CITY OF GLOUCESTER

PLANNING BOARD

MEETING MINUTES
Thursday April 5, 2012 at 7:00 PM
Kyrouz Auditorium, City Hall, 9 Dale Avenue, Gloucester
Richard Noonan, Chair

Members Present:
Rick Noonan-Chair, Mary Black-Vice Chair, Marvin Kushner, Joe Orlando, Karen Gallagher, Linda Charpentier, Henry McCarl
Gregg Cademartori, Planning Director
Planning & Development Members:
Present: Councilor Greg Verga- Vice Chair; Councilor Jacqueline Hardy, Councilor Paul McGeary
Also Present: Councilor LeBlanc, Jr., Councilor Ciolino, Councilor Cox, Councilor Whynot
City Clerk Linda T. Lowe
There was a quorum of the City Council

I. BUSINESS

A. Call to Order with a Quorum of the Planning Board
B. Introduction of Planning Board Members and Staff
C. Approval of Minutes of February 16, 2012, March 1, 2012, March 12, 2012, & March 15, 2012

Motion: To approve the minutes of February 16, 2012
1st: Henry McCarl
2nd: Karen Gallagher
Vote: Approved 7-0
Motion: To approve the minutes of March 1, 2012
1st: Joe Orlando
2nd: Karen Gallagher
Vote: Approved 7-0
Motion: To approve the minutes of March 12, 2012
1st; Mary Black
2nd; Marvin Black
Vote: Approved 7-0
Motion: To approve the minutes of March 15, 2012
1st: Mary Black
2nd: Marvin Kushner
Vote: Approved 7-0

II. PUBLIC COMMENT- None

III. CONSENT AGENDA

Approval Not Required Plans

Sandra M. Weakland to divide one lot into three (3) at **4 Standwood Point**, Assessors Map 230 Lot 69.

Mr. Cademartori stated this proposal is to divide the property into 3 lots. They all have adequate frontage and there are no issues with compliance with the district.

Motion: The subdivision control law does not apply to Standwood Point, Assessors Map 230 Lot 69.
1st: Henry McCarl
2nd: Karen Gallagher
Vote: Approved 7-0

Chapter 91 Recommendation

1. St. Peters Committee to reconstruct and maintain a pile supported pier "Greasy Pole" off Pavilion Beach in and over the flowed tidelands of Gloucester Outer Harbor.

Mr. Cademartori stated that when the structure was being rebuilt and going through permitting it was found that it did not have a Chapter 91 license. It has received approval from the Conservation Commission and has been reconstructed. They have filed for a Chapter 91 license.

Motion: The rebuilt structure is for proper public purpose and will not be detrimental to public rights and tidal lands of Gloucester's outer harbor.
1st: Joe Orlando
2nd: Mary Black
Vote: Approved 7-0

IV. CONTINUED PUBLIC HEARING

In accordance with the provisions of MGL Chapter 40A, Section 5, and the Gloucester Zoning Ordinance, Section 1.11, the **Gloucester Planning Board** will hold a continued public hearing to consider the following petition to amend the Zoning Map and Zoning Ordinance as follows:

Amend the Gloucester Zoning Map by creating an Hotel Overlay District consisting of 3 +/- acres in the Marine Industiral district located at 33 & 47 Commercial Street, Assessor's Map 1 Lots 22 and 33, respectively, and to amend the Gloucester Zoning Ordinance by adopting a corresponding new Section 5.25 entitled Hotel Overlay District (HOD) govenring the permitting hotel and accessory uses by City Council special permit in the overlay district.

Mr. Noonan accepted a motion to open the public hearing.
1st:Joe Orlando
Vote: Approved 7-0

Councelor Gregg Verga opened the public hearing for Planning & Development.

Mr. Noonan stated that the public comment period for this public hearing has been closed . He stated that this part of the hearing is for the board to tackle the technical issues.
Mr. Cademartori stated that all submissions have been compliled and placed on the city's website. The information has also all been submitted to the members of Planning & Development and the Planning Board. There are two parts to this discussion in the rezoning pettion. One is the appropriatness of the location for this use. The oppostion and the petitioner of the proposal has relied on the Community Development Plan, the Harbor Plan,The Harbor Economic Development Plan, and the newest report- The New Port Economy. They all reference the districts, make reference to uses, and they all have been be used in different ways to form an opinion or rational for or against the proposed rezoning. We had experts in every field providing support or opposition for the proposal. The reason why I provided background information on the MI district and

the DPA boundry is to highlight that it is a local decision process and the examination of the zoning in this area is appropriate.

.

Additionally, I have made reference to the most recent document because it does have specific reference to the hospitality industry. We have heard testimony and questions from the board about the specific sections of the ordinance. Highlights include:

- The district boundary as its been proposed- why does it include what it includes and why does it exclude certain areas.
- The uses themseleves, the discussion of accessory use and hotel use.
- Dimensional requirements, height, and setbacks from existing public ways, and
- How this use will be permitted in this district.

Mr. McCarl asked what the reasons were to to make this area all MI.

Mr. Cademartori stated the area was formally in multiple districts. The original proposal specifically dealt with eliminating residential from the area and also proposing to allow hotel use by special permit. In some of the districts in the past were allowed as of right as some by special permit. The final proposed MI zoning was adopted in 1991. It is over a broad area that has a diversity of use. It is 172 lots, 50 are residential. The intention is to clearly protect the MI land that abutts the inner harbor. It went further to catergorize some uses that were formally in a business or industrial district that were either part of an operation going on in the MI district or just a industrial use. That is why there is a very broad MI district that allows many different potential uses, because it was trying to bring it under one zoning district and not create non-conformity. The end result of that was all residential uses were excluded. The consequence of that is that those properites that were within the first public way abutting the inner harbor were included in that district, there were some areas that were just outside the public ways but because of the use at the time were included.

Ms. Gallagher stated that based on testimmony to date, I am of the mindset that the property is underutilized. Ms.Gallagher stated concern of the boundaries of the HOD. They are looking to utilize 33 Commercial St for overflow parking. If all they need is parking, why include the whole builiding?

Attorney John Cunningham 59 Main Street, Beauport LLC

Attorney Cunningham stated when we purchased the property, we acqured rights for overflow parking for nights and weekends. The zoning law in Massachusetts states, that unless the zoning district in which the parking is occuring is properly zoned for the use it's not allowable. That was the thinking in including the entire parcel. In this case where we are focused on a smaller district, I think it is appropriate.We are open in having a district including the parking area in modification B or A. The proposal is for the site we own, and we have no need to include those buildings.

Ms. Gallagher stated her concerns about the many unknowns. When you include that second parcel the question as what could be developed in the future.

Mr. Orlando asked if modification A or B affects the easement of the passageway for the public to Pavillion Beach.

Attorney Cunningham stated no. It would be independent of the parking situation.

Mr. Orlando asked what would happen if you had to move to modification A or B in terms of parking issues.

Attorny Cunningham stated we are at the first stages of this. The architects and engineers have indicated that there will be a substantial number of a parking places available on the ground level. We don't know the exact number of spaces. We deemed it prudent when we purchased this property to have extra spaces for spill over. If we didn't get it would be to go elsewhere or go to the zoning board of appeals to seek relief. One of the goals was to do all the permitting at one time.

Ms. Black stated what she has understood from Attorney Cunningham that if it means going forward, your petitioner is willing to eliminate 33 Commercial from the proposal.
Attorney Cunningham stated yes they were open to that. We prefer to use those spaces, but if they were not available we would go elsewhere.
Mr. Cademartori stated the next point of discussion is the use of the term "conference center." The definition of hotel, what it includes, and what it doesn't include. The question is in the section of uses in the proposed 5.25.3, there is language of accessory use associted with hotel without defining what they are. The discussion of uses should be clear. There is another reference in the ordinance that refers to hotel development; what does that encompass? The demands of the proposed use, its definition and what accessory uses might be intended should be clarified by the petitioner.
Mr. Noonan asked is there a better defined definition of use.
Attorney Cunningham submitted drafts to the boards addressing what is intended and allowed. He read the draft titled: Definition of "Hotel" 5.25.2.1, to the boards and public. The purpose of this is to look at what is commonly in a hotel. Conference center has been changed to meeting conference event rooms.
Mr. Noonan asked if there is the anticpation of the applicant that the people using these facilities would be hotel guests or there would be greater public demand for use of the space.
Attorney Cunningham stated restaurants are found in hotels and are open to the public as well as the meeting rooms
Mr. Noonan stated if we permitted a retail business downtown they would have to have appropriate parking. My concern is the volume of parking that you would have to provide with all these accessory uses**.**
Attorney Cunningham stated that is it is difficult at this time to know and is part of the special permit process.
Mr. Orlando stated that Attorney Cunninham came in tonight with some alternatives to the plan which lessons the amount of space they would use. We are presented with the question of the HOD. What we don't want to be caught doing is making it such that the endevour will not succeed. We have to be careful to not strip of what it needs to be sucessful. We need to vote this up or down based on a reasonable proposal.
Ms. Black asked Mr. Cademartori that when we are reviewing the feasiblity of the district, wouldn't it be more prudent to wait and address the finer details of the acutal number of parking spaces when a specific proposal comes before the council.
Mr. Cademartori stated one thing is specifically to the boundary being proposed and whether of not it is appropriate. Also, what are the standards for rough estimates of the proposed use as it relates to the parking standard. It is appropriate to discuss it at this point so we understand what the uses are. We do have some catergories of uses that are addressed in the parking ordinance. Are we dealing with something other than what has normally been addressed in the zoning ordinace? It comes to the difference of; in the proposed requiremnts that it should adhere to, if there is something that appears to be an intended impact- that is some of the concern. There is a standard in front of everyone that has been adopted that says this is what we have to provide. We have a standard that there is one space for each guest unit. We need to make an adequate assesment of what the potential impacts might be. The stuctures on 33 Commercial are not a part of the propsal and it might be appropriate for them not to be included in the district.
Mr. Noonan stated to move on to the dimensional requirements.
Mr. Cademartori stated that to increase height there is a provision in the zoning ordinance 3.1.6 that deals with height execptions. The ordinance proposed is that the tower itself may be an attribute that the communtiy would like to see included in the proposal.
Attorney Cunningham stated the intial base line is the MI district where the property is located. Most are built on the street line. This discussion about building height can be

approached in several different way. He stated to seperate out the tower from the hotel.
Attorney Cunningham submitted a draft titled 5.25.4 "Dimensioanl Requirements."Attorney Cunningham read the draft to the board and public. He stated it is our feeling that the tower is an important landmark. We would like to create the tower in its same form. We can define the footprint by 400 square feet. With regards to hotel itself, the standard in the MI district is 40 feet. We will carry it into the HOD if a higher height is needed, City Council can grant a special permit for this. Parking will be above grade. We are starting out above average grade. We have designed a peaked roof and it is preferable. If a buildng is 40 feet wide, then a 45 degree peaked roof is 25 feet high.
Mr. Cademartori stated that one of the comments that has been raised is shadowing. Given the requirments for the height exception in the languarge of 3.1.6 which he read from, shadowing is addressed with standards.
Mr. McCarl stated that these dimensional things have to be taken up with the special permit. It doesn't have to have all these restrictions built in to it.
Mr. Cademartori stated if the dimensions are not highlighted in this proposal then you would fall to the dimesions of the underlying district.
Mr. Noonan stated the next issue is setbacks**.**
Attorney Cunningham stated that the concern is that Commercial St is an older narrower street that other building have been built on the property lines. We feel it is appropriate to adopt the MI front yard setback of 10 feet. The architects intention is to have a sidewalk of 5 feet with a planting area against the base of the building. If the sidewalk can be located in the front yard, it will free up some room. We would propose that a 10 foot front yard is reasonable and the dimensional table be modified.
Mr. Noonan asked Attorney Cunningham to review footnote F .
Attorney Cunningham stated the exisiting definition of lot area is problamatic in a site like this. It talks about it being a horizontal area within a boundaries of a lot. For new lots no more than 25% lot area can be included. Our goal is to have certainty. If we can determine the elevations and the affect of that is to not include the beach as lot area. We want to focus on the upland lot area.
Ms Gallagher stated that in the initial application the lot area was 40,000 thousand square feet and this one states it is 60,000. What is the difference?
Attorney Cunningham stated we were trying to be responsive to the concern about more than one hotel being built within the district. This lot on the upland is approximatley 80,000 square feet, so by picking 60,000 square feet we give some certainty to the process of having one hotel being built in the district.
Mr. Cademartori stated that one of the comments that has been of concern was the certainty of the Commercial Street layout. It would give people a better understanding where the existing building is, sidewalks, and street as it relates to the proposed setbacks. It would be helpful if there were a plan reference.
Attorney Cunningham stated they would work with our engineers to get a survey to the board.
Mr. Cademartori stated that understanding the structures that may or may not be included in the proposal; one concern are the uses that are identified and that would be allowed in this district along with everything that is allowed in the underlying district.
The last provision addresses if there is a showing of a parking stratergy including the adjoining property, that is presented in a special permit process, you can grant relief on the standard. Another important item is the owner occupied resdiential use. This provision give you relief from dimension and from use. That could be a concern. That basically says this is about providing everything that might be needed for an appropriate accomodation of hotel use on the site, but it can look at other things too. That is where some specificity is needed. It reaches into the ordinance to allow other uses.

Attorney Cunningham stated this issue has been of concern. We are agreeable to a condition in a special permit that none of the owner occupied residential uses be allowed. The language needed to be made tighter. We propose to add language to the proposal. Attorney Cunningham read from a draft titled 5.25.8 & 5.25.3.3 Relief by Special Permit and Prohibited Fees. By adding those two provisions we have addressed the concern about someone owning properties in the HOD and coming in looking for a special permit that related to use.
Councilor Verga stated this is our opportunity to see first hand what the Planning Board is doing.
Councilor Hardy clarified stated that Modification "A" redraws the proposed overlay district to encompass 47 & 61 property.
Attorney Cunningham stated yes.
Councilor Hardy clarified that this modification is something the applicant is willing to accept if it is the will of the City Council.
Attorney Cunningham stated yes**.**
Councilor Hardy asked how would that square footage affects spot zoning. If part of the property at 33 is included would that eliminate spot zoning.
Attorney Cunningham stated we would be happy to submit something in writing. The law is if the city goes through a process and if the proposed HOD is deemed reasonable by the City Council, these things are allowed. We feel this would withstand any challenge to spot zoning.
Councilor Hardy asked Mr. Cademartori what makes the determination that something may be deemed spot zoning.
Mr. Cademartori stated it is a legal proceding. One issue that came up in a prior zoning discussion was minimum requirements for the size for the creation of a PUD district. Those are specifcally called out in 40A. There are no dimensional requirements specific to the creation of an overlay district. We are being very specific in terms of defining a boundary and very specific in terms of the intent. One of the important things of where this boundary is drawn is to incorporate the proposed use. If it is clear that other structures are not included then it shouldn't be in the district.
Councilor McGeary asked about 5. 25. 51. He stated you are setting a minumim requirement and if you meet that minimum the City Council cannot enforce additional parking requiments. Does that tie the Councils hands on a specific special permit case?
Attorney Cunninham stated if a propsal comes to the City Council they evaluate it on six factors. The fact that we either provide sufficient parking or there was insufficient parking and we are asking for a Special Permit is at the discretion of the City Council. The difficulty is being here without the hotel being designed. The only standard we have is the one in the ordinance.
Councilor Verga stated based on the discussion at P&D last night and the vote that was taken; the 80,000 square feet- how does that break down in terms of the non beach parcel versus the beach part?
Attorney Cunningham stated the 80,000 square feet is the upland parcel. The area of the beach is undetermined, but is another 1 acre or 1 ½ acres. We are focusing the definition on the upland.
Mr. Cademartori asked if Attorney Cunningham could provide one draft to the board reflecting the amendments.
Mr. Noonan stated the board can start to form our recommendation for the City Council.

Motion: To continue the public hearing to Amend the Gloucester Zoning Map by creating an Hotel Overlay District consisting of 3 +/- acres in the Marine Industiral district located at 33 & 47 Commercial Street, Assessor's Map 1 Lots 22

and 33, respectively, and to amend the Gloucester Zoning Ordinance by adopting a corresponding new Section 5.25 entitled Hotel Overlay District (HOD) govenring the permitting hotel and accessory uses by City Council special permit in the overlay district to April 12, 2012
1st: Mary Black
2nd: Joe Orlando
Vote: Approved 7-0

Councilor Hardy stated that the public hearing at City Council will be opened on April 10, 2012 and continued until May 8, 2012

V. ADJOURNMENT

Motion: To Adjourn
1st: Joe Orlando
2nd: Karen Gallagher
Vote: Approved 7-0

Councilor Hardy motioned to adjourn the meeting of the Planning and Development.
Vote: Approved 3-0

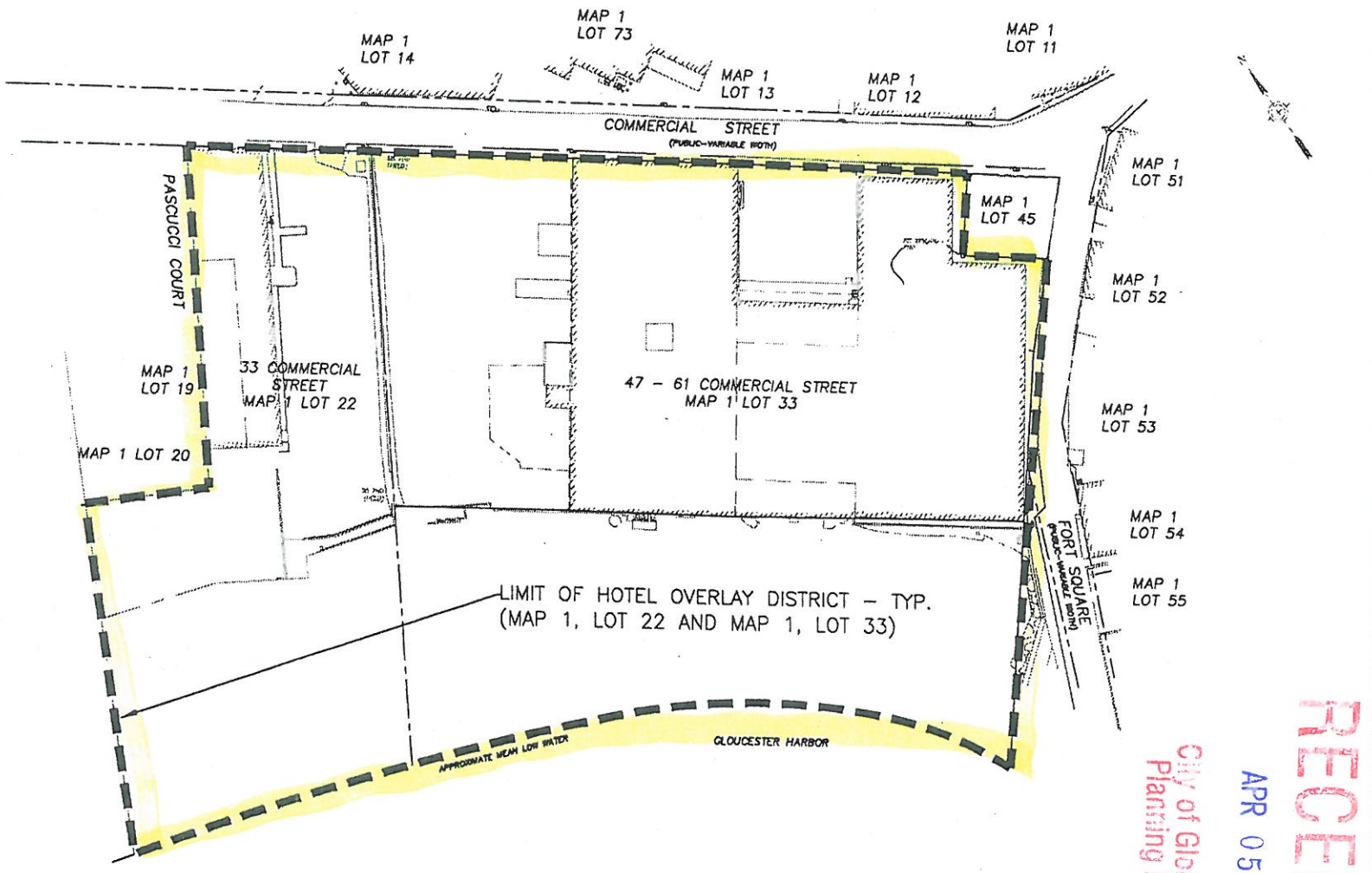
NEXT MEETING

Next regular meeting of the Planning Board is May 3, 2012,
A Special Meeting will be held April 12, 2012
Planning Board Members: ***If you are unable to attend the next meeting please contact the Planning Office at (978)281-9781.***

The following attached documents were submitted by hand at the meeting by:

John D. Cunningham III (6 pages including 3 maps)
J. Michael Faherty
M. Sunny Robinson
June Cook-Madruga
Suzanne Altenberger

As Submitted



RECEIVED
APR 05 2012
City of Gloucester
Planning Board

PREPARED FOR:

BEAUPORT GLOUCESTER, LLC

BEALS ASSOCIATES INC.
2 THIRTEENTH STREET CHARLESTOWN, MA 02129
PHONE: 617-242-1120 FAX: 617-242-1190

NOTE:

NO DRAWINGS ISSUED ELECTRONICALLY SHALL BE USED FOR CONSTRUCTION PURPOSES. ALL ELECTRONIC MEDIA IS PROVIDED OUT OF COURTESY ONLY AND MAY NOT BE USED FOR PUBLICATION, DISTRIBUTION OR ADAPTATION WITHOUT EXPRESS WRITTEN CONSENT FROM BEALS ASSOCIATES, INC.

GRAPHIC SCALE

(IN FEET)
1 inch = 20 ft.

NO.	REVISION/ISSUE	DATE

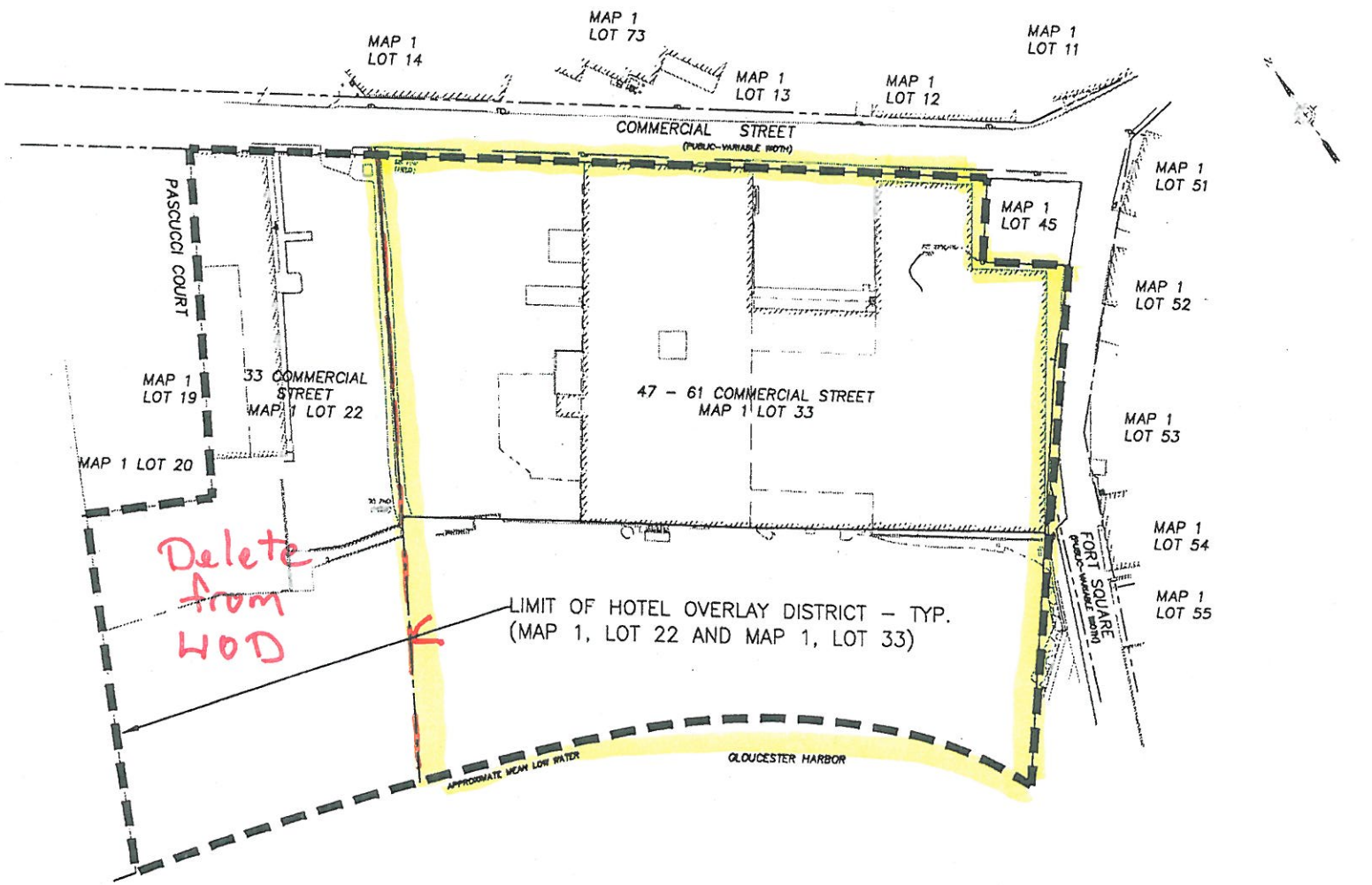
EXHIBIT A

EXHIBIT TO ACCOMPANY AN AMENDMENT TO THE GLOUCESTER ZONING ORDINANCE - HOTEL OVERLAY DISTRICT

PROJECT	DESIGN	SHEET
C-734	TPM	1 OF 1
DATE JANUARY 24, 2012	CHECKED TPM	
SCALE AS NOTED	REVIEWED TPM	

COPYRIGHT © BY BEALS ASSOCIATES INC. - ALL RIGHTS RESERVED

Modification A



PREPARED FOR:

BEAUPORT GLOUCESTER, LLC

BEALS ASSOCIATES INC.

2 THIRTEENTH STREET GLOUCESTER, MA 01129
PHONE: 617-242-1120 FAX: 617-242-1191

NOTE:

NO DRAWINGS ISSUED ELECTRONICALLY SHALL BE USED FOR CONSTRUCTION PURPOSES. ALL ELECTRONIC MEDIA IS PROVIDED OUT OF COURTESY ONLY AND MAY NOT BE USED FOR PUBLICATION, DISTRIBUTION OR ADAPTATION WITHOUT EXPRESS WRITTEN CONSENT FROM BEALS ASSOCIATES, INC.

GRAPHIC SCALE

(IN FEET)
1 inch = 30 ft.

NO.	REVISION/ISSUE	DATE

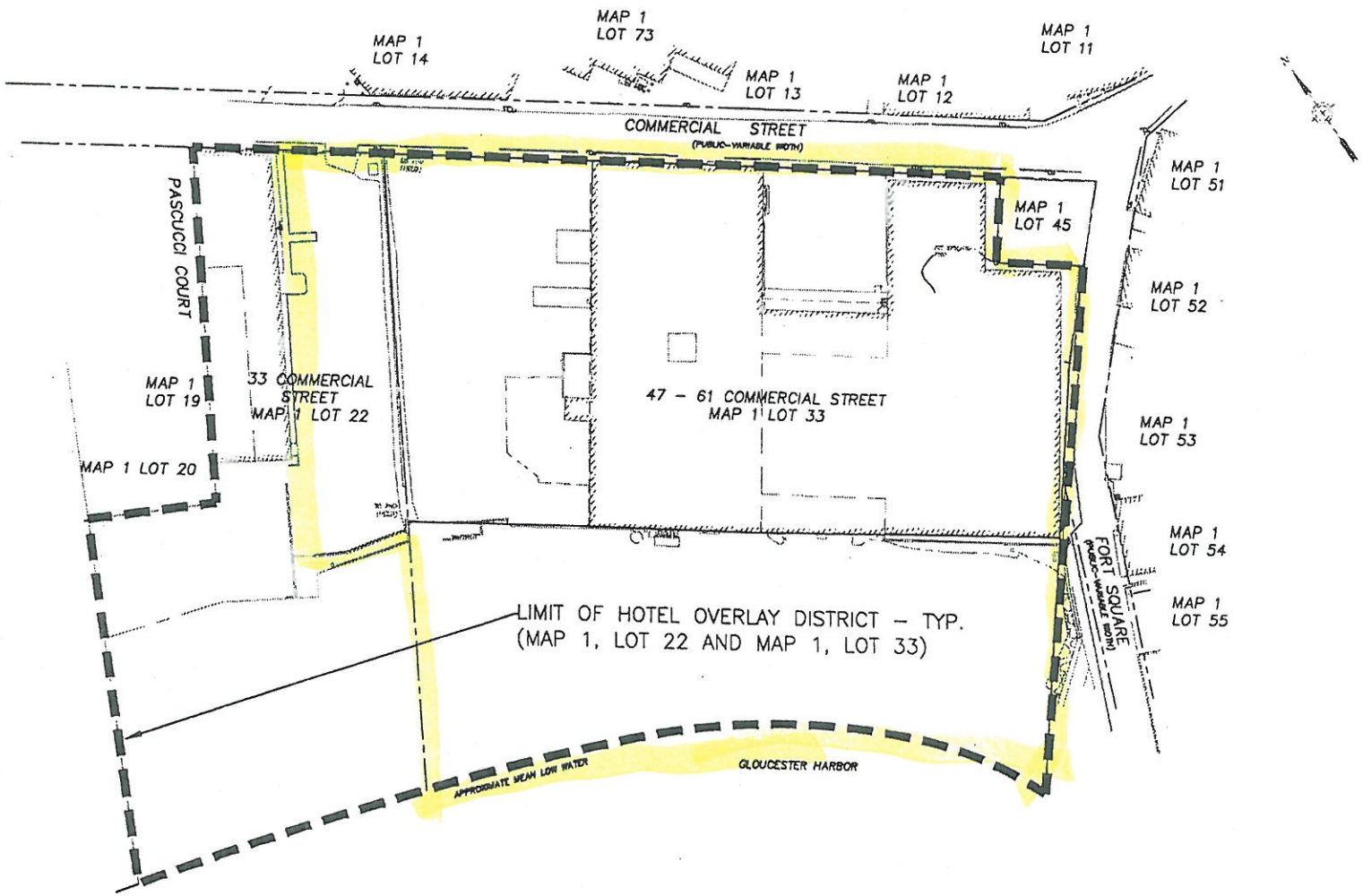
EXHIBIT A

EXHIBIT TO ACCOMPANY AN AMENDMENT TO THE GLOUCESTER ZONING ORDINANCE - HOTEL OVERLAY DISTRICT

PROJECT	DESIGN	SHEET
0-734	TPM	1 OF 1
DATE JANUARY 24, 2012	CHECKED TPM	
SCALE AS NOTED	REVISED TPM	

COPYRIGHT © BY BEALS ASSOCIATES INC. - ALL RIGHTS RESERVED

Attachment B



PREPARED FOR:

BEAUPORT GLOUCESTER, LLC

BEALS ASSOCIATES INC.

2 THIRTEENTH STREET CHARLESTOWN, MA 02129
PHONE: 617-242-1120 FAX: 617-242-1191

NOTE:

NO DRAWINGS ISSUED ELECTRONICALLY SHALL BE USED FOR CONSTRUCTION PURPOSES. ALL ELECTRONIC MEDIA IS PROVIDED OUT OF COURTESY ONLY AND MAY NOT BE USED FOR PUBLICATION, DISTRIBUTION OR ADAPTATION WITHOUT EXPRESS WRITTEN CONSENT FROM BEALS ASSOCIATES, INC.

GRAPHIC SCALE

1 IN (FT) 1 inch = 30 ft.

NO.	REVISION/ISSUE	DATE

EXHIBIT A

EXHIBIT TO ACCOMPANY AN AMENDMENT TO THE GLOUCESTER ZONING ORDINANCE - HOTEL OVERLAY DISTRICT

PROJECT	DESIGN	SHEET
0-734	TPM	1 OF 1
DATE JANUARY 24, 2012	CHECKED TPM	
SCALE AS NOTED	REVIEWED TPM	

COPYRIGHT © BY BEALS ASSOCIATES INC. - ALL RIGHTS RESERVED

DRAFT FOR DISCUSSION

April 5, 2012

Definition of "Hotel"

RECEIVED
APR 05 2012
City of Gloucester
Planning Board

5.25.2 <u>Overlay District</u>

<u>5.25.2.1 Definition</u>

For the purposes of the HOD only, "Hotel" shall be defined as follows:
A structure or structures providing not less than 80 sleeping rooms for transient guests, which also provides one or more of the following:
parking facilities and/or parking structure, restaurant (with or without outdoor seating), function room(s), meeting/conference/event rooms, fitness center, pool or other recreational facilities (indoor or outdoor), spa, retail sales, retail services and such other amenities and uses as may commonly be found in hotels.

DRAFT FOR DISCUSSION

April 5, 2012

Dimensions

RECEIVED
APR 05 2012
City of Gloucester
Planning Board

5.25.4 Dimensional Requirements

5.25.4.1 Dimensional Table

All buildings and structures permitted pursuant to the HOD shall conform to the following dimensional requirements, which requirements shall be deemed to be a part of Section 3.2.6 under an HOD designation:

Minimum lot area (sf)	60,000 (f)
Minimum lot area per two guest unit (sf)	1,250 (f)
Minimum open space per two guest unit (sf)	0 (f)
Minimum lot width (ft)	0
Minimum frontage (ft)	125
Minimum front yard (ft)	10
Minimum side yards (ft. each)	0
Minimum rear yard (ft)	0
Maximum building height	40 (g)
Distance between principal buildings	0

(f) In the HOD District, Lot Area shall be defined as the horizontal area of a lot, exclusive of any street or way open to public vehicular use. In calculating lot area in the HOD District, land below elevation 7.0 (NAVD 1988) shall be excluded from Lot Area.

(g) In the HOD District, Building Height for a Hotel shall not include (a) mechanicals, (b) other non-habitable rooftop structures or (c) non-habitable towers or other architectural features which do not have a footprint greater than 400 s.f. and do not exceed the ridge height of a hotel by more than 20 feet. Building Heights greater than 40 feet or tower heights greater than 20 feet above ridge height may be authorized by special permit issued by the City Council, as provided in Section 3.1.6 of this ordinance.

DRAFT FOR DISCUSSION

April 5, 2012

Relief by Special Permit

RECEIVED
APR 05 2012
City of Gloucester
Planning Board

5.25.8 Relief by Special Permit

Except as provided in Section 5.25.3.3, in any instance where a Hotel, including any uses determined by the City Council to be accessory uses to a Hotel, does not comply with any provisions of this Section 5.25 or with respect to any provision of this ordinance other than those contained in Section II, regulating use, the City Council is authorized to issue zoning relief for such non-compliance by the issuance of a special permit. In granting a request for a special permit, the City Council may condition its grant on the provision of certain open space, or traffic or pedestrian improvements or other amenities.

5.25.3.3 Prohibited Uses

Any use not specifically allowed by right or by special permit within the HOD as provided in Section 5.25.3.1 and 5.25.3.2 or in the underlying zoning district[s] is prohibited, and any such prohibited use can only be authorized by a use variance from the Zoning Board of Appeals..

LAW OFFICES
OF
J. MICHAEL FAHERTY

RECEIVED
APR 05 2012
City of Gloucester
Planning Board

111 MAIN STREET
GLOUCESTER, MA 01930
TELEPHONE: (978) 283-9233
(978) 281-0999
FAX: (978) 283-0314

MEMORANDUM

TO: Planning Board
FROM: J. Michael Faherty, attorney for Mortillaro Lobster, Inc., and VJ&E Realty, LLC
DATE: April 5, 2012
RE: Proposed Hotel Overlay District for Commercial Street

I have reviewed Gregg Cademartori's memorandum dated March 30, 2012. While I would agree that his memo would provide an adequate template for the Planning Board's consideration, I believe the following issues should also be addressed:

1. Present Roadway Width of Commercial Street

I could not find any legal layout of Commercial Street in either the City Engineering Office or at the Registry of Deeds. The measured pavement width of Commercial Street for most of the length of the Applicant's frontage is approximately 24 feet, bordered by a sidewalk on either side of the street. Commercial Street, under the City's Subdivision Regulations would be considered a collector street. Minimum right of way width for collector streets, per the Regulations, is 60 feet with minimum pavement width of 32 feet.

Given the anticipated increase in traffic flow that would undoubtedly be generated by a hotel, by what criteria is the Planning Board considering the adequacy of the existing roadway to accommodate anticipated traffic flow and demand? How can the roadway be made adequate without significant public takings and a legal layout?

2. Adequacy of Utilities

No comprehensive study of adequacy of the water lines, sewer lines, and drains has been undertaken. To what extent will the Planning Board consider the inadequacy of present utilities in considering the appropriateness of the proposed location of the HOD? And, assuming that these utilities must be significantly upgraded or replaced, who is to bear the cost?

3. Shadowing

The proposed HOD requests no setback requirements for front, side, or rear yards. It also requests a 75 foot maximum height allowance. Has the Planning Board considered the shadowing effects that any structures built immediately on the street and/or massed so as to eliminate setbacks from property lines? A preliminary shadow study commissioned by this office suggests that the shadowing effects will be substantial, detrimental, and will leave the whole of Commercial Street, including portions outside of the proposed HOD frontage, completely in the shadow of such a structure for

extended time periods during the calendar year. I will concede it is impossible to determine the exact effects of the height of the building on the shadows or sunlight reaching Commercial Street without a specific plan. However, it would appear to be incumbent upon the Applicant to provide models for the Planning Board to consider in its deliberations.

4. Flood Zone

The beach, including portions of the building currently on the premises, is in a V-2 velocity zone (elevation 13 feet on FEMA maps). More landward portions of the site are in A-zones with potential for 1 foot of standing water. Has the Planning Board taken these facts into account in considering the appropriateness of the proposed location of the HOD?

5. Section 3.2.3 of the Zoning Ordinance

Footnote E, which applies only to the MI District, provides that "a building built on a lot that adjoins the harbor shall be setback from one side lot line by a distance equal to 1/3 of the building height, but not less than 10 feet." The obvious purpose of this footnote is to prevent structures from totally blocking a view of the harbor from the streets. The proposed HOD would presumably do away with this requirement for any hotel constructed thereunder. Under what rationale can the Planning Board support such an amendment to the Zoning Ordinance that allows a hotel, which is otherwise prohibited in the MI District, but not any other allowed structure or use, to completely block the harbor from view?

M. Sunny Robinson, 20 Harvard St., Gloucester, MA 01930
978-283-6049 sun.beams@verizon.net

Rick Noonan, Chair
Planning Board
Gloucester City Hall
9 Dale Ave.
Gloucester, MA 01930

RECEIVED
APR 05 2012
City of Gloucester
Planning Board

Dear Mr. Noonan,

I am submitting the attached document for yours and the Planning Board's study as you are considering the application for a zoning change for the site of 33 and 47 Commercial St.

As this document makes clear " …**water-dependent uses in Newport Harbor contribute substantially more to municipal revenues on a per acre of waterfront land utilized basis than other waterfront area commercial and residential uses."** (p.3 at Summary Finding. – emphasis added." There is no reason to assume that the same would not be true here in Gloucester should such a study be done.

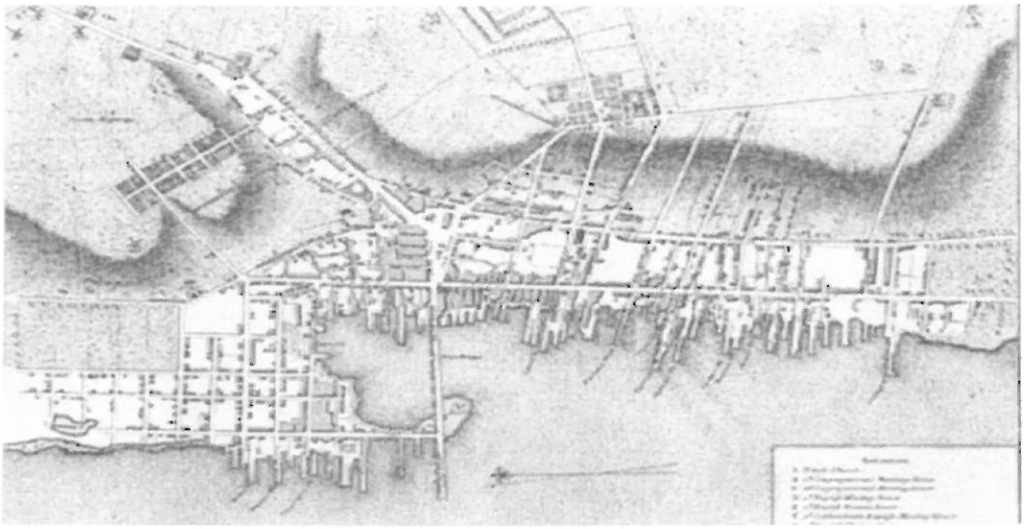
This study I believe continues to make clear that we in Gloucester would be better off economically if we worked diligently to develop marine industrial uses for this site rather than changing the zoning to residences. Thus, I continue to urge you and the Planning Board and city council, in the strongest possible terms, to deny this request for zoning change.

Sincerely,

Sunny Robinson

M. Sunny Robinson

cc. Council Bruce Tobey, Chair of city council Planning and Development Committee
Greg Cadematori, City Planner, Community Development Dept.



The Contribution of Waterfront Land Uses to Municipal Revenues in Newport, Rhode Island

Summary Report

Prepared by
FXM Associates

Prepared for
University of Rhode Island
Coastal Resources Center

August 2010

Introduction

This report summarizes FXM Associates' analyses and findings of work to estimate the contribution made by waterfront land uses and activities on the water in Newport Harbor to the City's municipal revenues. The report is part of a larger study undertaken by the University of Rhode Island Coastal Resources Center (CRC) -- with funding support from the Rhode Island Foundation -- to assist the City of Newport's Comprehensive Plan Update and other planning and policy initiatives relating to the waterfront.

CRC retained FXM Associates to analyze land use, property assessment, municipal revenue and other data compiled by CRC and members of the Waterfront Steering Committee from various sources. FXM was also charged with undertaking a comprehensive review of pertinent studies and primary survey research done by others; analyzing relevant and available primary and secondary source economic data; and conducting 25 confidential interviews with a target list of waterfront businesses, institutions, and property owners suggested by members of the Waterfront Steering Committee.[1] A full report of the overall Newport Harbor Economic Study is being separately prepared by CRC and includes FXM Associates' technical memorandum *Newport Harbor Economic Study: Economic and Demographic Overview* (September 2009) and a detailed slide presentation to the Steering Committee: *Newport Harbor Economic Study* (March 2010). At the request of the Steering Committee, FXM also prepared an abbreviated version of the full slide presentation that includes a template for selected graphs and tables noting data sources and a brief interpretation of each table and graph (June 2010).

Rationale for this Report

From the outset of this study, Steering Committee members expressed a primary goal for FXM's research: provide substantive, and, where possible, quantitative information documenting the contribution that water-dependent land uses make to municipal revenues compared to other waterfront land uses. This issue is of paramount concern not only in Newport but also in all active urban waterfronts where demands for residential, hotel, restaurant, retail, and other land uses that do not explicitly require water access have outstripped the economic capacity of many water-dependent uses to compete for waterfront property. A specific concern for public officials, residents and businesses in Newport is whether the continued loss of water-dependent uses jeopardizes the economic vitality of the waterfront and ultimately diminishes current and potential future revenue streams to the City of Newport.

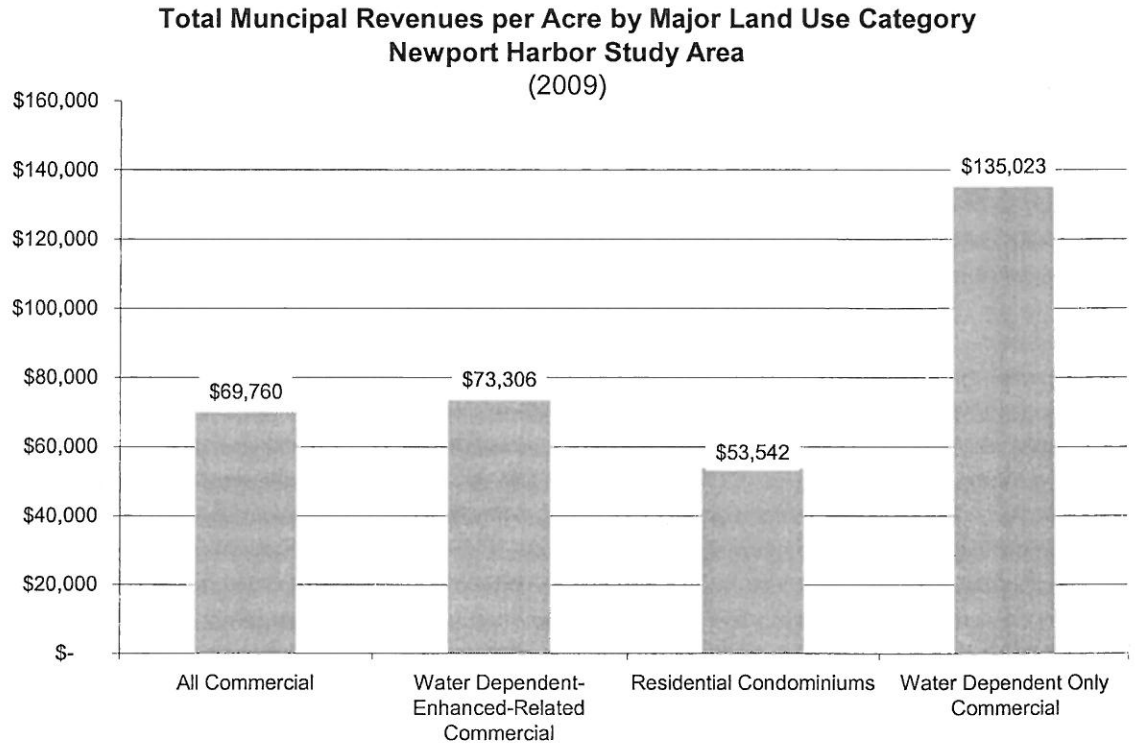
While many studies have shown the economic importance of water-dependent industries to the economy and tax revenues of regions and states, the authors are unaware of studies by others that have analyzed how each type of waterfront land use contributes to revenues at the municipal level. One reason such studies have not been done is that a proper assessment of the question requires land use, property value, and economic data that does not exist or is not readily available at the level of a waterfront district or harbor area. Moreover, an analytic framework is needed that goes beyond examining only direct property and use tax revenues attributable to specific land use types -- the analysis must explicitly account for the indirect contribution to municipal

[1] The Waterfront Steering Committee for this study was comprised of individuals representing the URI Coastal Resources Center, City of Newport, Newport Waterfront Commission, Newport Redevelopment Authority, Newport City Convention & Visitors Bureau, and Newport County Chamber of Commerce.

revenues made by activities on the water and public access to the waterfront, and to attribute these indirect effects to the specific landside uses that support activities on the water. In the subsequent **Approach and Methods** section of this report we describe the analytic framework, data sources, and technical methods used to account for both direct and indirect contributions of water-dependent uses to municipal revenues. A third section of this report, **Analyses and Findings**, summarizes the technical work.

Summary Finding on Municipal Revenues Attributable to Land Use Types

As documented in subsequent sections of this report, *water-dependent uses in Newport Harbor contribute substantially more to municipal revenues on a per acre of waterfront land utilized basis than other waterfront area commercial and residential uses*. The graph below (also shown as Figure C on page 10) shows estimated total direct and indirect municipal revenues per acre by land use type in the Newport Harbor study area in 2009[2].



Principle reasons for the relatively high per acre yield in revenues to the City of Newport from water-dependent uses include:

a) That the patrons of activities and uses on the water (especially recreational boaters and excursion vessel customers) spend considerable amounts at waterfront area businesses and, therefore, contribute to the taxable property value and sales of commercial uses such as restaurants and retail shops; and

[2] The "All Commercial" land use category refers to all parcels within the study area classified by the Newport Assessor as commercial uses and subject to the commercial property tax rate. See Appendix (page 12) for the definitions of "Water Dependent" and "Water Dependent-Enhanced-Related" used by the State of Rhode Island.

b) That activities on the water and public access to the water define the overall attractiveness of Newport Harbor and help distinguish Newport from other destinations. Residents, tourists, and business visitors drawn to Newport because of uses and activities on the water and public access to the water (in addition to recreational boaters and excursion, ferry, shuttle, cruise ship, and water taxi passengers) contribute to the taxable sales and property values of many business uses, especially restaurants, entertainment and hotels.

Approach and Methods

The following bullet points summarize the analytic steps that were performed and data sources used to estimate the direct and indirect contribution that water-dependent and other land uses in the Newport Harbor Study Area made to municipal revenues in Newport in 2009.

- Compiled all available data on land uses in 2009 within the Harbor Study Area. The source of these data was parcel records of the Newport Assessor and included: property ownership and description; property use classification; land area in acres; assessed value of land; and assessed value of improvements. These data were collected by CRC and entered into a master Excel spreadsheet.
- Classified the parcel land use and property assessment data by general land use categories consistent with State land use classifications. CRC performed this analysis and also categorized water-dependent-enhanced-related and water-dependent only uses as warranted with assistance from the City of Newport and FXM Associates.
- Calculated property tax revenues from the 2009 total property value assessments (land and improvements) using 2009 tax rates for commercial and residential uses as warranted. The City of Newport was the source of tax rate information.
- Compiled all available data on other revenue sources pertaining to uses and activities in Newport Harbor in 2009, including the Maritime Fund, meals/beverage taxes, and hotel/motel taxes. Historical data were also obtained for each of these revenue sources and trends analyzed. The City of Newport Harbormaster and City Planner were the sources for these data.
- Obtained from CRC, the City of Newport, and other Waterfront Steering Committee members all available and pertinent primary survey research data and reports prepared by others. FXM critically reviewed the methodology and content of each survey and reported on this review in the March 2010 presentation to the Steering Committee. The surveys included the 2007 Visitor Center Survey (Preservation Society of Newport and Newport Convention and Visitors Bureau, July 2007); Recreational Boaters Survey (Newport Waterfront Commission, Summer 2009); and *Go Newport* Visitation Data (Newport Visitors Center, Summer2009).
- Prepared a survey questionnaire for cruise ship passengers and for an intercept survey of persons in the waterfront area. The Harbormaster administered the survey of cruise ship passengers, and FXM analyzed the survey results. The CRC administered the intercept survey, and FXM analyzed the survey results.

- Contacted 25 individuals suggested by the Steering Committee and conducted confidential interviews between October 2009 and January 2010. These individuals included hotel, restaurant, entertainment, and retail store owners/managers as well as institutions and businesses engaged in water-dependent-enhanced-related uses and activities. Interview questions focused on recent business activity and trends; Newport's assets, attributes, and limitations; the value of water-dependent land uses, the effect that activities on the water and public access to the water have on their current business sales and growth potential; and future waterfront development opportunities and constraints.
- Analyzed waterfront study area business sales and employment by type of business. The source of these data was A.E. Nielsen *Claritas Site Reports* (2008-9), a widely used data service to which FXM subscribes. FXM also utilized the Rhode Island Department of Labor ES-202 data series; US County Business Patterns; the US Department of Commerce, Bureau of Economic Analysis, *Regional Economic Information System* (REIS) data series; State of Rhode Island and City of Newport data on meals/beverage and hotel sales; and data from the City of Newport Convention and Visitors Bureau on individual establishments to check the reasonableness of business sales and employment estimates specific to the Harbor Study Area provided in the *Claritas Site Reports* data.
- Reviewed survey research data on per capita spending by visitor type and activity from case studies and research by FXM on comparable assignments, and prepared extensive sensitivity tests of all variables for which reliable survey data specific to the Newport Harbor Study Area were not available.

Based on the information and analyses outlined above, FXM applied the following methods to estimate municipal revenues directly and indirectly attributable to water-dependent uses and public access to the water in the Newport Harbor Study Area.

- Property taxes total and per acre were calculated and assigned as appropriate to each land use type (commercial and residential).
- Revenues from meals/beverage and hotel/motel taxes were assigned to the appropriate commercial uses (restaurants and hotels) and calculated on a per acre basis. Acreage by land use type was contained in the Assessor's property data base.
- Maritime Fund revenues (mooring fees, harbor fees and fines, and cruise ship head taxes) were assigned to water-dependent land useson a per acre basis.
- Property taxes on dockominiums were assigned to residential and commercial land use types as appropriate.
- Estimates of spending by recreational boaters, excursion and charter vessel passengers, and cruise ship passengers were compared with the actual sales of selected retail and restaurant establishments in the Harbor Study Area to estimate the proportion of total sales in these establishments attributable to water-dependent uses. The derived proportion was applied to the property and meals/beverage taxes paid by the retail and restaurant uses and assigned on a per acre basis to water-dependent uses.
- Estimates of spending by visitors not directly engaged in the water-dependent activities but which could be attributable to activities on and public access to the water were

compared to the residual sales (net of purchases made by recreational boaters, excursion and charter vessel passengers, and cruise ship passengers) of selected restaurant, retail, and hotel establishments[3]. The derived proportion was applied to the property and meals/beverage taxes paid by the retail and restaurant uses and the room taxes paid by hotel uses and assigned on a per acre basis to water-dependent uses.

FXM considered the data sources and analytic methods described above sufficient to produce reasonable estimates of municipal revenues attributable to water-dependent uses. However, these estimates could be more precise if statistically reliable primary survey research data had been available in the following areas: a count of recreational vessels in Newport Harbor (including anchorages) on an average daily basis throughout the boating season; a count of recreational boaters and charter/excursion passengers as well as patrons of waterfront festivals and events throughout the season and their spending by type of purchase; and the per capita spending by type of purchase by other visitors to the Newport waterfront area.

Analyses and Findings

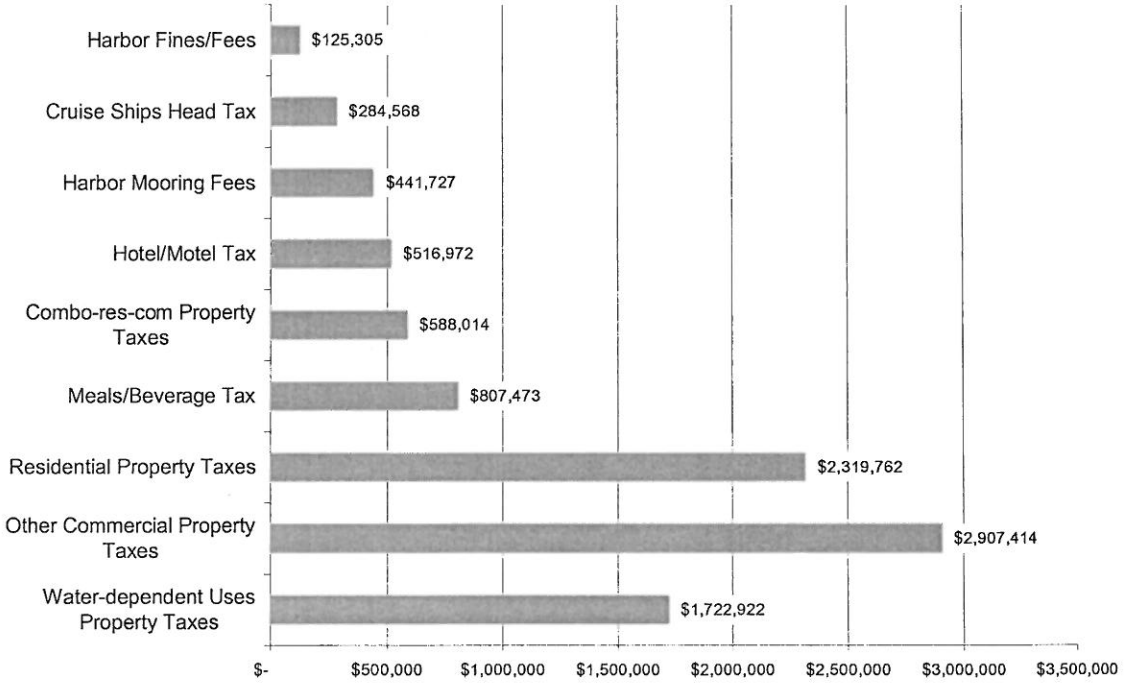
Data in Figure A show municipal revenues from property tax and other revenue sources in the Newport Harbor Study Area, which totaled over $9,700,000 in 2009.

- *Property tax revenues* accounted for over $7,500,000 in 2009, representing 78% of all municipal revenues attributable to uses and activities within the Harbor Study Area.
- *Commercial property tax revenues* contributed $4,630,000 or 48% of all municipal revenues from the waterfront area.
- *Residential property tax revenues* totaled $2,320,000 in 2009, or 24% of total municipal revenues in the study area.
- *Combination commercial-residential* uses yielded $588,000 in property tax revenues or 6% of total municipal revenues.
- *Non-property tax revenues* totaled $2,180,000, or 22% of all municipal revenues within the study area. These included the Maritime Fund at $850,000 (9% of study area revenues); meals/beverage taxes of $807,000 (8% of study area revenues); and hotel/motel taxes of $516,000 or 5% of total municipal revenues within the waterfront study area in 2009.

[3] The waterfront restaurant and hotel owners/managers interviewed by FXM estimated that at least 50% of their annual sales are attributable to visitors drawn to Newport by activities on the water and public access to the waterfront. The spending by recreational boaters, charter/excursion/cruise ship/water taxi/ferry passengers is estimated to account for roughly one-third of retail/restaurant/hotel/transportation services sales in the waterfront area while spending attributable to other visitors linked to activities on the water and public access to the waterfront is estimated to account for about one-fifth of the waterfront area retail/restaurant/hotel/transportation services sales (see Table 1).

Figure A

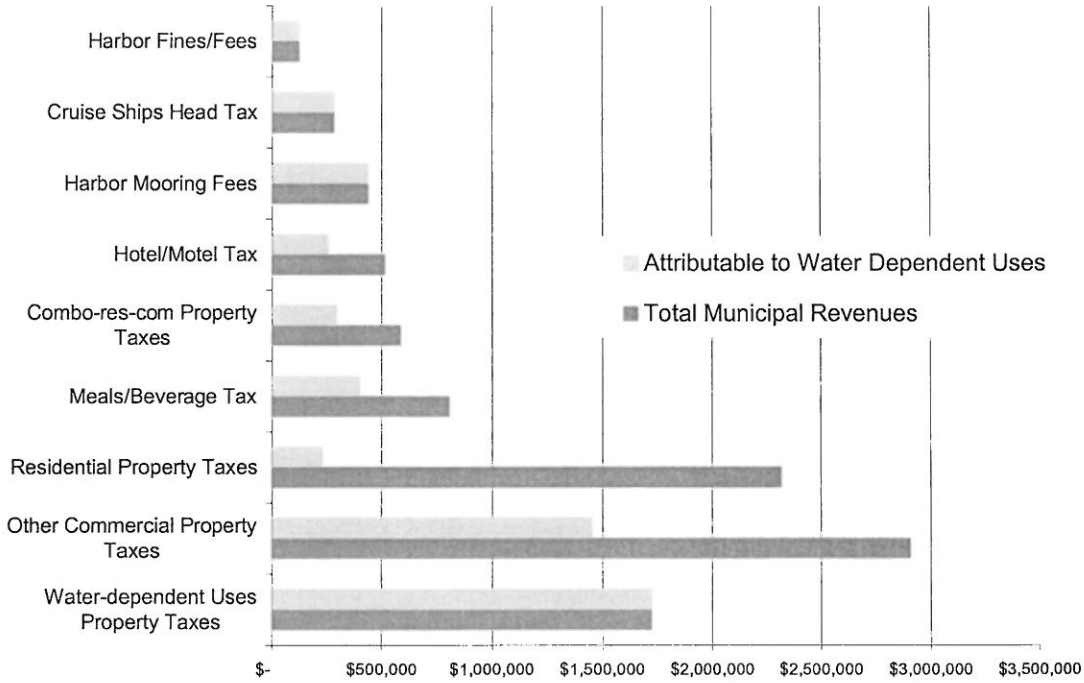
Newport Harbor Study Area: Municipal Revenues by Source (2009)



Data in Figure B show municipal revenues by source attributable to water-dependent uses, using the estimation procedure described in the previous **Approach and Methods** section of this report. Of the $9.7 million in City revenues derived from property and other taxes and fees within the Harbor Study Area in 2009, approximately $5.2 million (54%) is attributable to water-dependent uses and public access to the water.

Figure B

Newport Harbor Study Area: Municipal Revenues by Source Attributable to Water Dependent Uses (2009)



To better understand how the estimates of municipal revenues attributable to water-dependent uses shown in Figure B were derived, data in Table 1 show the mid-range of sensitivity tests done on the effect that each general category of visitor spending has on business sales in the study area. Of particular interest is the estimate of recreational boater spending, which in this analysis is estimated to account for about one-fourth (26%) of waterfront area sales in the industry categories shown in the upper portion of the table. The estimate is, at best, a rough one since no primary survey data were available to determine either the number of recreational boaters in Newport Harbor over the course of the boating season or their spending within the waterfront study area. FXM tested several hypotheses for recreational boater spending using estimates provided by City officials on the number of slips, moorings, and vessels at anchor during peak periods and average occupancy rates over the course of the season. The FXM analysis also used a range of estimates provided in related surveys of boater party size and per capita spending by recreational boaters. The number for spending by recreational boaters ($40 million) shown in Table 1 falls within the low range of hypotheses tested. It is possible that the actual impact of recreational boaters on waterfront area business sales, and therefore property taxes and meals/beverage taxes attributable to these sales is much higher.

The estimate of excursion/charter/shuttle/ferry passenger purchases is based on prior work by FXM for the Newport Harbor Water Shuttle Study in 2007 (which included detailed interviews with water transportation service providers to estimate total ridership), and prior empirical research by FXM on spending by excursion, charter, and ferry vessel passengers in other New

England ports. The cruise ship passenger spending number shown in Table 1 is based on actual cruise ship passenger counts and the survey administered in Newport by the Harbormaster under FXM and CRC direction in the summer-fall of 2009. That survey specifically asked spending questions of cruise ship passengers and the number derived for median per capita spending at restaurants and retail stores ($26) is considered statistically reliable for cruise ship passengers to Newport[4]. The 30% of residual sales attributable to Newport Harbor visitors drawn primarily by the attraction of the waterfront ambience, activities on the water, and public access to the water is derived from the interviews with waterfront area hotel and restaurant owners/managers and a limited intercept survey conducted by CRC. The waterfront area hotel and restaurant owners/managers interviewed by FXM attributable a far higher portion of their sales to water-dependent uses in Newport Harbor so the $31 million shown in Table 1 for "other visitors and residents" may, like the recreational boater spending estimate, be much lower than the actual effects.

Table 1

Sample Worksheet for Estimating the Effect of Visitors Linked to Water-dependent Uses in the Newport Harbor Study Area (2009)

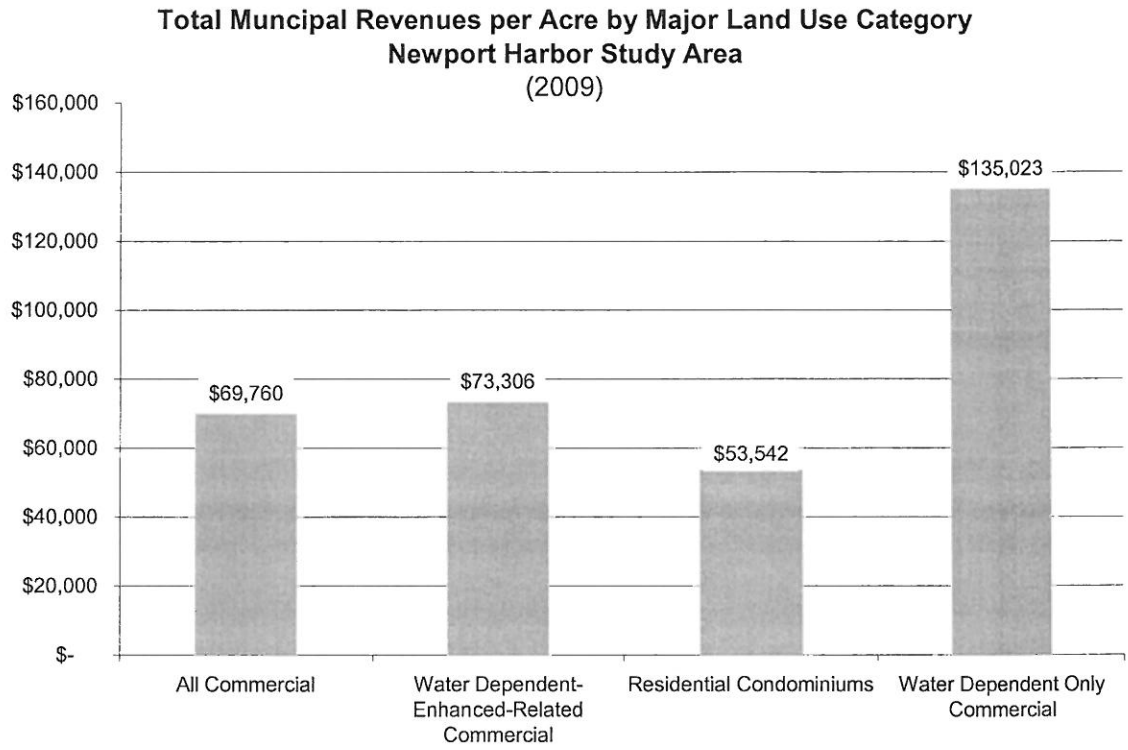
INDUSTRY	Waterfront Study Area Sales	% of Total Sales
Water transportation	$ 37,400,000	24%
Eating & Drinking	$ 66,000,000	43%
Apparel	$ 14,000,000	9%
Misc Retail	$ 18,300,000	12%
SUBTOTAL	$ 135,700,000	87%
Hotels	$ 19,400,000	13%
TOTAL Sales	**$ 155,100,000**	**100%**
CONSUMER	**Waterfront Study Area Purchases**	
Recreational Boaters	$ 40,000,000	26%
Excursion/charter/shuttle/ferry passengers	$ 11,000,000	7%
Cruise Ship Passengers	$ 1,785,834	1%
Other Visitors & Residents @ 30% of residual sales	$ 30,694,250	20%
TOTAL Water-dependent Purchases	***$ 83,480,084***	***54%***

Sources: *Claritas Site Reports* (waterfront study area sales) and as noted in text

Data in Figure C show the direct and indirect effect of water-dependent uses on municipal revenues shown in Figure B converted to per acre of land use, using the property assessment data base described in the **Approach and Methods** section of this report.

[4] The cruise ship passenger spending amount does not include possible tours pre-packaged by the cruise ship line.

Figure C



As the data in Figure C show, water-dependent land uses in the Newport Harbor Study Area are directly and indirectly responsible for considerably higher municipal revenue yields per acre than either general commercial land uses or residential condominiums.

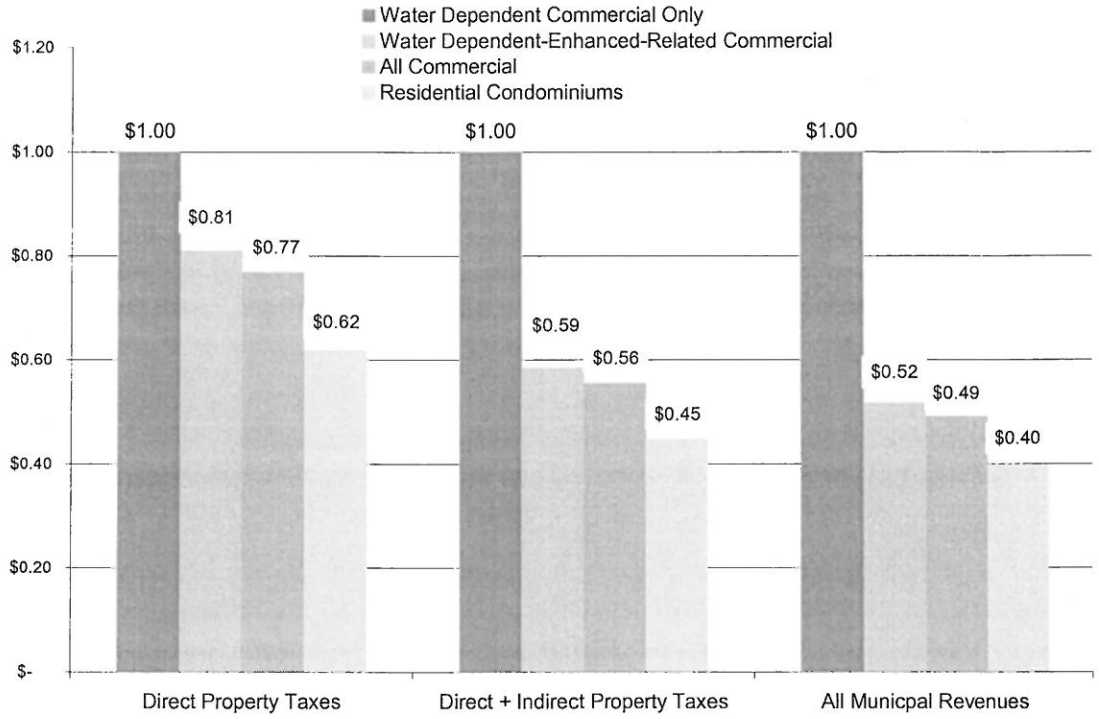
Figure D graphically shows ratios of per acre yields in municipal revenues for each land use type, based on the data shown in Figure C above. **Figure D illustrates that for every $1.00 of total municipal revenue attributable to water-dependent land uses, residential condominiums yield $0.40; commercial uses in general yield $0.49; and water dependent-enhanced-related commercial land uses on average yield $0.52 (2009).**

Figure D also shows the relative yield per acre for each land use in terms of:

a) Direct Property Taxes collected for each land use type;
b) Direct + Indirect Property Taxes -- which adds to water-dependent uses the portion of property taxes from other commercial uses that are attributable to the spending of recreational boaters, charter/excursion/ferry/cruise ship passengers, and other visitors drawn to the study area by activities on the water and public access to the waterfront; and
c) All Municipal Revenues -- which include direct and indirect property taxes *plus* the Maritime Fund, meals/beverage taxes, and hotel/motel taxes allocated as appropriate to each land use type.

Figure D

Relative Yield in Municipal Revenues per Acre: Newport Harbor Study Area



Reader Note: Another way to interpret the data shown in Figure D is to divide the numbers shown at the top of each bar. This approach shows that for every $1:00 in All Municipal Revenues yielded per acre by *Residential Condominium* uses, for example, $2.50 per acre is yielded by *Water Dependent Commercial Only* uses.

Additional Observations

In so many of the waterfront studies in which FXM has been engaged, debate over the allocation of scarce waterfront land has been framed by an "assumption" that residential, hotel, restaurant and retail land uses yield more tax revenues to a municipality than water-dependent uses. This study shows conclusively that, at least in the case of the Newport Harbor Area, when all sources of revenue attributable to activities on the water and public access to the water are accounted for, water-dependent land uses account for much higher revenue yields per acre than other waterfront land uses. This finding may surprise some, but will be unremarkable to the owners and managers of waterfront area restaurants and hotels and others in Newport interviewed by FXM in the course of this research – they regarded water-dependent land uses, which are necessary to support activities on the water and which provide a distinguishing character to Newport as a destination, as essential to their business success.

FXM Associates gratefully acknowledges the contribution to this study made by the Waterfront Steering Committee, whose framing of key issues and periodic review of the technical work drove a complex and difficult analytic exercise by the consultant. Especially noteworthy were the tireless efforts and diligence of the URI Coastal Resources Center and Newport City officials who were responsible for producing the comprehensive land use and municipal revenue data necessary to accomplish this unique study.

APPENDIX

The following definitions are used by the State of Rhode Island to determine categories of water dependence, and are used in this report to classify waterfront land uses in the Newport Harbor Study Area (**Source**: University of Rhode Island, Coastal Resources Center).

Water Dependent Use: Requires direct access to marine or tidal waters, or a location which is proximate to marine or tidal waters, for its continued viable operation and which therefore cannot be reasonably located inland.

Water Enhanced Use: Water enhanced uses do not require access to the water for viable operation, but are enhanced by a waterfront location.

Water Related: Water related uses do not require direct access to the water, but provide goods or services associated with water dependent uses. They are uses that do not strictly require a waterfront location, but are generally understood to be closely associated with the harbor. These facilities are better sited close to the water.

EXAMPLES OF USES

Water Dependent	Water Related	Water Enhanced
Marinas	Chandleries	Restaurants
Ship repair	Bait shops	Bars/taverns/night clubs
Commercial fishing facilities	Ice houses	Hotels
Cargo handling facilities	Marine supply stores	Residential with water view
Ferry terminals, water taxis	Fish processing facilities	Museums
Petroleum facilities served via marine pipeline	Marine repair facilities (welding, engine repair)	Educational institutions
Charter facilities	Tugboat dispatch	Offices
Cruise ship terminals		
Boat rentals/charter facilities (fishing, sailing, etc),		
Bulk cargo handling facilities		
U.S. Coast Guard facilities		
Tugboat dock		
Container ports		

RECEIVED
APR 05 2012
City of Gloucester
Planning Board

April 5, 2012

Dear Members of Planning Board,

In the Memorandum dated March 30 2012 the Planning Director Gregg Cademartori, states in section 5.25.5 Off-Street Parking and Loading Requirements, There needs to be an adequate accounting of the demands of a potential project and what is to be provided in terms of physical parking and parking demand strategies. On March 26, 2009 the zoning board of appeals received a petition seeking a special permit for a lesser number of spaces to enable the Petitioner to erect a second building on the existing wharf at 44 Commercial Street. The board voted to grant a Special Permit to allow 14 spaces where 20 would be required. Enclosed is a copy of the Petition.

At one of the planning board meetings, concerning the overlay, Mr. Cunningham stated the owner of 33 Commercial St. would be happy to provide the hotel with additional parking at night and on weekends. However; thought must be given to the petitioner at 44 Commercial Street when he decides to build the second building, he will only have 14 spaces not the 24 spaces required. This complicates parking considerations of a new hotel overlay by the very fact the city has decreased the parking requirements for 44 Commercial Street. With this in mind and the fact the Municipal lot is almost always full; the parking situation needs to be addressed.

Thank you for your consideration in this matter.

June Cook-Madruga
23 R Riverview Rd.
Gloucester MA. 01930

City of Gloucester
Office of the City Clerk
9 Dale Avenue
Gloucester, Massachusetts 01930

Office (978) 281-9720 Fax (978) 282-3051

Office Hours:	**Monday, Tuesday, and Wednesday**	**8:30 AM to 4:00 PM**
	Thursday	**8:30 AM to 6:30 PM**
	Fridays (Memorial Day to Labor Day [Summer Hours])	**8:30 AM to 12:30 PM**
	Fridays (Labor Day to Memorial Day [Winter Hours])	**8:30 AM to 4:00 PM**

Attachment to Board of Appeals

Cove Harbor LLC
33 Commercial Street
Gloucester, Massachusetts 01930

Map 7, Lot 17 Locus (if different from above): 44 Commercial Street

Addendum to the above:

I, Joanne M. Senos, Assistant City Clerk for the City of Gloucester, hereby certify that this decision is a true and accurate copy of the original decision, which decision is filed in the City Clerk's Office, and that 20 days has elapsed since the filing of such decision, and I further certify that no notice of appeal concerning this decision has been filed in said office.

Joanne M. Senos

Joanne M. Senos, Interim City Clerk

July 24, 2009
Date

Seal:

2009072700422 Bk:28814 Pg:109
07/27/2009 02:13 PERMIT Pg 1/4

CITY CLERK
GLOUCESTER, MA
09 APR 24 AM 10: 15

DECISION: ZONING BOARD OF APPEALS

PETITIONER: COVE HARBOR LLC, 33 COMMERCIAL STREET, GLOUCESTER, MASSACHUSETTS

PETITION: SEEKING A SPECIAL PERMIT FOR A LESSER NUMBER OF PARKING SPACES TO ENABLE THE PETITIONER TO ERECT A SECOND BUILDING ON THE EXISTING WHARF AT 44 COMMERCIAL STREET

PROPERTY ADDRESS: 44 COMMERCIAL STREET (ASSESSOR'S MAP 7 LOT 17)

The Board finds that proper notice has been given by mailing and advertising. The hearing was held at the time and place as advertised: 7:30 p.m., March 26, 2009 at Gloucester City Hall Auditorium.

Board Members Present:
JAMES P. MOVALLI, CHAIRMAN
VIRGINA BERGMANN, VICE CHAIRMAN
FRANCIS S.WRIGHT, JR
ROBERT G. STEWART
STEPHEN C. REYNOLDS

The zoning classification of the property under consideration is M-I (Marine Industrial).

Speaking for the petition was Attorney Lisa L. Mead, Blatman, Bobrowski & Mead, LLC, 30 Green Street, Newburyport, MA who addressed the following aspects of the proposal: The application before the Board is for a Special Permit for lesser number of parking spaces pursuant to Section 4.1.2 of the City of Gloucester Zoning Ordinance ("GZO"). On January 13, 2000 the Board issued a variance to the Applicant for the construction of a Wharf Building which included a reduced right side yard setback. The wharf building was constructed. Additionally, the Applicant applied for a Special Permit simultaneously therewith as the proposal was to also build a second marine industrial / commercial building on the site. However, there was not sufficient parking for both buildings. The Board voted to grant a Special Permit to allow 14 spaces where 20 would be required. Because the landward building was not constructed, the Special Permit lapsed given the passage of time. As a result, the Applicant, is requesting the Board to reissue the Special Permit for reduced parking.

DECISION:	ZONING BOARD OF APPEALS
PETITIONER:	COVE HARBOR LLC, 33 COMMERCIAL STREET, GLOUCESTER, MASSACHUSETTS
PETITION:	SEEKING A SPECIAL PERMIT FOR A LESSER NUMBER OF PARKING SPACES TO ENABLE THE PETITIONER TO ERECT A SECOND BUILDING ON THE EXISTING WHARF AT 44 COMMERCIAL STREET
PROPERTY ADDRESS:	44 COMMERCIAL STREET (ASSESSOR'S MAP 7 LOT 17)

The Property currently consists of 20,856 square feet with a wharf building which is a single story building consisting of a 3,826 square foot print and a 500 square foot office loft. As before, the Applicant is proposing to add a two story wood frame marine industrial/commercial building which would include 5,897 square feet on the first floor and 6,118 square feet on the second floor. The required parking for the wharf building is 3 spaces; and for the landward building the required parking is 6 spaces for the second floor as well as 15 spaces for the first floor. The total number of spaces required under the GZO would be 24 spaces. The Applicant is providing 14 parking spaces for which it is seeking a special permit for a lesser number of parking spaces.

Stephen Golden spoke in favor of the petition.

No petitions or communications were received by the Board signed by residents who expressed support of the petition.

No one spoke in opposition to the petition.

No petitions or communications were received by the Board signed by residents who expressed opposition to the petition.

The Board carefully considered the petitioner's request and finds that:

In accordance with Section 1.10.2 of the GZO, the proposed use of the two buildings as proposed with reduced parking will be in harmony with the general purpose and intent of the GZO as it pertains to off street parking.

Under section 4.1 of the GZO the intent provides that new buildings and land uses are provided with sufficient off-street parking spaces to meet the needs of the persons making use of such structures. Said provisions allow for the Board to provide relief from the strict letter of the GZO where it can be shown that a lesser number will serve the intent of the GZO.

DECISION: ZONING BOARD OF APPEALS

PETITIONER: COVE HARBOR LLC, 33 COMMERCIAL STREET, GLOUCESTER, MASSACHUSETTS

PETITION: SEEKING A SPECIAL PERMIT FOR A LESSER NUMBER OF PARKING SPACES TO ENABLE THE PETITIONER TO ERECT A SECOND BUILDING ON THE EXISTING WHARF AT 44 COMMERCIAL STREET

PROPERTY ADDRESS: 44 COMMERCIAL STREET (ASSESSOR'S MAP 7 LOT 17)

The Applicant is providing fourteen (14) spaces on site, which is only 10 shy of the required 24. Additionally, the net square footage calculation of the second floor of the proposed building, which is 5,550, the actual requirement for parking would be reduced by two (2). That coupled with the allowed uses in the building show a lesser number of spaces will serve the intent of the GZO which is to provide sufficient off street parking.

Additionally, given that nothing has changed on the project from the original approval on January 13, 2000, there is no reason not to approve the Special Permit request for a lesser number of parking spaces.

Where there are 24 parking spaces required, a Special Permit is granted for a lesser number, 14 to be allowed.

Vote of the Board
In favor of the Special Permit:

James P. Movalli, Chairman

Virginia Bergmann, Vice Chairman

Francis S. Wright Jr.

Robert G. Stewart

Stephen C. Reynolds

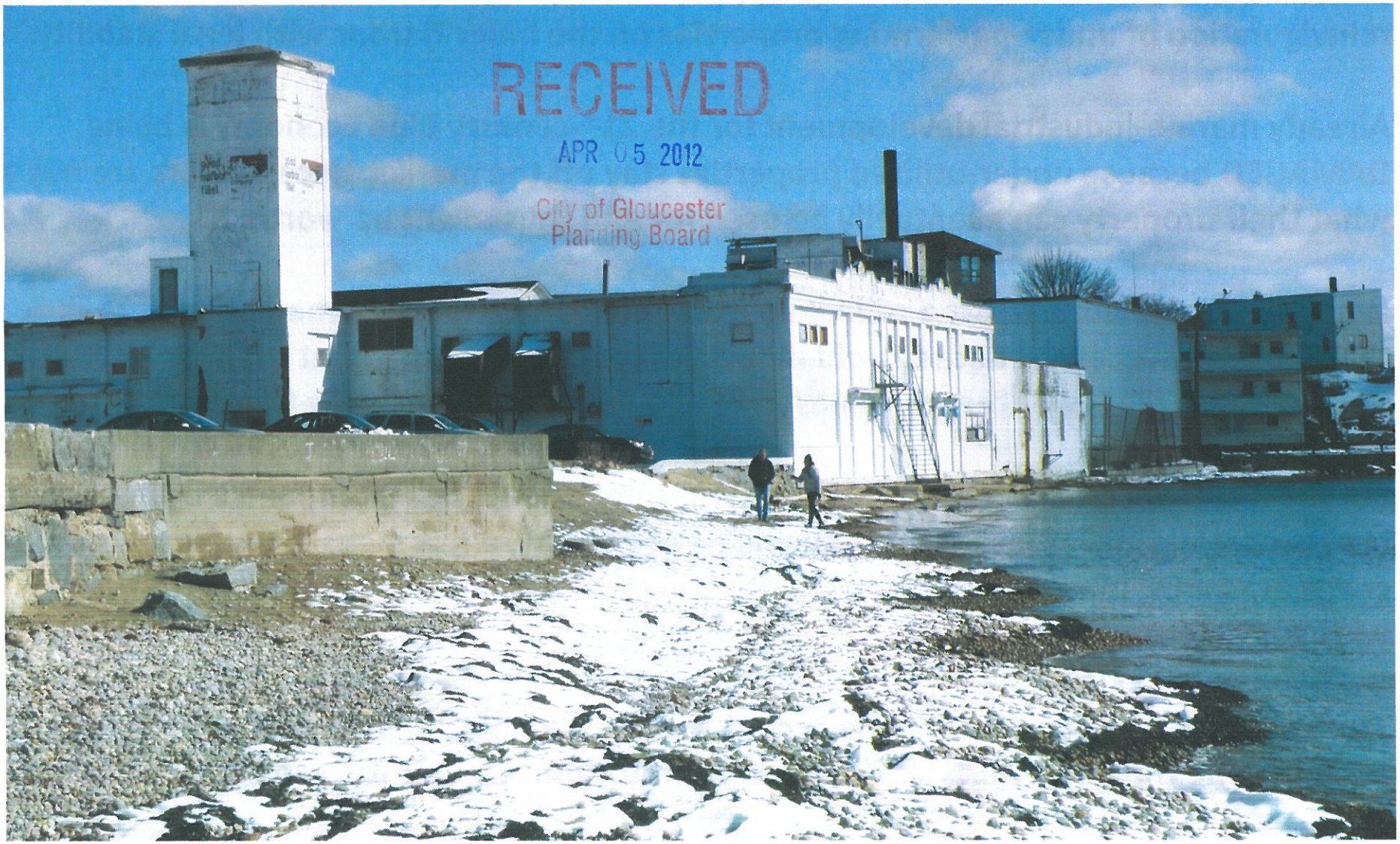
OPPOSED: None

"BEACH-HOTEL" PROJECT IS *WITHOUT* A BEACH

every average High-Tide of 10.5 feet, twice a day, forever !

Our tides range from 8.4 to 12.5 - 24/7/365. 3/10/12 1:52pm photo taken *well after* 10.5' tide.

And at Low Tide - more gravel, ledge, stones, and patches of sand for the happy dogs.



ZONING-BUSTING is radically ANTI-BUSINESS

It spreads UNCERTAINTY on the future of every venture when Zoning Rules that have guided business-plans for decades *can be stood on their head* - thrown out !

This business-community needs sterling *STEADINESS in our Zoning Code* to support reinvigoration of under-performing properties on the Inner Harbor with legal stability.

Already marine-industrial development for the 21st-century Blue Economy is being DAMAGED because under-utilized properties stay off the market since owners are not sure what their property can eventually be used for and thus might be worth…

***Who will trust Gloucester* as a reliable partner in business-development, if we break Zoning that protects successful decades-old industries on Commercial Street to favor a set of very deep pockets ?? If we treat our finest this way, whom are we trying to attract ?!**

For the available credit-line, the 'Downtown Hotel' should be put indeed DOWN-TOWN across several smaller lots, right in the heart of the City, a few steps away from restaurants, galleries, shops, museums, theaters - all without having to dodge industrial traffic and live with 24/7 industrial noise and smells.

To allow Jobs- and Tax-Base' development, we need a 10-year Freeze on all DPA- and MI-Zoning along the Inner Harbor. A 10-year Moratorium will re-establish economic progress.