

In The Matter Of:
Coastal Resources Management Council

Application of Perry Raso
Vol. 1
November 12, 2020
Subcommittee Hearing

Rebecca J. Forte
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Application of Perry Raso - Vol. 1 - November 12, 2020
Subcommittee Hearing

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL
SUBCOMMITTEE HEARING

* * * * *

IN RE:

CRMC File No. 2017-12-086

In the matter of Perry Raso

* * * * *

Date: November 12, 2020

Time: 1:00 p.m.

Place: Via Zoom
Rhode Island

MEMBERS PRESENT

Jennifer Cervenka, Chair
Raymond C. Coia, Vice Chair
Donald T. Gomez
Patricia Reynolds
Anthony DeSisto, Esquire, Legal Counsel

STAFF PRESENT

Jeff Willis, Executive Director
Lisa Turner, Secretary
Ryan Moore, Moderator
James Boyd, Deputy Director
David Beutel, Former Aquaculture Director

APPEARANCES

Elizabeth Noonan, Esq.....For the Applicant

Leslie Parker, Esq.....For the Applicant

Christian Capizzo, Esq.....For the Objectors
(Hunt, Latham, Cooney and Quigley)

Dean Wagner, Esq.....For the Objectors
(Andrew Wilkes and 454 Beach Road, LLC.)

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1 vicinity. All residential developments from few north.

2 Q. A basic question even though it's at the top of your
3 resume and behind your shoulder, who do you work for?

4 A. DiPrete Engineering, Cranston, Rhode Island.

5 Q. Have you testified before other boards in the State of
6 Rhode Island?

7 A. Yes, and CRMC.

8 Q. Have they accepted you as an expert professional engineer
9 in any of those boards?

10 A. Yes.

11 MS. NOONAN: Madam Chair, I would ask
12 that Mr. Osgood be accepted as a professional engineer
13 expert.

14 CHAIRWOMAN CERVENKA: So we'll I guess
15 entertain a motion to accept Mr. Osgood as a Rhode Island
16 engineer, professional engineer.

17 VICE CHAIRMAN COIA: Madam Chair, Ray Coia be
18 recognized?

19 CHAIRWOMAN CERVENKA: Yes, Mr. Coia.

20 VICE CHAIR COIA: Madam Chairman, based on the
21 representations made and the CV that I'm looking at on my
22 screen, I would move to recognize him as a professional
23 engineer. I know you stated Rhode Island, but I'm
24 looking at the CV. I think he's licensed in Connecticut

1 as well, but I know he's testifying here in Rhode Island.
2 So I don't want to say he's limited to Rhode Island.

3 CHAIRWOMAN CERVENKA: It's your motion,
4 Mr. Coia. You can do what you want.

5 VICE CHAIRMAN COIA: That would be my motion.

6 CHAIRWOMAN CERVENKA: Okay. All right. Is
7 there a second to Mr. Coia's motion?

8 [NO RESPONSE]

9 CHAIRWOMAN CERVENKA: I'll second the motion of
10 Mr. Coia.

11 MR. DESISTO: Madam Chair, before the vote,
12 just for the record again, I wonder if there's any
13 objections by either Mr. Wagner or Mr. Capizzo.

14 MR. WAGNER: No objection to him testifying as
15 an expert engineer.

16 MR. CAPIZZO: As an engineer.

17 CHAIRWOMAN CERVENKA: Okay. So we're good to
18 proceed, Mr. DeSisto?

19 MR. DESISTO: Yes.

20 CHAIRWOMAN CERVENKA: I think I seconded the
21 motion of Mr. Coia and asked if there is any discussion.
22 If not, then I'll do the roll call. Ray Coia?

23 VICE CHAIRMAN COIA: Ray Coia votes aye.

24 CHAIRWOMAN CERVENKA: Patricia Reynolds?

1 MS. REYNOLDS: Reynolds votes aye.

2 CHAIRWOMAN CERVENKA: Don Gomez?

3 MR. GOMEZ: Gomez aye.

4 CHAIRWOMAN CERVENKA: Vin Murray?

5 MR. MURRAY: Murray, aye.

6 CHAIRWOMAN CERVENKA: Myself, Jennifer
7 Cervenka, aye. The motion carries to admit Mr. Osgood as
8 a professional engineer.

9 MS. NOONAN: Thank you. I would also ask that
10 Exhibit 5 be admitted full, his curriculum vitae.

11 CHAIRWOMAN CERVENKA: That's admitted. I don't
12 think we need another roll call for that. Thank you.

13 MR. DESISTO: Correct.

14 [EXHIBIT #5 MARKED]

15 Q. Mr. Osgood, first of all, have you been on the call, the
16 Zoom, call since it began?

17 A. Yes, I have.

18 Q. All right. So you heard the testimony of Mr. Raso,
19 correct?

20 A. Yes.

21 Q. All right. Have you had an opportunity to review the
22 proposed aquaculture farm application which is Exhibit 1?

23 A. Yes, I have.

24 Q. Did you have an opportunity also to review the CRMC staff

1 dimensioning on the first choice that the applicant
2 proposed, the rectangle. So all our dimensions are from
3 that.

4 You'll see that the sort of light blue dimensions
5 are to existing docks in the area, and this is one of the
6 closest docks listed as -- the straight measurement would
7 be obviously the lot would be a little longer, but we are
8 at 480 feet. I believe the dock on the south here that's
9 450 feet, but those would be the closest two docks.

10 And then we sort of looked at anything else that
11 would be in the general vicinity, this main part of Segar
12 Cove. So the dimensions there range from just over
13 500 feet to a little over 1,100 feet. The mooring field,
14 although we didn't call attention to it, would be just
15 beyond that area. The closest dock to the west would be
16 720 feet on the opposite side of Segar Cove.

17 Also we looked at some of the dimensions from the
18 proposed site, the shoreline, and again we rounded these
19 off to the nearest 10 feet just because of the accuracy
20 of the data. So we're looking at approximately 10 feet
21 at northeastern corner, 30 feet would be the narrowest
22 point along the eastern side of the proposed farm area,
23 and approximately 70 feet at the very southern end.

24 So as Mr. Raso mentioned, the intent I believe is

1 strong here to leave access to this side of the farm area
2 for a powerboat to be able to get through here and get
3 around this end as well. We also looked at the alternate
4 -- and the dimensions are similar, close to couple
5 vantage points to as much as 10 feet, and then a little
6 less along the east side but still enough room to get
7 through there. As you mentioned earlier, it's a balance
8 of our outing to the pond versus how close to shore.

9 We also looked at the dimensions in green. Where
10 the line in green is a 200-foot offset from the
11 shoreline, I believe you had mentioned earlier that the
12 South Kingstown ordinance regarding operating personal
13 watercraft in a 200-foot offset from the shoreline, so we
14 wanted to look at what was really available in the cove
15 for those activities, and you can see that it's pretty
16 limited compared to the entire cove, that the northern
17 and southern ends are excluded really from that ability
18 to operate a personal watercraft there for anything other
19 than head speed. Obviously, at 240 feet wide there's not
20 enough room to maintain 200 feet from shore and go and
21 out of this channel so that should, by ordinance, would
22 eliminate that portion of the cove as well.

23 Probably worth pointing out is the point that
24 roughly 75 percent of the proposed site is in that

1 200-foot coastal offset that would be excluded from
2 operating a personal watercraft. Obviously it is open to
3 any other use, but a watercraft shouldn't be operated
4 there.

5 Q. Okay, and --

6 A. Just really quickly.

7 Q. Sure.

8 A. This 214 feet wide by approximately 16 feet wide actually
9 varies a little bit. The northern end isn't quite
10 squared off. Just to give everyone a sense of how large
11 an area we're talking about here.

12 Q. The same with the Map B, what are the dimensions of that?

13 A. That one is average is about 200 feet wide and is about
14 700 or 750 feet on average. I have my note. Maximum
15 width on that is 270 feet wide by 835 feet north to
16 south.

17 Q. All right. There's also an additional 200-foot South
18 Kingstown buffer and you have not depicted that on your
19 plan, correct?

20 A. There's a buffer of 200 feet from docks or other
21 obstruction, so we did look at that on these, but most of
22 that is covered by the 200-foot shoreline. Obviously if
23 a dock sticks out another 30 or 50 feet that would
24 protrude just a little bit more into the cove, but I

1 think we looked and it may be an extra acre of
2 restriction over what was shown here in this green
3 highlight.

4 Actually, real quickly, these green dimensions in
5 here were also to sort of help illustrate how much room
6 is available to operating personal watercraft. You can
7 see that you got 590 feet across the middle of the cove
8 here, so the same 200-foot restriction from shoreline
9 applies to other vessels or swimmers or kayakers,
10 stand-up paddle boarders. So there happens to be a
11 kayaker or any user out here in the middle of the cove,
12 by the time you maintain a 200-foot buffer it's almost
13 impossible by ordinance to have enough room in Segar Cove
14 to operate a personal watercraft. The restriction from
15 skiers are a little less than that because they can
16 approach closer to shore by ordinance, but that doesn't
17 necessarily mean it's any better place to be operating or
18 water skiing than it is operating the watercraft.

19 Q. Okay. Anything else? Let me go back. Anything else on
20 this plan or the other site plan, Exhibit 6, that you
21 want to touch on right now?

22 A. I'll just add that these numbers on these docks were
23 added just for reference to assist in if the Board has
24 questions or the Council has questions about the specific

1 location, they can help identify that location rather
2 than try to describe assessor's plat and lot number.

3 Q. And the measurements that you took --

4 CHAIRWOMAN CERVENKA: I just missed, I was
5 looking at something else. But the mooring field that we
6 looked at with the pictures that Mr. Raso had taken, I
7 missed where that is. You were indicating something,
8 Mr. Osgood.

9 THE WITNESS: The mooring field generally is in
10 this area.

11 CHAIRWOMAN CERVENKA: In that little squished
12 area? Okay.

13 THE WITNESS: Yeah.

14 CHAIRWOMAN CERVENKA: Thank you.

15 Q. And then in terms of how you measured the docks, what
16 point are those measurements taken from the dock or the
17 land?

18 A. We took the measurements from the outer most end of the
19 docks.

20 Q. Okay. In terms of your familiarity now and based upon
21 your review of the proposed farm in the surrounding area,
22 does the proposed aquaculture farm meet applicable zoning
23 ordinances?

24 A. Yes, to the best of my understanding.

1 Q. Again, based on your review of the proposed farm and
2 surrounding area and expertise in engineering, does the
3 proposed aquaculture farm meet applicable building codes
4 and flood hazard standards?

5 A. Yes.

6 Q. Why?

7 A. I don't think there are any particular flood hazard
8 standards or building codes actually that apply to this
9 proposed project.

10 Q. Thank you. In terms of environmental requirements,
11 that's what the regulations state. Do you have an
12 opinion on whether or not it meets certain environmental
13 or will it impact certain environmental requirements?

14 MR. WAGNER: Objection. I don't think this
15 witness has expertise in that area.

16 Q. Mr. Osgood, based on your work as a professional
17 engineer, do you do any analysis in terms of storm water?

18 A. Yes.

19 Q. And is this an application that involves any storm water
20 analysis?

21 A. All projects in Rhode Island we consider that from an
22 engineering standpoint. Obviously this project, because
23 it's completely water based and has no land site reported
24 to it, it has no increase in runoff or any of that

1 interest, no, no environmental water impacts.

2 Q. So even though it's over an acre, it doesn't require
3 anything like a RIPDES permit, correct?

4 A. Right.

5 Q. And in terms of traffic, based upon your experience, have
6 you ever testified or been familiar with traffic issues?

7 MR. WAGNER: Foundation.

8 MS. NOONAN: I just asked him his experience.

9 MR. WAGNER: This witness has been to this site
10 once I think he testified to.

11 MR. DESISTO: I hate to jump in, but the
12 question not so much as his -- if it goes to foundation,
13 it's not to the observations as much as it is to whether
14 or not he's qualified to be able to give an opinion in
15 the first place. So I think that's the predicate
16 question that needs to be addressed. And then once it
17 is, any objections can be interposed when it comes to
18 whether or not he has actually done enough work on it.
19 We're not quite there yet.

20 Q. Mr. Osgood, did you view the site with Mr. Raso?

21 A. Yes, I did.

22 Q. Did you go out on a pontoon boat to visit the site?

23 A. We went out on his boat. His skiff, not the pontoon
24 boat.

1 the proposed aquaculture and the setbacks and the buffers
2 that are part of South Kingstown ordinances?

3 A. Yes, I did.

4 Q. Can you explain what you did?

5 A. Yes. We superimposed the area of the proposed farm and
6 the 200-foot restricted shoreline area and calculated
7 that approximately 2.2 acres of the proposed site is
8 within that 200-foot shoreline area and less than an acre
9 of [ZOOM INTERFERENCE] is actually beyond that. So you
10 can see that on this figure would be, generally speaking,
11 this other corner of the site, there's approximately 25
12 percent of that area is outside of that.

13 Mr. Raso also pointed out that the western half of
14 this site is actually all submerged farming. So the only
15 thing that would be placed out here are floats. So there
16 would be no visual or surface obstructions to worry about
17 in that portion of the site.

18 Q. Okay. What was the overall acreage of the Segar Cove on
19 the water?

20 A. The overall acreage is 53.3 -- I'm sorry .5 acres.

21 Q. Okay. And what area is within 200 feet of the shoreline?

22 A. One second. I calculated it at the opposite direction in
23 my notes. There is only 17 and a half acres that is not
24 within that 200-foot area. So if I can do a little math,

1 36 acres is in that 200-foot shoreline area.

2 Q. And in looking at and going through this here, looking at
3 the calculations, what impact does this proposed site
4 have on the acreage of Segar Cove for other uses, I
5 suppose?

6 A. Obviously vary by use. If it's paddle boarding or
7 kayaking, it doesn't seem to present any restriction to
8 use. Some restrictions on swimming, and obviously some
9 restrictions on personal watercraft and skiing or tubing.
10 The areas as a percentage we were to look at, even 3
11 acres in the cove is less than 6 percent of the total
12 area of Segar Cove.

13 Q. Okay. So as a result of those calculations there is a
14 reduction in the recreational use, correct?

15 A. Yes. Depending on the type of recreation that you're
16 talking about, yes, there's some restrictions.

17 Q. Okay. And did you do -- what were the calculations --
18 just so I'm clear, what were the calculations you did
19 about that reduction?

20 A. We looked at -- so if you were to exclude the entire 3
21 acres of that use, you would be excluding 5.6 or 6
22 percent. The area that that .8 acres that is beyond the
23 200-foot shoreline area is actually only 1.5 percent of
24 the Segar Cove. Pretty small numbers.

1 Q. And in your professional opinion and based on your review
2 of the property, will the proposed project impair the
3 existing access to or use of the area in Segar Cove?

4 MR. WAGNER: Objection.

5 MR. DESISTO: Grounds?

6 MR. WAGNER: Foundation. I don't think he can
7 testify and give an opinion on that.

8 MR. DESISTO: You feel the calculations don't
9 allow him to render an opinion on that specific issue, is
10 that it?

11 MR. WAGNER: Yes.

12 A. I can tell you that there are no restrictions to access
13 the cove itself. There are numerous permanent access,
14 none of which would be obstructed by this use.

15 MS. NOONAN: Can you give me a moment, please,
16 Madam Chair?

17 CHAIRWOMAN CERVENKA: Yes.

18 [PAUSE]

19 Q. Mr. Osgood, just for clarification, the numbers you are
20 talking about, do they apply to both the original
21 rectangular proposed sites, or how does it compare
22 between the original rectangular site and the Plan B?

23 A. I don't know that I did the actual percent-wise
24 comparisons, but I know that Plan B occupies more of Plan

1 B of the 3 acres within the 200-foot shoreline offset.
2 So it's a smaller area that's within the -- there is a
3 smaller percentage of the farm that's outside of that 200
4 offset so those percentages would change, but the 3 acres
5 as a percentage of the total Segar Cove would be the
6 same.

7 And under Option B, the amount of the one and a half
8 percent that I mentioned as impact would be even less as
9 far as a percentage of Segar Cove.

10 MS. NOONAN: No further questions for
11 Mr. Osgood.

12 CHAIRWOMAN CERVENKA: Thank you. Are there
13 questions that subcommittee members have for Mr. Osgood?

14 MR. GOMEZ: Madam Chair, there was a question
15 that I wanted to pursue. We saw major impacts between
16 the rectangular proposal and the polygon approach on
17 public use and safety. And it looks, as you've
18 indicated, that hasn't been indicated, and it's small
19 given the 200-foot restriction. But from a safety
20 standpoint, probably a wash, probably not a safety
21 problem, but I just would like to hear the expert expound
22 on that a little bit.

23 THE WITNESS: I'm not a safety expert, but just
24 from a dimensional physical constraint standpoint, the

1 maximum distance from either system from the outermost
2 point to the shoreline in both configurations is
3 approximately the same. I would note, I guess, that the
4 distance from the 200-foot restriction out is as a result
5 pretty much the same as well just because of the geometry
6 of the cove. That may change a little bit if we actually
7 measured this, but again, we're talking about customized
8 10 feet with a level of accuracy to begin with. So
9 insignificant difference, I would say, without doing some
10 more precise measurements.

11 MR. GOMEZ: And that's what I've been saying,
12 that I didn't see any major impact difference one
13 configuration to the other, and I think you've just
14 stated that you think that it's insignificant. Correct?

15 THE WITNESS: Dimensionally, I don't see a
16 significance between the two projects as far as how they
17 project into the cove and how they might impact safety
18 from that perspective.

19 MR. GOMEZ: Does that corner, which I guess is
20 a northeast corner, the original proposed, that's fairly
21 narrow in there. Do you see that as a problem?

22 THE WITNESS: No. I think that 10 feet is
23 enough room to get most vessels through. It's not enough
24 room to get everything through, and it would depend on

1 it up to cross-examination from Mr. Capizzo if he has any
2 questions.

3 MR. CAPIZZO: Thank you Madam Chair.

4 CROSS-EXAMINATION BY MR. CAPIZZO

5 Q. Audie, did I hear you correct that I think you said that
6 6 percent of the cove would be restricted from
7 waterskiing based on the current operation; is that
8 correct?

9 A. Less than 6 percent of the surface area of the cove would
10 be occupied by the proposed site. So some of that area
11 would already be restricted from waterskiing just because
12 of its proximity from shore. I don't have exact
13 percentage on what would be restricted, but it would be
14 less than 6 percent.

15 Q. Did you figure out the acreage of that as well?

16 A. If you tell me how close you can waterski to shore, I can
17 calculate the area of that if that's what you're asking.

18 Q. That leads to my next question then. Do you have any
19 navigational experience?

20 A. Do I? Yes, I'm a power boater and a sailor.

21 Q. How many hours do you have behind your vessels?

22 A. I have not tracked that. I would say over the last 30
23 plus years, as an adult I would say that it would be in
24 the thousands of hours for certain. Multiple thousands

C E R T I F I C A T I O N

I, Lisa M Reis, hereby certify that the foregoing Pages 1 through 168, inclusive, are a true and accurate transcript of my stenographic notes of the proceedings, via Zoom, which occurred on the above-entitled dates, to the best of my ability.

LISA M. REIS, RPR
Court Reporter/Notary Public
My Commission expires on 7/27/24

Sworn to and subscribed before me,
This 16th day of November, 2020

In The Matter Of:
Coastal Resources Management Council
Perry Raso

Perry Raso
January 29, 2021

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COASTAL RESOURCES MANAGEMENT COUNCIL
SUBCOMMITTEE HEARING

* * * * *

IN RE:
CRMC File No. 2017-12-086
In the matter of Perry Raso

Public Comment

* * * * *

Date: January 29, 2021
Time: 10:00 a.m.
Place: Via Zoom
Rhode Island

MEMBERS PRESENT
Jennifer Cervenka, Chair
Raymond C. Coia, Vice Chair
Donald T. Gomez
Patricia Reynolds

STAFF PRESENT
Anthony DeSisto, Esquire, Legal Counsel
Jeff Willis, Executive Director
Lisa Turner, Secretary
Ryan Moore, Moderator
Ben Goetsch, Aquaculture Coordinator

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Also Present.....John Boehnert, Esq.

FOR THE OBJECTORS.....SHECHTMAN HALPERIN SAVAGE, LLP
(Andrew Wilkes and 454 Beach Road, LLC.) BY: Dean Wagner, Esq.
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dwagner@shslawfirm.com

1 of Potter Pond, leaving 90 percent available. But during
2 the hearings, there was much discussion of the Segar Cove
3 acreage, Segar Cove being a subset of Potter Pond.

4 So if you could tell the Committee what I asked you
5 to do following the conclusion of the objectors' case and
6 much of the public testimony.

7 A. Certainly. I was asked to go back and just take a closer
8 look at the numbers and provide a table sort of combining
9 everything and summarize what the restrictions were to
10 the cove, Segar Cove, based on the 200-foot buffer from
11 the stationary objects, in this case being the shoreline
12 and docks.

13 MS. NOONAN: Could we screen share Exhibit 20,
14 please? I think Leslie was going to do that for me.

15 Can everyone see the January 22, 2021 letter from
16 DiPrete Engineering?

17 CHAIRWOMAN CERVENKA: Yes. I can't see the
18 full letter. Okay, now I see the letter.

19 MS. NOONAN: Thank you so much.

20 Q. Mr. Osgood, can you please tell the Subcommittee what
21 this document is?

22 A. Sure. This is the table of those areas that I was just
23 explaining. So we noted that the total area of Segar
24 Cove is 53.5 acres, approximately, that we apply the

1 buffer, the 200-foot restriction buffer, off of the
2 shoreline and the docks. We end up with approximately
3 36.8 acres remaining available. I'm sorry, that's what
4 is restricted by the buffer.

5 So taking that away from the 53.5, there are 16.7
6 acres available for towed water sports where they are
7 permitted by ordinance.

8 Then we looked at the proposed conditions of the
9 rectangular three-acre farm, and obviously the same
10 36.8 acres is restricted. There's a portion of the farm
11 outside of the 200-foot buffer and a portion inside. The
12 portion outside, when encroached on that 60.7 acres is
13 0.8 acres. That is of the farm area itself. Once we
14 applied the 200-foot offset from that, that area
15 encompasses 4.1 acres. So the total restriction then is
16 41.7, or reduces the area for towed water sports to
17 11.8 acres.

18 Q. Just to be clear, that proposed condition is for the
19 original rectangular Plan A, if you will, correct?

20 A. Yes, correct.

21 Q. Thank you.

22 A. Then the third column to the right is the layout B
23 conditions which is I think what is called the polygon
24 farm configuration which has more area within the

1 existing 200-foot buffer area. So only 0.3 acres of that
2 configuration would occupy the unrestricted portion of
3 Segar Cove. That 200-foot buffer beyond that occupies
4 another 3.5. So for a total of 3.8 acres that would be
5 restricted by the pond, or by the farm where the net area
6 then of 12.9 acres where towed water sports are
7 permitted.

8 Q. Just to be clear, as you set forth in your first
9 paragraph, this is applying those 200-foot buffers from
10 the Town of South Kingstown's ordinance, correct?

11 A. Correct.

12 Q. All right. Anything further to state on this,
13 Mr. Osgood?

14 A. No, I don't believe so.

15 Q. And that's your stamp that you affixed to this document?

16 A. Yes, it is.

17 MS. NOONAN: I would move Exhibit 20 full, and
18 we can take it off the screen share.

19 CHAIRWOMAN CERVENKA: As discussed earlier,
20 that's submitted in full.

21 [EXHIBIT #20 MARKED FULL]

22 MS. NOONAN: I have no further questions for
23 Mr. Osgood.

24 CHAIRWOMAN CERVENKA: Okay. Do you have any

C E R T I F I C A T I O N

I, Lisa M Reis, hereby certify that the foregoing Pages 895 through 966, inclusive, are a true and accurate transcript of my stenographic notes of the proceedings, via Zoom, which occurred on the above-entitled dates, to the best of my ability.

LISA M. REIS, RPR
Court Reporter/Notary Public
My Commission expires on 7/27/24

Sworn to and subscribed before me,
This 3rd day of February, 2021