

CRMC DECISION WORKSHEET

2024-04-008

Watch Hill Fire District

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
2024-04-008	Westerly	24 Fort Road		M	<input type="checkbox"/>	<input type="checkbox"/>
		Plat	185			
		Owner Name and Address				
Date Accepted	04/25/2024	Watch Hill Fire District		Work at or Below MHW		<input type="checkbox"/>
Date Completed	08/20/2024	222 Watch Hill Road		Lease Required		<input type="checkbox"/>
		Westerly, RI 02891				

PROJECT DESCRIPTION
Replace/repair split rail fencing

KEY PROGRAMMATIC ISSUES

Coastal Feature: Coastal dune on an undeveloped barrier

Water Type: 1, Block Island Sound

Red Book: 1.2.2(B), 1.2.2(G), 1.3.1(N), 1.3.6

SAMP: N/A

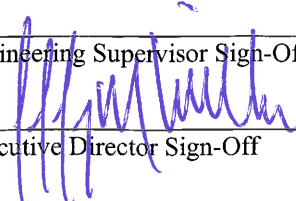
Variances and/or Special Exception Details:

Additional Comments and/or Council Requirements:

Specific Staff Stipulations (beyond Standard stipulations):

STAFF RECOMMENDATION(S)

Engineer	_____	Recommendation:	_____
Biologist	_____	Recommendation:	_____
Other Staff	EAH	Recommendation:	Approve

Engineering Supervisor Sign-Off _____ date _____

Executive Director Sign-Off _____ date 8/20/24

Supervising Biologist Sign-off _____ date _____
Staff Sign off on Hearing Packet (Eng/Bio) _____ date _____

Name: The Watch Hill Fire District
CRMC File No.: 2024-04-008
Staff Report



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

DATE: 20 August 2024
TO: Jeffrey M. Willis, Executive Director
FROM: E. Hall, Coastal Geologist

Applicant's Name:	Watch Hill Fire District
CRMC File Number:	2024-04-008
Project:	Maintenance of fences - in-kind replacement
Location:	24 Fort Road: Plat(s): 185; Lot(s): 31-1
Water Type/Name:	Type 1, Block Island Sound
Coastal Feature:	Coastal dune on an undeveloped barrier
Plans Reviewed:	<i>Annotated aerial image titled "Project area and reinstallation/leveling locations." prepared by Daniel Cole, stamped Received 3/26/2024.</i>
Recommendation:	Approval

INTRODUCTION

The site is located on a coastal dune system on an undeveloped barrier, referred to herein as Napatree Point. In its undeveloped state, the barrier is highly dynamic. During storm events, waves from the south erode the foredune, and transport sediment onto the back dune via overwash fans. In calm summer months, winds stabilize the dune in its new position. This results in a net migration of the dune system. The dynamics of the system also provide distinct ecological advantages for nesting shorebirds, migratory bird populations, and opportunistic plant species. Between 1939 and 2014, the shoreline at Napatree Point has migrated between 100-230

ft. (Beach SAMP Shoreline Change Maps, Transects 21-53). This shoreline migration is both natural and expected for the system.

This application is a maintenance application for an in-kind replacement and levelling of existing split rail fences, approved initially under 2019-05-007. The fences delineate pre-existing pedestrian pathways over the dune system, connecting the northern side of the barrier to the southern side of the barrier. The split rail fences are designed to keep pedestrians on the pre-existing paths, rather than create new paths through the dune system that would trample vegetation. By design, the split rail fences do not impact the natural movement of sand through the system. Due to the migratory nature of the barrier, the fences have become buried since their initial installation. The maintenance application was filed to reinstall and level fencing that was impacted by erosion in the 2023/2024 winter storm season.

The parcel is located at the western terminus of Fort Road. The Westerly Town Council adopted Fort Road as a Town Right of Way in 2008, 20 feet in width, extending through the center of Napatree Point. As Napatree has migrated, the exact location of Fort Road is unclear. In May 2023, the Watch Hill Fire District filed a lawsuit against the Town claiming a taking, and the case is being litigated in state court.

It is not the intent of this Staff report to evaluate Fort Road as a Right of Way. Rather, this report evaluates the geologic and environmental impacts of the proposed maintenance work on coastal resources.

The objections received mainly concerned two points: (1) the claim that the split rail fencing to be maintained crosses and obstructs Fort Road, and (2) the Applicant's failure to acknowledge the existence of the Fort Road in their application. Additionally, one objection was related to the issue of proper ownership.

Staff contacted the Applicant to inform them of the objection and suggested that the 20-foot section of split rail fence in question be removed from the site plan. The Applicant replied requesting that the objections be dismissed as non-substantive. Staff contacted Mr. Palazzolo, the

initial objector, to inquire as to whether the removal of the 20-foot section would be sufficient to drop the objection. Mr. Palazzolo emphasized that the Applicant must also acknowledge Fort Road.

APPLICABLE POLICIES, STANDARDS, ETC

1.2.2(B)	Shoreline Features (Barriers)	
(B.1.a)	The Council's goal is to preserve, protect, and where possible, restore these features as conservation areas and as buffers that protect salt ponds and the mainland from storms and hurricanes.	Proposed fencing maintenance protects existing dune vegetation and aids in restoration.
(B.1.d)	Alterations to undeveloped barriers are prohibited except where the primary purpose of the project is protection, maintenance, restoration or improvement of the feature as a natural habitat for native plants and wildlife. In no case shall structural shoreline protection facilities be used to preserve or enhance these areas as a natural habitat or to protect the shoreline feature.	Primary purpose of the fencing is improvement of the feature as natural habitat. Fencing is considered non-structural.
1.2.2(G)	Shoreline Features (Dunes)	
(G.1.c)	The Council's goals are to (1) Protect the foredune zone from activities that have a potential to increase wind or wave erosion; (2) To prevent construction in high hazard areas and protect the public from dangerous storm forces; (3) To enhance the ability of dunes to serve as a natural storm buffer; and, (4) To protect the scenic and ecologic value of the foredune zone and dunes.	Split rail fencing does not alter sedimentary processes and enhances the dune's ability to serve as a natural storm buffer.
(G.2.b)	Alteration of the foredune zone adjacent to Type 1 and 2 waters is prohibited except where the primary purpose of the project is non-structural protection, restoration, nourishment, or improvement of the feature as a natural habitat for native plants and wildlife. In no case shall structural shoreline protection facilities be used to preserve or enhance these areas as a natural habitat or to protect the shoreline feature.	The primary purpose of the fencing is improvement of the feature as natural habitat. Fencing is considered non-structural.
1.3.1(N)	Maintenance of Structures	

(N.1.d)	Persons proposing to maintain previously assented structures (other than piers and docks associated with marinas) which have physically been destroyed fifty percent (50%) or more by storms, waves, or other natural coastal processes shall, upon the determination of the Executive Director, be required to obtain a new Council Assent. Such activities requiring a new Council Assent shall be reviewed according to the most current applicable programmatic requirements of the Coastal Resources Management Program, its Special Area Management Plans, and/or any other appropriate CRMC approved management plans.	The structures have not been destroyed >50%, and in-kind maintenance is proposed. The application qualifies for a maintenance certification.
1.3.6	Protection and Enhancement of Public Access to the Shore	
(A.3)	It is the Council's policy to require applicants to provide, where appropriate, on-site access of a similar type and level to that which is being impacted as the result of a proposed activity or development project.	It is staff opinion that the proposed fence maintenance currently does not negatively impact public access.
(B.2)	Any public access created to compensate for proposed project impacts should be of a type and level similar to that which will be impacted	Pedestrian and ATV access is preserved on the coastal beach system via eight marked paths that cross the barrier and maintained paths on the coastal beaches.

GEOLOGIST COMMENTS ON APPLICATION

Napatree is a unique coastal system in Rhode Island. The system is undeveloped, which allows for migration of the beach and dune without loss to coastal squeeze. The system freely responds to erosion and accretion events, resulting in unique and valuable niches for coastal species.

Nesting species include, but are not limited to piping plovers, least terns, American oystercatchers, and the Atlantic horseshoe crab. The dune system is necessary for the continued

Per the CRMP: “The height and stability of foredunes is enhanced by the growth of beach grass which traps and anchors windblown sand. Although resistant to salt air and desiccation, beach grass is easily killed by human foot traffic” (§1.2.2(G.1.a)). As such, to accomplish the Council

goals of protection of the foredune from activities that have a potential to increase erosion, foot traffic over beach grass must be minimized.

There are generally two types of fencing that are approved by CRMC for usage on dunes: symbolic fencing, and “snow fencing.” Snow fences intercept onshore winds and increase deposition of sand onto a specific location (generally, a degraded dune fronting coastal property). Symbolic fencing, such as the split rail fencing installed at Napatree, is used only to prevent foot traffic on dune vegetation. There are no impacts to sedimentary processes with split rail fences, and it is the preferred method for foot-traffic management of an undeveloped barrier.

Regarding access, there are eight paths that connect the northern and southern shores of Napatree (see “UTV access point and approved routes” map submitted by Applicant). The longest distance between any two paths is approximately 0.2 miles, and it is Staff opinion that this current distance is reasonable. Prior to the split rail fence installation of fences in 2019, the coastal dune system was fragmented, there was less vegetative dune coverage, and the dune was more susceptible to erosion. By managing eight, well-marked paths, instead of dozens of ephemeral paths, the dune’s susceptibility to erosion is mitigated, and the scenic and ecological value of the dune is preserved. The existing paths accomplish the dual goals of valuable public access and conservation of the dune system as a natural habitat.

It is Staff opinion that the existing access routes satisfy the requirements set forth in §1.3.6, and that fences delineating paths enhance access by clearly demarcating usage.



2011 – paths crisscross the entirety of the dune system, resulting in degraded, segmented habitat.



2024 – paths are demarcated by split rail fences. Access is maintained to various sections of Napatree, but there is less segmentation of coastal dune habitat.

COMMENTS ON OBJECTIONS

Regarding Fort Road:

The exact location, ownership, and use of Fort Road is being actively litigated, and CRMC is not a party in the litigation. Per RIGL § 8-2-14: “the superior court shall have original jurisdiction of all actions at law where title to real estate or some right or interest therein is at issue.”

Name: The Watch Hill Fire District
CRMC File No.: 2024-04-008
Staff Report

Regarding ownership:

The land in question is owned by the Watch Hill Fire District, but is actively managed by The Watch Hill Conservancy, which is the grantee of the land via conservation easement. Communications between Staff and Applicant were extensive to ensure the proper owner was documented. Included in the application are a letter from David Thomson from the Town of Westerly's Tax Assessor Office as well as a copy of the Deed of Conservation Easement to clarify the matter.

CONCLUSION AND RECOMMENDATION

It is Staff opinion that the Applicant has adequately addressed the requirements of the CRMP, and Staff recommends approval of the application. Standard stipulations will be prepared should the Council decide to approve the application.

Additional stipulations regarding Fort Road shall be prepared as well. Should the RI Superior Court rule on the location, ownership, and usage of Fort Road as a Right of Way, any fences that obstruct the area shall be removed. In lieu of fencing, the Applicant shall be authorized to place informational signage on their property. The signage may request that pedestrians stay on the existing trails, and that pedestrians do not harm the dune habitat.

Staff Coastal Geologist:



Emily A. Hall