

**DECISION ON THE TOWN OF COHASSET'S  
REQUEST FOR APPROVAL  
OF THE  
COHASSET MUNICIPAL HARBOR PLAN  
PURSUANT TO 301 CMR 23.00**

**November 25, 2020**

**Commonwealth of Massachusetts  
Executive Office of Energy and Environmental Affairs  
Kathleen A. Theoharides, Secretary**

## **I. INTRODUCTION**

Today, as Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs (EEA), I am approving, subject to the modifications and conditions noted below, the Town of Cohasset's ("Town") Municipal Harbor Plan ("Plan") dated July 2020. This Decision presents an overview of the Plan and findings on how it complies with the standards for approval set forth in the Municipal Harbor Planning regulations at 301 CMR 23.00. The geographic scope of the Plan encompasses approximately 94.82 total acres, including 43.36 acres within Chapter 91 jurisdiction and 51.46 acres outside of Chapter 91 jurisdiction, immediately along the shoreline between White Head Island to the area of Bailey Creek in Cohasset Harbor. The upland boundary is defined by the collective waterside parcel boundaries and the public roadways of Howard Gleason Road, Margin Street, Border Street, and Otis Street closest to the water's edge. The plan contains three sub-areas including Cohasset Harbor, Cohasset Cove, and Bailey Creek (Figure 1). Although not in the formal harbor planning area (HPA), the Plan also considered the relationship between the HPA and Cohasset Village (Village) to ensure proper coordination with other planning initiatives linked to the Harbor and the recommendations of the plan. The Plan builds on prior planning initiatives for the area, including the Harbor Plan (1980), the Town of Cohasset Community Resiliency Building Workshop Summary of Findings (June 2018) developed through the Municipal Vulnerability Preparedness (MVP) Program and the ongoing work under the Cohasset Master Plan initiative. Described below, the Plan identifies ten overarching goals which will be advanced through improvements within the study area and proposes substitute provisions to Chapter 91 standards at specific sites within the HPA that are slated for redevelopment in the Harbor Village Business Overlay District (HVBOD) (Figure 2). My approval of the Plan, with the Substitutions contained herein, does not, and should not be construed to serve as authorization or approval of a specific project. As described below, redevelopment projects identified in the Plan are subject to regulatory and other reviews that have not yet begun.

Pursuant to the review procedures at 301 CMR 23.00, in September 2018 the Town submitted its Request for a Notice to Proceed, and following a public comment period, the Office of Coastal Zone Management (CZM) issued a Notice to Proceed (NTP) on December 17, 2018. From 2018 to 2020, the Town convened 11 public meetings of its Harbor Planning Committee to engage the public, municipal departments, and elected officials in the development of the Plan. During this time the Town also held public engagement meetings, stakeholder interviews, public engagements, and a public hearing with the Board of Selectmen. The Town also met with CZM and

the Department of Environmental Protection (DEP) to discuss potential Chapter 91 considerations. In March, July, and November of 2019, the Town released drafts of the Plan for public review and comment. Each version of the plan was developed in response to public comment regarding the previous version.

During the Municipal Harbor Plan (MHP) planning process, the Town initiated a zoning change process related to redevelopment of the Cohasset Harbor Inn, located within the HPA on a 3-acre site adjacent to Cohasset Cove. The resulting HVBOD was adopted at Town Meeting on April 29, 2019. The zoning change and associated changes to potential development within the affected area of the Harbor were considered in the development of the Plan.

The Plan was submitted by the Town to EEA on July 27, 2020. CZM published a notice of public hearing and 30-day opportunity to comment in the *Environmental Monitor* dated August 20, 2020. A public hearing held virtually using Zoom on September 3, 2020 provided an opportunity for oral comments. No oral testimony was received at this hearing. I received one written comment letter from the Conservation Law Foundation (CLF) within the public comment period which closed on September 9, 2020. CLF expressed support for the approval of the MHP and sought to ensure the proposed alteration to standards for the water-dependent use zone (WDUZ) is sufficiently clear. The consultation period ended on November 8, 2020. The Municipal Harbor Planning review and consultation process, led by EEA and CZM, included consultation among CZM, DEP, and the Town. Discussions resulted in clarifications to the delineation of the HPA, modifications to the proposed Chapter 91 substitute standards, and adjustments to the process for prioritizing and pursuing implementation action items.

MHPs vary depending on the municipality and the planning area. In the case of the proposed Plan, the Town sought to balance an overarching vision for the Harbor and waterfront area, address multiple uses from a diverse group of stakeholders, incorporate development-specific guidance for redevelopment within the HVBOD and develop an implementation plan composed of specific actions to achieve the vision and goals of the Plan. The Harbor Governance section of the Plan provides a detailed discussion of the local, state and federal jurisdictions that are relevant to the implementation of the recommendations and associated action items within the Plan. The overarching implementation of the Plan, which was developed through guidance from the NTP and a robust public engagement process, is an integral function of this Decision along with the Plan's consistency with these other relevant authorities, their associated jurisdictions and regulations, and the purview afforded by their review and permitting functions.





**Figure 2. Harbor Village Business Overlay District (HVBOD)**

## II. PLAN CONTENT

The Harbor Planning Area (HPA) encompassed by the Plan includes almost 1.3 miles of Cohasset's waterfront extending from White Head Island to the area of Bailey Creek. (Figure 1) with a mosaic of upland, waterfront and watershed areas totaling approximately 94.82 acres. Of this area, 43.36 acres is within Chapter 91 jurisdiction and 51.46 acres is outside Chapter 91 jurisdiction. The HPA does not include any land or water within a Designated Port Area; however, it includes multiple areas of commercial and recreational boat use at the Cohasset Yacht Club, Town Pier, Town Landing/Lawrence Wharf, Fisherman's Wharf at Government Island, Cohasset Maritime Institute, Cohasset Harbor Marina and the Parker Avenue Boat Ramp. Uses within the HPA are a mix of hotel, restaurant, residential, office, parking, mixed-uses, lobster pound, educational, and publicly accessible space. Prominent features along the shoreline within the HPA include the Cohasset Harbor Inn, the Veterans Memorial, Olde Salt House restaurant, Atlantica restaurant, and the Lightkeeper's House on Government Island. The Plan notes that although only 3.4% of the Town's total shoreline is publicly owned, a larger portion of the shoreline in the Harbor is publicly owned with the remainder being in private and commercial ownership. Strategies for increased public access to the water, to fully realize the potential afforded by this public ownership of waterfront land in the Harbor, are one of the benefits of the Plan.

The Town began a pre-planning process in July 2017 when the Board of Selectmen appointed an 11-member Harbor Committee "Committee". The Committee convened an initial planning meeting at which a goal statement and a corresponding "issue analysis" for the Harbor was developed. These were used to identify 10 overarching goals to guide the planning process: 1) support the Cohasset Commercial Fishing Fleet; 2) support public use of and access to the Harbor, including, but not limited to, recreational boating; 3) identify and plan for appropriate improvements to landside and waterside infrastructure; 4) support public use of the Harbor, including support for those town and civic organizations that enable such use; 5) improve the geographical relationship between the Village and the Harbor; 6) identify and improve commercial landside and waterside commercial activity; 7) integrate and improve Harbor management and uses; 8) identify and address improvements to ecosystem and environmental issues; 9) provide recommendations for a recurring dredging plan (areas, frequency, type of dredging project, potential funding sources); and 10) provide an action plan and steps to implement the Plan recommendations, identifying responsible entities, the timeline, and potential funding sources. These overarching goals acknowledge the diversity of stakeholders within the HPA and the need to provide for and balance needs through enhancement

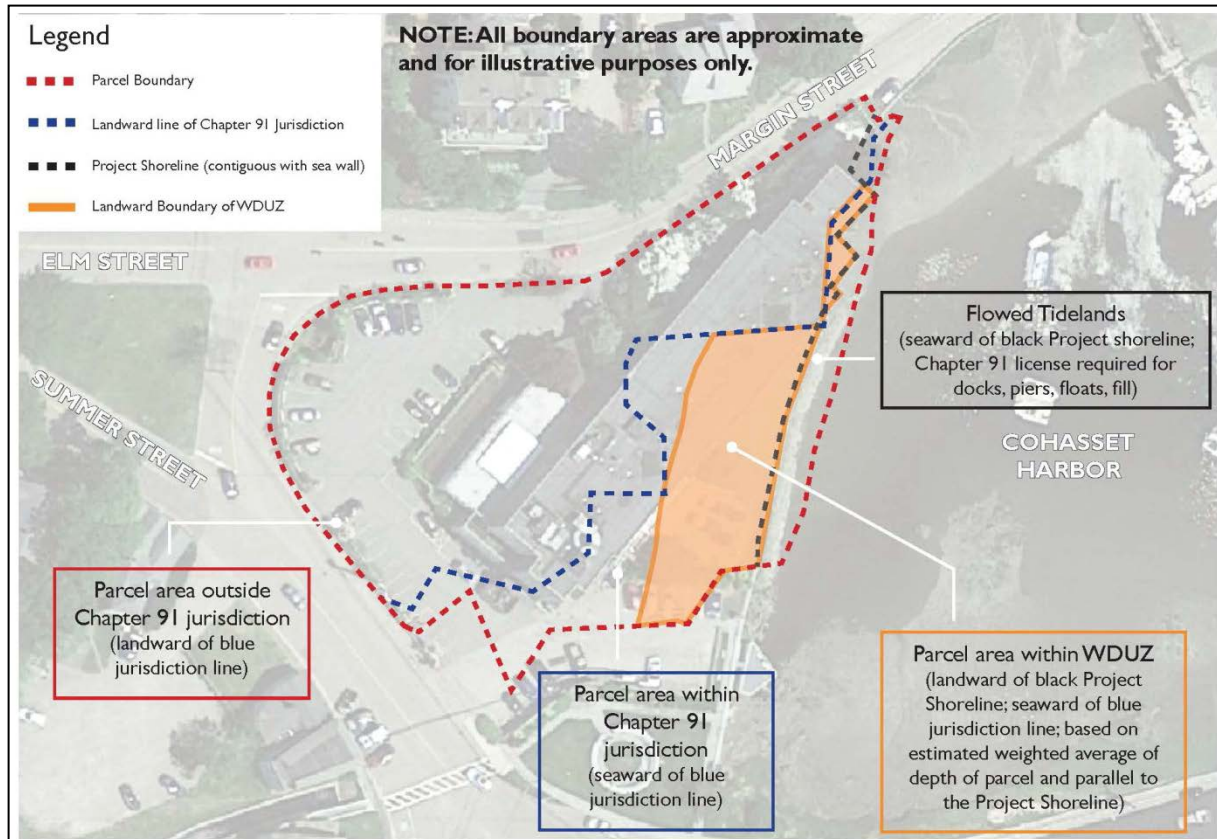
of the land, the water, and the edge in-between to support enjoyment of the harbor for all ages, interests, and abilities. In evaluation of these considerations, the Plan is divided into four sections: Harbor Governance; Watersheet; Edges; and Land. Each section of the Plan identifies and describes relevant issues and provides associated overarching or macro-level recommendations. The Plan implements these recommendations by thinking holistically about opportunities to improve the public realm, watersheet, and activation of the waterfront, while balancing user needs through specific actions items. This framework was developed and refined through a robust and inclusive public participation process.

In addition, through the MVP process the Town took a high-level look at the potential impacts of climate change including an assessment of the anticipated increase in the number of days over 90 degrees Fahrenheit, increase in the frequency and severity of precipitation events, and changes to tidal and storm flooding frequency and intensity. Since the completion of the MVP planning process, the Town advanced local climate resilience knowledge through initiatives such as the Storm Tide Pathways initiative (in partnership with the Town of Scituate) and by conducting further analysis of the impacts of sea level rise and associated shifting patterns of flooding days for a variety of sea level rise scenarios and temporal planning horizons. Future climate conditions are critical planning considerations for the resiliency of the Harbor and are reflected in the Edges section of the Plan through overarching planning recommendations and associated actions. Examples include conducting an in-depth investigation of the breakwater and design improvements that take into consideration existing overtopping during storms and projections of sea level rise as well as undertaking a hazard mitigation plan to integrate the findings from the MVP planning process and this Plan into an implementation plan that addresses resilience for the entire Town.

During the preparation of the Plan, a development team purchased a number of properties significant to the Harbor including the Cohasset Harbor Inn, the Atlantica, and Olde Salt House. Anticipating development on these sites and in order to ensure that municipal zoning was consistent with the evolving goals, vision and recommendations of the Plan, the Town proceeded with a parallel zoning change process for a sub-section of the HPA that encompassed the Cohasset Harbor Inn. The Plan details the zoning process through which the HVBOD was developed and approved by Town Meeting on April 29, 2019. Key elements of the HVBOD as they relate to the Plan include: a view corridor that extends from Elm Street to the Harbor, a 25-foot setback from the waterfront to allow for the water-dependent uses required by Chapter 91 (Figure 3), a pedestrian access network linking the waterfront to public rights-of-way, and a mix of publicly accessible



ground floor uses along the waterfront, Summer Street, and Border Street, and provisions for residential uses to support adjacent commercial activity and public access.



**Figure 3. Harbor Village Business Overlay District with Chapter 91 Jurisdictional Tidelands**

Within a larger context, the Plan illustrates that the Harbor area does not exist in isolation, that Elm Street provides a vital connection between the Harbor and the Village, but acknowledges that creating a connection between the Harbor and Village has historically been challenging. The Plan discusses previous planning initiatives that have evaluated these issues and reconsiders them within the context of the Plan. The Plan offers a number of potential actions that could be implemented to strengthen the connection between the Harbor and Village including wayfinding signage, informational signage, streetscape improvements to promote pedestrian traffic to and around the Harbor, and providing a viewshed corridor from Elm Street to the Harbor.



### **III. STANDARDS FOR APPROVAL**

As noted previously, my approval today is bounded by the authority and standards as contained in 301 CMR 23.00 et seq. (Review and Approval of MHPs) and is applicable only to those elements of the Waterways regulations that are specifically noted in this Decision. This Decision does not supersede separate regulatory review requirements for any activity.

#### **A. Consistency with CZM Program Policies and Management Principles**

The federally-approved CZM Program Plan establishes 20 enforceable program policies and nine management principles which embody coastal policy for the Commonwealth of Massachusetts. The following is a summary of the Policies and Management Principles applicable to the Plan area:

- Coastal Hazards Policy #1 – Preserve, protect, restore, and enhance the beneficial functions of storm damage prevention and flood control provided by natural coastal landforms, such as dunes, beaches, barrier beaches, coastal banks, land subject to coastal storm flowage, salt marshes, and land under the ocean.
- Coastal Hazards Policy #2 – Ensure construction in water bodies and contiguous land area will minimize interference with water circulation and sediment transport. Approve permits for flood or erosion control projects only when it has been determined that there will be no significant adverse effects on the project site or adjacent or downcoast areas.
- Coastal Hazards Policy #3 – Ensure that state and federally funded public works projects proposed for location within the coastal zone will:
  - Not exacerbate existing hazards or damage natural buffers or other natural resources.
  - Be reasonably safe from flood and erosion-related damage.
  - Not promote growth and development in hazard-prone or buffer areas, especially in velocity zones and Areas of Critical Environmental Concern.
  - Not be used on Coastal Barrier Resource Units for new or substantial reconstruction of structures in a manner inconsistent with the Coastal Barrier Resource/Improvement Acts.
- Energy Management Principle #2 – Encourage energy conservation and the use of alternative sources such as solar and wind power in order to assist in meeting the energy needs of the Commonwealth.

- Growth Management Policy #1 – Encourage sustainable development that is consistent with state, regional, and local plans and supports the quality and character of the community.
- Growth Management Policy #2 – Ensure that state and federally funded infrastructure projects in the coastal zone primarily serve existing developed areas, assigning highest priority to projects that meet the needs of urban and community development centers.
- Growth Management Policy #3 – Encourage the revitalization and enhancement of existing development centers in the coastal zone through technical assistance and financial support for residential, commercial, and industrial development.
- Habitat Policy #1 – Protect coastal, estuarine, and marine habitats—including salt marshes, shellfish beds, submerged aquatic vegetation, dunes, beaches, barrier beaches, banks, salt ponds, eelgrass beds, tidal flats, rocky shores, bays, sounds, and other ocean habitats—and coastal freshwater streams, ponds, and wetlands to preserve critical wildlife habitat and other important functions and services including nutrient and sediment attenuation, wave and storm damage protection, and landform movement and processes
- Habitat Policy #2 – Advance the restoration of degraded or former habitats in coastal and marine areas.
- Ocean Recourses Policy #1 – Support the development of sustainable aquaculture, both for commercial and enhancement (public shellfish stocking) purposes. Ensure that the review process regulating aquaculture facility sites (and access routes to those areas) protects significant ecological resources (salt marshes, dunes, beaches, barrier beaches, and salt ponds) and minimizes adverse effects on the coastal and marine environment and other water-dependent uses.
- Ports and Harbors Policy #1 – Ensure that dredging and disposal of dredged material minimize adverse effects on water quality, physical processes, marine productivity, and public health and take full advantage of opportunities for beneficial re-use.
- Ports and Harbors Policy #2 – Obtain the widest possible public benefit from channel dredging and ensure that Designated Port Areas and developed harbors are given highest priority in the allocation of resources.
- Ports and Harbors Policy #4 – For development on tidelands and other coastal waterways, preserve and enhance the immediate waterfront for vessel-related activities

that require sufficient space and suitable facilities along the water's edge for operational purposes.

- Ports and Harbors Policy #5 – Encourage, through technical and financial assistance, expansion of water-dependent uses in Designated Port Areas and developed harbors, re-development of urban waterfronts, and expansion of physical and visual access.
- Protected Areas Policy #3 – Ensure that proposed developments in or near designated or registered historic places respect the preservation intent of the designation and that potential adverse effects are minimized.
- Public Access Policy #1 – Ensure that development (both water-dependent or nonwater-dependent) of coastal sites subject to state waterways regulation will promote general public use and enjoyment of the water's edge, to an extent commensurate with the Commonwealth's interests in flowed and filled tidelands under the Public Trust Doctrine.
- Public Access Policy #2 – Improve public access to existing coastal recreation facilities and alleviate auto traffic and parking problems through improvements in public transportation and trail links (land- or water-based) to other nearby facilities. Increase capacity of existing recreation areas by facilitating multiple use and by improving management, maintenance, and public support facilities. Ensure that the adverse impacts of developments proposed near existing public access and recreation sites are minimized.
- Public Access Policy #3 – Expand existing recreation facilities and acquire and develop new public areas for coastal recreational activities, giving highest priority to regions of high need or limited site availability. Provide technical assistance to developers of both public and private recreation facilities and sites that increase public access to the shoreline to ensure that both transportation access and the recreation facilities are compatible with social and environmental characteristics of surrounding communities.
- Water Quality Policy #1 – Ensure that point-source discharges and withdrawals in or affecting the coastal zone do not compromise water quality standards and protect designated uses and other interests.
- Water Quality Policy #2 – Ensure the implementation of nonpoint source pollution controls to promote the attainment of water quality standards and protect designated uses and other interests.

- Water Quality Policy #3 – Ensure that subsurface waste discharges conform to applicable standards, including the siting, construction, and maintenance requirements for on-site wastewater disposal systems, water quality standards, established Total Maximum Daily Load limits, and prohibitions on facilities in high-hazard areas.

The Plan, through use of a matrix that ties the implementation plan recommendations to the corresponding CZM Program Policies, includes an assessment of how it is consistent with CZM Program Policies and Management Principles, and based on CZM's review, I conclude that it meets the intent of each relevant policy and, as required by 301 CMR 23.05(1), I find the Plan consistent with CZM policies.

## **B. Consistency with Tidelands Policy Objectives**

As required by 301 CMR 23.05(2), I must also find that the Plan is consistent with state tidelands policy objectives and associated regulatory principles set forth in the Waterways regulations of DEP (310 CMR 9.00). As promulgated, the Waterways regulations provide a uniform statewide framework for regulating tidelands projects. MHPs and associated amendments provide cities and towns with an opportunity to propose modifications to these uniform standards through either the amplification of the discretionary requirements of the Waterways regulations and/or the adoption of provisions that, if approved, are intended to amplify or substitute for the minimum use limitations or numerical standards of 310 CMR 9.00 by DEP. The substitute provisions of MHPs can reflect local planning goals in decisions involving the complex balancing of public rights in and private uses of tidelands, and serve as the basis for a DEP waiver of specific use limitations and numerical standards affecting nonwater-dependent use projects, provided that other requirements are in place to mitigate, compensate, or otherwise offset adverse effects on water-related public interests.

The Plan contains guidance that will have a direct bearing on DEP licensing decisions within the HPA. Included in this guidance are provisions that are intended to substitute for certain minimum use limitation and numerical standards in the regulations. It is anticipated that DEP will review any specific project proposals submitted for licensure in accordance with all applicable regulations and standards. The substitute provisions are each subject to the approval criteria under 301 CMR 23.05(2), as explained below.

### **C. Evaluation of Requested Substitute Provisions**

The general framework for evaluating all proposed substitute provisions to the Waterways requirements is established in the MHP regulations at 301 CMR 23.05(2)(c) and 301 CMR 23.05(2)(d). The regulations, in effect, set forth a two-part standard that must be applied individually to each proposed substitution to ensure that the intent of the Waterways requirements with respect to public rights in tidelands is preserved.

For the first part, in accordance with 301 CMR 23.05(2)(c), there can be no change to a Waterways requirement unless the Secretary determines that the requested alternative requirements or limitations ensure that certain conditions—specifically applicable to each minimum use limitation or numerical standard—have been met. The second standard, as specified in 301 CMR 23.05(2)(d), requires that the municipality demonstrate that a proposed substitute provision will promote, with comparable or greater effectiveness, the appropriate state tidelands policy objective. A municipality may propose alternative use limitations or numerical standards that are less restrictive than the Waterways requirements as applied in individual cases, provided that the plan includes other requirements that, considering the balance of effects on an area-wide basis, will mitigate, compensate for, or otherwise offset adverse effects on tidelands-related public interests.

For substitute provisions relative to the minimum use and numerical standards of 310 CMR 9.51(3)(a)–(e), any proposal must ensure that nonwater-dependent uses do not unreasonably diminish the capacity of tidelands to accommodate water-dependent uses. Similarly, any substitute provision to 310 CMR 9.52(1)(b)(1), must ensure that nonwater-dependent projects on any tidelands devote a reasonable portion of such lands to water-dependent use, including public access in the exercise of public rights in such lands.

Table 1 at the end of this section contains a summary of the substitute provisions and offsetting measures contained in the Plan, as subject to and modified by this Decision.

#### **Height Standards and Related Impacts on Public Use or Access (310 CMR 9.51(3)(e))**

As part of the Plan, the Town requested an amplification to the Height Standards and Related Impacts on Public Use or Access (310 CMR 9.51(3)(e)). As a result of the consultation process between the Town, CZM and DEP and in order to more fully apply the goals of the Plan and the Town, it was agreed that the proposed amplification for Height Standards and Related Impacts on Public Use or Access (310 CMR 9.51(3)(e)) would more appropriately be proposed and

reviewed as a substitute provision to the relevant Waterways standard. As such, this element of the Plan will be evaluated as a proposed substitution to the height standards at 310 CMR 9.51(3)(e).

To approve any substitution provision to 310 CMR 9.51(3)(e), I must first determine that the Plan specifies alternative height limits and other requirements which ensure that, in general, such buildings for nonwater-dependent use will be relatively modest in size, in order that wind, shadow, and other conditions of the ground level environment will be conducive to water-dependent activity and public access associated therewith, as appropriate for the Harbor (301 CMR 23.05(2)(c)5.). Second, within the context of its Plan, the Town must demonstrate that the substitution provision will meet this objective with comparable or greater effectiveness (301 CMR 23.05(2)(d)). My determination relative to whether this provision promotes the tidelands policy with comparable or greater effectiveness conducted in accordance with the MHP regulatory guidance at 301 CMR 23.00 is discussed below.

In order to implement the vision expressed during the MHP and HVBOD planning processes, the Plan proposed a substitute provision for height which would require a maximum height of 35 feet above Base Flood Elevation for new or expanded buildings within the HVBOD. Applying baseline Waterways standards within the applicable portion of the HPA would result in allowable heights up to 55 feet for new or expanded buildings within 100 feet landward of the high-water mark. As such, the proposed substitution reduces allowable height by 20 feet from that permissible under baseline Waterways requirements. The proposed reduction in allowable height reflects municipal priorities which evolved during the development of the Plan, and recognizes the importance of viewsheds, sight-lines, visual access to the Harbor, and creating a more tangible link between the Harbor and the Village, as a way of conveying the public to and around the waterfront. This was an important consideration in the overall planning process and built on previous efforts to link two distinct planning areas of Cohasset.

The proposed reduction in maximum building height will significantly improve viewsheds and sight-lines to the water, improve the space for the ground-level environment and associated public access activities and is consistent with development characteristics of buildings in the surrounding area. The proposed height substitution ensures that buildings for non-water dependent use will be relatively modest in size and that the ground level environment will be more conducive to water-dependent activity and public access associated therewith, as appropriate for Cohasset Harbor. Impacts resulting from changes to height standards are typically assessed at the pedestrian level through minimizing and mitigating impacts from increased shade and wind. In this case, because the



proposed substitution will reduce allowable height in this area of the HPA, impacts to the pedestrian level environment as measured by shadow and wind will be less than development adhering to baseline Chapter 91 requirements.

Approval of the substitute provision for building height proposed in the Plan requires that I find that the details of the alternative provision will promote, with comparable or greater effectiveness, the applicable state tidelands policy objectives. As a result of my review, I find that the requested substitute provision meets this objective with comparable or greater effectiveness by improving the pedestrian environment and will enhanced water-dependent activity including public access to the waterfront, and will appropriately meet the objectives of 310 CMR 9.51(3)(e). I therefore approve this substitute provision with no further requirement for offset.

#### **Pedestrian Access Network (310 CMR 9.52(1)(b)1.)**

With the Plan, the Town also requested an amplification to the WDUZ Setback (310 CMR 9.51(3)(c)). The WDUZ amplification is requested to ensure consistency with the HVBOD and evolving priorities during the development of the Plan. The intention of this request is to maintain the first 25 feet landward of the Mean High Water mark free of any structures, including water-dependent structures, to foster open views to and along the water for the public, to maintain an open and uninterrupted pedestrian access way accessible to the public and that will connect to a public right-of-way and to a harbor-wide walkway. As a result of the consultation process between the Town, CZM and DEP and in order to more fully support the goals of the Plan and the Town, it was agreed that the proposed amplification for Pedestrian Access Network would more appropriately be proposed and reviewed as a substitution to the relevant waterways standard. As such, in order to more effectively meet the goals and objectives of the proposed amplification for Water-Dependent Use Zone Setbacks (310 CMR 9.51(3)(c)), this element of the Plan will be evaluated as a proposed substitution to Pedestrian Access Network (310 CMR 9.52(1)(b)1).

For substitutions governing the provision of a pedestrian access network, a minimum walkway width other than ten feet may be specified provided that the alternative width is appropriate given, among other things, the size and configuration of the WDUZ and the nature and extent of water-dependent activity and public uses that may be accommodated therein (310 CMR 23.05(2)(c)6.). In addition, the Plan must demonstrate that the proposed provision will meet this objective with comparable or greater effectiveness than the original provision (301 CMR 23.05(2)(d).). My determination relative to whether this provision promotes this tideland policy with

comparable or greater effectiveness conducted in accordance with the MHP regulatory guidance is discussed below.

Maintaining a reasonable portion of any tidelands associated with nonwater-dependent projects for water-dependent use is necessary to ensure the exercise of public rights on these lands, including public access. The Plan recognizes the importance of providing enhanced public waterfront access opportunities within the Cohasset Harbor area. Extensive public feedback during the HVBOD and Plan development processes identified the HVBOD area as a natural community focal point within the Harbor as it is functionally the gateway to the Harbor and hub linking the Harbor and the Village. The MHP planning process emphasized the need for enhanced public access and amenities to promote pedestrian use, open space, economic and recreational opportunities, and year-round attraction. In addition to enhancing waterfront access in this region of the HPA, this provision complements a priority within the Plan which is a harbor-wide pedestrian walkway. The Plan, in order to implement the vision expressed during the Plan and HVBOD planning processes, requests a provision that no building within the HVBOD may be constructed within 25 feet landward of the project shoreline. With this requested substitution a 25-foot wide area specifically intended for an unimpeded pedestrian walkway along the Harbor to promote increased connectivity, access, and enjoyment of this area will be implemented.

As a result of my review, I find that the Town has demonstrated that the proposed provision ensures that the alternative width is appropriate given, among other things, the size and configuration of the WDUZ and the nature and extent of water-dependent activity and public uses that may be accommodated therein, and that this modification ensures with greater effectiveness compared to the Waterways provision (310 CMR 9.51(3)(c)) that nonwater-dependent projects on tidelands will devote a reasonable portion of such lands to water-dependent use, including public access in the exercise of public rights in such lands. This substitute provision directly benefits the public through enhanced public access and water-dependent uses that may be accommodated along the waterfront, therefore, I approve this substitute provision with no further requirement for offset.

**Table 1. Summary of Substitute Provisions as modified by this Decision**

<b>Regulatory Provision</b>	<b>Chapter 91 Standard</b>	<b>Proposed Amplification</b>	<b>Approved Substitution</b>	<b>Approved Offsetting Measures</b>
310 CMR 9.51(3)(e): Height Standards and Related Impacts on Public Use or Access	New or expanded buildings for nonwater-dependent use shall not exceed 55 feet in height if located over the water or within 100 feet landward of the high water mark; at greater landward distances, the height of such buildings shall not exceed 55 feet plus ½ foot for every additional foot of separation from the high water mark.	New or expanded buildings may not exceed 35 feet in height above Base Flood Elevation within the HVB Overlay District.	New or expanded buildings shall not exceed 35 feet in height above Base Flood Elevation within the HVB Overlay District.	No offset is required because, no new or expanded non-water dependent buildings will be greater than the Waterways maximum numerical standard of 55 feet in height.
310 CMR 9.52(1)(b)1.: Pedestrian Access Network  Note: Proposed WDUZ Amplification is revised as Substitution for above listed regulatory provision.	A pedestrian access network of a kind and to a degree that is appropriate for the project site and the facility(ies) provided in 310 CMR 9.52(1)(a); at a minimum, such network shall consist of: 1. walkways and related facilities along the entire length of the water-dependent use zone; wherever feasible, such walkways shall be adjacent to the project shoreline and, except as otherwise provided in a municipal harbor plan, shall be no less than ten feet in width.	No building within the HVBOD may be constructed within 25 feet landward of the Project Shoreline.	Walkways within the HVBOD shall be along the entire length of the water-dependent use zone adjacent to the project shoreline and shall be no less than 25 feet in width.	No offset is required because, in all cases the waterfront walkway will be no less than the Waterways minimum numerical standard of 10 feet wide.

## **D. Implementation Strategies**

The provisions of this Plan as discussed above will be implemented through regulatory and environmental review, through municipal and grant funding mechanisms, and through additional stakeholder processes.

DEP's Chapter 91 licensing process under the Waterways regulations will implement the portions of this plan associated with redevelopment within the HVBOD and other development projects within Chapter 91 jurisdiction. Through the MEPA review process, project proponents will be required to evaluate alternatives, assess environmental impacts associated with proposed projects, and demonstrate how potential impacts are to be avoided, minimized, and mitigated. Public and agency comments received through the MEPA environmental review process will inform the evolution of the proposed developments at the Cohasset Harbor Inn and other potential projects in the HPA. As previously stated, the substitute standards in this Plan represent changes to building height and setback dimensional requirements, but do not indicate approval of a specific project or design.

The development of the Plan benefited greatly from a robust public engagement process that took a compressive approach to the planning process. The implementation section of the Plan employs this inclusive and cross-cutting approach towards realizing the enforceable components of the Plan. As envisioned in the Harbor Governance section of the Plan, Town officials and departments will have the primary responsibility for the implementation of the Plan with a detailed description of the Municipal Departments, Commissions, and Boards, along with their corresponding jurisdictions relevant to the Harbor. The Plan also recommends redefining the Harbor Committee's charge and including the many Harbor organizations as partners in implementation. More specific actions in the Plan which link back to the overarching planning goals were developed through detailed research by the consultant team, input from public workshops, interviews with stakeholders, Harbor Committee meeting discussions, and two public comments periods on draft Plans. Finally, the implementation section of the Plan divides the recommended action items into studies, policy changes, zoning changes, construction projects, public education and outreach and identifies potential funding sources for each of the individual actions. I commend the Town in the holistic, inter-disciplinary, and inclusive approach for the development of this Plan and strongly encourage the Town to continue this approach throughout implementation.

#### **IV. EFFECTIVE DATE AND TERM OF APPROVAL**

This Decision shall take effect immediately upon issuance on November 25, 2020. As requested by the Town of Cohasset, the Municipal Harbor Plan Decision shall expire ten years from this effective date unless a renewal request is filed prior to that date in accordance with the procedural provisions of 301 CMR 23.06. No later than six months prior to such expiration date, in addition to the notice from the Secretary to the Town required under 301 CMR 23.06(2)(b), the Town shall notify the Secretary in writing of its intent to request a renewal and shall submit therewith a review of implementation experience relative to the promotion of state tidelands policy objectives.

#### **V. STATEMENT OF APPROVAL**

Based on the planning information and public comment submitted to me pursuant to 301 CMR 23.04 and evaluated herein pursuant to the standards set forth in 301 CMR 23.05, I hereby approve the Town of Cohasset Municipal Harbor Plan and supplemental information filing according to the terms and obligations contained herein and subject to the following conditions:

1. DEP shall require that new or expanded buildings shall not exceed 35 feet in height above Base Flood Elevation within the HVBOD.
2. Walkways within the HVBOD shall be along the entire length of the water-dependent use zone adjacent to the project shoreline, shall not include any structures and shall be no less than 25 feet in width.
3. The Town shall prepare a final, approved Town of Cohasset Municipal Harbor Plan (“Approved Plan”) to include:
  - The Plan dated July, 2020;
  - Supplemental materials regarding the delineation of the HPA and associated jurisdictional resource areas submitted during the consultation session; and
  - This Approval Decision.

Copies of the final Approved Plan shall be provided to CZM and DEP’s Waterways Program, kept on file at the Town of Cohasset, and made available to the public through the Town’s website and copies at the public library. For Chapter 91 Waterways licensing purposes pursuant to 310 CMR 9.34(2), the Approved Plan shall not be construed to include any of the following:

1. Any subsequent addition, deletion, or other revision to the final Approved Plan, except as may be authorized in writing by the Secretary as a modification unrelated to the approval standards of 301 CMR 23.05 or as a plan amendment in accordance with 301 CMR 23.06(1);
2. Any provision which, as applied to the project-specific circumstances of an individual license application, is determined by DEP to be inconsistent with the Waterways regulations at 310 CMR 9.00 or with any qualification, limitation, or condition stated in this Approval Decision.

This Decision and the Approved Plan do not supersede separate regulatory review requirements for any activity.

In a letter dated November 25, 2020 the DEP Waterways Program Chief has expressed support for approval of the Plan and stated that in accordance with the provisions of 310 CMR 9.34(2), DEP will require conformance with any applicable provisions of the approved Plan in the case of all Waterways license applications submitted subsequent to the Plan's effective date. It will apply as well to all pending applications for which no public hearing has occurred or where the required public comment period has not expired by the effective date of the approved Plan.



*K. Theoharides*

---

Kathleen A. Theoharides  
Secretary of Energy and Environmental Affairs

November 25, 2020

---

Date



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Kathleen A. Theoharides  
Secretary

Martin Suuberg  
Commissioner

November 25, 2020

Kathleen A. Theoharides, Secretary  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street  
Boston, MA 02114

RE: DEP Recommendation Approval  
Town of Cohasset Municipal Harbor Plan - July 2020

Dear Secretary Theoharides:

The Department of Environmental Protection, Waterways Regulation Program ("the Department") has reviewed the Town of Cohasset's Municipal Harbor Plan ("the Plan") dated July 2020. The Department's staff have worked closely with the Massachusetts Office of Coastal Zone Management (CZM) and representatives of the Town of Cohasset throughout the planning process and consultation period. The Department has reviewed the proposed Substitute Provisions and Amplification Provisions as included in the Decision and recommends that you approve these regulatory provisions and make a finding that they are consistent with state tidelands policy objectives, as required by 301 CMR 23.05(3).

The Department will adopt as binding guidance in all License application review any Substitution Provisions contained in the Secretary's final Decision on the Plan. The Plan lays out Substitutions that will adequately meet or exceed the protected interests pursuant to 310 CMR 9.00. The Substitutions contained in the Plan will modify the standards pursuant to: 310 CMR 9.52(1)(b)(1), which governs pedestrian access networks and 310 CMR 9.51(3)(e), which governs the allowable heights of nonwater-dependent buildings based on their distance from the high-water mark.

In accordance with the provisions of 310 CMR 9.34(2), the Department will require conformance with any applicable provision of the approved Plan for all waterways license applications submitted subsequent to the Plan's effective date and within the geographic scope of the Plan. It will apply as well to all pending applications for which no public

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.  
TTY# MassRelay Service 1-800-439-2370  
MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

Printed on Recycled Paper

DEP Recommendation Approval  
Town of Cohasset Municipal Harbor Plan - July 2020  
November 25, 2020

hearing has occurred or where the required public comment period has not expired by the effective date of the Decision.

The Department looks forward to continuing its work with CZM and the representatives of the Town of Cohasset in the implementation of this important planning effort. Should you have any questions regarding the foregoing, please contact me at [Daniel.Padien@mass.gov](mailto:Daniel.Padien@mass.gov) or (617) 292-5615. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel Padien", with a stylized flourish at the end.

Daniel J. Padien  
Program Chief  
Waterways Regulation Program

cc: Christopher G. Senior, Cohasset Town Manager  
Lauren Lind, Cohasset Planning Director  
Lisa Berry Engler, CZM