Municipal Harbor Plans

The Commonwealth of Massachusetts regulates development along waterways and filled tidelands. These regulations derive from Chapter 91 of the Massachusetts General Laws, also known as the Massachusetts Public Waterfront Act.

Additional information can be found here: https://www.mass.gov/guides/chapter-91-the-massachusetts-public-waterfront-act

A Municipal Harbor Plan allows a town to vary certain requirements of Chapter 91 to implement the community’s goals. The planning process requires a public process, led by the town, to educate the community about the harbor plan and solicit input about opportunities, constraints, and recommendations. The draft plan must be approved by the Board of Selectmen and the Commonwealth’s Executive Office of Energy and Environmental Affairs (EEA).

Additional information can be found here: https://www.mass.gov/service-details/czm-port-and-harbor-planning-program-municipal-harbor-plans

Why Plan?

The planning process for a municipal harbor plan helps community members develop a plan that will:

- Define the needs of their harbor
- Identify specific goals for future use, development, and preservation of their harbor
- Develop an implementation plan with specific policies, actions, and responsibilities that will, over time, help fulfill the community-defined goals
- Inform state and federal agencies with jurisdiction over different aspects of the harbor what the community’s goals and preferences are for the future of the harbor
- Modify certain standards under Chapter 91 in favor of community preferences for development within the jurisdiction of Chapter 91

301 CMR 23.00 defines the process for creating and approving a municipal harbor plan. The process requires significant public input prior to state approval.

Did Cohasset have to create a municipal harbor plan?

No. Communities are not required to have a state-approved municipal harbor plan. However, having such a plan has benefits for communities who adopt them:

- Understanding of community preferences for future polices and actions
- Support for grant applications
- Ability to modify Chapter 91 regulations
- Communication with state and federal agencies regarding needs and preferences for the harbor area

The Seaport Economic Council provided a grant of $80,000 to support this plan; the Town contributed another $20,000.

Who is creating this plan?

The Town is in charge of creating this plan. The Planning Director, Lauren Lind, is the point of contact with the consultant team.

The consultant team is led by Harriman. FXM Associates provided information about existing conditions for economic development and GEI Consultants researched existing conditions related to infrastructure and projections related to sea-level rise and climate change.

The Harbor Committee, appointed by the Board of Selectmen, has acted as the Harbor Planning Group required by 301 CMR 23.00 and led the pre-planning discussions before the consultant team was hired by the Town.

The Office of Coastal Zone Management (CZM) and the Massachusetts Department of Environmental
January, April, and August 2019.

In addition, the consultant team conducted interviews with Town department heads and nonprofit organizations active in the harbor during Summer and Fall 2018. On October 17, 2018 the consultant team attended a site walk of the Harbor with members of the Harbor Committee, property owners, and representatives of CZM and DEP.

From January - April 2019, the Town conducted a public rezoning process with significant implications for the harbor during which the link between the proposed zoning and Chapter 91 was presented in depth.

What is the status of the Harbor Planning Process?

The consultant team has completed a revised draft of the plan which is now on the Harbor Committee's web page. This plan includes proposed modification to Chapter 91 that will coordinate with the zoning for the new Harbor Village Business Overly District passed by Town Meeting this spring.

The Board of Selectmen will receive a presentation on the plan on September 24. CZM still needs to review the draft Chapter 91 modifications before the Board of Selectmen can hold its public hearing on this plan.

The Town will sponsor a public meeting on October 9 at 6pm at Wilcutt Commons, 91 Sohier Street, Cohasset MA 02025 to discuss the proposed Chapter 91 modifications and the implications of those modifications. The Board of Selectmen, land use boards, the Harbor Committee, and members of the public will be invited to learn about Chapter 91, the proposed modifications, and the implication of those modifications.

Is there still time to comment?

Yes! Please come to the public meeting on October 9 at 6pm at Wilcutt Commons to learn about and comment on the proposed Chapter 91 modifications and the implications of those modifications.

In addition, public comments will be accepted during the Board of Selectman’s public hearing. The state approval process includes a local public hearing, conducted by MassDEP and CZM, and a thirty-day public comment period during which written comments are accepted.

Protection (MassDEP) have statutory responsibilities in the preparation of a municipal harbor plan and have been involved with and consulted throughout the process.

What is the formal planning process?

After an initial public visioning process and confirmation of planning scope, the Town submitted a Request for Notice to Proceed with the planning process for a state-approved municipal harbor plan on September 25, 2018. The request describes the scope of the study process and the process for getting public input. The request was published in the Environmental Monitor on October 10; public comments were due on November 9. CZM sent the Notice to Proceed on December 7, 2018. The Town now has until December 7, 2020 to submit the plan to the state for its approval. The Notice to Proceed is on the Harbor Committee's web page.

What has been the public input process to date?

To date, there have been four groups of opportunities to learn about the planning process and provide information and feedback to the consultant team.

(1) Informational Meetings provided information about the planning process and data about the harbor and initial goals, but did not involve facilitated group discussions.

• April 25, 2018: CSCR State of the Harbor: Panel about planning efforts in the harbor including the introduction to the planning process and an invitation to the May 31 workshop

• December 8, 2018: Open House at the Cohasset Library to display information about the harbor and prioritize goals

(2) Community Workshops did have facilitated group discussions and included mapping, visioning, and prioritization discussions.

• May 31, 2018: Introduction to the planning process, conditions in the harbor, and initial visioning

• December 17, 2018: Discussion of the draft conceptual plan and the initial implementation goals

(3) Regular meetings of the Harbor Committee

• 2018: March 22, June 19, September 19, October 17, November 14

• 2019: January 24, April 3, June 18, August 8, September 16

(4) Public Comment periods on the draft plans posted to the Harbor Committee web page in
Does this plan have legal ramifications?
Yes and no. Any modifications to Chapter 91 that are included in a state-approved municipal harbor plan are regulatory in impact; a property owner who has property within Chapter 91 jurisdiction must comply with relevant approved modifications when applying for a Chapter 91 license. The modifications proposed in this plan to date are not intended to be applicable to all properties within Chapter 91 jurisdiction in Cohasset Harbor.

The recommendations, goals, policies, strategies, and actions are road maps for the Town rather than legal obligations. The plan provides a path for implementation of the recommendations but the timing of implementation or even whether a recommendation is implemented is up to the Town.

What is the link between the Municipal Harbor Plan and the Zoning?
During the planning process for the harbor, it became obvious that the Cohasset Harbor Inn was a critical location for some of the public amenities identified at the public meetings. These include a connected harbor-wide walkway, a view of the Harbor from Elm Street, and the ability to connect the Village to the Harbor both physically and economically.

The Inn and related sites were in the process of changing hands, and the land uses, particularly residential, that could support such amenities were not allowed under the zoning. From January - April 2019, the focus of the planning process shifted to working with the Planning Board to determine whether zoning that was acceptable to the community and consistent with Chapter 91 development standards could be developed to support revitalization of this underused site and the underdeveloped mixed-use parcels across the street.

The Planning Board held public hearings to discuss the zoning on **February 6 and 20, and March 13 and 20, 2019**. The presentations on February 20 and March 20 linked the Chapter 91 requirements to the zoning discussion. The presentation in February introduced the Chapter 91 standards and the presentation in March looked at the specific implications of those standards on the Cohasset Harbor Inn site.

This zoning was passed at the Spring 2019 Annual Town Meeting.

Is the zoning in effect?
Not yet. The bylaw must be approved by the Attorney General of the Commonwealth before it can take effect; that approval process is underway and not complete at this time. A challenge to the bylaw was received by the state on the final day of the appeals period.

Does the delay in approving the zoning have an impact on this process?
The timing of the approval process for Cohasset’s Municipal Harbor Plan (the Harbor Plan) is such that the state approval process for the zoning is expected to be resolved prior to the state approval of the Harbor Plan.

How does the zoning work with Chapter 91?
Certain dimensional and uses standards required by Chapter 91 may be modified by a state-approved municipal harbor plan. Now that the zoning has passed, the combination of substitutions, amplifications, and offsets that will complement the zoning is being developed by the consultant team and discussed with CZM and MassDEP.

Does the Town need to modify Chapter 91?
The Town does not have to use the Harbor Plan to modify Chapter 91, but it may be difficult or impossible to apply the zoning regulations passed in April without modifications to Chapter 91 because of the irregularity of the site, the requirements of Chapter 91, and the uses now allowed by zoning.

What happens if the Town decides not to modify Chapter 91 through this Harbor Plan?
The current requirements of Chapter 91 would apply. If the Planning Board grants an applicant a special permit or site plan approval that is in conflict with Chapter 91, the applicant may not be able to receive a Chapter 91 license and the project may not be able to be developed as approved by the Planning Board. The goal of this process has been to ensure that the zoning bylaw and Chapter 91 are not in conflict with each other.
Are the owners of the Cohasset Harbor Inn involved in these discussions?

Yes. In order to ensure that the site may be developed according to the zoning, the requirements of Chapter 91, community expectations, and the development team's expectations, the current owners of the Cohasset Harbor Inn have been involved in the discussions.

Why hasn't the public commented yet?

The April and July drafts of the plan included the proposed modifications that were current at the time of discussion. The respective drafts were presented at the April 3 and August 7 Harbor Committee meetings and each was available online for public comment after the respective meeting.

Has the state seen these draft modifications?

Yes! CZM and DEP have discussed both draft with Harriman, once with Peter Matchak on May 1, 2019 and once with Lauren Lind on August 5, 2019.

The modifications in the April draft were prepared by Harriman. The revised modifications in the July draft included modifications prepared by the development team for Cohasset Harbor Inn. Frankly, CZM and DEP determined both versions to be inadequate. Harriman prepared a significantly revised draft and provided them to the Town, the state, and the development team for comment. The proposed modifications in the September draft include some minor changes based on comments from the development team.

The current draft includes two major changes: (1) the modifications are limited only to the sites affected; this prevents unintended consequences in the remainder of the properties in the Harbor area; and (2) the modifications are specifically linked to the goals of the Harbor Plan and the public access components required by Chapter 91.

Can these modifications be discussed in detail in a public meeting?

Absolutely! Chapter 91 is a complex regulatory structure and the proposed modifications deserve significant public discussion. The Town will sponsor a public meeting on October 9 at 6pm at Wilcutt Commons, 91 Sohier Street, Cohasset MA 02025 for this purpose. The Board of Selectmen, land use boards, the Harbor Committee, and members of the public will be invited to learn about Chapter 91, the proposed modifications, and the implication of those modifications.

Harriman will present information about Chapter 91, the zoning that was passed in April, and the relationships between the proposed modifications and that zoning.

What happens after the October 9 meeting?

The Town will confirm with CZM and DEP that the proposed modifications are consistent with the following:

- The goals and relevant actions of the draft Harbor Plan
- State requirements for modifications to Chapter 91
- The zoning passed by Town Meeting in April
- Public comments from the October 9 meeting
- Comments form the property owners of the parcels affected

After the modifications are final, the plan will be submitted to the Board of Selectmen for a public hearing. The Board of Selectmen must approve the plan before sending it to the state for their approval.

The state has its own approval process as noted above.

This plan requires approval from the state and from the Town. Who is in charge?

The Town! This is a voluntary process. The Town decided to undertake this planning process and will decide whether to send the plan to the state for its approval.

However, to be eligible for approval, the Town must follow the legislative and regulatory requirements for municipal harbor plans (301 CMR 23). In addition, the Town has received a grant from the Seaport Economic Council to complete a state-approved municipal harbor plan.

I have more questions. Who can help?

The Planning Director, Lauren Lind, is the Town's representative in this process. She can be reached at LLind@cohassetma.org or (781) 383-4100 ext. 5128.

All documents to date, including the September draft, are on the Cohasset Harbor Committee's website: https://www.cohassetma.org/284/Harbor-Committee