

The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Charles D. Baker
GOVERNOR

Karyn E. Polito
LIEUTENANT GOVERNOR

Matthew A. Beaton
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1081
<http://www.mass.gov/envir>

December 21, 2016

Mr. James M. Cowdell, Executive Director
Economic Development & Industrial Corporation of Lynn
Lynn City Hall
3 City Hall Square, Room 307
Lynn, MA 01901

Dear Mr. Cowdell:

The Executive Office of Energy and Environmental Affairs (EEA) has received the City of Lynn's ("City") request for a clarification of the lot coverage/open space substitution granted in the Secretary's June 28, 2010 Decision on the Lynn Municipal Harbor Plan and Designated Port Area Master Plan ("Decision"). The request was noticed in the *Environmental Monitor* on November 23, 2016, for a public comment period that ended on December 9, 2016.

The purpose of the Commonwealth's Municipal Harbor Planning program is to allow for cities or towns to develop local objectives, standards, and policies for guiding public and private utilization of land and water within Chapter 91 jurisdiction. Municipal Harbor Plans (MHP) may contain siting and design criteria for projects on the waterfront and off-setting and mitigation elements that when approved by the state, serve as substitute provisions for Chapter 91 licensing decisions.

A principle objective of the Lynn Municipal Harbor Plan and Designated Port Area Master Plan ("MHP/DPA Plan") was to improve public access and create meaningful public spaces, including several large municipal parks, and a continuous public promenade along Lynn Harbor, as well as to promote development consistent with the vision of the City's Waterfront Master Plan, which was developed with significant public input. In the Decision, the approved open space substitution was found to further these goals by allowing significantly denser development of a project site within tidelands jurisdiction, provided the increase in nonwater-dependent uses would be

offset by areas of open space greater than that required under the Waterways regulations. Based on years of work developing the Lynn Waterfront Master Plan, the City's MHP/DPA Plan specifically identified the areas to be targeted for the open space substitution requested. In affirming this arrangement, the Decision states that "In the application of the open space substitution for the Chapter 91 standards at 310 CMR 9.51(3)(d), DEP shall ensure that the sites used for the enhanced open space areas are located within areas delineated as 'Parks and Promenades' in Figure 9 of the Plan." Figure 9 of the City's MHP/DPA Plan shows the specific locations of public open space, parks, and promenades.

The City's request for clarification provides information and context on the evolution of the City's open space planning and discusses a specific project (Minco development) that is located in part of an area designated in the MHP/DPA Plan as the location of the "Lynn Waterfront Signature Park", a major open space area identified, as a result of significant public input, in both the Waterfront Master Plan and the MHP/DPA Plan as a key component for the redevelopment of the waterfront. The City's request states that the Minco development project does not need the lot coverage/open space substitution in the MHP/DPA Plan and meets the baseline requirements of the Chapter 91 Waterways regulations (310 CMR 9.00).

I received fourteen comment letters during the public comment period for this clarification. Most of the comments expressed concern about the City's adherence to the open space and development objectives described in these two documents, and the perceived discrepancies between the current development proposal and the City's plans for the waterfront. Comments also raised concerns with the need for public input regarding the changes to the open space priorities laid out in these plans. Comments from the state legislative delegation for Lynn expressed strong support for both the development—provided the project is in compliance with Chapter 91 standards—and the new efforts to develop an updated Lynn Waterfront Open Space Master Plan.

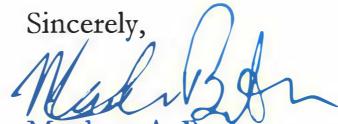
After my review of the City's request, the MHP/DPA Plan, and the Decision, I concur that as proposed the Minco development appears eligible to be reviewed under the standards in the Chapter 91 Waterways regulations (310 CMR 9.00) without any MHP/DPA Plan substitutions for greater density/lot coverage and associated open space. Provided that the Minco project can be properly licensed under Chapter 91, through this clarification I find that the location of the Minco development project may be sited within a portion of the open space area depicted in the approved MHP/DPA Plan without in itself being in conflict with the Decision. Because the Minco development project has repercussions for other development activity and its required open space, the City will have to address this issue before any additional development projects seeking the flexibility of the MHP/DPA Plan's approved substitutions can be licensed. Specifically, in order to take advantage of a lot coverage/open space substitution, the City must first undertake and complete the development of the new Lynn Waterfront Open Space Master Plan. I expect that the updated Waterfront Open Space Master Plan will better define the City's vision for open space along the waterfront, providing greater detail on feasibility and implementation. The planning effort will also include important specifics on managing and integrating the Commonwealth's recreational assets abutting, and/or in the vicinity of, the Lynn Harbor waterfront. This effort, in cooperation with EEA and the Massachusetts Department of Conservation and Recreation, shall include a more refined layout and organization of open spaces, based on a program of specific uses and circulation requirements. Central to this open space master planning effort will be the consideration of appropriate alternative designs and layouts for the public spaces to be created along the Lynn Harbor waterfront, with details on implementation strategies to ensure the areas identified as open

space and other aspects of the plan are realized. I expect that the City's efforts on the Waterfront Open Space Master Plan will include a robust public input and stakeholder engagement process.

As I anticipate that these layouts are likely to differ from those depicted in the Secretary's Decision, upon completion of the Lynn Waterfront Open Space Master Plan, the City must prepare, with extensive public input, an amended MHP, incorporating the findings of the open space master plan and all modifications to the City's goals and objectives for the development of its waterfront which have evolved since the approval of the MHP in 2010, and specifying the implementation commitments it intends to undertake to assure the success of the amended Plan.

Please note that this clarification applies only to the lot coverage/open space substitution summarized in condition #2 of the Decision, and the other conditions of the Decision shall remain in effect.

This clarification will be noticed in the December 21 *Environmental Monitor*. If you have any questions please do not hesitate to contact Kathryn Glenn, North Shore Regional Coordinator in my Office of Coastal Zone Management, at 978-281-3972.

Sincerely,

Matthew A. Beaton
Secretary

Cc: Ned Bartlett, Undersecretary, EEA
Bruce Carlisle, Director, CZM
Brad Washburn, Assistant Director, CZM
Kathryn Glenn, North Shore Regional Coordinator, CZM
Gary Moran, Deputy Commissioner, MassDEP
Ben Lynch, Chief, Waterways Regulation Program, MassDEP