

Order 101-10/11

Postponed on 12/6/10

Public hearing and Passage as amended 12/20/10

NICHOLAS M. MAVODONES (MAYOR)

KEVIN J. DONOGHUE (1)

DAVID A. MARSHALL (2)

EDWARD J. SUSLOVIC (3)

CHERYL A. LEEMAN (4)

CITY OF PORTLAND

IN THE CITY COUNCIL

JOHN R. COYNE (5)

JOHN M. ANTON (A/L)

DORY RICHARDS WAXMAN (A/L)

JILL C. DUSON (A/L)

Order #101-10/11, passed as amended 12-20-10.

ORDER ADOPTING POLICY STATEMENT FOR THE WATERFRONT CENTRAL ZONE AND AMENDING THE CITY'S COMPREHENSIVE PLAN

ORDERED, that the Policy Statement for the Waterfront Central Zone, attached hereto as Attachment A, is hereby adopted; and

BE IT FURTHER ORDERED, that the City's Comprehensive Plan is hereby amended to include the Policy Statement for the Waterfront Central Zone.

Policy Statement for the Waterfront Central Zone

I. Introduction:

Portland's Central Waterfront was originally identified as a distinct zone in the 1992 Waterfront Alliance report. The zone is located along the south side of Commercial Street from and including Maine Wharf to the east to Deake's Wharf in the west. The Central Waterfront is characterized by privately held commercial piers running roughly perpendicular to Commercial Street into Portland Harbor and the Fore River. In addition to private commercial marine holdings, the zone is home to the Portland Fish Pier, the Gulf of Maine Research Institute, berthing for the United States Coast Guard, residential condominiums, retail and restaurant uses, two private marinas, and offices serving marine and non-marine interests.

Recognizing the findings articulated below, the City of Portland confirms that the basic policy structure established in the 1992 *Waterfront Alliance Report* remains the foundation of the City's Waterfront Land Use Policy. However, in the Central Waterfront, the current range of economic development opportunities have not resulted in development supporting preservation of waterfront infrastructure. Private investment remains the mechanism for maintaining and improving private piers and wharves and continual investment in private infrastructure is needed for preserving access to commercial vessel berthing and support activities.

To facilitate private investment in Portland's Central Waterfront, a wider range of development opportunities must be established. Likewise, to ensure continued opportunities for marine economic activity, the existing hierarchy of uses continues to provide the policy structure for the zone. The use hierarchy is summarized as: *water-dependent uses – first priority; marine-related support uses – second priority; and, marine compatible (non-marine) uses - third priority.* Zoning implementing greater non-marine opportunities within the framework of the use hierarchy will allow a broader range of uses within new and existing structures, and will provide adequate and enforceable protections for commercial marine activity.

II. Findings from the 2010 Planning Process for the Central Waterfront:

Prompted by a zoning amendment application by 12 commercial pier owners in the zone, the Planning Board conducted an extensive planning process to inform a recommendation to the City Council on policies and zoning for the Central Waterfront. Based on information developed and evaluated during their process, the Planning Board makes the following findings:

1. The foundational policy document informing waterfront zoning for the City of Portland, the *Waterfront Alliance Report*, was written in 1992 and has not since been substantially updated for the Central Waterfront.

Attachment A

2. The waterfront economy generally, and the ground fishing industry specifically, has undergone a significant contraction during the previous several years, as exemplified by an over 50% loss of ground fishing vessels and an over 2/3 reduction in landings at the Portland Fish Exchange since the 1990s.
3. Other than the pending redevelopment of 70,000 square feet of the Cumberland Cold Storage building into Class A office space, the Central Waterfront has seen little recent privately funded economic development.
4. Ownership of the Central Waterfront remains largely in private hands.
5. Many piers and wharves in the Central Waterfront have been and remain in deteriorated condition, in need of costly pier infrastructure investments. The on-going repair and replacement needs for pilings, decking, bulkheads, and structures within the district likely totals tens of millions of dollars and is unsupportable by marine-generated revenues. Even with expanded non-marine development, the overall level of investment needed within the zone may be greater than the capacity of the area to generate revenues needed for pier infrastructure investment through lease revenues alone.
6. The Central Waterfront contains over 16,000 feet of commercial berthing and is the single largest resource of commercial vessel berthing in Portland Harbor. The commercial berthing in the Central Waterfront is an irreplaceable resource of state-wide significance.
7. Decreasing water depth at the piers is a worsening issue due to continual natural deposition of sediments exacerbated by storm water overflows into the harbor. Maintenance dredging will be needed to ensure quality commercial berthing opportunities for public and private piers and it is unlikely that berthing revenues alone will support these costs.
8. Despite challenges to the marine economy, Central Waterfront remains an employment center for the City and region, supporting over 78 marine businesses, 175 commercial vessels, and 1200 marine jobs. Lobstering remains a strong and stable economic base for marine activity with approximately 100 lobster vessel berthing within the zone.
9. Non-marine businesses in the Central Waterfront contribute significantly to the vitality of the zone and the city with over 50 businesses, and 600 jobs. Under current zoning restrictions, there are limited opportunities for these businesses to expand.
10. The majority of land and pier area in the zone remains open to development, with less than a quarter of the zone covered by buildings, leaving significant opportunities for new structures.

11. Surface parking occupies large areas of un-built space in the zone and has a significant negative visual impact on Commercial Street; these areas provide redevelopment opportunities with no displacement of water-dependent commercial activity
12. Commercial Street is a nationally significant cultural and historic asset, as recognized by the American Planning Association with a “Best Street” award in 2009. Quality development along Commercial Street has the potential to improve the street architecturally and to contribute to the zone and City with additional revenues and economic activity. Commercial Street development and associated economic benefits can be achieved with little risk of significant marine industry displacement. The Central Waterfront’s development form and history is also of national significance as one of the few surviving intact examples of wharfs dating from the 19th Century era of schooner and clipper ship freight transportation. The extension of the street system out onto piers jutting into the harbor is part of Portland’s unique identity as well as a testament to an important characteristic of the City’s historic role as a center of international trade.
13. The public consistently requests additional visual and physical access to the water and increased non-marine development in the Central Waterfront will encourage safe and appropriate opportunities for the public to experience Portland Harbor.
14. Certain non-marine activities such as restaurant and retail uses, which are currently restricted within the Central Waterfront to existing structures along Commercial Street, represent significant opportunities to generate employment, revenue, and public access on piers throughout the zone.
15. Commercial marine activity can compatibly co-exist with a wide variety of non-marine uses if each use is designed and managed to respect the functional needs of each other. Paramount to achieving mutual compatibility between marine and non-marine uses is the vigilant maintenance and protection of access to berthing, loading and security for water-dependent uses.
16. Climate change impacts remain unknown for the district, but predictions of sea level rise and intensified storms may have their greatest effects on the piers, wharfs and low-lying portions of the waterfront. Likewise, climate driven water temperature and water chemistry changes may have significant impacts to fisheries and the fishing economy that have only recently begun to be evaluated.

III. Vision Statement for the Central Waterfront

Commercial marine use is the highest and best use of waterfront land in the Central Waterfront. Preserving the waterfront for these uses should be a top priority and guiding principle for the City.

Development in the Central Waterfront will achieve a balance where non-marine economic development benefits the piers, Commercial Street, the Waterfront and the City by sustaining marine infrastructure, protecting opportunity for commercial marine activity, and promoting appropriate access by the public to views and activities in Portland Harbor.

IV. Development Policies for the Central Waterfront:

- 1. Preserve access to berthing and adequate space for commercial marine activity.** Commercial berthing is the irreplaceable resource that ensures the Central Waterfront as a working waterfront. In order to add value to this berthing and promote marine employment, adequate pier deck, first floor building space, parking, and circulation opportunities need to be retained to sustain commercial berthing, water dependent uses and the marine-related support industries that comprise the marine economy.
- 2. Expand non-marine use opportunities.** Non-marine development opportunities exist within both existing buildings and open space within the Central waterfront. By relaxing parking requirements, it will be possible to minimize the impacts of non-marine development on marine activities by concentrating non-marine development to existing parking areas and allowing flexibility in meeting the transportation and parking needs of the new tenants and patrons of development. Office, restaurant and retail uses should be allowed greater opportunities within the zone, provided that adequate site planning is provided to protect the functional utility of berthing and marine industrial space, and that public safety is maintained. Consideration should be given to alternatives to parking on and adjacent to the piers including use of remote parking lots/structures linked to the WCZ with public transportation.
- 3. Accommodate as much non-marine use as can reasonably be absorbed within the zone without detrimental impacts to the overall volume of marine activity.** individual piers may experience dislocation and relocation of specific marine uses as a result of new investment programs allowed by expanded non-marine uses. The policies established herein promote an aggregate retention of commercial marine activity within the district. Even where individual marine uses may be displaced by non-marine uses, functional access to commercial berthing must be maintained. Each pier and property with usable berthing access should retain a reasonable amount of commercial marine potential and the total amount of aggregate commercial marine opportunities for the Central Waterfront should not be significantly diminished.

4. **Link non-marine development revenues with marine infrastructure investments.** Expanded use opportunities should result in increased economic value of properties by both market forces and non-marine investment. These policies promote linkages between new non-marine generated revenues and increased marine infrastructure investments – whether by direct investment in infrastructure by pier owners, or by allocation of public monies through tax increment financing.
5. **Expand the public’s opportunity to access the Central Waterfront.** Non-marine commercial development should be designed to enhance the public’s visual and physical access to the water. Commercial Street development should employ view corridors between new and existing structures to maintain visual connections from public rights of way to the water. Extensions of Old Port and upland street corridors across Commercial Street for use as physical access drive locations and view corridors to the water should be employed wherever possible without significantly detracting from the development potential of private property. On-pier non-marine uses will need to develop safe and attractive pedestrian access for use by tenants, visitors, and patrons of these uses. In all cases, sites will need to design for the functional use of the water’s edge by commercial marine activity.
6. **Plan for climate change resiliency.** Whether modest or severe, development within the Central Waterfront may feel the impacts of climate change greater than other areas within the region. The City and property owners should continue to obtain up to date information on climate change impacts along the waterfront.
7. **Prohibit residential development.** Notwithstanding the suggested relaxation of use restrictions suggested above, *residential dwelling* uses are still considered incompatible with higher priority marine uses in the Central Waterfront.