



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

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

ASSENT

CRMC File No.: 2023-04-108 CRMC Assent No.: A2023-04-108

Whereas,
of

**Wave Pond Hotel LLC
1140 Reservoir Avenue
Cranston, RI 02920**

has applied to the Coastal Resources Management Council for assent to: Demolition of two residences and construction of a hotel with associated utilities, parking areas, and stormwater controls; and represents that they are the owners of the riparian rights attached to the property involved and submitted plans of the work to be done.

Now, said Council, having fully considered said application in accordance with all the regulations as set forth in the Administrative Procedures Act does hereby authorize said applicant, subject to the provisions of Title 46, Chapter 23 of the General Laws of Rhode Island, 1956, as amended, and all laws which are or may be in force applicable thereto: **Demolition of two residences and construction of a hotel with associated utilities, parking areas, and stormwater controls; located at plat 116NW, lot 13; 38 Purgatory Road, Middletown, RI**, in accordance with said plans submitted to this Council and approved by this Council. All work being permitted must be completed on or before **August 2, 2026** after which date this assent is null and void, (unless written application requesting an extension is received by CRMC sixty (60) days prior to expiration date).

Applicant agrees that as a condition to the granting of this assent, members of the Coastal Resources Management Council or its staff shall have access to applicant's property to make on-site inspections to ensure compliance with the assent.

Licensee shall be fully and completely liable to State, and shall waive any claims against State for contribution or otherwise, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, directors, and agents with respect to any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying, and investigating costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response, cleanup, or remediation costs assessed against or imposed upon Licensee, State, or the Property, as a result of Licensee's control of the Property, or Licensee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Licensee's employees, agents, assigns, sublicensees, contractors, subcontractors, permittees, or invitees.

Nothing in this assent shall be construed to impair the legal rights of this granting authority or of any person. By this assent the granting authority by no manner, shape, or form assumes any liability or responsibility implied, or in fact, for the stability or permanence of said project; nor by this assent is there any liability implied or in fact assumed or imposed on the granting authority. Further, the granting authority by its representatives or duly authorized agents shall have the right to inspect said project at all times including, but not limited to, the construction, completion, and all times thereafter.

This Assent is granted with the specific proviso that the construction authorized therein will be maintained in good condition by the owner thereof, his heirs, successors, or assigns for a period of fifty (50) years from the date thereof, after which time this permission shall terminate necessitating either complete removal or a new application.

Permits issued by the CRMC are issued for a finite period of time, confer no property rights, and are valid only with the conditions and stipulations under which they are granted. Permits imply no guarantee of renewal, and may be subject to denial, revocation, or modification.

If this matter appeared before the full Council, a copy of the legal decision from this proceeding may be acquired by contacting the CRMC office in writing.

A copy of this Assent shall be kept on site during construction.

Application for future alteration of the shoreline or other construction or alteration within the CRMC jurisdiction shall be submitted to the CRMC for review prior to commencing such activity.

All applicable policies, prohibitions, and standards of the RICRMP shall be upheld.

All local, state or federal ordinances and regulations must be complied with.

Please be advised that as a further conditions of this Assent, it is hereby stipulated that you and/or your agents shall comply at all times with Federal and State Water Quality Standards and other State standards and regulations regarding water quality, and shall exercise such supervision over and control of these facilities to prevent the dumping or discarding or refuse, sanitary wastes and other pollutants in the tidal waters, either from vessels docked at said facilities or from land adjacent thereto.

No work that involves alteration to wetlands or waters of the United States shall be done under this Assent until the required Federal Permit has been obtained.

Non-compliance with this assent shall result in legal action and/or revocation of this permit.

CAUTION:

The limits of authorized work shall be only for that which was approved by the CRMC. Any activities or alterations in which deviate from this assent or what was detailed on the CRMC approved plans will require a separate application and review. Additionally, if the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then this permit may be found to be null and void. Plans for any future alteration of the shoreline or construction or alteration within the 200' zone of CRMC jurisdiction or in coastal waters must be submitted for review to the CRMC prior to commencing such activity.

Permits, licenses or easements issued by the Council are valid only with the conditions and stipulation under which they are granted and imply no guarantee of renewal. The initial application or an application for renewal may be subject to denial or modification. If an

application is granted, said permit, license and easement may be subject to revocation and/or modification for failure to comply with the conditions and stipulations under which the same was issued or for other good cause.

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

1. The Superior Property Rights of the State of Rhode Island in the Submerged and Submersible Lands of the Coastal, Tidal, and Navigable Waters;
2. The Superior Navigation Servitude of the United States;
3. The Police Powers of the State of Rhode Island and the United States to regulate Structures in the Tidal, Coastal, or Navigable Waters.

THE SUBMERGED AND SUBMERSIBLE LANDS OF THE TIDAL, COASTAL, AND NAVIGABLE WATERS OF THE STATE ARE OWNED BY THE STATE AND HELD IN TRUST FOR THE PUBLIC. CONVEYANCE OF THESE LANDS IS ILLEGAL; TITLES PURPORTING TO TRANSFER SUCH LANDS ARE VOID. ASSENTS THAT INVOLVE THE FILLING OR USE OF THE STATES SUBMERGED LANDS ARE GRANTED WITH THE PROVISIO THAT IT IS SUBJECT TO THE IMPOSITION OF A USAGE FEE TO BE ESTABLISHED BY THE COASTAL RESOURCES MANAGEMENT COUNCIL.

The lands adjacent to tidal waters and/or access to these lands may be impacted or rendered unusable in the future due to sea level rise, storm surge, and shoreline erosion. Online resources including STORMTOOLS, Shoreline Change Maps, and Sea Levels Affecting Marshes Model (SLAMM) Maps can be accessed through the CRMC website (www.crmc.ri.gov). The Council recommends the use of these resources to evaluate the flood extent and inundation from sea level rise, storm surge and erosion and damages to land, aquatic life, loss of public access and other natural resources on and near the site of the above assent. The project life may be shortened by these processes and may require additional adaptation measure up to and including relocation of the project. By issuing this assent the granting authority neither explicitly nor implicitly assumes any liability or responsibility for the stability or permanence of said project under future climate and shoreline conditions.

SPECIFIC STIPULATIONS OF APPROVAL

General Stipulations

A. The applicant shall record this assent in its entirety in the land evidence records of the Town of Middletown within thirty (30) days of the date of assent issuance. Certification by the Town Clerk's office that this stipulation has been complied with shall be furnished to Coastal Resources Management Council by the applicant within fifteen (15) days thereafter. Failure to comply with the provision will render this assent null and void.

B. The approved plan shall be those entitled "Wave Pond Hotel Assessors Plat 116NW Lot 13 38 Purgatory Road (Aquidneck and Wave Avenues) Middletown Rhode Island" dated April 11 and prepared by Northeast Engineers & Consultants Except as stipulated or modified herein, all details and specifications thereon shall be strictly adhered to. Any and all changes require written approval from this office.

C. Prior to commencement of site alterations, you shall post the CRMC assent card. This assent card must be maintained at the site in a conspicuous location until such a time that the project is complete.

D. This lot may be subject to sea level rise in the near and long term and is therefore at increased risk of flooding. The owner is cautioned that the current building codes do not account for sea level rise and is hereby advised that the building should be elevated to the maximum height allowed under zoning ordinance to account for rising sea level in the future.

E. This project required a Coastal Hazards Analysis (CHA) as per the Rhode Island Coastal Resources Management Council's regulations. The Council recommends residential applications meet a minimum of a 30-year design life (longer design life may not meet recommended criteria). Please be advised this project:

- Meets/Does not meet the anticipated 3' rate of Sea Level Rise (SLR).
- Not applicable the accelerated erosion rate.
- Does not meet the recommended StormTools Design Elevation (SDE) of 21.7ft for three feet (3') of SLR.

Earthwork Stipulations

A. All soil erosion, runoff, sedimentation, and construction activity pollution prevention control measures must be implemented in accordance with CRMC approved site plan (referenced herein) and the approved Soil Erosion and Sediment Control Plan dated April 14, 2023.

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

C. All discharges which result from dewatering operations must flow into pumping settling basins, portable sediment tanks or portable sediment bags which are properly installed and maintained in accordance with good engineering practices including the applicable details found in the manufacturer's specifications and/or in the Rhode Island Soil Erosion and Sediment Control Handbook (as amended).

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

E. Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbance activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed using vegetative stabilization measures or using alternative measures whenever vegetative measures are deemed impracticable or during periods of drought. All disturbed soils exposed prior to October 15th shall be seeded by that date. Any such areas which do not have adequate vegetative stabilization by November 15th must be stabilized through the use of non-vegetative erosion control measures. If work continues within any of these areas during the period from October 15th through April 15th, care must be taken to ensure that only the area required for that day's work is exposed, and all erodible soil must be restabilized within five (5) working days.

F. Construction sites must be inspected by or under the supervision of the owner and operator at least once every seven (7) calendar days and within 24 hours after any storm event which generates at least 0.25 inches of rainfall per 24 hour period and/or after a significant amount of runoff. If an inspection reveals a problem, the operator must initiate work to fix the problem immediately after discovering the problem, and complete such work by the close of the next workday, if the problem does not require significant repair or replacement, or if the problem can be corrected through routine maintenance.

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

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

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

Stormwater Stipulations

A. The Permittee shall construct and maintain the stormwater management practices in accordance with the CRMC approved site plan (referenced herein) and the submitted Stormwater Management Plan dated April 13, 2023

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- B. All stormwater management practices shall be operated and maintained in accordance with the Operation and Maintenance (O&M) Plan, last revised July 13, 2023.
- C. The surface of permeable paving or pavers shall be monitored after storms to ensure it drains properly. The surface shall be inspected quarterly for deterioration and repaired as needed.
- D. Permeable paving surfaces require vacuum sweeping or hosing every three (3) months to keep the surface from clogging.
- E. Use of sand and salt on permeable paving and pavers shall be minimized.
- F. Porous asphalt shall not be repaved or resealed with impermeable products.

Building Stipulations

- A. The approved plans have been reviewed on a limited basis (to determine whether or not they violate any standards or policies of the Red Book, and they assure that they do not conflict with approved site plans). As per the latest amendment to Red Book Section 1.3.1(C), specific structural review in terms of building code/flood zone construction standards compliance is not performed by this office. Any and all significant changes to the building plans (size, height, type of foundation, decks, adjacent grading, drains, etc.) requires written approval from this office. For any questions on the level of change requiring review, contact CRMC field staff.
- B. All pertinent requirements of the RI State Building Code as administered by the local building official shall be strictly adhered to.

In Witness Whereof, said Coastal Resources Management Council has hereto set their hands and seal this 2nd day of August in the year two-thousand-twenty-three.


Laura Miguel, Deputy Director
Coastal Resources Management Council

/lat

RECORDED: Aug 29, 2023 03:14P
DOC #: 00001426
RECEIPT #: 67805
WENDY J. W. MARSHALL, TOWN Clerk
TOWN of MIDDLETOWN, RI