

CRMC DECISION WORKSHEET

2023-08-084

TSL, LLC.

Hearing Date:			
Approved as Recommended			
Approved w/additional Stipulations			
Approved but Modified			
Denied		Vote	

APPLICATION INFORMATION						
File Number	Town	Project Location		Category	Special Exception	Variance
2023-08-084	Bristol	267 Thames Street		B	<input type="checkbox"/>	<input type="checkbox"/>
		Plat	9			
		Owner Name and Address				
Date Accepted		TSL, LLC.		Work at or Below MHW		<input checked="" type="checkbox"/>
Date Completed		244 Gano Street Providence, RI 02906		Lease Required		<input type="checkbox"/>

PROJECT DESCRIPTION

The project is a marina expansion which includes five additional new pilings, an additional new ramp, and a wave fence. The marina expansion will be an increase of 2,500 square feet to the existing marina. The purpose of this expansion is to provide space for a new pool boat as an amenity to the existing onshore hotel business. The pool boat is registered as a vessel in Rhode Island and will be anchored by five additional new pilings, one at each of the vessel's corners and an additional one near the new ramp which will connect the vessel to the dock. The proposed wave fence is comprised of a series of pine piles 30 inches in width, 2-3 inches apart from each other, driven to 10 feet below the mudline, and set up along the existing ramp and the corner of the existing on shore deck, totaling about 12 feet in length. None of the new piles will be attached to the existing decking or ramp. The proposed layout is perpendicular to the tide flow.

KEY PROGRAMMATIC ISSUES

Coastal Feature: The man-made seawall; and the inland edge of the coastal feature shall be top of the seawall.

Water Type: Type 5, Comm/Recreational Harbors

Red Book: 1.2.1(F), 1.3.1(A)(1), 1.3.1(C)

SAMP: N/A

Variances and/or Special Exception Details:

The applicant has not requested any variances or special exceptions.

Additional Comments and/or Council Requirements:

Please see staff report for staff comments.

Specific Staff Stipulations (beyond Standard stipulations):

No specific staff stipulations are recommended.

STAFF RECOMMENDATION(S)

Engineer JWS Recommendation: Approval

Biologist _____ Recommendation: _____

Engineering Supervisor Sign-Off _____ date

Supervising Biologist Sign-off _____ date

Executive Director Sign-Off _____ date

Staff Sign off on Hearing Packet (Eng/Bio) _____ date



STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
STAFF REPORT TO THE COUNCIL

DATE: 05-02-2025
TO: Jeffrey M. Willis, Executive Director
FROM: Justin Wolf Skenyon

Applicant's Name:	TSL, LLC
CRMC File Number:	B2023-08-084
Project:	Marina Expansion to include wave fence and additional pilings
Location:	267 Thames Street, Bristol; Plat(s): 9; Lot(s): 50
Water Type/Name:	5, Bristol Harbor
Coastal Feature:	Man-made shoreline and top on man-made shoreline

INTRODUCTION: The project is a marina expansion which includes five additional new pilings, an additional new ramp, and a wave fence. The marina expansion will be an increase of 2,500 square feet to the existing marina. The purpose of this expansion is to provide space for a new pool boat as an amenity to the existing onshore hotel business. The pool boat is registered as a vessel in Rhode Island and will be anchored by five additional new pilings, one at each of the vessel's corners and an additional one near the new ramp which will connect the vessel to the dock. The proposed wave fence is comprised of a series of pine piles 30 inches in width, 2-3 inches apart from each other, driven to 10 feet below the mudline, and set up along the existing ramp and the corner of the existing on shore deck, totaling about 12 feet in length. None of the new piles will be attached to the existing decking or ramp. The proposed layout is perpendicular to the tide flow.

COMMENTS ON APPLICATION/APPLICABLE POLICIES, STANDARDS & ETC:

1.2.1(F) Type 5 Commercial and Recreational Harbors:

1.2.1(F)(2): Policies

(a) The Council's goals are to maintain a balance among diverse port related activities, including recreational boating, commercial fishing, restaurants, and other water enhanced businesses; to promote the efficient use of space; and to protect the scenic characteristics that make these areas valuable to tourism.

Staff: The applicant has stated that the proposed pool boat would add to the diversity of water-related uses that are currently used by the marina and onshore facility. The waterfront is unable to be used for swimming without this pool boat due to their current use as a marina and lack of available onshore space. The area next

to the marina is used for hospitality and tourism business including a wedding venue, two restaurants, and a hotel.

(b) *The highest priority uses of Type 5 waters and adjoining land areas within Council jurisdiction are:*

(1) *Berthing, mooring, and servicing of recreational craft, commercial fishing vessels, and ferries:*

Staff: The proposal meets this requirement as the vessel itself is a registered boat being stationed in the marina and used for recreational purposes.

(2) *Water dependent and water enhanced commerce, including businesses catering to tourists:*

Staff: The pool boat will be part of the area's current hospitality and tourism business, thus promoting water enhanced commerce.

(3) *Maintenance of navigational channels and berths, and removal of obstructions to navigation;*

Staff: With the vessel placement near shore and therefor it will not impact navigation in the area.

(4) *Activities that maintain or enhance water quality and scenic qualities, including the preservation of historic features.*

Staff: The vessel is consistent in terms of it's profile with the existing vessels that use the marina.

(c) *Applicants for Council Assents for alterations or activities in Type 5 waters shall describe measures taken to mitigate impacts on the scenic quality of the area (see § 1.3.5 of this Part).*

Staff: The applicant has chosen to use a low-profile vessel that has 14 inches of freeboard and no superstructure. The visibility of the vessel is similar to that of adjacent vessels in the marina.

Section 1.3.1(A)(1) Category B Requirements:

(a) *Demonstrate the need for the proposed activity or alteration;*

Staff: The applicant is using the pool boat as an additional amenity to support the hotel.

(b) *Demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, safety codes, fire codes, and environmental requirements have or will be met; etc.*

Staff: The applicant has applied for and received a Water Quality Certification from DEM. There are no other applicable requirements for this application.

(c) *Describe the boundaries of the coastal waters and land area that are anticipated to be affected.*

Staff: This proposed activity is in Type 5 Recreational and Commercial Harbors waters within the applicants' riparian lines for the property line extension.

(d) *Demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters.*

Staff: The proposed wave attenuator or wave fence is described as a series of pine piles 30 inches in width and 2-3 inches apart from each other. Each pile is driven to 10 feet below the mudline and set up along the existing ramp and the corner of the existing on shore deck. The wave fence is approximately 12 feet in total length. None of the new piles will be attached to the existing decking or ramp. The layout will be set up perpendicular to the tide flow. Staff believe that the limited footprint and spacing between the piles will be unlikely to cause erosion and/or deposition processes along the shore and tidal waters.

(e) Demonstrate that the alternation or activity will not result in significant impacts on the abundance and diversity of plant and animal life.

Staff: Staff reviewed the past survey of the area and notes that there is no submerged aquatic vegetation ("SAV") in the area. In addition, the marina already contains recreational boating vessels. The expansion is also located near the shore and is unlikely to cause significant impacts.

(f) Demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore.

Staff: The space is near shore within the riparian lines for the property line extension of the owner and isn't currently used for other purposes. There is pedestrian existing public access along the existing boardwalk. The currently used ramp for access to the existing marina is not known to cause any interference with public access. It is in the staff's opinion that a second ramp will have a similar non-significant effect.

(g) Demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation.

Staff: The applicant has applied for and received a Water Quality Certification from DEM. In addition with the spacing provided between wave fence post it is unlikely there will be significant impacts.

(h) Demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM.

Staff: The applicant has applied for and received a Water Quality Certification from DEM.

(i) Demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance.

Staff: The RIHPHC letter dated 12/19/2023 has stated that "Based upon our review of the provided information, it is RIHPHC's conclusion the project will have no adverse effect upon historic resources".

(j) Demonstrate that the alteration or activity will not result in significant conflicts with water dependent uses and activities such as recreational boating, fishing, swimming, navigation, and commerce.

Staff: The area is near shore and not used by other vessels. The expansion area is also not near the adjacent marina and is unlikely to have impacts on navigation. The area is already used for recreational boating and this expansion would add another recreational vessel. Neither fishing, swimming, nor other commerce occurs in this area.

(k) *Demonstrate that measures have been taken to minimize any adverse scenic impacts.*

Staff: The proposed pool boat is a low profile with no superstructure minimizing adverse scenic impacts.

1.3.1(C) Residential, Commercial, Industrial and Recreational Structures:

Staff: The applicant is making a case that the regulations in this section do not apply to a vessel, even one that is a pool boat. In summary the applicant has asked staff to consider that the vessel is by definition a registered boat being used for recreational purposes and should have to comply with Section 1.3.1(D) regulations. The vessel is also a seaworthy craft that can be moved when needed in the case of impacts from storms. The applicant put forth that the vessel cannot be considered a permanent structure as it can move and plans to be removed at the end of the season.

During the PD process, staff did instruct the applicant to follow regulation 1.3.1(C)(3) particularly e and f which govern decking associated with house boats or floating businesses. This applicant says that the vessel therefore should be subject to the requirement that all vessels are required to follow and only those requirements. It is argued that holding the pool boat decking to the same building code as the deck in association with commercial property would be inappropriate as no other recreational vessel has to meet these requirements. The applicant also included an affidavit from Gregg Marsili, Bristol Harbor Master that he would consider this an appropriate classification of vessel. He also stated that he would not consider other vessels with similar amenities to be subject to these requirements.

Staff have considered the applicant's explanation and reasoning to conclude that the vessel shouldn't be required to be subject to Section 1.3.1(C) requirement. Staff must follow the definition of vessel as defined in by R.I. Gen. Laws § 46-12-1(1) which provides the following,

“(1) “Boat” means any vessel or water craft whether moved by oars, paddles, sails, or other power mechanism, inboard or outboard, or any other vessel or structure floating upon the water whether or not capable of self locomotion, including houseboats, barges, and similar floating objects.”

Given the description provided in the application of the proposed pool boat and the fact that the pool boat is legally registered as a vessel, it meets this definition.

Section 1.3.1(D) Recreational boating facilities:

(2) Marina Policies

(a) *The Council encourages marinas to utilize techniques that make the most efficient use of space and increased demands for moorage, dockage, and storage space by primarily utilizing dry stack storage in addition to innovative slip and mooring configurations, etc.*

Staff: The proposal meets the density requirements and is a minimal expansion to accommodate the request.

(b) *All new and significantly expanded marinas shall first submit a preliminary determination (PD) application ...*

Staff: The applicant did file a preliminary determination as required.

(c) It is the policy of the Council that the applicant demonstrates through measurable standards referred to herein that the marina expansion cannot be accomplished within the existing Marina Perimeter Limit through utilization of more efficient configurations.

Staff: The vessel is unable to fit within the current configuration of the marina without significantly decreasing the number of existing slips. In addition, the pool boat would benefit from increased protection from wave action.

(d) The Council shall require persons proposing to construct new marina facilities or proposing to expand existing marina facilities to undertake measures that mitigate the adverse impacts to water quality associated with the proposed activity. Applicants shall apply for a Water Quality Certificate from the RI Department of Environmental Management and Army Corps of Engineers Permit, concurrent with their application to CRMC.

Staff: The applicant has filed and received their Water Quality Certificate from Department of Environmental Management. The applicant Army Corps of Engineers Permit is covered by the Coastal Resource Management Council under the General Permit.

(f) It is the Council's policy that new or significant marina expansions must demonstrate:

(1) There is no alternative within the current in-water perimeter that would accommodate the expansion;

Staff: The vessel is unable to fit within the current configuration of the marina without significantly decreasing the number of existing slips. In addition, the pool boat would benefit from increased protection from wave action.

(2) The area requested is the minimum necessary; and

Staff: The area requested matches the reasonable size expected of a pool boat. With appropriate piles and a low impact wave fence.

(3) The request avoids or minimizes impact to the aquatic environment and traditional uses in the area

Staff: The vessel will have a minimal impact on traditional uses of the area. There is no SAV located in the area and DEM has issued their approval of this project which included a determination on the impacts on water quality. In DEM's determination the pool boat wasn't considered as an impact because there is no discharge and no fill.

(g) The Council encourages all recreational boating facilities to provide an opportunity for a variety of boat sizes and types so as to provide access for the widest segment of the public to the Public Trust Resources.

Staff: The proposal included a pool boat which is of a different variety in both size and type located in this marina.

(h) It is the Council's policy to require a public access plan or an enhancement to existing access, in accordance with § 1.3.6 of this Part (Protection & Enhancement of Public Access to the Shore), as part of any application for a new marina, or for a significant expansion to any existing marina. In accordance with § 1.1.7 of this Part, a variance from this policy may be granted if an applicant can demonstrate that no

significant adverse public access impacts will occur as a result of the project. The public access plan must detail the vehicle parking that will be provided to support the proposed public access. All boating facilities shall be designed and constructed in a manner which does not impede or detract from and whenever practicable promote public access along and to the shore.

Staff: This proposal is not considered a significance expansion.

(3) Residential and Limited Recreational Boating Facility Policies:

Staff: Not relevant for this proposal.

(4) Prerequisites:

(a) *All new or significantly expanded recreational and limited recreational boating facilities shall be within the property line extensions of the proposed facility or have a signed agreement with the adjacent land owner(s) whose property line extension area is impacted. All structures shall be a minimum of twenty-five (25) feet from the property line extension. Otherwise the applicant shall have a letter of no objection from the adjacent property owner stating that the reduced setback is acceptable. This letter and variance request shall be provided with the application.*

Staff: The Maina Perimeter Limit expansion is within the applicant's property lines extensions.

(5) Marina Prerequisites:

(a) *Persons proposing to establish a new marina or significantly expand a marina shall prepare and submit a preliminary determination application prior to submitting a Category B application.*

Staff: The applicant did file a preliminary determination as required.

(c) *The preliminary determination for new or significant expansions of marinas must assess the impacts of all the environmental site conditions and the planning / design requirements below:*

Staff: The applicant did file a preliminary determination as required.

(6) Residential and Limited Recreational Boating Facility Prerequisites:

Staff: This section is not applicable to this application.

(7) Prohibitions:

Staff: The proposal does not contain any prohibitions listed in this section.

(8) Standards:

Staff: The applicant has met this section's standards in the application.

(9) Marina Standards:

(a) All new or significantly expanded marina designs shall be in accordance with Table 8 in § 1.3.1(D) of this Part (Minimum Design Criteria), ...

Staff: The new piling for the pool boat will be driven to 12 feet below the mud line and will have their height extended to the 100-year flood elevation. All five piles will meet this requirement.

(b) New marinas or any significant expansion of an existing marina shall first submit a Preliminary Determination request.

Staff: The applicant did file a preliminary determination as required.

(c) In evaluating the facility proposal, the applicant must demonstrate that:

(1) Potential impacts have been or can be avoided to the maximum extent practicable when considering existing technology, infrastructure, logistics, and costs in light of approved project purposes; and

(2) Impacts have been or can be minimized to an extent practicable and appropriate to the scope and degree of those environmental impacts; and

(3) Any unavoidable impacts to aquatic and terrestrial resources have been or will be mitigated to an extent that is practicable and appropriate.

Staff: The scope of this project is minimized to only have the necessary expansion for a single vessel. If this vessel was added to the marina without expanding it would have resulted in fewer slips. The wave fence is adjacent to existing structures and is small in scale. The potential impacts have been avoided and/or minimized.

(d) The density of in-water vessels shall be greater than thirty (30) vessels per acre (except in destination harbors) within the MPL. If vessel density is less than the limit, reduction of the MPL will be required.

Staff: The marina has eight slips, and this expansion will add an additional slip bringing the total number of slips to nine. The marina will then have a square footage of 6,244 which is 0.143 acres with 9 vessels divided by 0.143 acres the result is $9/0.143 = 62.93$ or a density of ~63 vessels per acre. With 30 vessel divided by 1 acre then multiplied by the marina area of 0.143 the result of $30\text{vessels} / 1\text{ac} = 0.143\text{ac} = 4.29$ vessels or a minimum vessel count of ~4.3. The proposal meets this requirement.

Regulations (e), (f), (g), (h), (i), (j), (v), (w), and (x):

Staff: These regulations are not applicable to this application.

(k) All electrical installations shall be designed and installed in accordance with the requirements of the NFPA, State building and electrical code. The operations & maintenance plan shall certify that all applicable codes have been met.

Staff: The marina's current electrical and water systems will be utilized for the new vessel.

(l) Sufficient parking shall be provided for the patrons of the marina. A standard of three hundred (300)

square feet is required for each parking space; the minimum requirement for the total number of parking spaces provided is one (1) space for each one and one half (1.5) vessel. If parking for dry stack vessels is in the rack space, no additional parking is required. On grade parking for dry stack shall be at one space for five (5) vessels. Parking for new or expanded marinas in destination harbors shall be one (1) space for every twenty-five (25) vessels of new or expanded slips.

Staff: The applicant explains that the parking regulations do not apply, and the pool boat will be used by the hotel guest.

Regulations (m) and (n),

Staff: The applicant had committed to adhering to these regulations as they already have with the current marina.

Regulations (o) and (p),

Staff: The proposal follows these requirements.

(q) Proposals for the alteration or reconfiguration of in-water facilities such as piers and/or mooring areas shall be reviewed in the following manner:

Staff: The applicant has filed a Category B application as required.

Regulations (r) and (s),

Staff: The proposal is for an increase of a single vessel; therefore, the existing O&M plan would remain unchanged and sufficient for this requirement.

Regulations (t), (u), (y), and (z)

Staff: The existing marina doesn't have a "clean marina" certification, which would remain unchanged with this application. In addition, there are no mooring areas, therefore this isn't considered applicable. The expansion is also set back far from the channel. The pool boat is also considered a vessel and not a floating dock.

(aa) All new marinas (including expansions) and water dependent facilities shall be designed in accordance with the latest Accessible Boating Facilities Guidelines by the United States Access Board promulgated under 36 C.F.R. Part 1191. The number of fully accessible slips shall be in accordance with the latest version of the guidelines, but in no case shall be less than 2% of the facility. Limited Marinas are not required to meet the accessibility guidelines, but are encouraged to do so.

Staff: According to CRMC regulation a "Limited marina" is defined to "mean any facility marina intended for use by recreational vessels with a boat count between five (5) and twenty five (25)". Therefore, the marina, even with the proposed expansion, meets this definition and is considered a Limited Marina. By regulation Limited Marinas are not required to meet the accessibility guidelines by the agency. An additional case of compliance with ADA would not fall under CRMC enforcement.

(bb) The executive director, in his discretion, shall have the authority to determine which of the above standards shall be applied to Limited Marinas.

Staff: The executive director has not chosen to exercise his discretion at this time on this topic.

1.3.1(F) *Treatment of Sewage and Stormwater:*

Staff: Since the pool boat meets the definition of a vessel this section is not applicable to this application.

1.3.1(G) *Shoreline Protection:*

Staff: Since the pool boat meets the definition of a vessel this section is not applicable to this application

1.3.1(R) *Submerged Aquatic Vegetation and Aquatic Habitats of Particular Concern:*

Staff: This area of the bay is not known for having any Submerged Aquatic Vegetation (SAV) nor any Aquatic Habitats of Particular Concern. In addition, staff review past SAV surveys, none of which showed there to be any SAV in this part of the bay. With this understanding, this section is not applicable to this application.

1.3.6 *Protection and Enhancement of Public Access to the Shore:*

Staff: The currently used ramp for access to the existing marina is not known to cause any interference with public access. It is in the staff's opinion that a second ramp will have a similar non-significant effect.

1.1.6(G) Substantive objections:

(1) Substantive objections are defined by one or more of the following:

(a) *Threat of direct loss of property of the objector(s) at the site in question;*

Staff: Staff does not see any evidence of the direct loss of property. The proposed marina expansion is completely within the applicant property line extensions.

(b) *Direct evidence that the proposed alteration or activity does not meet all of the policies, prerequisites, and standards contained in applicable sections of this document;*

Staff: Staff view this application as complete with all necessary information for staff to make an informed evaluation and recommendation to the council. Objections were raised about insufficient material, staff determined such material as unnecessary as the pool boat isn't a build or structure, rather meets the definition of a boat and was evaluated as such.

(c) *Evidence is presented which demonstrates that the proposed activity or alteration has a potential for significant adverse impacts on one or more of the following descriptors of the coastal environment:*

(1) *Circulation and/or flushing patterns;*

Staff: The applicant has applied and received a Water Quality Certification from DEM. In addition, while

slow down and increased turbidity is expected to be seen at the wave fence, with the spacing provided it is unlikely to cause significant impacts.

(2) Sediment deposition and erosion;

Staff: While slow down and increased turbidity is expected to be seen at the wave fence, with the spacing provided it is unlikely to cause significant impacts. The shoreline is hardened man-made which requires a tremendous change to the environment for staff to even consider the possibility of erosion impacts. This proposal lacks both the scope and design to impact the shore.

(3) Biological communities, including vegetation, shellfish and finfish resources, and wildlife habitat;

Staff: This proposal is in line with the existing recreational uses of the area. This area of the bay is not known for having any SAV nor any Aquatic Habitats of Particular Concern. In addition, staff reviewed past SAV surveys, none of which showed there to be any SAV in this part of the bay. This proposal lacks both the scope and design to impact the biological communities in a significant way.

(4) Areas of historic and archaeological significance;

Staff: The RIHPHC letter dated 12/19/2023 has stated that “Based upon our review of the provided information, it is RIHPHC’s conclusion the project will have no adverse effect upon historic resources”.

(5) Scenic and/or recreation values;

Staff: The applicant has chosen to use a low-profile vessel that has 14 inches of free board and no superstructure. This would mean the vessel sits in visibility like adjacent vessels in the marina.

(6) Water quality;

Staff: In DEM’s determination the pool boat wasn’t considered as an impact because there is no discharge and no fill. Staff concur with this assessment.

(7) Public access to and along the shore;

Staff: Staff does not foresee any significant impacts. The vessel and accompanying activity will not significantly alter the activity already present in the area. There is also an adjacent ramp to the existing marina which has not been shown to cause impediments.

(8) Shoreline erosion and flood hazards; or

Staff: The shoreline is hardened man-made which requires a tremendous change to the environment for staff to even consider the possibility of erosion impacts. This proposal lacks both the scope and design to impact the shore.

(d) Evidence that the proposed activity or alteration does not conform to state or duly adopted municipal development plans, ordinances, or regulations.

Staff have determined that this proposal is in line with the Town of Bristol 2016 Comprehensive Community Plan. In the plan, the Town outlines the need for and improvement to help recreational boating. Calling Bristol a “Bristol will be a place that continues to provide people economic opportunity from the sea through fishing, boating, recreation, aquatic biotechnology and research.” and the continued development and promotion of “destination businesses” which this marina is considered a part of.

Contested case:

CRMC has received many requests for a hearing from interested parties. Furthermore, the objectors argued that this application be considered a contested case. In CRMC’s Management Procedures: 650-RICR-10-00-1 a “contested case” defined in 1.1.B “*means a proceeding in which the legal rights, duties or privileges of a specific party are required to be determined by the Council after an opportunity for hearing. A proceeding before the Council shall be considered contested when a substantive formal written objection and/or request for hearing is received by the Council from any interested party. Further, a proceeding shall be considered contested upon request for hearing by any four (4) members of the Council.*”. Additionally, Management Procedures: 650-RICR-10-00-1-1.5.1(F) require objections to be “substantiated by genuine and material reason as outlined in § 20-00-1.1.6(G)(i.e. RedBook).As noted in the report Staff has not found the submitted objections to be “*substantive*” as defined in Red Book 1.1.6(G).

It is Staff’s recommended that this matter does not rise to a contested case. The council still reserves the right to send this matter to a subcommittee if they so determined it.

Staff Recommendation:

It is staff’s opinion that this application has met the CRMC’s regulations and variance criteria for completeness and approval.

COMMENTS ON VARIANCE REQUEST:

The applicant has not requested any variances.

COMMENTS ON OBJECTIONS:

General Concerns:

In this section staff will provide a summary of the general comments and concerns received during review and addresses them.

Safety of having a pool boat in the harbor: The concerns submitted about safety focused on; the users of the pool boat, boating accidents, and storm damage. In regard to the safety of users of the pool boat, staff does not foresee impacts on their safety as swimming in a pool boat keeps the individuals out of the marina water and out of harm's way. The marina expansion is not located near high trafficked areas and the existing traffic is of low speed and small recreational boat, meaning dangerous vessel impacts are unlikely. The new piling anchoring the pool boat will be driven to 12 feet below the mud line and will have their height extended to the 100-year flood elevation. Staff views these five piles will be sufficient to hold the vessel in place during a sufficient storm event. In addition, the applicant has made a “Storm Plan” which involves draining the pool and pulling the vessel on shore in the event of a Category 2 hurricane.

Impacts on Water Quality: The comments submitted noted concerns about the water quality from the pool boat itself and pile driving. Staff refers to DEM water quality permit which includes an examination of

possible impacts of pile driving and has already been approved. In DEM's determination the pool boat wasn't considered as an impact because there is no discharge and no fill.

Potential proliferation of pool boats in Bristol Harbor: Staff do not view this application as the appropriate avenue to address this hypothetical concern nor does staff feel enough information has been provided to even begin any form or analysis.

Public Access: There are concerns asserted that there would be impediments to a public water access walkway. Staff does not foresee any significant impacts. The vessel and accompanying activity will not significantly alter the activity already present in the area. There is also an adjacent ramp to the existing marina which has not been shown to cause impediments.

Americans with Disabilities Act (ADA) Compliance: According to CRMC regulation a "Limited marina" is defined to "mean any facility marina intended for use by recreational vessels with a boat count between five (5) and twenty five (25)." Therefore, the marina, even with the proposed expansion, meets this definition and is considered a Limited Marina. By regulation Limited Marinas are not required to meet the accessibility guidelines by the agency. An additional case of compliance with ADA would not fall under CRMC enforcement.

Impacts on Submerged Aquatic Vegetation (SAV): This area of the bay is not known for having any SAV nor any Aquatic Habitats of Particular Concern. In addition, staff reviewed past SAV surveys, none of which showed there to be any SAV in this part of the bay.

Impact on quality of life and scenic values: Impacts to scenic and/or recreational views, giving the vessel's low profile and the current recreational use of the area it is unlikely that this proposal deviates from the surrounding area significantly. Potential noise impacts are also addressed by the local town ordinances, nor do staff believe that this volume would be greater than the regular recreational boating activity in the area.

Town of Bristol

On August 7, 2024 the Bristol Town Council submitted a letter to CRMC that is meant to "inform you about the diverse opinions and concerns within our council and community regarding the proposed Joint Public Notice CRMC/DEM re Thames Street Landing, TSL, LLC, 267 Thames Street". This letter was voted 4-1 in favor of being sent and contains the following the Recommendations made by the Bristol Harbor Commission, Minutes from the Harbor Commission meeting of July 1, 2024, and Draft minutes from the Town Council meeting of July 31, 2024.

Recommendations made by the Bristol Harbor Commission:

The Bristol Harbor Commission together with the Harbor Commission Advisory Committee met on July 1, 2024, and voted 4-1 in favor of sending this recommendation to the Bristol Town Council. The letter states that the Bristol Harbor Commission "respectfully recommends to the Bristol Town Council that this application meets the criteria of the Bristol Harbor Management Plan, in that it is completely within the riparian rights area of the applicant, does not cross the Harbor Line, and does not interfere with navigation in Bristol Harbor".

In addition, there are several areas of concern described as "potential water pollution from the treated pool water, danger to nearby riparian and littoral structures in the event of a hurricane, public access to the

waterfront by physically handicapped individuals, and possible danger to pool users in the event a large vessel navigating nearby might lose power or control and collide with the pool boat”. With these concerns in mind the Bristol Harbor Commission recommends the following four conditions,

1. The Applicant shall provide a written plan indicating how the pool water will be treated, how the waste from any backwashing filtration system will be disposed, and confirming that there will be no discharge of such filtration system water into Bristol Harbor.

Applicant Response: The closed pool system would consist of a pump/motor, Cartridge Filter and a Heat pump. In this pool we will use a salt generator for chlorine generation. There is no backwashing on this system. We will change cartridges often instead. The attached schematic of the pool boat's filtration system demonstrates this.

Staff: DEM has issued their approval of this project which included a determination on the impacts on water quality. In DEM’s determination the pool boat wasn’t considered as an impact because there is no discharge and no fill. This system is acceptable with staff.

2. The Applicant shall provide a written Storm Action Plan indicating the actions proposed for certain time frames (such as when a Tropical Storm or Hurricane Watch is issued and when a Tropical Storm or Hurricane Warning is issued) and identifying the specific contractors who will provide trucks to pump out the pool water and identifying the specific marine facility that will haul the pool boat out of the water.

Applicant Response: TSL will notify Borden Light Marine, with which we have a standing contract for these services, to haul the pool boat 40 hours before NOAA predicts any hurricane of a Category 2 or higher potentially impacting Bristol Harbor. TSL will notify Borden Light Marine to haul the pool boat to a safe harbor marina or haul to a dry dock within no less than 40 hours. Bay State Disposal will provide pump truck services to pump the pool boat in advance of hauling to a safer location.

Staff: CRMC regulation does not require this “Storm Action Plan” and staff has no objection to such a plan. Staff does see that there may be some benefits for such a plan. Also being able to ensure compliance with the plan is an understandable concern.

3. The Applicant shall provide certification from an engineer that the access to the pool boat from the shore will meet ADA requirements.

Applicant Response: The applicant has indicated that they have submitted their full responses to this letter and have chosen not to respond to this.

Staff: According to CRMC regulation a “Limited marina” is defined to “mean any facility marina intended for use by recreational vessels with a boat count between five (5) and twenty five (25).”. Therefore, the marina, even with the proposed expansion, meets this definition and is considered a Limited Marina. By regulation Limited Marinas are not required to meet the accessibility guidelines by the agency. An additional case of compliance with ADA would not fall under CRMC enforcement.

4. The CRMC should consider requiring the Applicant to install additional barriers, which might include additional pilings, to prevent any out of control vessel from colliding with the pool boat and endangering pool users.

Applicant Response: The applicant has indicated that they have submitted their full responses to this letter and have chosen not to respond to this.

Staff: Staff does not oppose any additional piles for the purpose of improving safety, but also does not consider them necessary. The marina expansion is not located near high trafficked areas and the existing traffic is of low speed and small recreational boat, meaning dangerous vessel impacts are unlikely.

Minutes from the Harbor Commission meeting of July 1, 2024, and Draft minutes from the Town Council meeting of July 31, 2024:

Staff: After reviewing the meeting minutes staff offers this summary on the proceedings and the thoughts and comments provided.

There was concern that the pool boat would become a public nuisance, allowing for too much noise pollution, too much consumption of alcohol, and other misuses. The applicant's attorney, Hardy responds to reassure that “no alcohol would be allowed at the pool, and there would be security cameras and locks in place. To address noise concerns, he stated there would be no diving or audible music, emphasizing that noise is regulated by town ordinances, not CRMC.”

Staff: Staff views the impacts from adding this pool boat to be in line with the current use of this area for hospitality and tourism.

There was concern that the pool boat would not be complying with Americans with Disabilities Act (ADA).

Staff: According to CRMC regulation a “Limited marina” is defined to “mean any facility marina intended for use by recreational vessels with a boat count between five (5) and twenty five (25).”. Therefore, the marina, even with the proposed expansion, meets this definition and is considered a Limited Marina. By regulation Limited Marinas are not required to meet the accessibility guidelines by the agency. An additional case of compliance with ADA would not fall under CRMC enforcement.

Swimming in a marina can lead to conflict for navigational waters blocking access and danger to the users of the pool boat.

Staff: Staff do not see any concerns with impacts to navigational waters or dangerous conditions. The vessel will be in a fixed position close to shore and swimming will be contained on board the vessel.

Stone Harbour Condominium Association:

The Stone Harbour Condominium Association (“Stone Harbour”) submitted a letter on August 14, 2024, stating that they had a substantial objection to the project. They claim that the marina expansion and new pool boat has a high potential for significant adverse impacts to the coastal environment of the Bristol Harbor. Their letter highlighted concerns with “noise, safety, view obstructions, access to and from the Stone Harbour Marina and boat navigation, impacts on property values, environmental impacts including water quality, disability access compliance of the pool, town support letters submitted without relevant context, and the proliferation of the pool-boat-use in the Bristol Harbor”, including potential detachment of the pool boat during rough weather and wave reflection impacts from the wave attenuator. Stone Harbour also indicated that they were left out of the public notice/conversion until May 2024 because the applicant indicated that

there was support from the neighborhood before they were informed.

Staff: In regards to excessive noise, staff view the impacts from adding this pool boat to be in line with the current level of activity expected of this area and note that all noise complaints are handled at the town level.

In regard to safety, staff does not foresee impacts to safety as swimming in a pool boat keeps the individual out of the marina water and out of harm's way.

In regard to view obstructions, staff does not see a significant impact on the scenic view by the pool boat. The pool boat has a low profile, less than or in line with the vessels that currently use the marina and surrounding area.

In regard to access to and from the Stone Harbour Marina, staff views that with the size and scope of the marina expansion it is not expected to have an impact on access to adjacent areas.

In regard to impacts on property values, staff cannot make a determination about the exact impact on market forces, but this is in line with the current use of this area for recreational hospitality and tourism.

In regard to environmental impacts, including water quality, DEM has issued their approval of this project which included a determination on the impacts on water quality. In DEM's determination the pool boat wasn't considered as an impact because there is no discharge and no fill.

In regard to disability access compliance of the pool, according to CRMC regulation a "Limited marina" is defined to "mean any facility marina intended for use by recreational vessels with a boat count between five (5) and twenty five (25)". Therefore, the marina, even with the proposed expansion, meets this definition and is considered a Limited Marina. By regulation Limited Marinas are not required to meet the accessibility guidelines by the agency. An additional case of compliance with ADA would not fall under CRMC enforcement.

In regards to town support letters submitted without relevant context, staff believes that the information from the public notice was sufficient for the public to review the application.

In regards to the proliferation of the pool-boat-use in the Bristol Harbor, staff does not view this as a relevant concern for the approval of this application.

For concerns regarding harbor safety from potential detachment of the pool boat during rough weather, staff determined that the pile designs are within CRMC regulations and are believed to be sufficient for reasonably assumed rough weather. In addition, given the nature of this vessel it can be brought on shore in concerning weather like other boats.

For concerns with wave reflection impacts from the wave attenuator, the wave is designed to dampen waves and will not cause reflection.

The joint public notice was released on May 14th and included a newspaper ad and letter mailed to each condo resident totaling over 50 letters. Staff also extended the public notice twice in response to requests. Also, whether or not the applicant correctly understood the local support of the project is irrelevant to the

application and is why public notice is given for this type of application.

Alyce Wright:

A letter was received from Alyce Wright from June 6, 2024 to the Bristol Town Council about the project. The concerns were regarding “Noise, safety, waterfront views, and access are factors which impact property values” and ADA compliance. With primary concern being potential safety risks of users jumping off the side of the pool boat into the marina’s water.

Staff: In regards to excessive noise, staff view the impacts from adding this pool boat to be in line with the current level of activity expected of this area and note that all noise complaints are handled at the town level.

In regard to safety, staff does not foresee impacts to safety as swimming in a pool boat keeps the individual out of the marina water and out of harm's way.

In regard to view obstructions, staff does not see a significant impact on the view from the pool boat. The pool boat has a low profile, less than or in line with the vessels that currently use the marina and surrounding area.

In regard to access to and from the Stone Harbour Marina, staff views with the size and scope of the marina expansion it is not expected to have an impact on access to adjacent areas.

In regard to impacts on property values, staff cannot make a determination about the exact impact on market forces, but this is in line with the current use of this area for recreational hospitality and tourism.

In regard to disability access compliance of the pool, according to CRMC regulation a “Limited marina” is defined to “mean any facility marina intended for use by recreational vessels with a boat count between five (5) and twenty five (25).”. Therefore, the marina, even with the proposed expansion, meets this definition and is considered a Limited Marina. By regulation Limited Marinas are not required to meet the accessibility guidelines by the agency. An additional case of compliance with ADA would not fall under CRMC enforcement.

In regard to the pool boat leading more people to swim in the water, while possible this activity is already prohibited from normal vessels and now with a designated area for such an activity it may also bring down the chances of such an activity.

Stone Harbour Marina Association:

Marlo Barrenechea, President of the Stone Harbour Marina Association wrote a letter of opposition on June 10, 2024. The concerns stated were that the pool boat would detract from the character and atmosphere of the area and the wave attenuator causing refraction that would harm the Stone Harbour Marina.

Staff: The area around Bristol Harbor is host to a wide variety of different types of vessels including a diverse array of those for recreational activity. Staff find it unlikely that this new addition to the area would be impactful. Also, pool boats will be part of the area’s current hospitality and tourism business.

Mark T. Ryan, attorney from Moses Ryan Ltd, June 24, 2024 Letter:

Mark T. Ryan submitted a letter to the Bristol Harbor Commission on June 24, 2024, detailing concerns and objections to the project. These were as follows, that the significant expansion will negatively affect the

surrounding area, supportive letter by Steve Contente, Town Administrator for Bristol RI before the public notice period and before the Bristol Harbor Commission meet on the topic, safety concerns from uses and detaching, impacts to navigation and water use, and proliferation of the use of pool boats.

Staff: Mark T. Ryan office attended and spoke on behalf of the Stone Harbour Condominium Association at meetings of the Bristol Town Council. The thoughts and concerns in this letter are mostly similar to those already addressed in the Stone Harbour Condominium Association letter. Those that are not similar enough are the supportive letter submitted by Steve Contente, and the proliferation of the use of pool boats.

In regard to the supportive letter by Steve Contente, Town Administrator for Bristol RI before the public notice period and before the Bristol Harbor Commission meet on the topic, staff does not know what is determined by the Town of Bristol in relation to when a Town Administrator offers a letter of support and will not be addressing this on those ground and will review the letter in the same way all letters are received which is based on merit. In addition, staff want to note that it encourages applicants to meet early and often with relevant stakeholders.

In regard to the proliferation of the use of pool boats, staff do not view this application as the appropriate avenue to address this hypothetical concern.

Mark T. Ryan, attorney from Moses Ryan Ltd, July 24, 2024 Letter:

Mark T. Ryan submitted a letter to the Bristol Town Council on July 24, 2024, detailing concerns and objections to the project. These were as follows “safety, noise, access to and from the Stone Harbour marina and boat navigation, impacts on property values, environmental impacts including water quality, ADA compliance of the pool, town support letters submitted without relevant context, and proliferation of the pool-boat use in the Harbor” and environmental impacts from pile driving.

Staff: Mark T. Ryan office attended and spoke on behalf of the Stone Harbour Condominium Association at meetings of the Bristol Town Council. The thoughts and concerns in this letter are mostly similar to those already addressed in the Stone Harbour Condominium Association letter and his June 24th, 2024, letter to the Bristol Harbor Commission. Those that are not similar enough are the environmental impacts from pile driving, the alleged applicant’s inconsistent statements on occupancy problems at the hotel and contact time of the Stone Harbour Condominium residents.

In regard to the environmental impacts from pile driving, staff refers to the DEM water quality permit which includes an examination of possible impacts of pile driving and has already been approved.

In regard to the alleged applicant’s inconsistent statements on occupancy problems, staff does not agree there is any relevance here regarding hotel capacity. Staff have made the determination that the vessel and marina expansion are appropriate water dependent uses for the area under CRMC regulation for recreational waters.

In regard to the contact time of the Stone Harbour Condominium residents and asserting support of the neighbors, staff does not see any error or harm with how the public was informed with this application. This application follows standard public notice procedures which includes getting the application first and sending out a joint public notice on May 14th, 2024. The full public notice period included a newspaper ad and letter mailed to each condo resident totaling over 50 letters. Staff also extended the public notice twice in response to requests. Also, whether or not the applicant correctly understood the local support of the project is irrelevant to the application and is why public notice is given for applications like this.

Thomas V. Moses, attorney from Moses Ryan Ltd, May 29, 2024 Letter:

Thomas V. Moses submitted a letter to the Bristol Town Council on May 29th, 2024, detailing concerns and objections to the project. These were as follows, the marina expansion will negatively impact the surrounding areas, community outreach has been neglected, the supportive letter by Steve Contente, noise, safety, view obstructions, access to the marina from a public boardwalk, and that the vessel shouldn't be considered a water dependent use are there are alternative location for a pool.

Staff: Thomas V. Moses is an attorney from Moses Ryan Ltd which attended and spoke on behalf of the Stone Harbour Condominium Association at meetings of the Bristol Town Council. The thoughts and concerns in this letter are mostly similar to those already addressed in the Stone Harbour Condominium Association letter and Mark T. Ryan letters. Those that are not similar enough are community outreach being neglected, access to the marina from a public boardwalk, and that the vessel shouldn't be considered a water dependent use and are there alternative locations for a pool.

In regard to community outreach being neglected, staff does not see any error or neglect with how the public was informed with this application. This application follows standard public notice procedures which included sending out a joint public notice on May 14th, 2024. The full public notice period included a newspaper ad and letter mailed to each condo resident totaling over 50 letters. Staff also extended the public notice twice in response to requests. Staff also believe that this letter itself shows that the public was well informed and in a reasonable amount of time.

In regard to access to the marina from a public boardwalk, staff view the way the pool boat is configured is similar enough to the existing marina that additional significant impact to access isn't expected.

In regard to the argument that the vessel shouldn't be considered a water dependent use and there are alternative locations for a pool, by definition staff view the pool boat as a vessel and that the onshore area is already used for various purposes by the applicants.

Thomas V. Moses, attorney from Moses Ryan Ltd, August 14, 2024 Letter:

Thomas V. Moses submitted a letter to the State of Rhode Island Coastal Resources Management Council & State of Rhode Island Department of Environmental Management on August 14, 2024, detailing concerns and objections to the project on behalf of their clients the Stone Harbour Condominium Association. The letter states that "pool boat does not meet all of the policies, prerequisites and standards of CRMC outlined in the CRMP, particularly Sections 1.2.1.F, 1.3.1 (A, C, D, F, G, & R) and 1.3.6." and other general concerns.

Staff: In regard to the statement that the proposal violates regulation 1.3.1(C)(3)(e), "*New decks and structures, and expanded structures associated with residential properties, or non-water dependent commercial uses, are prohibited in or over tidal waters*", staff does not view this regulation as relevant as the pool boat is considered a vessel. CRMC uses the following definitions, "*Vessel*" means every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water and shall include barges and tugs. Specifically excluded by this definition are floating homes or houseboats" and "Boat" means any vessel or watercraft as defined by R.I. Gen. Laws § 46-12-1(1) which states "(1) 'Boat' means any vessel or water craft whether moved by oars, paddles, sails, or other power mechanism, inboard or outboard, or any other vessel or structure floating upon the water whether or not capable of self locomotion, including houseboats, barges, and similar floating objects." This definition stands in contrast to the necessity that the pool boat is required to service a transportation function to be

counted as a vessel. Staff also note that the pool boat will be registered as a vessel and subject to those accompanying regulations. In addition, all vessels in a marina are continuously secured when not in motion and doing so does not make them structures.

The letter also asserts that the pool boat meets CRMC definition “*Commercial and industrial structures and operations*” which “*means all buildings and structures and alterations to facilities related to the manufacturing and interchange of goods or commodities, or any other business activity located on a shoreline feature, its contiguous area, or within tidal waters.*”, staff does not view this definition as relevant as the pool boat isn’t a build or structure, rather meets the definition of a boat.

The letter also asserts that the term “*Recreational structures*” apply, which CRMC defines as “*means swim floats, beach pavilions and other structures that are located in the water or constructed for recreational purposes on a shoreline feature, its contiguous area, or in tidal waters.*”, claiming that the pool boat should be treated as a “swim float”, which CRMC defines as “*means any float that is one hundred fifty (150) square feet or less, bottom anchored and approved by the CRMC and local harbor master on a seasonal basis (May 15 – October 15) that does not have vessels attached*” because it is still being defined as a structure even if only installed seasonally. Staff does not consider a “swim float” a different category as those structures do not count in CRMC for vessel count and/or are required to be registered as vessels.

The letter also asserts that the pool boat doesn’t meet the definition of “*Water-dependent*” use which CRMC defines as “*means activities and/or uses which can only be conducted on, in, over, or adjacent to tidal waters or coastal ponds because the use requires access to the water from transportation, recreation, energy production, or source of water and also includes non-water-dependent activities that provide access to the shore to broad segments of the public.*” The letter states that “Neither a hotel nor a pool fits this definition. Pools and hotels can be located anywhere and have no link to tidal waters or access to the water”. It is staff understanding that the applicant derives most of its business by being near the water for the hotel, wedding venue and restaurant. The marina itself also helps facilitate the onshore business popularity. This makes this area able to provide access to water which is in stark difference to hotels located further inland. In addition, staff still view this pool boat as a boat/vessel which is dependent on being in water.

The letter asserts that the proposal does not fulfill CRMC’s highest priority uses for Type 5 waters as defined in section 1.2.1(F)(2)(b). This regulation defines those uses as the “(1) *Berthing, mooring, and servicing of recreational craft, commercial fishing vessels, and ferries; (2) Water dependent and water enhanced commerce, including businesses catering to tourists; (3) Maintenance of navigational channels and berths, and removal of obstructions to navigation; and (4) Activities that maintain or enhance water quality and scenic qualities, including the preservation of historic features.*”. Upon reviewing the proposal, the pool boat is considered a recreational craft that would be berthed in the marina meeting the definition of 1.2.1(F)(2)(b)(1). Also, the businesses cater to tourists in the summer meeting the definition of 1.2.1(F)(2)(b)(2). Staff then conclude that this is an appropriate priority use for this area.

The letter asserts that the proposal does not meet the requirements of section 1.3.1(C)(3)(f) which is about decks associated with commercial properties. Since the pool boat is considered a vessel, staff does not find this section relevant.

The letter asserts that the applicant “has not demonstrated that the project meets all the requirements for a Category B Assent per CRMP Section 1.3.1.A.”. The reasons given for this are as follows have not

demonstrated need, concerns over the wave attenuator, concern about potential collisions between the pool and boats, impacts to water quality from the pool boat itself and pile driving, impact to submerged aquatic vegetation ("SAV") survey, impediments to a public water access walkway.

The letter asserts the business is thriving without the pool boat and therefore does not need to add one, staff does view hotel occupancy is only a single metric for determining business need. In general, with applications, staff does not offer opinions on the exact performance of business outcome or planning only if the proposal is reasonable in relation to the need. In this case a hospitality and tourism business who is trying to increase recreational amenities is a normal need.

The letter asserts that there will be impacts to water quality from the pool boat itself and pile driving, staff refers to DEM water quality permit which includes an examination of possible impacts of pile driving and has already been approved. In DEM's determination the pool boat wasn't considered as an impact because there is no discharge and no fill.

The letter asserts that there is a need for impact to submerged aquatic vegetation ("SAV") survey highlighting section 1.3.1(R) *Submerged aquatic vegetation and aquatic habitats of particular concern*. Staff reviewed the past survey of the area and notes that there is no submerged aquatic vegetation ("SAV") in the area. Staff view this as unrequired.

The letter asserts that there would be impediments to a public water access walkway, staff does not foresee any significant impacts to the water access walkway. The vessel and accompanying activity will not significantly alter the activity already present in the area.

The letter asserts that 1.3.1(C) *Residential, commercial, industrial, and recreational structures*, since the pool boat is considered a vessel, staff does not find this section relevant. Staff would also like to note that while true that CRMC's Preliminary Determination did list this section as applicable, staff no longer view it as such, and Preliminary Determination are not nor should be considered full applications.

The letter asserts that the requirements of 1.3.1(D) *Recreational boating facilities* are not meet, 1.3.1(F) *Treatment of sewage and stormwater*, 1.3.1(G) *Shoreline protection*, 1.3.6 *Protection and enhancement of public access to shore*, staff has addressed these requirements in the staff evaluation section of this report.

The letter objects to the application under section 1.1.6(G)(1)(c) The proposed activity or alteration has potential for significant adverse impacts on the coastal environment. Highlighting concerns about impact to 1.1.6(G)(1)(c)(2) *Sediment deposition and erosion*; and 1.1.6(G)(1)(c)(1) *Circulation and/or flushing patterns*; from the wave attenuator. Staff address these concerns in the staff elevation section of this report. Impacts to 1.1.6(G)(1)(c)(6) *Water Quality*: from piles driving, which staff refers to the DEM water quality permit, which included an examination of possible impacts of pile driving, has already been approved. Impacts to 1.1.6(G)(1)(c)(5) *Scenic and/or recreational values*, giving the vessel a low profile and the current recreational use of the area it is unlikely that this proposal deviates from the surrounding area significantly. Noise is also addressed by the local town ordinances, nor do staff believe that this volume would be greater than the regular recreational boating activity in the area.

The letter objects to the application under section 1.1.6(G)(1)(d): *The proposed activity or alteration does not conform to state or duly adopted municipal development plans, ordinances, or regulations*, since the pool boat is considered a recreational vessel, staff has determined that this proposal is in line with the Town of

Bristol 2016 Comprehensive Community Plan. In the plan the Town outline the need for and improvement to help recreational boating. Calling Bristol a “Bristol will be a place that continues to provide people economic opportunity from the sea through fishing, boating, recreation, aquatic biotechnology and research.” and the continued development and promotion of “destination businesses” which this marina is considered a part of.

The letter also has a section titled General Concerns which provides a summarization of concerns from the various public inputs. These include Stone Harbour Marina Association’s letter, enclosed news articles, letters to the editor, and summarization of the concerns from the Bristol Harbor meeting. The thoughts and concerns in this section are mostly similar to those already addressed on the topics of safety, ADA compliance, proliferation of pool boats, public nuisance, and wave attenuator.

George Burman, member of the Bristol Harbor Board Advisory Commission:

George Burman submitted a letter to the Bristol Town Council on July 2nd, 2024, detailing concerns and objections to the project from his own view as a member of the Bristol Harbor Board Advisory Commission. These were as follows, the proposal is a prohibited activity as it is a permanent dock, ADA compliance, pollution hazards and safety concerns.

Staff: The thoughts and concerns in this letter are mostly similar to those already addressed.

Aaron Ley, Ph.D., member of the Bristol Town Council:

Aaron Ley, Ph.D. submitted a letter to CRMC staff on August 8th, 2024, detailing the following concerns.

"Our town does not have a comprehensive framework in place for regulating the use of floating pools in waters under our jurisdiction. The concept of a pool boat has not been thoroughly contemplated in our town, which means that we do not yet have rules in place for the safe and healthy operation of pool facilities, and accessibility rules."

Staff: While staff hear these concerns as stated above this is under the authority of the town. The town's own lack of a comprehensive framework does not mean CRMC’s regulation is insufficient in addressing this application.

“Without a comprehensive framework in place, the risk of health and safety concerns grow in severity when it is taken into consideration that the approval of a pool boat facility on our waters may encourage hotel competitors (e.g., short-term rental units) and clubs (e.g., Bristol Elks Club) to also seek permission for the construction of pool facilities in our waters.”

Staff: While staff hear these concerns as stated above this is under the authority of the town. The town's own lack of a comprehensive framework does not mean CRMC’s regulation is insufficient in addressing this application.

“Though it has been requested that applicants develop a Storm Action Plan so that pool water will be withdrawn from the facility by contractors during a severe weather event, there is no way of ensuring that contractors will have the capacity to fulfill these obligations across the state during a time of intense and/or sudden emergency.”

Staff: CRMC regulation does not require this “Storm Action Plan” and staff has no objection to such a plan. Staff does see that there may be some benefits for such a plan. Also being able to ensure compliance with the

plan is an understandable concern. This concern is not sufficient to either not have the “Storm Action Plan” or recommend disapproval of the application.

Eric J. Kawaoka, MD:

Eric J. Kawaoka, MD submitted a letter on August 29, 2024 detailing the following three concerns. That the wave attenuator would have a negative impact on both Bristol Harbor and Stone Harbour from the reflected wave energy. Spillage from the pool due to wave action and proposed action plan for smaller events outside of hurricanes.

Staff: Staff does not expect the wave attenuator to cause wave reflection. The applicant has stated that “The closed pool system would consist of a pump/motor, Cartridge Filter and a Heat Pump. In this pool we will use a salt generator for chlorine generation. There is no backwashing on this system. We will change cartridges often instead. The attached schematic of the pool boat's filtration system demonstrates this.” and DEM has issued their Water Quality Certificate. In DEM’s determination the pool boat wasn’t considered as an impact because there is no discharge and no fill. With this understanding staff does not believe that there will be significant adverse impacts to the area. Staff does not see a need to require an action plan for the pool boat as such concerns are universally among all vessels and are left up to the marina themselves.

Mark T. Ryan, attorney from Moses Ryan Ltd, December 13, 2024 Letter:

Mark T. Ryan submitted a letter on December 13, 2024 asking for the hearing to be delayed in order to address seven concerns.

These concerns are as follows:

1. Lack of Specific Plans: The Applicant again has provided conceptual plans rather than detailed complete marine architectural and engineering plans from a qualified marine engineer. This project is highly technical and requires specialized knowledge warranting the proper qualifications of a marine engineer as opposed to a traditional engineer with plans to match. Specific plans are needed to determine the logistical elements of this project regarding feasibility and fit.

Staff: Staff have determined that the plans received were sufficient for review.

2. Manufacturer Information: Details of the manufacturer of the proposed pool boat have not been provided. Such information is needed to confirm whether the proposed project is viable. as our office could not locate any manufacturer of a similar pool boat in the United States.

Staff: Staff does not view this information as required. CRMC does not need detailed information about manufacturers of marina vessels when determining use and expansion of an existing marina.

3. Ramp Relocation and ADA Compliance: In TSL's correspondence, the proposed ramp was moved approximately six feet in a purported effort to adhere to ADA requirements. However, this adjustment is based on mean tide levels. Please see the details below and the attached photo demonstrating the conditions at low tide, which suggests that the current plans are inadequate for this and potentially other reasons. Additionally, the lengthening of the proposed ramp threatens to shift the proposed pool-boat farther from the deck and into navigable waters, thus causing safety and navigation concerns.

Staff: According to CRMC regulation a “Limited marina” is defined to “mean any facility marina intended for use by recreational vessels with a boat count between five (5) and twenty five (25).”. Therefore, the

marina, even with the proposed expansion, meets this definition and is considered a Limited Marina. By regulation Limited Marinas are not required to meet the accessibility guidelines by the agency. An additional case of compliance with ADA would not fall under CRMC enforcement.

4. Storm Plan Inconsistencies: The Storm Plan provided by the Applicant indicates removal of the pool-boat if conditions arise to a Category 2 hurricane, whereas the BHC requested comprehensive action plans for conditions and certain time frames relating to tropical storm and hurricane watches and warnings. This discrepancy needs to be addressed to ensure appropriate planning and safety measures. The area proposed for installation experiences rough conditions even during conditions less severe than a tropical storm, and planning is needed for any storm event. Just this week on December 11, 2024, conditions during an unrated storm with approximate winds between 32 mph ~ 38 mph created very rough waves 1. Based on the current Storm Plans, removal would not occur under these conditions. More detail is needed as to how TSL plans to address these varying conditions and how such will impact removal, with safety as the top priority. We also request that the applicant provide a copy of its standing contract with Borden Light Marine, as noted in its supplement to confirm the perimeters of the services being provided.

Staff: CRMC regulations do not require this “Storm Plan” and have no regulatory standards to apply to such a plan. Staff can see the potential benefits of such a plan and does not object to the applicant having one. Staff are not making a determination on the quality of the plan in their recommendation.

5. Inadequate Filtration System Plans: The schematic attached to TSL's correspondence for the pool filtration system is not a formal detailed plan and is simply a concept diagram pulled from “HowStuffWorks.com”. It is quite misleading for TSL to indicate that the concept attachment is the pool-boats filtration system. without any concrete plans or specifications from a manufacturer. Its also so unsettling. that the Applicant appears to be relying on information from sources that may lack credibility and is misrepresenting those representations as their own. The diagram provides no consideration of whether this system could actually fit or work in the proposed context.

Staff: Staff does not view this information as required. CRMC does not need detailed information about the specs of a vessel when determining its use impacts. DEM has issued their approval of this project which included a determination on the impact on water quality. In DEM’s determination the pool boat wasn’t considered as an impact because there is no discharge and no fill.

6. Lack of Barricade Details: The Applicant has not addressed the BHCs comments suggesting the installation of additional barriers and pilings. This omission is a significant oversight that must be rectified.

Staff: Staff have determined that the plans received were sufficient for review. The proposal number of piles appears to be sufficient and the standard for anchoring vessels in the marina.

7. Wave Attenuator Details: There have been no details provided on the wave attenuator, which is a crucial component contributing to the project's success and safety.

Staff: Staff have determined that the plans received were sufficient for review. The proposed wave attenuator or wave fence is described as a series of pine piles 30 inches in width and about 2-3 inches apart from each other. Each driven to 10 feet below the mudline. Set up along the existing ramp and the corner of the existing on shore deck, totaling about 12 feet in length. None of the new piles will be attached to the existing decking or ramp. The layout will be set up perpendicular to the tide flow. Staff believes that the

limited footprint and spacing between the piles will be unlikely to cause harm through sufficient deflection.

An additional 177 letters of objection:

Of these objections 177 were the similar form letter, detailing the following concerns. That the proposal carries safety risks, negative impacts to the coastal environment, diminish property values, proliferation of pool boats, applicant failure to account for numerous safety and logistical factors, and that the proposal fails to enhance the coastal environment and does not meet CRMC's regulations, application requirements, and prerequisites.

Staff: These letters lack unique details; therefore, staff believe these concerns have been addressed in other parts of the report.

Support:

Staff: In addition to these objections and concerns staff have received the following support for the project.

Steve Contente, Town Administrator for Bristol RI:

Steve Contente wrote a letter dated June 6th, 2023 in support of this project. Including stating that the proposal “serves a compelling public purpose that will benefit our public as a whole.”, “Our town officials have determined that the project is zoning and building code compliant.”, and “proposed boat presents no use conflicts”. Among other supportive statements.

General: A letter of general support for the proposal was also received.

COMMENTS ON APPLICANT’S OBJECTION RESPONSE:

The applicant has stated to staff that they have provided all the information they feel is required for staff review.