SLC or by relocation of the proposed new dwelling. The lot currently provides an existing use and it is staff’s opinion that the applicant’s current design is partially responsible for creating any hardship. Had the design been revised to 25% SLC increase, no setback variance would have been required and staff would have recommended approval (deferring for objector). Had the design been reduced closer to 25% (ie, minimized), staff would likely have recommended approval (again deferring for objector).

While staff recognizes the existing use of the parcel is consistent with nearby residential development, the proposed expansion is not and represents an increase in development over surrounding uses. The current design represents only a minor decrease from the original submittal (based on updated existing SLC numbers rather than a reduction in proposed SLC increase), despite numerous staff reduction recommendations. While staff supports the issuance of a setback variance for the proposed OWTS construction, staff currently recommends Denial as Proposed for the proposed dwelling setback variance and thus entire project. Staff is of the opinion that a smaller SLC increase could be designed to better fit this site while reducing/removing the required dwelling setback variance consistent with CRMC past practice. Staff also Defers to the Council for consideration of the objector’s comments and withholds standard stipulations pending Council Decision.

SIGNED: T. Silva

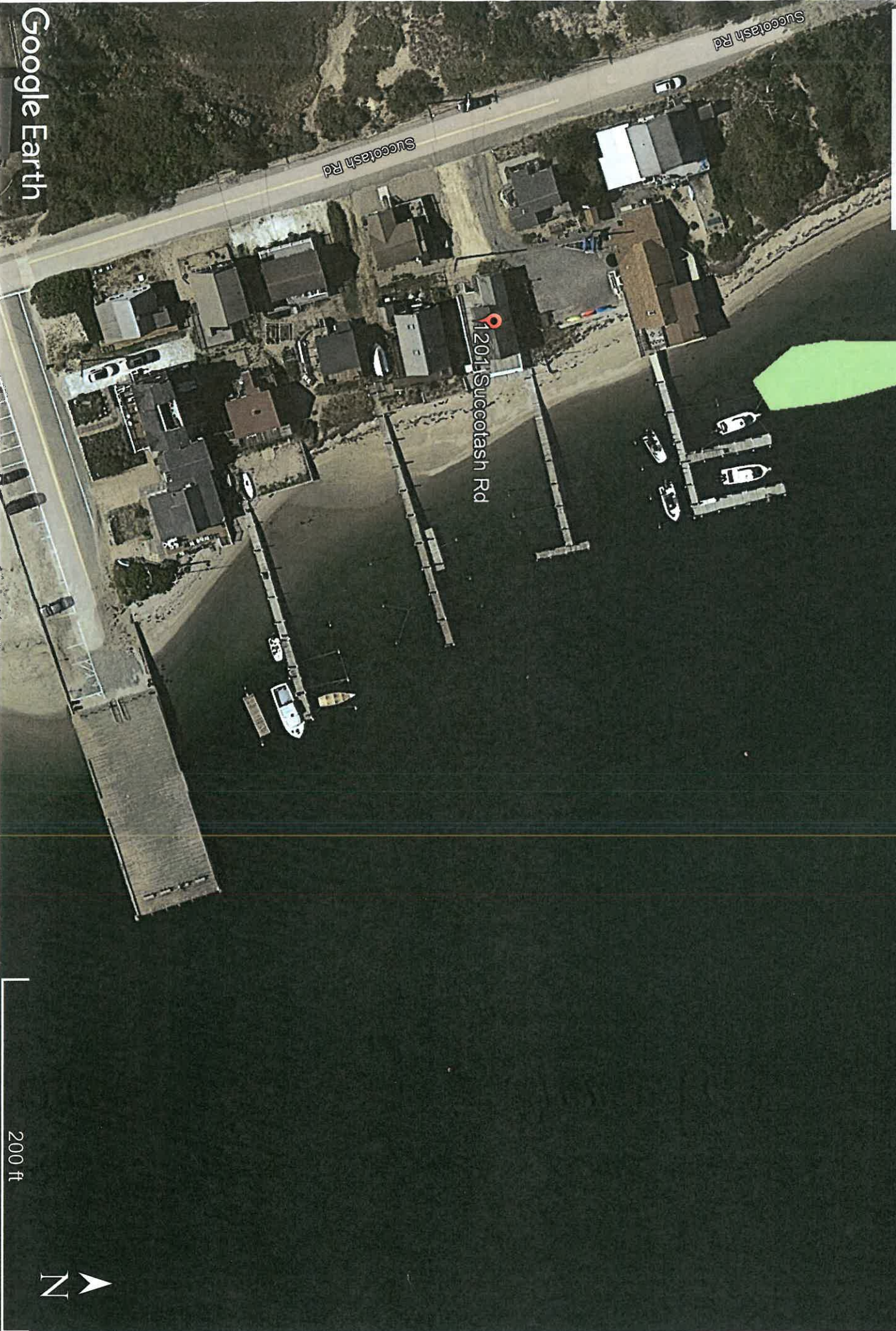


STAFF BIOLOGIST



# Figure 1

Coastal Coasters, LLC  
#2021-08-021



200 ft

