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Charlestown, RI 02813

36 Fox Run Road  
Redding, CT 06896

November 10, 2008

Charlestown Town Council  
Charlestown Town Hall  
4540 South County Trail  
Charlestown, RI 02813

RE: Zoning change to Bill's Island

Dear Council Members,

My entire family was shocked to learn from my Charlestown neighbors of this application to contemplate a change in the kind of acceptable activities on Bill's Island, a property designated as "open space". Zoning systems have a procedure for granting variances, but these are only for some perceived hardship caused by the particular nature of the property in question.

In this matter, Bill's Island (aka Great Island) has been part of open space forever. Not only has it been zoned for open space, but a visit to the Bill's Island would illustrate property in a natural state without any trace of development activity. It therefore should be of no surprise to any owner that for hundreds of years this property has been open space.

*Owners Understand and Accept Property is Designated As Open Space*

To date, owners of this property have accepted their stewardship role in preserving this vital piece of open space for the environment. In this role, the owners understood this property was designated as open space, as evidenced by the fact they did not annually contest this designation (1) during routine property assessments by the Town, or (2) when they paid property taxes to the Town at very favorable low tax rates. It is important to understand the time period the current owners have accepted the low property assessment and below market tax rate from property designated as open space. According to Town records, Mr. John Van Ost purchased Bill's Island in 1966. Thirty years later, he transferred this property to a family LLC. The LLC has accepted low open space assessments for a period of twelve years. Thus this family and its LLC have accepted the open space assessment for a combined period of 42 years. Moreover, the most recent tax rate on this 5.7 acre property (Lot 1-85) reflects the open space status with a tax assessment of just \$77,100. For comparison, a vacant lot overlooking Bill's Island, a 0.22 acre lot with some pond frontage (Lot 1-129), is assessed higher at \$87,000. With the designation of open space, Bill's Island continues to enjoy both a lower tax assessment and tax payments, even though it is over 25 times larger in acreage than Lot 1-129.

Based on these tax assessment records, for several decades the owners have understood and accepted the designation of open space for Bill’s Island. Therefore, there is no merit to any argument of a perceived hardship caused by continuing to maintain the open space designation for Bill’s Island.

### *Three Issues Needing Resolution*

As a Charlestown taxpayer, I raise the issue of why the Town would even contemplate changes to existing variances without fully examining the long term effects of these decisions on the Town. There are three issues that need resolution prior to ruling on a variance.

The first issue involves understanding the environmental impact to wildlife, waterfowl and shellfish, and users of Quonnie Pond. As Quonnie Pond is an ecologically sensitive area, prior to any construction, the Town must have (1) ongoing compliance procedures in place to monitor the potential failure of septic systems, (2) a remediation plan to contain damages from a failed septic system, along with (3) the ability to enforce violations of procedures, including restoring the property back to its natural state. I defer to the professionals of the Salt Ponds Coalition to expand on the environmental impact a variance would have on both Quonnie Pond and Bill’s Island.

A second issue is how much the property values of surrounding properties will be negatively impacted. Presumably, a residence on Bill’s Island will require continual electricity to run services, including septic systems. Transmission of electricity and communications by overhead power lines or by underwater lines are problematic, not only from a safety perspective to persons using Quonnie Pond, but they raise environmental issues. The alternative of running a generator to provide power will result in substantive noise pollution that not only negatively impacts all property owners near Quonnie Pond, but will remove the tranquil appeal of Quonnie Pond that attracts both human visitors and wildlife.

A third issue is the cost to the Town for services to a taxpayer residence on Bill’s Island. This includes safety, health, and protection by police and fire services, all of which will need a way to immediately transport equipment and personnel to respond to emergency calls in all types of weather conditions, even during times when the Federal Breachway may be inaccessible. This includes summer storms, floods, fall hurricanes, and winter ice. Of equal importance is the ongoing monitoring of the impact of construction and septic systems on the surrounding environment. To protect both the Town and its taxpayers from substantive ongoing costs directly associated with Bill’s Island, based on my estimate in my capacity as an investment advisor, any contemplated change in zoning to residential must have the following stipulation.

### *Stipulation*

Prior to the commencement of any construction on Bill’s Island, the sum of \$20 million shall be paid to the Town as an irrevocable payment to a Bill’s Island Municipal Trust (Trust) to provide municipal services to Bill’s Island. Funding this Trust would be in addition to property taxes. Approximately \$5 million from this Trust would be used to purchase safety equipment, emergency equipment, a municipal ferry capable of operating in all harsh weather conditions, and acquire pond frontage property with sufficient deep water access for construction of ferry docks. The remaining

Trust principal would be conservatively invested in a combination of U.S. Treasury money markets and short and intermediate term U.S. Government bonds to provide an annual source of funds in perpetuity for replacement equipment, maintaining and storing equipment, Trust operating costs of professional services (accounting, legal, investment advisory, and trustees), and ongoing training for Town personnel. The annual income would also be used to provide perpetual monitoring of the environmental impact of construction and septic systems on Bill’s Island. As part of the environmental monitoring, this Trust would include sufficient funding to pay for legal counsel to litigate to force the owner of Bill’s Island to restore the island back to its natural state prior to construction, should it be determined the construction and ongoing use of Bill’s Island has a harmful impact to the environment.

Note the actual amount to fund such a Trust may need to be higher. Prior to proceeding, input would have to be received from all the appropriate Town services for equipment costs, Town counsel, and investment counsel to the Town for projected cash flow to assure Trust principal can meet projected future costs.

### *Conclusion*

In conclusion, the current owners have understood, accepted, and benefited financially from the designation of open space for Bill’s Island for decades. Knowing they owned open space for this time period, there is no merit to their sudden request for a variance to open space. Essentially, there is no hardship to grant a variance.

If you believe this owner is entitled to a variance for reasons other than demonstrating a hardship, then the Town must carefully weigh the environmental considerations, and the long term impact development will have on other property owners and users of Quonnie Pond.

Moreover, should your committee decide to ignore the common good and issue a variance anyway, given the unique circumstances and difficulties of servicing Bill’s Island, then this variance must include a stipulation to fund a Trust as outlined above to cover the considerable costs of providing taxpayer services on an ongoing basis to Bill’s Island.

The message from voters across the United States in our recent election was clear; it is time for a change. This change includes rethinking variances to ensure that environmental issues of open space take precedence in decision making. I trust you will all provide considerable thought to this important matter to reach the correct decisions to protect the open space on Bill’s Island.

Yours Truly,



Herbert Diamant

November 10<sup>th</sup>, 2008

Andrea Mainelli  
49A Old West Beach Rd  
Charlestown, RI 02813

Charlestown Town Council, Planning Commission & Zoning Board  
Charlestown Town Hall  
4540 South County Trail  
Charlestown, RI 02813

RE: Zoning Changes to Bill's Island

As a property owner in Charlestown, I vehemently oppose the proposed Zoning change to Bill's Island to afford development of this parcel. The impact of development on this environmentally sensitive location has undue cost to the residents of Charlestown, the State of RI, contradicts mandated legislation of CRMC. I urge the Zoning Board to vote against this proposed zoning change for the following reasons:

- No hardship for the current property owner can be justified based on the long tenure of accepting ownership of the property as open space.
- Development of the property would place undue environmental risk to the surround protected waterways and abutting Conservation Property.
- Long term detrimental impact on the ecology of Quonochontaug Pond to which Local, State and Federal Governments are striving to protect.
- A multitude of very questionable variances would be required (septic, setback, elevations, etc.) to permit any construction on the property.
- CRMC would most likely prohibit construction on this site and this type of zoning change with the potential for development contradicts their mandated goals.
- I know of no right away that offers 24hr access to the property that could be deeded to the owner.
- Local Environmental Groups oppose the proposal.
- The impact of the deterioration of one of South County's treasures can never be replaced or restored once lost.
- Surrounding properties will be negatively impacting lowering Charlestown's tax base.

I urge your Committee to reject this proposed Zoning change and decide for the common good of the residence of Charlestown.

Sincerely,

Andrea Mainelli  
Charlestown Taxpayer and Concerned Citizen