

**Designation Decision
for the
Beverly Harbor Designated Port Area**

**Executive Office of Energy and Environmental Affairs
Office of Coastal Zone Management
April 6, 2015**

I. Introduction

Pursuant to the Designated Port Area (DPA) regulations at 301 CMR 25.00, today, as Director of the Office of Coastal Zone Management (CZM), I hereby issue this designation decision for the boundary review of the Beverly Harbor DPA. This decision affirms the findings and proposed DPA boundary modifications in CZM's January 5, 2015 designation report, *Boundary Review of the Beverly Harbor Designated Port Area*, and its issuance concludes the review and decision-making process, as described below.

In April 2014, the Mayor of Beverly formally requested that CZM initiate a review of the entire boundary of the Beverly Harbor DPA. CZM accepted the request in April 2014, and notices of the review were published in the *Environmental Monitor* and the *Salem News* on May 7, 2014. A public meeting was held on May 15, 2014 in Beverly City Hall, and the formal public comment period closed on June 6, 2014. A detailed boundary review designation report was issued on January 5, 2015. The report concluded with the finding that the Beverly Harbor DPA designation should be removed in its entirety. Pursuant to 301 CMR 25.03(4), the commencement of a 30-day comment period was noticed in the January 7, 2015 *Environmental Monitor* and a public hearing was held on January 22, 2015. Eight people provided oral testimony at the public hearing, and CZM received one comment letter, supporting the findings of the designation report, during the public comment period.

This designation decision summarizes the public comment received and formally removes the DPA designation for Beverly Harbor. I have carefully considered all of the oral and written comments received in response to the boundary review report. I want to recognize the time and effort taken by those who provided comments and thank you for the valuable input you have provided in this boundary review process.

II. Summary of Boundary Review Designation Report

As detailed in the boundary review designation report, CZM defined three planning units within the existing Beverly Harbor DPA that formed coherent areas with groups of parcels that are delineated by shared physical, geographical, and land use characteristics. These planning units were sized and configured in a manner that allowed for consideration of all relevant factors affecting overall suitability to accommodate water dependent industrial use.

Pursuant to the criteria at 301 CMR 25.03(2), certain areas within the DPA may not be eligible for review. Based on a thorough assessment, each of the three planning units were determined to meet all of the criteria for eligibility for review, and therefore all were further analyzed for substantial conformance with the criteria governing suitability to accommodate water-dependent industrial use.

The DPA regulations direct that an area of land or water reviewed under 301 CMR 25.00 shall be included or remain in a DPA if and only if CZM finds that the area is in substantial conformance with each of the criteria governing suitability to accommodate water-dependent industrial use. As detailed in the boundary designation report, CZM determined that the Central Waterfront, Tuck Point, and Silver Court planning units are dominated by residential or non-industrial buildings that in many cases existed in this area before the establishment of the DPA, and have not been removed or converted to industrial use to date. The predominant uses here, including residential, recreational boating facilities, and public recreational areas, are largely incompatible with activities characteristic of water dependent industry, because of the inherent functional conflicts and destabilization that may arise. Therefore, CZM found that these planning units did not meet the criteria for inclusion in a DPA boundary as required by 301 CMR 25.04(2)(d). CZM also concluded that a substantial portion of the Silver Court planning unit does not include, and is not contiguous with other DPA lands that include, a shoreline that is developed adequately to establish a functional connection with the DPA waters such that water-dependent industrial use could be supported in this area. Furthermore, CZM found that the Silver Court planning area does not meet the criteria for road access and infrastructure necessary to support water-dependent industrial uses. Therefore, the Silver Court planning unit does not meet the criteria for inclusion in a DPA boundary as required by 301 CMR 25.04(2)(a) or 301 CMR 25.04(2)(b). As a result of this analysis, CZM concluded that these planning units should be removed from the Beverly Harbor DPA boundary. Finally, as the shoreline in these areas no longer establish a functional connection to a DPA land area, CZM found that the waterways adjacent to these areas did not meet the criteria for inclusion at 301 CMR 25.04(1) and concluded they should also be removed from the DPA. Therefore, as no part of the area reviewed was found to meet all of the criteria for inclusion in the DPA, the CZM DPA Boundary Report recommended removal of the Beverly Harbor DPA in its entirety.

III. Response to Comments on the Boundary Review Designation Report

The large majority of oral and written public comments received on the designation report were fully supportive of the process and the outcome of the analysis, and CZM did not receive any comments opposing the findings of the report. Some of the comment and discussion at the public hearing was focused on clarification of the boundary review process itself, while oral and written commenters noted that the findings would facilitate implementation of the City's master plan as well as the downtown strategic plan that is currently underway, and make the waterfront more vibrant and accessible to students and residents. Several commenters noted the importance of the ongoing effort to update the city's waterfront zoning, particularly to assure that the existing water-dependent users, particularly the fishing community, are not displaced as a result of the recommended removal of the DPA designation. CZM notes that, while most of the city's fishing fleet is located outside of the existing DPA boundary, the city established early in the DPA boundary review process that a main intent of the concurrent local zoning review and update was to assure that the existing commercial users would be protected from displacement. The mayor's

comments during the public hearing reiterated that the zoning process goal is to add new uses to the waterfront without displacing existing users, particularly commercial fishing interests. In addition, the Waterways regulations also include provisions to prevent displacement of existing water-dependent users. CZM looks forward to continuing to work with the City of Beverly to facilitate implementation of the city's waterfront goals.

IV. Designation Decision

In conclusion, effective today, I affirm the findings and proposed boundary modifications in CZM's January 5, 2015 designation report, and hereby determine that, pursuant to 301 CMR 25.03(5), the Beverly Harbor DPA shall be removed in its entirety.



Bruce K. Carlisle, Director