



Executive Director's Report

To: Raymond Coia, Chair
Council Members

Date: May 15, 2023

Cc: Legal Counsel

From: Jeffrey M. Willis, Executive Director

Re: CRMC File No.: 2017-12-086
Perry Raso
Segar Cove, Potter Pond
South Kingstown, RI

In the matter of CRMC file 2017-12-086 Perry Raso (full record on file), which separately was the subject of a lengthy subcommittee hearing that has resulted in a recommendation of the subcommittee to the full Council, a meeting of the full Council was held January 24, 2023 to hear and discuss the subcommittee's recommendation on the application.

During the full Council's January 24, 2023 hearing on the subcommittee's recommendation, after a lengthy discussion was held on the possibility of revising the proposed application's request, a motion was made and seconded that articulated the following:

"...based on all the evidence in the record, based on the staff report, based on the fact that Mr. Beutel, the aquaculture guru of the Northeast, based on the town harbormaster indicating the 3 acres would not cause any navigational hazard, I move that we modify the application, and we reduce it by 31 -- 39 percent, I'm sorry, and we approve 80,500 square feet, okay, which would be inside of the footprint that was originally presented, which was approximately 130,000 square feet. And we eliminate all the floating devices."

After much discussion, which included the clarification of approving the 80,500 sq. ft. not only within the originally presented footprint of the proposed three (3) acre lease area but also moving it 50 feet easterly away from the center of the cove based on previously made clarifications of the movant, the Motion failed.

Immediately thereafter a new motion was made and seconded:

"that we consider the revisions as proposed by the earlier motion but actually have this reviewed by staff and come back to Council with the staff opinion about the reduction."

Again, after much discussion that included clarification that in addition to specifics of the motion staff was only to use information available in the record, the Motion Passed.¹

Therefore, the following represents the understanding and conditions of the motion in order to have staff issue a report and offer an opinion on the reduction of the application's originally presented configuration as was described and clarified in the subsequent approved motion.

BASIS FOR ANALYSIS

There are six (6) key facts for staff to consider based on the Motion that passed, referencing the specifics and clarifications of the prior Motion on which it was based:

1. A modification of the application.
2. The originally presented three (3) acre footprint of the site.
3. A reduction of the original footprint by 39%.
4. The Council approve 80,500 sq. ft. inside the originally presented footprint.
5. The revised footprint is to be 50 feet landward (ie: moved to the east).
6. All floating devices are to be eliminated.

Within those facts however, when applying the motion's 39% reduction directive to the originally presented footprint, the math does not equal 80,500 sq. ft.

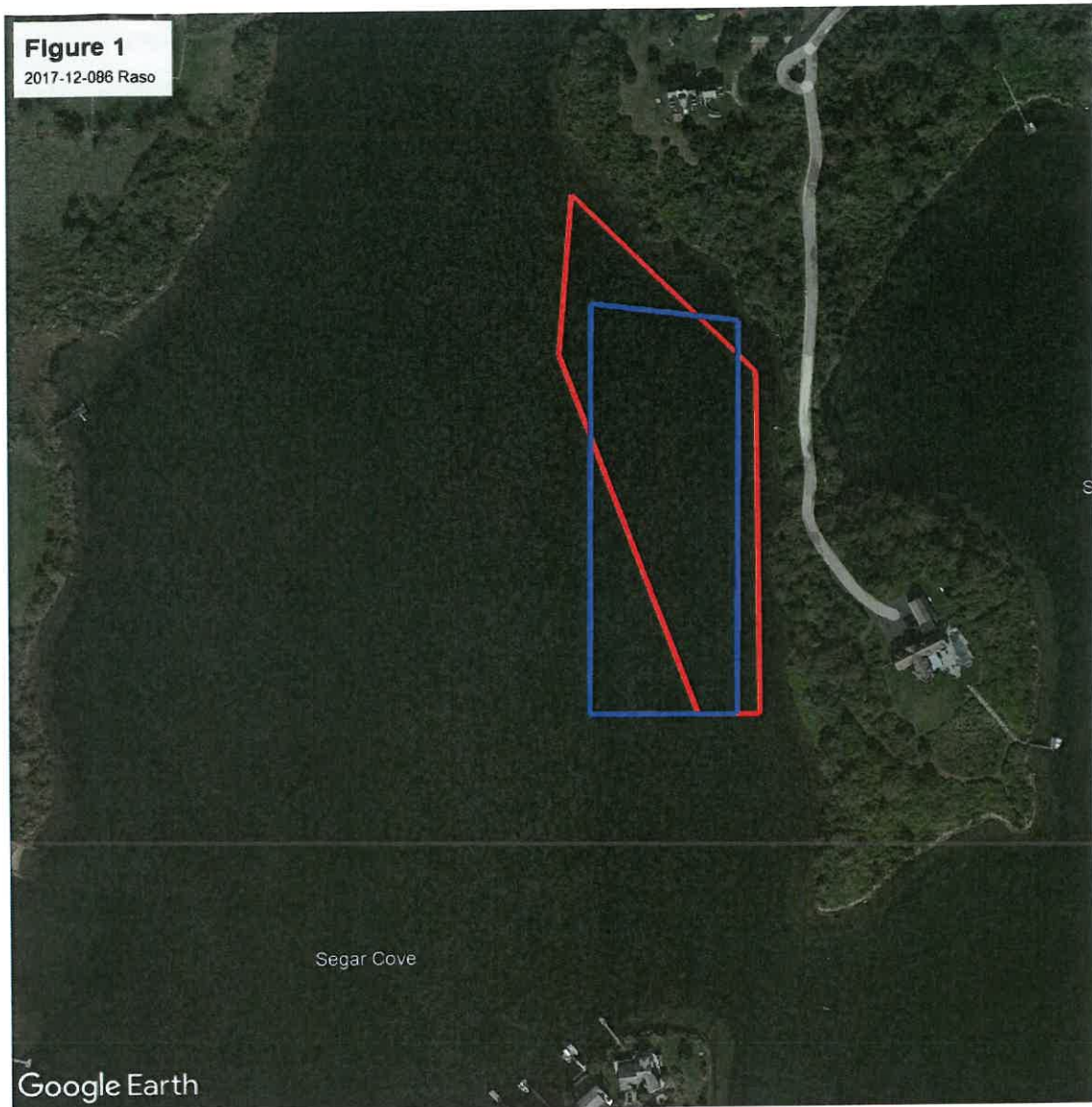
- Originally presented footprint of three (3) acres = 130,680 sq. ft.
- Reduction to originally presented acreage by 39% = 79,714.8 sq. ft.

Given the need to reconcile the math inequality with the original motion's specific call-out to "...approve 80,500 sq. ft..." it is because of the specific call-out that staff will use the 80,500 sq. ft. figure as its basis for analysis.

ANALYSIS

The originally presented footprint is shown in Figure 1 in blue outline. This is what the applicant at first requested in the application and what the CRMC put out to Public Notice to advertise that it has received a request to site an aquaculture farm in state waters. Prior to the matter being sent to the Subcommittee, a revised configuration, also shown in Figure 1 but in red outline was developed by the applicant, and the staffs of CRMC and RIDEM to minimize the extent of the western boundary of the originally presented footprint. It was this revised configuration that the Subcommittee process focused on and not the originally presented footprint. However, to meet the requirements of the Council's directive to staff in its January 24, 2023 hearing on this matter, staff is using as its basis for analysis the originally presented footprint, represented in blue outline as shown in Figure 1.

¹ See attached January 24, 2023 Semi-Monthly Meeting transcript for detailed discussions and clarifications of each Motion.



Also, to be used by staff in its analysis, is the information that is found on the record, from both the application and that which was offered at the subcommittee. For the purposes of this report the primary information that staff is focusing on are the recreational aspects of the use of Segar Cove and the safety aspects of siting an aquaculture farm in Segar Cove relative to the location of the originally presented footprint.

The record is clear on the amount and types of recreational uses supported in the Cove, and the subcommittee spent a good deal of time and effort discussing and addressing them. These included intensive water area activities such as jet skiing and water skiing as well as less intensive and passive activities such as kayaking, canoeing and swimming. In its recommendation the subcommittee found that the recreational aspects of the Cove and the safety to perform them were of concern enough to render a recommendation based in part on those considerations. Staff uses these primary issues in its analysis to arrive at an opinion of the reduction of the originally presented footprint of the proposed farm relative to the direction given by the Council's motion.

Lastly the Motion specifically calls out that all floating devices are to be eliminated from use within a revised modification of the footprint of the proposed farm. Therefore, no analysis is needed on what devices could be used at the proposed farm as the Motion results in the only device that would be permitted under the request of the applicant: Suspended Lantern Nets.

In using the originally presented footprint and applying 80,500 sq. ft. as the revised footprint consistent with the Motion, staff prepared Figure 2 to show where within the originally presented footprint an 80,500 square feet farm could be located when moved 50 feet to the east. In its simplistic form, Figure 2 shows an 80,500 sq. ft rectangular configuration (in yellow) that fits into the northeast corner of the originally presented footprint (in blue). This revised configuration, however, can exist in an infinite number of positions along the eastern boundary of the originally presented footprint until it reaches the southern boundary of the same. Therefore Figure 2 represents one of many such configurations that could meet the requirements of the Motion.



Given those issues staff felt a configuration as shown in Figure 3 best addresses the recreational and safety concerns of the subcommittee while finding a configuration that matches the requirements of the Motion to locate an 80,500 sq. ft farm within the originally presented footprint that is 50 feet landward from the original location. Represented in Brown outline, it is as far north as possible and as far east as possible, with its northeast and southwest corners designed to accommodate recreational use issues and safety issues.



What should be noted is that the northeast and southwest angles chosen can be aligned in many configurations. However, to address the recreational and safety concerns learned at the subcommittee, staff sited those shown in Figure 3 to best represent what it felt met a configuration that addressed such

and that also addressed the requirements of the Motion. Specifically, for the northeast corner, staff attempted to mimic a parallel angle of the shore in order to address the needs of more passive recreational uses such as kayaking and canoeing. It also provides for a consistent buffer of approximately 50 feet between the shore and this corner as well as along the eastern boundary of the proposed revised location of the farm. In the southwest corner, staff presented an angle that allowed for more intensive uses such as waterskiing and jet skiing to enter and leave the Cove. Each of these corner configurations attempt to also address the safety aspects of the recreational uses learned at the subcommittee while maintaining an 80,500 sq. ft area.

STAFF OPINION

Given the Council's direction and instructions to staff on the potential to reduce the size of the originally presented footprint of the proposed aquaculture farm, and using issues from the record, specifically those that were of primary concern to the subcommittee, staff is of the opinion that the configuration shown in Figure 3 meets the requirements of the motion as approved by the Council at its January 24, 2023 hearing on the matter.

Lastly staff does not need to offer an opinion on what devices could be used for aquaculture purposes as the motion contained the requirement to eliminate all floating devices. Therefore, the only devices that remain as sought by the applicant in their original request are Suspended Lantern Nets.