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CITY OF GLOUCESTER OFFICE OF THE MAYOR

October 31, 2014

Ms. Maeve Vallely Bartlett
Secretary, Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Dear Secretary Bartlett,

The City of Gloucester appreciates Coastal Zone Management's careful review, on behalf of the Executive Office of Energy and Environmental Affairs, of the 2014 Gloucester Municipal Harbor Plan/Designated Port Area Master Plan (2014 MHP/DPA Plan) which was submitted to your office on August 18, 2014. Since that time, your office has held a public hearing and collected public comment on the proposed Plan. The City has been copied on all written comment and has prepared this additional supplemental response to provide clarity on several areas that have received much attention.

Several comments submitted in opposition to the Plan addressed issues that are, in fact, not part of the Plan. As they are not germane, we are not addressing them in this correspondence. For example the Plan does not include any provisions to expand or allow recreational marinas or the proliferation of hotels or shopping centers. Those concerns that are germane can be categorized into three groups: public process, zoning, and loss of land for Water Dependent Industrial Uses (WDIUs).

Public Process

Public involvement is essential in all of the planning work the City undertakes. A cross-discipline stakeholder group of citizens comprised the Harbor Plan Committee and was engaged in developing the 2014 MHP/DPA Plan for nearly two years. All meetings were posted and open to the public, and information was available from the City's website. More significantly, City staff, CZM staff, and the consultant team met frequently with community members outside of regular meetings to answer questions, hear concerns, and discuss process. The State's public process also included a public hearing hosted in Gloucester where the Plan was presented and public testimony was recorded. In addition written comment was accepted from the public for 30 days after the public hearing. Each step was also noticed in the local paper and in the Environmental Monitor. This supplemental response will also be noticed in the Environmental Monitor to ensure the public remains informed of the steps in approving and implementing our harbor planning efforts.

Local Marine Industrial (MI) Zoning to Support the DPA

Many references are made in the Plan emphasizing the City's commitment to the DPA through our Marine Industrial (MI) Zoning. Many steps were taken as a part of the implementation of the 2009 MHP/DPA Plan to align our local land use regulations with the use allowances of the Waterways Chapter 91/DPA Regulations (Chapter 91 regulations). To further provide clarity, it was never the intention to propose any new uses to be allowed in the MI that are not currently included in the Zoning Ordinance. As I stated in my October 1, 2014, correspondence to you, the language in paragraph 3 on page 62 will be adjusted to emphasize further restriction of use rather than introduction of uses. Paragraph 3 will now read:

To avoid interference or conflicts with both traditional WDIUs and more contemporary WDIUs envisioned in this Master Plan, and to ensure the DPA Master Plan preserves and enhances the capacity of the DPA to accommodate WDIUs, the City Commits to MI zoning in the upland portion of the DPA that, at a minimum, excludes new developments or conversions for: (1) housing units and other residential use; (2) hotels, motels, and other facilities for transient lodging; (3) hospitals, nursing homes, and other care facilities; and (4) daycare centers, primary schools, secondary schools, or other schools unrelated to maritime trades or marine science and technology.

Uses that fall into these four broad categories will positively be eliminated from consideration in the MI Zone. Again it is important to note that hotel and residential uses have been, and will continue to be, excluded from the DPA.

We also wish to clarify our proposed removal of the existing zoning provision that requires 50% of a parcel to be reserved for water-dependent industrial use. Some of the comments submitted suggest that there is currently a zoning provision that requires that 50% of “uplands”, or land outside Chapter 91 jurisdiction, to be reserved for WDI use, and that this protection will be eliminated under the 2014 Plan. This is a misinterpretation of the zoning language, and consequently a misinterpretation of the impact on overall WDI area in the DPA. The current language actually requires 50% of all *parcels* within the DPA to be reserved for WDI use, such that some parcels would be allowed a greater amount of supporting use in jurisdiction, while others might be more restricted in the “upland”. As demonstrated below, our analysis shows that the mechanisms for protecting WDI use area proposed in this 2014 amendment will reserve more WDI area within the DPA, and a greater percentage near the water edge, than the current allowance under the 2009 Plan. Further, while uses will no longer be restricted to 50 percent of a parcel under zoning, we will continue to review all expansions, redevelopments and new developments on all parcels in the Marine Industrial zone in the DPA with the stringent standards of Site Plan Review. Reference to the Waterways use and dimensional standards will remain in the Zoning Ordinance; however, all references to limitations of 50 percent of a parcel for supporting uses will be removed to accommodate the updated mechanism for WDI protection in the 2014 Plan. The above outlined zoning amendments will be implemented within six months of approval of the 2014 MHP/DPA Plan.

Aside from the proposed removal of potentially conflicting uses, the City will also examine the height, bulk, density, and parking standards of MI uses. As discussed in the Plan, the newly adopted FEMA floodplain maps may have a profound impact on any expansion, redevelopment or new development in the DPA. The City will explore the potential need to adjust such standards to support WDIU maintenance, expansion and redevelopment while working with CZM and DEP to assure consistency with the MHP/DPA Plan. While not considered a requirement to implement the Plan, we will continually look to ways to enhance the capacity of our port.

Loss of Land for WDIUs

Some of the comments suggest that there will be a loss of area for WDI uses as a result of the 2014 Plan. Rather than a loss of land for WDIUs, the Plan actually increases the amount of land for WDIUs. Furthermore, the Plan supports WDIUs in their most appropriate location—along the waterfront rather than along a street, where it could have been located under the existing plan. The goals of supporting WDIUs and maintaining and enhancing Gloucester’s full service port are clearly articulated throughout the MHP/DPA Plan. However, further clarification on overarching calculations that demonstrate the City and State’s partnership in this regard is warranted.

CZM’s April 2014 decision to modify Gloucester’s DPA boundary by removing sections of East Gloucester has created the perception among some members of the public of a loss of land for WDIUs. The fact that there was little to no comment in opposition at the time of the boundary review suggests, however, that the broader public understands there was no significant loss of land for WDIUs. The boundary decision makes it clear there has not been a significant loss as it demonstrates that the areas removed, which primarily consisted of recreational boating facilities, commercial uses and residential properties, did not meet the criteria for inclusion in the DPA. The analysis to assure that a substantial area of the DPA is reserved for WDI use provided in the 2014 Plan is focused on the current bounds of Gloucester’s DPA.

The following table clearly demonstrates that the implementation and operation under the 2014 MHP/DPA Plan will reserve a greater amount of area for WDIUs than the 2009 MHP/DPA Plan (35 acres vs. 30 acres). The 2014 MHP/DPA Plan also demonstrates that the maximum allowed Supporting Uses (SUs) will be maintained at 28 percent of the land in Chapter 91 Jurisdiction in the DPA. Operating under the provisions of the 2009 MHP/DPA Plan, the SU percentage could have been greater. Gloucester’s MI Zoning will govern the “uplands” of the DPA which restricts incompatible uses and employs careful Site Plan Review standards already enacted.

Table 1: Breakdown of Potential WDIU and SU in Gloucester DPA

Item	Definition	Ch.91 – No MHP	2009 MHP	2014 MHP
A	Acreage in Ch. 91 Jurisdiction	49	49	49
B	Acreage Reserved for 100% WDIU	8	8	21*
C	Potential % Supporting Use(SU)	25%	50%**	50%
D	Maximum SU Acreage (A)*C=D	12.25	30%**	14
E	Acreage for WDIUs (A-D)	36.75	30%**	35
F	DPA Uplands (Outside Ch.91 Jurisdiction)	11	11	11
G	Total Acreage of Gloucester DPA (A+F)	60	60	60

*8 acres of pile-supported plus 13 acres of existing 100 percent WDIUs

** 50% of the entire DPA (60 acres) and in the case of 2009 MHP Acreage of WDIU = G-D

Summary of Regulatory Relief Requested

Initiating a MHP/DPA Master Plan affords a community the ability to strategize and tailor the requirements of the Chapter 91/DPA regulations to meet local needs and objectives. Specifically the City of Gloucester appeals to the Secretary to amplify several standards which are highlighted in Table 4 on page 63 of the 2014 MHP/DPA Plan. These amplifications relate to:

1. the protection of berthing for commercial fishing vessels;
2. prioritizing use of the water dependent use zone for WDIUs,
3. the integration of public access facilities where appropriate,
4. access for water borne vessels, and finally
5. a mechanism for the consideration of the potential unique circumstance where the licensing of a non-water dependent use may contribute and enhance the DPA through investment in on-site waterfront infrastructure, or contributing to a Port Maintenance Fund.

All of the above were included and approved in the 2009 MHP/DPA Plan.

Much of the focus of the 2014 MHP/DPA Plan update has been on characterizing the existing harbor economy while identifying emerging markets that may provide synergistic opportunities in our DPA which is strongly rooted in commercial fisheries and maritime activities. Such emerging and evolving uses which rely on and benefit from direct water access are currently not well catalogued in the list of permissible uses in the Waterways Regulations 3.10 CMR 9.12. The City of Gloucester proposes to contemporize the definition of WDIUs by requesting that the Secretary amplify 310 CMR 9.12(2)(b) to include: **marine research, testing, or development activities with the following characteristics:**

1. **A requirement to access coastal waters for research, testing, or development (310 CMR 9.12(2)); and**
2. **Commercial fishing facilities, including those engaged in research, testing, or development related to commercial fishing safety, conservation, and sustainability (310 CMR 9.12(2)(b)(4)); or**
3. **Boatyards, dry docks, and other facilities related to the construction, serving, maintenance, repair, or storage of vessels or other marine structures engaged in marine science and technology, including research, development, or testing (310 CMR 9.12(2)(b)(5)); or**
4. **Facilities for tug boats, barges, dredges, or other vessels engaged in port operations or marine construction, including those related to marine research, development, or testing (310 CMR 9.12(2)(b)(6)).**

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In addition to the above requested amplifications, the City is also requesting that the Secretary continue to allow a substitution that allows some flexibility to the Chapter 91 Water Dependent Use Zone (WDUZ) calculations for those sites where strict adherence would result in odd and inefficient siting of uses on a site. In those cases the WDUZ can be reconfigured from standard requirements, as long as a minimum setback along the sides and ends of piers is maintained, there is no net loss of WDUZ area overall on the site, and the reconfiguration achieves greater effectiveness in the use of the water's edge for water-dependent industrial use.

Please do not hesitate to contact my Administration with any further questions or comments. We thank you in advance for your continued support and consideration.

Sincerely,

Carolyn A. Kirk

Carolyn A. Kirk
Mayor