



City of Annapolis City Council  
Committee & Commission Referral Action Report

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Date: June 2, 2020

To: Jacqueline Lee  
City of Annapolis Office of Law,  
Legislative and Policy Analyst

The Maritime Advisory Board has reviewed O-15-20 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable (vote of 9-0)

No Action

Other

Comments:

At its May 19, 2020, regular meeting the Maritime Advisory Board (MAB) considered proposed Ordinance O-15-20 which ordinance, if adopted as proposed, would allow additional non-maritime uses at some, but not all, of the properties in the WMM zoning district. As noted by Jon Arason in public comments to the MAB on behalf of Annapolis City Marina (ACM)<sup>1</sup>, ACM has learned that its Federal maritime tenant(s) will be vacating approximately 30,000 square feet of maritime space, and ACM has requested the introduction of this Ordinance to allow more non-maritime office use. For the reasons set forth below, the MAB unanimously opposes O-15-20 as proposed.

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<sup>1</sup> ACM occupies the North side of Severn Avenue from Fourth Street to Fifth Street in Eastport.

## Development of the ACM Property

Annapolis City Marina was proposed in 1981 as a “business planned development” pursuant to Section 22-30(a)(2) of the then-existing City Code as an “integrated business center with adequate off-street parking facilities”. Further, ACM stated at the time that the project “will meet all of the standards for the approval of a conditional use” pursuant to Section 22-29(e) of the Code. At the time of the 1981 proposal the property was zoned M-1, Light Maritime. The applicant sought a conditional use in order to include “general business and professional offices” as use exceptions.

By Resolution R-50-81, the Annapolis City Council approved the ACM plan including the following in “Findings”, Section 5.b., on page 25:

b. The approval of the use exceptions under the provisions of Section 22-30(c) of the Code of the City of Annapolis is limited to general and professional office uses, including a bank, occupying no more than **30% of the ground area** of the site, or a **maximum of 27,000 square feet** of usable [*sic*] or rentable space in the buildings under construction on the site.”

The Attachment to the Resolution also listed the specific maritime uses allowed on the property.

Over the following three years, the City Council and the Board of Appeals granted significant amendments to R-50-81 beneficial to ACM. These include:

- R-38-82 – Approval of a 7,200 square foot restaurant as a non-maritime use.
  - R-39-82 – Establishment of the conditions for the restaurant for up to 120 seats.
  - R-23-83 – Grant of an off-sale liquor license in addition to the restaurant liquor.
  - R-5-84 – Reversing R-38-82 in part, grant of the 7,200 square foot restaurant use as a maritime use.
  - R-19-84 – Relocation of the off-sale liquor license granted by R-23-92
  - R-22-84 – Expansion of the restaurant use to include the outdoor deck and indoor live music.
  - R-61-85 – Extended hours until 2:00 am (inside) and 12:00 am (deck), and allowed live music on the deck
- Board of Appeals decision April 1, 1985 – allowed dual usage of the existing parking space for purpose of satisfying the onsite parking requirements.

**Each of these approvals was done as an amendment to the ACM “business planned development” established by R-50-81, or by the Board of Appeals, and not as a change to the M-1 zoning.**

In 1987 the WMM maritime zone replaced the M-1, Light Maritime, zone. The WMM zone allows “professional offices” subject to the following standard in Section 21.64.520:

B. In structures in existence as of August 24, 1987 this use may not exceed thirty percent of the total gross floor area of development **on the lot.**

However, enactment of the 1987 WMM zoning did not change the development of ACM as a “business planned development” pursuant to R-50-81, or remove general office uses in addition to professional office uses. Rather, the ACM “business planned development” continues to limit the calculation of “general and professional office uses” to 30% of the square footage of the ground area or a **maximum** of 27,000 square feet of usable [*sic*] or rentable space in the buildings.<sup>2</sup>

Neither the current WMM zoning nor O-15-20 address the restrictions, and benefits, set forth in the ACM “business planned development” as amended, and O-15-20 will not afford the relief ACM seeks. Nor has ACM proposed to forgo the benefits only it enjoys under R-50-81, as amended, and instead be bound by the WMM zoning as proposed. Accordingly, the MAB concluded that a further amendment to the ACM “business planned development” will be required.

### **Current General and Professional Office Uses in the Maritime Zones**

As enacted in 1987, only the WMM zone was permitted to have professional office uses – ranging from 25 to 30 percent – and no “general” office uses. The WMC, WME and WMI zones did not allow general or professional office uses. In 2013, as part of the City Dock Master Plan, non-maritime uses were allowed in the WMC zone. No change was made to the WME or WMI zones, and those zones still do not allow general or professional office uses.

For the past 33 years, WMM zone landlords such as ACM have been able to subsidize the attraction of maritime businesses by their non-maritime general and professional office uses, to the distinct disadvantage of the other three zones. The adoption of O-15-20 as written will only serve to further disadvantage the WME and WMI zones.

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<sup>2</sup> Based on current SDAT records, the “ground area is 2.15 acres or 224,334 square feet. Accordingly, under the ACM “business planned development”, non-maritime uses can occupy 67,300 square feet of ground area or a maximum of 27,000 square feet of usable or rentable space in its buildings.

**The 2009 Comprehensive Plan, as amended**

The 2009 Comprehensive Plan in Policy 7 of the Land Use and Economic Development Chapter provides as follows:

Policy 7. Acknowledging the importance of the Maritime Industry to Annapolis' character, identity, and economy, strive to ensure the Maritime Industry's sustained health and viability.

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7.2 Maritime property owners and business in Annapolis are impacted by national, regional, and local trends in the boating industry. In order to assist these businesses to remain competitive, the City will evaluate and implement programs and policies with the objective of maintaining a supportive business climate. This should include periodic assessments of the City's rates and regulations that apply to the maritime industry.

In 2013 the City Council adopted the City Dock Master Plan as an amendment to the 2009 Comprehensive Plan and for the first time included non-maritime uses in the WMC zoning district. During that process, the MAB urged that all maritime zones be reviewed in a comprehensive fashion. Although the City Council adopted the City Dock Master Plan without that comprehensive review, that Master Plan specifically provided in Section III.D "Future Land Use" that:

Any other rezoning should be consistent with recommendations of a new zoning and economic maritime sector study covering all of the current maritime districts in the City.

O-15-20 is targeted toward providing relief to a specific maritime landlord and does not comply with the requirements for comprehensive review adopted as part of the 2013 City Dock Master Plan.

**The 2018 Mayoral Transition Team Recommendations**

The transition team appointed by Mayor Gavin Buckley recognized the need for comprehensive review of the maritime zones in order for the City to remain the sailing capital that it is and to compete with other maritime cities along the East Coast, and recommended that action be taken. Two recommended actions in particular are relevant to rejection of O-15-20:

- The City should identify uses to support and subsidize Annapolis' working maritime industry. The 1987 Adopted Maritime Strategy and Zones has been

successful is protecting waterfront land for the working maritime uses such as boat yards. However, since the Maritime Strategy and Zones are thirty years old, they do not reflect the needs of today's industry. Incentives should be provided to retain Annapolis's working boat yards and marinas.

- An initial action to support the Maritime Industry should be to partner with the Maritime Advisory Board to identify uses that are compatible with marinas/boat yards. One area where there appears to be a need and clear support is to broaden the very restrictive definition for restaurants in the Maritime Industrial District for Back Creek. This action would serve to subsidize the larger scale working yards on Back Creek.

### **Public Comment**

The MAB received written comments from Jon Arason on behalf of ACM. Mr. Arason provided background on the ACM property and recommended that O-15-20 be adopted without comprehensive review of other maritime zones or additional uses.

The MAB received written comments by Philip Dales, Esq. on behalf a group of maritime property owners. Mr. Dales encouraged additional input from maritime stakeholders and a prompt and comprehensive approach throughout the maritime zones.

Alan Hyatt, Esq. appeared at the virtual meeting on behalf of additional maritime interests. Mr. Hyatt suggested that this legislation be extended to the other maritime zones because they too are having problems attracting maritime tenants. He believes that the maritime zones need to be respected and that the City needs to encourage maritime use while also having the flexibility to reflect the modernization of maritime, as well as what is currently happening in the maritime industry. He believes that the MAB should consider a comprehensive review of the maritime zones.

### **The MAB Recommendations**

The members of the MAB discussed in detail the background set forth above, considered the public comments, and reviewed the legislation as proposed. On motion made, seconded, and unanimously approved, the MAB:

1. Unanimously opposes O-15-20 as introduced.
2. Recommends that the sponsor withdraw O-15-20 as introduced as inconsistent with the requirements of the City Dock Master Plan and the Mayor's transition team recommendations.

2. Recommends that the Planning Commission and Council reject O-15-20 as introduced.
3. Recommends that the City immediately undertake a comprehensive review of all the existing maritime zones to include consideration of the recommendations of the MAB and the Mayoral transition team, with such review to be completed on or before July 31, 2020.
4. Directs that the Chair request a formal opinion from the Office of Law regarding the impact of any change to the WMM zoning on the ACM "business planned development" adopted in 1981, as amended.
5. Will hold open the time for public comment on O-15-20 through June 16, 2020.

Meeting Date: May 19, 2020



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Tarrant H. Lomax, Chair