



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
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December 7, 2018

Peter Matchak, Director
Office of the Planning Board
Town of Cohasset
Cohasset Town Hall
41 Highland Street
Cohasset, MA 02025

RE: Cohasset Municipal Harbor Plan

Dear Mr. Matchak,

Pursuant to 301 CMR 23.03, the Municipal Harbor Plan (“MHP”) Regulations, the Town of Cohasset submitted a Request for Notice to Proceed (“RNTP”) for a state approved MHP on September 25, 2018. Notice of this request was published in the Environmental Monitor on October 10, 2018 and public comments were accepted for a thirty-day period ending on November 9, 2018. Based on a review of the Town’s request and on comments received, I am pleased to issue the following Notice to Proceed for the Town of Cohasset Waterfront MHP.

Overview

The MHP Regulations (301 CMR 23.00) establish a voluntary procedure by which municipalities may obtain approval of MHPs from the Secretary, promoting long-term, comprehensive, municipally-based planning of harbors and other waterways that fully incorporates state policies governing stewardship of trust lands. Additionally, approved plans guide and assist the Massachusetts Department of Environmental Protection (MassDEP) Wetlands and Waterways Division in making regulatory decisions pursuant to MGL Chapter 91 and the Waterways Regulations (310 CMR 9.00) that are responsive to harbor specific conditions and other local and regional circumstances. As promulgated, the Waterways Regulations provide a uniform statewide framework for regulating tidelands projects and developments. MHPs present communities with an opportunity to adopt a vision that modifies these uniform standards through the amplification of the discretionary requirements of the Waterways Regulations or through the adoption of provisions, which if approved, are intended to substitute for the minimum use limitations or numerical standards of 310 CMR 9.00. While the Town’s plan may embody the vision for the development of its waterfront, the scope of an MHP is generally limited to the modification of certain Chapter 91 standards to fulfill the local planning goals. Project specific issues such as waterside development and broader environmental impacts will be described, analyzed, and assessed during any requisite reviews by the Massachusetts Environmental Policy Act Office (MEPA) or the local planning and zoning boards.



I. Municipal Harbor Planning Area

The harbor planning area identified in the RNTP includes the Cohasset waterfront along the westerly boundary of the outer harbor from White Head, to the Main Harbor Area and including Cohasset Cove and Bailey Creek. The overall planning area encompasses 134 acres, of which approximately 66 acres are land and 68 acres are watersheet. For consideration as you develop your MHP, I call particular attention to the provisions of 301 CMR 23.04, Review Procedures, and 301 CMR 23.05, Standards for Approval. The MHP should contain a clear and detailed discussion of the relationship between the harbor planning area and land subject to Chapter 91 jurisdiction. Pursuant to 301 CMR 23.02, a harbor planning area should include all areas that are relevant to the functional use and management of the harbor or other waterway segment in question. Functional use refers to those activities that have the potential to promote or impair water dependent activity or public use or enjoyment of waterways or shorelines. At a minimum, the landward boundary of any harbor planning area subject to these regulations shall encompass all filled tidelands subject to the jurisdiction of MassDEP pursuant to 310 CMR 9.04. From our participation in preliminary Harbor Planning activities, CZM understands that one issue area for planning consideration is improving the connectivity between the Cohasset downtown center and the waterfront. While the MHP planning area may not encompass the whole of Cohasset downtown center, the MHP should describe the connection and the importance of this physical and cultural connection.

To facilitate review of the MHP and future implementation, at a minimum, the MHP should contain one or more maps that present a well-defined boundary of the proposed MHP and its relationship to Chapter 91 jurisdictional tidelands. These maps may include sub-sets of the planning areas to provide necessary detail if necessary. Pursuant to 301 CMR 23.03(4) for planning purposes, the MHP should depict the boundaries of such tidelands based on guidance for historic tidelands delineation provided by MassDEP's Waterways Program.

II. Substitution Guidance

A state-approved MHP can allow greater flexibility to the application of certain Waterways requirements in that it may include provisions that substitute for certain Chapter 91 limitations or numerical standards as long as the substitute provisions are at least as effective at meeting the state tidelands policy objectives as those stated in the corresponding Chapter 91 provisions and certain specific conditions are met. When a project conforms to a state-approved MHP, MassDEP will apply the use limitations or numerical standards specified in the MHP as a substitute for the respective limitations or standards contained in 310 CMR 9.00 in the licensing process.

Substitutions as described above will be allowed only if the municipality demonstrates in the MHP that the substitution provision will promote state tidelands objectives with comparable or greater effectiveness than the corresponding Chapter 91 provision. Substitute provisions may be less restrictive than the Chapter 91 requirements only if the plan includes other requirements that adequately offset adverse effects on public-related interests. The RNTP does not identify any specific parcels for substitutions but does indicate that based on goals and objectives identified by the community and Town, the MHP may propose and justify changes to the dimensional requirements of Chapter 91 regulations. In determining whether comparable or greater effectiveness is achieved by the substitute offsets in the MHP, the Secretary will consider the following provisions:



- a. The planning analysis and data must be organized to clearly identify the substitute provisions proposed and the relative effects of the less restrictive provisions on the related tidelands policy objectives.
- b. Offsetting measures should be applied within reasonable proximity to the locus of adverse effects to ensure a balance in the distribution of public benefits and potential detriments.

III. MHP Planning Guidance

Funding to support the development comes, in part, from an \$80,000 grant from the Seaport Economic Council. The Town's application for grant funding states that in order to best plan and prioritize future work to support both commercial and recreational uses, the Town recognizes the need for the creation of a formal harbor management plan that would be developed in accordance with procedures established under 301 CMR 23.00. The RNTP identifies four overarching topics of concern including commercial fishing, recreational boating, landside development, and coastal infrastructure. Within these overarching areas ten specific issue areas were identified including, but not limited to: supporting public use of and access to the harbor; identification and planning for appropriate improvements to landside and waterside infrastructure; integration and improvement of harbor management and uses; ecological considerations; and, considerations to address ongoing dredging needs. The RNTP also describes concurrent planning efforts, such as the Town's Comprehensive Plan development and the Municipal Vulnerability Preparedness (MVP) initiative that will help to inform potential cross-cutting planning considerations. Given the Harbor's susceptibility to the impacts of storm damage, flooding, and Sea Level Rise, the MHP should include relevant analysis and implementation recommendations to improve coastal resiliency within the planning area.

As described in Section V, the RNTP articulates a public participation and engagement process. The planning process used to inform and develop the MHP should ensure that alternatives and priorities to meet the vision, goals and objectives of the MHP are developed through the iterative and defensible public participation process. This iterative process should be documented within the MHP including opportunities for public engagement, how alternatives were considered, vetted, and preferred alternatives selected.

As the MHP is being developed concurrently with the Town's Comprehensive Plan and MVP Plan/Priority Actions it provides the Town with a valuable opportunity to dove-tail initiatives to maximize opportunities for complementary planning and implementation actions. Where appropriate, cross-cutting issues, opportunities, or consistency between plans should be identified or referenced.

One issue identified during the preliminary planning efforts was the management of Bassings Beach and the associated breakwater which is located in the Town of Scituate. CZM understands that preliminary discussions between the Towns of Cohasset and Scituate Town Managers and/or Boards of Selectmen have been initiated to address future management of Bassings Beach. The MHP should include a description of inter-municipal coordination and associated management agreements between the Towns and how these agreements are reflected in associated implementation recommendations. The planning area, as specified in the MHP, may need to be amended and expanded to include the Bassings Beach area accordingly.



Comments received from the Massachusetts Historic Commission (MHC), provided during the public comment period, indicate that the majority of the planning area is within the Cohasset Maritime Historic area and that multiple historic resources are within the waterfront district municipal planning area. MHC comments also indicate that recorded archaeological resources are within and adjacent to the planning area which would suggest that undisturbed portions of the planning area may house intact archaeological resources contributing to the history of Cohasset and the Commonwealth. MHC recommends that, as part of the MHP planning process, historic and archaeological resources are considered and that relevant parties be included in the planning process that may have specialized knowledge and information regarding potential cultural resources.

IV. MHP Renewal

Pursuant to 301 CMR 23.06(2)(a), the MHP should include a discussion recommending the period of time for which the MHP shall be in effect. Approved MHPs expire on the date specified in the Secretary's Approval Decision and must be renewed periodically to ensure continuing use by MassDEP in its licensing decisions.

V. Public Participation

The RNTP documented the extensive planning work and public outreach that has already been completed towards the development of this MHP as part of the Cohasset Harbor Planning effort as well as anticipated public outreach and engagement activities. The MHP should contain a comprehensive and detailed discussion (with any associated documentation) of the entire harbor planning process, including the public participation to date, as well as the planned public planning process.

VI. Compatibility with State Agency Responsibility

The MHP must demonstrate that the municipality has worked with all relevant state agencies to maximize compatibility of the harbor plan with the plans or planned activities of all state agencies owning real property or responsible for the development/implementation of plans or projects in the harbor planning area.

VII. Implementation Strategy

It is essential that the MHP include enforceable implementation commitments to ensure that all measures will be taken in a timely and coordinated manner to offset the effect of any MHP requirement that is less restrictive than that contained in the Waterways regulations (310 CMR 9.00). In addition to implementation commitments regarding Waterways considerations, the MHP implementation strategy should provide a clear and concise action item implementation section to guide municipal actions to meet the objectives, goals, and vision for the Harbor that are developed and prioritized through the MHP planning process.

We commend the Town's work to develop an MHP that balances the local and regional economic importance of the Harbor area with the development demands of the Town and public access desires of the community. CZM and MassDEP have worked closely with the Town of Cohasset during preliminary harbor planning activities, and we look forward to continued collaboration in this MHP master planning process. Pursuant to 301 CMR 23.04 and 301 CMR 23.04, the submission deadline will be December 7, 2020. We look forward to consultation with the Town to provide guidance to ensure that the process is meaningful, efficient and productive.



In closing, I extend my sincere thanks to you and your staff for your continuing support for the pro-active management of our coastal resources. I encourage your staff to continue to work closely with CZM and our South Shore Regional Coordinator, Jason Burtner, on the development of the Cohasset Harbor Municipal Harbor Plan.

Sincerely,



Lisa Berry Engler
Acting Director

Cc:

Chris Senior, Cohasset Town Manager
Ben Lynch, MassDEP Waterways Program Chief
Brona Simon, State Historic Preservation Officer

