



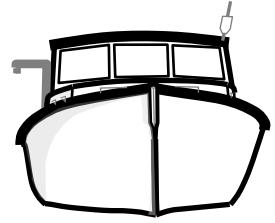
## Waterfront Workgroup

### 8th Meeting Agenda

April 4, 2019

Room 24, City Hall

3:00pm to 5:00pm



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1. Welcome and Introductions: *Jon Jennings, City Manager, Chair*
2. Review Meeting Notes from Meeting 7, 3-28-19.
3. Working Group discussion on unresolved zoning issues.
  - Continued discussion of Permitted Uses
  - Lot Coverage and Building Size
4. Status review of Zoning Issues, in preparation for Planning Board submission by April 12.
  - See Summary Table of Issues and Approaches, attached and Zoning.
5. Working Group discussion on Schedule moving forward.

City of Portland  
Waterfront Working Group

Meeting #7  
Thursday, March 28, 2019  
3:00 - 5:00 p.m.

Attendance

Becky Rand,  
Mike Alfiero,  
Bill Coopersmith  
Willis Spear  
Dory Waxman  
Charlie Poole  
Steve Dimillo  
Cyrus Hagge

Staff: Jon Jennings, Bill Needelman, Matthew Grooms, Christine Grimando (2nd half)

**Meeting Summary:**

The focus of the 1st half of the meeting was zoning and an explanation of specific waterfront zone performance standards (presented by Matthew Grooms). Matthew Grooms presented slides (now posted on the WWG website) showing how these standards are designed to stem rampant development and unplanned commercialization of the waterfront while simultaneously preserving the fishing/maritime industry of Portland's waterfront.

Bill Needelman also stressed the need to clarify zoning issues prior to the expiration of the moratorium on waterfront development. A report will need to go the Planning Board that will likely include where agreements (from the WWG) are in place but also where agreements have not been reached. The extent of WWG consensus or disagreement will accompany staff recommendations to the Planning Board.

Again, parking and access were the primary zoning issues discussed at this meeting, with fishermen expressing frustration about difficult or no access due to commercial parking and restricted access during working day hours.

Mr. Needelman stressed that all sides of an argument will be presented to the Planning Board, so that the Board has as much information as possible to make zoning decisions.

E-Mail/Letter from Sandra Guay, Esq. was distributed and addressed. Ms. Guay's e-mail presented suggestions for new marketing strategies to lease unoccupied space in wharf buildings (specifically 1st floor space that is vacant and requires marine use tenants). This idea was discussed with many WWG members agreeing that better marketing would help attract marine use tenants to first floor wharf building space. It was also put forth that a longer marketing

period -- maybe even six months, consistent with “Pedestrian Activities Districts” -- would help the marketing requirement succeed as intended. Ms. Guay’s e-mail also expressed her concern about wharf owners meeting separately from the WWG to discuss waterfront zoning issues/requirements and specifically addressed her concern about any interested persons claiming to have no voice in proposals put forth to the Planning Board.

A suggestion was put forth to restrict all unoccupied space to marine use only (including upper floor space). This suggestion was rejected by the group as a whole.

Permitted and non permitted uses were also addressed -- the entire list is published at the WWG website; Mr. Needelman stressed that residential use is not permitted, even on boats.

The proposed upcoming schedule of WWG meetings was discussed and distributed.

John Jennings has invited a speaker from the Maine DOT to speak with the group at a date to be determined. The speaker will hear from the WWG the need for state and federal funding options for dredging and other issues.

**Abbreviated Dialog:**

**Matthew Grooms -- (City Planning Dept). discusses 3 performance standards:  
Off street Loading and Parking;  
Compatibility of Non Marine Uses; and,  
Functional Utility of Piers and Access to Water’s Edge.**

BN: Waterfront zone parking is not required, it is regulated (managed through performance standards) -- see table at website

Suggested change: Rewrite sentence so that all applications include off street parking.

BN: As it’s been applied in the past, when there has been vacant space in the building, they still needed to accommodate marine parking assuming vacancies would fill up with marine use. The language clarification intent is to supply sufficient parking for marine use, describing the relationship for percentage split and allowance for non marine parking.

KL: Any access you can provide will help.

MG: There seems to be a need for clarified language

BN: We’ll have time to come back to group with something specific before we go to the planning board.

**NOTE: Sarah’s on-line editing is interrupted here as her internet connection failed. The off- line editing function also failed, so the continued performance standards dialog is interrupted. Mr. Groom’s power point presentation is at the WWG website.**

The WWG made no specific objection to consolidation of performance standards for Parking, Marine/Non-marine Compatibility, and Pier Function. Fishing interests expressed desire to retain the provision that requires exclusive use of parking, loading, and circulation areas by water dependent uses – where identified for that purpose.

New discussion: Permitted uses

Restricting some uses from areas subject to marine use requirements (outside of more permissive overlay areas)

Permitted uses:

Marine:

1. Marine products
2. Marine repair
3. Tubboat, fireboat, pilot boat, etc.
4. Harbor and marine supplies and services
5. Marine industrial
6. And more

19. fishing and commercial vessel berthing

Conditional uses:

Fish by-products

Prohibited uses:

Residential uses, hotels, motels, boatels, auditoriums, meeting facilities, drinking establishments, ground mounted telecommunication towers, drive-up services, etc.

Full list is at WWG website.

Mr. Needelman posed the question of whether all types of restaurants and retail should be allowed outside of the Overlay? Seafood and marine supportive only?

CP: With some permitted uses you're going against the grain -- retail goes against the grain of what we're trying to do

BN: What is the metric for to determine "marine supportive"?

MA: A combination of gross receipts and square footage.

BN: Luke's is there, but under the 45% rule.

BN: If it were "marine supportive", we would look at how you contribute to the marine economy.

Luke's vs. Denny's. ( Luke's is marine supportive, Denny's is not).

BN: That's why there are performance standards in this zone. It's hard to put a chain restaurant in when you have performance standards. It is difficult to keep up with incremental changes.

KL: How did Scales get in?

BN: They demonstrated that they met the standards...they have a dedicated pedestrian pathway, access to berths is through the buildings.

KL: We've lost 70% of the working waterfront, we're trying to keep the 30% we have left. Anything that impedes marine use is a problem.

WS: Any time you have non marine use it diminishes our ability to use the wharfs.

CP: Defends compatible uses

WS: Does not defend compatible uses.

WS: We noticed in 2010 when we changed to 45/55 we started to be negatively impacted. Some wharfs could control it, some couldn't, for the record the wharves don't have a bridge at the end to go to South Portland.

KL: I support WS argument, but Custom House Wharf has always been that way.

MA: I think 2nd floor should be allowed non marine use. I'm not going to concede that point. But, I'll make sure that everyone who needs parking for marine use has parking.

SD: It is a step in the wrong direction not to be able to use the upper floors. We can't leave the waterfront as derelict as it has been.

JJ: I think what I'm hearing is that we need to think more about restaurant use -- parking is clearly a problem.

CP: Comment on upper floor thing -- when appropriate and non-interfering, upper floor use should be non-marine as well as marine.

JJ: Upper floor use is off the table -- upper floors can have non marine use tenants.

BN: We will use work from this group to draft language to take to the Planning Board.

Additional Item brought up by Becky Rand: Angelo's Acre, what will happen there now that Council is considering a shelter?

WS: we think it's best used as parking.



Email to Jon Jennings, Bill Needelman, Willis Spear, Bill Coppersmith  
March 26,2019

Good Afternoon Jon and Bill:

You had asked me to send this idea to you via email, so here it is:

The Development Corporation Commercial Loan and Grant Program is available for small marine related businesses that may want to locate or expand on the Portland waterfront, and in particular, in the WCZ. The program has apparently been available for some time however it is an as yet unknown resource to potential small marine related businesses who may wish to locate in available vacant space on the wharves.

Meanwhile, there has been a requirement that in accordance with the 45/55 requirement, wharf owners must advertise first to potential marine related businesses. This requirement has apparently been unsuccessful for a couple of reasons. First – 60 days is just not long enough (it appears that the task force group was amenable to a 6 month requirement at the last meeting); second, again, the potential users may believe they will be priced out and do not know that there may be resources to assist with that. Another issue of course is monitoring the rental fees being advertised to make certain they are in line with rental fees for other marine uses.

My suggestion is two-fold. First, the City should start promoting the loan/grant program in marine-related publications so that the word gets out. The City can develop some sort of catch phrase that would promote both the City and the program in the advertisements/notices. Second, wharf owners who have vacant first floor space in the WCZ should have to use the information about the City's loan/grant program in its rental advertising - and in addition to other sources, should have to advertise in the same publications that the City uses to promote the program.

One other suggestion – I was of course dismayed to hear at the last task force meeting that wharf owners have been meeting with other property owners without including any of the WWG in these discussions and then springing it on them at the meeting. I do have concerns that there may be an effort to have other property owners show up at planning board and council meetings complaining that they did not have a voice in any negotiated decisions that the task force may reach – which may delay things even more. My suggestion is to make it clear at the meetings and on the published agenda, that anyone from the public is able to write a letter or email Bill with any comments *and* that Bill will make certain that these comments get relayed to the members of the task force. They may still show up at the planning board and council meetings and try to derail things, but better to be able to say that they had an opportunity to have a voice in the proposed amendments.

Thank you – Sandra

**SANDRA L. GUAY, ESQUIRE**

*Partner*

WOODMAN EDMANDS DANYLIK  
AUSTIN SMITH & JACQUES, P.A.  
234 MAIN ST., P. O. BOX 468  
BIDDEFORD, ME 04005  
T: [\(207\) 284-4581](tel:(207)284-4581) F: [\(207\)284-2078](tel:(207)284-2078)  
[slg@woodedlaw.com](mailto:slg@woodedlaw.com)  
[www.woodedlaw.com](http://www.woodedlaw.com)

## Suggestions from Portland's Working Waterfront Group for limitations on uses in the WCZ

### Summary:

1. We propose **no change** to the list of **permitted marine uses** (except for correcting one typo).
2. We propose to make a **new distinction** in the permitted **non-marine commercial and industrial uses** to **retain the broad array of uses currently permitted in the NMUOZ** (with minor exceptions), but to **narrow the list of permitted uses for all areas outside the NMUOZ** (i.e. upper stories and within the allowed ground floor percentage (currently 45%).) In these non-NMUOZ areas, we propose to continue to allow those uses that are more likely to be "marine compatible", but would prohibit new uses that have no need to be away from Commercial Street and are likely to make demands that are inconsistent with the higher priority marine uses. (See below for proposed text.)
3. We propose to **delete the conditional use allowance for one residential living space per wharf** (the McAleney amendment).
4. We propose to **update the prohibited use section to also include similar uses** that are separately defined in the current zoning ordinance and **to clarify that new recreational marinas are not a permitted use in the WCZ.**

### Specific proposed language:

The proposed changes from existing text are shown in red below. NOTE: This is not the complete text; only provisions proposing to be amended are shown.

#### Sec. 14-307. Permitted uses:

(a) **Marine** – no change proposed to the list of uses except: delete extra comma in (a) Marine, 1 so that it reads "Marine products wholesaling, distribution and retailing". OR write it out so it reads: "Marine products wholesaling, marine products distribution and marine products retailing." [It now mistakenly reads "Marine products, wholesaling, distribution and retailing."]

(b) **Non-marine commercial and industrial uses:** Non-marine uses permitted by this section are subject to the standards listed in section 14-311. [the performance standards]

1. Professional, business, government, and general offices, except that the following types of offices may not locate outside of the Non-Marine Use Overlay Zone (NMUOZ): offices of health care practitioners or health care clinics, including offices of doctors, dentists, or similar health care providers, and registered medical marijuana dispensaries;

2. Retail, Personal Service Establishments and Business ~~and~~ Service Establishments, including craft and specialty shops, except that the following types of retail and service establishments may not locate outside of the Non-Marine Use Overlay Zone: retail establishments in which less than seventy-five percent of the sales, as measured by income, are for items typically purchased by water-dependent uses and/or are for items which consist of, or in primary part contain, materials which have been harvested



from the sea; and all personal service establishments. - Moreover, in the entire WCZ, -convenience stores with gas pumps, minor businesses with one or more gas pumps (except those used in fueling and/or bunkering of vessels), major auto service stations and minor auto service stations, -private recreation facilities, indoor amusement and/or recreation centers, and family amusement centers, and laundry and dry cleaning services shall not be permitted under this section;

3. Restaurants provided that full course meal food service and consumption shall be the primary function of the restaurant, and full course meal service shall be continued up until the hours of closing, but only if located in the Non-Marine Use Overlay Zone. Drinking establishments shall not be permitted under this section.

4. Banking services without drive-up services, but only if located in the Non-Marine Use Overlay Zone;

5. ~~Laundry and dry cleaning services; (included as not permitted, above)~~

6. Cabinet and carpentry shops, studios for artists and crafts people;

7. Intermodal transportation facilities;

8. Cold storage facilities;

9. Museums and art galleries; and

10. Outside accessory activities

(c) **Public:**

1. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails;

(d) **Other:**

1. Accessory uses: [see ordinance for interior accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, and interior meeting or classroom space accessory to marine research, education, and laboratory facilities]

2. Street vendors licensed pursuant to chapter 19.

3. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

**Sec. 14-308. Conditional use.**

Delete 14-308 (b) in its entirety, which allows one residential living space per wharf, limited to occupancy by the primary owner of a marine business, limited to 1,000 square feet (including exterior porches and decks) for year-round use (the "McAleny amendment").

**Sec. 14-309. Prohibited uses.**

Uses which are not enumerated in either section 14-307 or 14-308 as permitted or conditional uses are prohibited. Those uses that are prohibited shall include, without limitation:

(a) Except as provided in section 14-308, residential uses (not in existence on May 5, 1987), including but not limited to dwellings, living units, rooming units, emergency shelters, short term rentals, long term rentals and similar residential uses;

(b) Hotels, motels, hostels, bed and breakfasts, inns, lodging houses, tourist homes, ~~or~~ and boatels;

(c) Auditoriums, civic centers, convention centers or other meeting facilities;

(d) Drinking establishments, private clubs, or nonprofit social and recreational facilities;

(e) Ground mounted telecommunication towers, antennas, and/or disks; and

(f) Drive-up services for any use other than a permitted use listed under 14-307(a) or 14-308(a)(1).

(g) Marina intended primarily for berthing of non-commercial vessels (not in existence on May 5, 1987).

**Summary Table of Zoning Issues, Approaches, and Status** *DRAFT 4-3--19*

Zoning Issue	Approach	Status	Next Steps
<b>Contract/Conditional Rezoning</b>	Eliminate option for site specific zoning within the WCZ	<b>Resolved.</b> The WWG will likely not have complete agreement on elimination of the tool	Staff to recommend to Planning Board
<b>Non-marine Use Overlay Zone</b>	Revise line to 125 ft offset from Commercial St with 300 ft at Long Wharf	<b>Likely to Remain Un-Resolved.</b> The WWG will likely not have complete agreement.	Staff ready to recommend to Planning Board
<b>55% first floor and open area Marine Use Requirement</b>	Separate open areas from first floor.	<b>Apparently Resolved.</b> Percentages discussed by WWG on 3-7-19 and 3-21-19. General support for the status quo. Lobsterman's letter suggests 70/30	Staff ready to recommend No % changes to Planning Board
	Lobstering group suggests 70/30 split for open areas		No resolution on marine use occupancy requirement
	Require marine use occupancy as a condition for non-marine occupancy		
<b>First floors marketed to marine use as a condition for non-marine use occupancy</b>	Eliminate the requirement, subject to agreement that the Marine/N-M use split has been adequately addressed	<b>Rejected by the WWG on 3-21-19</b>	Staff ready to recommend to Planning Board extending the marking time from 60 days to 180 days
	Strengthen the requirement	<b>Resolved.</b> Extend marketing time to 180 days	
<b>Marine Use Inventory</b>	Replace with annual report of "significant development." Add periodic broad "assessment of the marine economy"	<b>General agreement</b>	Staff ready to recommend to Planning Board
<b>Parking</b>	Some issues to be covered with the Performance Standards	<b>To be considered with performance Standards and Use</b>	Non-zoning issues need a dedicated meeting <b>Use approach to be discussed on 4-4-19</b>
	Consider "marine use parking" as a distinct use. See below. <b>(NEW APPROACH)</b>		
<b>Permitted Uses</b>	Restricting some uses from areas subject to marine use requirements (outside of more permissive Overlay areas)	<b>Under Discussion.</b> From 3-28, Consideration of prohibiting restaurants from areas outside of Overlay	WWG discussion on 4-4-19
	Consider "marine use parking" as a distinct use <b>(NEW APPROACH)</b>	<b>Not yet discussed</b>	
<b>Performance Standards</b>	Combine NM parking, functional utility, and Marine/N-M compatibility standards under a single standard. Create a submission requirement for an "access management plan"	<b>General agreement from discussion on 3-28</b>	Confirm on 4-4-19
	Retain "exclusive use" provision	<b>General agreement</b>	
<b>Lot Coverage, Building size</b>	Suggestion to limit both	<b>Not yet discussed</b>	WWG discussion, 4-4-19
<b>Enforcement</b>	Likely, no ordinance changes, but will explore better reporting and education	<b>Not yet discussed</b>	WWG discussion, , 4-4-19
Non-zoning issues to be addressed separately			