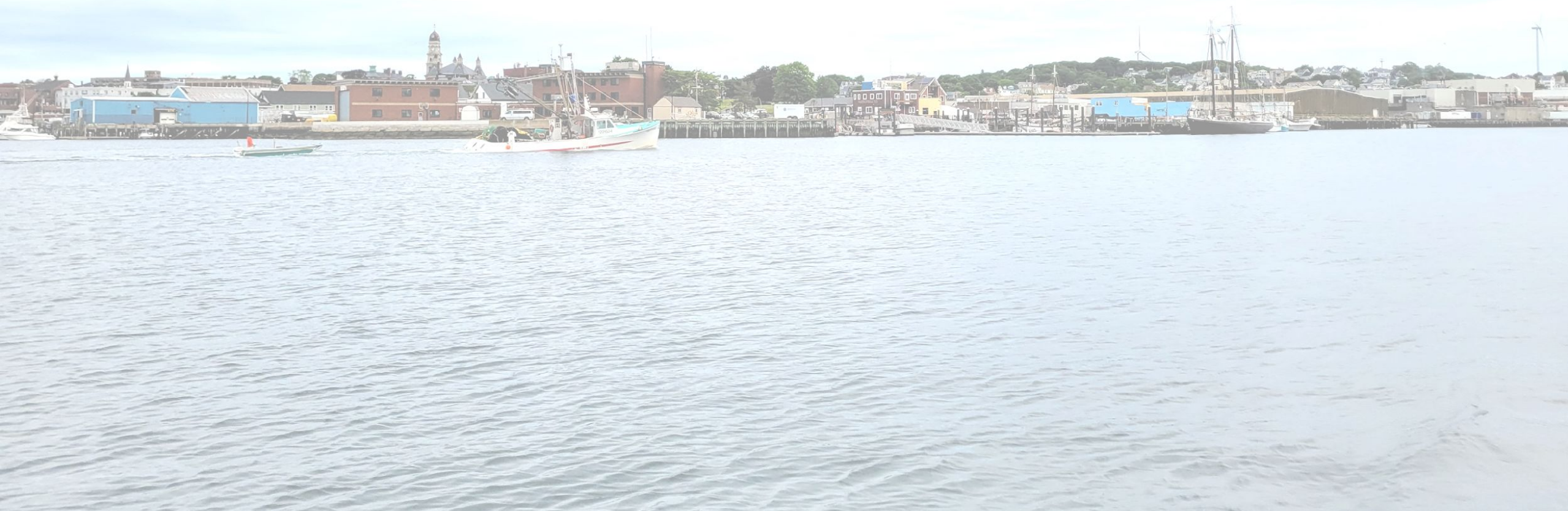


# Gloucester Municipal Harbor Plan Update

## Draft Plan Overview

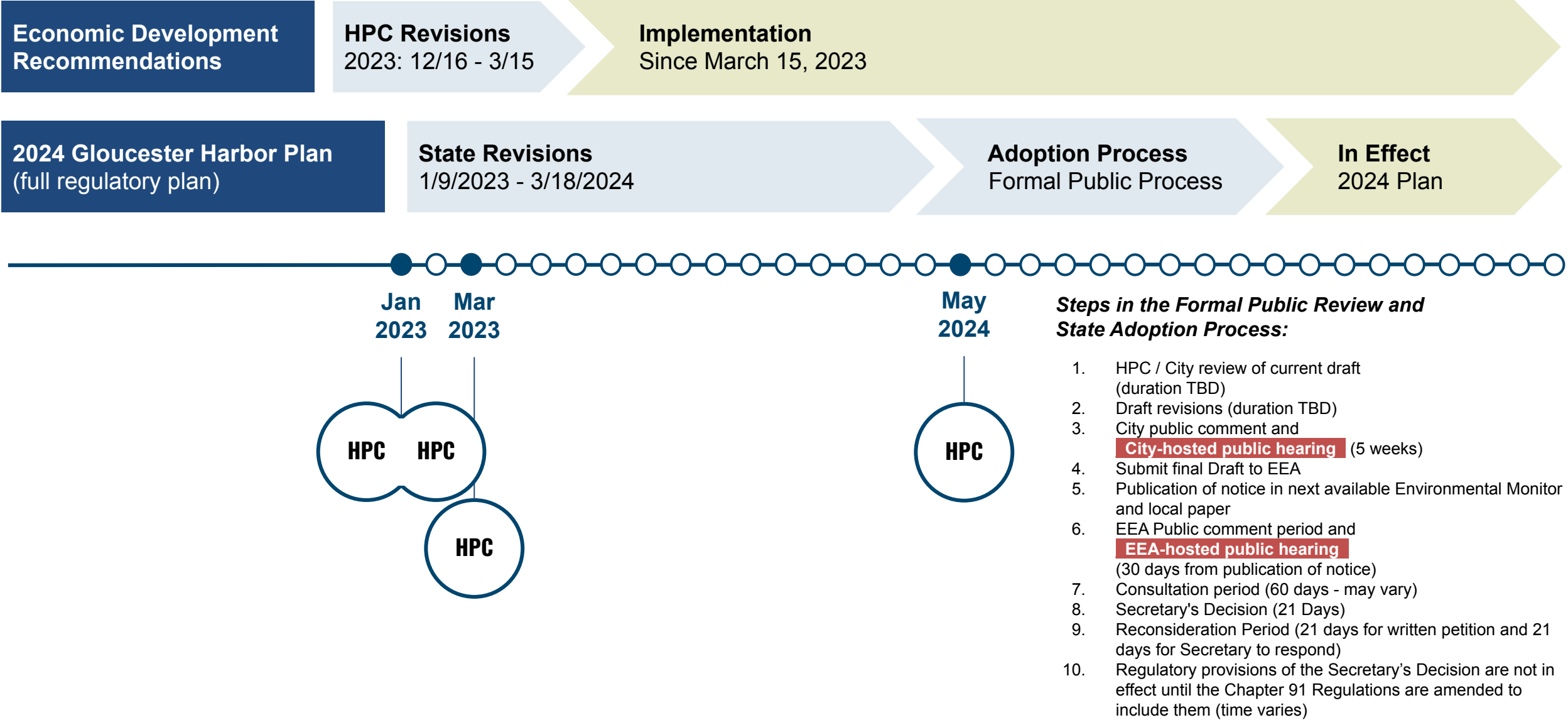
May 14, 2024



# Agenda

1. Timeline and Process Update
2. Harbor-Wide Regulatory Approaches
3. Site-Specific Regulatory Approaches
  - a. 65 Rogers Street (I4-C2)
  - b. *112 Commercial Street - no regulatory customizations*
4. Draft Plan Q&A
5. Next Steps

# Draft Plan Finalization Process



# Regulatory Plan Opportunities

***The regulatory plan needs to provide clear strategic direction to guide the priorities for future licensing.***

For this harbor plan update, complex dimensional adjustments, substitutions, amplifications and other technical provisions may play less of a role than in past plans.

This plan's primary value will be to renew the 2014 plan's productive recommendations and provide clear strategic guidance on priorities for licensing so that the kinds of uses Gloucester wants to see can have a more efficient, streamlined and well-supported path to approval, especially on catalytic public redevelopment opportunity sites like I4C2.

**Providing site-specific guidance and customizations for I4C2 is probably the single most impactful opportunity of this plan.** If done well, this plan can pave the way for fundraising and development outcomes that benefit the entire harbor and maritime ecosystem of Gloucester.

## Harbor-Wide (DPA and non DPA)

- Renewal of 2014 amplifications/substitutions (4 total)
- Update to 2014 plan supporting use approach

## Site-Specific

- I4C2 customizations - rationale for increased supporting use percentage threshold and criteria for allowing it
- *112 Commercial - opted to go with no regulatory customizations for this site*

# Summary of Regulatory Plan Customizations

## Substitution & Offsets

### 1. Flexibility in Water Dependent Use Zone (WDUZ)

**Regulatory Provision:** 310 CMR 9.51(3)(c)1.-3. // *Establishment of a Water Dependent Use Zone*  
**Location:** Entire Gloucester Harbor Planning Area

2014

## Amplifications

### 2. Preventing displacement of existing commercial vessels

**Regulatory Provision:** 310 CMR 9.36(4)(b) // *Standards to Protect Water-Dependent Uses (displacement)*  
**Location:** Entire Gloucester Harbor Planning Area

2014

### 3. Promoting public waterfront access and preserving boat access

**Regulatory Provision:** 310 CMR 9.52(1)(a) // *Utilization of Shoreline for Water Dependent Purposes*  
**Location:** Gloucester Harbor DPA

2014

### 4. Continued option to use the Gloucester Port Maintenance and Improvement Fund for off-site mitigation

**Regulatory Provision:** 310 CMR 9.36(5)(b)(4) // *Standards to Protect Water-Dependent Uses (operational or economic support)*  
**Location:** Gloucester Harbor DPA

2014

## Alternative Site Coverage Ratio

### 5. Allow increased supporting use to sustain/enhance existing WDI uses

**Regulatory Provision:** 310 CMR 9.32 (1)(b)(5) // *Categorical Restrictions on Fill and Structures in Tidelands Within Designated Port Areas (DPAs)*  
**Location:** 65 Rogers Street (I4-C2)

New



# Harbor-Wide Regulatory Approaches



# Ch 91 Substitution & Offsets

**Purpose:** flexibility in Water Dependent Use Zone (WDUZ)

**History:** Revision from 2014 Plan

**Location:** Entire Gloucester Harbor Planning Area

Chapter 91 Standard (310 CMR)	2024 Substitution & Offsets
<p><b>Regulatory Provision:</b> 310 CMR 9.51(3)(c)1.-3.</p> <p><u>Establishment of a Water Dependent Use Zone</u></p> <p>Chapter 91 defines the dimensions of the water-dependent use zone as:</p> <ol style="list-style-type: none"><li><i>along portions of a project shoreline other than the edges of piers and wharves, the zone extends for the lesser of 100 feet or 25% of the weighted average distance from the present high water mark to the landward lot line of the property, but no less than 25 feet; and</i></li><li><i>along the ends of piers and wharves, the zone extends for the lesser of 100 feet or 25% of the distance from the edges in question to the base of the pier or wharf, but no less than 25 feet; and</i></li><li><i>along all sides of piers and wharves, the zone extends for the lesser of 50 feet or 15% of the distance from the edges in question to the edges immediately opposite, but no less than ten feet.</i></li></ol>	<p><b>Substitution:</b></p> <p>For non-water dependent use project sites that meet the eligibility standard, the required WDUZ dimensions may be modified as long as a minimum width of 25 feet is maintained along the project shoreline and the ends of piers and wharfs and a minimum of 10 feet along the sides of piers and wharves, and as long as the modification results in no net loss of WDUZ area.</p> <p><b>Offsets:</b></p> <ul style="list-style-type: none"><li>Substitution provision can only be applied to those project sites where the reconfiguration of the WDUZ achieves greater effectiveness in the use of the water's edge for water-dependent industrial use and other water-dependent use.</li><li>The reconfigured zone must be adjacent to the waterfront. In no case will a reconfigured WDUZ that results in an area separated from the waterfront or in a net loss of WDUZ be allowed.</li></ul>



# Ch 91 Substitution & Offsets

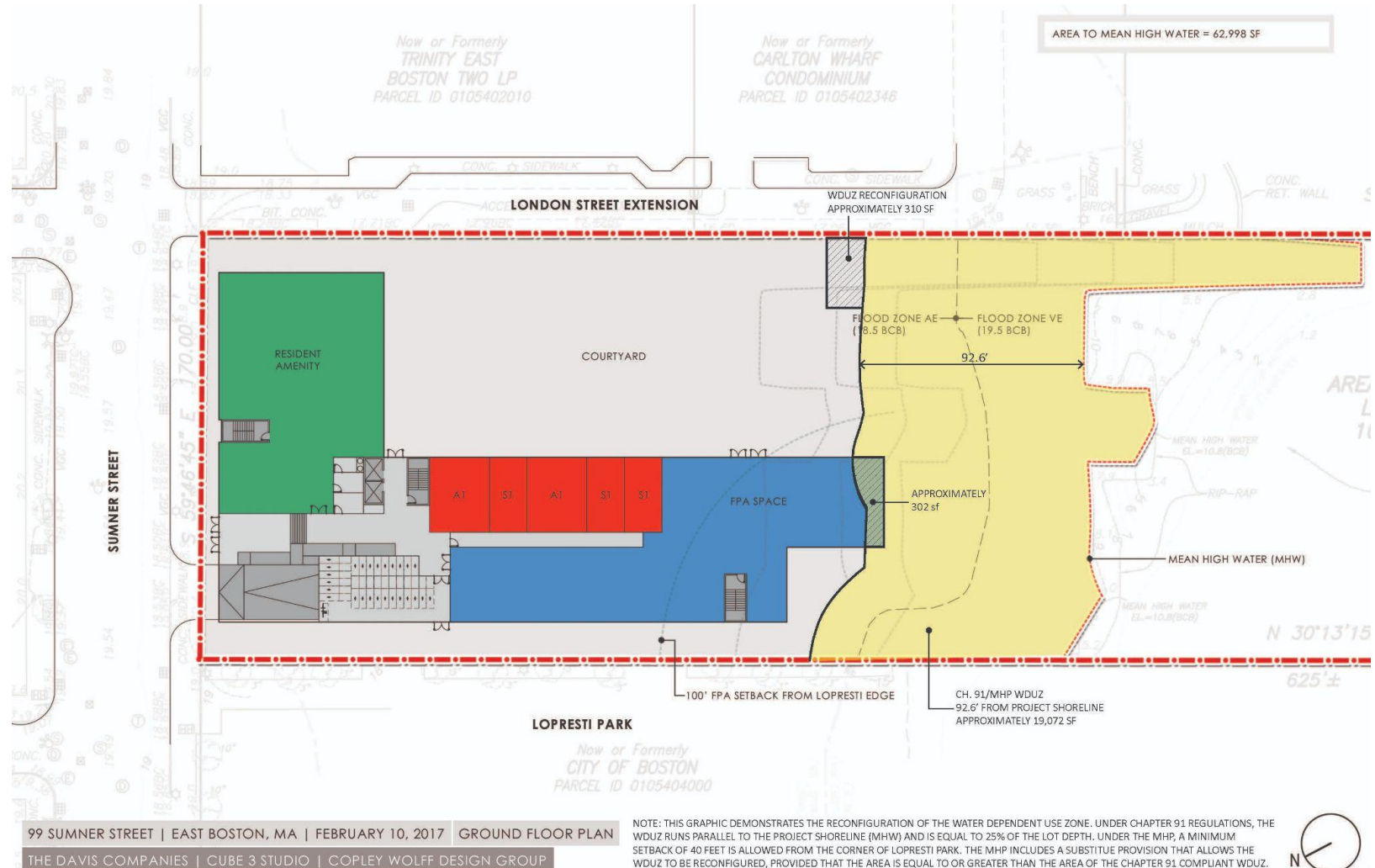
**Purpose:** flexibility in Water Dependent Use Zone (WDUZ)

## What does this mean in practice?

This shows an example of how reconfiguration of the WDUZ can be used to improve the efficiency and capacity of a water-dependent industrial use.

In many cases, the deeper the parcel, the more it stands to benefit from strategic reconfiguration of the WDUZ.

*This example shows a residential use outside a DPA in East Boston.*





# Ch 91 Substitution & Offsets

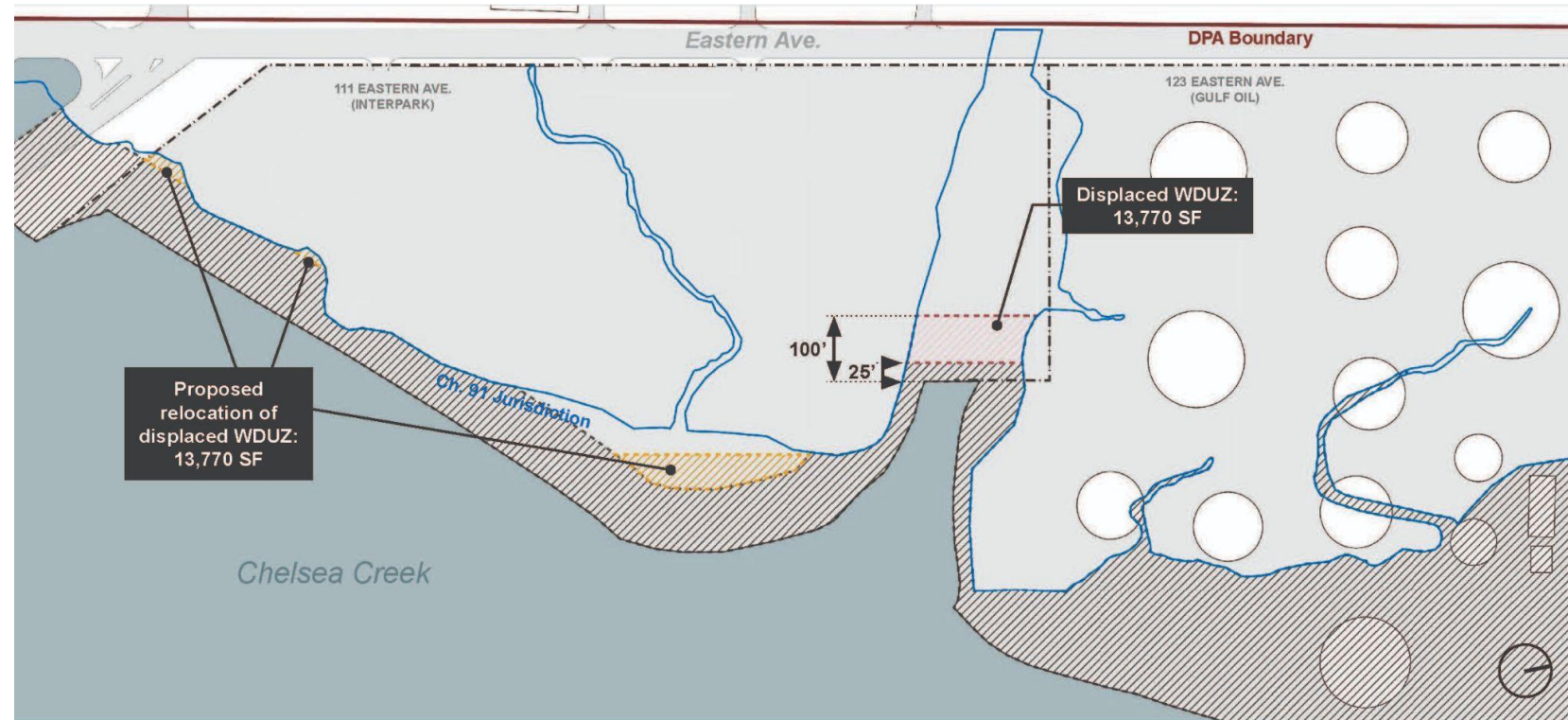
**Purpose:** flexibility in Water Dependent Use Zone (WDUZ)

## What does this mean in practice?

This shows an example of how reconfiguration of the WDUZ can be used to improve the efficiency and capacity of a water-dependent industrial use.

In many cases, the deeper the parcel, the more it stands to benefit from strategic reconfiguration of the WDUZ.

*This example shows a site in Chelsea within the DPA.*



# Ch 91 Amplifications

**Purpose:** preventing displacement of existing commercial vessels

**History:** Revision from 2014 Plan

**Location:** Entire Gloucester Harbor Planning Area

Chapter 91 Standard (310 CMR)	2024 Amplification
<p><b>Regulatory Provision:</b> 310 CMR 9.36(4)(b) <u>Standards to Protect Water-Dependent Uses (displacement)</u></p> <p>4. <i>The project shall not displace any water-dependent use that has occurred on the site within five years prior to the date of license application, except upon a clear showing by the applicant that said use:</i></p> <ul style="list-style-type: none"><li>a. <i>did not take place on a reasonably continuous basis for substantial period of time; or</i></li><li>b. <i>has been or will be discontinued at the site by the user, for reasons unrelated to the proposed project or as a result of voluntary arrangements with the applicant.</i></li></ul> <p><i>Absent the above showings, the project shall include arrangements determined to be reasonable by the Department for the water-dependent use to be continued at its existing facility, or at a facility at an alternative location having physical attributes, including proximity to the water, and associated business conditions which equal or surpass those of the original facility and as may be identified in an Approved Municipal Harbor Plan, if any. Permanent relocation to an off-site facility may occur in order to accommodate a public service project for which relocation arrangements are governed by law, or if the Department determines that it is not appropriate for the water-dependent use to continue on the site. Otherwise, only temporary relocation may occur as necessary for project construction.</i></p>	<p>MassDEP shall not license any project which will displace any commercial fishing vessel berthing in Gloucester Harbor without consulting with the City of Gloucester to confirm that there are reasonable arrangements to provide equivalent berthing space on site or at a suitable alternative site not already used by commercial fishing vessels. The following criteria should be considered by MassDEP when determining what would be considered reasonable accommodations or a suitable alternative for commercial fishing vessel berthing in Gloucester Harbor:</p> <ol style="list-style-type: none"><li>1. The site should be accessible by pickup trucks and service vehicles.</li><li>2. The site should be protected from strong wave action which would limit its utility for long term berthing of commercial fishing vessels.</li><li>3. The site should have available landside space to store fishing gear on a temporary basis.</li><li>4. The site should have water and electric utility service suitable for commercial fishing vessel berthing.</li><li>5. The lease terms and pricing shall be comparable to similarly situated and equipped berthing locations elsewhere in the harbor.</li><li>6. Water depth should be sufficient for proposed vessel sizes.</li></ol> <p>For each criteria listed above, the reasonable accommodations or suitable alternative should be equivalent or better than the original commercial fishing vessel berthing being displaced.</p>

# Ch 91 Amplifications

**Purpose:** promoting public waterfront access and preserving boat access

**History:** Revision from 2014 Plan

**Location:** Gloucester Harbor DPA

Chapter 91 Standard (310 CMR)	2024 Amplification
<p><b>Regulatory Provision:</b> 310 CMR 9.52(1)(a) <u>Utilization of Shoreline for Water Dependent Purposes</u></p> <p><i>A nonwater-dependent use project that includes fill or structures on any tidelands shall devote a reasonable portion of such lands to water-dependent use, including public access in the exercise of public rights in such lands. In applying this standard, the Department shall take into account any relevant information concerning the capacity of the project site to serve such water-dependent purposes, especially in the vicinity of a water-dependent use zone; and shall give particular consideration to applicable guidance specified in an Approved Municipal Harbor Plan, as provided in 310 CMR 9.34(2)(b)2. Except as necessary to protect public health, safety, or the environment, the Department shall act in accordance with the following provisions.</i></p> <ol style="list-style-type: none"><li><i>In the event the project site includes a water-dependent use zone, the project shall include at least the following:</i><ol style="list-style-type: none"><li><i>one or more facilities that generate water-dependent activity of a kind and to a degree that is appropriate for the project site, given the nature of the project, conditions of the water body on which it is located, and other relevant circumstances; in making this determination, the Department shall give particular consideration to:</i><ol style="list-style-type: none"><li><i>facilities that promote active use of the project shoreline, such as boat landing docks and launching ramps, marinas, fishing piers, waterfront boardwalks and esplanades for public recreation, and water-based public facilities as listed in 310 CMR 9.53(2)(a); and</i></li><li><i>facilities for which a demonstrated need exists in the harbor in question and for which other suitable locations are not reasonably available;</i></li></ol></li></ol></li></ol>	<p>For any project located along the water’s edge of the DPA, the priority land use is water dependent industrial.</p> <ol style="list-style-type: none"><li>To the extent practicable for a site, public access facilities shall be integrated into a project to activate the waterfront as part of the open space required with a nonwater-dependent supporting DPA use, not to interfere with water-dependent industrial uses and activities.</li><li>Open areas used for working waterfront activities seasonally during the year shall accommodate public access when possible.</li><li>Within the water-dependent use zone, no use shall be licensed that would result in any adverse impact to and/or restriction of access to water-borne vessels wherever possible.</li></ol>

# Ch 91 Amplifications

**Purpose:** continued option to use the Gloucester Port Maintenance and Improvement Fund for off-site mitigation

**History:** Revision from 2014 Plan

**Location:** Gloucester Harbor DPA

Chapter 91 Standard (310 CMR)	2024 Amplification
<p><b>Regulatory Provision:</b> 310 CMR 9.36(5)(b)(4)</p> <p><u>Standards to Protect Water-Dependent Uses (operational or economic support)</u></p> <p>5. <i>The project shall not include fill or structures for nonwater-dependent or water-dependent, non-industrial uses which preempt water-dependent-industrial use within a Designated Port Area (DPA). In applying this standard the Department shall act in accordance with the following provisions:</i></p> <p>b. <i>reasonable arrangements shall be made to prevent commitments of space or facilities that would significantly discourage present or future water-dependent-industrial activity on the project site or elsewhere in the DPA; such arrangements shall include, but are not limited to, the following:</i></p> <p>4) <i>in the case of supporting DPA use, conditions governing the nature and extent of operational or economic support must be established to ensure that such support will be effectively provided to water-dependent-industrial uses.</i></p>	<p>The nature and extent of operational or economic support provided by a supporting DPA use will be considered according to the following tiered approach. In each case, in order to fulfill the obligations of a supporting use using a particular tier, the applicant must demonstrate that it is infeasible to meet the obligation through the previous preferred tier. DEP will consider economic support to on-site WDI use, or if a project site does not have existing water-dependent industrial uses on-site or if an on-site WDI use does not have a need for support, DEP will consider commensurate investment in on-site waterfront infrastructure, off-site waterfront infrastructure, or an appropriate contribution to the Gloucester Port Maintenance and Improvement Fund as mitigation according to a tiered approach:</p> <ol style="list-style-type: none"><li>1. For properties with a water-dependent industrial use, economic or operational support from the supporting use to the on-site water-dependent industrial use is preferred.</li><li>2. If no water-dependent industrial use exists or is proposed on the site, or if the WDI user does not have a need for support, an investment in on-site waterfront infrastructure to improve capacity for water-dependent industrial use will be required. Improvement/maintenance of existing berthing and/or creation of new berthing for commercial vessels is required where feasible.</li><li>3. If it is infeasible to invest in on-site waterfront infrastructure to improve capacity for water-dependent industrial use, offsite operational or economic support to WDI uses within the DPA will be considered.</li><li>4. If none of the above can be achieved, a contribution to the Gloucester Port Maintenance and Improvement Fund will be considered. This fund shall be used only for support to water-dependent industrial uses within the DPA. The City prefers the fund to be used for WDI infrastructure where possible.</li></ol>



# 65 Rogers Street (I4-C2)





# 2014 Supporting Use Approach

## 2014 Supporting Use Calculation:

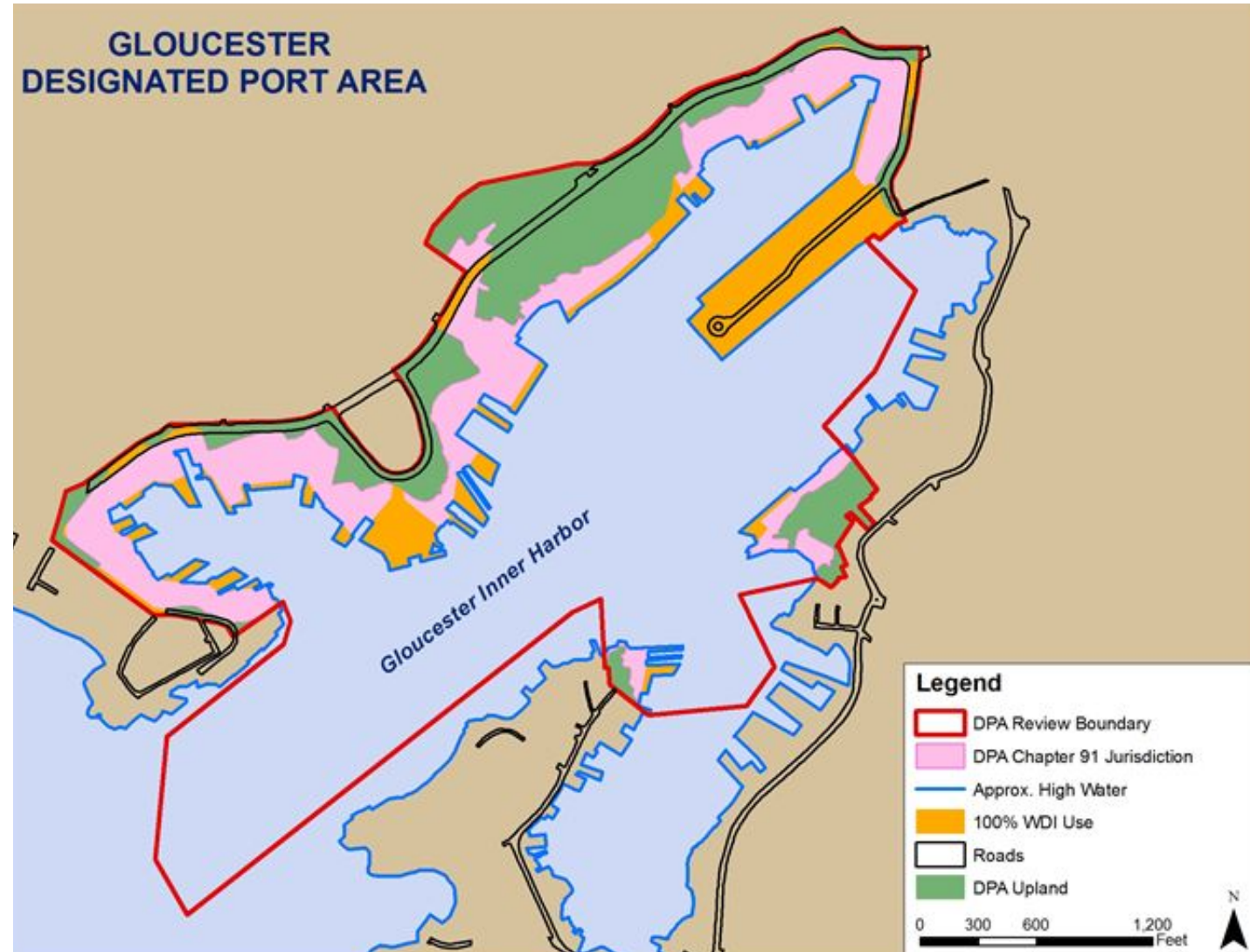
Assumed State Fish Pier, USCG, Cruiseport, DPA roadways, and pile supported piers remain 100% WDI uses. All other DPA parcels within Chapter 91 jurisdiction required to meet minimum of 50% WDI uses, allowed a maximum of 50% supporting uses.

## Benefits:

- Eliminated need for complex formula and provided
- Provided more predictability by reducing co-dependency of calculations - DPA property owners not affected by a transition from WDI uses to supporting uses by another DPA property owner

## Why it is no longer valid:

The interpretation of supporting use has changed since 2014 plan, and this approach is no longer valid. The MHP cannot control the use of private and non-City owned properties and thus there is no assurance of meeting the 100% WDI use on the identified properties. The state has moved away from this to a parcel by parcel approach to Supporting DPA uses.



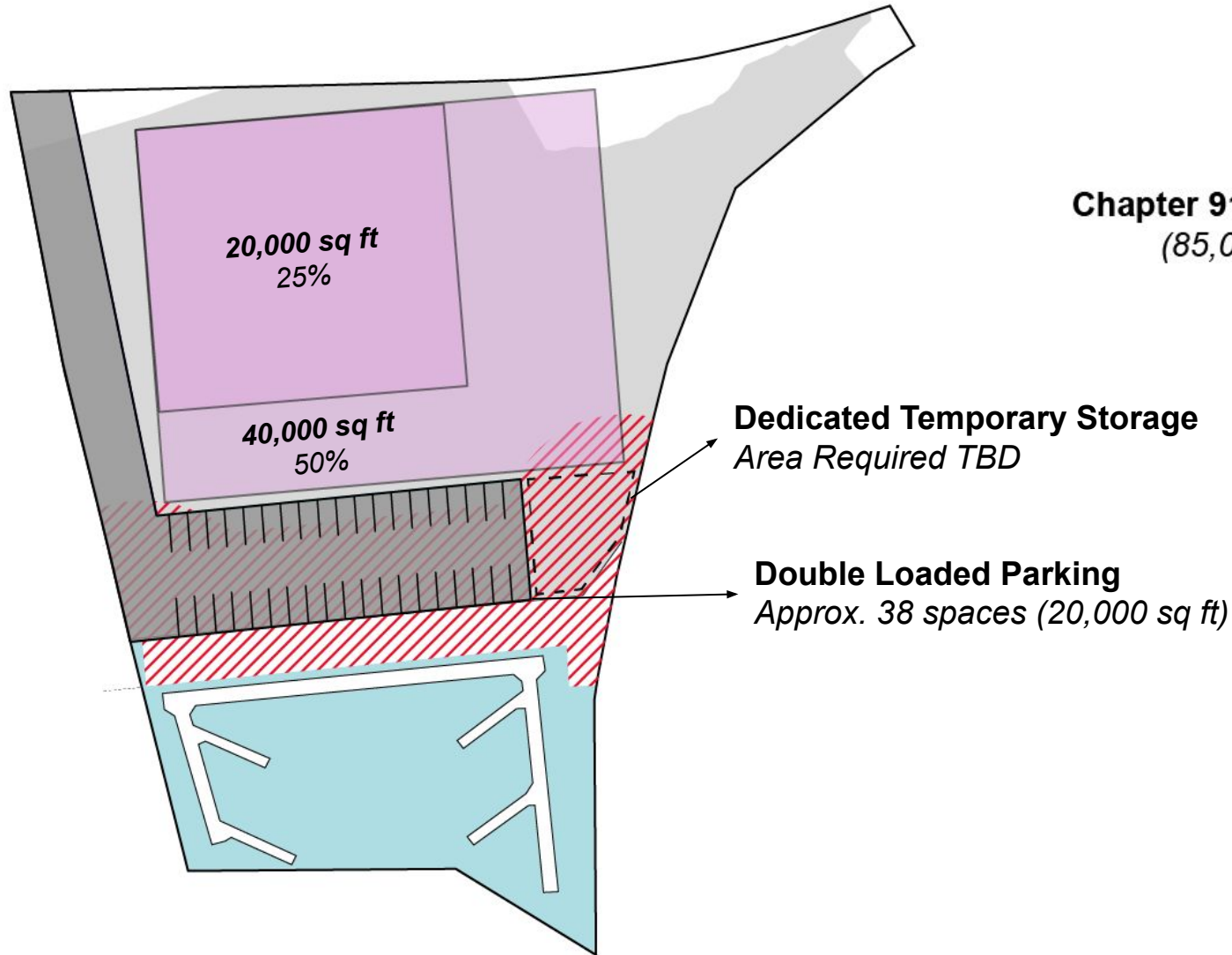
# 2024 Supporting Use Approach

On the basis of the new approach, any limit on Supporting DPA uses of more than 25% should be identified on a parcel by parcel basis.

## Proposed Action for Gloucester Harbor:

- Based on the planning framework, the only parcel identified for higher than baseline Supporting DPA uses is the I4C2 parcel.
- Supporting DPA uses over water is most relevant for larger scale parcels with pile-supported piers. The harbor plan could provide direction on this, but given that there are limited opportunities on the harbor, it is not justified at this time.
- Update local MI District Zoning to ensure consistency with revised approach:
  - In the MI District, Supporting Designated Port Area (DPA) Uses, as defined in 310 CMR 9.02, shall not in the aggregate occupy more than 50% of the ground level area on filled tidelands on a lot within the DPA.
  - Such uses shall also be subject to dimensional requirements of 310 CMR 9.0.
  - Within the water-dependent use zone, as defined in 310 CMR 9.02, in the MI District no use shall be permitted unless it provides access to water-borne vessels.

# Supporting Use Area



**NOTE:** I4-C2 is entirely within the DPA, and both portions of the parcel are owned by the same entity, therefore the entire area is subject to both Chapter 91 and DPA regulations.



# Ch 91 Alternative Site Coverage Ratio

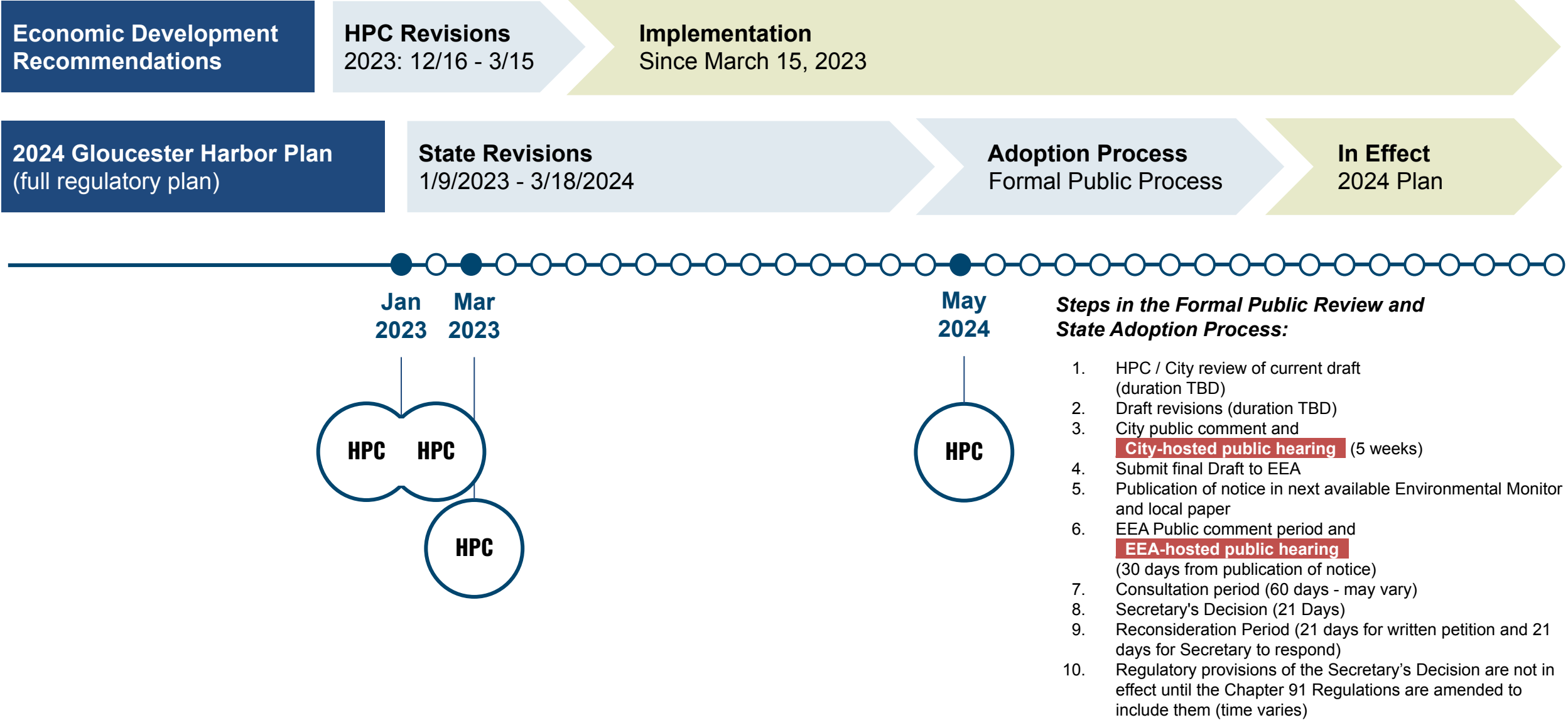
**Purpose:** allow increased supporting use to sustain/enhance existing WDI uses

**History:** New

**Location:** 65 Rogers Street (I4-C2)

Chapter 91 Standard (310 CMR)	2024 Alternative Site Coverage Ratio
<p><b>Regulatory Provision:</b> 310 CMR 9.32 (1)(b)(5) <u>Categorical Restrictions on Fill and Structures in Tidelands Within Designated Port Areas (DPAs)</u></p> <p><i>The Department shall waive the numerical standard (25%) for Supporting DPA Uses if the project conforms to a DPA Master Plan which specifies alternative site coverage ratios and other requirements which ensure that:</i></p> <ul style="list-style-type: none"><li>A. <i>said Supporting Uses are relatively condensed in footprint and compatible with existing water-dependent industrial uses on said pier;</i></li><li>B. <i>said Supporting Use locations shall preserve and maintain the site's utility for existing and prospective water-dependent industrial uses;</i></li><li>C. <i>parking associated with a Supporting Use is limited to the footprint of existing licensed fill and is not located within a Water-dependent Use Zone; and</i></li><li>D. <i>The use of tidelands for this purpose in a DPA shall also be governed by the provisions of 310 CMR 9.15(1)(d)1. and 310 CMR 9.36(5).</i></li></ul>	<p><b>Alternative Site Coverage Ratio:</b> Supporting DPA Uses may be increased up to 50% for the 65 Rogers Street site.</p> <p><b>Offsets:</b> To be eligible for an alternative site coverage ratio, an applicant must demonstrate that their project not only preserves but improves the utility of the site for WDI uses by satisfying the following criteria:</p> <ol style="list-style-type: none"><li>Existing commercial fishing vessel berthing facilities shall be maintained and enhanced through operational and/or capital support.</li><li>The location of the Supporting Use shall be adjacent to Rogers Street and the ground floor for the purposes of FPAs shall be at the Rogers Street level.</li><li>New buildings for nonwater-dependent use shall be designed to be resilient to sea level rise and storm surge flooding over the expected useful life of the building and the open areas of the site adjacent to the docks shall be modified as needed to be resilient to frequent flooding.</li><li>Any buildings will be designed to maintain vehicular access to the waterfront and to prevent conflicts with the existing ongoing use of the site for commercial fishing vessel berthing.</li><li>Dedicated area shall be provided for storage of fishing gear and parking of vehicles for commercial fishing vessels.</li></ol>

# Next Steps



# Thank You!

