



CITY OF GLOUCESTER  
HARBOR PLAN COMMITTEE

September 15, 2021

2:00 P.M.

Remote Meeting

Richard Noonan, Chair

MINUTES

**Present Members:** Tony Gross, Tom Balf, Vito Giacalone, John McCarthy, Tessa Brown, Katie Kahl

**Absent Members:** Rick Noonan - Chair, Mark Ring (no longer able to serve)

**Staff:** Gregg Cademartori

**Consultant Team:** Matthew Littell – Utile, Will Cohen – Utile

**Other Attendees:** Patti Paige, Tracy O’Neill, Kathryn Glenn

**I. BUSINESS**

*NOTE: Tony Gross served as chair in Rick Noonan’s absence.*

- A. Call to order
- B. Introduction of Members and Staff
- C. Kathryn Glenn, North Shore Regional Coordinator Massachusetts Office of Coastal Zone Management will present on the following areas:
  - a. Summary of the planning process and steps to approval
  - b. Necessary contents of an approved MHP/DPA master plan (from the EEA perspective)
  - c. Standards for approval for an MHP
  - d. Standards for approval for a DPA Master Plan
  - e. Clarification of what constitutes an amplification (and how these can be used)
  - f. Clarification of what constitutes a substitution (and how these can be used)
  - g. Types of uses (WDI/Accessory/Supporting/temporary) allowed in a DPA
  - h. Supporting use site limits in licensing vs. commercial use limits in the DPA area
- D. Questions for Kathryn Glenn
- E. Harbor Plan Committee Discussion
- F. Next Steps & Schedule
- G. Adjournment

**II. MASSACHUSETTS OFFICE OF COASTAL ZONE MANAGEMENT PRESENTATION**

- 1. Kathryn Glenn will discuss the Commonwealth requirements for approval of the MHP. Kathryn Glenn provided a timeline overview for development and approval of the MHP.
- 2. Kathryn Glenn reviewed the required plan contents, which included:
  - a. Community’s general goals and objectives
  - b. Policies to guide development activity
  - c. Proposed term of the MHP (10 years)
  - d. Planning analysis
  - e. Review of public participation process
  - f. Supporting documentation
- 3. In addition, Kathryn Glenn reviewed the following standards for MHP approval:
  - a. Consistency with applicable CZM policies
  - b. Consistency with state tideland policy objectives (Ch. 91)

- c. Demonstrate city coordination with appropriate state agencies to determine consistency with agency plans
  - d. Inclusion of enforceable implementation commitments
- 4. Amplification**
- a. Kathryn Glenn provided an overview of amplification, which expresses existing language in more detail. Amplifications cannot contradict corresponding regulatory principles or significantly alter the substantive nature of the requirement being amplified.
- 5. Substitution**
- a. Kathryn Glenn explained that substitute standards are available to make certain regulations less restrictive than the minimum corresponding waterways provision, but appropriate offsets must be provided to mitigate the difference in regulation created by the substitution. The substitute provision include:
    - i. Location and extent of pile-supported structures
    - ii. Alternative locations of certain facilities of private tenancy
    - iii. Change in the means of determining the location and extent of the Water-Dependent Use Zone (WDUZ)
    - iv. Combined footprint of certain buildings (open space requirement)
    - v. Building height
    - vi. Pedestrian access standard
    - vii. Water-related public benefits
- 6. DPA Master Plan**
- a. Kathryn Glenn stated that the MHP requires a DPA Master Plan to ensure that water-dependent industrial uses are not adversely affected by the MHP proposals. Kathryn Glenn also explained the 5 approval standards required for DPA Master Plans.
  - b. Kathryn Glenn summarized the following uses allowed in DPA:
    - i. WDI uses
    - ii. Accessory to WDI uses
    - iii. Supporting DPA uses
    - iv. Temporary Uses
  - c. Kathryn Glenn discussed details of approved MHP amplifications that could be relevant to the Gloucester MHP. She also provided an example of a Chapter 91 standard substitution with an appropriate offsetting measure.

### **III. MASSACHUSETTS OFFICE OF COASTAL ZONE MANAGEMENT PRESENTATION**

- 7. Vito Gialcone: The slide with the seven editable issues seems like an important piece for us to focus on and see if there's room for improvement from the 2014 plan
  - a. Kathryn Glenn: I think it's always worth looking at those seven as well as other places where there is discretionary language. That's definitely something to look at more specifically.
- 8. Vito Gialcone: If there's a zoning change required for something, then would we need to change local zoning before approval?
  - a. Kathryn Glenn: The Secretary can issue a conditional approval that is contingent upon a zoning change if necessary, so that doesn't necessarily have to happen before approval.
  - b. Vito: One zone in our zoning ordinance that cannot receive an exception for building height is marine industrial.
  - c. Gregg: I think Vito is correct. As an example, we also have a definition of height that has allowance for mechanical. That came up with either small sale applications or solar applications. There may potentially be the need for a variance request. As of right now, you need a variance to exceed the height limits in the marine industry. If people are trying to make decisions about what they can do, it's good for us to coordinate with DEP where we need more clarity.
  - d. Kathryn Glenn: DEP does need to agree that the change is good or better than the existing, so that's something we can do as we get more into the details.
  - e. Gregg: It's also helpful to review what was put into the last plan. Some provisions need more time to mature to be effective and in other instances, provisions were ineffective or unnecessary.
  - f. Kathryn Glenn: That's part of the Notice to Proceed as well. Looking at past policies and determining what needs to change or continue forward.
- 9. Matthew Littell: I'm assuming commercial use budget and supporting use budget overlap. For instance, if Gordon's offices are eating up some amount of that allowance as a supporting commercial use.

- a. Kathryn Glenn: Gordon's are accessory uses, so that wouldn't be included in that analysis at all. That's a WDI use so it doesn't count. We can go through and look everywhere to see what counts. Industrial does count, but WDI does not so it's important to distinguish.
  - b. Matthew: the commercial use allowance is less about accessory uses and more about supporting uses, is that correct
  - c. Kathryn Glenn: for DPA, it's about commercial uses entirely. There may be commercial uses that are not supporting WDI commercial uses but the entire DPA just can't become a commercial zone. So we need to look at the changes that the Harbor Plan would create. That's different from the commercial use that's licensed.
  - d. Matthew: So the commercial use is the entire DPA and it's area wide, not plot-specific?
  - e. Kathryn Glenn: Yes.
10. Will Cohen: Am I paraphrasing the rationale for accessory use correctly? Is it because accessory use doesn't exist on its own so it doesn't count toward the budget?
- a. Kathryn Glenn: Yes. For instance, a cafeteria for a plant may not seem essential for WDI use, but if you're a worker at the plant who doesn't have time to go get lunch, then it's essential. That's how it's determined - if the accessory use is integral to the WDI use.
11. Tony Gross: Are nine recreational slips included in the supporting calculation?
- a. Kathryn Glenn: I don't believe they are, but I need to double check. It's a new standard. I don't believe it is because it's within float tidelands. There are more specific standards we need to look at more closely.
  - b. Tony: So the slips don't count as anything?
  - c. Kathryn Glenn: I'm not sure so we need to check.
  - d. Tony: Do we need to list it?
  - e. Kathryn Glenn: Yes. You would need to show where the slips are and show that it won't conflict with any WDI use in that location. So you have to show 'this is why this makes sense here.'
  - f. Tony: On displacement of commercial that only means existing commercial?
  - g. Kathryn Glenn: Yes. You can't take someone who's a water-dependent user and displace them.
  - h. Tony: if ownership changes hands, would it be alright to put in the nine slips?>
  - i. Kathryn Glenn: The Harbor Plan has to specify where the slips are and have that approved. The displacement rule is very specific that a water-dependent use cannot be switched to a non water-dependent one. License goes to use, not the owner.
  - j. Gregg: Could we license an existing facility for nine slips?
  - k. Kathryn Glenn: You can introduce nine slips. There are five additional standards that have to be met. You would need to come in and say 'here's where we want them to go and here's how we're demonstrating there's no adverse effect.' It's strict because the goal is to not displace any water-dependent uses.
12. Tom Balf: I get confused about commercial versus supporting use. Specifically, I've been confused about what's going on in Boston as it relates to the Raymond Flynn Marine Industrial Park. That's out of your purview but it seems that marine developments that are being welcomed, primary life science buildings with a bit of marine industrial activity. Does this go to this issue of allowable commercial uses or is that too hypothetical?
- a. Kathryn Glenn: I don't want to comment on Boston because I don't have any context about what's going on with that issue.
13. Tom Balf: Has there been a change in allowance for supporting uses for pile-driven piers?
- a. Kathryn Glenn: Up to 25% of pile-supported pier for supporting uses with certain conditions so some areas can be developed for supporting uses.
  - b. Tom: So pop-up stores...
  - c. Kathryn Glenn: Possibly. What would comply would need to be looked at and the WDI-use zones still apply. Previously, no supporting uses were allowed in that context at all except on filled tidelands.
  - d. Gregg: When you say 25% of pile-supported, that's different from the 25% of the jurisdiction.
  - e. Kathryn Glenn: Yes so 25% commercial or 50% depending. The denominator is the jurisdictional area of the site.
14. **Public Comments:**
- a. Patty Page: I wanted to ask Kathryn Glenn what "in jurisdiction" means. Do you mean jurisdiction in Chapter 91?
    - i. Kathryn Glenn: Yes.

- ii. Patti: We all know that recreational boats outnumber commercial vessels many times over. We have a 31-boat waitlist at the harbormaster's office right now. I understand when properties don't have fishing vessels tied to them, it challenges that displacement mechanism. However, recreational boats are filling our DPA. That's a fact. This weak recognition of 'I can hold a commercial license' needs to get teeth or be dropped. On a local level, if i'm correct, with the zoning- the MI zoning states that if a vessel is tied to a dock in a marine industrial zone it must have primarily commercial fishing characteristics. MI zone requirement, DPA chapter 91- we have lots of words and language and all I see are recreational boats being allowed closer and closer. We have requests for commercial vessel dockage. In the DPA we either leave this area for commercial use and let the owners deal with the commercial people or we don't. We should figure that out through this plan. Now, the mitigation fee issue- not sure if that's an offset or not- at a subsequent meeting I would like to find out how that's reviewed and triggered. There's two examples right now through the DPA. Does this qualify for mitigation? If not, why not? When we have these uses come in, there seems to be a disconnect between the City side and the state side about how this should be looked at and assessed. And then the prohibited uses- prohibited uses are major sports and entertainment complexes. We have a major entertainment complex proposal coming to Gloucester. We're all talking about that so we need to look at all those things and decide the direction that's best for the WDI uses.
- b. Tracy O'Neill: I would like Kathryn Glenn to restate her contact information.
  - i. Kathryn Glenn states her email again and reiterates that she will send her info to Gregg.
- c. Tony Gross observed that there were no more public comments.
- d. Gregg: Themes in the comments have been brought up by other committee members. Clearly, the water slide is going to be a focus of this effort. Looking at potential for additional dockage from a fishing tie-up perspective. There seem to be more boats in the harbor so we need to look at all of these issues. IN the current zoning, most of those provisions are geared toward special permitted uses but the use table also makes reference to the CHapter 91 regulations, so there's some tension between how and where we regulate. Most DPA-compliant uses are allowed by right with site plan review. Commercial or supporting uses generally have a special permit aspect where those things can be permitted. The mitigation is specifically for licensing. That provision is for someone pursuing a new license. The mitigation fund has had limited use because it's a last resort in terms of complying.

#### **IV. ADJOURNMENT**

15. Vito Gialcone makes a motion to adjourn the meeting. Seconded.
16. Roll Call:
  - a. John McCarthy - Yes
  - b. Tom Balf - Yes
  - c. Katie Kahl - Yes
  - d. Vito Gialcone- Yes
  - e. Tessa Brown - Yes
  - f. Tony Gross- Yes