



STATE OF RHODE ISLAND
OFFICE OF THE ATTORNEY GENERAL

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Peter F. Neronha
Attorney General

November 21, 2022

Mr. Jeffrey Willis, Executive Director
Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879

Re: Spring Avenue/Spray Rock Road Right-of-Way, Westerly, Rhode Island

Dear Mr. Willis:

I am writing to express my strong support in anticipation of the Coastal Resources Management Council proposed affirmation and designation of the extension of Spring Avenue in Westerly, now known as Spray Rock Road, to the ocean (“Spring Avenue Extension” or the “right-of way” or the “ROW”) as an official CRMC-recognized public right-of-way to the Westerly waterfront.

The Spring Avenue Extension has been depicted as an open way on recorded plats prepared in 1886, 1898, 1920, 1939, and 1948, running southerly from Ninegret Avenue (now known as Spray Rock Road). On all these recorded plats, the Spring Avenue Extension is depicted as a street and is directly connected to the public street system — there are no building or setback lines, there is no lot number on the ROW, and there is no specific, written indication that it is a private or reserved right-of-way. As explained *infra*, the evidence supports a CRMC determination that the Spring Avenue right-of-way became a public right-of-way via incipient dedication as well as statutory dedication. The Weekapaug Fire District contends that Spring Avenue was neither incipiently nor statutorily dedicated as a right-of-way, but the evidence does not support this position.

There is strong evidence that the Spring Avenue Extension was incipiently dedicated. Perhaps the most convincing evidence relates to the 1920 Plat. The 1920 Plat shows Spring Avenue Extension as an extension of Spring Avenue: Spring Avenue Extension has the same line weight and style as the connected Spring Avenue, Spring Avenue Extension does not have any building setback lines or a lot number (indicating that it is indeed a road, and not a building lot), it is not labeled as “private,” and it is the same width as the rest of the road (50 feet). See *Newport Realty, Inc. v. Lynch*, 878 A.2d 1021, 1037 (RI 2005) (stating that, “unless the plat itself, by specific language, broken lines, or other marks, or the deeds indicate otherwise, sale of lots with reference to the plat is an incipient dedication that the roads are offered for public use, pending official action or public user.”). While there does not appear to have been an *official* acceptance of the right-of-way by the government, there is evidence of *public* acceptance; that evidence includes historical aerial and other photos, postcards, and other materials that document public use of the ROW and adjacent areas from the late 1800’s through present.

Mr. Jeffrey Willis, Executive Director
Coastal Resources Management Council
November 21, 2022
Page Two

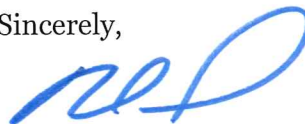
Moreover, in 1942 the Weekapaug Fire District itself acquired multiple lots that specifically referenced the 1920 Plat. Nothing in the 1920 Plat, nor the dozens of first-generation deeds referencing that Plat, indicates that the Spring Avenue Extension to the beach was intended to be a private road. Therefore, Spring Avenue to the beach was incipiently dedicated upon the first sale with reference to the 1920 Plat and embraced by the public as a public right-of-way to the beach.

It is abundantly clear that Spring Avenue Extension was offered and accepted as a public right-of-way via incipient dedication, and there is also evidence that the ROW was statutorily dedicated as well. In 1923, the General Assembly displaced common-law incipient dedication with statutory dedication. To meet the criteria for statutory dedication, a plat depicting roadways for public use must be submitted to the Zoning Board and recorded. Submission to the Zoning Board is evidenced by Zoning Board and Highway Commissioner signatures. In the October 1939 Plat there are two stamps that signify official town endorsement of the plat map. One stamp reads "Town of Westerly" with a signature and date and the other, "Approved" also with a signature. As shown by the stamps on the plat, this plat was approved and signed by the Westerly Highway Commission on July 3, 1939, and the Westerly Zoning Board on September 13, 1939. There is no dispute that the 1939 Plat was then recorded, fulfilling the prerequisites for statutory dedication.

Public access to Rhode Island's coastal and waterfront resources is a priority mission of the Attorney General, who, like the CRMC, is empowered to protect the public's rights and interests in accessing our State's coastal resources. There is strong uncontradicted evidence for the CRMC right-of-way subcommittee to determine that Spring Avenue is a public right-of-way to the shore. An official CRMC designation would secure the public's right to access and enjoy this waterfront access point permanently and empower the Attorney General to defend it. It is time to ensure Spring Avenue is permanently and forever public and free of the private encroachments that have unlawfully hindered access to the shore in recent decades.

Thank you for your time and attention to this matter.

Sincerely,



Peter F. Neronha
Attorney General

cc: Raymond C. Coia, Chair
Patricia Reynolds, Vice Chair
Anthony DeSisto, Esq. CRMC Legal Counsel
Kevin R. Cute, CRMC Marine Resources Specialist
Leah Feldman, CRMC Coastal Policy
Kevin Sloan, CRMC Coastal Policy