

1 CHAIRMAN COIA: I, too, Raymond Coia vote
2 aye. Application has been approved. Thank you.

3 (MOTION PASSED)

4 MR. GAY: Thank you very much.

5 MR. CHAPLIN: Thank you.

6 CHAIRMAN COIA: Next on our agenda will
7 be enforcement matters before the Council for a
8 status conference. The first being 23-0047,
9 Odi Realty, LLC, indicating the alleged violations
10 are unauthorized earthwork (filling, removing, and
11 grading) on a coastal feature, construction of a
12 riprap retaining wall on a coastal feature,
13 construction of timber structures on a coastal
14 feature, and cutting of natural buffer zone
15 vegetation. If proven, these activities constitute
16 a violation of the Red Book (650-RICR-20-00-1),
17 specifically CRMP Section 1.1.11, Section 1.3.1(C),
18 and Section 1.3.1(G). Located at Plat 369,
19 Lot 108; at 605 Budlong Farm Road, Warwick,
20 Rhode Island. And, Brian, I believe you have this.

21 MR. HARRINGTON: Yes.

22 CHAIRMAN COIA: If I could just ask who 's
23 got this, Mary -- Attorney Shekarchi?

24 MS. SHEKARCHI: Yes. Yes. Good evening,

1 Mr. Chair, and members of the Council. My name is
2 Mary Shekarchi. I represent the respondent.

3 CHAIRMAN COIA: Okay. And, Brian, if you
4 could give us an update.

5 MR. HARRINGTON: Thank you, Mr. Chair.
6 The property owner submitted an application
7 July 18, 2022, to install structural shoreline
8 protection, a riprap wall. Permit staff requested
9 that they revise their plans they submitted to turn
10 it into a hybrid wall. So stone at the bottom,
11 vegetation at the top.

12 Staff did get that plan. They worked on
13 the application, it was drafted, and it was ready
14 to go out. Prior to it being issued, we got a
15 complaint that work was being done on the property
16 down by the water. I did a site visit and found
17 that work had been undertaken. The earthwork,
18 construction of the riprap, construction of timber
19 structures, cutting of natural buffer vegetation,
20 and earthwork in an inner tidal zone.

21 I issued a verbal cease and desist order
22 to the contractor on-site, explaining that no work
23 was allowed, everything had to stop. He agreed to
24 stop. April 7th I issued the cease and desist

1 order and an \$8,000 fine to the property owners.

2 On April 23, 2023, the fine was appealed
3 by Attorney Paul DeMarco. On May 3rd, I spoke to
4 him, and then, over the next several months, we
5 tried to schedule a site meeting between the
6 attorney, myself, their engineer, and the property
7 owners. I wasn't able to schedule that meeting.
8 So I went back out on September 25th and found that
9 they went back to work and the wall was completed.

10 The way it was completed was like the
11 first plan that was submitted. So it's all riprap.
12 So we issued a \$10,000 fine, notice of
13 administrative fine, on September 27th. And that
14 was appealed on October 16, 2023.

15 On November 28, 2023, we held a meeting at
16 the office with Attorney Paul DeMarco, their
17 engineer, and their contractor explaining what
18 needed to be done to resolve the violation. I sent
19 them a letter on March 12, 2023, requiring that a
20 plan come in by April 5, 2024, with restoration of
21 the site by May 24th.

22 I subsequently sent another letter
23 extending the deadline to -- well, saying that we
24 had extended the deadline to April 15, 2024, and

1 that date was not met, so we were going to schedule
2 the matter for a hearing. Around that time,
3 Attorney Shekarchi took the case over from
4 Paul DeMarco, and we've been working on resolving
5 it. We had a meeting at the office with
6 Director Willis and Deputy Director Miguel, myself,
7 and Mary, and we came up with what needed to be
8 done I think to resolve the violation. But we
9 haven't gotten a restoration plan or anything that
10 we could approve to resolve the violation.

11 So we scheduled the meeting for today.
12 Mary Shekarchi sent in a packet with a proposal on
13 Friday last week. So that's why we're here. We're
14 trying to get some hard deadlines set for
15 restoration for an acceptable application to be
16 submitted.

17 CHAIRMAN COIA: Thank you. Any questions
18 of Brian from the Council?

19 (NO RESPONSE)

20 CHAIRMAN COIA: Attorney Shekarchi,
21 anything to add?

22 MS. SHEKARCHI: Yeah. Brian, just for
23 clarification, we didn't really meet on this matter
24 when we met. We were there on another matter and

1 then you brought it up because I had just gotten
2 involved. Just because I don't remember meeting.
3 I know we had briefly discussed some of the --

4 MR. HARRINGTON: It kind of morphed into
5 this.

6 MS. SHEKARCHI: Right, exactly. I just
7 wanted to clarify that because I didn't have any
8 notes. I know we discussed it, that it was
9 something that I had recently got involved in.

10 I have nothing to add, I think, other than
11 just a clarification on that meeting. Brian has
12 given the facts as I know them as well. I would
13 say that we did submit the restoration plan. It
14 came from -- or the documentation, which was quite
15 lengthy. I received it I think last week from our
16 engineer, and I had to send it -- the size of it, I
17 had to Federal Express it over to the Council. So
18 they only got it, staff, on Friday. So I apologize
19 for that, but that's when I received it.

20 Based upon that, I just had requested a
21 continuance for 30 days so you could have an
22 opportunity to review it and respond to us so we
23 can hopefully get some dialogue based on data to
24 proceed forward to hopefully get this resolved.

1 That's our position.

2 CHAIRMAN COIA: Any questions of
3 Attorney Shekarchi? Mr. Flynn.

4 MR. FLYNN: So given that there were two
5 cease and desist orders here, the second one comes
6 after the first one, obviously, and work continued
7 and the fine got increased, what happens with the
8 payment of the fine at this point, assuming we have
9 a restoration plan that staff approves of? Does
10 the fine get paid?

11 MR. HARRINGTON: We schedule a fine
12 hearing separately. It would be a different track.
13 So we would go through this. Resolve the violation
14 this way, but the fine would be handled in front of
15 the hearing officer.

16 MR. FLYNN: Okay. What would be the
17 justification for not enforcing the fine by the
18 hearing officer?

19 MR. HARRINGTON: That would be up to the
20 hearing officer.

21 MR. FLYNN: How long does that take?

22 MR. HARRINGTON: To have the hearing or to
23 schedule it?

24 MR. FLYNN: Yeah.

1 MR. HARRINGTON: We would schedule it. We
2 would try to resolve this part of it first and then
3 schedule the hearing. But we can schedule it at
4 any time. But I think in this case, it would make
5 sense to try to get the violation itself resolved
6 and then proceed with the fine hearing.

7 MR. FLYNN: Okay. Thank you.

8 CHAIRMAN COIA: Thank you. Do we need a
9 vote on anything? I know we're here for a
10 conference. She's asked for 30 days.

11 MR. HARTMANN: I think a vote to continue
12 would be pretty much the extent of what you can do
13 here under a status conference. So whatever the
14 Council's pleasure for continuing it to a date
15 certain.

16 MR. COIA: We need a date certain or just
17 a normal continuance?

18 MR. HARTMANN: No. You can just continue
19 without -- continue until further notice from
20 staff, something along those lines.

21 MS. REYNOLDS: Did Brian mention he wanted
22 to -- one of the things was set deadlines for the
23 restoration?

24 MR. HARRINGTON: Yeah. If they got

1 something that we can approve. I don't know if we
2 can approve this yet. It's not an application or
3 anything. It's just -- it's kind of like a concept
4 of what they want to do. So if they want to do
5 this and they want to apply for it, then we need a
6 deadline for that to come in.

7 MS. SHEKARCHI: Just so you know, the
8 respondents aren't opposed to that. That's why I
9 had requested 30 days. I knew they got this so
10 late, to give them the ample opportunity to review
11 it and respond. So I'm hoping that a response
12 would say no, come in and meet or this is the
13 issue. You know, typically, that's usually what
14 happens, is we start the dialogue and address their
15 comments, staff's comments as best as we can. If
16 they have deadlines, we usually try to follow
17 those. Just keep the communication open.

18 MR. IZZI: Brian, would you recommend
19 setting a 30-day deadline for the application to
20 restore?

21 MR. HARRINGTON: What they're proposing
22 wouldn't be restoring it. It would be to apply to
23 get permission to keep what was put in.

24 MR. FLYNN: Didn't we -- wasn't there

1 originally a plan that we did approve of?

2 MR. HARRINGTON: Well, permit staff had
3 drafted the assent, and they were approving a plan.

4 MR. FLYNN: And then they went and did
5 something else?

6 MR. HARRINGTON: Yup.

7 MR. FLYNN: Why wouldn't we just go back
8 to the plan that had been approved? Wouldn't that
9 be -- I mean, to then go build it sounds eerily
10 similar to another recent case we just had.

11 MR. IZZI: I was just going to say that.

12 MR. FLYNN: So I would not be in favor of
13 that. I mean, I'd be in favor of going back to
14 what the applicant had originally said they would
15 do and then apparently didn't do. Then to make it
16 worse, went back after they got a cease and desist
17 and continued doing it.

18 So to -- I mean, I know you haven't had
19 time to review the plan, but the idea that somehow
20 a plan to bless what has been done after two cease
21 and desist orders, to me, seems to be flaunting the
22 rules. That's my opinion.

23 MS. SHEKARCHI: May I just clarify
24 something? The assent was never officially issued,

1 correct?

2 MR. HARRINGTON: No.

3 MS. SHEKARCHI: Okay. Thank you.

4 MR. IZZI: So there was no assent to do
5 anything?

6 MR. HARRINGTON: No.

7 MR. IZZI: I think we start at ground
8 zero.

9 MR. HARRINGTON: One other thing I'd like
10 to point out. The plan that was about to be
11 approved and the permit that was going to be
12 issued, the toe of that wall at the bottom was in
13 one spot and the stone that was put in with the
14 wall that was built is about, at the most, 9 feet
15 farther seaward, and it's less than that in other
16 places, but it's so much farther out that if they
17 did get permission I think to get a wall there, a
18 full wall, it would have to be brought back anyway.

19 CHAIRMAN COIA: What's the pleasure of the
20 Council? I think they're asking for a 30-day
21 continuance to allow our staff, obviously, to
22 review what's submitted. I think it's key, in
23 response to a question with Attorney Shekarchi,
24 that no assent was approved or came out yet. So to

1 Mr. Flynn's question, I don't think they approved
2 something and then they did something else. Maybe
3 they were about to approve it, but we don't have
4 anything that was approved. Yeah, Mr. Willis.

5 MR. WILLIS: We didn't have -- what we did
6 have was an application that staff had worked out
7 with the applicant, and we were drafting the assent
8 to approve a certain design, and then the
9 applicant, before that assent could go out in a
10 construction that we were acceptable to, the
11 applicant built something different. So I think if
12 we get an application back that's similar to the
13 original application that we were willing to
14 approve, that could be a path towards restoration.
15 But what we have, what we got on Friday, correct me
16 if I'm wrong, is not that. What we got on Friday
17 is a narrative to keep what's in place right now.

18 So it won't take us too long to review
19 that and get back to Attorney Shekarchi on what
20 would be an acceptable path to follow. I would
21 recommend that you give us a couple of weeks to
22 review that, what we got on Friday, and from there
23 we can ask, through Attorney Shekarchi, we can ask
24 the applicant to respond in 30 days with a more

1 appropriate application, similar, if not exactly,
2 to the one we had back in 2022, I believe.
3 Something that, at that point in time, we were
4 amenable to approving. Maybe site conditions have
5 changed, it might need to change a little bit, but
6 something similar to that might be a path to
7 restoration that we can support.

8 MR. IZZI: So would it make sense to vote
9 on an extension -- not an extension -- a
10 continuance of this hearing for 60 days?

11 MR. WILLIS: My interpretation of legal
12 counsel's comments is that is what we can do
13 tonight --

14 MR. IZZI: Yes.

15 MR. WILLIS: -- is continue for a time
16 period. I think that's reasonable.

17 MR. IZZI: I'd like to have a specific
18 time period, not just leave it lingering out there,
19 and bring it back before the Council so that we can
20 maintain some oversight of the application and the
21 enforcement action.

22 CHAIRMAN COIA: All right. Would you like
23 to make a motion, Mr. Izzi?

24 MR. IZZI: Yes. I'd move that we continue

1 CRMC Enforcement File No. 23-0047 for approximately
2 60 days, whenever that meeting will fall, and have
3 staff report back to us as to progress on an
4 application or order to restore or whatever staff
5 deems is appropriate.

6 CHAIRMAN COIA: Is there a second?

7 MS. REYNOLDS: Second.

8 CHAIRMAN COIA: Seconded by Ms. Reynolds.
9 Any discussion?

10 MR. FLYNN: Just one question. So within
11 that -- it probably won't take the staff 60 days to
12 review that document. If it is, in fact, asking to
13 keep what's there, it won't take 60 days for that,
14 so within that 60-day period, from what Jeff has
15 said, there'd be further activity to ask for a
16 different sort of plan that would go back to the
17 original plan that was ready for approval within
18 that 60 days, without waiting 60 days to hear the
19 result of review of that.

20 MR. WILLIS: Within that 60 days, staff
21 will review that, comment back through
22 Attorney Shekarchi who, before that 60-day period
23 is up, will get back to us. The applicant will get
24 back to us with hopefully a plan that's acceptable

1 for us.

2 MR. FLYNN: That makes sense. Thank you.

3 CHAIRMAN COIA: Any further discussion?

4 (NO RESPONSE)

5 CHAIRMAN COIA: Hearing none, I'll poll
6 the Council. Mr. Flynn?

7 MR. FLYNN: Aye.

8 CHAIRMAN COIA: Mr. Izzi?

9 MR. IZZI: Aye.

10 CHAIRMAN COIA: Mr. Russolino?

11 MR. RUSSOLINO: Aye.

12 CHAIRMAN COIA: Mr. Gagnon?

13 MR. GAGNON: Aye.

14 CHAIRMAN COIA: Ms. Reynolds?

15 MS. REYNOLDS: Aye.

16 CHAIRMAN COIA: I, too, Raymond Coia, vote
17 aye. Thank you.

18 MS. SHEKARCHI: Thank you.

19 (MOTION PASSED)

20 CHAIRMAN COIA: Okay. Next matter on our
21 agenda is 23-0222, Leonard T. Maynard Trust
22 Agreement. The alleged violations are the
23 unauthorized construction of a riprap retaining
24 wall and stairs on a coastal feature; earthwork