

2023 Salem Municipal Harbor Plan and Designated Port Area Master Plan

City of Salem, Massachusetts



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Acknowledgements

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1.0 Executive Summary

The 2023 Salem Municipal Harbor Plan and Designated Port Area Master Plan (“2023 Salem MHP” or “the Plan”) continues and updates the waterfront vision that Salem residents have worked on for over 25 years to create state-approved municipal harbor plans under 301 CMR 23. The 2023 Salem MHP continues previous successful strategies to redevelop specific sections of Salem’s waterfront with significantly improved public access and identifies new opportunities to expand public access along the North River. Perhaps most significantly, the 2023 Salem MHP charts a new course for the Salem Designated Port Area (DPA) that focuses on water-dependent industrial (WDI) uses and renewable energy, specifically offshore wind, with a series of guiding principles that have multiple community, environmental, and economic benefits. The 2023 Salem MHP and its six separate planning areas continues Salem’s goal to create a rich and varied waterfront that is welcoming, accessible, prosperous, and climate-resilient. At the same time, the 2023 Salem MHP integrates the strategies of each planning area into a comprehensive plan that underscores Salem’s rich maritime history and provides a gateway to an exciting future that is directly linked to its waterfront.

The original Salem MHP and DPA Master Plan was approved by the State on November 9, 2000. An amendment and renewal of the original MHP and DPA Master Plan was approved on June 24, 2008 (“2008 Salem MHP”). The 2023 Salem MHP builds upon past MHPs and their successes, and charts new territory for the industrial port and the North River area. The objectives, recommendations, and implementation strategy for the 2023 Salem MHP are based: on extensive economic research; public meetings and outreach; collaborations with Salem businesses, academic institutions, and nonprofits; and support from the City of Salem’s state and federal partners. The entire effort has been guided and informed by the Salem Harbor Planning Committee and the hundreds of Salem residents and community members who participated in numerous public meetings and online visioning exercises.

The goal of this Harbor Plan update is to build off Salem’s past waterfront success and establish a shared vision for the future of Salem Harbor that is consistent with the guiding principles of Imagine Salem, the community visioning process for what Salem will look and feel like in 2026, the City’s 400th anniversary. Through a robust community driven visioning process, the Plan will work to protect and enhance the economic, environmental, historic and cultural resources related to Salem Harbor and the North River, and will strive to achieve a balance between the residential and business needs of the adjacent neighborhoods, opportunities for the entire city, and the value of the Port of Salem (the “Port”) as a regional economic resource. The Plan will guide the future use of key development areas in Salem, specifically along the North River and within the Port.

Perhaps no portion of the Salem waterfront has undergone as significant a change since the 2008 Salem MHP as the City’s DPA. In 2008, the operation of the Salem Harbor Generating Station, with fuel supplied by ship to its waterfront wharfs, was envisioned as a continuing operation that would serve as the primary WDI use of the Salem DPA. However, within ten years, the Salem Harbor Generating Station had been dismantled and in its place was a cleaner, more efficient power plant, Salem Harbor Station, that no longer relied on fuel shipments by water and was therefore not considered a water-dependent industrial use under 310 CMR 9.12(2)(b). The new power plant was approved by the Massachusetts Department of Environmental Protection (MassDEP) through an Energy Facilities Siting Board (EFSB) decision including a Chapter 91 waterways variance, as provided in 310 CMR 9.21, on approximately 23 acres within the Salem DPA. This unlocked approximately 42 acres of land, then owned by Footprint Power, the developer of the new power plant, for potential reuse (referred to herein as “Lot 2”). The 2023 Salem DPA Master Plan provides a community vision on how this industrial port area can be reimaged for the 21st century as Salem continues its leadership position in maritime trade and industry. Specifically, the 2023 Salem DPA Master Plan seeks to enable the port to be developed to support the rapidly expanding offshore wind industry in a manner that is consistent with the goals and objectives of the city and surrounding neighborhoods.

The 2023 Salem MHP also expands its geographic coverage to the North River, from the area where Washington and Bridge Streets meet to Furlong Park on the north side of the North River. This part of Salem has also experienced significant change since the previous harbor plans, with recent residential, civic, and commercial development and a new MBTA commuter rail station and parking garage in 2014. The 2023 Salem MHP provides guidance for the development of the Crescent Lot (an approximately one-acre parking lot adjacent to the MBTA Commuter Rail Station) and lays the groundwork for improved pedestrian green space connecting Furlong Park, upstream areas of the North River, and the northern end of Downtown Salem.

For the other MHP planning areas, the 2023 Salem MHP continues the vision developed in the 2008 Salem MHP, including the Substitute Provisions and Offsets developed to tailor certain Chapter 91 Waterways provisions for nonwater-dependent uses to Salem’s unique environment. The 2023 Salem MHP describes the progress that has been made in each planning area, future planning efforts, and possible sources of funding to implement public improvements.

Of the five Substitute Provisions and Offsets that were included in the 2008 Salem MHP, four are continued in the 2023 Salem MHP and summarized in the table below:

Regulatory Provision	Applicable Location	Chapter 91 Standard	Substitution	Offset
310 CMR 9.51(3)(c): Water Dependent Use Zone (WDUZ)	Sub-Area A South Commercial Waterfront District (see figures 2,3)	Width of the WDUZ is the lesser of 100 feet or 25% of property depth from the present high water mark, but no less than 25 feet	Not continued	N/A
310 CMR 9.51(3)(c): Water Dependent Use Zone	Waterfront Complex site at Pickering Wharf, 23 Congress Street (see figure 4)	Width of the WDUZ is the lesser of 100 feet or 25% of property depth from the present high water mark, but no less than 25 feet.	Minimum width of WDUZ will be no less than 20 feet	Upgrade and maintain an off-site portion of Pickering Wharf, including widening to a clear 10 feet, enhancing it to make it consistent with existing design standards, and providing appropriate lighting. Create and maintain a “gateway” entrance to the Harborwalk at Congress Street Bridge

<p>310 CMR 9.51(3)(e): Building Height Commercial</p>	<p>Sub-Area A South Commercial Waterfront District (see figures 2,3)</p>	<p>For new or expanded non water-dependent use buildings, the height shall not exceed 55 feet within 100 feet of the high water mark nor increase by more than one-half foot for every additional foot beyond 100 feet.</p>	<p>Allow non water- dependent buildings up to a height of 70 feet to be consistent with the City of Salem Zoning requirements</p>	<p>Additional public open space on the site calculated by determining the new shadow cast at the ground level by the additional building mass during full sun conditions on October 23rd between 9 a.m. and 3 p.m.. No more than half the additional open space may be used for parking.</p>
<p>310 CMR 9.51(3)(e): Building Height</p>	<p>Waterfront Complex site at Pickering Wharf, 23 Congress Street (see figure 4)</p>	<p>For new or expanded non water-dependent use buildings, the height shall not exceed 55 feet within 100 feet of the high water mark nor increase by more than one-half foot for every additional foot beyond 100 feet</p>	<p>Allow non water- dependent buildings up to a height of 70 feet to be consistent with the City of Salem Zoning requirements.</p>	<p>Addition of ground- level public space in a “turret” portion of the new Harborwalk gateway adjacent to Congress Street. Additional landscaping and design elements to improve appearance and to screen gateway from the buildings loading/service areas. Construction of an observation platform on the southeast corner of Pickering Wharf.</p>

<p>310 CMR 9.52(1)(b)(1): Utilization of Shoreline for Water Dependent Purposes</p>	<p>South River Waterfront (all waterfront west of Congress Street and the waterfront of 23 Congress Street east of Congress Street) (see figure 5)</p>	<p>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 provided in a municipal harbor plan, shall be no less than 10 feet in width.</p>	<p>Require a dedicated 20-foot wide public walkway around the South River, of which a minimum of 10 feet shall be unobstructed pathway. The inland 10 feet may be used for landscaping and accessory amenities to enhance the general public's waterfront experience.</p>	<p>Minimum standard will be 20 feet, of which a minimum of 10 feet shall be unobstructed pathway. The substitution will result in a public waterfront walkway that will exceed the minimum numerical standard of 10-feet wide, which directly benefits the public through enhanced access. No additional offsetting benefit required.</p>
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The 2023 Salem MHP retains the successful components of the 2008 Salem MHP and updates and expands its scope to ensure that Salem's waterfront continues to be dynamic, connected, resilient, and accessible.

2.0 Salem Harbor Planning Area Description and Background

2.1 Salem Harbor Planning Area

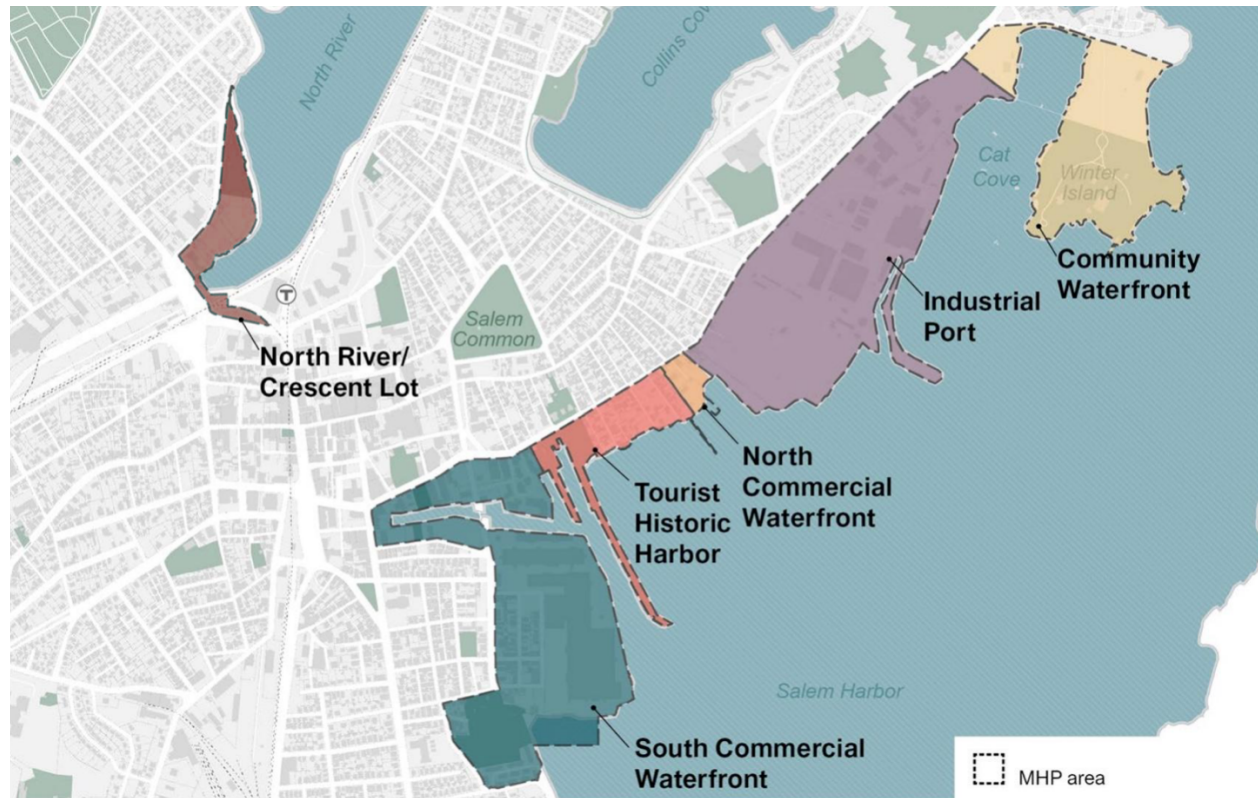


Figure 1. Salem Harbor Planning Area

The Harbor Planning Area encompasses the Salem shoreline and adjacent landside areas between Winter Island and Palmer Cove as well as landside areas along the North River from Furlong Park to North Street and across the river to the “Crescent Lot”. The upland boundary from Winter Island to Palmer Cove is defined by the public roadway closest to the water’s edge, which for most of the planning area is Derby Street and Fort Avenue. The upland boundary along the North River is defined by Franklin Street, North Street, and Bridge Street.

The overall Harbor Planning Area is divided into six districts as shown on figure 1 and defined below:

1. South Commercial Waterfront

This portion of the waterfront is adjacent to and on the waterside of the Point Neighborhood. It includes Pickering Wharf, the South River Basin (defined by Congress, Peabody, Lafayette and Derby Streets), Shetland Park, Palmer Cove Yacht Club and the Palmer Cove Playground out to the public streets immediately surrounding the playground.

2. Tourist Historic Harbor

The Tourist Historic Harbor centers around Derby Wharf and includes waterfront historic sites, such as the Salem Maritime National Historic Site and House of the Seven Gables. Landward, this district extends to Derby Street and the adjacent waterfront neighborhood.

3. North Commercial Waterfront

This part of the planning area extends from Hawthorne Cove Marina to the edge of Lot 2 and includes the ferry facilities and commercial marina of the Salem Wharf. The DPA extends into this planning district.

4. Industrial Port

Located at the end of the deep-water channel that leads into Salem Harbor, the Industrial Port encompasses the 42-acre Lot 2, the new Salem Harbor Station, the Deepwater Berth, the South Essex Sewage District Treatment Plant (“SESD”), and the Federal Channel. The DPA comprises most of this district with the exception of the SESD. The Industrial Port is located between the North Commercial Waterfront and the Community Waterfront.

5. Community Waterfront

This area occupies the northernmost portion of Salem Harbor and includes Cat Cove, Winter Island and Smith Pool. Winter Island is the largest recreational space on the inner harbor and is used for such activities as camping, picnicking and walking by residents and visitors alike. With its pier and boat ramp, it is also the site of numerous marine related activities mostly supporting recreational boats. Sharing the island with the public park and within this planning district is the Plummer Youth Promise. Bordering the Community Waterfront are the South Essex Sewage District treatment plant, the west end of the Salem Willows Park, the Winter Island neighborhood and Juniper Cove.

6. North River/Crescent Lot

This area comprises parcels northwest and southwest of the North River, including the Crescent Lot, an approximately one-acre 97 space parking lot adjacent to the MBTA Commuter Rail Station, and the lands across the river bounded by North Street and Franklin Street, up to and including Furlong Park.

While the Plan provides recommendations and guidance for the entire Harbor Planning area, the focus of this update to the Harbor Plan and the planning process itself are in the Industrial Port (Salem DPA), the North River/Crescent Lot, and the South Commercial Waterfront.

2.2 Salem Waterfront History

Within the city seal, the motto “Divitis Indiae usque ad ultimum sinum,” which translates to “To the farthest port of the rich east,” represents the rich and storied history of maritime commerce in the City of Salem. Commercially, Salem’s name has been known to the whole world, holding almost supremacy in commerce during the early part of the 19th century. Ships originating from Salem were pioneers in the East India trade and opened commerce with Africa, China, Russia, Japan, and Australia. By the mid-19th century, Salem’s primary imports shifted away from bulk cargoes, including spices, to coal that was transported from the harbor inland via rail. In the mid-20th century, a power plant was constructed along Salem Harbor within the area that would later be demarcated as Salem’s DPA. The power plant operated from 1951 through 2014 when the facility was decommissioned and replaced with the gas-fired Salem Harbor Station, a nonwater-dependent use, which no longer requires access to the water.

Concurrent with this critical change in commercial maritime activity in Salem, there have been changes in recreation and transportation in Salem, most of which were the product of prior harbor planning efforts. The planning initiative that produced the original Salem Harbor Plan was formally started in 1996 through a public process that served to identify key challenges for the plan to address.

In June 1997, the scope for the Salem Harbor Plan was completed and approved by the Secretary of the Executive Office for Energy and Environmental Affairs (“EEA”). The Salem Harbor Plan was developed by the Harbor Planning Committee during a yearlong process that officially began in January 1998. In preparing the Harbor Plan, the Harbor Planning Committee analyzed strategic project and policy alternatives which would frame future development decisions along the waterfront. This included an economic analysis of the feasibility of creating a new multi-use commercial maritime facility which was subsequently constructed and is now referred to as Salem Wharf.

The original Salem Harbor Plan was approved by the EEA in 2000 and served to guide waterfront development and public infrastructure projects in the harbor through 2006. At that time, Salem’s Mayor began the process of updating the plan by first appointing a new 16-member Harbor Plan Implementation Committee with continuity provided by several members who served on this committee in the 1990s when the original plan was created. A scope of work was developed and accepted by the State. In early 2007, the City selected a consultant team and initiated a revision to the 2000 Salem Harbor Plan. The revision was approved by the Secretary of the EEA in June 2008. The City has begun or completed implementing many of the port development recommendations set forth in these prior harbor plans including the construction of the majority of the Harborwalk and public park along the South River Basin, Salem Wharf, operation of a ferry service between Salem and Boston, upgrades to Winter Island including restoration of Fort Pickering and construction of a perimeter public pathway, and preliminary dredge design for the South River.

As the City approaches its 400th anniversary, it faces a generational opportunity to continue this great tradition and to reestablish the role of Salem’s historic port and its connection to the sea. The Harbor Planning process will serve as the primary vehicle for the City to establish a shared community vision for the future of Salem Harbor and its industrial port at this critical juncture, and the plan itself will function as the tool for implementing that vision. Along the North River, the Harbor Plan will seek to strengthen the pedestrian connection between North Salem and Downtown and to build upon past efforts to restore the City’s connection to the waterfront.

2.3 Recent Planning Efforts

Since the 2008 Salem MHP, the City has undertaken a number of local planning efforts to help shape development priorities and steer local decision making. Provided below is a list of relevant plans and a summary of key objectives of the plan:

1. Salem Winter Island Park Master Plan and Summary (2011)

Spurred by the recommendations of the 2008 Salem MHP, this plan establishes a long term vision for the park that can be achieved through a series of phased improvements and operational changes that will better fulfill the community’s goals to enhance the potential of the park as a civic and environmental resource.

2. Salem Public Art Master Plan (2013)

In recognition of the value that public art can bring to the cultural, aesthetic and economic vitality of the community, the City of Salem worked with numerous partners to develop a Public Art Master Plan that outlines recommendations for a basic administrative structure for Salem’s Public Art Initiative and potential public art opportunities.

3. Open Space and Recreation Plan Update (2015)

The Open Space and Recreation Plan update is a continuation of master planning reports and plans performed by the City in 1996 and 2007. This report represents a continuation of the

planning and foresight of the community in planning for the current and future needs of its parks and open spaces and reflects the community's commitment to enhancing the City through a comprehensive, and diverse fabric of recreational opportunities for its citizens.

4. Historic Preservation Plan Update (2015)

This Historic Preservation Plan Update seeks to serve as both an educational tool for fostering greater awareness and appreciation for Salem's historic resources and the role these buildings, structures, objects, landscapes, and burial sites play in visually defining the City's character and unique sense of place, and as a guidance document to prioritize local preservation efforts.

5. Salem For All Ages: An Age-Friendly Action Plan (2016)

The Salem For All Ages Action Plan focuses on supportive community and health services for all, civic engagement and participation, employment and volunteer opportunities, respect and social inclusion, appropriate housing in a range of affordability, vibrant outdoor spaces and public places, and effective, sensible transportation options.

6. Salem Climate Change Vulnerability Assessment and Action Plan (2016)

It is Salem's priority is to remain a vibrant, livable City that has a strong economy and continues to be a destination for visitors from around the world. For this reason, Salem recognizes the importance of being prepared for climate change and has produced this Climate Change Vulnerability Assessment and Adaptation Plan. The Plan investigates some of the most serious climate change impacts, the resulting stresses to different sectors in the City, and outlines project ideas to address some of the most critical issues.

7. Salem Bicycle Master Plan (2018)

The Salem Bicycle Master Plan was created to establish a vision and plan of action for making Salem a place that is bikeable for people of all ages, abilities, and backgrounds.

8. Imagine Salem Report (2018)

Imagine Salem was a citywide planning process that envisioned the city in 2026, the 400th anniversary of its founding. The report established guiding principles and the following vision for the City's future: "In 2026 we are a sustainable and livable city where we celebrate our diverse histories and where people of all backgrounds and means participate and thrive."

9. Hazard Mitigation Plan Update (2020)

Hazard Mitigation planning is a proactive effort to identify actions that can be taken to reduce the dangers to life and property from natural hazard events. In the communities of the Boston region of Massachusetts, hazard mitigation planning tends to focus most on flooding, the most likely natural hazard to impact these communities.

10. Resilient Together (2021)

This joint Climate Action Plan completed in coordination with the City of Beverly outlines strategies for both communities to embrace both short-term and long-term solutions that reduce greenhouse gas emissions to achieve carbon neutrality by mid-century while ensuring that the cities are resilient to the impacts of climate change. One of the focus areas is directly supported by this plan's preference for offshore wind related uses in the DPA, specifically "implementing policies, programs, and projects that facilitate the early generation and adoption of reliable, clean energy and promote ongoing energy efficiency."

3.0 Framework for the 2023 Salem MHP and DPA Master Plan

As described in Section 2, to effectively promote specific goals within Salem's varied waterfront, the plan divides Salem's waterfront into six planning areas. While each area promotes different types of development and public access, they all directly relate to each other to form a unified, comprehensive plan that details a vision and implementation plan.

In this report, Sections 4 - 9 provide details of each planning area. In addition, Section 10 covers the 2023 Salem DPA Master Plan. While there is considerable overlap between the two sections, the boundaries of the DPA and the Industrial Port planning area are slightly different and the DPA Master Plan has specific regulatory requirements and so it is covered separately.

To implement this Plan, the 2023 Salem MHP continues most of the substitute provisions and offsets that were approved in the 2008 Salem MHP to tailor some of the state's Chapter 91 nonwater-dependent use dimensional requirements to accommodate local conditions and needs. No new substitute provisions, offsets, or amplifications are included in this Plan. In addition to the 2008 Salem MHP substitute provisions and offsets, the 2023 Salem MHP relies on Chapter 91 Waterways standards, local zoning, the adoption of the Salem DPA Guiding Principles, and the powers of the Salem Harbor Port Authority to implement its objectives.

3.1 Goals and Objectives

On June 1, 2020, at the outset of the 2023 Salem MHP planning process, the City submitted a Request for a Notice to Proceed (RTNP) (see Appendix A) to the state's Office of Coastal Zone Management (CZM). Included in the RTNP is the City's goal for this Plan:

The goal of this Harbor Plan update is to build off our past success and establish a shared vision for the future of Salem Harbor that is consistent with the guiding principles of Imagine Salem, our community visioning process for what Salem will look and feel like in 2026, the City's 400th anniversary.

CZM approved the City's request in its August 10, 2020 Notice to Proceed (see Appendix B) as well as the City's proposed study program in support of this goal, which included 4 key areas:

1. Review of the Existing Conditions Relative to the 2008 Harbor Plan
2. Market Analysis of the Designated Port Area and context
3. Define a Vision and Goals
4. Develop an Action Plan

Within the overall goal and study program, and based on an expansive public engagement process, the following 2023 Salem MHP objectives have been developed:

Objective 1: Promote a welcoming, accessible, climate-resilient waterfront that continues to be a mainstay of the local economy.

The primary focus of this planning effort has been the promotion of the Footprint Power site for the support of offshore wind energy, which promises to diversify the overall profile of Salem's waterfront economy with the addition of a substantial, long-term investment in marine industrial uses (this is further detailed in objective 4 below and elsewhere in the plan). Outside of the DPA, the plan promotes and guides a series of area-specific initiatives which collectively seek to build on the City's growing network of waterfront open spaces and amenities, and create opportunities for equitable waterfront access for residents and visitors. These waterfront assets serve not only

residents, but continue to attract visitors and support tourism, a vital part of Salem's economy. Current development proposals supported by this plan, including ones at 73 Lafayette Street and the Crescent Lot, will provide additional publicly accessible open space and promote waterfront access. Both projects will contain affordable units, ensuring that enjoyment of waterfront views is equally accessible to those of limited means. In the case of the Crescent Parcel, public open space is elevated well above any storm-related threats and builds upon its adjacency to the commuter rail to facilitate waterfront connections for visitors, residents and downtown workers.

Objective 2: Build on the successes of the previous Salem MHPs

Many aspects of the 2008 have been implemented, most of which are detailed later in the area-specific sections of this plan. The broad objective for this plan is to both continue to implement and improve on the work that has been done and guide those further efforts in mutually supportive ways. Expanding Ferry service at Salem Wharf and the proposed structural improvements to Derby Wharf, for instance, build on the growing tourist and visitor infrastructure in both the Tourist Historic Harbor and North Commercial waterfront areas. The plan is also committed to seeking opportunities to work collaboratively with the Division of Marine Fisheries (DMF) on plans to revitalize the Cat Cove Marine Laboratory buildings in the Community Waterfront as well to benefit the Winter Island Park. The plan proposes to continue the substitute provisions and offsets in the South Commercial Waterfront that helped enable several site developments there and to extend the co-benefits that future development may bring to the public realm and waterfront access. Further details on these approaches are included in later sections of this plan.

Objective 3: Incorporate a portion of the North River into the overall Salem waterfront plan and promote appropriate development near and public access to and along the North River

The North River and Crescent Lot have been added to the plan, with a primary focus on the Crescent Lot where the City has been actively engaging with the developer of that site throughout the evolution of the design. Through engagement with the MHP process, the development concept has been tailored to maximize visual access to the water and provide a flood protected public open space link between downtown and the waterfront level, including the existing harbor walk and open spaces along the South River. The Crescent Lot development will provide a stepping stone for future development on the parcels north of the river and lay the groundwork for the long-term goal of ultimately creating more waterfront adjacent links to Furlong Park.

Objective 4: Refocus the Salem DPA to: promote renewable offshore energy; enhance its use by passenger vessels; allow supporting DPA uses in appropriate locations throughout the Salem DPA; and support community benefits consistent with its primary focus as a DPA

Central to this goal has been the development of a plan to utilize Lot 2 for support of the offshore wind industry. That site was a primary focus of the planning process given the abundance of land left vacant by the transition from coal to a smaller gas-powered power plant. The owners of the site, Footprint Power, had proposed residential uses there, but through a robust community engagement process, a subsequent partnership with the City, and support from the Commonwealth, the focus has shifted to offshore wind support, as detailed in Section 3.4. The plan is compliant with use limitations in a DPA and follows the longer-term objectives of the 2008 Plan, as well as the more recent Resilient Together Climate Action Plan, to utilize waterfront assets to promote carbon reducing technologies. The proposal promises to bring jobs and economic development consistent with the City's goal of leveraging its waterfront assets.

While detailed plans for the proposed offshore wind port are in development, there remains broad support in the City for increased waterfront access for recreational purposes. To the extent that such uses can operate without detriment to the underlying marine industrial activity and the terms of any licensing they obtain, there remains a strong interest in considering some form of limited public access and points of interaction around this portion of the waterfront.

3.2 Changes to the 2008 Salem MHP and DPA Master Plan

Much of the 2023 Salem MHP continues the waterfront vision set out in the 2008 Salem MHP, with a greater emphasis on climate resiliency. As detailed in Section 4, four of the five substitute provisions and offsets in the 2008 Salem MHP have been continued in the 2023 Salem MHP.

In addition to promoting improved climate resiliency, the 2023 Salem MHP significantly changes the Salem DPA Master Plan, as detailed in Sections 6, 7, and 10, and removes an amplification for supporting DPA uses that was included in the 2008 Salem DPA Master Plan. A summary of the DPA Master Plan changes appears below:

DPA Activity or Use	2008 Salem DPA Master Plan	2023 Salem DPA Master Plan
Water-dependent industrial (WDI) use focus	Salem Power Plant; WDI accessory uses; Marine Industrial Parks;	Renewable energy; Expanded cruise ship/ferry activity
Other WDI uses	Cruise ship/ferry activity, variety of commercial vessel activity	Other WDI uses at 310 CMR 9.12(2)(b) or accessory uses thereto, including but not limited to bulk cargo & temporary shipping activities, commercial dockage
% of land for supporting DPA uses	Minimal	Not to exceed 25% of a project site within jurisdiction
% of land for commercial uses	Minimal	Approx. 15.3% of the total DPA land area (see Section 10.4)
Allowable supporting DPA (SDPA) uses that meet the definition at 310 CMR 9.02	Business offices (adaptive reuse); general storage & warehousing; retail & service; restaurants; off-street parking	Financial and/or operationally supporting-DPA activities that comply with the SDPA Use definition at 310 CMR 9.02, including but not limited to small-scale commercial, retail, research & development, and accessory uses thereto.
Temporary Uses consistent with the definition at 310 CMR 9.02	Allowed, with conditions; no conflicts with WDI uses	Allowed, with conditions; no conflicts with WDI uses

Public Access	Not applicable	Public access only as deemed appropriate by MassDEP in a DPA. Any structures or public amenities shall be installed in a manner where they can be removed with relative ease to facilitate Water-Dependent Industrial use. No permanent structures or hindrances to discourage or preempt the transition of the project site to Water-Dependent-Industrial will be allowed. These may include but are not limited to seasonal public access uses.
Design Principles/additional community benefits	Minimal	Incorporate community noise abatement, visual protections, public access, and climate resiliency where possible; no conflicts with WDI uses

A sixth planning area, North River/Crescent Lot, has also been added to the five planning areas in the 2008 Salem MHP along Salem Harbor and the South River. No new substitute provisions, offsets, or amplifications are proposed for any of the six planning areas.

3.3 Economic Research

To inform the MHP and DPA plan, the City engaged RKG Associates to complete a baseline market survey and demographic analysis. The purpose was to provide an economic and market overview of prevailing trends and real estate conditions, and to assist in the analysis of reuse options for the 42-acre Lot 2 property. The area capture of the study extended into the City at large to help frame an understanding of the potential role of planning areas within the overall economic activity of Salem, particularly as it relates to potential future uses. While the pandemic had disrupted some of the market conditions, RKG was able to look more broadly at longer trends.

The report confirmed that there continues to be strong demand for residential uses in Salem, as indicated in the increasing costs of housing in both the rental and home-ownership markets. The proposed primarily residential use of the Crescent Lot is evidence of this ongoing demand, particularly where proximity to the water and public transportation converge. While not permitted in the DPA, housing on Lot 2 would be considered market-viable based on its desirable location.

Among the uses that may be permissible in the DPA, either as an accessory or supporting use, industrial uses exhibited relatively low demand in the City at large. Rental rates are currently at levels that would not support new development. Lot 2 is further hampered by its remote location, the lack of upland transportation and traffic infrastructure needed to attract either office or industrial tenants.

The report notes that with regard to industrial uses there, marine industrial would be the most likely type of industrial use to be feasible there, if any. That said, there is little to no demand for traditional marine industrial uses such as fishing or boat repair, and more likely uses for the site would trend

toward cruise ship berthing or marine research. While there is no active general market demand for locations supporting these types of uses, and in the case of marine research may require subsidies, they would not be precluded on the basis of site access or infrastructure. Bulk cargo and other sea-to-land types of uses are not deemed feasible given the lack of appropriate landside road infrastructure.

Subsequent to the report, which was completed early in the planning process, a change in the Federal administration and subsequent policy initiatives catalyzed a dramatic shift in the market conditions for offshore wind port development. As described in Section 3.4, in response, and with strong support from local advocates including the Salem Alliance for the Environment (SAFE), the City encouraged the owners of the Lot 2 property to more aggressively explore potential opportunities, leading to an agreement for the ultimate sale of the property.

3.4 Offshore Wind Port Development

Beginning in February 2020, the Salem Harbor Port Authority (Port Authority) engaged the Massachusetts Clean Energy Center (MassCEC) in a discussion around the suitability of the Port of Salem to support the offshore wind industry. MassCEC is a state economic development agency that has led efforts to accelerate responsible offshore wind development and increase the role of Massachusetts companies, institutions, and workers in the offshore wind industry. Through this early engagement, it became clear that the physical characteristics of Salem positioned it uniquely to support this developing industry. With sufficient upland area and a deep-water federally maintained navigation channel with no air draft or width limitations, Salem is among a very short list of ports in the country with the physical characteristics necessary for marshaling of both fixed bottom offshore wind turbines, like those proposed to be deployed in the approved lease areas south of Cape Cod, and future floating offshore wind turbines planned for lease areas to be designated in the Gulf of Maine.

Despite these unique characteristics, the market conditions at the time of the economic analysis did not support marshaling offshore wind turbines out of Salem due to the distance from the approved lease areas south of Cape Cod. It was acknowledged that Salem would be well positioned to support future floating turbines, however, at the time those projects were projected to be a decade away.

The change in Federal administration in January 2021 and announcement in March 2021 of a nationwide goal of 30 gigawatts (GW) of offshore wind by 2030 resulted in a dramatic shift in the offshore wind industry. In response to this change, the City collaborated with Footprint Power on the release of a Request for Expressions of Interest (REI) to assess interest in the property for offshore wind-related uses. The REI precipitated a partnership between the City and Crowley to create a public-private partnership aimed at establishing Salem Harbor as the state's second major offshore wind port. Through this partnership, Crowley, the nation's largest civilian employer of US mariners, is anticipated to be the long-term operator of the port, and will lease the property first for turbine assembly, staging, and deployment to offshore installation areas.

Specific details of the project continue to be developed, however the proposed use offers tremendous social, environmental, business, and economic benefits to Salem and surrounding communities. The project is currently advancing through design and permitting, and has received considerable state and federal support. In October of 2022 the project received a nearly \$34 million grant from the federal government through the Ports Infrastructure Development Program, and in December 2022 the state announced a total of \$75 million to support the project. The 2023 Salem MHP seeks to enable this exciting opportunity, while providing protections and guidance to ensure long term compatibility with the community.

3.5 Public Engagement

As with the 2008 Salem MHP, the 2023 Salem MHP has focused on a vigorous outreach and engagement process. Residents, other community members, businesses, nonprofits, academic institutions, and state and federal partners have all participated in an active dialogue that included social media, site visits, video conferencing, and interactive mapping tools. A project website, <https://harborplan.salem.com>, was developed to provide accessible information to the public, including events, agendas, and information on how to get involved.

Due to the Covid-19 pandemic, much engagement for the process was shifted to digital platforms. A series of public meetings using remote meeting platforms on the internet were held for both the Harbor Planning Committee and the general public to convey information about research and regulations and to obtain feedback on how best to focus the 2023 Salem MHP. A schedule of these public events are visible at (<https://harborplan.salem.com/events>) and are listed below, with links to meeting agenda, minutes, and presentation materials.

August 19, 2020	Harbor Plan Committee Kickoff
August 25, 2020	Kickoff Public Meeting
October 7, 2020	Harbor Plan Committee Meeting #2
November 10, 2020	Harbor Plan Committee Meeting #3
November 18, 2020	Public Meeting #2
January 20, 2021	Harbor Plan Committee Meeting #4
March 17, 2021	Harbor Plan Committee Meeting #5
March 24, 2021	Public Meeting #3 Presentation from Footprint Development Team
April 28, 2021	Harbor Plan Committee Meeting #6
July 15, 2021	Harbor Plan Committee #7
September 22, 2021	Harbor Plan Committee #8
December 5, 2022	Harbor Plan Committee #9

Overall, the engagement process clarified a community preference for a new offshore wind opportunity, versus a theoretical proposal to put housing on the site; this informed the city's decision to pursue its partnership with Crowley. As the offshore wind port development plans have advanced, the City and Crowley have continued to engage closely with community groups throughout the City,

and have relied heavily on the information developed through this Plan to inform their approach. Refer to Section 10.4 for additional detail on the City's engagement specifically around offshore wind and the DPA.

4.0 South Commercial Waterfront

The South Commercial Waterfront planning area is adjacent to and on the waterside of the Point Neighborhood. It includes Pickering Wharf, the South River Basin (defined by Congress, Peabody, Lafayette and Derby Streets), Shetland Park, Palmer Cove Yacht Club and the Palmer Cove Playground out to the public streets immediately surrounding the playground.

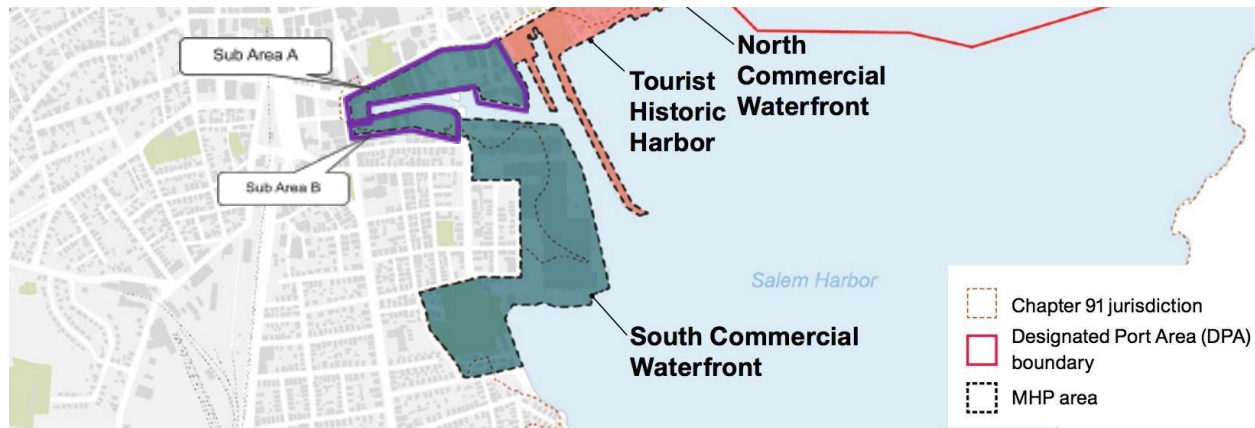


Figure 2. South Commercial Waterfront

4.1 Updates & Revisions since the 2008 Salem MHP and DPA Master Plan

Many of the proposed improvements and developments envisioned in the 2008 Salem MHP for the South Commercial Waterfront area have been successfully implemented and the 2023 Salem MHP supports continuing these efforts. This includes the completion of key sections of the Harborwalk, Charlotte Forten Park, Peabody Street Park, the redevelopment of several underutilized buildings, and the installation of dinghy docks for local recreational boaters, visiting vessels, and kayaks at the Congress Street Pier and Charlotte Forten Park. The City is also advancing phased improvements to Palmer Cove Park, with the first phase recently completed and the second phase kicking off. Additionally, there are a series of projects currently proposed or under development within the planning area, including:

- **73 Lafayette and 9 Peabody Street**
North Shore Community Development Corporation (NSCDC) is proposing a mixed-use development that will provide considerable ground floor activation along the South River with spillover benefits to the adjacent public open spaces. This project seeks to establish one of the key “gateways” recommended in the 2008 Salem MHP. This project has not yet been licensed, but is designed to be consistent with the goals and objectives of the 2023 Harbor Plan.
- **23 Congress Street**
The Salem Waterfront Hotel has broken ground on a five-story mixed-use expansion project that will complete the remaining stretch of Harborwalk between Pickering Wharf and Congress Street and provide ground floor activation along the waterfront. Construction has been delayed several times; however it is anticipated to restart in Fall 2022. The project was fully licensed under the provisions of the 2008 Harbor Plan.

- 285 Derby Street

South Harbor Holdings, LLC has recently completed a substantial renovation of the building's interior, which includes an accessible pathway along the west face of the building, enhancing the access to and activation of the adjacent public park, as well as the connection from Derby Street to the South River and the extension of the Harborwalk. This project was fully licensed under the provisions of the 2008 Harbor Plan.

The above projects are being developed based on the substitution provisions and offsets in the 2008 Salem MHP. Four of the five substitute provisions and offsets included in the 2008 Salem MHP (summarized in Sections 1.0 above and 4.2 below) are continued in the 2023 Salem MHP. The substitute provision for flexibility in the WDUZ in sub-area A is discontinued as the offsets have been implemented and there are no remaining parcels for which this provision would be applicable. For the previously licensed projects under construction, carrying forward the remaining substitute provisions will facilitate any license amendments during the construction process and ensure consistency with the goals and objectives of the 2008 Salem MHP. The proposed development at 73 Lafayette Street is being designed based on the substitute provisions for height, which allows for maximum building heights up to 70 feet, consistent with local zoning. As an offset for this additional height, the 2008 Salem MHP required additional open space above the 50 percent required under Chapter 91. The additional open space is proportional to the net new shadow created by the portion of the building above the limits defined in Chapter 91. This new shadow will be calculated for full sun conditions that would occur at the site on October 23rd between the hours of 9 AM and 3 PM. (i.e., this is the total new shadow cast on the ground level open space by the additional building mass over the entire 6-hour period.) The required additional open space will be equal to half the calculated new building shadow. This open space will be dedicated to supporting public use of the project site's waterfront with a preference for infrastructure that offers protection from coastal flooding or improves the site's public appeal (e.g., public art, landscaping) No more than half of this additional open space may be assigned to public parking. No new substitute provisions, offsets, or amplifications are proposed at this time.

The following map indicates the location and scope of proposed development subject to the 2023 Plan and the status of the Harborwalk and open space implementation since the 2008 Plan approval:

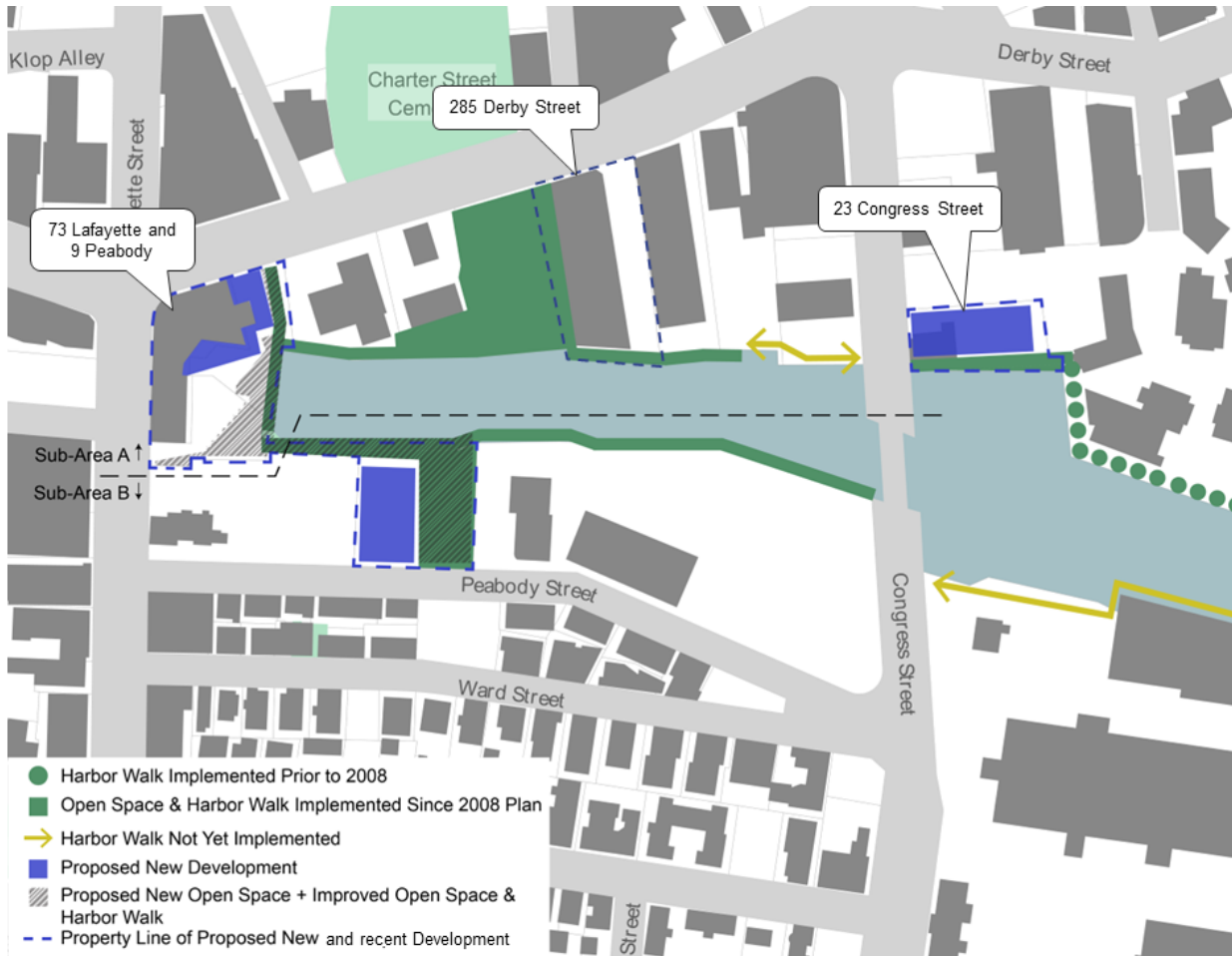


Figure 3. Harborwalk and Open Space Implementation Since 2008

This strategy supports the following Plan objectives:

- **Objective 1:** Promote a welcoming, climate-resilient waterfront that continues to be a mainstay of the local economy
- **Objective 2:** Build on the successes of the previous Salem MHPs

The Plan also recommends continued implementation of the planning recommendations for the South River and South Commercial Waterfront that have not been completed, including:

- Dredging the south river;
- Installing a floating performance barge or similar structure(s) to accommodate performances which activate the waterfront;
- Expanding opportunities for recreational boaters;
- Continuing to work with National Grid to provide more pleasant visual buffers along their Peabody Street facility, and ultimately on redevelopment of the site;
- Improvements to public access at Shetland Park, with a goal of connecting Pickering wharf to Palmer Cove;
- Exploring the feasibility of waterside access improvements at Shetland Park; and

- Dredging and expanding the docking capacity at Palmer Cove to promote waterside access and activities.

During the development of this Plan the owners of Shetland Park submitted and subsequently withdrew an initial Environmental Notification Form (ENF) under the Massachusetts Environmental Policy Act (MEPA) for a mixed use development on the approximately 29 acre property. The development team has since engaged in a community visioning process for the property to identify priorities for site reuse. The Harbor Plan Committee reviewed opportunities and constraints of the property and elected not to recommend substitutions, amplifications, or offsets for the property while this broader community-wide process was ongoing. However, the Committee recognizes the tremendous opportunity the site holds to enhance connections to the waterfront, and therefore recommends that the local permitting and Chapter 91 licensing processes are utilized to ensure that resiliency, access, and waterfront activation remain at the forefront of any future project’s design. If the community engagement process leads to a need for harbor planning as an implementation tool for future goals, an amendment to this 2023 Salem MHP may be necessary.

4.2 Implementation Strategy

The primary implementation strategy for the South Commercial Waterfront is the Chapter 91 licensing process, as modified by four substitute provisions and offsets and backed up by local zoning. The four substitute provisions and offsets continued from the 2008 Salem MHP are listed below in the table below.

4.2.1 MHP Substitute Provisions, Offsets, and Amplifications

Four of the five substitute provisions and offsets are continued from the 2008 Salem MHP. No new substitute provisions, offsets or amplifications are proposed.

Regulatory Provision	Applicable Location	Chapter 91 Standard	Substitution	Offset
310 CMR 9.51(3)(c): Water Dependent Use Zone (WDUZ)	Sub-Area A South Commercial Waterfront (select parcels)	Width of the WDUZ is the lesser of 100 feet or 25% of property depth from the present high water mark, but no less than 25 feet	Substitute Provision not continued in current plan	Not applicable

<p>310 CMR 9.51(3)(c): Water Dependent Use Zone</p>	<p>Waterfront Complex site at Pickering Wharf 23 Congress St. (see figure 4)</p>	<p>Width of the WDUZ is the lesser of 100 feet or 25% of property depth from the present high water mark, but no less than 25 feet.</p>	<p>Minimum width of WDUZ will be no less than 20 feet</p>	<p>Upgrade and maintain an off-site portion of Pickering Wharf, including widening to a clear 10 feet, enhancing it to make it consistent with existing design standards, and providing appropriate lighting.</p> <p>Create and maintain a “gateway” entrance to the Harborwalk at Congress Street Bridge</p>
<p>310 CMR 9.51(3)(e): Building Height Commercial</p>	<p>Sub-Area A South Commercial Waterfront District (see figures 2,3)</p>	<p>For new or expanded non water-dependent use buildings, the height shall not exceed 55 feet within 100 feet of the high water mark nor increase by more than one-half foot for every additional foot beyond 100 feet.</p>	<p>Allow non water- dependent buildings up to a height of 70 feet to be consistent with the City of Salem Zoning requirements</p>	<p>Additional public open space on the site calculated by determining the new shadow cast at the ground level by the additional building mass during full sun conditions on October 23rd between 9 a.m. and 3 p.m.. No more than half the additional open space may be used for parking.</p>

<p>310 CMR 9.51(3)(e): Building Height</p>	<p>Waterfront Complex site at Pickering Wharf, 23 Congress St. (see figure 4)</p>	<p>For new or expanded non water-dependent use buildings, the height shall not exceed 55 feet within 100 feet of the high water mark nor increase by more than one-half foot for every additional foot beyond 100 feet</p>	<p>Allow non water- dependent buildings up to a height of 70 feet to be consistent with the City of Salem Zoning requirements.</p>	<p>Addition of ground- level public space in a “turret” portion of the new Harborwalk gateway adjacent to Congress Street. Additional landscaping and design elements to improve appearance and to screen gateway from the buildings loading/service areas. Construction of an observation platform on the southeast corner of Pickering Wharf.</p>
<p>310 CMR 9.52(1)(b)(1): Utilization of Shoreline for Water Dependent Purposes</p>	<p>South River Waterfront (all waterfront west of Congress Street and the waterfront of 23 Congress Street east of Congress Street) (see figure 5)</p>	<p>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 provided in a municipal harbor plan, shall be no less than 10 feet in width.</p>	<p>Require a dedicated 20-foot wide public walkway around the South River, of which a minimum of 10 feet shall be an unobstructed pathway. The inland 10 feet may be used for landscaping and accessory amenities to enhance the general public’s waterfront experience.</p>	<p>Minimum standard will be 20 feet, of which a minimum of 10 feet shall be unobstructed pathway. The substitution will result in a public waterfront walkway that will exceed the minimum numerical standard of 10-feet wide, which directly benefits the public through enhanced access. No additional offsetting benefit required.</p>

4.2.2 Zoning Changes

Current zoning is consistent with the 2008 Salem MHP and no new zoning changes are proposed.

4.2.3 Other Implementation Strategies

In addition to Chapter 91 licensing and the role of local zoning in enforcement of the goals, objectives, and dimensional standards outlined herein, the Plan directs several other local planning, permitting, and enforcement authorities to support implementation, including:

- City of Salem Department of Planning and Community Development (DPCD)
- City of Salem Harbormaster
- City of Salem Department of Parks, Recreation, and Community Services
- City of Salem Conservation Commission
- City of Salem Planning Board
- Salem Redevelopment Authority (SRA)

The DPCD should continue to serve as the local authority to encourage coordination and advance implementation of the vision outlined within this Plan.

4.2.4 Potential Sources of Funding

This area relies primarily on private development activity to fill out some of the open space and connectivity in the area. Where possible, the City will seek to partner with the developers to access relevant State Grant money.

4.3 Climate Resiliency

The City has sought proposals from consultants to develop a deep dive model (hydrologic and hydraulic model with climate projections of sea level rise and storm surge) of the Point/Palmer Cove neighborhood for current and future climate risks, provide an alternatives analysis and solutions for the area to adapt to and mitigate these risks, and conduct an intensive multi-lingual outreach, education, and engagement campaign in the community throughout the project. The approach of this project will be collaborative: The City and the consultants, along with several community partners and newly hired ambassadors, will engage on-the-ground with the neighborhood to create technical and community-based solutions for current and future climate risks. The project outcome will be a select number of workable solutions that the City and community can implement, as well as a final report that the City and other communities can use to conduct their own similar program.

Through several studies, reports, climate impact data, and community member surveys, the City has narrowed down the focus to the Point/Palmer Cove neighborhood because of its vulnerability to climate change impacts (such as sea level rise, storm surge, precipitation, and heat waves) combined with the vulnerability of its residents, workers, infrastructure, and development. It is anticipated that the findings of this analysis may reveal multi-purpose solutions for resilience that can support the implementation of other goals identified for this area including improved pedestrian waterfront accessibility.

4.4 Consistency

(See consistency table in Section 11.1)

4.4.1 CZM Coastal Policies

The strategy for the South Commercial Waterfront is consistent with all applicable CZM Coastal Policies. In particular, the strategy promotes general public use and enjoyment of the water's edge (Public Access Policy #1).

4.4.2 Chapter 91 Waterways Regulations

The strategy for the 2023 Plan is consistent with the 2008 Plan and the applicable Chapter 91 Waterways provisions. In particular, the strategy preserves the availability and suitability of tidelands that are in use for water-dependent purposes; ensures patronage of public recreational boating facilities by the general public and prevents undue privatization in the patronage of private recreational boating facilities; and ensures that nonwater-dependent use projects do not unreasonably diminish the capacity of any tidelands to accommodate water-dependent use, and devotes a reasonable portion of these tidelands to water-dependent uses, including public access.

The following discussion identifies the applicable provisions of the Waterways Regulations, the substitute standards of the Plan, and the justification for proposed offsetting measures for the substitutions. Figures in this chapter are meant to be illustrative and should not be used to precisely determine the position of regulatory boundaries, substitution offsets, or building footprints.

The specified width(s) of the water-dependent use zone within which new or expanded buildings for nonwater-dependent uses and all new parking facilities are prohibited. 310 CMR 9.51(3)(c).

This 2023 Harbor Plan proposes a continuation of the substitution for the minimum width of the Water-Dependent Use Zone (WDUZ) as specified at 310 CMR 9.51(3)(c), but only for the waterfront complex at 23 Congress Street, and not the entire sub area "A" of the South Commercial Waterfront District included in the 2008 plan. The 23 Congress Street development is permitted and has obtained a Chapter 91 license but is not yet fully constructed. Using the criteria specified under the Waterways Regulations, the WDUZ for 23 Congress extends approximately 25 feet inland from the water's edge. This Plan allows for a WDUZ with a minimum width of no less than 20 feet extending inland from the existing project shoreline, provided that the developer provides substantive site-specific offsets that will significantly improve the public use and enjoyment of the WDUZ both onsite and offsite. This alternative standard for the WDUZ at 23 Congress Street will not compromise the Waterways Regulations' objective, which is to "...ensure that new buildings for nonwater-dependent use are not constructed immediately adjacent to a project shoreline, in order that sufficient space along the water's edge will be devoted exclusively to water-dependent activity and public access associated therewith, as appropriate for the harbor in question". Further, improvements would be made that would significantly enhance the public's use and enjoyment of the project site and offsite sections of waterfront.

It is the conclusion of this Plan that water-dependent uses, including public access, can be effectively accommodated within the 20-foot waterfront area along the shoreline of the properties and within the additional offsite improved facilities. In addition, a portion of the proposed development will be dedicated to supporting the operations of the existing marina surrounding Pickering Wharf. The following improvements are to be implemented by the project proponent in

the same time period as the rest of the proposed Waterfront Complex is being built. These offsetting improvements shall include:

(1) Upgrading and maintenance of an off-site portion of the existing public walkway around Pickering Wharf from the southwest corner of Finz Restaurant at 76 Wharf Street extending easterly to the southern corner of Victoria Station Restaurant at 86 Wharf Street. The improvements will include widening the walkway to a full, clear ten feet, and adding other enhancements to make it consistent with Salem Harborwalk design standards, including appropriate lighting to allow for the walk's safe use at night.

(2) Creation/construction and maintenance of an appealing "gateway" entrance to the Harborwalk which directly connects to Congress Street to more effectively attract the public to the public accessway beside the waterfront.

The offsetting measures will promote the policy objectives as described above with comparable or greater effectiveness and improve the overall public access to the entire section of waterfront on Pickering Wharf. Improved public access along the water's edge here will provide a critical bridge between the South River Basin and both Salem's outer harbor and the waterfront attractions of Salem National Maritime Historic Site. As an offset for the WDUZ's reduced width at the proposed Waterfront Complex development on Congress Street, there would be more public benefit realized by completing infrastructure upgrades along the specified portions of Pickering Wharf. By improving an existing sub-standard and underutilized area of the Harborwalk off-site and highlighting public access through construction of the "gateway" at Congress Street, the offsets will effectively enhance the public's use and enjoyment of the affected sections of the waterfront.

The provision for limiting new or expanded nonwater-dependent building heights to 55 feet within 100 feet of the high water mark and then allows the height to increase by one-half foot for every additional foot of separation from the high water mark. 310 CMR 9.51(3)(e).

The two substitute provisions for building heights allow new nonwater-dependent use buildings to be up to 15 feet higher than the maximum allowed in 310 CMR 9.51(3)(e) of 55 feet within 100 feet of the high-water mark (up to 70 feet), consistent with the City's zoning. These substitute provisions provide for modest increases in building height so that wind, shadow, and other conditions of the ground level environment will remain conducive to water-dependent activities, including public access. In addition, offsets for these substitute provisions will provide additional public open space and/or public amenities to enhance public enjoyment of and access to the Salem waterfront.

For the Sub-Area A South Commercial Waterfront District (except for 23 Congress Street), the offset for this substitution will be a requirement for additional open space above the 50% already required under Chapter 91. The amount of additional open space will be proportional to new shadow created by the portion of the building above the limits defined in Chapter 91. This new shadow will be calculated for full sun conditions that would occur at the site on October 23rd between the hours of 9 a.m. and 3 p.m. (i.e., the total new shadow cast on the ground level open space by the additional building mass over the entire 6-hour period). The required additional open space will be equal to half the calculated new building shadow. This open space will be dedicated to supporting public use of the project site's waterfront with a preference for infrastructure that offers protection from coastal flooding and/or improves the site's public appeal (e.g., public art,

landscaping). No more than half of this additional open space may be utilized for public parking.

Based on this sub-area’s orientation to the waterfront there will be a minimal increase in net shadow as a result of the increased heights, which will be offset by the additional open space for public access onsite.

For the proposed Waterfront Complex on Pickering Wharf, the offsets for this substitution will include the following:

- (1) Addition of a ground-level covered public space in a “turret” proposed as a design element on the southwest corner of the new building in the Harborwalk ‘gateway’ area adjacent to Congress Street;
- (2) Addition of landscaping and new design elements along the Congress Street end of the proposed building to further improve the appearance of the planned Harborwalk gateway and separate and screen the gateway from the building’s loading docks and/or service areas; and
- (3) Construction of an observation platform incorporated as part of the Harborwalk on the southeast corner of Pickering Wharf.

The construction of these three are in lieu of the additional public open space requirements determined through the shadow calculation defined above, and they will similarly provide enhanced public benefit than any detriment from the increased building height.

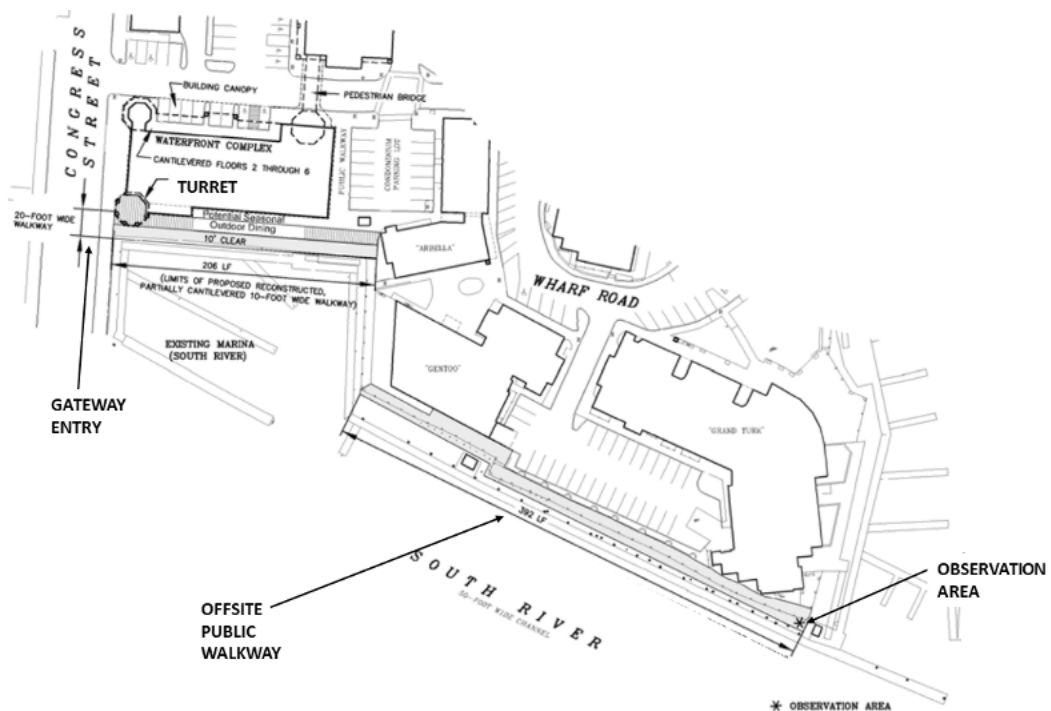


Figure 4. Plan of Proposed Waterfront Complex at 23 Congress Street and Location of Offsetting Improvements

The provision for requiring a pedestrian access network that shall be no less than ten feet in width. 310 CMR 9.52(1)(b)1.

The substitute provision for the South River waterfront west of Congress Street and at 23

Congress Street pedestrian access network under 310 CMR 9.52(1)(b)(1) exceeds the regulatory standard by enhancing the required minimum 10-foot width of public walkways, which will improve and promote public enjoyment of the area which is a direct public benefit that does not further require offsetting measures. The additional inland 10 feet of required walkway may be allowed to be used for landscaping and additional public amenities. The extents of this substitute provision are shown in the figure below.

See Section 11 for additional information on consistency with CZM Coastal Policies and Chapter 91 Waterways Regulations.



Figure 5. Extent of Substitute Provision for Pedestrian Access Network

4.4.3 Other Governmental Agency Plans

See section 4.3 for other governmental agency plans.

5.0 Tourist Historic Harbor

The Tourist Historic Harbor planning area centers around Derby Wharf and includes waterfront historic sites, such as the Salem Maritime National Historic Site and the House of Seven Gables. Landward, this planning area extends to Derby Street, including the adjacent waterfront neighborhood.



Figure 6. Tourist Historic Harbor

5.1 Updates & Revisions since the 2008 Salem MHP and DPA Master Plan

Within the Tourist Historic Harbor, the 2008 Salem MHP sought opportunities to enhance tourism in Salem by supporting plans for the National Park Service (NPS) at the Salem Maritime National Historic Site and enhancing quality of life for nearby residents in the historic Derby Street neighborhood. Specific recommendations in the 2008 Salem MHP included:

- **Recreational boating and water shuttle/taxi** facilities, including floats at Hardy and Turner Streets and a potential new wharf or dock near Kosciusko Street
- **Streetscape and open space improvements** on Derby Street and side streets.
- **Harborwalk improvements** wherever feasible, including provisions for public access through new easements, acquisitions, or Chapter 91 license conditions.
- **Support NPS** in programming, facility improvements, and planning.
- **Infrastructure improvements** to address stormwater drainage and transportation conditions.

Since the 2008 Salem MHP, a number of improvements have been implemented in response to these recommendations. A new float system was added at Central Wharf for public tie-up of paddle craft or dinghies. A comprehensive signage program was implemented to support visitor wayfinding. Transportation improvements were implemented along Derby Street to reduce congestion, improve accessibility, and promote walking and biking. The replica tall ship, *Friendship of Salem*, a key feature of the Salem Maritime Historic Site, also saw significant improvements during this period with a multiyear overhaul.

5.2 Implementation Strategy

With a focus for the Tourist Historic Harbor planning area on the NPS property, the implementation strategy is based primarily on the City's partnership with the National Park Service and in assisting the federal government and its other partners in improving the public experience, exhibits, exterior areas, accessibility, and resiliency of the site. NPS is currently in the process of advancing an up to roughly \$15 million rehabilitation project at the wharf to repair and stabilize the structure to be more resilient. A summary of the proposed project is available [here](#) or at <https://harborplan.salem.com/wp-content/uploads/2021/07/Salem-Waterfront-Resiliency-Harbor-Presentation.pdf>.

Other components of the 2008 Salem MHP for the Tourist Historic Harbor planning area include streetscape improvements along Derby Street, greater public access to the waterfront through pocket parks, and increased docking facilities for small boats and water taxis. While recognizing that there is limited area to implement these improvements outside the NPS property, these objectives are still relevant in the 2023 Salem MHP.

5.2.3 MHP Substitute Provisions, Offsets, and Amplifications

There are no MHP substitute provisions, offsets, or amplifications that apply to the Tourist Historical Harbor planning area.

5.2.4 Zoning Changes

There are no zoning changes needed in the Tourist Historical Harbor planning area to implement the 2023 Salem MHP.

5.2.5 Other Implementation Strategies

Significant improvements have been made on the NPS property with regard to waterfront access and climate resiliency. However, due to limited areas to implement public waterfront access improvements and climate resiliency measures, other areas of the Tourist Historic Harbor planning area will require additional attention to fully realize the vision of the 2008 and 2023 Salem MHP.

5.2.6 Potential Sources of Funding

In addition to NPS funding, the City will pursue state funding for public waterfront access, climate resiliency planning, and climate resiliency implementation in conjunction with other harbor planning areas, especially the adjacent North Commercial Waterfront.

5.3 Climate Resiliency

The proposed NPS plan to improve resiliency at Derby, Central, and Hatches Wharves would raise the current bulkhead height from between 10.5' to 12.0' above Mean Lower Low Water

(MLLW) to 14.0' above MLLW, with the trail height raised to 16.0' above MLLW.

As noted above, the remaining area of the Tourist Historic Harbor planning area is densely developed and will require additional analysis to improve climate resiliency in this historic area. The shoreline is also characterized largely by private ownership, which presents certain challenges in terms of a public plan to protect against sea level rise and its likely impact on a larger neighborhood area.

5.4 Consistency

(See consistency table in Section 11.1.)

5.4.1 CZM Coastal Policies

The Tourist Historic Harbor planning area of the 2023 Salem MHP is consistent with CZM Coastal Policies, particularly with respect to: (1) Coastal Hazard Policy #3 and publicly funded projects (NPS); and (2) the Public Access policies.

5.4.2 Chapter 91 Waterways Regulations

All projects requiring a Chapter 91 Waterways license within the Tourist Historic Harbor planning area shall be consistent with Chapter 91 Waterways regulations.

See Section 11 for additional information on consistency with CZM Coastal Policies and Chapter 91 Waterways Regulations.

5.4.3 Other Governmental Agency Plans

The 2023 Salem MHP continues its focus within the Tourist Historic Harbor planning area on working with the NPS to implement its access and climate resiliency plans.

6.0 North Commercial Waterfront

Of the six planning areas within the 2023 Salem MHP, the North Commercial Waterfront is the smallest in size but was a focal point of the 2008 Salem MHP with the proposed construction of Salem Wharf for ferry service to Boston and other potential passenger vessel operations. The planning area includes the Hawthorne Cove Marina and the City-owned Salem Wharf at 10 Blaney Street. Salem Wharf is within the Salem DPA.

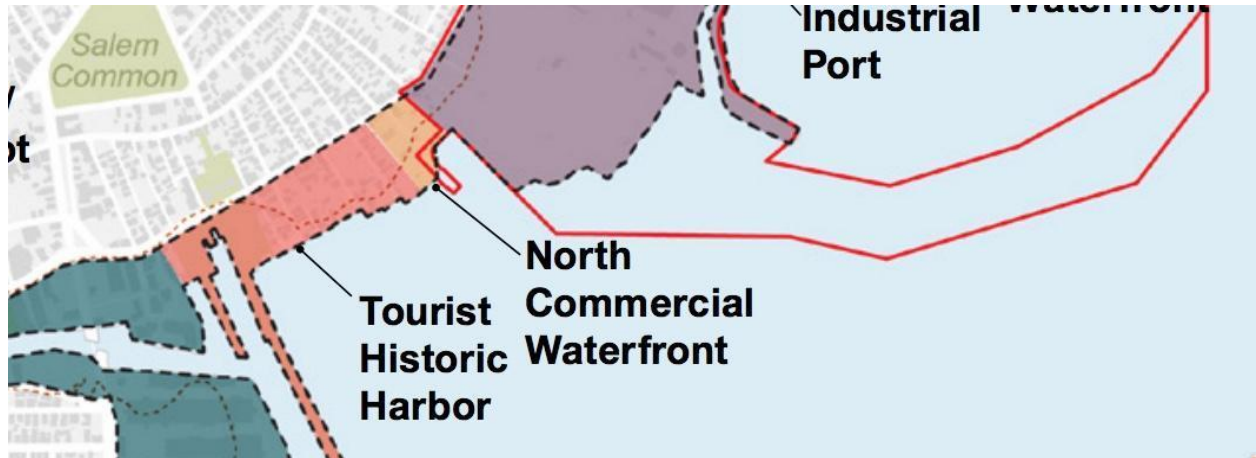


Figure 7. North Commercial Waterfront

6.1 Updates & Revisions since the 2008 Salem MHP and DPA Master Plan

The most significant change since the 2008 Salem MHP is the construction of the City-owned Salem Wharf on the eastern edge of the North Commercial Waterfront planning area. As proposed in the 2008 Salem MHP, the completed project services the seasonal Salem - Boston ferry and provides related enhancements, such as a commercial marina, on-site parking, a pedestrian connection to Derby St., a ticket facility, and a Harborwalk with pedestrian amenities.

In addition to the Salem Wharf improvements, Hawthorne Cove Marina has implemented a number of improvements both waterside and landside. The waterside improvements include new and reconfigured floats and dredging, while the landside improvements include a formalized Harborwalk and facility improvements.

6.2 Implementation Strategy

While the most significant improvements from the 2008 Salem MHP for the North Commercial Waterfront planning area have been implemented, the City will continue to encourage additional passenger vessel services at Salem Wharf, pursue new pedestrian-related improvements, and develop strategies for climate resiliency. With the anticipated redevelopment of portions of the adjacent industrial port to support offshore wind, there is also an opportunity to improve the relationship between the properties. This may include more formalized connections for cruise passengers between Salem Wharf and the deep water berth, and improvements to or replacement of the existing terminal building.

6.2.1 MHP Substitute Provisions, Offsets, and Amplifications

There are no MHP substitute provisions, offsets, or amplifications that apply to the North Commercial Waterfront planning area.

6.2.2 Zoning Changes

There are no zoning changes needed in the North Commercial Waterfront planning area to implement the 2023 Salem MHP.

6.2.3 Other Implementation Strategies

There are no other implementation strategies proposed for the North Commercial Waterfront planning area.

6.2.4 Potential Sources of Funding

The City will pursue state funding for public waterfront access, climate resiliency planning, and climate resiliency implementation in conjunction with other harbor planning areas, especially the adjacent Tourist Historic Harbor. Additionally, the City will explore funding for improvements to the existing ferry terminal building which is nearing the end of its design life.

6.3 Climate Resiliency

Between the NPS property in the Tourist Historic Harbor planning area and Salem Wharf, the shoreline is characterized largely by private ownership, which presents certain challenges in terms of a public plan to protect against sea level rise and its likely impact on a larger neighborhood area.

6.4 Consistency

(See consistency table in Section 11.1).

6.4.1 CZM Coastal Policies

The North Commercial Waterfront planning area is consistent with relevant CZM Policies, particularly Ports & Harbors Policies #3 (accommodating water-dependent industrial uses) and #4 (preserving and enhancing the waterfront for vessel-related activities) and Public Access Policy #1 (promoting general public use and enjoyment of the water's edge).

6.4.2 Chapter 91 Waterways Regulations

All projects requiring a Chapter 91 Waterways license within the North Commercial Waterfront planning area shall be consistent with Chapter 91 Waterways regulations.

6.4.3 Other Governmental Agency Plans

There are no other government agency plans that are currently proposed for the North Commercial Waterfront planning area. However, the City will continue to work with the MBTA and the Seaport Economic Council on potential additional services and improvements at Salem Wharf.

7.0 Industrial Port

The Industrial Port planning area consists primarily of the Salem DPA, though the boundaries of the two areas are not contiguous: a portion of the Blaney Street site in the North Commercial Waterfront planning area is located within the DPA and the South Essex Sewage District (SESD) Wastewater Treatment Facility is part of the Industrial Port planning area but lies outside the Salem DPA boundary.

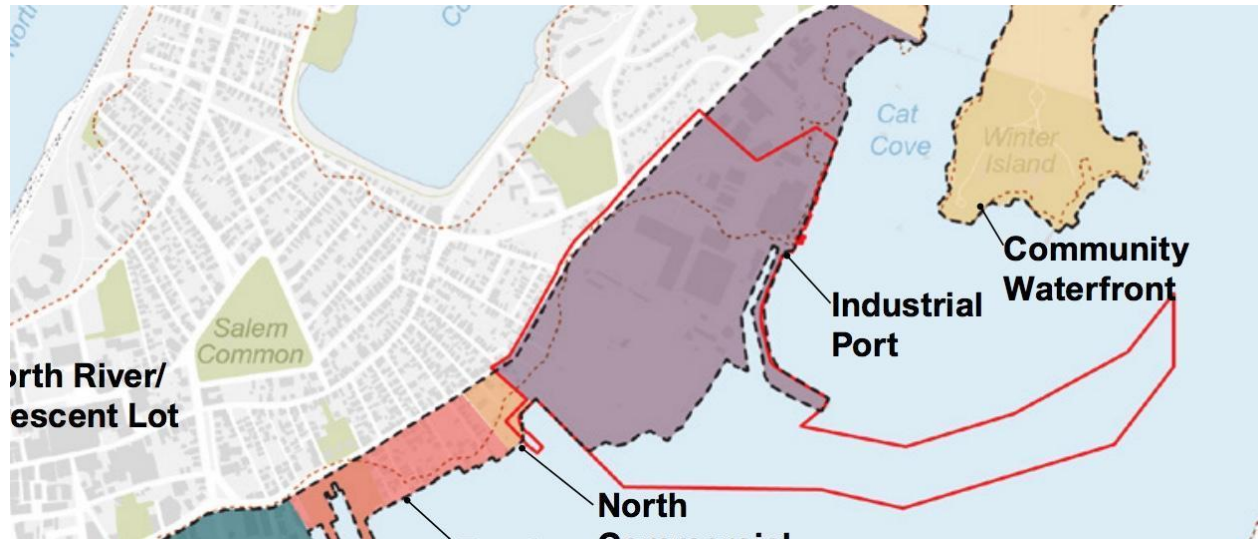


Figure 8. Industrial Port

7.1 Updates & Revisions since the 2008 Salem MHP and DPA Master Plan

A signature component of the 2023 Salem MHP is the 2023 Salem DPA Master Plan that is included as section 10 in this document. Section 10 includes public feedback on the future of this area, plan objectives, implementation strategies, and regulatory consistency, including development opportunities for approximately 9 acres of the Salem DPA that is not subject to Chapter 91 licensing but instead is currently subject to an irrevocable restriction regarding allowable uses.

As described in section 10, the 2023 DPA Master Plan also eliminates an amplification that significantly limited the amount of supporting DPA uses within the Salem DPA.

SESD has made a number of upgrades and improvements to the Wastewater Treatment Facility since the 2008 Harbor Plan. Additionally, the City continues to upgrade, replace and/or rehabilitate its aging sanitary sewer system. Efforts have included elimination of illicit sewer discharges to the City's storm drain outfalls to the harbor and removing infiltration and inflow (i/i) sources citywide.

7.2 Implementation Strategy

The primary implementation strategy for the Industrial Port planning area is the 2023 Salem DPA Master Plan in Section 10.6.

7.2.1 MHP Substitute Provisions, Offsets, and Amplifications/DPA

There are no substitute provisions, offsets, or amplifications that apply to the Industrial Port planning area in the 2023 Salem MHP. However, the 2023 Salem DPA Master Plan eliminates an amplification from the 2008 Salem DPA Master Plan that significantly restricted the amount of supporting DPA uses allowed within the Salem DPA.

7.2.2 Master Plan summary

The 2023 Salem DPA Master Plan has several complementary objectives. First, it identifies allowable uses on approximately nine acres in the northeastern portion of the DPA that are outside of Chapter 91 jurisdiction, but subject to a grant of restriction and easement by Footprint Power to the City. The restriction was required as a condition of the Salem Harbor Station approvals to enhance the property's potential for water-dependent industrial use. Second, it provides guidance to implement the Salem DPA's transition from what was once a largely single purpose coal- and oil-burning power plant to an environmentally sustainable and climate resilient port. Third, it lays out the community's vision which supports offshore wind energy, passenger vessels (cruise ship, ferry, whale-watch, etc.), local commercial fishing, marine research and training, and other marine-related activities that are appropriate for the Salem DPA. Fourth, it provides guidance to local and state agencies on other allowable uses within the Salem DPA that are consistent with local zoning and state DPA regulations. Finally, the Salem DPA Master Plan provides a series of design principles that are intended to enhance the DPA's water-dependent industrial port characteristics while also promoting other community goals, such as climate resiliency, public access, visual screening, and noise abatement through planning and design. These measures are intended to mitigate the risk of undo conflict between future industrial uses and existing residential areas abutting the DPA.

7.2.3 Zoning Changes

The majority of the Industrial Port is within Industrial Use zoning. The proposed future use is an allowable use under this zoning through Special Permit by the Zoning Board of Appeals. There is, however, a small portion of the southwestern corner of Lot 2 in the area of India Street that is within Residential Two Family (R2) zoning. Given the relatively small size of the area and the potential for this space to be used for buffering from the community, the proposed future use may not require any changes in zoning in this location. If necessary to accommodate the proposed future use, this 2023 Plan supports a Zoning Map Amendment for this portion of our DPA from Residential to Industrial Use, consistent with the DPA Master Plan and implementing regulations.

7.2.4 Other Implementation Strategies

Implementation strategies that apply to the Industrial Port planning area are covered in the 2023 Salem DPA Master Plan. See Section 10.

7.2.5 Potential Sources of Funding

Potential sources of funding for projects in the Industrial Port planning area are covered in the 2023 Salem DPA Master Plan. See *Section 10*.

7.3 Climate Resiliency

As part of the working waterfront, the Industrial Port area must balance the need to access the water with protective measures to accommodate sea level rise. The current infrastructure, including the ferry terminal, can withstand inundation. Longer term, the City will be seeking ways to adapt the upland portions of the district to enhance resiliency and protection of the abutting neighborhoods while preserving waterfront access for water dependent uses.

7.4 Consistency

(See consistency table in Section 11.1)

7.4.1 DPA Master Plan standards

The 2023 Salem DPA Master Plan is consistent with the DPA Master Plan Standards as discussed in Section 10.7.

7.4.2 CZM Coastal Policies

The activities and uses outlined in the 2023 Salem DPA Master Plan are Chapter 91-compliant and are consistent with CZM Coastal Policies, particularly with regard to encouraging water-dependent industrial uses in a DPA, support for renewable energy sources, and public access to waterfront areas, as long as such access does not conflict with water-dependent industrial activities.

7.4.3 Chapter 91 Waterways Regulations

There are no proposed substitute provisions, offsets, or amplifications for the Industrial Port planning area. The single amplification from the 2008 Salem MHP and DPA Master Plan has not been carried forward in this plan. All uses and structures within the Industrial Port planning area are either currently licensed or will require a new Chapter 91 Waterways license and so must comply with all applicable Chapter 91 Waterways regulations.

7.4.4 Other Governmental Agency Plans

The 2023 Salem DPA Master Plan is consistent with other governmental agency plans that relate to port development, climate resiliency, and renewable energy, in particular those of the Massachusetts Clean Energy Center.

8.0 Community Waterfront

The Community Waterfront planning area consists of approximately 66 acres at the northernmost portion of Salem Harbor and includes Cat Cove, Winter Island and Smith's Pool. Winter Island is the largest recreational space on the inner harbor and is used for camping, picnicking, recreation, and numerous marine-related activities, mostly supporting recreational boats. The Community Waterfront planning area is adjacent to the South Essex Sewerage District treatment plant, the west end of the Salem Willows Park, the Winter Island neighborhood, and Juniper Cove.



Figure 9. Community Waterfront

8.1 Updates & Revisions since the 2008 Salem MHP and DPA Master Plan

In 2011 the City completed the Winter Island Master Plan and Summary which included a detailed assessment of the existing conditions and constraints, conceptual plan for reuse, and a recommended implementation strategy. The general vision outlined in the 2011 Master Plan was for an improved open space and recreational haven that embraces its harborfront location and rich heritage. The plan outlined specific recommendations for improvements to the facilities, infrastructure, programming and management of the park. Since the 2008 Harbor Plan, a number of improvements have been implemented, including new walking paths, improved stormwater management systems, invasive species removal programs, and efforts to stabilize the historic USCG Hangar and Barracks Buildings.

Outside of Winter Island, but within the Community Waterfront, additional changes have taken place at the Cat Cove Marine Laboratory. The laboratory was operated by Salem State University (SSU) from 1999 to 2021 as the Northeastern Massachusetts Aquaculture Center. In 2021, the SSU discontinued their operations at the facility and returned it to the DMF. DMF is actively working on renovations to the laboratory while they determine a long-term use for the unique facility.

8.2 Implementation Strategy

The 2011 Winter Island Master Plan was a thoughtful and thorough analysis of the constraints and opportunities of the existing park. While a number of improvements have been made, many more remain. The City should continue to follow the recommendations and guidance included in the 2011 plan. While the City has struggled to find a tenant for the existing buildings and to fund the necessary improvements, the ongoing efforts to develop the port for offshore wind could serve as a catalyst. With their proximity to the port and heritage, the buildings could be used as training facilities for

offshore wind workers so long as it wasn't being operated as a commercial operation. The City should continue to explore opportunities to leverage this new industry to benefit the park, and should make the necessary investments to maintain the structures, including the stabilization of the deteriorating Barracks Building.

At the Cat Cove Marine Laboratory, the City and DMF have initiated discussions to ensure collaboration throughout DMF's planning for the facility. Coordination between the City and DMF should continue, and opportunities to incorporate public access and activation should be pursued wherever feasible.

8.2.1 MHP Substitute Provisions, Offsets, and Amplifications

There are no MHP substitute provisions, offsets, or amplifications that apply to the Community Waterfront planning area.

8.2.2 Zoning Changes

There are no zoning changes needed in the Community Waterfront planning area to implement the 2023 Salem MHP.

8.2.3 Other Implementation Strategies

Implementation is dependent on available funding, which the City continues to pursue from a variety of sources.

8.2.4 Potential Sources of Funding

Winter Island Park is one of six "Signature Parks" identified for significant improvements as part of Salem's quadricentennial celebration in 2026. More than \$30 million has been earmarked for these improvements, including \$4.6 million for Winter Island Park. The funds -- a combination that includes city bond funds, grants, and private donations -- will be used for multiple improvements. Including many identified in the 2008 Salem MHP.

8.3 Climate Resiliency

The area is characterized by a largely natural shoreline (minimal filled tidelands) and flood resistant topography. The most vulnerable section of the Community Waterfront is the filled causeway that extends to Winter Island. Any future use on Winter Island should evaluate the risk associated with this critical access point and consider resiliency improvements or emergency preparedness planning.

8.4 Consistency

(See consistency table in Section 11.1)

8.4.1 CZM Coastal Policies

The Community Waterfront planning area is consistent with relevant CZM Policies.

8.4.2 Chapter 91 Waterways Regulations

All projects requiring a Chapter 91 Waterways license within the Community Waterfront planning area shall be consistent with Chapter 91 Waterways regulations.

8.4.3 Other Governmental Agency Plans

The City will continue to work with the state Division of Marine Fisheries (DMF) at the Cat Cove research facility, which was formerly operated by Salem State University.

9.0 North River/Crescent Lot

This area comprises parcels northwest and southwest of the North River, including the Crescent Lot, a 36,600 square foot, 97-space parking lot adjacent to the MBTA Commuter Rail Station, and the lands across the river bounded by North Street and Franklin Street, up to and including Furlong Park. This area was not included in the 2008 plan but was included in the current plan to guide a proposed development on the Crescent lot and lay the groundwork for possible future development along the North River waterfront.



Figure 10. North River/Crescent Lot

9.1 Objectives

The general objective for this district is to promote additional connectivity to waterfront assets, including both visual access and physical access where it may be impeded by grade changes. Proposed development at the Crescent Lot, along with the MBTA station which was upgraded in 2014, together provide a greater intensity of uses proximate to the North River and offer an anchor for future increases in connectivity to this portion of Salem's waterfront. A long-term goal is to create both waterfront and enhanced upland connections from Downtown to Furlong Park, one of Salem's finest waterfront open spaces.

At the Crescent Lot, where the planning process has been most focused in response to a specific and more imminent development proposal, the goals are more specific:

- Provide a pedestrian and bike accessible ramp from the bridge street level down to the level of the MBTA parking access to facilitate access to future Harborwalk improvements along the north edge of the North Street overpass and existing pathways along South River. The upper level of the ramp should be located as close as possible to the intersection of Washington Street and Bridge Street to encourage pedestrian use and increase the visibility of other open spaces and the water.
- Provide open space at the Bridge Street level with direct views to the water and protected from long-term increases in flood events
- Provide active uses and building entries on the Bridge Street side to enhance the pedestrian realm

The goals for the areas of this district further north, including the at-grade pedestrian connection parallel to North Street, the parcels between Franklin Street and the waterfront, and Furlong Park, are longer term:

- Improve lateral public access along the water's edge, and seek opportunities for additional point access
- Improve visual and physical access from Franklin Street
- Enhance upland pedestrian access to Furlong Park along Franklin Street to enhance access to this existing waterfront open space asset
- Flood Mitigation
- Strengthen the pedestrian connection between North Salem and Downtown

9.2 Implementation Strategy

The implementation strategy for the Crescent Lot consists of ongoing design review and permitting for the proposed development at that site. The City will work with the developer and the community to finalize design concepts that will meet the objectives of activating the public realm and providing enhanced visual and physical access to the waterfront.

There are two additional developments under review within this planning district, a mixed-use development at 4 Franklin Street anticipated to include an ambulance facility and residential units, and a residential development at 16, 18, and 20R Franklin Street. Both projects are currently advancing through the local and state permitting process, but consistent with the goals of this 2023 Harbor Plan, will dramatically improve access along the North River. Implementation of a continuous Harborwalk connecting Furlong Park to the MBTA and Crescent Lot parcels is a long-term goal for this area, that will rely on the incremental development of the remaining lots with the public access requirements of Chapter 91 licensing.

In addition to leveraging private development, the City is taking steps to enhance pedestrian connections across the North River along North Street, and under the North Street underpass to Leslie's Retreat Park to the west. In Fall of 2021, the City received a MassWorks grant from the Commonwealth for \$45,000 to advance the design of the connector path, and will be pursuing opportunities for additional public/private funding to implement the future design.

9.2.1 MHP Substitute Provisions, Offsets, and Amplifications

There are no MHP substitute provisions, offsets, or amplifications that apply to the North River/Crescent Lot planning area.

9.2.2 Zoning Changes

There are no zoning changes needed in the North River/Crescent Lot planning area to implement the 2023 Salem MHP.

9.2.3 Other Implementation Strategies

There are no other implementation strategies not already indicated in section 9.2.

9.2.4 Potential Sources of Funding

Funding is reliant on private development initiatives, and, as indicated in section 9.2, the City is pursuing grant money for specific projects in the public realm.

9.3 Climate Resiliency

The majority of the Crescent Lot / North River area within Ch.91 jurisdiction is in the FEMA AE flood zone. The approach at the Crescent Lot, as proposed by the developer and supported by the City, is to protect the areas of public access by locating them at the higher Bridge Street elevation. This brings the additional benefit of enhancing water views on a parcel without waterfront access, as well as providing enhanced physical connections from the Downtown to other waterfront assets.

9.4 Consistency

(See consistency table in Section 11.1)

9.4.1 CZM Coastal Policies

The North River/Crescent Lot planning area is consistent with relevant CZM Policies, particularly Public Access Policies #1 (promoting general public use and enjoyment of the water's edge); #3 (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); and, Ports and Harbors Policy #5 (redevelopment of urban waterfronts, and expansion of physical and visual access.)

9.4.2 Chapter 91 Waterways Regulations

All projects requiring a Chapter 91 Waterways license within the North River/Crescent Lot planning area shall be consistent with Chapter 91 Waterways regulations.

9.4.3 Other Governmental Agency Plans

(Refer to section 11.3)

10.0 Salem DPA Master Plan

Perhaps no portion of the Salem waterfront has undergone as significant a change since the 2008 Salem MHP as the City's Designated Port Area (DPA). In 2008, the operation of the Salem Harbor Generating Station, with fuel supplied by ship to its waterfront wharfs, was envisioned as a continuing operation that would serve as the primary water-dependent industrial (WDI) use of the Salem DPA. However, within ten years, the Salem Harbor Generating Station had been dismantled and in its place was a cleaner, more efficient power plant, Salem Harbor Station, that no longer relied on fuel shipments by water and was therefore not considered a water-dependent industrial use under 310 CMR 9.12(2)(b). The new power plant was approved by the Massachusetts Department of Environmental Protection (MassDEP) through an EFSB decision including a Chapter 91 Waterways variance, as provided in 310 CMR 9.21, on approximately 23 acres within the Salem DPA. This unlocked approximately 42 acres of land owned by Footprint Power, the developer of the new power plant, for potential reuse. The 2023 Salem DPA Master Plan provides a community vision on how this industrial port area can be reimagined for the 21st century as Salem continues its leadership position in maritime trade and industry. Specifically, the 2023 Salem DPA Master Plan seeks to enable the port to be developed to support the rapidly expanding offshore wind industry in a manner that is consistent with the goals and objectives of the city and surrounding neighborhoods.

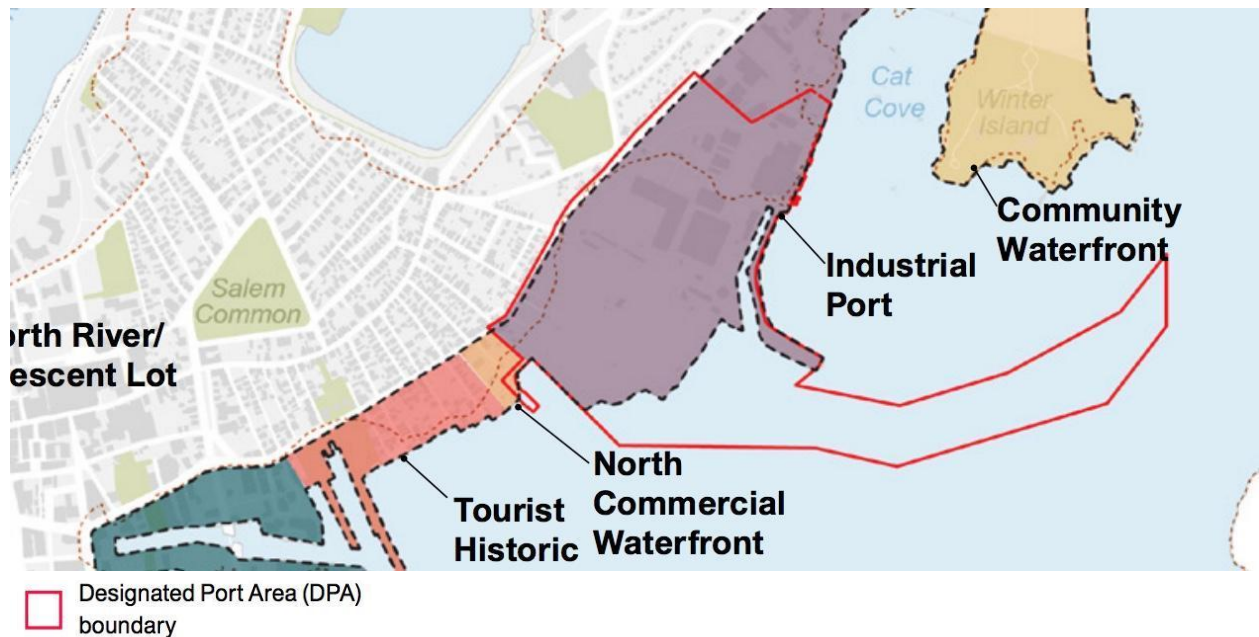


Figure 11. Designated Port Area

10.1 Objectives

The 2023 Salem DPA Master Plan has several objectives. First, it identifies allowable uses on approximately nine acres in the northeastern portion of the DPA that are outside of Chapter 91 jurisdiction, but subject to a grant of restriction and easement by Footprint Power to the City. The restriction was required as a condition of the Salem Harbor Station approvals to enhance the property's potential for water-dependent industrial use. Second, it provides guidance to implement the Salem DPA's transition from what was a largely single purpose coal- and oil-burning power plant to an environmentally sustainable and climate resilient port. Third, it lays out the community's vision which

supports offshore wind energy, passenger vessels (cruise ship, ferry, whale-watch, etc.), local commercial fishing, marine research and training, and other marine-related activities, provided they meet the regulatory requirements for Chapter 91 licensing, as appropriate for the Salem DPA. Fourth, it provides guidance to local and state agencies on other preferred uses within the Salem DPA provided they are consistent with local zoning and state DPA regulations. Finally, the Salem DPA Master Plan provides a series of design principles that are intended to enhance the DPA's water-dependent industrial port characteristics while also promoting other community goals, such as climate resiliency, public access, visual screening, and noise abatement through planning and design. These measures are intended to mitigate the risk of undo conflict between future industrial uses and existing residential areas abutting the DPA.

10.2 Changes since the 2008 Salem DPA Master Plan

The changes in use within the Salem DPA described above require revisions to the 2008 Salem DPA Master Plan, including the elimination of an amplification that restricted supporting DPA uses. The table below summarizes these changes, with additional information provided in Section 10.4 and 10.5 below.

DPA Activity or Use	2008 Salem DPA Master Plan	2023 Salem DPA Master Plan
Water-dependent industrial (WDI) use focus	Salem Power Plant; WDI accessory uses; Marine Industrial Parks;	Renewable energy; Expanded cruise ship/ferry activity
Other WDI uses	Cruise ship/ferry activity, variety of commercial vessel activity	Other WDI uses at 310 CMR 9.12(2)(b) or accessory uses thereto, including but not limited to bulk cargo & temporary shipping activities, commercial dockage
% of land for supporting DPA uses	Minimal	Not to exceed 25% of a project site within jurisdiction
% of land for commercial uses	Minimal	Approx. 15.3% of the total DPA land area (see Section 10.4)
Allowable supporting DPA (SDPA) uses that meet the definition at 310 CMR 9.02	Business offices (adaptive reuse); general storage & warehousing; retail & service; restaurants; off-street parking	Activities that provide direct financial/operational support to the DPA, including small-scale commercial, retail, and accessory uses thereto; research & development; and other uses that comply with the SDPA Use definition at 310 CMR 9.02
Temporary Uses consistent with the definition at 310 CMR 9.02	Allowed, with conditions; no conflicts with WDI uses	Allowed, with conditions; no conflicts with WDI uses

Public Access	Not applicable	Public access only as deemed appropriate by MassDEP in a DPA . Any structures or public amenities shall be installed in a manner where they can be removed with relative ease to facilitate Water-Dependent Industrial use. No permanent structures or hindrances to discourage or preempt the transition of the project site to Water-Dependent-Industrial will be allowed. These may include seasonal public access uses.
Design Principles/additional community benefits	Minimal	Incorporate community noise abatement, visual protections, public access, and climate resiliency where possible; no conflicts with WDI uses

10.3 Salem Harbor Station Chapter 91 Approval

To mitigate the occupation of filled tidelands within a DPA by a nonwater-dependent use, Waterways File # W13-3886-N, Decision on Variance Request and Written Determination in the Matter of Footprint Power Salem Harbor Development LP dated November 1, 2013 contained a series of conditions intended to enhance the capacity of the remaining land in the DPA, including a requirement under Special Condition 7 (page 28), that Footprint Power provide “an irrevocable restriction to the City of Salem prohibiting any use of approximately nine (9) acres of non-jurisdictional land, including all the waterfront land in the non-tidelands portion of the site, other than those uses expressly allowed under the Salem Municipal Harbor Plan’s DPA Master Plan, as it may be amended.” Because this approximately nine-acre area of land is within the DPA, but not within filled tidelands subject to Chapter 91 jurisdiction, the condition sought to create a mechanism to limit the use of the property to primarily water-dependent industrial uses allowed in the Salem DPA Master Plan. The condition was satisfied in January 2015 through a “Grant of Restriction and Easement” by Footprint Power to the City of Salem dated January 16, 2015 (see Appendix C). The agreement lists allowable uses and acknowledges that an amendment to the DPA Master Plan approved by EEA and in compliance with the provisions of 301 CMR 23.00 and 310 CMR 9.12(2)(b) modifies those allowed uses. Allowed uses may include nonwater-dependent industrial uses provided they meet the referenced regulatory standards for use in a DPA. The restriction is recorded in the Registry of Deeds and is flagged within the city’s permitting system for enforcement by the Building Inspector during building permit review. The internal flagging process directs the Building Inspector to consult with the City’s Planning Department, and MassDEP, to review for consistency with the DPA Master Plan prior to permit issuance. A copy of the 2023 Salem DPA Master Plan shall be attached to the Grant of Restriction and Easement and referenced in any building permit subject to the Grant issued subsequent to the approval of the 2023 Salem MHP and DPA Master Plan.

Through the 2023 Salem DPA Master Plan, in addition to WDI and Temporary Uses, other uses allowed in a DPA and allowable under local zoning may also be approved within the above-described approximately nine-acre area, provided they do not exceed a combined total of 25 percent of the area (approximately 2.37 acres) and any such use complies with all applicable standards at 301 CMR 23.00 and 310 CMR 9.00, including but not limited to 310 CMR 9.32 and 310 CMR 9.36. Prior to

performing or permitting any use in, on, above, or below the approximately nine-acre area, in addition to any requisite local permitting, written notice of the proposed use shall be provided to MassDEP by the project proponent. Said notice shall include a surveyed site plan that delineates and quantifies the proposed use area, documentation of how the use complies with the above-referenced regulatory standards, and an accounting of all existing and proposed use types within the approximately nine-acre area. In the absence of a letter of compliance from MassDEP, a building permit shall not be issued. In the event MassDEP determines the project does not comply, the project proponent may resubmit a revised proposal to MassDEP for a new review.

In addition to this use restriction, the Chapter 91 Written Determination and EFSB Final Decision include requirements to improve, promote, and market the Salem DPA for water-dependent industrial use. Many of these efforts are ongoing and the City shall continue to work collaboratively with the state and property owner to ensure that all applicable conditions are satisfied in a fair and timely manner.

10.4 Maximum Allowable Commercial Use in the Salem DPA as a Result of Footprint Power

The maximum allowable percentage of commercial use in the Salem DPA is approx. 15.3%.

To determine the maximum allowable percentage of commercial use in the Salem DPA, the Footprint Power parcel is excluded from the area eligible for up to 25% commercial use because its use is restricted by the Decision on Variance Request and Written Determination in the Matter of Footprint Power Salem Harbor Development LP dated November 1, 2013. However, the Footprint parcel is included as part of the overall land area of the Salem DPA in determining this percentage.

In most DPAs, the 25% commercial area can be determined by calculating one-quarter of the land area of the DPA. For the Salem DPA, the maximum allowable amount of 25% commercial use is applied only to the non-Footprint Power land areas of the Salem DPA (approx. 37.6 acres), which yields a maximum allowable commercial use area of approximately 9.4 acres. This maximum commercial use area is then applied to the total area of the Salem DPA (approx. 61.3 acres) to determine the maximum commercial use area as a percentage of the total land area of the Salem DPA.

The three steps involved in this equation are:

1. Determine the non-Footprint Power land area of the Salem DPA:

Total land area of the Salem DPA:	approx. 61.3 acres
Subtract the land area of the Footprint Power parcel:	approx. 23.7 acres
Remaining land area of the Salem DPA:	approx. 37.6 acres

2. Determine 25% of the non-Footprint Power land area of the Salem DPA, which is the maximum amount of area allowed for commercial use for the entire Salem DPA land area

25% of approximately 37.6 acres is approximately 9.4 acres

3. Apply the maximum allowable commercial use area as a percentage of the total land area of the Salem DPA

Approx. 9.4 acres/	approx. 61.3 acres =	approx. 15.3%
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10.5 Public Engagement

The 2023 Salem DPA Master Plan revises the WDI use focus and allowable uses stated in the 2008 DPA Master Plan and provides direction to Salem residents, property owners within the Salem DPA, the city, and state and federal agencies on the community's vision for the future use of this unique port area. This community vision was developed in a series of public forums and meetings between August 2020 and September 2021 and is expressed in the 2023 Salem DPA Master Plan Guiding Principles. Despite the 2023 Salem DPA Master Plan being developed during the COVID-19 pandemic, which prevented the majority of in-person meetings and workshops, the City and consultant team solicited a diverse cross-section of inputs through alternative means, including online engagement tools, virtual meetings, and a dedicated Harbor Plan website.

Meetings held during the planning process included one-on-ones with HPC members, presentations to the Federal Street Neighborhood Association, Historic Derby Street Neighborhood Association, Salem Chamber of Commerce, Salem Partnership, and Willows Neighborhood Association, a series of local access television interviews with the League of Women Voters, multiple HPC meetings and city-wide public meetings, and site tours of the facility for local neighborhood groups, local business community leaders, and the City Council. Footprint Power also hosted their own focus groups and participated in neighborhood and Harbor Planning meetings.

The City and the consultant team also created an interactive map and online survey which provided additional opportunities for feedback on the future use of the DPA. These online tools were hosted on the project website, shared via mail blast, and discussed during public meetings and HPC meetings. The "Priorities for the Footprint Property Survey" received approximately 650 responses and identified local priorities for the reuse of the approximately 42 acres of privately owned land around the new power plant. The interactive mapping tool, which received 698 visits and 127 comments, asked users to help craft the future of the waterfront by using the icons to make note of something they like, an idea or suggestion, and comments. The map covered the entire planning area, including the DPA. The results of these online engagement tools were discussed with HPC members and the public.

Through these interactions with the community, the City identified a strong interest in public access, preserving and expanding ferry/cruise facilities, addressing neighborhood parking needs, resilience, and utilizing the port to support offshore wind development. The interest in pursuing uses related to the development of offshore wind grew rapidly throughout the planning process and was bolstered by the push at the federal and state level to expedite the development of offshore wind which increased the industry's need for offshore wind ports. In recognition of this unique opportunity, the City and Commonwealth entered into a partnership to collaboratively explore the potential for Salem to serve existing and future offshore wind development needs. The partnership included a joint working group between the City, the Executive Office of Energy and Environmental Affairs (EEA), Executive Office of Housing and Economic Development (EOHED) and the Massachusetts Clean Energy Center (CEC), which met regularly to discuss opportunities to facilitate offshore wind development at this site. This partnership was critical to helping the City and the Harbor Plan Committee understand the unique value of Salem's Port and the role it could play in supporting the State's clean energy goals.

In parallel with the City's efforts, and in response to feedback received during the engagement process, Footprint Power responded by issuing a Request for Expressions of Interest (REI) to solicit input directly from the industry on their potential use of Lot 2 to support offshore wind. The REI precipitated a partnership between the City and Crowley to create a public-private partnership aimed at establishing Salem Harbor as the state's second major offshore wind port. Through this partnership, Crowley, the nation's largest civilian employer of US mariners, is anticipated to be the long-term operator of the port for the staging and deployment of wind turbines to offshore installation areas.

Specific details of the project continue to be developed, however the proposed use offers tremendous social, environmental, business, and economic benefits to Salem and surrounding communities. The 2023 Salem MHP seeks to enable this exciting opportunity, while providing protections and guidance to ensure long term compatibility with the community.

To enable offshore wind-related uses to be developed in a manner consistent with the goals and objectives of the community, while preserving the flexibility for the port to accommodate other compatible uses, the HPC developed a series of guiding principles as described in Section 10.5.

10.6 2023 Salem DPA Master Plan Guiding Principles

A global maritime powerhouse during the Age of Sail, the Port of Salem is ideally situated and has the key characteristics to transform it into a maritime hub for water-borne transshipments; a center for marine science, research, and jobs training; an expanded port-of-call for cruise ships; an expanded terminal for ferries and other forms of passenger water transportation; and dockage for local commercial fishing boats. Due to its location near residential neighborhoods and the narrow local roadway system, the Salem DPA is not well-suited for maritime industrial activities that rely on moving goods by land to and from the port to other markets on a regular basis. The Salem DPA's transition from a largely single purpose coal-burning power plant to cleaner natural gas and the remediation of portions of the DPA has focused interest on making the Salem DPA environmentally sustainable and climate resilient, consistent with the goals developed for Resilient Together, Beverly and Salem's joint Climate Action Plan completed in 2021.

To promote a diverse, sustainable, and resilient industrial port, the Salem DPA Master Plan establishes the following principles to guide the development of the Salem DPA, including marketing efforts and infrastructure improvements:

- Preferred Water-dependent Industrial Uses
- Other Preferred Uses Within the DPA
- Design Principles

As part of the Salem DPA Master Plan implementation strategy, the Salem Port Authority will adopt these DPA Master Plan Guiding Principles.

Preferred Water-dependent Industrial Uses

- **Renewable energy**, including offshore wind, tidal, or wave energy sources, including associated manufacturing and O&M uses.
- **Marine research and development**, provided these activities require over-the-dock transfers from ship to shore and/or the withdrawal and/or discharge of large volumes of water.
- **Expanded cruise ship and ferry activity**, and other passenger-related water transportation including whale-watch vessels.
- **Bulk cargo and other temporary shipping activities**, excluding regular hazardous waste transfer, with preference for those activities that minimize heavy truck use of neighborhood streets, including Webb and Derby Streets, by relying on water transportation to move cargo to and from the Salem DPA.
- **Dockage** and other land support for local commercial fishing boats, with preference for avoiding seafood processing facilities that require large trucks to reach markets

Other Preferred Uses Within the DPA

- The existing Salem Harbor Station power facility and related infrastructure, as authorized by the EFSB decision on DEP's Chapter 91 Written Determination dated November 1, 2013.
- Career-related education, science, and training facilities licensed as determined by DEP as one of the following: (1) a water-dependent industrial use; or (2) an accessory to a water-dependent industrial use; or (3) a supporting DPA use.
- In conformance with 310 CMR 9.02 up to 25 percent of each project site within the Salem DPA may be used for supporting DPA uses;
- In conformance with 301 CMR 23.05(2)(e)(1), not more than 25 percent of the total Salem DPA land area shall be used for commercial uses or accessory uses thereto. Currently none of the Salem DPA is licensed for commercial use, and under this Plan the maximum possible commercial use within the DPA Area would be 15.3% The primary method for ensuring that the commercial use 25% maximum is not exceeded within jurisdiction is through Chapter 91 Waterways licensing. For the approximately 9 acres of non-jurisdictional land covered by the variance (see Section 10.3), the restriction is recorded in the Registry of Deeds and is flagged within the city's permitting system for enforcement of allowable uses, including commercial use limitations, by the Building Inspector during building permit review. The internal flagging process directs the Building Inspector to consult with the City's Planning Department and requires consultation with MassDEP, to review for consistency with the DPA Master Plan prior to permit issuance. A copy of the 2023 Salem DPA Master Plan shall be attached to the Grant of Restriction and Easement and referenced in any building permit subject to the Grant issued subsequent to the approval of the 2023 Salem MHP and DPA Master Plan.
- Any industrial or commercial use allowed under the municipal zoning code for the Salem DPA that DEP determines also qualifies as a supporting DPA use. Examples include small-scale commercial and retail and research and development. All supporting DPA uses must comply with the definition of supporting DPA use at 310 CMR 9.02, any associated written guidance from DEP and the applicable standards in 310 CMR 9.00.
 - In general, supporting DPA uses shall be located away from the shoreline and shall not compromise large areas that may be used for water-dependent industrial uses. In particular, reasonable efforts shall be made to locate and design supporting DPA uses on landward edges of the DPA to provide visual buffers and attenuate noise between the Derby Street neighborhood and portions of the DPA located along or adjacent to the waterfront
- Temporary Uses as allowed under the definition of Temporary Uses in 310 CMR 9.02, provided they do not conflict with water-dependent industrial uses.
- Public access use may be allowed, provided it does not conflict with any water-dependent industrial uses. Where feasible, the City supports lateral public access routes and access to the public at points of interest, such as the existing jetty. To minimize the potential for conflict, alternative public access routes should be established during periods of construction or when public access has any potential to interfere with port operations. Any public access areas and installation of public amenities shall only be installed in a manner where they also serve other water-dependent industrial functions or can be moved/removed with relative ease to facilitate Water-Dependent Industrial use. No permanent structures or hindrances to discourage or preempt the transition of the project site to Water-Dependent-Industrial use will be authorized within public access areas. Consistent with the Salem DPA MP Guiding Principles, the city supports conditions that allow seasonal uses as part of a license for an allowed DPA use wherever feasible as determined by DEP.

Design Principles

- To the extent practicable, activities and development within the Salem DPA shall be designed and carried out based on the following principles:
 - Climate resiliency: To the extent consistent with WDI use operational requirements, the Salem DPA shall be redeveloped to provide resilience against flooding and where possible protection which can extend to adjacent neighborhoods.

- Carbon footprint: port operations shall follow best management practices to decrease its carbon footprint, including consideration of plug-in/cold-ironing options for docked vessels.
- Multiple uses: where possible, DPA infrastructure shall be designed to allow for multiple uses, such as flood control berms and public access, subject to the operational requirements of the DPA; all DPA uses, and in particular supporting DPA uses, shall be located and designed with the intent of providing visual buffers and noise attenuation between the DPA and the Derby Street neighborhood.
- Minimize conflicts with residential neighborhoods: Salem DPA developments and activities should minimize impacts on adjacent residential neighborhoods to the extent practicable through location of supporting DPA uses, screenings, plantings, traffic circulation plans, etc. Depending on the amount of supporting DPA uses that can be accommodated, structures shall be located and designed to minimize DPA noise impacts and light pollution, and provide some visual screening from the Derby Street neighborhood. Landscaping and tree plantings may also be used for DPA screening along Derby Street, particularly in the area of the Salem DPA outside Chapter 91 licensing jurisdiction. Depending on the type of water-dependent industrial uses that are developed (e.g., offshore wind energy) and consistent with the City of Salem's ecotourism efforts, some visual corridors will be protected where feasible to allow visitors and residents to observe activities related to the construction and operation of clean energy sources.

10.7 2023 Salem DPA Master Plan implementation

The Salem DPA Master Plan changes the guidance provided in the 2008 DPA Master Plan and lays out the Salem community's vision for its industrial port. The 2023 Salem DPA Master Plan will be implemented through four primary vehicles:

1. Providing guidance to state and federal licensing agencies, and to government and non-governmental funding sources for projects that are consistent with the 2023 Salem DPA Master Plan;
2. Through adoption of the Salem DPA Master Plan Guiding Principles, following approval of the DPA Master Plan, by the Salem Port Authority through a strategic plan or mission statement;
3. Through current local zoning that may be amended from time-to-time, as long as it is consistent with the 2023 Salem DPA Master Plan; and
4. Through building permit review by the Building Inspector and MassDEP, to certify compliance with the Grant of Restriction and Easement (see Appendix C) for the approximately 9.5 acres located in the northeast portion of the Salem DPA (see Section 10.3). The restriction is recorded in the Registry of Deeds and is flagged within the city's permitting system for enforcement by the Building Inspector during building permit review. The internal flagging process directs the Building Inspector to consult with the City's Planning Department and MassDEP to review for consistency with the DPA Master Plan prior to permit issuance.

10.8 2023 Salem DPA Master Plan standards for approval (301 CMR 23.05(2)(e))

The 2023 Salem DPA Master Plan meets all of the DPA Master Plan standards for approval at 301 CMR 23.05(2)(e) through five primary methods:

1. Maintaining the regulatory standards of not more than 25% supporting DPA uses within Chapter 91 jurisdiction or commercial uses within the DPA land area;
2. providing Chapter 91 licensing direction to DEP for supporting DPA uses that not only are located away from the shoreline but also do not compromise large areas that may be used for water-dependent industrial uses;

3. based on considerable local, state, and federal support and details in the Plan, engaging in extensive efforts to market water-dependent industrial uses and improve infrastructure (e.g., dredging);
4. ensuring that supporting DPA uses provide water-dependent industrial uses within the DPA with direct economic and/or operational support, depending on the type and size of the water-dependent industrial uses and the supporting DPA uses that locate in the Salem DPA; and
5. providing guidance to DEP on supporting DPA use design concepts, general location, and buffer functions for residential neighborhoods.

Specific provisions on how the Plan meets each approval standard appear below.

Under 301 CMR 23.05(2)(e), the 2023 Salem DPA Master Plan shall:

Demonstrate that it preserves and enhances the capacity of the DPA to accommodate water-dependent industrial use, and must prevent substantial exclusion of such use by any other use eligible for licensing in a DPA pursuant to 310 CMR 9.32: Categorical Restrictions on Fill and Structures

The 2023 Salem DPA Master Plan preserves and enhances the capacity of the DPA to accommodate WDI uses and prevents substantial exclusion of such use by other eligible uses by: (1) maintaining the regulatory standard at 310 CMR 9.02: *Definitions* of not more than 25 percent of each project site within jurisdiction occupied by Supporting DPA Uses and accessory uses thereto; and (2) directing supporting DPA uses to be located generally away from the waterfront along landward edges of the DPA and to avoid large areas of the DPA that may be used for WDI uses.

Under 301 CMR 23.05(2)(e)(1), the 2023 Salem DPA Master Plan shall:

- **Ensure that an extensive amount of the total DPA land area in close proximity to the water will be reserved for water-dependent industrial uses.**

The 2023 Salem DPA Master Plan directs supporting DPA uses to be located generally away from the waterfront along the landward edges of the DPA and to avoid large areas of the DPA that may be used for WDI uses.

- **Allow Temporary Use on such reserved lands in accordance with the Master Plan-established guidelines as approved by MassDEP after failed solicitation of a maritime industrial tenant as a pre-condition of the temporary occupancy.**

In order for a Temporary Use in a Designated Port Area to be eligible for a licensing or renewal of the license term, it shall comply with the standards for a Temporary Use as defined at 310 CMR 9.02 which requires marketing efforts be undertaken. MassDEP has identified the following marketing efforts as generally appropriate for proposed project sites, but site-specific modifications may be implemented upon approval by MassDEP: the applicant shall prepare a Marketing Plan subject to the prior review and written approval of MassDEP to advertise the availability of the site for Water-Dependent Industrial Use as defined at 310 CMR 9.12(2)(b). Said plan shall include a list of the types of businesses which will be solicited and the means by which the site will be advertised. Such advertising shall include at a minimum: advertising in maritime or other trade journals, including online forums, listing through one or more brokerage databases, and written notification to the Salem Port Authority.

The plan shall be submitted within sufficient time to accommodate the MassDEP review and final approval and shall incorporate any changes requested by MassDEP.

Advertising of the availability of the space for Water-Dependent Industrial Use shall occur for no less than 12 months prior to any initial application for Temporary Use and shall commence no later than 36 months prior to the termination of any issued Temporary License and continue until the end of the license term or until a Water-Dependent Industrial User is found for the site, whichever is sooner.

- **Ensure that commercial uses and any accessory uses thereto will not occupy more than 25% of the total DPA land area covered by the Master Plan.**

The 2023 Salem DPA Master Plan requires that commercial uses and any accessory uses thereto will not occupy more than 25 percent of the total DPA land area. . For the approximately 9 acres of non-jurisdictional land covered by the variance (see Section 10.3), the restriction is recorded in the Registry of Deeds and is flagged within the city's permitting system for enforcement of allowable uses, including commercial use limitations, by the Building Inspector and MassDEP during building permit review. The internal flagging process directs the Building Inspector to consult with the City's Planning Department and MassDEP to review for consistency with the DPA Master Plan prior to permit issuance. A copy of the 2023 Salem DPA Master Plan shall be attached to the Grant of Restriction and Easement and referenced in any building permit subject to the Grant issued subsequent to the approval of the 2023 Salem MHP and DPA Master Plan. There are no current commercial uses within the Salem DPA.

Under 301 CMR 23.05(2)(e)(2), the 2023 Salem DPA Master Plan shall:

- **Set forth reasonable arrangements, as required in 310 CMR 9.36: Standards to Protect Water-dependent Uses, to prevent commitments of any space or facilities that would significantly discourage present or future water-dependent industrial activity, especially on waterfront sites**

The 2023 Salem DPA Master Plan Guiding Principles in Section 10.5 includes reasonable arrangements to prevent commitments of any space or facilities that would discourage present or future water-dependent industrial activities, especially on waterfront sites, by: (1) maintaining the regulatory standard at 310 CMR 9.02: *Definitions* of not more than 25 percent of each project site within jurisdiction occupied by Supporting DPA Uses and accessory uses thereto; and (2) directs supporting DPA uses to be located generally away from the waterfront along landward edges of the DPA and to avoid large areas of the DPA that may be used for WDI uses.

- **Provide details on these arrangements that include, but are not limited to, appropriate limits on the type, location, density, scale, duration, operation, or other relevant aspects of commercial uses, in order to ensure that such uses will comprise a compatible mix and not significantly alter the predominantly maritime industrial character of the DPA.**

While it is unknown how the Salem DPA may be specifically developed in the future, the 2023 Salem DPA Master Plan Guiding Principles in Section 10.5 lays out a conceptual plan supported with considerable public input on the type, location, density, scale, duration, and operation or other relevant aspects of commercial uses. Waterfront areas are generally

reserved for water-dependent industrial uses. Supporting uses, including commercial uses, are generally to be located outside of large areas conducive to water-dependent industrial uses, away from the shoreline, and designed to provide buffers to adjacent residential neighborhoods.

- **If appropriate, specify reasonable limitations on any uses in the DPA, if necessary to mitigate undue conflict with existing residential uses on properties abutting the DPA.**

The Guiding Principles specify the type of Preferred WDI Uses that generally do not rely on land transportation based on restricted land transportation routes and the proximity of residential neighborhoods adjacent to the DPA. Specifically, land access to the Salem DPA is through densely developed neighborhoods with narrow roadways that would make WDI uses dependent on large truck access problematic and potentially give rise to conflicts with existing development adjacent to the DPA. It is the intent of the 2023 Salem DPA Master Plan to encourage the types of WDI uses for which the Salem DPA is best suited and limit WDI uses that may cause operational conflicts.

Under 301 CMR 23.05(2)(e)(3), the 2023 Salem DPA Master Plan shall:

- **Identify any industrial or commercial uses allowable under the municipal zoning code that shall qualify as a Supporting DPA Use, provided such uses comply with the provisions of the definition set forth in 310 CMR 9.02: Definitions and any associated written guidelines of DEP.**

Any industrial or commercial uses allowed under the municipal zoning code for the Salem DPA that MassDEP determines also qualifies as a supporting DPA use shall qualify under this DPA Master Plan. Examples include small-scale commercial and retail and research and development. All supporting DPA uses must comply with the definition of supporting DPA use at 310 CMR 9.02, any associated written guidance from MassDEP, and the applicable standards in 310 CMR 9.00.

- **For supporting uses on piers over flowed tidelands, the Master Plan shall specify limitations and other requirements that ensure that supporting uses do not decrease the functionality of the working waterfront.**

The DPA Master Plan does not include provisions to allow supporting uses on piers over flowed tidelands.

Under 301 CMR 23.05(2)(e)(4), the 2023 Salem DPA Master Plan shall:

- **Set forth a strategy to guide the on-going promotion of water-dependent industrial use by appropriate municipalities, state agencies, and federal government.**

In 2016, the Commonwealth enacted legislation authorizing the formation of the Salem Harbor Port Authority (the "Port Authority"). The Port Authority has the general duty, power, and authority to coordinate port development within Salem Harbor and the harbor port area, as defined in the enabling legislation.

The Port Authority shall continue to work collaboratively with the appropriate local, state, and federal officials, as well as other landowners in the DPA to promote water-dependent industrial uses for the primary benefit of the public interest of the City of Salem. The Port Authority shall develop a strategic plan or mission statement that incorporates the DPA Master Plan Guiding principles to ensure that their efforts to market and promote the port are in keeping with the goals and objectives of the DPA Master Plan. This includes the continued pursuit of offshore wind-related uses on the 42 acres of undeveloped privately owned land surrounding Salem Harbor Station.

- **As part of that strategy, include but not be limited to:**
 - **Recommendations for capital improvements or other economic or operational benefits to be provided by projects involving Supporting DPA Uses, in accordance with municipal goals and priorities for development of water-dependent industrial uses on the project sites in question.**

The City of Salem is currently involved in negotiations to locate an offshore wind developer within the Salem DPA. The size and scale of this potential operation is currently unknown but will be a determining factor in the amount and type of supporting DPA uses to be located within the Salem DPA.

In addition, the mechanism to provide direct economic and/or operational support to a water-dependent industrial use with the DPA will be highly dependent on the ownership of the Salem DPA. If a water-dependent industrial user owns the remaining land area that was part of the former power plant, direct economic and/or operational support could be provided in operational support or rent payments to support the water-dependent industrial use. If the remaining land area is publicly-controlled, the City of Salem will work with MassDEP to develop a mechanism that ensures adequate compensation for the reduced amount of filled tidelands on the project site available for water-dependent industrial use.

Details on the specific mechanism to provide this economic and/or operational support will be determined through licensing as more is known about the ownership of the project site, the extent and nature of the water-dependent industrial use that will be located within the Salem DPA, and the type of Supporting DPA uses that may be proposed.

- **Recommendations to preserve or enhance the infrastructure of navigation channels, truck routes and rail lines, and other transportation facilities providing user access to the working waterfront and its backlands from both the water and the land sides.**

The Salem DPA is served by a 32-foot-deep federally maintained navigation channel that extends approximately 1.6 miles from the deep-water junction of the Beverly and Salem Harbors to the turning basin adjacent to the deep-water berth. With no current rail service and constraints to vehicular access through the adjacent residential neighborhoods, preserving sufficient waterside access is critical to the viability of the port.

As discussed in section 3.4, the City is currently working with Crowley to redevelop the Salem DPA into an offshore wind construction staging hub. Depending on the size and nature of the operation, new roadways and utility upgrades would be required, though the extent and cost of these upgrades is not yet known. The City is actively working with the

developer, state government, and federal agencies to identify available funding sources for these upgrades. In anticipation of this future increase in port activity, in January 2023, the U.S. Army Corps of Engineers announced \$2.95 million in funding for maintenance dredging of the navigational channel in Salem Harbor. Dredging is anticipated to be completed prior to the targeted 2025 completion date.

- **Commitments to maintain a surrounding land-development pattern that provides an appropriate buffer between industrial uses in the DPA and community uses that require separation therefrom in order to avoid significant operational conflict.**

The DPA abuts existing residential areas; therefore, to encourage compatibility and buffering between the community and future industrial uses, the DPA Master Plan incorporates the Guiding Principles discussed in Section 10.5. The Guiding Principles specify the type of Preferred WDI Uses based on restricted land transportation routes and the proximity of residential neighborhoods and require that reasonable efforts be made to locate and design any DPA uses on landward edges of the DPA to provide visual buffers and attenuate noise between the Derby Street neighborhood and portions of the DPA located along or adjacent to the waterfront. There is also a provision in the Guiding Principles to mitigate conflict with the Derby Street neighborhood, which specifically recommends that future development of the DPA “minimize impacts on the adjacent residential neighborhoods to the extent practicable through the location of supporting DPA uses, screenings, plantings, traffic circulation plans, etc.”

Depending on the amount of supporting DPA uses that can be accommodated, structures shall be located and designed to minimize DPA noise impacts and light pollution, and provide some visual screening from the Derby Street neighborhood. Landscaping and tree plantings may also be used for DPA screening along Derby Street, particularly in the area of the Salem DPA outside Chapter 91 licensing jurisdiction. Depending on the type of water-dependent industrial uses that are developed (e.g., offshore wind energy) and consistent with the City of Salem’s ecotourism efforts, some visual corridors will be protected as feasible to allow visitors and residents to observe activities related to the construction and operation of clean energy sources.

11.0 Overall Compliance with MHP Standards

11.1 Compliance with CZM Policies

The MHP regulations at 301 CMR 23.05(1) require that MHPs be consistent with all applicable CZM Policies. The 2023 Salem MHP is consistent with all applicable CZM Policies as described below.

CZM Policy	Consistent or Not Applicable	Discussion
<p>Coastal Hazards Policy #1 (enforceable) 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.</p>	<p>Not applicable</p>	
<p>Coastal Hazards Policy #2 (enforceable) Ensure that construction in water bodies and contiguous land areas will minimize interference with water circulation and sediment transport. Flood or erosion control projects must demonstrate no significant adverse effects on the project site or adjacent or downcoast areas.</p>	<p>Not applicable</p>	
<p>Coastal Hazards Policy #3 (enforceable) Ensure that state and federally funded public works projects proposed for location within the coastal zone will:</p> <ul style="list-style-type: none"> ● 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. 	<p>Consistent</p>	<p>The NPS project to elevate and rebuild its Derby, Hatches, and Central Wharves improves coastal resiliency and will not exacerbate existing hazards or damage natural buffers, etc.</p>

<p>Coastal Hazards Policy #4 Prioritize acquisition of hazardous coastal areas that have high conservation and/or recreation values and relocation of structures out of coastal high-hazard areas, giving due consideration to the effects of coastal hazards at the location to the use and manageability of the area.</p>	<p>Consistent</p>	<p>The NPS project to elevate and rebuild its Derby, Hatches, and Central Wharves will improve management and use in this area prone to flooding. The Salem Harbormaster is currently taking steps to relocate a vulnerable shed. The existing structure is located on Winter Island on the seaward side of an existing pier. To improve resiliency it will be relocated inland, behind an existing revetment, and raised 4 feet above its existing elevation Winter Island inland.</p>
<p>Energy Policy #1 (enforceable) For coastally dependent energy facilities, assess siting in alternative coastal locations. For non-coastally dependent energy facilities, assess siting in areas outside of the coastal zone. Weigh the environmental and safety impacts of locating proposed energy facilities at alternative sites.</p>	<p>Consistent</p>	<p>Footprint Power, a non-coastally dependent energy facility, was sited after a full consideration of alternative locations with an assessment of environmental and safety impacts</p>
<p>Energy Policy #2 Encourage energy conservation and the use of renewable sources such as solar and wind power in order to assist in meeting the energy needs of the Commonwealth.</p>	<p>Consistent</p>	<p>The proposed offshore wind energy support facility in the Salem DPA will significantly expand the Commonwealth's ability to provide renewable wind energy</p>
<p>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.</p>	<p>Consistent</p>	<p>Development projects envisioned in the 2008 and 2023 Salem MHPs are located in densely developed areas and close to public transportation</p>
<p>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.</p>	<p>Consistent</p>	<p>The NPS project to elevate and rebuild its Derby, Hatches, and Central Wharves will improve management and use in this urban area prone to flooding. Work envisioned in the Salem DPA will provide screening for adjacent densely developed neighborhoods and improved climate resiliency</p>

<p>Habitat Policy #1 (enforceable) 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.</p>	<p>Not applicable</p>	
<p>Habitat Policy #2 (enforceable) Advance the restoration of degraded or former habitats in coastal and marine areas.</p>	<p>Not applicable</p>	
<p>Ocean Resources Policy #1 (enforceable) 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.</p>	<p>Not applicable</p>	
<p>Ocean Resources Policy #2 (enforceable) Except where such activity is prohibited by the Ocean Sanctuaries Act, the Massachusetts Ocean Management Plan, or other applicable provision of law, the extraction of oil, natural gas, or marine minerals (other than sand and gravel) in or affecting the coastal zone must protect marine resources, marine water quality, fisheries, and navigational, recreational and other uses.</p>	<p>Not applicable</p>	
<p>Ocean Resources Policy #3 (enforceable) Accommodate offshore sand and gravel extraction needs in areas and in ways that will not adversely affect marine resources, navigation, or shoreline areas due to alteration of wave direction and dynamics. Extraction of sand and gravel, when and where permitted, will be primarily for the purpose of beach nourishment or shoreline stabilization.</p>	<p>Not applicable</p>	

<p>Ports & Harbors Policy #1 (enforceable) 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.</p>	<p>Consistent</p>	<p>The City is coordinating with regional ports and state resources to explore alternative dredge disposal opportunities, including the creation of a regional Confined Aquatic Disposal site (CAD). Since the 2008 Plan, several local dredge projects have advanced including at Hawthorne Cove Marina and the City’s Commercial Marina at Blaney Street. Disposal options continue to challenge other local dredge priorities, including the South River and at Palmer Cove Yacht Club.)</p>
<p>Ports & Harbors Policy #2 (enforceable) 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.</p>	<p>Consistent</p>	<p>Deepwater access within the DPA is critical for the anticipated operation of the port for offshore wind. The Plan encourages and supports continued maintenance dredging of the existing channel and turning basin. The Plan is also supportive of any new dredging or improvement dredging deemed necessary to improve the efficiency of port activities, so long as there has been a thorough analysis of alternatives, and that impacts to other port users are minimized to the extent feasible to balance public interests. If new dredging is proposed outside of the DPA, the Plan recommends consultation with CZM on potentially expanding the DPA boundary to include the new dredge limits.</p>
<p>Ports & Harbors Policy #3 (enforceable) Preserve and enhance the capacity of Designated Port Areas to accommodate water-dependent industrial uses and prevent the exclusion of such uses from tidelands and any other DPA lands over which an EEA agency exerts control by virtue of ownership or other legal authority.</p>	<p>Consistent</p>	<p>The 2023 Salem MHP envisions an active DPA based primarily on offshore wind energy support and passenger vessel operations. Any proposed Supporting DPA Uses will conform to Chapter 91 regulatory allowances and activities</p>
<p>Ports & Harbors Policy #4 (enforceable) 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.</p>	<p>Consistent</p>	<p>The 2023 Salem MHP envisions an active DPA based primarily on offshore wind energy support and passenger vessel operations. Supporting DPA Uses will conform to Chapter 91 regulatory allowances and activities</p> <p>The 2023 Salem MHP continues support for the 2008 Salem MHP focus on expanding access to the shoreline for vessel activities</p>

<p>Ports & 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.</p>	<p>Consistent</p>	<p>The City, through the Salem Harbor Port Authority, is working with the Massachusetts Clean Energy Center and others to promote an offshore wind energy support facility</p> <p>The 2023 Salem MHP continues support for the 2008 Salem MHP focus on expanding access to the shoreline for vessel activities</p> <p>The proposed Crescent Lot development will open up an elevated public promenade and viewing area of the North River</p>
<p>Protected Areas Policy #1 (enforceable) Preserve, restore, and enhance coastal Areas of Critical Environmental Concern, which are complexes of natural and cultural resources of regional or statewide significance.</p>	<p>Not applicable</p>	
<p>Protected Areas Policy #2 (enforceable) Protect state designated scenic rivers in the coastal zone</p>	<p>Not applicable</p>	
<p>Protected Areas Policy #3 (enforceable) 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.</p>	<p>Consistent</p>	<p>The Plan calls for protecting historic features throughout the waterfront. Most notably, the plan supports the resiliency improvements contemplated for the Salem National Maritime Historic Site, which tells the story of Salem's historic prominence in maritime trade.</p>
<p>Public Access Policy #1 (enforceable) 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.</p>	<p>Consistent</p>	<p>Promotes waterfront connections with the Harborwalk (or parallel streets where necessary) between Palmer Cove and Winter Island Park</p> <p>The 2023 Salem DPA Master Plan envisions public pedestrian pathways that do not interfere or displace WDI uses</p> <p>The North River/Crescent Lot planning area uses the proposed development at Crescent Lot to connect the MBTA commuter rail station and downtown with future waterfront walkways along the North River to Furlong Park</p>

<p>Public Access Policy #2 (enforceable) 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.</p>	<p>Consistent</p>	<p>See response above</p>
<p>Public Access Policy #3 (enforceable) 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.</p>	<p>Consistent</p>	<p>See response above</p> <p>The North River/Crescent Lot planning area uses the proposed development at Crescent Lot to connect the MBTA commuter rail station and downtown with future waterfront walkways along the North River to Furlong Park</p>
<p>Water Quality Policy #1 (enforceable) 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.</p>	<p>Consistent</p>	<p>Point source discharges and withdrawals for any proposed project will meet water quality standards and protect designated uses and other interests</p>
<p>Water Quality Policy #2 (enforceable) Ensure the implementation of nonpoint source pollution controls to promote the attainment of water quality standards and protect designated uses and other interests.</p>	<p>Consistent</p>	<p>Applicable nonpoint source pollution controls will be implemented on any project to promote the attainment of water quality standards and protect designated uses and other interests</p>
<p>Water Quality Policy #3 (enforceable) 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.</p>	<p>Consistent</p>	<p>Subsurface waste discharges that may be part of any development will conform to applicable standards</p>

11.2 Consistency with State Tidelands Policy Objectives

The MHP regulations at 301 CMR 23.05(2)(a) state that the Plan must be consistent with state tidelands policy objectives and associated regulatory principles, as set forth in the Waterways

regulations of DEP. The 2023 Salem MHP is consistent with these objectives in much the same way as was the 2008 Salem MHP. The 2023 Salem MHP's consistency with these primary state tidelands policy objectives are described below.

- **To ensure that development of all tidelands complies with other applicable environmental regulatory programs of the Commonwealth as provided in 310 CMR 9.33, Environmental Protection Standards, and is especially protective of aquatic resources within coastal Areas of Critical Environmental Concern, as provided in 310 CMR 9.32(1)(e) and 9.33: Areas of Critical Environmental Concern (ACEC's).**

Any proposed development in the 2023 Salem MHP will be reviewed in light of and will be required to meet all state and local environmental standards, ensuring compliance with applicable regulatory programs of the Commonwealth. There are no coastal Areas of Critical Environmental Concerns (ACECs) in the Salem Harbor Plan Study Area.

- **To preserve any rights held by the Commonwealth in trust for the public to use tidelands for lawful purposes, and to preserve any public rights of access that are associated with such use, as provided in 310 CMR 9.35: Standards to Preserve Water-related Public Rights.**

The preservation of these rights is ensured through the requirements of Chapter 91. The substitutions for particular Chapter 91 standards in the 2023 Salem MHP tailor the application of these regulatory requirements to the specific circumstances along Salem's waterfront, enhancing their effectiveness in protecting the public interest as described in detail above in Chapter 4.

- **To preserve the availability and suitability of tidelands that are in use for water-dependent purposes, or that are reserved primarily as locations for maritime industry or other specific types of water-dependent use, as provided in 310 CMR 9.32 (1)(b): Tidelands Within Designated Port Areas (DPAs) and 9.36: Standards to Protect Water-dependent Uses**

The 2023 Salem MHP continues the City's focus on expanding water-dependent uses in each of the six planning areas. The 2023 Salem DPA Master Plan (see Section 10) envisions a green maritime industrial port focused on renewable energy and the addition of the North River Crescent Lot planning area anticipates greater public access to and enjoyment of Salem's North River.

- **To ensure that all licensed fill and structures are structurally sound and otherwise designed and built in a manner consistent with public health and safety and with responsible environmental engineering practice, especially in coastal high hazard zones and other areas subject to flooding or sea-level rise, as provided in 310 CMR 9.37: Engineering and Construction Standards**

All public and private marine construction projects supported by the 2023 Salem MHP will be subject to the standards at 310 CMR 9.37 as they apply to specific projects, in addition to city and state review procedures, ensuring sound design and appropriate mitigation of potential environmental impacts.

- **To ensure patronage of public recreational boating facilities by the general public and to prevent undue privatization in the patronage of private recreational boating facilities, as provided in 310 CMR 9.38: Use Standards for Recreational Boating Facilities; and to ensure that fair and equitable methods are employed in the assignment of moorings to the**

general public by harbor masters, as provided in 310 CMR 9.07: Activities Subject to Annual Permit

The 2023 Salem MHP continues the City's support to expand the use of public waterfront facilities, including public landings and dinghy dockage. Use of these facilities subject to 310 CMR 9.38 will be managed in accordance with the regulations under existing City policies and procedures. Assignment of moorings by the Harbormaster to the general public will continue to occur in a fair and equitable manner under the authority pursuant to 310 CMR 9.07. Since the 2008 Plan, new public landings and dinghy docks have been added at three critical downtown locations along Salem Harbor; Charlotte Forten Park, the Congress Street Pier, and Central Wharf.

- **To ensure that marinas, boatyards and boat-launching ramps are developed in a manner that is consistent with sound engineering and design principles, and include such pumpout facilities and other mitigation measures as are appropriate to avoid or minimize adverse impacts on water quality, physical processes, marine productivity, and public health, as provided in 310 CMR 9.39: Standards for Marinas/Boatyards/Boat Ramps**

The City of Salem currently has a pumpout boat operated by the City's Harbormaster that discharges at Salem Wharf. Additional pumpout facilities have been explored at Winter Island, but have not been implemented due to the distance from the waterfront to the upland connection. The plan recommends that the City continue to explore adding a new pumpout facility for recreational boating on Winter Island in coordination with any future improvements.

- **To ensure that dredging and disposal of dredged material is conducted in a manner that avoids unnecessary disturbance of submerged lands and otherwise avoids or minimizes adverse effects on water quality, physical processes, marine productivity, and public health, as provided in 310 CMR 9.40: Standards for Dredging and Dredged Material Disposal**

All dredging projects recommended in the Plan will be subject to local, state and federal permitting and review requirements, ensuring that environmental impacts will be analyzed and minimized. Maintenance dredging of the Federal Channel involves previously disturbed areas. Improvement dredging that may be required to support the anticipated offshore wind port would be subject to all permitting requirements, including environmental review. Dredging in the South River, which was contemplated in the 2008 plan, is still needed, but has been delayed due to the cost of available disposal options. The City is coordinating with nearby municipalities and marinas, and with state resources, on options for alternative disposal options, including a regional CAD cell.

- **To ensure that nonwater-dependent use projects do not unreasonably diminish the capacity of any tidelands to accommodate water-dependent use, as provided in 310 CMR 9.51: Conservation of Capacity for Water-dependent Use**

The 2023 Salem MHP four substitute provisions and offsets are applicable only in portions of the South Commercial Waterfront planning area. These substitute provisions ensure that this standard is met, as described in detail in Chapter 4.

- **To ensure that nonwater-dependent use 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 said lands, as provided in 310 CMR 9.52: Utilization of Shoreline for Water-dependent Purposes**

The 2023 Salem MHP supports continued water-dependent uses, with a focus on water-dependent industrial activity in the DPA, particularly offshore renewable energy and passenger vessel activities, and public access, recreational boating, and commercial fishing activities in the planning areas outside the Industrial Port. The 2023 Salem MHP supports the creation of public access areas including within the DPA when MassDEP determines it complies with all regulatory standards and does not affect water-dependent industrial use within the DPA.

- To ensure that nonwater-dependent use projects on Commonwealth tidelands, except in DPAs, promote public use and enjoyment of such lands to a degree that is fully commensurate with the proprietary rights of the Commonwealth therein, and that ensures that private advantages of use are not primary but are merely incidental to the achievement of public purposes, as provided in 310 CMR 9.53: Activation of Commonwealth Tidelands for Public Use**

The 2023 Plan does not recommend any modifications to Chapter 91 requirements that would apply to any proposed nonwater-dependent development on Commonwealth tidelands.

11.3 Compatibility with State Agency Plans or Planned Activities

The MHP regulations at 301 CMR 23.05(3) state that MHPs must include all feasible measures to achieve compatibility with the plans or planned activities of all state agencies owning real property or otherwise responsible for the implementation of development of plan or projects within the harbor planning area. The table below identifies relevant state agencies and the 2023 Salem MHP's compatibility with these agencies' plans or planned activities.

State Agency	Relevant 2023 Salem MHP provisions	Notes
Massachusetts Bay Transportation Authority (MBTA)	Improved pedestrian access to the Salem Commuter Rail Station	Future waterfront access must be done in conjunction with the MBTA (potential rights-of-way issues)
Massachusetts Clean Energy Center (CEC)	Focus of offshore renewable energy in the 2023 Salem DPA Master Plan	Consistent with the CEC's focus on ensuring the economic development opportunities of the offshore wind energy industry
Massachusetts Seaport Economic Council	Industrial port improvements, improved public access	Consistent with Council's purpose to cultivate job creation and economic growth in the maritime sector

12.0 Appendices

- A. Request for Notice to Proceed
- B. Notice to Proceed
- C. Grant of Restriction and Easement



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
251 Causeway Street, Suite 800, Boston, MA 02114-2136
(617) 626-1200 FAX: (617) 626-1240

Public Notice

Notice of Submission of a Request for a Notice to Proceed for the Amendment to the City of Salem Municipal Harbor Plan and Designated Port Area Master Plan pursuant to 301 CMR 23.00

In accordance with the applicable regulations at 301 CMR 23.00, the City of Salem has submitted a Request for a Notice to Proceed (RNTP) to the Secretary of Energy and Environmental Affairs to initiate the state approval for an amendment to the 2008 Salem Municipal Harbor Plan and Designated Port Area Master Plan.

Copies of the RNTP may be obtained by contacting Seth Lattrell at slattrell@salem.com.

Written comments on the RNTP will be considered. Comments must be received by 4:30 p.m. on Friday, July 10, 2020. Comments should be addressed to:

Office of Coastal Zone Management
251 Causeway Street, Suite 800
Boston, MA 02114-2136
Attn: Kathryn Glenn

Note: Due to the COVID-19 outbreak, the preference is for electronic submission of comments. Comments can also be submitted electronically to kathryn.glenn@mass.gov and copied to robert.boeri@mass.gov.

Notification Date: June 10, 2020



Salem Municipal Harbor Plan Update

Request for Notice to Proceed



Kimberley Driscoll
Mayor
Tom Daniel, Aicp
Director

utile



Brown, Richardson + Rowe, Inc.
Landscape Architects and Planners





City Of Salem, Massachusetts
Department Of Planning And
Community Development

98 Washington Street
Salem, Massachusetts 01970
Tele: 978-619-5685

Dear Ms. Engler,

On behalf of the City of Salem, Massachusetts, I'm writing to respectfully request the issuance of a Notice to Proceed with the preparation of an amendment to a Municipal Harbor Plan and Designated Port Area ("DPA") Master Plan (collectively the "Harbor Plan") by the Massachusetts Office of Coastal Zone Management ("CZM") in accordance with the provisions of 301 CMR 23.03.

Salem's Harbor Plan was last updated in 2008, and since that time we have successfully initiated or completed many of the port development recommendations set forth in the Harbor Plan, including the construction of portions of the harborwalk and public park along the South River Basin, the construction of a new wharf and marina at Blaney Street, operation of a ferry service between Salem and Boston, upgrades to Winter Island including restoration of Fort Pickering and construction of a perimeter public pathway, and the preliminary design of the South River dredging. There have also been substantial changes to the waterfront not contemplated in the 2008 Harbor Plan. In May 2018, Footprint Power's natural gas-powered energy facility (the "Salem Harbor Station") came online, replacing the coal-fired power plant that ceased operations in 2014. The new facility is substantially more compact than the coal plant, freeing up approximately 42.3 acres of land to the southwest and northeast of the Salem Harbor Station for potential redevelopment (the "Footprint Property"). No longer needed for coal deliveries, the City, through an agreement with Footprint, has upgraded the site's marine terminal and hosted several medium-sized cruise vessels. The substantial reduction of the area of the waterfront required for electricity generation provides a tremendous opportunity for new uses that may support the City's long term planning objectives; however, future development on this waterfront property is limited by the presence of previously filled tidelands subject to Massachusetts General Laws Chapter 91 and its classification as a DPA.

The goal of this Harbor Plan update is to build off our past success and establish a shared vision for the future of Salem Harbor that is consistent with the guiding principles of Imagine Salem, our community visioning process for what Salem will look and feel like in 2026, the City's 400th anniversary. Through a robust community driven visioning process, the Harbor Plan will work to protect and enhance the economic, environmental, historic and cultural resources related to Salem Harbor and the North River, and will strive to achieve a balance between the residential and business needs of the adjacent neighborhoods, opportunities for the entire city, and the value of Port of Salem as a regional economic resource. As described further below, the Harbor Plan is intended to guide the future use of key development areas in Salem, specifically along the North River and at the Footprint Property.

Provided below is a summary of the proposed program for the Harbor Planning process pursuant to the submission requirements in 301 CMR 23.03:

1. Description of the Harbor Planning Group, staff, and consultants.

The Harbor Plan is anticipated to be supported by a diverse body of local representatives and led by an experienced consultant team in close collaboration with City staff. Anticipated representative members of the Harbor Plan Group, staff, and consultant team are as follows:

Harbor Planning Group:

- Mayor – Kimberley Driscoll
- Salem Harbor Port Authority
- Salem Marine Society/Harbormaster – Capt William McHugh
- National Park Service Superintendent
- Derby Street Neighborhood Association
- Salem Partnership
- At-Large Councilor
- Ward 1 Councilor – Robert McCarthy
- Salem Sound Coast Watch
- Salem Alliance For the Environment (SAFE)
- Salem State
- Destination Salem
- Public Safety
- Ward 1 Neighborhood

Consultant Team

- Utile (Planning and Urban Design)
- Durand and Anastas (Regulatory Strategy)
- RKG Associates (Market Analysis)
- Kleinfelder (Resilience Advisory)
- GEI Consultants (Marine Engineering and Infrastructure)
- Brown, Richardson + Rowe (Landscape Architecture)

City of Salem – Department of Planning and Community Development (DPCD)

- Tom Daniel (Director)
- Kathleen Winn (Deputy Director)
- Seth Lattrell (Port Authority Deputy/Planner)

Additionally, it is anticipated that the Harbor Planning effort will be managed in close consultation with other state agencies with legal jurisdiction and expertise relative to the matters under consideration.



2. Scaled map identifying Harbor Planning Area

The Harbor Planning Area encompasses the Salem shoreline and adjacent landside areas between Winter Island and Palmer Cove as well as landside areas along the North River from Furlong Park to North Street and across the river to the “Crescent Lot”. The upland boundary from Winter Island to Palmer Cove is defined by the public roadway closest to the water’s edge, which for most of the planning area is Derby Street and Fort Avenue. The upland boundary along the North River is defined by Franklin Street, North Street, and Bridge Street.

The overall Harbor Planning Area is divided into six districts as shown on Figure 1 and defined below:

1. South Commercial Waterfront

This portion of the waterfront is adjacent to and on the waterside of the Point Neighborhood. It includes Pickering Wharf, the South River Basin (defined by Congress, Peabody, Lafayette and Derby Streets), Shetland Park, Palmer Cove Yacht Club and the Palmer Cove Playground out to the public streets immediately surrounding the playground.

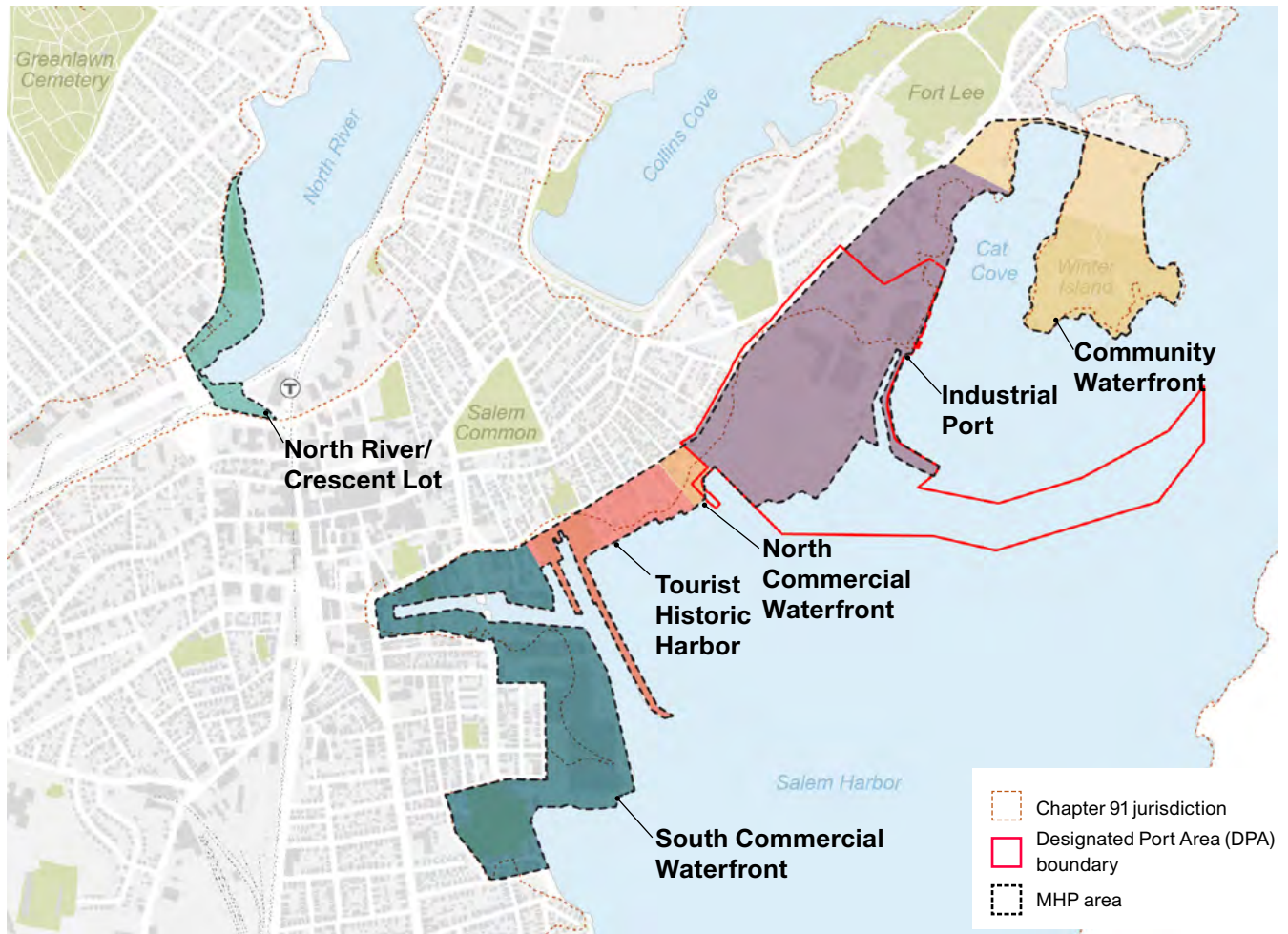


Figure 1: The Harbor Planning Area is divided into six districts: South Commercial Waterfront, Tourist Historic Harbor, North Commercial Waterfront, Industrial Port, Community Waterfront, North River/Crescent Lot.

2. Tourist Historic Harbor

The Tourist Historic Harbor centers around Derby Wharf and includes waterfront historic sites, such as the Salem Maritime National Historic Site to the House of the Seven Gables. Landward, this sub-area extends to Derby Street and the adjacent waterfront neighborhood.

3. North Commercial Waterfront

This part of the planning area extends from Hawthorne Cove Marina to the edge of the Power Plant property and includes the ferry facilities and commercial marina of the Salem Wharf. The DPA extends into this planning district.



4. Industrial Port

Located at the end of the deep-water channel that leads into Salem Harbor, the Industrial Port encompasses the 42.3-acre Footprint Property, the new Salem Harbor Station, the Deepwater Berth, the South Essex Sewage District Treatment Plant (“SESD”), and the Federal Channel. The DPA comprises most of this district with the exception of the SESD. The Industrial Port is located between the North Commercial Waterfront and the Community Waterfront.

5. Community Waterfront

This area occupies the northernmost portion of Salem Harbor and includes Cat Cove, Winter Island and Smith’s Pool. Winter Island is the largest recreational space on the inner harbor and is used for such activities as camping, picnicking and walking by residents and visitors alike. With its pier and boat ramp, it is also the site of numerous marine related activities mostly supporting recreational boats. Sharing the island with the public park and within this planning district is the Plummer Home for Boys. Bordering the Community Waterfront are the South Essex Sewage District treatment plant, the west end of the Salem Willows Park, the Winter Island neighborhood and Juniper Cove.

6. North River/Crescent Lot

This area is comprised of parcels northwest and southwest of the North River, including the Crescent Lot, a 36,600 square foot 97 space parking lot adjacent to the MBTA Commuter Rail Station, and the lands across the river bounded by North Street and Franklin Street, up to and including Furlong Park.

While the Harbor Plan will provide recommendations and guidance for the entire Harbor Planning area, the major changes contemplated by this update to the Harbor Plan are in the Industrial Port (Salem DPA) and the North River/Crescent Lot.

3. Historical narrative of land and water use and development in the Harbor Planning Area / Reason for initiating Harbor Planning process / Review of prior planning efforts

Within our City Seal, the motto “Divitis Indiae usque ad ultimum sinum,” which translates to “To the farthest port of the rich east,” represents the rich and storied history of maritime commerce in the City of Salem. Commercially, Salem’s name has been known to the whole world, holding almost supremacy in commerce during the early part of the 19th century. Ships originating from Salem were pioneers in the India trade and opened commerce with Africa, China, Russia, Japan, and Australia. By the mid-19th century, Salem’s primary imports shifted away from bulk cargoes, including spices, to coal that was transported inland via rail. In the mid-20th century, a power plant was constructed along Salem Harbor within the area that would later be demarcated as Salem’s Designated Port Area. The power plant operated from 1951 through 2014 when the facility was decommissioned and replaced with the new Salem Harbor Station, a nonwater-dependent use, which no longer requires use of the Deepwater Berth.

Concurrent with this critical change in commercial maritime activity in Salem, there have also been key changes in recreation and transportation in Salem, most of which were the product of prior harbor planning efforts. The planning initiative that produced the original Salem’s Harbor Plan was formally started in 1996 through a public process that served to establish the key issues that would need to be addressed by the plan. In June 1997, the scope for the Salem Harbor Plan was completed and approved by the Secretary of the Executive Office for Energy and Environmental Affairs (“EEA”). The final Salem Harbor Plan was developed by the Harbor Planning Committee during a yearlong process that officially began in January 1998. In preparing the Harbor Plan, the Harbor Planning Committee analyzed strategic project and policy alternatives which would frame future development decisions along the waterfront. This included an economic analysis of the feasibility

of creating a new mixed-use maritime facility which was subsequently constructed and is now referred to as the Salem Wharf.

The original Salem Harbor Plan was approved by the EEA in 2000 and served to guide waterfront development and public infrastructure projects in the harbor through 2006. At that time, Salem’s Mayor began the process of updating the plan by first appointing a new 16-member Harbor Plan Implementation Committee with continuity provided by several members who served on this committee in the 1990s when the original Plan was created. A scope of work was developed and accepted by the State. In early 2007, the City selected a consultant team and initiated a revision to the 2000 Salem Harbor Plan. The revision was approved by the Secretary of the EEA in June 2008. The City has begun or completed implementing many of the port development recommendations set forth in these prior Harbor Plans including the construction of the majority of the harborwalk and public park along the South River Basin, the construction of a new wharf and marina at Blaney Street (the “Salem Wharf”), operation of a ferry service between Salem and Boston, upgrades to Winter Island including restoration of Fort Pickering and construction of a perimeter public pathway, and the preliminary design of the South River dredging.

As the City approaches our 400th anniversary, we are presented with a generational opportunity to continue this great tradition and to reestablish the role of Salem’s historic port and our connection to the sea. The Harbor Planning process will serve as the primary vehicle for the City to establish a shared community vision for the future of Salem Harbor and our industrial port at this critical juncture, and the plan itself will function as the tool for implementing that vision. Along the North River, the Harbor Plan will seek to strengthen the pedestrian connection between North Salem and Downtown and to build upon past efforts to restore the City’s connection to the waterfront.

4. Description of public participation program

A robust and meaningful public participation program is critical to the success of this planning effort. The City, along with our consultant team, is working to develop a goal-based engagement strategy that employs a variety of methods to solicit input from the broad community – residents, business owners, institutions, property owners, local officials, and City leaders. This strategy will combine direct engagement and traditional public meeting formats with visual preference surveys, break-out strategy sessions, comment cards that could include multiple choice questions, map-based activities, or opportunities for written feedback to create an approachable, effective, and engaging platform. The goal of the public participation plan is to maximize participation from a diverse body and to develop a clear and tangible vision so that the plan may be implemented once it's approved.

In addition to regular meetings of the Harbor Plan Committee, which are described further below, the team anticipates hosting four public meetings. The specific details of these meetings will be evaluated as the plan unfolds and are subject to the Committee's feedback.

- *Kickoff Workshop*

Planned approximately one-month after receipt of NTP, the kickoff meeting will serve to introduce the Harbor Planning process and to enlist members to remain active throughout. We anticipate the following general format for this meeting: The first twenty minutes will be an open house, guided by facilitators, where we will invite attendees to provide feedback about what they like, dislike, and would like to change on a large-scale map of the area. A second open house activity will ask attendees to identify desired future uses and character zones and match them to different areas of the waterfront. The open house will be followed by a presentation of the MHP planning process, its advantages and limitations, and will lead into a breakout session where attendees will discuss these issues. Additionally, the presentation will seek

to familiarize the attendees with the state policy goals that must be met by the process and review potential outcomes. The goal of this meeting is to walk away with a greater understanding of the purpose, goals, and objectives of this plan update.

- *Public Meeting 1*

This meeting is anticipated to include a summary of the overall community vision and look more directly at addressing concepts and strategies for public waterfront access, along with a presentation summarizing feedback and stakeholder conversations to date, and gather around large-scale maps to have a more focused discussion about public amenities and access.

- *Public Meeting 2*

Anticipated to occur approximately midway through the planning period, this meeting will serve as an opportunity for the team to present the market analysis of the Footprint property and discuss other key findings. The format is anticipated to consist of a presentation of the analysis and breakout stations to discuss initial planning and design scenarios. The goal of this meeting is to keep the public informed of the plan and solicit feedback that has the potential to shift the direction of the planning process.

- *Public Meeting 3*

This meeting is intended to focus entirely on the Harbor Plan and strategies for codifying the community's vision into the plan. The team will present an outline of the Harbor Plan and solicit feedback from participants.

The City anticipates approximately 10 meetings with the Harbor Plan Committee, generally twice a month during plan development, although the number of meetings may be adjusted depending on need. The initial meetings will focus on the goals and objectives of the City's Harbor Plan, an overview of the Chapter 91 waterways regulations and their impact on filled tidelands, and how a municipal harbor plan may be used to tailor the Chapter 91 waterways regu-

lations to meet a community's waterfront goals. Harbor planning options, approval standards, flexibility, and constraints will be discussed in an iterative manner, building on previous sessions as more details are developed regarding the Harbor Plan. While the Harbor Plan Committee is an advisory group, it may vote on specific elements of the plan in order to provide clear guidance to the City and its consultant team on the Salem Harbor Plan Update.

The Harbor Plan Committee meetings will generally be a mixture of presentations by the City and its consultant team; presentations by neighborhood groups or project proponents, if requested; committee discussions; and public comments/questions & answers. Each meeting will be open to the public, and additional written or electronic correspondence will be encour-

aged. Successive meetings will incorporate responses or revisions based on earlier comments from the Harbor Plan Committee and the public.

In consideration of the current coronavirus pandemic and the uncertainty of how long social distancing measures will remain in place, the City is evaluating alternative platforms to host these public meetings remotely. Over the past two months, the City has successfully used web-based video conferencing for all public meetings. It is contemplated at this stage that public meetings would be held via webinar and integrated with an interactive harbor planning website to provide multiple options for broad engagement.



5. Description of study program

The proposed study program can be divided into four phases:

1. *Review of Existing Conditions Relative to 2008 Harbor Plan -*

A primary purpose of this harbor plan update is to address key changes along Salem's waterfront since the issuance of the 2008 Harbor Plan. These include the redevelopment of the Salem Harbor Power Station, which represents a critical change in use of the DPA and enables the development of the 42.3 acre Footprint property, as well as the redevelopment activity around Salem's courthouses and the MBTA Commuter Rail Garage which incentivizes the redevelopment of the Crescent Lot and improved activation of the North River waterfront. However, there have also been critical changes outside of the harbor planning area that will factor into this planning effort. These changes include new traffic and transportation concerns, a greater understanding of the risks of climate change, as well as market and development changes. The initial phase of the planning process will include a review of the existing conditions through GIS data analysis, site assessments, and a review of statistical data (e.g., traffic volumes) or other relevant information.

2. *Market Analysis of the Designated Port Area –*

Recognizing the inherent value waterfront land has in growing cities like Salem, it is important to explore the multitude of uses that land could support which will in turn inform future development or redevelopment scenarios the City ultimately encourages through regulatory or financial incentives. The market analysis will explore the demand of a variety of waterfront uses that range from marine industrial and research, to office and amenity space to the potential even for residential uses. While not all uses may be viable, particularly in areas within the DPA, establishing market demand will provide a starting point to assess regulatory feasibility and compatibility with the community and upland infrastructure. A clear and transparent assessment

of both the viability and regulatory feasibility of different uses will be critical to informing the following task of defining a vision and goals. The market analysis will factor in sociodemographic changes in the city, employment changes and projections, recent real estate transactions and development proposals, and current property ownership composition for the study area and adjacent parcels. Combined, these data points can tell a compelling story about the future of this waterfront area and ultimately inform the future direction for both the city and private owners.



3. Define Vision and Goals –

Based on the outcome of the previous tasks and on feedback generated through the community outreach, by the Harbor Plan Committee, and in consultation with state agencies, the City and their consultant team will create development scenarios to test the viability of different uses on the Footprint Property and Crescent Lot. In addition to being guided by a robust community visioning process, the development scenarios will be informed by the guiding principles of Imagine Salem; community, housing, employment, transportation, climate & energy, and education. Specifically, public access and resiliency will be a key theme throughout each development scenario. The consultant team will then work to identify a regulatory pathway for each scenario and coordinate with state agencies to assess consistency with state policies and to determine the feasibility and effectiveness of regulatory adjustments such as substitutions, offsets, and amplifications to the state Chapter 91 regulations or the potential for changes to the DPA boundary.

This phase will also assess the vulnerability of our overall harbor planning area to coastal flooding and sea level rise. The consultant team will develop recommendations to address identified priorities through both regulatory approaches, such as ordinances and zoning, as well as specific coastal resilience improvements along the waterfront. The goal of this guidance is to provide the City with the tools to leverage other proposed investments in infrastructure, pedestrian access, water transit, and redevelopment for city-wide resilience co-benefits.

4. Develop an Action Plan -

The Harbor Plan will serve as planning and regulatory guidance for years after its approval; therefore, it is critical to the City that Harbor Plan contain details and specific steps to guide future implementation. These steps will include guidance for implementing any substitutions, offsets, or amplifications to Chapter 91 regulations, as well as local zoning recommendations. The specificity of the plan will be balanced with flexibility to allow the City to adapt to changes or to take advantage of unforeseen opportunities for future public benefits.

Thank you for your consideration of this request. We look forward to working with you and your staff to advance this exciting new milestone for the future of Salem Harbor.

Should you have any questions or need any additional information related to this request of the proposed Harbor Plan, please contact me, at SLattrell@Salem.com or (978)619-5685.

Sincerely,

Seth Lattrell

Seth Lattrell
Port Authority Deputy/Planner

Appendix B. Notice to Proceed



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
251 Causeway Street, Suite 800, Boston, MA 02114-2136
(617) 626-1200 FAX: (617) 626-1240

Public Notice

Notice to Proceed for Salem's Municipal Harbor Plan/Designated Port Area Master Plan Amendment/Renewal in accordance with 301 CMR 23.03

On June 1, 2020, the City of Salem submitted a request for Notice to Proceed for a state approved Municipal Harbor Plan and Designated Port Area Master Plan amendment and renewal for the Salem waterfront. Notice of this request was published in the *Environmental Monitor* on June 10, 2020 and public comments were accepted for a thirty-day period ending on July 10, 2020. On August 10, 2020, CZM issued the following Notice to Proceed for the Salem Harbor MHP/DPA Master Plan amendment and renewal.

Notification Date: August 26, 2020





THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
251 Causeway Street, Suite 800, Boston, MA 02114-2136
(617) 626-1200 FAX: (617) 626-1240

August 10, 2020

Seth Lattrell
Department of Planning and Community Development
98 Washington St., 2nd Floor
Salem, MA 01970

RE: Salem Municipal Harbor Plan/Designated Port Area Master Plan Amendment/Renewal

Dear Mr. Lattrell,

Pursuant to 301 CMR 23.03, the Municipal Harbor Plan (“MHP”) Regulations, the City of Salem submitted a Request for Notice to Proceed (“RNTP”) for a state approved MHP and Designated Port Area (DPA) Master Plan amendment and renewal for the Salem waterfront on June 1, 2020. Notice of this request was published in the Environmental Monitor on June 10, 2020 and public comments were accepted for a thirty-day period ending on July 10, 2020. No public comments were received. Based on a review of the City’s request, I am pleased to issue the following Notice to Proceed for the Salem Harbor MHP/DPA Master Plan amendment and renewal.

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. Municipal Harbor Plans 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 City’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 traffic 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 same areas that were identified in the 2008 Salem Harbor Municipal Harbor Plan and Designated Port Area Master Plan (2008 Plan),



and also includes a new area adjacent to the North River. The harbor planning area extends along the Salem shoreline and adjacent landside areas between Winter Island and Palmer Cove as well as landside areas along the North River from Furlong Park to North Street and across the river to the Crescent Lot at 252 Bridge Street. Generally, the upland boundary of the harbor planning area is defined by the public roadway closest to the water's edge, which for most of the planning area is Derby Street and Fort Avenue. The upland boundary of the North River District is defined by Franklin Street, North Street, and Bridge Street. The overall harbor planning area is divided into six distinct districts (see figure 1). These include:

1. South Commercial Waterfront

This portion of the waterfront is adjacent to and on the waterside of the Point Neighborhood. It includes Pickering Wharf, the South River Basin (defined by Congress, Peabody, Lafayette and Derby Streets), Shetland Park, Palmer Cove Yacht Club and the Palmer Cove Playground out to the public streets immediately surrounding the playground.

2. Tourist Historic Harbor

This district centers around Derby Wharf and includes waterfront historic sites, such as the Salem Maritime National Historic Site to the House of the Seven Gables. Landward, this district extends to Derby Street and the adjacent waterfront neighborhood.

3. North Commercial Waterfront

This district extends from Hawthorne Cove Marina to the edge of the Power Plant property and includes the ferry facilities and commercial marina of the Salem Wharf. The DPA extends into this planning district.

4. Industrial Port

Located at the end of the deep-water channel that leads into Salem Harbor, the Industrial Port encompasses the 42.3-acre Footprint Property, the new Salem Harbor Station, the Deepwater Berth, the South Essex Sewage District Treatment Plant ("SESD"), and the Federal Channel. The DPA comprises most of this district except for the SESD. The Industrial Port is located between the North Commercial Waterfront and the Community Waterfront.

5. Community Waterfront

This area occupies the northernmost portion of Salem Harbor and includes Cat Cove, Winter Island and Smith's Pool. Winter Island is the largest recreational space on the inner harbor and is used for such activities as camping, picnicking, and walking by residents and visitors alike. With its pier and boat ramp, it is also the site of numerous marine related activities mostly supporting recreational boats. The Plummer Home for Boys shares the island with the park within this planning district. The Community Waterfront district borders the SESD treatment plant, the west end of the Salem Willows Park, the Winter Island neighborhood and Juniper Cove.

6. North River/Crescent Lot

This district, which was not included in the 2008 Plan, is comprised of parcels northwest and southwest of the North River, including the Crescent Lot, a 36,600 square foot 97 space parking

lot adjacent to the MBTA Commuter Rail Station, and the lands across the river bounded by North Street and Franklin Street, up to and including Furlong Park.

According to the RNTP, while the Harbor Plan will provide recommendations and guidance for the entire harbor planning area, the focus of this renewal to the 2008 Plan are the Industrial Port district within the Salem DPA and the North River district, including Crescent Lot.

For consideration as you develop your MHP amendment and renewal, 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 DEP pursuant to 310 CMR 9.04.

To facilitate review of the MHP and future implementation, the MHP should contain one or more maps that present a well-defined boundary of the proposed harbor planning area and its approximate relationship to Chapter 91 jurisdictional tidelands. 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 to the licensing process.

Substitutions as described above will be allowed only if the municipality demonstrates, in the MHP, that the substitution provisions 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. In determining whether comparable or greater effectiveness is achieved by the 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

The MHP amendment and renewal should clearly articulate the goals and recommendations of the 2008 Plan that have been achieved, how the community's goals and objectives for the harbor planning area have changed since the submittal of the 2008 Plan, and any changes in policies that have been established to guide development and other activity, including patterns, phasing, and limits, and other relevant characteristics on the waterfront.

As the North River district is a new addition to the harbor planning area for this renewal, the district's current characteristics, uses, and activities should be clearly defined, and the goals and opportunities for this area should be fully described. Any analysis for substitutions proposed in this district should consider offsets that provide public benefits within the North River district specifically.

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.

One of the goals of the planning process stated in the RNTP is to assess the vulnerability of the overall planning area to coastal flooding and sea level rise, and develop recommendations to address identified priorities through regulatory approaches, such as ordinances and zoning, as well as specific resilience improvements that could be implemented along the waterfront. The most recently available climate change data available at the time of analysis should be used to determine vulnerabilities and analyze appropriate approaches to address them. CZM and EEA can provide technical assistance and data as needed for this task.

IV. DPA Master Plan

The City's RNTP indicates that a substantial focus of the Salem MHP renewal will explore opportunities to redevelop and revitalize the DPA, where the conversion of the Salem Harbor Power Station to Footprint Power has opened up a significant area on the site for redevelopment. The RNTP indicates that the harbor planning process will include a market analysis of the DPA to explore possible uses for the area. The analysis will assess the market demand, viability, and feasibility of a variety of uses. Because requirements for a DPA are specific and differ from the general requirements of both the harbor planning and waterways regulations, the DPA Master Plan should address this area. The master plan should preserve and enhance the capacity of the DPA to accommodate water dependent industrial use and prevent substantial exclusion of those uses by other allowable DPA uses. To meet this standard, the master plan must include several criteria.

To ensure that the water-dependent industrial capacity of the DPA is preserved and enhanced, an extensive amount of the DPA land area close to the water must be reserved for water dependent industrial use. Though temporary uses may be allowed, the master plan must include a provision that

water-dependent industrial use is solicited first before these are permitted. In addition, the master plan should demonstrate that commercial uses will generally be limited to no more than 25 percent of the total DPA land area.

The master plan should also establish reasonable arrangements to prevent use of space/facilities that would significantly discourage present or future water dependent industrial activity, especially on the waterfront. These should include appropriate limits on the parameters of commercial uses to assure compatibility with DPA uses as well as reasonable limits on the types of commercial uses allowed if necessary, to avoid conflict with DPA uses.

The master plan should identify industrial or commercial uses that are allowed under local zoning that the City also wishes to qualify as supporting DPA uses. These uses should be carefully considered to assure that they comply with the provisions of the waterways regulations (310 CMR 9.00).

Finally, the master plan should include a strategy to guide continuing promotion of water dependent industrial use, including, at a minimum, recommendations for capital improvements or other economic/operational benefits to water dependent industrial uses to be provided by supporting uses on a property; recommendations to preserve or enhance transportation infrastructure (channels, truck routes, etc.) for access to properties in the DPA on both land and water side; and commitments to maintain a pattern of development that provides an appropriate buffer between DPA uses and certain community uses to avoid significant operational conflict.

Any changes to these criteria proposed in the DPA Master Plan since the 2008 Plan should be clearly articulated and supported.

V. 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.

VI. Public Participation

The RNTP documents the extensive planning work and participation proposed towards the development of this MHP, including a kickoff workshop, at least ten public harbor planning committee meetings, and several public outreach meetings. The MHP should contain a detailed discussion of the harbor planning process, document the public participation, and detail the public input solicited and included in the MHP recommendations and actions.

VII. Compatibility with State Agency Responsibility

The MHP must demonstrate that the municipality has worked with all relevant state agencies 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.

VIII. 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).

EEA and CZM look forward to working collaboratively with the City in this MHP/DPA master planning process. Pursuant to 301 CMR 23.04 and 301 CMR 23.04, the submission deadline will be August 10, 2022. As you develop the Salem Harbor MHP/DPA Master Plan amendment and renewal, we look forward to consultation with the City 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 working closely with CZM and our North Shore Regional Coordinator on the development of the amendment and renewal of the Salem Harbor Municipal Harbor Plan/Designated Port Area Master Plan.

Sincerely,

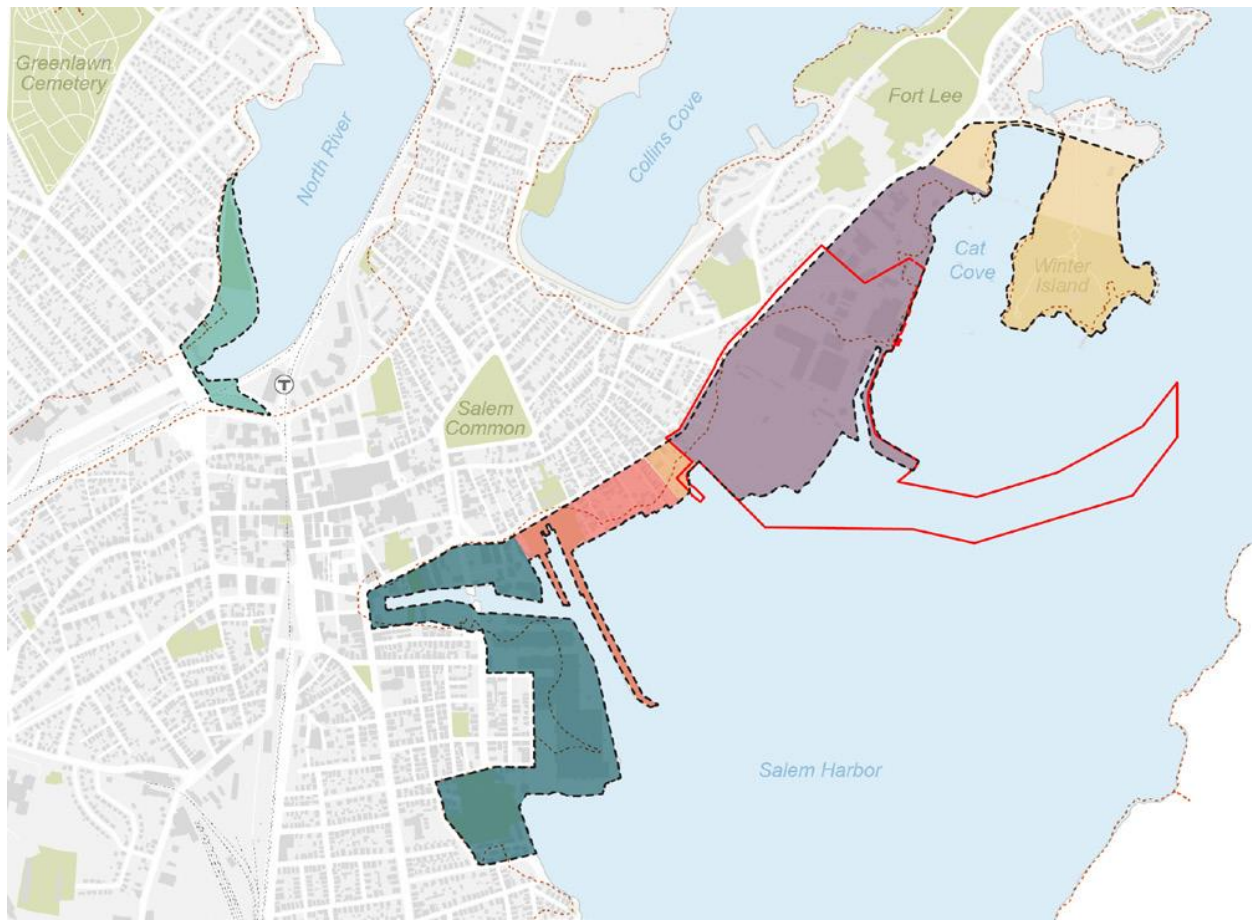


Lisa Berry Engler
Director

Cc:

Tom Daniel, Salem Community Development Director
Daniel Padien, MassDEP Waterways Program Chief

Figure 1.



The Salem Harbor Planning Area is divided into six districts: South Commercial Waterfront, Tourist Historic Harbor, North Commercial Waterfront Industrial Port, Community Waterfront, North River/Crescent Lot.

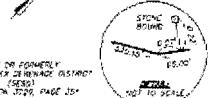
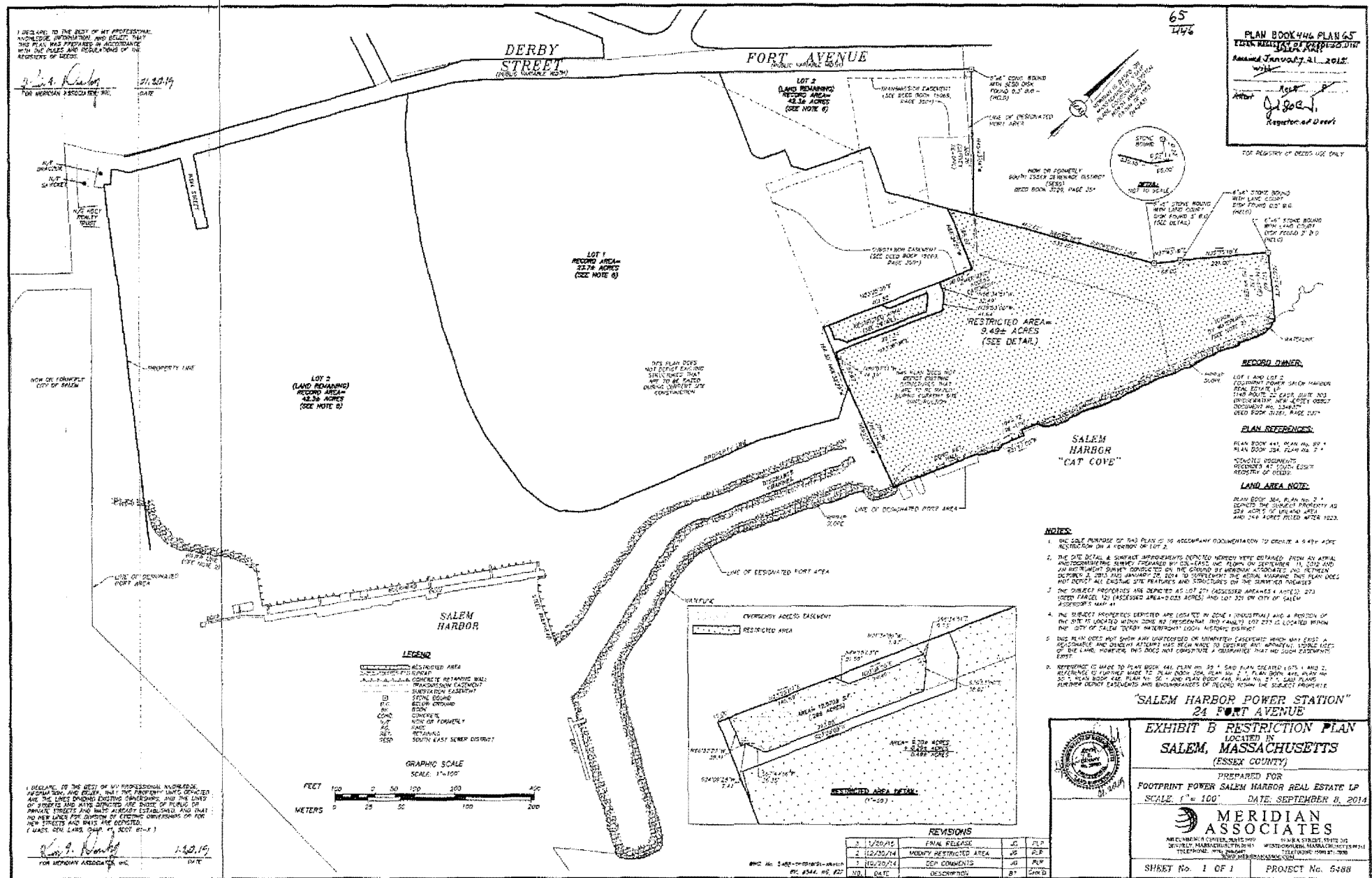
Appendix C. Grant of Restriction and Easement

I DECLARE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS.

Raymond S. Meridian
 TEN MERIDIAN PROFESSIONAL INC.
 01/20/19
 DATE

65
 1476

PLAN BOOK 446, PLANS 65
 THIS RESTRICTION PLAN
 RECORDED JANUARY 21, 2019
 WITH
 REGISTER OF DEEDS
 FOR REGISTRY OF DEEDS USE ONLY

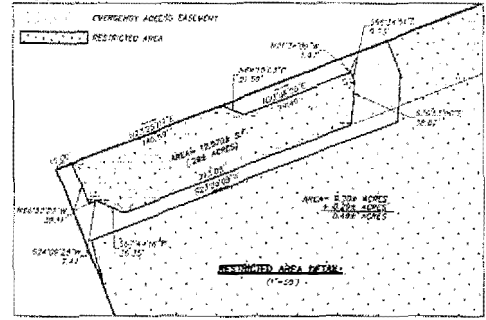


RECORD OWNER:
 LOT 1 AND LOT 2
 EQUIPMENT POWER SALEM HARBOR
 REAL ESTATE LP
 1149 ROUTE 1, SALEM, MA 01970
 (OR SUCCESSORS, HEIRS, ASSIGNEES,
 ATTORNEYS IN FACT, AND OTHERS)
 DEED BOOK 446, PAGE 207

PLAN REFERENCES:
 PLAN BOOK 441, PLAN NO. 89 *
 PLAN BOOK 324, PLAN NO. 2 *
 STAKE RECORDS
 RECORDED AT 10/17/08
 REGISTER OF DEEDS

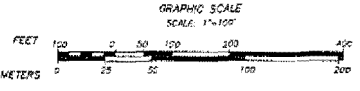
LAND AREA NOTE:
 PLAN BOOK 304, PLAN NO. 2 *
 DENOTES THE SHIMMER PROPERTY AS
 274 ACRES OF UNPLANNED AREA
 AND 244 ACRES FILLED WATER 1923.

- NOTES:**
- THE SOLE PURPOSE OF THIS PLAN IS TO ACCOMPANY DOCUMENTATION TO CREATE A 4.47 ACRE RESTRICTION ON A PORTION OF LOT 2.
 - THE DETAILED SURVEY IMPROVEMENTS REPORT HERETOBY WERE OBTAINED FROM AN AERIAL PHOTOGRAPHIC SURVEY PREPARED BY G.S. LEE, INC. FROM ON SEPTEMBER 11, 2012 AND AN INSTRUMENT SURVEY CONDUCTED BY THE GEORGE W. MERIDIAN, ACCOATED AND SETMEN, OCTOBER 21, 2013 AND JANUARY 22, 2014 TO DETERMINE THE BOUNDARIES OF THE RESTRICTION. THIS PLAN DOES NOT VERIFY ALL EXISTING SITE FEATURES AND STRUCTURES OF THE SUBJECT PROPERTIES.
 - THE SUBJECT PROPERTIES ARE DEPICTED AS LOT 273 (CASSESSER AREAS 4 ACRES), 273 (GREEN PAVEMENT), 120 (RESTRICTION AREA-0.025 ACRES) AND LOT 301 (CITY OF SALEM) ACCESSOR'S MAP #1.
 - THE SUBJECT PROPERTIES DEPICTED ARE LOCATED IN ZONE 1 (INDUSTRIAL) AND A PORTION OF THE SITE IS LOCATED WITHIN ZONE R3 (RESIDENTIAL). THE 4.47 ACRES RESTRICTION IS LOCATED WITHIN THE CITY OF SALEM ZONING OVERLAP WITH ZONING DISTRICT 1.
 - THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNREGISTERED EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO DETERMINE ANY APPROPRIATE, VISIBLE LOCUS OF THE LAND. HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
 - REFERENCE IS MADE TO PLAN BOOK 441, PLAN NO. 89 * AND PLAN BOOK 324, PLAN NO. 2 * AND PLAN BOOK 446, PLAN NO. 65 * AND PLAN BOOK 446, PLAN NO. 27 * SAID PLANS FURTHER DEFINE EASEMENTS AND ENCUMBRANCES OF RECORD WITHIN THE SUBJECT PROPERTY.



LEGEND

- RESTRICTION AREA
- CONCRETE RETAINING WALL
- TRANSMISSION EASEMENT
- SUBDIVISION EASEMENT
- STONE BOUNDARY
- BELLY CROUCH
- BRICK
- CONCRETE
- WOOD OR FORMERLY
- PAVED
- SETBACK
- RETAINING
- SEWER
- SEWER DISTRICT



I DECLARE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT THE PROPERTY LINES DEPICTED AND THE LINES SHOWING EXISTING ENCUMBRANCES AND THE LINES OF STREETS AND ALYS DEPICTED ARE BASED ON PLANS OF PREVIOUS SURVEYS AND HAVE BEEN ESTABLISHED AND THAT NO RESEARCH FOR DISCOVERY OF EXISTING ENCUMBRANCES OR FOR NEW STREETS AND ALYS ARE DEPICTED.

Raymond S. Meridian
 TEN MERIDIAN PROFESSIONAL INC.
 01/20/19
 DATE

REVISIONS

NO.	DATE	DESCRIPTION	BY	CHKD.
1	1/20/19	FINAL RELEASE	JG	PLP
2	1/22/2019	MODIFY RESTRICTION AREA	JG	PLP
3	1/22/2019	ADD COMMENTS	JG	PLP
4	01/21/2019	DESCRIPTION	BT	SHD



**"SALEM HARBOR POWER STATION"
 24 FORT AVENUE**

**EXHIBIT B RESTRICTION PLAN
 LOCATED IN
 SALEM, MASSACHUSETTS
 (ESSEX COUNTY)**

PREPARED FOR
 FOOTPRINT POWER SALEM HARBOR REAL ESTATE LP
 SCALE: 1" = 100' DATE: SEPTEMBER 8, 2014

MERIDIAN ASSOCIATES
 100 WASHINGTON STREET, SUITE 200
 SALEM, MASSACHUSETTS 01970
 TEL: 978.744.1111 FAX: 978.744.1112
 WWW.MERIDIANASSOCIATES.COM

SHEET No. 1 OF 1 PROJECT No. 5488

NE
KB
10


2015012100052 Bk:33809 Pg:533
01/21/2015 09:51 GRNT Pg 1/12

GRANT OF RESTRICTION AND EASEMENT

FOOTPRINT POWER SALEM HARBOR REAL ESTATE LP, a Delaware limited partnership having an address of 1140 Route 22 East, Suite 303, Bridgewater, New Jersey 08807 (“Grantor”) hereby grants to **THE CITY OF SALEM**, a municipal corporation and political subdivision of the Commonwealth of Massachusetts located in **ESSEX COUNTY**, whose address is Salem City Hall, 93 Washington Street, Salem, Massachusetts 01970 (“Grantee”), for consideration of \$1.00, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described land use restriction and easement (the “Grant of Restriction and Easement”). Said restriction is hereby established in, on, above and below that certain parcel of land located in Salem, containing approximately 9.49 acres of land (the “Restricted Area”), said Restricted Area being a portion of Lot 2, an approximately 42.3-acre parcel of land located in said Salem (the “Property”); and said easement is hereby established as set forth below in Paragraph 5, hereof. The Restricted Area is more particularly bounded and described in Exhibit A attached hereto and incorporated by reference herein, and is shown on a plan entitled, “‘Salem Harbor Power Station,’ 24 Fort Avenue, Exhibit B Restriction Plan, Located in Salem, Massachusetts (Essex County)” dated September 8, 2014, as last revised on December 30, 2014, prepared by Meridian Associates (the “Restriction Plan”), said Restriction Plan being incorporated herein by reference and recorded herewith in the Essex South District Registry of Deeds, a photo-reduced copy of which Restriction Plan is attached as Exhibit B hereto. The Property is more particularly described in Exhibit C attached hereto and incorporated by reference herein, and is shown on a plan entitled, “Plan of Land Located in Salem, Massachusetts (Essex County)”, dated February 10, 2014, prepared by Meridian Associates, and recorded with said Deeds in Plan Book 441, Plan 99. For Grantor’s title to the Property see Deed of Footprint Power Salem Harbor Operations LLC dated August 8, 2012, and recorded in the Essex South District Registry of Deeds in Book 31761, Page 237.

1. Requirement. This Grant of Restriction and Easement is established in satisfaction of Special Condition 7 of a Written Determination and Conditions issued by the Massachusetts Department of Environmental Protection (“MassDEP”), a duly constituted agency of the

Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, §7, having a principal office at One Winter Street, Boston, Massachusetts 02108, to Footprint Power Salem Harbor Development LP on November 1, 2013 (the "Written Determination"), as set forth in Exhibit A to Affidavit Under M.G.L. c. 183, § 5B, recorded in the Essex South District Registry of Deeds in Book 33289, Page 314, satisfaction of said Special Condition 7 being required pursuant to Paragraph II.5. of the Certificate of Environmental Impact and Public Interest (the "Certificate"), attached as Exhibit A to the Final Decision of the Massachusetts Energy Facilities Siting Board in the Matter of Petition of Footprint Power Salem Harbor Development LP For A Certificate of Environmental Impact and Public Interest, EFSB 13-1, dated February 25, 2014.

2. Public Purpose. This Grant of Restriction and Easement is intended to serve the public purpose of enhancing further the Property's potential for water-dependent industrial use, but is not intended to grant to the general public any right to use the Restricted Area.

3. Permitted Uses. Grantor, subject to the terms of Paragraph 3.e. and Paragraph 3.f., hereof, expressly reserves the right to perform or permit any of the following uses in, on, above or below the Restricted Area or any portion of the Restricted Area, meaning to permit in Paragraph 3.a. and Paragraph 3.b., hereof, uses consistent with uses intended for the designated port area described in the "Salem Harbor Plan, The City of Salem, Massachusetts, Mayor Kimberley Driscoll, dated January 2008, prepared by Fort Point Associates, Inc." (the "DPA Master Plan"), as approved on June 24, 2008 by the Massachusetts Executive Office of Energy and Environmental Affairs ("Energy and Environmental Affairs") in its "Decision on the City of Salem's Request for Approval of the Salem Municipal Harbor Plan Renewal Pursuant to 301 C.M.R. 23.00," in conjunction with 310 C.M.R. 9.12(2)(b):

a. Water-dependent industrial uses. water-dependent industrial uses, which are industrial uses that require direct access to or location in tidal or inland waters, and therefore cannot be located away from said waters, and which for purposes of this Grant of Restriction and Easement shall include, but not be limited to, the following:

- i. marine terminals and related facilities for the transfer between ship and shore, and the storage of, bulk materials or other goods transported in waterborne commerce;
- ii. facilities associated with commercial passenger vessel operations;
- iii. manufacturing facilities relying primarily on the bulk receipt or shipment of goods by waterborne transportation;
- iv. commercial fishing and fish processing facilities;
- v. boatyards, dry docks, and other facilities related to the construction, serving, maintenance, repair, or storage of vessels or other marine structures;

- vi. facilities for tug boats, barges, dredges, or other vessels engaged in port operations or marine construction;
 - vii. any of the following water-dependent uses, provided Grantee determines such use to be associated with the operation of its Designated Port Area:
 - (a) dredging for navigation channels, boat basins, and other water-dependent purposes, and subaqueous disposal of the dredged materials below the low water mark;
 - (b) navigation aids, marine police and fire stations, and other facilities which promote public safety and law enforcement on the waterways;
 - (c) shore protection structures, such as seawalls, bulkheads, revetments, dikes, breakwaters, and any associated fill which are necessary either to protect an existing structure from natural erosion or accretion, or to protect, construct, or expand a water-dependent use;
 - (d) flood, water level, or tidal control facilities;
 - (e) discharge pipes, outfalls, tunnels, and diffuser systems for conveyance of stormwater, wastewater, or other effluents to a receiving waterway; and
 - (f) facilities and activities undertaken or required by a public agency for purposes of decontamination, capping, or disposal of polluted aquatic sediments;
 - viii. hydroelectric power generating facilities;
 - ix. offshore renewable energy infrastructure facilities in the Commonwealth, including ocean wave energy facilities, ocean current energy facilities, tidal energy facilities, any ancillary facility thereto or any similar facility that obtains its energy from the ocean;
 - x. infrastructure facilities used to deliver electricity, natural gas or telecommunications services to the public from an offshore facility located outside the Commonwealth;
- b. Temporary uses. temporary uses, which for purposes of this Grant of Restriction and Easement shall include only the following: warehousing, trucking, parking, and other industrial and transportation uses which occupy vacant space or facilities in a Designated Port Area, for a maximum term of ten years, and without significant structural alteration of such space or facilities;

c. Temporary construction activities. activities related to the construction of the facility approved in the Certificate, for a period not to exceed five (5) years from the date of the Certificate; and

d. Emergency access ways. the location and relocation, construction, use, repair and maintenance of access ways as reasonably necessary for emergency access to the facility approved in the Certificate, in the area depicted on the Restriction Plan as "Emergency Access Easement".

e. Effect of Amendment to the DPA Master Plan. Such uses as are permitted pursuant to Paragraph 3.a. and Paragraph 3.b., hereof, shall automatically be modified to accord with uses permitted in the designated port area by any amendment to the DPA Master Plan approved in writing by said Energy and Environmental Affairs, in compliance with the provisions of 301 C.M.R. 23.00, as amended, in conjunction with 310 C.M.R. 9.12(2)(b), as amended; upon recording in said Deeds of an affidavit containing a reference to this Grant of Restriction and Easement and providing written notice of said approved amendment to the DPA Master Plan.

f. Prior Notice to Grantee and MassDEP. No fewer than thirty (30) days in advance of performing or permitting any use in, on, above or below the Restricted Area or any portion thereof, Grantor shall first provide Grantee and MassDEP with written notice of the proposed use.

4. Prohibited Uses. Grantor shall not perform or permit any uses in, on, above or below the Restricted Area or any portion of the Restricted Area which are not expressly reserved and permitted under Paragraph 3, hereof.

5. Grant of Easement.

a. Access Easement. Grantor hereby grants to Grantee a non-exclusive twenty (20) foot wide access easement (the "Access Easement") over that portion of Lot 2 which runs from the northwesterly end of said Emergency Access Easement to Fort Avenue and over that portion of Lot 2 which has been depicted as said Emergency Access Easement (collectively, the "Access Easement Area"). Grantee's use of the Access Easement Area shall be solely for the purpose of access on foot and by motor vehicle for the purpose of inspecting the Restricted Area to determine compliance with, or to enforce, this Grant of Restriction and Easement. Grantor specifically reserves the right to definitively locate, and subsequently relocate from time to time, the Access Easement Area within the limits of that portion of Lot 2 situated between the northwesterly end of said Emergency Access Easement and Fort Avenue and within that portion of Lot 2 depicted as said Emergency Access Easement, both as shown on the Restriction Plan, from time to time, with reasonable prior written notice to Grantee, with a copy of such notice to MassDEP. Further provided, however, that Grantor, upon such location or relocation of the Access Easement Area, shall record with the Essex South District Registry of Deeds a plan showing the located or relocated Access Easement Area and referencing thereon this

Grant of Restriction and Easement and the Restriction Plan, and shall provide a copy of said plan, as recorded, to Grantee and to MassDEP within thirty (30) days of recording.

b. Inspection of Restricted Area. Grantor hereby grants to Grantee a non-exclusive easement to pass and repass over the Restricted Area on foot and by motor vehicle solely for the purposes of inspecting the Restricted Area, including without limitation performing a survey of boundary lines, to determine compliance with, or to enforce, this Grant of Restriction and Easement.

c. Times of Access and Prior Notice. Grantee shall only exercise the rights granted in this Paragraph 5 at reasonable times and upon reasonable prior written notice to Grantor.

d. Termination of Easement. The rights granted in this Paragraph 5 shall terminate upon the expiration of the Restriction and Easement Term, subject to any Extension, all as set forth below in Paragraph 6, hereof.

6. Term of Grant of Restriction and Easement. This Grant of Restriction and Easement shall be recorded with said Registry within five (5) business days of its full and complete execution and shall terminate on February 24, 2044 (the "Restriction and Easement Term"), unless an extension is recorded prior to the expiration of the Restriction and Easement Term in accordance with M.G.L. Chapter 184, Section 27 ("Extension"). Notwithstanding anything in the foregoing to the contrary, in the event that the approval granted pursuant to Paragraph II.5 of the Certificate is extended or renewed, Grantor shall record an Extension of this Grant of Restriction and Easement of equivalent time to that granted in the Certificate extension or renewal, for each such extension or renewal of the approval granted pursuant to Paragraph II.5.

7. Run With the Land. This Grant of Restriction and Easement, which is granted pursuant to M.G.L. Chapter 184, Section 26, shall run with the land for the Restriction and Easement Term, including any Extension, and shall be binding upon Grantor and its successors and assigns and shall run to the benefit of Grantee and MassDEP, as MassDEP's rights are established under Paragraph 10, hereof, and their respective successors and assigns.

8. Legal Remedies of Grantee.

a. Legal and Injunctive Relief. The rights hereby granted shall include the right to enforce this Grant of Restriction and Easement by appropriate legal proceedings and to seek injunctive and other equitable relief against any violations, including without limitation, relief requiring restoration of the Restricted Area to its condition prior to the time of the violation asserted (it being agreed that Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee or MassDEP for the enforcement of this Grant of Restriction and Easement. Grantor covenants and agrees to reimburse Grantee and MassDEP all reasonable costs and expenses (including reasonable counsel fees) which they incur in enforcing this Grant of Restriction and Easement provided that a

violation of this Grant of Restriction and Easement is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred.

b. Non-Waiver. Enforcement of the terms of this Grant of Restriction and Easement shall be at the discretion of Grantee and/or MassDEP. Any election by the Grantee or MassDEP as to the manner and timing of their respective rights to enforce this Grant of Restriction and Easement or otherwise exercise their respective rights hereunder shall not be deemed or construed to be a waiver of such rights.

c. Disclaimer of Liability. By acceptance of this Grant of Restriction and Easement, Grantee does not undertake any liability or obligation relating to the condition of the Restricted Area pertaining to compliance with, and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by Grantee or its agents.

d. Acts Beyond Grantor's Control. Nothing contained in this Grant of Restriction and Easement shall be construed to entitle Grantee or MassDEP to bring any actions against Grantor for any injury to or change in the Restricted Area resulting from causes beyond Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Restricted Area resulting from such causes.

9. Amendment and Termination. This Grant of Restriction and Easement shall not be amended or terminated without the prior express written approval of MassDEP. Any approval of a proposed amendment to this Grant of Restriction and Easement shall be at the sole discretion of MassDEP.

10. Third Party Beneficiary. It is the intent of Grantor and Grantee that MassDEP shall be a third party beneficiary of this Grant of Restriction and Easement for the purpose of enforcing any and all provisions hereof, including without limitation MassDEP, itself, exercising the easements granted in Paragraph 5, hereof.

11. Estoppel Certificate. Upon written request, Grantee shall provide to Grantor, with a copy to MassDEP, a written statement of whether Grantor is in compliance with the terms and conditions of this Grant of Restriction and Easement.

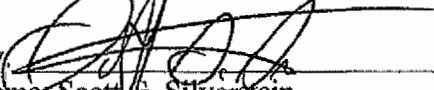
12. No Documentary Stamps. No documentary stamps are attached, none being required by law, as the consideration paid for this Grant of Restriction and Easement is less than One Hundred Dollars (\$100.00).

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Executed under seal this 16th day of January, 2015.

**FOOTPRINT POWER SALEM HARBOR
REAL ESTATE LP**

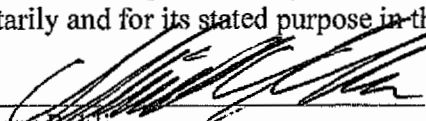
By: Footprint Power SH RealCo GP LLC, its
General Partner

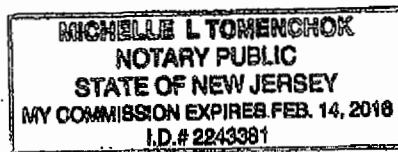
By: 
Name: Scott G. Silverstein
Title: President, COO and Authorized Signatory

~~COMMONWEALTH OF MASSACHUSETTS~~
State of New Jersey

Somerset County, ss

On this 16 day of January, 2015, before me, the undersigned notary public, personally appeared Scott G. Silverstein, in his capacity as President, COO and Authorized Signatory of Footprint Power SH RealCo GP LLC, proved to me through satisfactory evidence of identity, being in this instance personal knowledge of identity, and acknowledged to me that he signed the foregoing document voluntarily and for its stated purpose in the aforesaid capacities.


Notary Public
My Commission expires: Feb 14, 2016



The with Grant of Restriction and Easement is hereby accepted by the City of Salem
this 16 day of January, 2015.

CITY OF SALEM

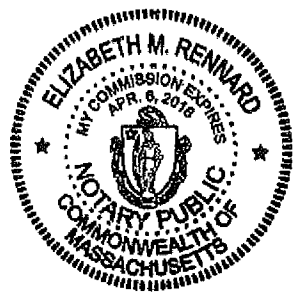
By: Kim Driscoll

Kimberley Driscoll
Its Mayor

COMMONWEALTH OF MASSACHUSETTS

Essex, ss

On this 16 day of January, 2015, before me, the undersigned notary public,
personally appeared Kimberley Driscoll, proved to me through satisfactory evidence of identity,
being in this instance personal knowledge of identity, and acknowledged to me that she signed
the foregoing document voluntarily and for its stated purpose in the aforesaid capacity.



Elizabeth Rennard
Notary Public Elizabeth Rennard
My Commission expires: 4-6-16

EXHIBIT A

Legal Description of the Restricted Area

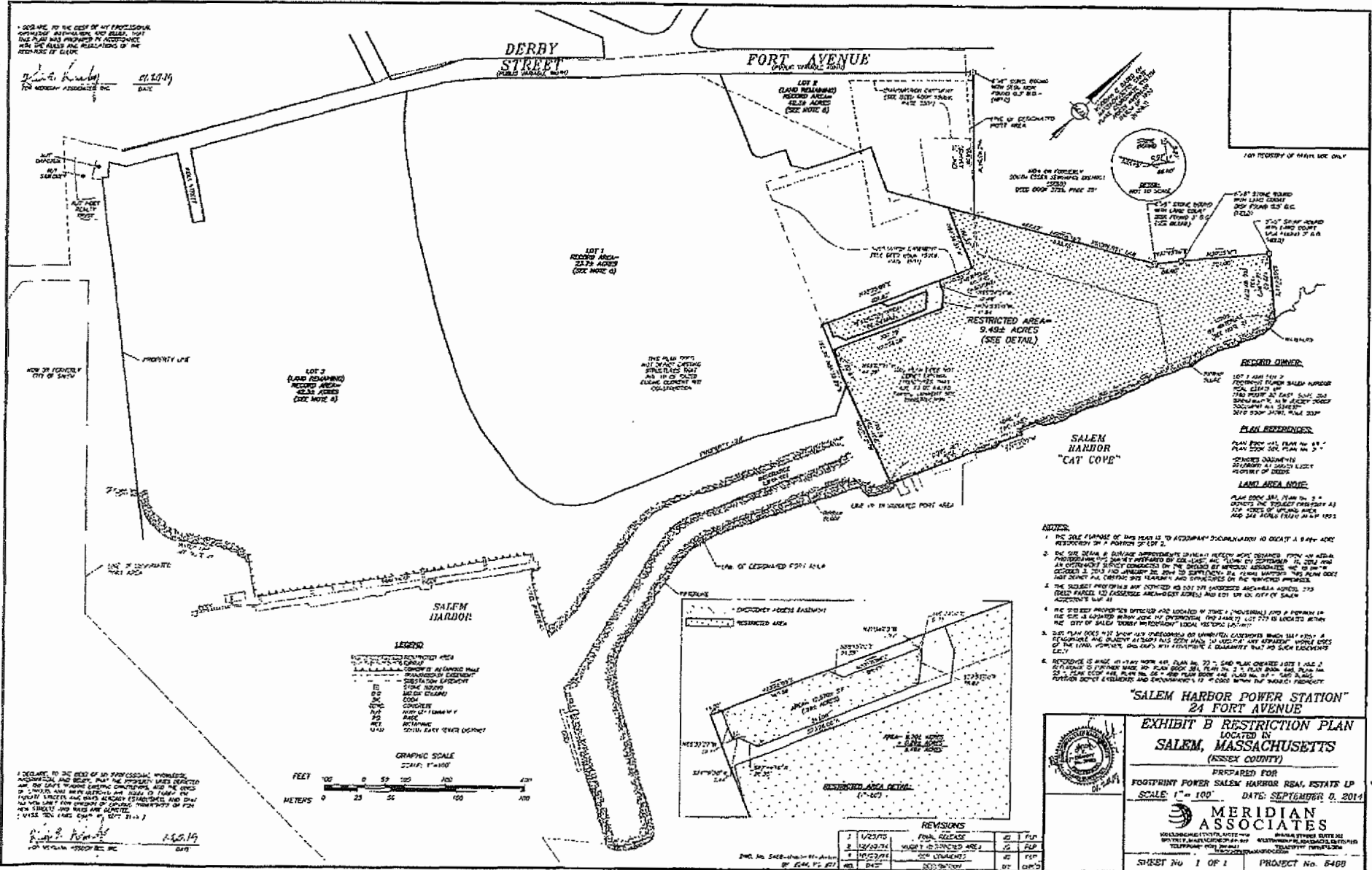
That certain parcel of land located in Salem, Essex County, Massachusetts being a portion of Lot 2 and being shown as the Restricted Area on that certain plan entitled "Salem Harbor Power Station' 24 Fort Avenue, Exhibit B Restriction Plan Located In Salem, Massachusetts (Essex County)," dated September 8, 2014, as last revised on December 30, 2014, prepared by Meridian Associates, consisting of one sheet, and recorded in the Essex South District Registry of Deeds at Plan Book 446, Plan 65, containing approximately 9.49 acres of land.

EXHIBIT B

Photo-Reduced Plan of the Restricted Area

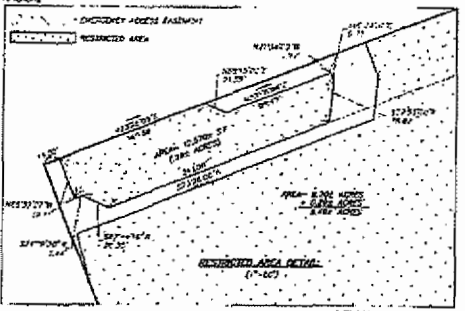
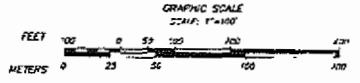
TO BE USED BY THE USER OF ANY PROFESSIONAL ENGINEER, ARCHITECT, AND SURVEYOR. THIS PLAN HAS PREPARED BY PROFESSIONAL ENGINEER AND SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF MASSACHUSETTS.

John P. Kelly
FOR MERIDIAN ASSOCIATES INC. DATE: 09.13.19



I, the undersigned, being duly sworn, depose and say that I am the duly qualified and licensed professional engineer and surveyor who prepared this plan, and that I am duly qualified and licensed in the State of Massachusetts. I declare under penalty of perjury that the contents of this plan are true and correct to the best of my knowledge and belief. My commission expires on 09.13.20.

John P. Kelly
FOR MERIDIAN ASSOCIATES INC. DATE: 09.13.19



REVISIONS

1	1/23/19	FINAL RELEASE	JS	PLP
2	10/10/18	MOVED TO RESTRICTED AREA	JS	PLP
3	10/10/18	100% EASEMENT	JS	PLP
4	10/10/18	100% EASEMENT	JS	PLP

- NOTES:
- THE SITE CHANGE OF THIS PLAN IS TO ACCOMMODATE DOCUMENTATION TO OBTAIN A 9999-ACRE REVISION IN A PORTION OF LOT 2.
 - THE SITE PLAN IS A DRAFT PREPARED BY THE USER AND IS NOT TO BE USED FOR CONSTRUCTION. AN OFFICIAL SURVEY CONDUCTED BY THE USER OR ANOTHER PROFESSIONAL ENGINEER AND SURVEYOR IS REQUIRED TO OBTAIN A 9999-ACRE REVISION IN A PORTION OF LOT 2.
 - THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SALEM, MASSACHUSETTS, AND THE STATE OF MASSACHUSETTS.
 - THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SALEM, MASSACHUSETTS, AND THE STATE OF MASSACHUSETTS.
 - THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SALEM, MASSACHUSETTS, AND THE STATE OF MASSACHUSETTS.
 - THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SALEM, MASSACHUSETTS, AND THE STATE OF MASSACHUSETTS.



"SALEM HARBOR POWER STATION"
24 FORT AVENUE

EXHIBIT B RESTRICTION PLAN
LOCATED IN
SALEM, MASSACHUSETTS
(ESSEX COUNTY)

PREPARED FOR
FOOTPRINT POWER SALEM HARBOR REAL ESTATE LP
SCALE: 1"=100' DATE: SEPTEMBER 9, 2019

MERIDIAN ASSOCIATES

1000 STATE STREET, SUITE 200
SALEM, MASSACHUSETTS 01970
TEL: 978.744.1111 FAX: 978.744.1112
WWW.MERIDIANASSOCIATES.COM

SHEET No 1 OF 1 PROJECT No. 6488

EXHIBIT C

Legal Description of the Property

That certain parcel of land located in Salem, Essex County, Massachusetts and shown as Lot 2 on that certain plan entitled "Salem Harbor Power Station' 24 Fort Avenue, Plan of Land Located in Salem, Massachusetts (Essex County)," dated February 10, 2014 prepared by Meridian Associates, consisting of one sheet, and recorded in the Essex South District Registry of Deeds at Plan Book 441, Plan 99, containing approximately 42.3 acres.



CITY OF SALEM, MASSACHUSETTS

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

ROBERT K. MCCARTHY
ACTING MAYOR

TOM DANIEL, AICP
DIRECTOR

98 WASHINGTON STREET, 2ND FLOOR ♦ SALEM, MASSACHUSETTS 01970
978-619-5685

Supplemental Narrative Regarding the Water Dependent Use Zone and Enhanced Harbor Walk at the Waterfront Complex at 23 Congress Street

The 2023 Municipal Harbor Plan continues two substitute provisions from the 2008 Plan that apply to the waterfront portion of the development at 23 Congress Street. The first allows for a reduction in the depth of the water dependent use zone from 25' under the standard regulations to a minimum of 20', which is being clarified here in the 2023 Plan to correct the substitute depth to a minimum of 10' (310 CMR 9.51(3)(c)). This reduction in the WDUZ to 10' allow for seasonal outdoor dining was originally contemplated and adequately offset in the 2008 Plan but was incorrectly described as a minimum of 20'. The offsets continue to adequately offset this substitution, are project-specific, consistent with the 2008 plan, and are detailed on page 29 of the 2023 Plan.

The second substitute provision applies more broadly to the South Commercial Waterfront, and specifies that the Harborwalk requirements under 310 CMR 9.52(1)(b)(1) be increased from a minimum of 10' to 20'. A minimum of 10' of the 20' shall be a clear unobstructed pathway adjacent to the shoreline and the remaining inland 10' may be used for landscaping and accessory amenities to enhance the general public's waterfront experience. It was the intention of the 2008 Plan and continues to be the intention of this 2023 Plan to include outdoor seating for restaurant food service as an allowable accessory amenity within the inland 10 feet of the Harborwalk, but only with an approved outdoor café permit (Common Victualler License) from the City of Salem Licensing Board and an approved food permit from the City of Salem Board of Health consistent with the permitting of seasonal outdoor dining facilities on public sidewalks/ways throughout the City of Salem.

Figure 4 (page 30) of this 2023 Plan shows a conceptual site plan for the 23 Congress Street development, which was also included in the 2008 Plan. The site plan indicates an area for seasonal outdoor seating for food service inland of the 10' clear portion of the Harborwalk. This is consistent with the overall goal of the plan to enliven the public realm along the waterfront, attract visitors to the waterfront and generate destinations for those arriving by boat.

To ensure that the specific design of the outdoor dining area at 23 Congress Street fulfills the intentions of the plan, it should be arranged in a way that:

- Preserves the visibility of the seating area from the 10' clear portion of the Harborwalk, and from the seating area to the water, so that the activity there contributes to the public activity of the waterfront and is not concealed.
- Is clearly demarcated with planters, bollards, rope or other barriers to prevent encroachment on the 10' Harborwalk. The barrier should be at a height and spacing that preserves visual accessibility to and from the cafe.

- Allows patrons to enter and exit directly from the 10' clear portion of the Harborwalk to the dining area, to ensure that public accessibility, both physical and perceptual, is maintained.
- Meets all City design and licensing requirements for seasonal outdoor dining on public sidewalks and ways. Besides the proposal for outdoor dining at 23 Congress, there are no other known plans for outdoor dining elsewhere in the South Commercial Waterfront. Should another outdoor dining facility be proposed within the area in which the enhanced Harborwalk dimensions are required, the above guidelines would apply.

**DECISION ON THE CITY OF SALEM'S
REQUEST FOR APPROVAL
OF THE
SALEM MUNICIPAL HARBOR PLAN RENEWAL
AND
DESIGNATED PORT AREA MASTER PLAN
PURSUANT TO 301 CMR 23.00**

May 17, 2023

**Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
Rebecca L. Tepper, 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, a renewal of the City of Salem's (City) Municipal Harbor Plan and Designated Port Area (DPA) Master Plan dated January 2008 (2008 Plan). The 2008 Plan was approved by the Secretary on June 24, 2008. This Decision presents an overview of the 2023 Renewal, including the supplemental information submitted on March 31, 2023, findings on how it complies with the standards for approval set forth in the Municipal Harbor Planning regulations at 301 CMR 23.00, and concurrence by MassDEP of the Substitutions and Offsets as specified herein.

As a general approach, the Municipal Harbor Plan process is meant to take a broad view that incorporates local goals and objectives for a harbor and translates them into a plan and implementable strategy for a specific region of the harbor in question. Depending on municipal priorities, timing of proposed developments, geographic constraints, and other factors, the process manifests itself in different ways, focusing on different areas and extents for the plans—from an entire harbor to a district or neighborhood and, in some cases, a smaller subset of parcels. The plans also vary in their scopes, sometimes laying out detailed development standards and other times looking to establish general building maximums to allow for flexibility in future developments.

The geographic scope of the Harbor Planning Area (HPA) for the proposed 2023 Salem Harbor Plan Renewal and DPA Master Plan (2023 Renewal) is largely the same as that for the 2008 Plan, except where geographic coverage expands to the North River, as described below. The 2023 Renewal HPA is divided into six districts as shown in Figure 1, encompassing the Salem shoreline and adjacent landside areas between Winter Island and Palmer Cove, as well as the additional area adjacent to the North River. The upland boundary from Winter Island to Palmer Cove is defined by the public roadway closest to the water's edge, which for most of the planning area is Derby Street and Fort Avenue. The upland boundary along the North River is defined by Franklin Street, North Street, and Bridge Street. The 2023 Renewal builds on prior planning initiatives for the area that have been completed since the 2008 Plan, including the Salem Winter Island Park Master Plan and Summary (2011); the Salem Public Art Master Plan (2013); the Open Space and Recreation Plan Update (2015); the Historic Preservation Plan Update (2015); the Salem For All Ages: An Age-Friendly Action Plan (2016); the Salem Climate Change Vulnerability Assessment and Action Plan (2016); Salem Bicycle Master Plan (2018); the Imagine Salem Report (2018); the Hazard Mitigation Plan Update (2020); and the Resilient Together (2021) Plan.

The 2023 Renewal identifies strategies and guidelines to achieve four objectives, including: (i) the promotion of a welcoming, accessible, climate-resilient waterfront that continues to be a mainstay of the local economy; (ii) continuing to build on the successes of the previous Salem Municipal Harbor Plan; (iii) incorporating a portion of the North River into the overall Salem waterfront plan and promoting appropriate development near and public access to and along the North River; and (iv) relevant to the DPA, structuring the Salem DPA Master Plan to promote renewable offshore energy, enhance its use by passenger vessels, allow supporting DPA uses in appropriate locations throughout the Salem DPA, and supporting community benefits consistent with the DPA.

The planning process, led by the Salem Planning Department and guided by the 14-member Salem Harbor Planning Committee (SHPC), occurred over two years from August 2020 through December 2022. SHPC members represented a variety of interests including the environment, the local community, local industry, and the City. The process included economic analysis, research, outreach, and engagement with residents and other community stakeholders. As part of the planning process and as a critical source of public engagement, the City hosted a total of 12 public meetings and public SHPC meetings and a maintained a website which hosted planning documents and outreach materials.

The 2023 Renewal draws heavily on the 2008 Plan in that it proposes to continue the policy and regulatory framework previously proposed and approved in 2008 with minor updates. The 2023 Renewal provides a summary and detailed description of four previously approved substitutions to minimum use standards and numerical requirements of the Chapter 91 Waterways (Waterways) regulations (310 CMR 9.00), with a justification and supporting information to demonstrate compliance with the approval standards for each substitution. The substitutions are all within the South Commercial Waterfront planning area and are primarily focused on ensuring that the public benefits identified in the planning process are implemented appropriately. Specifically, the Plan proposes two substitute provisions specific to height and the Water-Dependent Use Zone (WDUZ) width at the Waterfront Complex site at 23 Congress Street at Pickering Wharf, one substitute provision relative to height specific to sub-area A of the South Commercial Waterfront, and one substitution relating to the Harborwalk width along the South River in the South Commercial Waterfront. The 2023 Renewal discontinues an alternative site coverage ratio for the DPA in the 2008 Plan and will proceed with the DPA Supporting Use provisions as set forth in the Waterways regulations.

My approval of the 2023 Renewal, with the terms and conditions contained herein, does not, and should not be construed to serve as an authorization or approval of any specific project. As described below, redevelopment projects proposed within the planning area will be subject to required federal, state, and local regulatory processes, as applicable.

Pursuant to the review procedures at 301 CMR 23.00, the City submitted its Request for a Notice to Proceed in June 2020, and following a public comment period, the Office of Coastal Zone Management (CZM) issued a Notice to Proceed on August 10, 2020. From 2020 to 2022, the City convened 3 public meetings and 9 SHPC meetings, all of which were open to the public, to inform the development of the 2023 Renewal. The 2023 Renewal was submitted by the City to EEA on January 4, 2023. CZM published notice of a public hearing and a 30-day opportunity to comment in the *Environmental Monitor* dated January 25, 2023, and an opportunity for a second scheduled public hearing was published in the *Environmental Monitor* on February 8, 2023. Public hearings were held virtually on February 7 and February 16. The notices for these public hearings were published in both English and Spanish. Simultaneous Spanish interpretation of the presentations and information was provided during the hearings and provided an opportunity for participants to make oral comments in English or Spanish. Two oral comments were received during the public hearings, and three written comment letters were received during the public comment period which closed on February 24, 2023. The review and consultation process, led by CZM, also included consultation among CZM, Massachusetts Department of Environmental Protection (MassDEP), and the City. Supplemental information to clarify two of the substitute provisions was submitted by the City on March 31, 2023. The consultation period ended on April 26, 2023.

In reaching my decision, I have considered the oral and written testimony submitted by the public, as well as public comments and discussions throughout the waterfront planning process, as the public planning effort formed the basis for the goals and objectives laid out in the 2023 Renewal. Three comment letters and two oral comments were received during the public comment period. Comments included praise for the City's approach to the planning process and expressed concern for an overall lack of focus on important overarching issues, such as climate change concerns, Environmental Justice considerations, and appropriate public benefit offsets for proposed substitute provisions to Waterways regulations.

Commenters praised the City's process for including extensive community outreach and collaboration, and for providing a balance between local residential and business needs, city-wide opportunities, and the value of the Port of Salem as a regional economic driver and asset. Public

comments also highlighted the 2023 Renewal's efforts to expand on previous successful strategies to redevelop sections of Salem's waterfront with significantly improved public access, and the renewed focus on the development of the DPA for water-dependent industrial (WDI) use and renewable energy, and specifically for offshore wind opportunities.

Several commenters expressed concern that the 2023 Renewal does not focus enough on climate change resiliency or action planning and should include more specific information regarding strategies to address topics such as increased urban heat island effects or flooding associated with sea level rise. The Salem Tree Commission offered specific guidance to preserve existing tree corridors and improve the use of tree plantings in landscaping and buffers wherever possible as a strategy to reduce heat island effects now and into the future. For the implementation of the 2023 Renewal, the City should continue to work closely with the Salem Tree Commission to ensure that these important concerns are addressed. Commenters also stated that the 2023 Renewal addresses current and potential flooding issues throughout the document, but in general does not achieve the City's initial goal to assess the vulnerability of the overall planning area to coastal flooding and sea level rise and provide recommendations to address identified priorities through regulatory approaches and specific resilience improvements as stated in the Request for a Notice to Proceed. Given the importance of this goal, the City should undertake a thorough climate change assessment and action plan for the HPA covered under this 2023 Renewal to provide a cohesive strategy to address the risks associated with climate change in this vulnerable portion of the City.

While comments expressed support for aspects of the proposed 2023 Renewal that incorporate equity, such as the affordable housing aspects of proposed developments at Crescent Lot and Lafayette Street and collaborative climate resilience planning along the South Commercial waterfront, one comment suggests that the 2023 Renewal should focus more specifically on the environmental justice population, which makes up a significant portion of the HPA. In working on a more comprehensive assessment and action plan to address climate change resiliency, the City should demonstrate an additional focus on equity and environmental justice concerns in the planning process and the resulting decisions.

Lastly, one commenter expressed concern that the 2023 Renewal does not demonstrate that the proposed height substitution offset for the South Commercial planning area provides adequate public benefit to justify the change. I address this concern in my Evaluation of the Requested Substitute Provisions section in this document.

Figure 1. Salem Harbor Planning Area

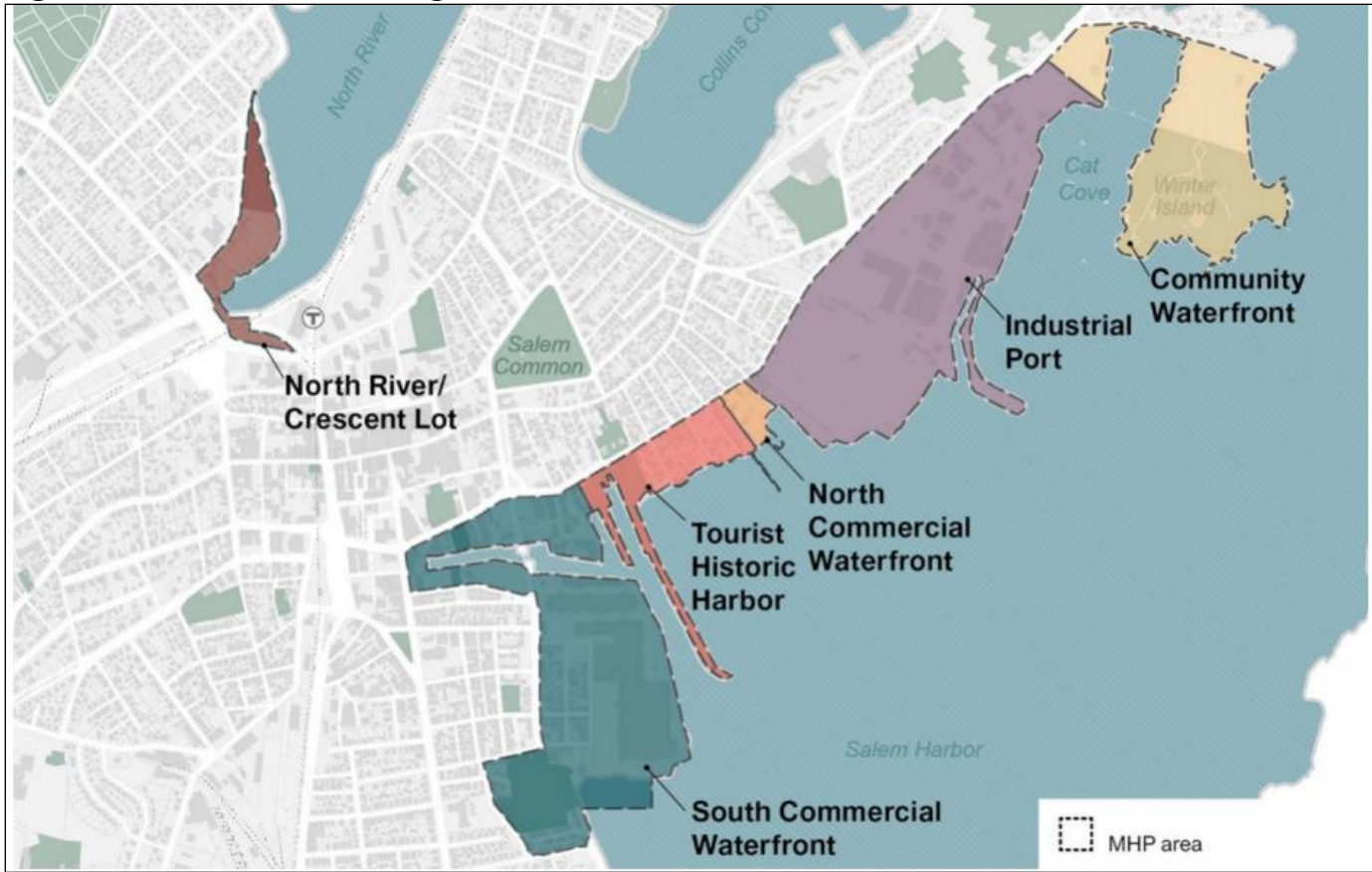


Figure 2. Salem Designated Port Area



II. PLAN CONTENT

The 2023 Renewal provides a clear description of the HPA, which includes the Salem shoreline and adjacent landside areas between Palmer Cove and Winter Island, as well as an area adjacent to the North River. The upland boundary from Palmer Cove to Winter Island is defined by the public roadway closest to the water's edge, which for most of the planning area is Derby Street and Fort Avenue. The upland boundary along the North River is defined by Franklin Street, North Street, and Bridge Street. The 2023 Renewal HPA includes six distinct waterfront planning areas, including the South Commercial Waterfront, the Tourist Historic Harbor, the North Commercial Waterfront, the Industrial Port, the Community Waterfront, and the North River/Crescent Lot planning area. Planning and discussion for each of these separate planning areas are organized into separate chapters in the 2023 Renewal. The North River/Crescent Lot area is the only planning area in the 2023 Renewal that was not also included in the 2008 Plan. The South Commercial Waterfront is adjacent to and on the waterside of the Point Neighborhood and includes Pickering Wharf, the South River Basin (defined by Congress, Peabody, Lafayette, and Derby Streets), Shetland Park, Palmer Cove Yacht Club, and the Palmer Cove Playground out to the public streets immediately surrounding the playground. The Tourist Historic Harbor centers around Derby Wharf and includes waterfront historic sites such as the Salem Maritime National Historic Site and House of the Seven Gables. This district extends landward to Derby Street and the adjacent waterfront neighborhood. The North Commercial Waterfront extends from Hawthorne Cove Marina to the edge of the Industrial Port district and includes the ferry facilities and commercial marina of the Salem Wharf. A portion of this planning district is within the Salem Harbor DPA (Figure 2). The Industrial Port is between the North Commercial Waterfront and the Community Waterfront, and adjacent to the deep-water federal navigation channel that leads into Salem Harbor. It includes the 42-acre "Lot 2", the new Salem Harbor Station, the Deepwater Berth, the South Essex Sewage District Treatment Plant (SESD), and the Federal Channel. The entire Industrial Port district, except for the SESD, is within the Salem Harbor DPA. The Community Waterfront occupies the northernmost portion of Salem Harbor and includes Cat Cove, Winter Island, and Smith Pool. Winter Island is the largest recreational space on the inner harbor and is used for such activities as camping, picnicking, and walking, and is also the location of the Plummer Youth Promise program. The public pier and boat ramp provide opportunities for numerous marine-related activities, mostly supporting recreational boats. The Community Waterfront is bordered by the SESD, the west end of Salem Willows Park, the Winter Island neighborhood, and Juniper Cove. The North River/Crescent Lot area is the only planning area

in the 2023 Renewal that was not included in the 2008 Plan. It includes the parcels northwest and southwest of the North River, including the Crescent Lot, an approximately one-acre 97-space parking lot adjacent to the MBTA Commuter Rail Station, and the lands across the river bounded by North Street and Franklin Street, up to and including Furlong Park. While the 2023 Renewal provides recommendations and guidance for the entire HPA, the primary focus of the planning process was on recommendations for the Industrial Port, the North River/Crescent Lot, and the South Commercial Waterfront. The 2023 Renewal also provides a brief description of the history of the Salem HPA and presents a synopsis of the extensive planning efforts that have helped shape the waterfront priorities since the 2008 Plan.

The 2023 Renewal includes the goals and objectives of the plan, changes since the 2008 Plan, economic research, developments in offshore wind opportunities, and a description of the public engagement component of the process. The main goal of the renewal is to leverage Salem's past waterfront successes and establish a shared vision for the future of Salem Harbor that is consistent with the guiding principles of Imagine Salem, a community visioning process previously undertaken by the City to determine what Salem will look and feel like for the City's 400th anniversary in 2026. The 2023 Renewal seeks to protect and enhance the economic, environmental, historic, and cultural resources related to Salem Harbor and the North River, and to achieve a balance between the residential and business needs of the adjacent neighborhoods, opportunities for the entire city, and the value of the Port of Salem as a regional economic resource. The 2023 Renewal guides the future use of key development areas in Salem, particularly along the North River, the South River Basin, and within the Industrial Port planning areas.

The North River/Crescent Lot area has experienced significant change since the development of the 2008 Plan, including recent residential, civic, and commercial development and a new MBTA commuter rail station and parking garage built in 2014. The proposed 2023 Renewal provides guidance to the development of the Crescent Lot and lays the groundwork for improved pedestrian green space connecting Furlong Park, upstream areas of the North River, and the northern end of Downtown Salem.

The 2023 Renewal details the improvement and development goals from the 2008 Plan for the South Commercial Waterfront area that have been successfully implemented, as well as those that are still in process and supported by this renewal. These include the completion of key sections of the Harborwalk, Charlotte Forten Park, and Peabody Street Park; the redevelopment of several underutilized buildings; and the installation of dinghy docks for local recreational boaters, visiting

vessels, and kayaks at the Congress Street Pier and Charlotte Forten Park. The City is also advancing phased improvements to Palmer Cove Park, with the first phase recently completed and the second phase kicking off soon. Additionally, there are a series of projects currently proposed or under development within the planning area on Lafayette, Congress, and Derby Streets that the 2023 Renewal seeks to support. Some of these ongoing projects are subject to substitution provisions that were approved in the 2008 Decision, and the City proposes to continue four of these provisions, with updates, as part of the 2023 Renewal.

The 2023 Renewal includes the community vision for how the Salem Industrial Port area can be redeveloped to provide Salem with an opportunity to continue a leadership position in maritime trade and industry. Since the approval of the 2008 Plan, use of this area has significantly changed. When the 2008 Plan was developed, the operation of the Salem Harbor Generating Station, which received fuel by ship to the waterfront wharves, was expected to continue operation as the primary WDI use of the Salem DPA. However, the Salem Harbor Generating Station was brought offline in 2014 and replaced with the Salem Harbor Station, a natural gas plant that came online in 2018 and which required only 23 acres of the 65-acre site. As a result, the remaining approximately 42 acres of land became available for development and use. Based on significant research and public outreach regarding economic opportunities for this portion of the waterfront, the 2023 Renewal supports the rapidly expanding offshore wind industry consistent with the goals and objectives of the City and surrounding neighborhoods.

The 2023 Renewal continues the vision developed in the 2008 Plan for the remaining planning areas, including most of the substitute provisions for the South River Basin area that were developed to tailor certain Chapter 91 Waterways provisions to Salem's unique environment. The 2023 Renewal describes the progress that has been made in each planning area since the 2008 Plan, identifies future planning efforts, and considers possible sources of funding to implement public improvements.

The City conducted a vigorous outreach and engagement process led by the Salem Planning Department and the SHPC. The outreach and engagement process, despite necessary restrictions to address Covid-19 concerns, successfully provided opportunities for active discussions through social media, site visits, video conferencing, and interactive mapping tools. A project website was developed to provide accessible information to the public, including events, agendas, and information on how to get involved. During the planning period, the city held twelve public meetings to inform the development of the 2023 Renewal. The process resulted in input from hundreds of residents, businesses, nonprofits, academic institutions, and state and federal partners.

The 2023 Renewal provides a summary and detailed description of the proposed substitutions of minimum use standards and numerical requirements that are included in the Renewal, with a justification for the requests and supporting information to demonstrate compliance with the approval standards for each. As further described below, the proposed substitutions are primarily focused on ensuring that the public benefits identified in the planning process for the South Commercial Waterfront planning area are implemented appropriately.

The 2023 Renewal addresses consistency with state agency plans and projects within the HPA, including cooperative planning with the Massachusetts Bay Transportation Authority (MBTA) for improved pedestrian access to the Salem Commuter Rail Station to address potential rights-of-way issues. Consistent with the Massachusetts Clean Energy Center's (MassCEC) focus on ensuring the economic development opportunities of the offshore wind energy industry, the City engaged with MassCEC early in the planning process and continued to collaborate throughout the development of the 2023 Renewal to ensure that the Renewal, and the included 2023 DPA Master Plan, appropriately support the joint goal of offshore wind development in the City's Industrial Port. Improvements in the Industrial Port and proposed improvements to public access throughout the HPA are consistent with the goals of the Massachusetts Seaport Economic Council to cultivate job creation and economic growth in the maritime sector. No potential conflicts are identified between planned state agency actions or plans and this 2023 Renewal. A clear presentation of how the 2023 Renewal is consistent with the relevant Waterways regulations and CZM Coastal Policies is also provided.

The 2023 Renewal includes Figures to support the narrative and the City's Request for a Notice to Proceed is included as Appendix A to provide additional background for the City's goals and objectives for the development of the 2023 Renewal. Additional supplemental information to support and clarify two of the proposed substitution provisions was submitted during the consultation period for the 2023 Renewal review and should be provided as an attachment in any subsequent publication of the 2023 Renewal.

Finally, the 2023 Renewal includes a DPA Master Plan that details a strategy to preserve and enhance the capacity of the DPA to accommodate water-dependent industries and prevent substantial displacement of these activities by non-water-dependent uses. The DPA Master Plan proposes implementation measures to ensure that extensive areas are reserved for WDI uses, identifies preferred and locally allowed uses as supporting uses in the DPA, puts limits on commercial uses to prevent incompatibility with the marine industry, and identifies the City's strategy to guide the ongoing promotion of WDI use within the DPA. An alternative coverage ratio for DPA Supporting Uses that

was approved by the 2008 Decision is no longer needed to meet the vision for the Salem DPA, and the City is requesting to discontinue that provision with the 2023 Renewal.

III. STANDARDS FOR APPROVAL

As noted previously, my approval today is bounded by the authority and standards as contained in 301 CMR 23.00 (Review and Approval of MHPs). 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 that embody coastal policy for the Commonwealth of Massachusetts. The following is a summary of the Policies and Management Principles applicable to the HPA:

- Coastal Hazards Policy #2 – Ensure construction in water bodies and the 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 the new or substantial reconstruction of structures in a manner inconsistent with the Coastal Barrier Resource/Improvement Acts.
- Coastal Hazards Policy #4 – Prioritize acquisition of hazardous coastal areas that have high conservation and/or recreation values and relocation of structures out of coastal high-hazard areas, giving due consideration to the effects of coastal hazards at the location to the use and manageability of the area.
- Energy Policy #1 – For coastally dependent energy facilities, assess siting in alternative coastal locations. For non-coastally dependent energy facilities, assess siting in areas

outside of the coastal zone. Weigh the environmental and safety impacts of locating proposed energy facilities at alternative sites.

- Energy Policy #2 – Encourage energy conservation and the use of renewable sources such as solar and wind power 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 the 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.
- 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 the highest priority in the allocation of resources.
- Ports and Harbors Policy #3 – Preserve and enhance the capacity of Designated Port Areas to accommodate WDI uses and prevent the exclusion of such uses from tidelands and any other DPA lands over which an EEA agency exerts control by ownership or other legal authority.
- 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 ports and developed harbors, re-development of urban waterfronts, and expansion of 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 the capacity of existing recreation areas by facilitating multiple uses 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 the 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 the 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 2023 Renewal 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 2023 Renewal is consistent with state tidelands policy objectives and associated regulatory principles set forth in the Waterways regulations of MassDEP (310 CMR 9.00). As promulgated, the Waterways regulations provide a uniform statewide framework for regulating tideland 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 substitute for the minimum use limitations or numerical standards of 310 CMR 9.00 by MassDEP. 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, when adopted into the Waterways regulations by MassDEP, waive or modify 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 2023 Renewal contains guidance that, if adopted by MassDEP, will have a direct bearing on MassDEP licensing decisions within the HPA. Included in this guidance are provisions that are intended to substitute for certain use limitations and minimum numerical standards in the regulations at 310 CMR 9.00. It is anticipated that MassDEP will make an independent determination of whether to adopt these provisions in the Waterways regulations and will review any specific project proposals submitted for licensure in accordance with all applicable regulations and standards. These 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 concerning 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 objectives as stated in the Waterways regulations. 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 uses, 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 2023 Renewal, as subject to and modified by this Decision.

Water-Dependent Use Zone 310 CMR 9.51(3)(c)

The establishment and maintenance of an adequate and functional WDUZ are critical to ensuring necessary waterfront access for water-dependent uses including public access, and essential for sustaining these uses. To approve any substitute provision to the WDUZ standards in the Waterways regulations (310 CMR 9.51(3)(c)), I must first determine that the Plan specifies alternative distances and other requirements that ensure new or expanded buildings for nonwater-dependent use are not constructed immediately adjacent to a project shoreline so that sufficient space along the water's edge will be devoted exclusively to water-dependent use and public access associated therewith as appropriate for Salem Harbor (301 CMR 23.05(2)(c)3). Second, the City must demonstrate that the substitution provision meets the objective of ensuring sufficient space along the water's edge will be devoted exclusively to water-dependent use and public access with comparable or greater effectiveness than the original standards set forth at 310 CMR 9.51(c)(3) (301 CMR 23.05(2)(d)).

The establishment and maintenance of an adequate and functional WDUZ are critical to ensuring necessary waterfront access for water-dependent uses including public access, and essential for sustaining these uses. To support the City's goals to continue to improve and activate the Harborwalk along the South Commercial waterfront, the 2023 Renewal requests a substitution to the WDUZ requirement at 310 CMR 9.51(3)(c) for the location of the Waterfront Complex at Pickering

Wharf (23 Congress Street). Specifically, the 2023 Renewal requests a substitute provision to allow the WDUZ to be a minimum width of no less than 10 feet rather than 25 feet to implement the vision expressed by the public during the planning processes to allow for seasonal outdoor dining, which was originally expressed in the 2008 Plan and is continued as a goal in the 2023 Renewal. Supplemental information provided during the consultation period of the review clarifies that the reduction of the WDUZ is to a minimum width of 10 feet, to allow for outdoor seating in the landward 10 feet of the 20-foot-wide Harborwalk. This was a goal of the 2008 Plan, but that Plan incorrectly identified the minimum WDUZ substitution as 20 feet based on the width of the full Harborwalk.

The 2008 Plan included several locations for a substitution of the WDUZ standard where the WDUZ would be reconfigured to provide important view corridors along the South Commercial waterfront. In these instances, no net loss of the WDUZ area was proposed or allowed. The projects proposed for this substitution have been implemented, and the substitution is no longer proposed for these areas. However, on the Waterfront Complex parcel on Pickering Wharf, which has not yet been completed, reconfiguration of the WDUZ area would not be sufficient to offset the reduced area on the waterfront. To offset the effects associated with the decreased WDUZ and to ensure that non-water-dependent uses do not unreasonably diminish the capacity of site-related tidelands to accommodate water-dependent use, the 2023 Renewal proposes continuation of the substitution with qualitative improvements in lieu of a quantitative offset, designed to significantly enhance the public's use and enjoyment of this section of waterfront. Pickering Wharf provides an important destination along the Salem waterfront and improved public access along the water's edge and serves as a critical bridge between the South River Basin and Salem's outer harbor and the Salem National Maritime Historic Site. However, the portion of the existing Harborwalk proposed for improvements, shown on Figure 3, is currently narrow (approximately 5 feet in some areas), unlit, and in poor structural condition. As a result of the current Harborwalk condition, there would be more public benefit realized by completing infrastructure upgrades along portions of Pickering Wharf than with a redistribution of part of the WDUZ on the project site itself. The specific qualitative improvements were identified as offsets as a result of extensive public discussion during public HPC meetings for the 2008 MHP process. They were specifically identified as improvements that would significantly enhance the public's use and enjoyment of this section of waterfront by providing important public access improvements to address inadequate access and safety issues along the existing public walkway adjacent to the proposed Waterfront Complex. Continuation of these qualitative offsets will ensure

that the vision identified for this section of Pickering Wharf can be implemented. These qualitative improvements will be completed during the construction of the proposed Waterfront Complex:

1. Upgrading and maintenance of an off-site portion of the existing public walkway around Pickering Wharf as shown in Figure 3. The improvements will include widening the walkway to a full, clear 10 feet and adding other enhancements to make it consistent with the current Salem Harborwalk design standards, including appropriate lighting to allow for the walk's safe use at night; and
2. Creation/construction and maintenance of an appealing "gateway" entrance to the Harborwalk which will directly connect to Congress Street to more effectively attract the public onto the Harborwalk beside the waterfront.

Allowing these offsets for the reduction in WDUZ on this site will improve the overall public access to the entire section of the waterfront on Pickering Wharf as described above. By improving an existing sub-standard and underutilized area of the Harborwalk off-site and highlighting the public access through the construction of the "gateway" at Congress Street, the offset will effectively enhance the public's use and enjoyment of the waterfront in this location.

As a result of my review, I find that the proposed substitute provision in the Plan includes alternative distances and other requirements that ensure that new or expanded buildings for nonwater-dependent use at the Waterfront Complex will not be constructed immediately adjacent to the shoreline so that sufficient areas along the edge of the shoreline at and adjacent to the Waterfront Complex site at Pickering Wharf will be devoted exclusively to water-dependent use, including public access. Second, I find that the City has demonstrated that the proposed offsets will ensure that sufficient space along the water's edge will be devoted exclusively to water-dependent use and public access in this location with comparable or greater effectiveness than the provisions of 310 CMR 9.51(3)(c). Therefore, I approve this substitute provision and the corresponding offset measure. My approval of this substitution is conditioned such that the provision will not be approved without concurrent implementation and requirements for ongoing maintenance of the proposed offsets, including upgrades to the Harborwalk to widen it to a clear 10 feet and provide enhancements consistent with existing design standards, including appropriate lighting, and to create a "gateway" entrance to the Harborwalk at the Congress Street Bridge, with appropriate requirements for ongoing maintenance of these improvements.

Building Height 310 CMR 9.51(3)(e)

The 2023 Renewal continues two substitutions to building height requirements. To approve any substitution provision to the height standard at 310 CMR 9.51(3)(e), I must first determine that the 2023 Renewal specifies alternative height limits and other requirements that ensure that, in general, new or expanded buildings for non-water-dependent use will be relatively modest in size, so 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 applicable location on Salem Harbor (301 CMR 25.05(c)5.). This standard focuses on how a building's mass will be experienced at the pedestrian level and on public open spaces on the project site, especially along the waterfront and key pathways leading thereto. I must also determine that the City has demonstrated that its substitute height standard and offsetting measures satisfy the "comparable or greater effectiveness" test in the context of this standard.

The 2023 Renewal requests a substitution of the Waterways requirements at 310 CMR 9.51(3)(e) for building height in Sub-area A within the South Commercial Waterfront District (Figure 4). Specifically, the 2023 Renewal would allow non-water-dependent buildings up to a maximum of 70 feet in this area, consistent with Salem's municipal zoning for this area, rather than the Waterways requirement of 55 feet within 100 feet of the high-water mark nor increase by more than one-half foot for every additional foot beyond 100 feet. For the fifteen-foot increase in height, the primary concern for the ground-level environment is increased shadow. For projects within this Sub-area, the additional height will be offset with a requirement for additional dedicated public open space on the site proportional to the amount of new shadow created as a result of the added height. The offset area requirement will be calculated by determining the net new shadow cast at the ground level by the additional building mass during full sun conditions that would occur on the site on October 23rd between the hours of 9 a.m. and 3 p.m. The additional open space required will equal half the calculated new building shadow. No more than half of the open space set aside for this offset may be used for parking.

The 2023 Renewal also requests a substitution for building height for the proposed Waterfront Complex on Pickering Wharf. The 2023 Renewal would allow a maximum building height of 70 feet on this site, consistent with Salem's municipal zoning for this site, and provides that alternative offsets would be required (Figure 4):

1. The addition of a ground-level covered public space in a “turret” proposed as a design element on the southwest corner of the new building in the new Harborwalk “gateway” area adjacent to Congress Street;
2. The addition of landscaping and new design elements along the Congress Street end of the proposed hotel building to further improve the appearance of the planned Harborwalk gateway and separate and screen the gateway from the building’s loading docks and/or service areas; and
3. The construction of an observation platform is incorporated as part of the Harborwalk on the southeast corner of Pickering Wharf.

Based on my review of the 2023 Renewal, it appears that increases in net new shadow to the ground-level pedestrian environment along the waterfront, resulting from the proposed height increase within Sub-area A of the South Commercial Waterfront District and the Waterfront Complex from a maximum of 55 feet to a maximum of 70 feet, will be minimal due to the area’s orientation relative to the waterfront. Because the buildings will cast shadows to the west and north, away from the waterfront, there will be little net new shadow attributable to the increased heights associated with the proposed substitute provisions that would impact ground-level conditions or impair public use and enjoyment of the waterfront and its adjacent watershed, and the offsets will ensure that ground-level conditions remain conducive to such use and enjoyment. I therefore conclude that the proposed substitute height provision will not impair water-dependent activity and public access to the waterfront and that the City has demonstrated that the substitute height standard and offsetting measures appropriately serve to meet the objectives of 310 CMR 9.51(3)(e) with comparable or greater effectiveness for both locations.

Pedestrian Access Network 310 CMR 9.52(1)(b)(1)

The 2023 Renewal continues a substitution to the provisions of the Waterways regulations related to the width of the pedestrian access network in the South Commercial Waterfront District. Substitute provisions governing a pedestrian access network, a minimum walkway width other than 10 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 (301 CMR 23.05(2)(c)6). In addition, the proposed substitute provision must meet this objective with comparable or greater effectiveness than the original provision (301 CMR 23.05(2)(d)). My determination relative to whether the City has

demonstrated that this proposed substitute provision promotes this tideland policy with comparable or greater effectiveness is presented below.

The 2023 Renewal proposes a substitution of the standards for Utilization of the Shoreline for Water-Dependent Purpose which requires a pedestrian access network with walkways to be no less than 10 feet in width along the shoreline of the South River. The proposed substitution would require a dedicated 20-foot-wide public accessway along the entire shoreline of the South River within the South Commercial Waterfront District. A minimum of 10 feet of this walkway along the waterway must be an unobstructed pathway, but the inland 10 feet of this accessway could be used for landscaping and accessory amenities that would enhance the general public's waterfront experience. These amenities may include seasonal outdoor restaurant and food service seating as long as the Salem Licensing Board approves an outdoor café permit (Common Victualler License), and the Salem Board of Health approves a food permit consistent with the permitting of seasonal outdoor dining facilities on public sidewalks/ways throughout the City of Salem. No nonwater-dependent buildings, vehicles, or utility infrastructure (e.g., dumpsters, HVAC units, loading platforms) will be allowed in the public accessway unless they directly support water-dependent use(s). These access requirements would be in addition to the standards for public access to the waterfront required under Chapter 91. The 2023 Renewal states that this harbor walkway is essential to improving access along the water's edge, and the City considers it a critical aspect of their goals for the South Commercial Waterfront District.

As a result of my review, I find that the City has demonstrated that the proposed substitute provision for the pedestrian access network is appropriate given, among other things, the size and configuration of the WDUZ as modified above and the nature and extent of water-dependent activity and public uses that may be accommodated therein, and that this substitution ensures with greater effectiveness compared to the Waterways provision that requires at a minimum walkways and related facilities along the entire length of the WDUZ be directly adjacent to the project shoreline and no less than 10 feet in width. Further, taken together with the City's requested substitution to the WDUZ discussed above, this substitute provision will help to realize an exceptional public realm along the Salem Harbor. I therefore approve this substitute provision for a dedicated 20-foot wide public accessway along the entire shoreline of the South River within the South Commercial Waterfront District, with the conditions that a minimum of 10 feet of this walkway along the waterway must be an unobstructed pathway, the inland 10 feet of this accessway could be used for landscaping and accessory amenities that would enhance the general public's waterfront experience, and seasonal outdoor restaurant and food service seating may be allowed in the inland 10 feet if the Salem Licensing

Board approves an outdoor café permit (Common Victualler License), and the Salem Board of Health approves a food permit consistent with the permitting of seasonal outdoor dining facilities on public sidewalks/ways throughout the City of Salem. As this substitute provision promotes the pedestrian access network tidelands policy with is comparable or greater effectiveness as the 10-foot minimum width, all new development, redevelopment, or existing development requiring licensing through Chapter 91 within the South Commercial Waterfront District proposed by the 2023 Renewal shall comply with this requirement.

Table 1. Summary of Substitute Provisions for 2023 Salem Municipal Harbor Plan and DPA Master Plan Renewal.

Regulatory Provision	Applicable Location	Chapter 91 Standard	Approved Substitution	Approved Offsetting Measure(s)
310 CMR 9.51(3)(c): Water Dependent Use Zone	Waterfront Complex site at Pickering Wharf (23 Congress Street, Figure 3)	The width of the WDUZ is the lesser of 100 feet or 25% of property depth from the present high-water mark, but no less than 25 feet.	The minimum width of WDUZ will be no less than 10 feet.	Upgrade and maintain an off-site portion of Pickering Wharf, including widening it to a clear 10 feet, enhancing it to make it consistent with existing design standards, and providing appropriate lighting. Create and maintain a “gateway” entrance to the Harborwalk at Congress Street Bridge.
310 CMR 9.51(3)(e): Building Height Commercial	Sub-Area A South Commercial Waterfront District, other than Waterfront Complex site at Pickering Wharf (23 Congress Street) (Figure 4)	For new or expanded non-water-dependent use buildings, the height shall not exceed 55 feet within 100 feet of the high-water mark nor increase by more than one-half foot for every additional foot beyond 100 feet.	Allow non-water-dependent buildings up to a height of 70 feet to be consistent with the City of Salem Zoning requirements.	Additional public open space on the site will be calculated by determining the new shadow cast at the ground level by the additional building mass during full sun conditions on October 23 rd between 9 a.m. and 3 p.m. No more than half the additional open space may be used for parking.
310 CMR 9.51(3)(e):	Waterfront Complex site at	For new or expanded non -	Allow non-water-dependent buildings up to	Addition of ground-level public space in a “turret”

Regulatory Provision	Applicable Location	Chapter 91 Standard	Approved Substitution	Approved Offsetting Measure(s)
Building Height	Pickering Wharf (23 Congress Street, Figure 3)	water-dependent use buildings, the height shall not exceed 55 feet within 100 feet of the high-water mark nor increase by more than one-half foot for every additional foot beyond 100 feet.	a height of 70 feet to be consistent with the City of Salem Zoning requirements.	<p>portion of the new Harborwalk gateway adjacent to Congress Street. Additional landscaping and design elements to improve the appearance and to screen the gateway from the building's loading/service areas.</p> <p>Construction of an observation platform on the southeast corner of Pickering Wharf.</p>
310 CMR 9.52(1)(b)1.: Utilization of Shoreline for Water Dependent Purposes	South Commercial Waterfront District (Figure 4)	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 provided in a municipal harbor plan, shall be no less than 10 feet in width.	<p>Require a dedicated 20-foot-wide public walkway around the South River, of which a minimum of 10 feet adjacent to the water shall be an unobstructed pathway. The inland 10 feet may be used for landscaping and accessory amenities to enhance the general public's waterfront experience. These amenities may include seasonal outdoor restaurant and food service seating as long as:</p> <p>--The Salem Licensing Board approves an outdoor café permit (Common Victualler License); and</p> <p>--The Salem Board of Health approves a food permit consistent with the permitting of seasonal outdoor dining facilities on public sidewalks/ways throughout the City of Salem.</p>	The minimum standard will be 20 feet, of which a minimum of 10 feet shall be an unobstructed pathway. The substitution directly benefits the public through enhanced access. No additional offsetting benefit is required.

Figure 3: Plan of Proposed Waterfront Complex at 23 Congress Street and Location of Offsetting Improvements

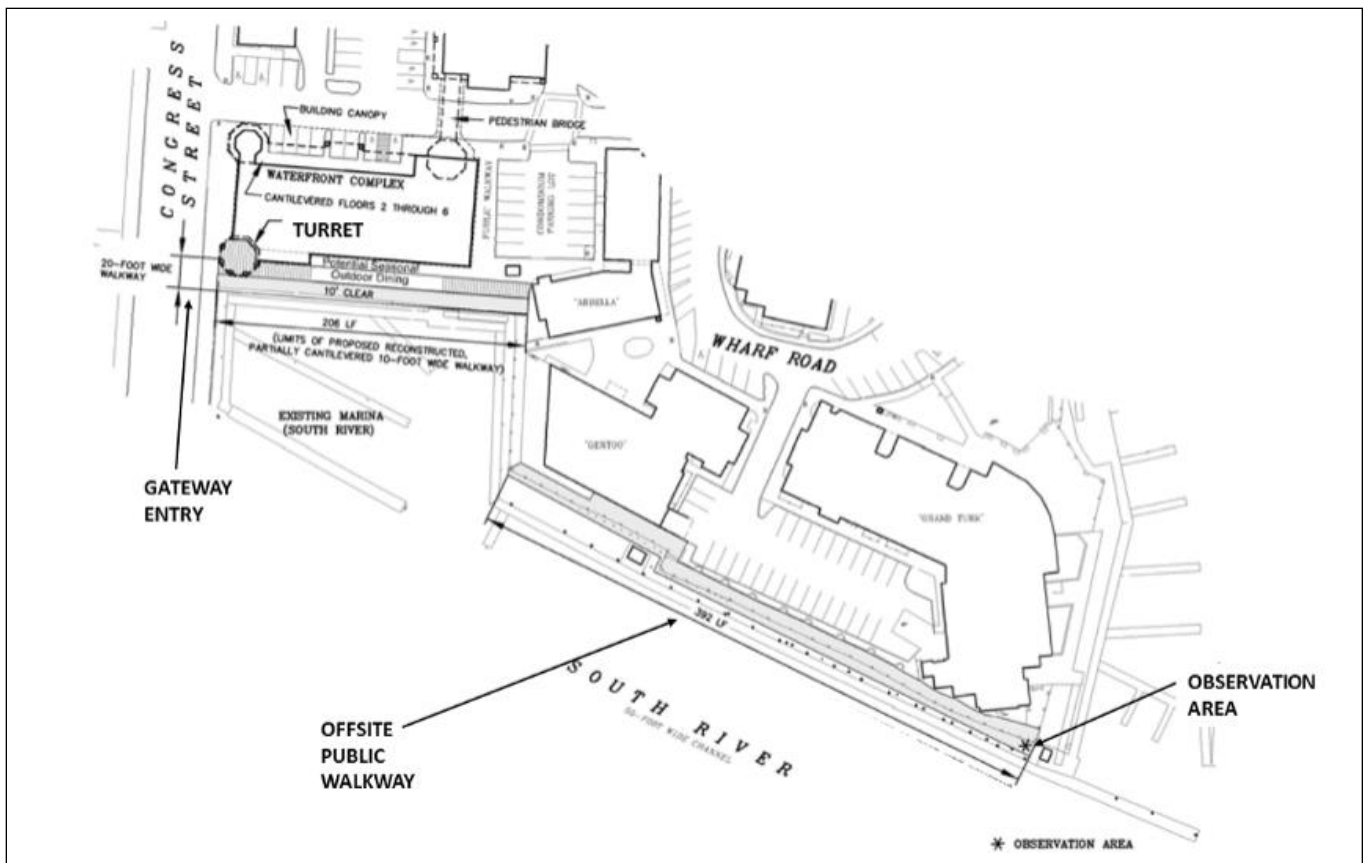
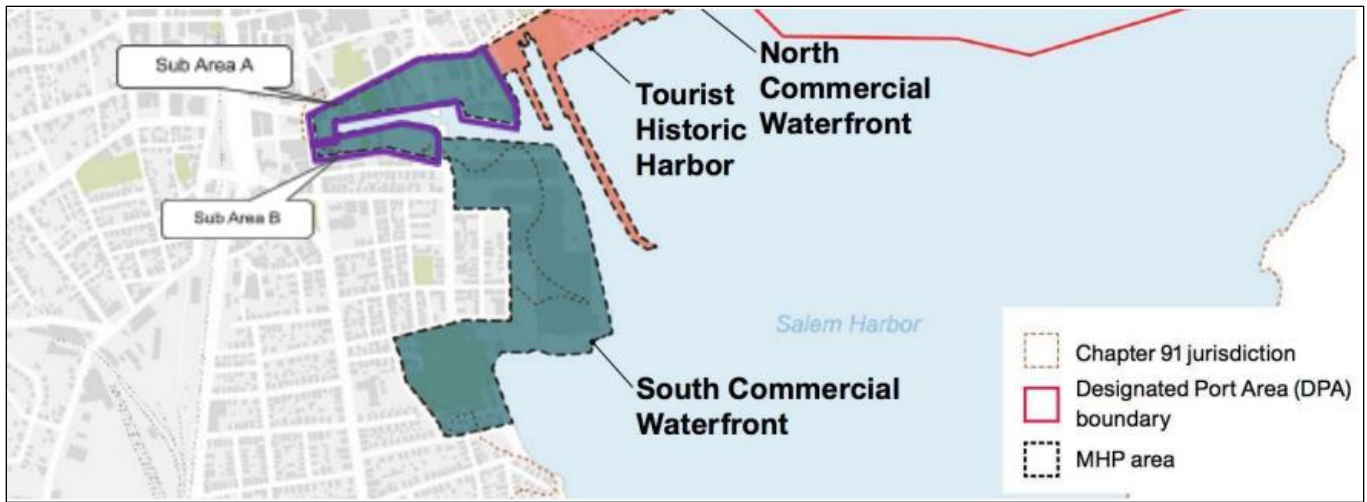


Figure 4: South Commercial Waterfront District and Sub-areas A and B



D. Evaluation of Proposed Amplification Provisions

Approval of MHP regulations pursuant to 301 CMR 23.05(2)(b) requires a finding that any provision that amplifies a discretionary requirement of the Waterways regulations will complement the effect of the regulatory principle(s) underlying that requirement. Upon adopting an amplification after CZM makes such a finding, MassDEP is committed to “adhere to the greatest reasonable extent” to the applicable guidance specified in such provisions, pursuant to 310 CMR 9.34(2)(b)2. The City does not propose any amplifications to discretionary requirements of the Waterways regulations in the 2023 Renewal. Projects within Chapter 91 jurisdictional areas in the HPA will continue to meet the standards of these provisions as they are currently required to by the Waterways regulations.

E. Evaluation of the DPA Master Plan

The Salem DPA includes the majority of the Industrial Port district and a portion of the North Commercial Waterfront District. The area within the Salem DPA is primarily made up of the Salem Wharf ferry terminal, constructed since the approval of the 2008 Plan, the 23-acre site of the Salem Harbor Station gas plant (which is a nonwater-dependent use operating under a variance), and the 42-acre waterfront site surrounding the gas plant. The DPA also includes a deepwater channel and a

substantially developed industrial waterfront. A few small, existing residential parcels are included in the DPA area.

The DPA is primarily located on land subject to Chapter 91 jurisdiction but also includes approximately 9 acres of land that is not subject to Chapter 91 jurisdiction (Figure 5). This non-jurisdictional area is required to be used in compliance with the Salem DPA Master Plan, as it may be amended, pursuant to a Grant of Restriction and Easement (Grant) required by the Final Decision of the Commonwealth of Massachusetts Energy Facilities Siting Board (2/25/2014) for the Salem Harbor Station and recorded in the South Essex Registry of Deeds at book 33809, page 533. The Grant was required to mitigate the occupation of filled tidelands within a DPA by the Salem Harbor Station, which is a nonwater-dependent use (Waterways File # W13-3886-N, Decision on Variance Request and Written Determination in the Matter of Footprint Power Salem Harbor Development LP dated November 1, 2013). The Grant lists allowable uses and acknowledges that any amendment to the DPA Master Plan approved by EEA and in compliance with the provisions of 301 CMR 23.00 and 310 CMR 9.12(2)(b) will modify those allowed uses. Allowed uses may include nonwater-dependent industrial uses, provided they meet the referenced regulatory standards for use in a DPA. The restriction is flagged within the City's permitting system, which directs the Building Inspector to consult with the City's Planning Department and MassDEP, to review for consistency with the DPA Master Plan before local permit issuance. A copy of the 2023 Salem DPA Master Plan shall be attached to the Grant and referenced in any building permit subject to the Grant issued after the approval of the 2023 Salem MHP and DPA Master Plan.

The 2023 Renewal reviews the substantial changes to the Salem DPA that have occurred since approval of the 2008 Plan. These changes most notably include completion of the ferry terminal and promising efforts to develop the DPA for WDI use related to the offshore wind industry. Early in the planning process for the renewal of the 2008 Plan, the Salem Harbor Port Authority (Port Authority) engaged MassCEC in a discussion around the suitability of the Port of Salem to support the offshore wind industry. Through this early engagement, it became clear that the physical characteristics of Salem positioned it uniquely to support this developing industry because it provides sufficient upland area, a deep-water federally maintained navigation channel, and no air draft or width limitations. These physical characteristics make the Industrial Port waterfront ideally suited for the marshaling of both fixed bottom offshore wind turbines, like those proposed to be deployed in the approved lease areas south of Cape Cod, and future floating offshore wind turbines planned for lease areas to be designated in the Gulf of Maine. In the early phases of the development of the DPA Master Plan, the economic

possibilities for offshore wind were not yet evident. The announcement in March 2021 of a nationwide goal of 30 gigawatts of offshore wind by 2030 resulted in renewed opportunities for the Salem Industrial Port in the offshore wind industry, and significant and enthusiastic local involvement through the harbor planning process resulted in broad public and state support for focusing the redevelopment of the Industrial Port on offshore wind support activities. As discussed in the 2023 Renewal, “the City collaborated with Footprint Power on the release of a Request for Expressions of Interest (REI) to assess interest in [the 42-acre property surrounding Salem Harbor Station] for offshore wind-related uses. The REI precipitated a partnership between the City and Crowley to create a public-private partnership aimed at establishing Salem Harbor as the state’s second major offshore wind port. Through this partnership, Crowley, the nation’s largest civilian employer of US mariners, is anticipated to be the long-term operator of the port and will lease the property for turbine assembly, staging, and deployment to offshore installation areas.” This project has received significant funding from the Commonwealth, and H.3045 (2023, § 31) includes authorization for the Massachusetts Clean Energy Technology Center (MassCEC) to establish the offshore wind terminal at the site and lease the site for that use.

Because the 2023 Renewal includes a DPA Master Plan, the approval criteria at 301 CMR 23.05(2)(e) require me to find that the Master Plan preserves and enhances the capacity of the DPA to accommodate WDI use and prevents substantial exclusion of such use by any other use eligible for licensing in the DPA pursuant to 310 CMR 9.32. Specifically, the 2023 Renewal must:

1. Ensure that extensive amounts of the total DPA area in close proximity to the water are reserved for WDI uses and that commercial uses and associated accessory uses will not, as a general rule, occupy more than 25% of the total DPA land area;
2. Set forth reasonable limits on commercial uses that would significantly discourage present or future WDI uses and ensure that commercial uses mix compatibly and will not alter the predominantly maritime industrial character of the DPA;
3. Identify industrial and commercial uses allowable under local zoning that will qualify as supporting DPA uses;
4. Identify strategies for the ongoing promotion of WDI use, including recommendations for capital improvements or other economic or operational benefits to be provided by supporting DPA uses, recommendations to preserve or enhance for transportation facilities for WDI use, and measures to prevent conflicts between WDI use and adjacent neighborhoods; and

5. Satisfy additional criteria if proposing new recreational boating facilities with nine or fewer slips (not applicable to this 2023 Renewal).

The 2023 Renewal allows commercial uses and accessory uses to occur within the DPA provided they are qualified DPA Supporting Uses and do not exceed 25% of a project site or of the DPA as a whole. The 2023 Renewal differs from the 2008 Plan in this respect: the 2008 Plan incorporated an alternative site coverage ratio that required 100% of the filled tidelands in the DPA to be reserved for WDI uses and accessory uses thereto. The 2023 DPA Master Plan removes this alternative site coverage ratio and instead adopts the standards for licensing uses in the DPA as set forth in the Waterways regulations, which allow up to 25% of a project site to be used for DPA Supporting Uses. The 2023 DPA Master Plan supports any qualifying commercial or industrial use that meets local zoning to be licensed as a supporting use in the DPA, provided that it provides direct economic or operational support to WDI uses in the DPA. Qualifying supporting uses include, but are not limited to, small-scale commercial, retail, and accessory uses thereto; research and development; and any other zoning-compliant uses that fully comply with the definition of DPA Supporting Uses at 310 CMR 9.02. The 2023 Renewal also supports any Temporary Uses that are consistent with the definition at 310 CMR 9.02. While the Master Plan could allow up to 25% DPA Supporting Uses, the expected coverage by these uses is expected to be substantially less. Currently, there are no commercial uses within the Salem DPA, and the 2023 DPA Master Plan includes calculations to demonstrate that, at most, 15.3% of the total DPA land area of the Salem DPA could be used for commercial uses and accessory uses thereto under full build-out. The 2023 Salem DPA Master Plan also requires that Supporting Uses must be located away from the waterfront and on landward edges of the DPA to the extent reasonable. Through this change, the City intends to ensure that the needs of WDI uses and facilities will be accommodated and not discouraged while ensuring that extensive amounts of the DPA area are preserved for WDI use.

The 2023 Renewal includes measures to limit commercial uses that may discourage or do not mix compatibly with WDI use. Supporting and temporary uses are limited to those allowable under the Waterways regulations. In addition, the Plan includes a conceptual plan of the area indicating the type, location, density, scale, duration, and operation of commercial uses within the DPA. In addition, while the DPA Master Plan supports public access including seasonal public access where appropriate, it confirms the Waterways standards that any structures or public amenities shall be installed in a manner where they can be removed with relative ease to facilitate WDI use. No permanent structures

or hindrances to discourage or preempt the transition of the project site to Water-Dependent-Industrial will be allowed. As detailed above, the DPA Master Plan also provides Design Principles to be implemented locally through adoption by the Salem Port Authority, which encourages additional community benefits by requiring that projects incorporate community noise abatement, visual protections, public access, and climate resiliency where possible, consistent with Waterways requirements.

The 2023 Renewal also includes a description of the City's efforts to improve, promote, and market the Salem DPA for water-dependent industrial use. Many of these efforts are ongoing and the Salem intends to continue to work collaboratively with the state and property owner to ensure that all applicable conditions are satisfied in a fair and timely manner. The Plan indicates that port development coordination is led by the Salem Harbor Port Authority, which is directed to develop a strategic plan or mission statement that incorporates the DPA Master Plan Guiding principles. The Master Plan also recommends continued work to develop offshore wind, including by resolving ownership of the 42-acre site formerly occupied by the power station. The Master Plan also considers the importance of maintaining the federally maintained channel to the harbor and the potential need for roadway and utility upgrades associated with the proposed offshore wind facility in the DPA.

While the 2023 Renewal supports primarily WDI use of the DPA waterfront, the DPA Master Plan must include provisions to prevent conflicts between the WDI users of the DPA and the adjacent neighborhood. To address this, the City DPA Master Plan incorporates several Design Principles to guide activities and development within the DPA to the extent practicable. The Design Principles were developed through extensive public input during the harbor planning process. These include:

1. Climate resiliency: To the extent consistent with WDI use operational requirements, the Salem DPA shall be redeveloped to provide resilience against flooding and where possible protection which can extend to adjacent neighborhoods.
2. Carbon footprint: port operations shall follow best management practices to decrease their carbon footprint, including consideration of plug-in/cold-ironing options for docked vessels.
3. Multiple uses: where possible, DPA infrastructure shall be designed to allow for multiple uses, such as flood control berms and public access, subject to the operational requirements of the DPA. All DPA uses, and supporting DPA uses in particular, shall be located and designed with the intent of providing visual buffers and noise attenuation between the DPA and the Derby Street neighborhood.

4. Minimize conflicts with residential neighborhoods: Salem DPA developments and activities should minimize impacts on adjacent residential neighborhoods to the extent practicable through the location of supporting DPA uses, screenings, plantings, traffic circulation plans, etc. Depending on the amount of supporting DPA uses that can be accommodated, structures shall be located and designed to minimize DPA noise impacts and light pollution and provide some visual screening from the Derby Street neighborhood. Landscaping and tree plantings may also be used for DPA screening along Derby Street, particularly in the Salem DPA outside Chapter 91 licensing jurisdiction. Depending on the type of WDI uses that are developed (e.g., offshore wind energy) and consistent with the City of Salem's ecotourism efforts, some visual corridors will be protected where feasible to allow visitors and residents to observe activities related to the construction and operation of clean energy sources.

Based on the information provided in the 2023 Renewal as discussed above and subject to the conditions at the end of this Decision, I find that the DPA Master Plan components of the 2023 Renewal are consistent with the requirements of 301 CMR 23.05(2)(e).

F. Relationship to State Agency Plans

The Municipal Harbor Planning regulations (301 CMR 23.05(3)) require that the 2023 Renewal include all feasible measures to achieve compatibility with the plans or planned activities of all state agencies owning real property or otherwise responsible for the implementation or development of plans or projects within the HPA. The 2023 Renewal describes cooperative planning with the Massachusetts Bay Transportation Authority (MBTA) for improved pedestrian access to the Salem Commuter Rail Station to ensure that the City's work is compatible with the MBTA rights-of-way in the Crescent Lot/North River planning area, and addresses consistency with the MassCEC's offshore wind energy goals through a collaborative planning process to ensure that the 2023 Renewal appropriately supports the joint goal of offshore wind development in the City's Industrial Port. In addition, improvements in the Industrial Port and proposed improvements to public access throughout the HPA are consistent with the goals of the Massachusetts Seaport Economic Council to cultivate job creation and economic growth in the maritime sector. Improvements in the Industrial Port and proposed improvements to public access throughout the HPA are consistent with the goals of the Massachusetts Seaport Economic Council to cultivate job creation and economic growth in the maritime sector. No potential conflicts are identified between planned state agency actions or plans

and this 2023 Renewal. The City should continue working with the MBTA, MassCEC, and the Seaport Economic Council as needed.

G. Implementation Strategy

Pursuant to 301 CMR 23.05(4), the 2023 Renewal must include enforceable implementation commitments to ensure that all measures will be taken in a timely and coordinated manner to offset the effect of any plan requirement less restrictive than that contained in 310 CMR 9.00.

MassDEP's Chapter 91 licensing process under the Waterways regulations will implement the portions of this plan associated with the substitution provisions as described above. The provisions of this 2023 Renewal will be implemented through regulatory and environmental review provisions, as applicable, to ensure that uses are consistent with the approved substitute provisions described in the 2023 Renewal. The 2023 Renewal further provides additional direction for ensuring that proposed uses in the 9 acres subject to the 2015 Grant of Restriction and Easement meet the requirements and intent of that document, and in the application and issuance of Chapter 91 licenses for the HPA. Accordingly, I find that this approval standard is met subject to the conditions detailed below.

IV. EFFECTIVE DATE AND TERM OF APPROVAL

This Decision shall take effect upon issuance of final amendments by MassDEP to incorporate the substitutions described in this Decision into the Waterways regulations. As requested by the City of Salem, the City of Salem Municipal Harbor Plan and Designated Port Area Master Plan Decision shall expire ten years from this effective date unless a renewal request is filed before that date in accordance with the procedural provisions of 301 CMR 23.06. No later than six months before the expiration date, in addition to the notice from the Secretary to the City required under 301 CMR 23.06(2)(b), the City shall notify the Secretary in writing of its intent to request a renewal and shall submit therewith a review of its 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 2023 Salem Municipal Harbor Plan and Designated Port Area Master Plan and

supplemental information according to the terms and obligations contained herein and subject to the following conditions:

1. For the waterfront complex site at Pickering Wharf, the following offsets for the reduced 10-foot WDUZ shall be completed before a Certificate of Occupancy is issued for the project:
 - a. Upgrading and maintenance of an off-site portion of the existing public walkway around Pickering Wharf from the southwest corner of the existing restaurant at 76 Wharf Street extending easterly to the southern corner of the existing restaurant at 89 Wharf Street. The improvements will include widening the walkway to a full, clear 10 feet and adding other enhancements to make it consistent with Salem Harborwalk design standards, including appropriate lighting to allow for the walk's use at night; and
 - b. Creation/construction and maintenance of an appealing "gateway" entrance to the Harborwalk which will directly connect to Congress Street to more effectively attract the public onto the public accessway beside the waterfront;
2. Within the South Commercial Waterfront District, MassDEP shall require a dedicated 20-foot-wide public accessway along the entire shoreline of the South River. A minimum of 10 feet of this walkway along the waterway must be an unobstructed pathway, but the inland 10 feet of this accessway could be used for landscaping and accessory amenities that would enhance the general public's waterfront experience. These amenities may include seasonal outdoor restaurant and food service seating as long as:
 - a. The Salem Licensing Board approves an outdoor café permit (Common Victualler License); and
 - b. The Salem Board of Health approves a food permit consistent with the permitting of seasonal outdoor dining facilities on public sidewalks/ways throughout the City of Salem; and
 - c. The seating area reserves visibility of the seating area from the 10-foot clear portion of the Harborwalk, and from the seating area to the water so that the activity there contributes to the public activity of the waterfront and is not concealed; and
 - d. The seating area is demarcated with planters, bollards, rope, or other barriers to prevent encroachment on the 10-foot Harborwalk, with the barrier at a height and spacing that preserves visual accessibility to and from the café; and

- e. The area is designed so that patrons may enter and exit directly from the 10-foot clear portion of the Harborwalk to the dining area, to ensure that public accessibility, both physical and perceptual, is maintained.

Nonwater-dependent buildings, vehicles, or utility infrastructure (e.g., dumpsters, HVAC units, loading platforms) are not allowed in the public accessway unless they directly support water-dependent use(s).

3. In Sub-area A within the South Commercial Waterfront District, non-water-dependent buildings may be constructed up to a maximum of 70 feet high, provided the additional height is offset with a requirement for additional dedicated public open space on the parcel calculated by determining the new shadow cast at the ground level by the additional building mass during full sun conditions that would occur on the site on October 23rd between the hours of 9 a.m. and 3 p.m. The additional open space required will equal half the calculated new building shadow. No more than half of the open space set aside for this offset may be used for parking.
4. For the proposed Waterfront Complex at Pickering Wharf, the non-water-dependent building may be constructed up to a maximum of 70 feet high, provided the following offsets are completed before a Certificate of Occupancy is issued:
 - a. The addition of a ground-level covered public space (turret) proposed as a design element on the southwest corner of the new building in the new Harborwalk “gateway” area adjacent to Congress Street; and
 - b. The addition of landscaping and new design elements along the Congress Street end of the proposed hotel building to further improve the appearance of the planned Harborwalk gateway and to separate and screen the gateway from the building’s loading docks and/or service areas; and
 - c. The construction of an observation platform is incorporated as part of the Harborwalk on the southeast corner of Pickering Wharf.
5. A copy of this Decision will be attached to the recorded Grant of Restriction and Easement (Footprint Power to the City of Salem dated January 16, 2015) and referenced in any building permit subject to the Grant issued after the approval of the 2023 Renewal. WDI uses are allowed consistent with 310 CMR 9.00 within the referenced approximately 9 acres. Other uses allowable under local zoning may also be approved within the above-described approximately 9-acre area, provided they do not exceed a combined total of 25% of the area (approximately 2.37 acres) and any such use complies with all applicable standards of 310 CMR

9.00, including but not limited to 310 CMR 9.32 and 310 CMR 9.36. Before performing or permitting any use in, on, above, or below the approximately nine-acre area, in addition to any requisite local permitting, written notice of the proposed use shall be provided to MassDEP by the project proponent. Said notice shall include a surveyed site plan that delineates and quantifies the proposed use area, documentation of how the use complies with the above-referenced regulatory standards, and an accounting of all existing and proposed use types within the approximately nine-acre area. In the absence of a letter of compliance from MassDEP, a building permit shall not be issued. In the event MassDEP determines the project does not comply, the project proponent may resubmit a revised proposal to MassDEP for a new review.

6. The City shall prepare a final, approved Salem Harbor Plan (Approved Plan) to include:
 - a. The 2023 Renewal dated January 2023 as amended by this Decision;
 - b. This Approval Decision; and
 - c. Supplemental information submitted March 31, 2023.

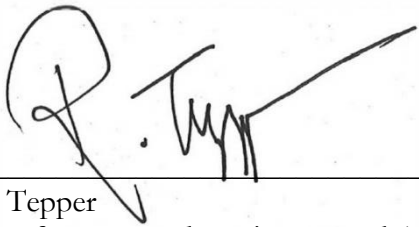
Copies of the final, Approved Plan shall be provided to CZM and MassDEP's Waterways Program, kept on file at the City Clerk and Planning and Community Development Offices, and made available to the public through the City's website and copies at the library. For Chapter 91 Waterways licensing purposes, 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 MassDEP 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 May 12, 2023, the MassDEP Waterways Program Chief expressed support for approval of the substitute provisions in the 2023 Renewal and stated that in accordance with the

provisions of 310 CMR 9.34(2), MassDEP will require conformance with any applicable provisions of the Approved Plan in the case of all Waterways license applications submitted after the 2023 Renewal'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.



Rebecca Tepper
Secretary of Energy and Environmental Affairs

5/17/2023

Date



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

100 Cambridge Street Suite 900 Boston, MA 02114 • 617-292-5500

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

May 12, 2023

Rebecca L. Tepper, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street
Boston, Massachusetts 02114

RE: Massachusetts Department of Environmental Protection Approval of Substitute Provisions and Recommendation for the Approval of the Secretary's Decision on the City of Salem Municipal Harbor Plan

Dear Secretary Tepper,

The Department of Environmental Protection, Waterways Regulation Program ("the Department") has reviewed the City of Salem's Proposed Municipal Harbor Plan and Designated Port Area Master Plan ("the Plan") dated January 2023 and supplemental information submitted on March 31, 2023. The Department's staff have worked closely with the Massachusetts Office of Coastal Zone Management (CZM) and representatives of the City of Salem throughout the planning process and consultation period. The Department has reviewed the proposed Secretary's Decision ("Decision") on the Substitute Provisions and has determined that the Substitute Provisions and Offsets as specified in the Decision will adequately meet or exceed the protected interests pursuant to M.G.L. Chapter 91 and 310 CMR 9.00. The Department approves the substitute regulatory provisions, and recommends that you also approve these substitute regulatory provisions and make a finding that they are consistent with state tidelands policy objectives in accordance with 301 CMR 23.05.

The Substitute Provisions included in the Decision will modify the numerical standards for 310 CMR 9.51(3)(c) which governs the dimensions of a Water-Dependent Use Zone, 310 CMR 9.51(3)(e) which governs the height of new or expanded buildings for nonwater-dependent use, and 310 CMR 9.52(1)(b)1. which governs the location and size of pedestrian walkways. In accordance with the provisions of 310 CMR 9.34(2), the Department will apply the use limitations or numerical standards specified in the municipal harbor plan as a substitute for the respective limitations or standards, adhere to the greatest reasonable extent to applicable guidance specified in the municipal harbor plan which amplifies any discretionary requirements of 310 CMR 9.00, and determine whether the requirement of 310 CMR 9.54 has been met, if applicable, for all waterways license applications submitted subsequent to the Decision's effective date and within the geographic scope of the Plan. The Plan will apply as well to all pending applications for which

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no public 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 City of Salem in the implementation of this important planning effort. If you have any questions regarding the foregoing, please contact me at Daniel.Padien@mass.gov or (857) 329-3574. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel J. Padien". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel J. Padien
Program Chief
Waterways Regulation Program