

10 ZONING CONSIDERATIONS	2003 WATERFRONT STRATEGIC PLAN “The Strategic Plan focuses primarily on the task of reconnecting city and harbor by means of parks, public streets, walkways, bike trails, architecture, and a vibrant mix of community uses.” (p. 2.)	CURRENT SEC. XXIV (WWOD) “...established ... to encourage implementation of the recommendations of the ... 2003 Waterfront Strategic Plan, as amended and supplemented from time to time...”	<i>REVISED? SEC. XXIV (WWOD)</i>
1. Flooding and resilience	1. [Not mentioned.]	1. [Not mentioned.]	<p>1. A. Two members propose no-buildings northerly of “Wharf Street” based on flood mitigation and/or viewsheds.</p> <p>B. Consider requiring residential 13’ or 14’ feet above grade, with pkg. / non-resid’l space on ground-level</p> <p>C. Consider mandatory flood mitigation study and action plan (car relocation, shelter in place, etc.) with applications.</p>
2. Land [and marine] uses	<p>2. “Reinforce and extend the historic downtown to the waterfront with a new harborside neighborhood.” (Chart)</p> <p>“Preserve adequate room for maritime uses such as marinas in the Waterfront Mixed Use (WMU) zone while promoting a mix of non-marine dependent</p>	<p>2. Uses permitted in the WMU district by right or by special permit, and also the following by special permit from the Planning Board:</p> <ul style="list-style-type: none"> • Multifamily • Congregate elderly housing • Specialty shopping center (only if part of mixed use) 	<p>2. A. Consider permitting listed uses by right, and that:</p> <p>(i) Hotel mandatory.</p> <p>(ii) Dwellings may be short-term rentals.</p> <p>(iii) Retail / Restaurant / Services at 5,000 sq. ft. to 10,000 sq. ft.</p> <p>(iv) Functional marina mandatory.</p>

	<p>uses that are set back from and compatible with the working edge of the waterfront” (p. 9.)</p> <p>“Ensure a healthy mix of uses that serve the downtown community and support a vibrant mix of activities year round.” (p. 18.)</p> <p>“Ensure that active ground floor public uses front onto major streets (Merrimac, Green, and “Wharf”) and anchor the corners of blocks.” (Id.)</p> <p>“Allow residential uses on upper floors above these public uses.” (Id.)</p> <p>“Allow some ground floor residential uses along secondary streets leading to the waterfront (Market and “McKay”).” (Id.)</p> <p>“Consider ground floor uses such as a small green grocer, a hardware store, and a chandlery (nautical supplies) that will serve the residential as well as boating community.” (Id.)</p> <p>“Create a 400-foot sidewalk extension along the south side of Wharf Street and line it with active public uses facing the</p>	<ul style="list-style-type: none"> • Health/recreation • Parking structure • Retail/service kiosk ATM • Fast food/carry out (carry out of prepared food only) • Corporate headquarters <p>(sec. XXIV-C.)</p>	<p><i>C. As in 2003 Plan, ensure “healthy mix of uses” that “support vibrant mix of activities year round.”</i></p> <p><i>D. As in 2003 Plan, ensure that active ground floor uses (Facilities of Public Accommodation) front main streets and anchor corners.</i></p> <p><i>E. As in 2003 Plan, allow residential uses on upper floors.</i></p> <p><i>F. As in 2003 Plan, FPAs not required at ground floor of secondary streets. Screened parking or residential allowed.</i></p> <p><i>G. Unlike in 2003 Plan but as under current zoning, consider not specifying goods and services that must be offered</i></p> <p><i>H. As in 2003 Plan, public pedestrian route paralleling river required but configuration may adapt to elevated storefronts, etc.</i></p>
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	<p>harbor. This portion of the harbor walk should be accessible and inviting day and night and in every season.” (p. 23.)</p>		<p><i>I. As in 2003 Plan, public pedestrian areas should be accessible and inviting day and night, and in every season.</i></p>
<p>3. Dimensions</p>	<p>3. “Extend the scale and character of downtown Newburyport to the waterfront by establishing a vibrant harbor-side neighborhood.” (Chart)</p> <p>“Require all new development to conform to and reflect the historic character and quality of downtown Newburyport.” (p. 18.)</p> <p>“Require zero front yard set backs and allow zero side and back yard set backs to achieve the look and feel of the downtown. Allow 5’ front yard set backs by special permit to encourage some variety at key locations along the street.” (p. 24.)</p> <p>“Maintain height restrictions of 35 feet to the mid point of sloped roofs. This should result in the 2 ½ to 3 story buildings typical of the downtown. Where buildings are sited on sloping terrain allow the height measurement to be taken at the highest grade</p>	<p>3. All uses shall comply with the following requirements as applied to the WWOD special permit area, notwithstanding any subdivision of such area into separate lots:</p> <ul style="list-style-type: none"> • <u>Min. open space</u> = 33%, excluding public streets • <u>Min. lot coverage</u> = 50% of portion of WWOD-SP area not within 100 ft. of Merrimack River • <u>Min. street frontage of each lot and bldgs. on each lot</u> = 60 ft. • <u>Front yard setbacks</u> = 0 ft. min. with up to 6-ft. max. to allow for traffic visibility across corners and driveways and design articulations such as protruding arch. features, provided such front setbacks do not affect more than 40% of street wall • <u>Min. side and rear yard setbacks of bldgs. on each lot</u> = 0 ft. except for 20 ft. 	<p>3. A. <i>Unlike in 2003 Plan, development need not “conform” to downtown Newburyport, but still must “reflect” character and quality.</i></p> <p>B. <i>Consider need for 33% min. open space excluding streets.</i></p> <p>C. <i>Consider need for a minimum lot coverage given City’s design goals.</i></p> <p>D. <i>Consider need for minimum frontage given City’s design goals.</i></p> <p>E. <i>No change to front yard setback requirements.</i></p> <p>E. <i>No change to minimum side and rear yard setback reqts.</i></p>

	<p>to permit greater building heights facing down slope towards the water. This will permit underground parking in these instances.” (Id.)</p>	<p>from existing residential uses above the first level outside the WWOD-SP area</p> <ul style="list-style-type: none"> • <u>Min. lot area</u> = 5,000 sq. ft. • <u>Max. bldg.. height</u> = 35 ft. feet, except as follows: (a) 40 ft. for parking structures located directly along Route 1, but not directly along Merrimac Street; and (b) 40 ft. for buildings located on streets perpendicular to the Merrimack River between Route 1 and Titcomb St. that include design layout and floor height suitable for ground floor commercial uses or other areas of public accommodation. <p>(sec. XXIV-D(A).)</p>	<p><i>F. Consider need for minimum lot area if zoning will mandate public ways, open spaces, etc.</i></p> <p><i>G. Consider:</i> <i>(1) allowing some building heights to exceed 35 and 40 feet to mid-point of sloped roof.</i> <i>(2) Graduated height limits, with lowest buildings at riverfront, and highest at Merrimac Street, between McKay’s Wharf Wy. and Tournament Wharf Wy.</i> <i>(3) Requiring any 4th level be stepped back from 3rd level.</i> <i>(4) Commissioning photosimulations for Planning Board and City Council</i></p> <p><i>H. Consider requiring all “master” approval applications to include 3D MODELLING.</i></p>
<p>4. Open Space</p>	<p>4. “Create a framework of streets, walks and squares that are clearly public and controlled by the City.” (p. 18.)</p> <p>“At the heart of [Waterfront West] create a public plaza for public events, activities, and vendors. This plaza should be lined with public uses such as a</p>	<p>4. At least 33% of WWOD-SP area shall be open space, excluding public streets. All sidewalks adjacent to a public street layout shall be dedicated by easement or deed for public access. 50% of required minimum open space shall be so dedicated. All open space dedicated by easement or deed</p>	<p>4. A. As noted above, 33% appears infeasible.. Consider “open space fee” to mitigate expected <u>Central Waterf</u>’t use.</p> <p>B. As in 2003 Plan, City holds rights in streets, walks, and squares. Maint., liability and programming by developer.</p> <p>C. As in 2003 Plan, “public</p>

	<p>public market, shops, a hotel, and the like. Consider locating his plaza between Market and McKay Street with an opening view of the river and embayment between McKay Wharf and Tournament Wharf. A well designed urban space such as this would provide a public destination and anchor for the west side of the downtown waterfront” (p. 23.)</p>	<p>for public access shall be improved by the project applicant to quality standards and configurations suitable for their intended uses and acceptable to the planning board. (sec. XXIV-D(B).)</p> <p>“Open space” means usable areas devoted exclusively for outdoor active or passive recreation, pedestrian alleys, walkways, sidewalks (other than the existing Merrimac Street sidewalks), public parks, plazas, outdoor public markets, public restrooms, boardwalks, outdoor cafe space on private property or licensed from the city if located on a sidewalk, and suitably designed and accessible space on roofs of a parking garage with at grade public access on at least two sides and alleyway connections to the abutting streets, or other similar outdoor public open space areas. At least one public open space area within each WWOD-SP area shall be at least 10,000 sq. ft. in area excluding any adjacent parking, driveway, sidewalk or pedestrian walkways. (Id.)</p> <p>No more than 50% of required open space area shall be part of the public open space required</p>	<p><i>plaza” still require, lined with publicly oriented uses (FPAs). Discuss location at marina embayment versus wetland. As in 2003 Plan, should be a “well designed urban space” and a “public destination.”</i></p> <p><i>D. Consider rewriting zoning to shift from 33% target and instead focus on high-quality: (i) three specific public ways (Wharf Street + Market Street extension a/k/a Tournament Wharf + McKay’s Wharf) (ii) perimeter Harborwalk, (iii) Public plaza.</i></p> <p><i>E. As in 2003 Plan, allow exterior parking within “Wharf Street,” in this case to serve marina but with surface materials to denote “plaza with some parking” not “parking lot with some people walking thru”</i></p> <p><i>G. Consider greater size for public plaza, accounting for “Wharf Street.”</i></p> <p><i>H. Consider amending these MGL Chapter 91 requirements to match MGL Chapter 91 as to</i></p>
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		<p>under MGL Chapter 91 within the 100 buffer area of the Merrimack River. No building or structure including a non-water dependent/related use shall be permitted within the lesser of (i) fifty (50) feet of the high water mark of the Merrimack River, or (ii) the limits of the water dependent use zone under Chapter 91. (Id., subd. (C).)</p>	<p><i>setbacks from high water mark and Water-Dependent Use Zone (WUDZ).</i></p>
<p>5. Vehic., ped., and other access</p>	<p>5. “Establish a system of public ways extending the historic street pattern of Newburyport to the water.” (Chart)</p> <p>“Establish a continuous harbor walk accessible to all between Joppa Park and Cashman Park.” (p. 13.)</p> <p>“Provide clearly marked lateral paths linking the harbor walk back to Merrimac and Water Streets.” (Id.)</p> <p>“Ensure that the harbor walk is sufficiently wide for multiple uses (10 to 12’ on average), handicapped accessible (5% grade or less), and safe.” (Id.)</p> <p>“Create a framework of streets, walks and squares that are clearly public and controlled by</p>	<p>5. [Not mentioned.]</p>	<p>5. <i>A. Consider requiring that character of the streets (materials esp.) indicate that cars are secondary to people.</i></p> <p><i>B. As in 2003 Plan, require continuous harborwalk through the WWOD.</i></p> <p><i>C. As in 2003 Plan, “lateral” public access must be assured (Brown’s Wharf Wy, McKay’s Wharf Wy, Tourn’t Wharf Wy).</i></p> <p><i>D. As in 2003 Plan, perimeter harborwalk must be 10 feet to 12 feet on average.</i></p> <p><i>D. As in 2003 Plan, City must hold easements over streets, walks, and squares so public.</i></p>

	<p>the City.” (p. 18.)</p> <p>[Three street sections: Market Street extension (7’ sidewalk + 28’ roadway + 7’ sidewalk); “McKay Street” (7’ sidewalk + 16’ roadway + 7’ sidewalk); and “Wharf Street” (8’ seating + 7’ sidewalk + 18’ diagonal parking + 22’ roadway + boatyard) (pp. 20-21)</p> <p>“[L]ateral streets should be tightly framed by buildings similar to the other streets in Newburyport (i.e. Inn Street) and should frame views of the water wherever possible.” (p. 22.)</p> <p>“in addition to ... three streets, encourage a system of mid block alleys and pedestrian passageways reminiscent of those found in the downtown core” (p. 22.)</p> <p>“Wharf Street should be completely public in nature and have public parking along it for increased waterfront access. Line the south side of Wharf Street with public uses that support pedestrian activity along the waterfront. Provide a wider sidewalk to accommodate café tables and consider a raised angled</p>		<p><i>E. Consider whether 2003 Plan cross-sections for the three lateral public ways should be codified.</i></p> <p><i>“Roadways” appear overly wide for downtown Newburyport, but still need sidewalks, as well as width for seating area at “Wharf Street”</i></p> <p><i>F. As in 2003 Plan, buildings should not be set back from streets, as customary in downtown Newburyport.</i></p> <p><i>G. As in 2003 Plan, continue to “encourage” mid- block alleys, but do not require them..</i></p> <p><i>H. As in 2003 Plan, Wharf Street should be “completely public in nature and have public parking along it for increased waterfront access.” Still line it with public (i.e. retail – restaurant – service) uses. However, design contemplated in 2003 must adopt to accommodate floodplain considerations.</i></p>
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	parking zone with specialty paving that can be used for special events such as sidewalk art shows.” (pp. 22-23.)		
6. Parking and loading	<p>6. “Ensure that there is sufficient parking for all new uses and encourage structured and underground parking to avoid large surface parking lots.” (p. 18.)</p> <p>“Remote parking should be allowed within 500’ of new buildings in order to avoid extensive surface parking lots that would interrupt the historic development pattern. Underground or structured parking should be encouraged to consolidate parking lots” (p. 25.)</p> <p>“Where parking garages front on public streets, 50% of their ground floor should be occupied by active public uses such as retail shops and the design of their facade should harmonize with abutting buildings.” (p. 25.)</p>	<p>6. All required parking within the WWOD-SP Area shall be provided by the applicant without the use of municipal parking lots or structures or Newburyport Redevelopment Authority parking lots or structures. The off-street parking requirements for (i) non-residential uses, including hotel /inns, shall be within 500 ft of the principal building, structure or use on the premises; and (ii) residential uses, excluding hotel /inns, shall be within 300 ft. of the principal building, structure or use on the premises; and (iii) parking for hotel/inns shall not be required to be on the same or contiguous lots.</p> <p>The WWOD-SP may allow “shared” reduced parking requirements for uses having different peak times of parking demand requirements, as determined based on the report of a traffic engineer engaged by the applicant and approved by the planning board.</p>	<p>6. A. As in 2003 Plan, still must avoid large, surface parking lots (tuck under buildings to max. extent possible).</p> <p>B. As under current zoning, remote parking okay but not in City parking facilities. Consider extending maximum distance for residential uses beyond mere 300 ft.</p> <p>D. <u>Set parking ratios:</u> (i) Hotel = 1.0 per guestroom (ii) Marina = 0.4 per slip (iii) Resid. = 1.0 per studio, 1.25 per 1BR, 1.5 per 2BR, and 2.0 per 3BR+ (iv) Retail = Consider mitigation fee, as allowed elsewhere downtown.</p> <p>E. As under current zoning, “shared” reduced parking permitted , but must be justified based upon summer peak demand.</p> <p>F. Consider post-occupancy parking studies and refinement before each construction phase.</p>

		<p>Within the WWOD-SP area, parking requirements may be met by off-street parking and by proposed on-street parking within the WWOD-SP area. (sec. XXIV-E.)</p>	<p><i>G. As under current zoning, allow on-street parking within the WWOD-SP area. However, design detail must be strictly controlled to ensure pedestrian dominance over automobiles.</i></p>
<p>7. Inclusionary afford. housing</p>	<p>7. [Not mentioned]</p>	<p>7. At least 10% percent of all proposed residential dwelling units in the WWOD-SP area shall be affordable as defined under M.G.L.A. 40B s.20 and 760 CMR 45 (except that such units shall not be required to be subsidized and may be built and operated by a private entity) for a period of at least 40 years. (sec. XXIV-G(B).) [N.B. Superseded by sec. XXX, which requires 12%.]</p>	<p>7. A. 12% minimum share will be required.</p> <p>B. Consider forbidding in lieu cash payment, and discouraging offsite location.</p> <p>C. Consider some affordable units for households making 50% area median income instead of all 80% AMI, or require share of affordable units to be 15% instead of 12%.</p>
<p>8. Design standards</p>	<p>8. “Require all new development to conform to and reflect the historic character and quality of downtown Newburyport.” (p. 18.)</p> <p>“Encourage continuous street facades with firewalls between adjacent buildings. Discourage long monotonous facades by limiting the apparent length of buildings and changing the fenestration. Encourage the use of arched passageways to provide access to rear lots similar to State Street and Inn</p>	<p>8. Deeded preservation restrictions shall be provided governing the rehabilitation of any buildings located within the WWOD-SP area that are listed on the National Register of Historic Places and are contributing structures to Newburyport's National Register Historic District. Historic rehabilitation standards for these buildings shall conform to the Federal Secretary of the Interior's "Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic</p>	<p>8. A. As noted above, development need not “conform” to Market Sq. / State St. designs. However, as in 2003 Plan, consider encouraging “continuous street faces” and discouraging “long monotonous facades”</p> <p>B. Consider mandating high design quality:</p> <p>(i) tripartite form</p> <p>(ii) high-quality materials</p> <p>(iii) flat roofs discouraged</p> <p>(iv) Varied architecture.</p>

	<p>Street.” (p. 24.)</p> <p>“All buildings should front on the public streets with front doors. Service access should be provided to the rear wherever possible.” (Id.)</p> <p>“Where buildings front on sloping streets they should step down the slope and have entrances at grade. There should be no blank basement walls emerging from the slope.” (Id.)</p> <p>“A traditional pattern of framed windows and doors facing all public ways should characterize buildings.” (Id.)</p> <p>“The use of red brick and slate colored roofing should predominate, and may be supplemented with other materials for a contemporary treatment” (Id.)</p>	Buildings” (sec. XXIV-G(C).)	<p><i>D. As in 2003 Plan, consider requiring buildings to have “fronts” and “backs.”</i></p> <p><i>E. As in 2003 Plan, consider discouraging blank facades (would apply to garage doors).</i></p> <p><i>F. As in 2003 Plan, consider encouraging traditional fenestration patterns.</i></p> <p><i>G. As in 2003 Plan, consider whether to encourage traditional materials (red brick and slate colored roofing).</i></p>
9. Permitting mechanism	<p>9. “Adopt zoning and subdivision regulations to support this strategic waterfront vision.” (p. 23.)</p> <p>“Establish general design guidelines enforced by municipal site plan review.” (Id.)</p>	<p>9. The minimum land area eligible for a WWOD-SP in a single or consolidated ownership or control at the time of application is four (4) contiguous acres. Land divided by public and private streets and public and private open space shall be deemed to be</p>	<p>9. A. “Master” approval by Special Permit for overall project, with all details specified above. Then, one or more buildings come in for design and site review..</p>

		<p>contiguous. (sec. XXIV-G(A).)</p> <p>Subsequent to the issuance of a WWOD-SP, applications for amendments or additions to the WWOD-SP shall not require that the land be in a single or consolidated ownership or control. (Id.)</p> <p>An amendment to the WWOD-SP to add land to the WWOD-SP area that is not in consolidated ownership or control of the original applicant(s) or its/their successor(s), may not utilize any of the open space, utilities, streets, parking or any other requirements of the WWOD-SP to meet the requirements of zoning unless authorized by the planning board and the original applicant(s) or its/their successor(s). (Id.)</p> <p>The planning board may issue a WWOD-SP for a project located within the WWOD if it determines that the project meets the requirements of section XXIV and the normal special permit criteria. (sec. XXIV-F.)</p> <p>Minimum lot area coverage, open space, affordable housing, off-street parking requirements</p>	<p><i>B. As under current zoning, after “master” approval allow diverse ownership / control.</i></p> <p><i>C. Consider mandating a Development Agreement with the “master” approval, to ensure predictable and enforceable phasing, mitigation measures. and public benefits.</i></p> <p><i>D. Consider mandating:</i> <i>(i) Traffic study</i> <i>(ii) (Shared) parking study</i> <i>(iii) Water/wastewater study</i> <i>(a) Hilton’s lift station</i> <i>(b) on site oil separation</i> <i>(iv) 3D MODEL</i> <i>(v) Photosims at certain points</i> <i>(vi) Flood mitigation study</i> <i>(a) relocation of pkd. Cars</i> <i>(b) shelter in place by resids.</i></p> <p><i>E. Unlike in 2003 Plan, consider mandatory design standards as in our Chapter 40R district, such that “master” approval by Special Permit would be impossible without compliance</i></p> <p><i>F. As under current zoning, each phase of development must meet key requirements in</i></p>
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		<p>and other required mitigation, shall correspond with the sequence of development implemented in the WWOD-SP Area, so that at all times such requirements shall be met as applied only to those portions of the WWOD-SP Area for which building permits have been issued; such requirements shall be met prior to the issuance of certificates of occupancy for such buildings. (sec. XXIV-D(D).)</p> <p>Prior to issuance of a building permit for any land within the WWOD-SP area, a declaration of covenants, conditions and restrictions shall be recorded by the owner(s) against all the land in the WWOD-SP area containing provisions consistent with the requirements and restrictions of the WWOD-SP. (sec. XXIV-G(D).)</p> <p>All WWOD-SP projects require site plan review (SPR) of the master plan by the planning board before any building permit is issued. (sec. XXIV-H(A).)</p> <p>Major changes are subject to the planning board's approval of (1) an amendment to the WWOD-SP and (2) an amendment to the</p>	<p><i>its own right. Consider requiring a Development Agreement to ensure that promised project components, mitigation and/or public benefits delivered on an enforceable schedule.</i></p> <p><i>G. As under current zoning, consider requiring that "master" approval by Special Permit be accompanied by a master common interest regime (cross-easements) to regulate relationship amounts various owners, such as condominium residents, and, perhaps, City.</i></p> <p><i>H. Consider rewording current zoning consistent with suggestion above, such that both design review and site plan review are required for each phase of development.</i></p> <p><i>I. Retain concept from current zoning of "major" versus "minor" changes, but must be calibrated carefully.</i></p>
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		<p>initial SPR decision, administratively reviewed by the planning board as part of a "major project" review under section XV-D(c), SPR. (sec. XXIV-I(A).)</p> <p>Amendments to the WWOD-SP and the SPR decision shall be based upon the zoning provisions in effect at the time of issuance of the approved WWOD-SP unless the applicant and the planning board agree that such amendment shall be based upon the zoning provisions in effect at the time of application for such amendment. Any resulting amended plan must meet all of the applicable open space, utilities, parking and other requirements. (Id.)</p> <p>Major changes or alterations shall be defined as those that:</p> <p>(a) Increase the aggregate approved amount of development by greater than 10% of the approved gross floor area in the WWOD-SP area; or</p> <p>(b) Increase the approved density of multi-family uses, alter the approved location and/or increase the gross floor area of all hotel uses, and/or increase the approved gross floor area of business and food</p>	<p><i>J. Consider that a Development Agreement is another way to “freeze” the zoning for the life of the project.</i></p> <p><i>K. Consider redrafting the definition of a “major change” to ensure that the emphasis remains on street pattern, building heights, building design, open space, parking, and circulation, as City requires and expects.</i></p>
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		<p>service uses by greater than 20% of the aggregate approved amount of development for each such applicable use categories in the WWOD-SP area, excluding from such 20% limit the increase in any use category which is attributable to conversion of ground floor residential use to another use;</p> <p>(c) Substantially change the pattern of streets, substantially change the building design standards, or substantially alter the distribution or use of open space within the WWOD-SP area; or (d) Are based on a request by the applicant that a change or alteration be based upon the zoning provisions in effect at the time of application for the change or alteration.</p> <p>(Id.)</p>	
10. Public Benefits	10. [Not mentioned.]	10. [Not mentioned.]	<p><i>10. Consider prioritization of:</i></p> <ul style="list-style-type: none"> <i>A. Greater hshg. affordability</i> <i>B. \$ to Market Landing Park</i> <i>C. \$ to Cent. Wtfrnt Bulkhead</i> <i>D. \$ to Cent. Wtfrnt. Brdwalk</i> <i>E. Signalize Gillis Br. ramps</i> <i>F. Subsidized Artist workspace</i> <i>G. Move large boat lift upriver</i> <i>H. Lower Custom Hse. Wy.</i> <i>I. Repair Mkt. Sq. brickwork</i> <i>J. Lombardi Oil lot for city pkg.</i>