

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, October 3, 2012 – 7:00 p.m.
1st Fl. Council Committee Room – City Hall
-MINUTES-

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Jackie Hardy
Absent: None.

Also Present: Councilor Theken; Councilor Ciolino; Councilor McGeary; Councilor Cox; Councilor LeBlanc; Linda T. Lowe; Gregg Cademartori; Bill Sanborn; Mike Hale; Karen Andrews

The meeting was called to order at 7:02 p.m. There was a quorum of the City Council (Councilor Theken joined the meeting at 7:17 p.m.)

Items throughout the agenda were taken out of order.

1. *CC2012-012 (Tobey) Legal constraints governing redevelopment of 65 Rogers Street (I4-C2) and measures Council would need to initiate to seek lifting of those constraints via Home Rule Petition to take parcel out of Designated Port Area (DPA)*

Councilor Tobey asked if there was anyone in the auditorium from the Administration to address as to why the City Council should not proceed with a Home Rule Petition. **Gregg Cademartori**, Acting Community Development Director expressed his belief that Sarah Garcia, Harbor Planning Director was planning on attending, but she was not in the audience. **Councilor Tobey** noted Jim Duggan, CAO had told him Ms. Garcia would not be in attendance tonight. There being no one, with no objection from the Committee, he asked that the City Clerk, consulting with General Counsel as needed proceed with the drafting of appropriate language for the next P&D Meeting for a Home Rule Petition to take 65 Rogers Street (I4-C2) out of the Designated Port Area (DPA). The Committee voted unanimously to request the City Clerk to proceed to draft the Home Rule Petition for their review, consulting with General Counsel as needed so that the Committee can take the appropriate steps to make their recommendation to the City Council.

This matter is continued to October 17, 2012.

2. *SCP2012-010: Application of Beauport Gloucester LLC under Sec. 5.25 Hotel Overlay District; GZO Sec. 5.5.4 Lowlands; Sec. 5.7 Major Project*

Councilor Tobey explained that since the joint meeting with the Planning Board of September 20th, the Committee has received a number of inquiries from the public and City Councilors, all of which are public record through the City Clerk's office and through Councilors' use of the City of Gloucester email system, and have been shared with the applicant whom they have asked to engage those items one by one. He acknowledged the Committee had a synopsis (on file) which he would use as a checklist.

Overview: **Attorney John Cunningham**, 59 Main Street representing Beauport Gloucester LLC for its application for a Special Council Permit under GZO Sections 5.25 Hotel Overlay District; 5.5.4 Lowlands and 5.7 Major Project, stated they are in receipt of a number of emails over a number of days; and are prepared to address some of the questions the City Councilors had asked at the joint P&D and Planning Board meeting. They have had discussions with the Acting Community Development Director about establishing some sort of process where these questions can be directed to the proper source for response. Some of the questions have been directed to the City; some are more properly directed to the third-party reviewer; and others to the applicant. Mr. Cademartori could speak to that. There are questions directed towards the City and City Council; questions directed to the City staff; and questions the applicant can provide responses to the Council. In reading the copy of the draft of P&D minutes of the September 20th joint P&D and Planning Board meeting, they noted that the P&D Committee asked to have an update of the status of the contracts for the infrastructure design and for the third-party reviewer which Mr. Cademartori and Mike Hale, DPW Director could respond to. They asked their Traffic Engineer to address the specific questions of Councilor Hardy raised about the dimensions on the intersection (Washington St., Rogers St., Western Avenue, and Commercial St.) and the relationship to parking places in the area. They would put up slides showing present conditions with dimensions to answer that question.

City Consultants Update: **Mr. Cademartori** and **Councilor Tobey** briefly discussed the information that is to be received from the applicant. The Councilor asked him to keep track of the information that is given by the applicant on whom they believe the burden lies and see if there are points that need to be mocked up after the fact he may think need to be addressed. **Mr. Cademartori** further informed the Committee that Beta Group has been hired by the City to act as the peer reviewer for the City Council and the Conservation Commission (ConCom); that contract has been executed. Beta Group, with a broad contract, has begun work on reviewing all aspects of the application. One thing left out of their scope is the infrastructure in the street which Mr. Hale can speak to. That contract with AECOM is finalized. There will be a separate public relations effort/study of the existing infrastructure in terms of outreach to the neighborhood which will begin next week or notices late this week for the investigative work that will take place there. There were questions on infrastructure deficiencies that will be resolved through the design process; and will have to find the time during this process to check in with the Council and Planning Board as to how that design effort is working. At the end of last week, the applicant filed their Notice of Intent with ConCom; Beta Group will be the City's peer reviewer for each of those applications, and the applications are underway. **Councilor Tobey** stated a site visit should include among other things, a focus on infrastructure. He asked when AECOM would be in a position to engage them and those who would wish to join them. **Mr. Cademartori** expressed there would be considerable investigation, beginning next week. They have a lot of work to do. The target of having some answers on existing deficiencies will be in about 4 weeks and design in the November timeframe. He stated the target of when they will anticipate to start having some answers related to existing deficiencies, will likely be over the course of the next four weeks. They will get into where things are heading in terms of design probably in the November timeframe. He anticipates a site visit will be more City staff driven to relay what has been collected and learned at this point and over the course of next couple of months in terms of design and information on it. **Councilor Tobey** suggested site visit has to be before it snows, by or before Thanksgiving. They would want staff instructed that they need to have material in place so a site visit can be conducted before Thanksgiving. **Mr. Cademartori** stated they will have staff available that can address, answer and listen. Some will come in the form of a peer reviewer, specific to the improvements on the site; traffic impact, etc. He didn't know that AECOM has been scoped specifically to do that site walk per se, but could coordinate the resources and appropriate staff. **Councilor Tobey** commented it was more to ensure that the consultant is managed so they deliver "the goods" in a timely manner. He asked Mr. Hale if he was comfortable with that also. **Mike Hale**, DPW Director commented that for a meaningful site walk, by the end of November they could do so. They expect 30 percent design should be satisfactory for the Council, understanding the bulk of it being in the first 25 percent, which would be mid- to late November. He assured the Committee they wouldn't miss that timeframe.

Vinod Kalkiri, P.E. Vanasse Hangen Brustlin, Inc. (VHB), Watertown, MA explained at the joint meeting of P&D and the Planning Board he provided an overview of the traffic study, findings, the basis and analysis of what they found and recommendations that came out of that process. One of the questions was some of the graphics he used which were conceptual in nature in terms of the intersections of Washington Rogers, Main and Commercial Streets; he had drafted some graphics on Google Earth that were aerial graphics also. More detail was asked for to understand how some of the changes that were being presented might affect the existing amenities in place such as on-street parking and how do bump-outs affect various things. He showed a slide of a plan of existing conditions (on file) as well as proposed conditions which show the suggested improvements (on file). The plan shows the potential improvements. The first version of the plan shows Washington Street heading north towards the left edge of the sheet. Commercial Street is to the bottom right; Western Avenue, Main Street, Angle Street and Rogers Street. There is limited information there today for drivers to navigate that intersection to know who has right of way; who needs to stop and where; who yields; where do pedestrians walk; and where to do they stack if they're crossing. For example across Washington Street, from the west side to the east side they would be navigating across wide pavement crossing an island in the middle of the street with very little storage. There isn't enough information to pedestrians or vehicles that it is a safe location to be crossing or that there is adequate space for pedestrians and vehicles to get through. He had pointed out the proximity of intersections: Angle Street intersects with Western Avenue but is also is very close and almost a part of the intersection of Washington Street, close to the northerly leg of Washington and Main Streets. He pointed out the gas station driveways (Tally's) on the north side and on the east side of that property. Roger Street lines up with Commercial Street, but if you want to travel from Rogers Street to Commercial Street there is no information to drivers of where to wait for a gap in traffic to make the turn onto Commercial Street. They could use the island as a shadow, so as to not be hit by a vehicle coming down Washington Street. You would start inching out until there is an adequate gap. There is not enough information for vehicles in other directions to head east on Rogers Street. There were a series of issues identified both as a part of the traffic study and in the previous in a graphical form. An improvement plan (on file) addresses many of these concerns. There is a lot of information on the plans relative to lane widths as to how wide the existing pavement is and how wide would it be after the improvements are

done at various locations. The plan is marked to show what those dimensions will be should changes like this be implemented; where stop signs and yield signs are appropriate; how to reconfigure the island in the middle of the street; how to address the alignment of the geometry of Commercial Street as it intersects with Washington Street. As to the approach of Rogers Street, if you are on it, and want to turn onto Commercial Street, the plan shows a scored concrete island at the roadway surface, which can be driven over; but provides better definition of lanes than just pavement markings. This also shows the pedestrian accommodations. A significant feature is a suggestion to possibly eliminate the crosswalk at the middle of the intersection and replace it with an existing path; if you are on Commercial Street and want to go to Main Street, you could walk on the south side of Commercial Street, down Rogers Street and cross on the existing crosswalk onto the north side of Rogers Street and up the block to Main Street. There is no reason to cross at this long length of pavement and be subject to vehicular traffic in both directions.

Councilor Tobey asked that Mr. Kalkiri start at the stop sign on the right and to give a list going counterclockwise a list of recommended improvements. **Mr. Kalkiri** complied by starting at Angle Street where there would be new crosswalks, a new stop line, new pavement markings on the west side of Angle Street pushing vehicles east, and two stop signs. On Western Avenue there would be striping the center lane, striping the yield markings on the pavement, and yield signs on Western Avenue's approach to Washington Street. On the island at the middle of the street there would be a complete reconstruction of it changing the geometry with two signs, one facing southbound traffic coming off of either Angle Street or off of Western Avenue directing traffic to stay to the right of the island. On the other side would be a sign telling traffic to stay on the opposite side for traffic coming from Commercial Street or Rogers Street. There would be shoulder markings on the gas station side that attempts to reduce the amount of traversable pavement. The shoulder can still be driven on, but today it is wide open on both sides of the island. Commercial Street would have striping of the shoulders, centerline, crosswalks, stop line and a stop sign. There would be bump out on the southerly side of Commercial Street, on the corner, with some curb modifications on the north side of Commercial Street. On Rogers Street there would be a poured concrete island which would define the lanes at pavement level on either side of the centerline markings, and restriping of the existing crosswalk. North on Washington Street, on the VHB plan, it is shown as a hatched area which would be the actual pavement markings on the ground restricting the width of the pavement. At Main Street there would be a cross walk, a stop line and a stop sign. **Councilor Tobey** asked if this was a recommendation of VHB that the City should make these improvements regardless of the hotel project being approved. **Mr. Kalkiri** responded the changes he just listed could be accomplished with some tweaking, and would be a solution to the concerns at this confluence of intersections. The third-party peer reviewer may have some suggestions of where to locate the signage. Responding to a previous question by Councilor Hardy, he mentioned that this plan does not represent any loss of parking spaces in that area. All existing parking spaces will be maintained. Additionally, the two one-way arrows is St. Peter's Park on the right side of the plan two curb cuts straddle a parking space. There is no restriction as to which driveway is restricted to drivers for entering and exiting the parking lot there. He suggested the way to reduce the number of conflicts is to use one curb cut for entering traffic and another for exiting traffic.

[Note: All materials shown the Committee by the following presenter were submitted for the record at the meeting and are on file in the City Clerk's office.]

Structural Materials Review: **Sandra Smith**, AIA of Perkins & Will, Architects, 225 Franklin Street, Boston explained the building will sit on a local granite base (sample of granite). That granite will also be used at the base of some of the light fixtures and for bollards on the site. Up from that base, the building will have louvered screening for parking under the building and an area along Commercial Street (sample of wood). They are also using it to screen the equipment yard where there are transformers and an emergency generator. Up from that level, they will use both wood panels and wood horizontal clapboards in three different colors of the material they are using which is called party board, an inert composite panel that is not subject to termites and rot and the like. It is made to look like wood siding. The projected life of this material is 50 years or more. The finish is guaranteed for 20 years. The three colors are from darkest to lightest color are Woodstock brown, cobblestone and alpine frost. Where they have windows they are using the same material in block form as trim. The color is Arctic white; the same product but in a different shape. They have two samples they will use on the decks and on the elevated platform over the parking: one is smooth surface from a manufacturer, Perennial, and one is a rough surface from a manufacturer, Trek Transcend (sample of material, rough and smooth). These are materials that are made to last a lifetime. The smoother surfaced material is done in a color called Cape Cod gray. The rougher surfaced material is in a color called gravel path. For the roof of the building they have a standing seam metal roof (metal sample). The manufacturer is Peterson Aluminum Corporation, and the color is dark gray. Anything on the roof that is sloping will be covered by this seamed metal product. **Councilor Hardy** inquired if there is noise created by rain striking the metal roof that will be heard by the neighbors. **Ms. Smith** stated, "No;" that there is insulation directly underneath it to help absorb sound.

Mr. Cunningham introduced Todd Morey of Beals Associates who has done the engineering and has done some plan and section views to present that should make clear the location and relationship of those improvements to the existing wall of the existing building and the improvements in front of that regarding the beach. The design is so that all the new building is 20 feet back from the line of the existing building. The 10 foot walkway, sea wall, stairs and ramp are designed to be behind the existing walls of the existing building and the concrete improvements that abut them.

Site and Infrastructure Engineering: **Todd Morey**, Sr. P.E., Beals Associates, Charlestown, MA stated that when they last presented to the Committee, there was a slide included which showed a blue line demarcating where the edge of what is constructed there today is (on file). He had enhanced the blue line only. The two following slides have a cross section cutting through the stairway and at the edge of the parking lot as well another that cuts through the end of the ramp. From left to right on the enhanced (on file) slide, he pointed to an area of the line to a point including a little jog, starting at the westerly edge of the property, and moving to the east, at the edge of the existing parking lot, they get to a point where they pick up the existing building. Moving easterly across the back edge of the building there are concrete paths; there is a steel staircase coming down, and another couple of concrete paths and then a short foundation with a chain link fence that extends further east to the edge of the stone wall that helps support Fort Square on the sidewalk. A sectional slide is taken through the set of stairs they are proposing and runs up onto the proposed parking lot. It shows the existing beach area. He pointed out one of the concrete paths he'd mentioned. The thick blue line represents the existing building today; moving landward, the lot line is approximately 2 feet behind the existing building line. A dashed line is the floor elevation of the existing building today. The gray area is the seawall with a handrail on top of it; the 10 foot proposed walkway and the parking lot behind it. It shows that all the construction being proposed is behind the existing building wall. The edge of the beach is where this concrete path extends to. The existing beach area identified by the blue line on the previously noted slide is at the edge of the concrete path. They are about 8 to 10 feet behind that concrete path. The next sectional slide shows where the ramp comes off from the Fort Square side of the property, coming off at an angle. This is the one area where they extend beyond the existing building, a small portion on the easterly side, adjacent to Fort Square, a ramp shown in yellow. He pointed out similar points of interest to the Committee on this slide as with the previous one. Of note this shows approaching the lot line, about 4 feet northerly of the existing foundation. Proceeding about a 1.5 feet towards the upland areas, is the existing building wall. Moving to the upland area they approach the sea wall, 6 to 8 feet inside of the upland area of the existing building wall. Immediately adjacent to the sea wall is the 10 foot walkway; and immediately adjacent to that is a section that cuts through the proposed parking garage and the restaurant. **Councilor Tobey** made the assumption that the proposed ramp is for the convenience of the public, which **Mr. Morey** confirmed recalling they had mentioned three main access points from the 10 foot walkway down to Pavilion Beach. Going to a line drawing slide, is from the application (on file). This plan shows on the westerly edge of the lot, he again showed the various points surrounding the beach. Just below the proposed ramp the existing parking lot continues in an easterly manner to the Existing building, and the existing building is on the easterly most side of the slide. The reference scale is on this slide. This is a 10 ft. beach front walkway along the easterly lot line. They have a ramp. This shows that this ramp is constructed completely constructed within paved areas that exist. The next slide zooms in on the proposed stairs towards the middle (slide: STAIR DETAIL) of the 10 foot wide walkway from east to west. There is a deck on top of the parking garage with a set of access stairs for guests can go down them and proceed southerly towards the water to another set of stairs to the beach. Starting at the westerly side of the slide a dashed line represents the existing parking; also shown is the existing building in the central portion of the slide. The stairway is being built behind the existing building wall. The Fort Square slide shows a ramp referred to previously coming off at an angle. This ramp feature does extend beyond the existing building line. A triangular portion of the ramp at the very end of it goes beyond the building; however, it does stay within the existing short concrete foundation wall and the chain link fence.

Councilor Tobey expressed his understanding that with the exception of the ramp from Fort Square onto the beach, there would be more of the beach exposed and available based on this plan than there is today. **Mr. Morey** stated, "Yes." **Mr. Cunningham** added the ramp is within an area that is behind a low concrete wall and chain link fence. They can have photos and look at that at the site visit. The blue line on the right side of the slide where the ramp from Fort Square comes down is a concrete barrier with a 6 to 8 foot chain link fence, industrial style mounted on it. Even with the ramp there will be more beach area. They made an effort to bring all of the improvements, all of the sea wall, the 10 foot walkway, all the ramps, all the stairs behind the line of the existing building, concrete foundation and parking lot.

Beach Ownership: **Councilor Tobey** commented a lot has been made about the notations on the plans, specifically about "lot lines." They have presented these plans in support of an application. If they were to approve this application, the Council would incorporate it within their decision and its representations as well. If they approve the application, he asked if it was the position of the applicant that the ownership of the applicant ends at that point called,

“lot line.” **Mr. Cunningham** responded that the lot line they are referring to is an internal lot line shown on a series of deeds and plans. The parcel is an “assemblage” from many parcels from prior ownership consolidated by the industrial owners who used this site. That is an internal lot line. **Councilor Tobey** pointed out that Mr. Cunningham had not answered the question, and then asked who owned on the beach-ward side as the applicant would have it. **Mr. Cunningham** stated their position is that they have a deed that shows the lot with the building on it. It shows lot to the Pavilion Beach side. By operation of law, they own the beach appurtenant to the uplands out to the extreme low water mark; which is the general rule for the ownership of beaches in front of properties in the Commonwealth. **Councilor Tobey** suggested beach ownership might be what they will fight over. He asked if this application was approved, will the City get the deed to the beach. **Mr. Cunningham** qualified that the ownership of the beach they will need to have discussions because a proposal to create an interim easement for the public came before this Committee and the Council and the issue of beach ownership came up. What is important to the owner is once it is established that this project can be built, opened and operational on this site, and it is clear then what the use of the property will be, and clarified, “the hotel property,” that they are open to working out with the City’s Legal Counsel and City Council an arrangement on the beach, Exclusive from what is part of the hotel, could become public beach to be used by the public and the guests of the hotel, that in fact there will be a retreat of the existing structure from the existing beach line inward. **Mr. Cunningham** responded that was correct; the beach line would need to be defined. They need the areas they have shown on their plans which would be essentially behind the existing building line and the existing concrete abutment line. **Councilor Tobey** and **Mr. Cunningham** agreed it will be a continuing discussion. **Mr. Cunningham** noted he had a discussion with General Counsel the previous week on that subject and looked forward to those discussions continuing.

Beach Conditions with Sea Wall: **Councilor Tobey** pointed out at the last meeting he had brought up the “no action” alternative, given the concern with the scouring of the beach, speculated to be from wash back from the existing building and storm conditions. What will be the scouring effect on the beach; he stated at the last meeting he believed it was said this would lessen it. **Mr. Cunningham** stated the advice they are receiving from Coastal Zone Management (CZM) is that by creating a sloped sea wall rather than a vertical face of the existing building, that the condition of the beach would be safeguarded. If nothing is done, which he asked of their coastal geologist who was unavailable this evening, but will address that issue when he is available. It is a question not easily answered. Commenting on sheet piling, **Mr. Cunningham** noted sheet piles are used in marine construction throughout the City. The people working on the engineering and building proposed to put sheet piles in the location just to the shoreward side of the exiting building wall that is shown on the beach stair section slide. That sheet piling will stabilize the shoreline during the construction and protect the upland parcel during construction and development. The peer reviewers and ConCom will look at this in more detail.

Demolition of the Birdseye Building: **Mr. Cunningham** explained there were questions raised about demolition which will be a subject of the ConCom review and the third-party peer reviewers. A survey would be performed before any physical demolition which would identify any substances that needed to be treated. Abatement would be performed in accordance with State and Federal guidelines done by professionally licensed firms and personnel. The City has a process for the demolition supervised by the Building Inspector, and that would be followed as well.

Emergency Generator: Another topic listed was the question of an emergency generator. This is life safety equipment that would come on in the event of power failure to power exit and hallway lights and other important items to hotel operation. It will meet all local sound ordinances, outfitted with mufflers, located in a fenced area; and the landscape designer indicated they would plant trees around it. He has looked around the City and found emergency generators are used throughout the City - hospitals, nursing homes, Gloucester Housing Authority buildings, elderly housing, police, fire, and many industries have standby generators in the event power is lost people and essential services can be protected. (Slide: GROUND LEVEL FLOOR PLAN, Perkins & Will) The area **Mr. Cunningham** is referring to is located to the west of Fort Square in the southeasterly corner of the property. **Councilor Tobey** asked if they have discussed this with the neighbors directly abutting where the generator is to be located; and **Mr. Cunningham** indicated they had not, and was asked to do so by **Councilor Tobey**. **Councilor Hardy** asked if there is a determination of what species of trees will be planted. **Mr. Cunningham** stated they were provided in the application plans. He could not say what those names are. They are evergreens and will cull it out of the plan. **Councilor Hardy** asked that an arborist will attest to that they will survive in a beach environment. **Mr. Cunningham** noted the plantings will be hardy and capable of prospering in this area. They would be of substantial height. **Councilor Tobey** reiterated that point.

Meetings with Neighbors to 47-61 Commercial Street: **Councilor Tobey** stated there has been internet conversation of when and whether ward meetings would occur. They reviewed the record of the Gloucester Crossing process and have established as a matter of record that there were ward meetings; all were conducted before the Special Council Permit applications were filed. That is part of the public record. On one hand, the applicant has filed, and

neighborhood meetings haven't happened yet. That is not to say that the applicant as local professionals and team can and should have meetings with the neighborhood before P&D opens their meeting in two weeks, and inform them much more intimately. **Mr. Cunningham** responded they would send out a letter and have a meeting about issues raised this evening. Some of these questions are things that will get further review as part of the Planning Board and third-party review and other things that are directed just to the neighborhood.

Rear Yard Set Back: There was a question about rear yard set back. The HOD dimensional table in Sec. 5.25.4.1 provides that the rear yard and side yard set back, typical of the M/I district, is zero and that the front yard is 10 feet and in any yard where it approaches an existing building, the 10 ft side yard is continued. The definition of rear yard is convoluted on a corner lot. With a corner lot there are two side yards, and the rear yard is where the two side yards meet in the far corner. In this instance that is the corner where the beach and Chamber of Commerce building's parking lot meet. In this district the set back is zero because it is HOD. The HOD has a separate table for dimensions in the HOD modeled after the M/I district.

In-Street Infrastructure Improvements: Although not responding from a question sent to the applicant, **Mr. Cunningham** discussed that since the filing of the Special Council Permit application, the approach to the design to the infrastructure in front of the hotel has changed. The City is developing the overall design. The plans submitted with the application had in the public ways some conceptual design for water and sewer improvements or changes. As the process evolves with the City and their consultant, there may be modifications to that. The purpose was that the Council, when considering the plans and the third-party reviewers, could make an evaluation of the locations of where the utilities would exit and enter the hotel site. That could be coordinated with the DPW. He proposed to send a statement to the Council to that effect so that it is clear the set of plans that relates to the applicant's property, all that the Council in a Special Council Permit process can approve, to make clear that improvements in the public way were illustrative and superseded by events.

Processing of Questions on the Application: **Mr. Cunningham** reviewed that having received a series of emails with good questions, some were more appropriately addressed by the City, their consultants, and some by the applicant, which led to an effort to categorize and separate them into groups. The grouping they did may not be the same as anyone else did. Several of the questions received are better dealt with later in the process, especially related to infrastructure work. The questions about the construction sequencing and road closure, the City has said, they want to design and oversee and set up the process of construction and they are willing to cooperate at a point the building is down they will create an alternate route around the roads that are being worked on. He said that would have to come later as part of a discussion with the designers. **Councilor Tobey** asked when it would occur relative to the completion of this review process. Didn't they require that the Council have some degree of certainty to phasing and roadway layouts before the building comes down and the process proceeds? **Mr. Cunningham** agreed that they do want to know what is happening with the infrastructure as the two are interrelated. But the process by which infrastructure improvements need to be made needs to be coordinated by the City's designers.

City Coordination with Applicant on Infrastructure Questions: **Mike Hale**, DPW Director stated that part of the design efforts are to construct a sequencing plan that will accommodate the neighborhood, residents, businesses as well as needing to know the scheduling of the hotel. Demolition is a big issue for the City whether or not they have a bypass road available to them. There are a lot of questions still. They are in gathering of data stage which is a few months ahead for them on the design process. So they haven't developed a sequencing plan yet. Coordination of the hotel with their work on site will be paramount to the City's sequencing. **Councilor Tobey** inquired when will the two schedules mesh. **Mr. Hale** responded he has no stake in the demolition of the hotel. When that is done the City can sequence their work.

Mr. Cunningham this is something to be worked out. They provided a preliminary plan for AECOM to look at, for the third-party reviewer to look at, and are continuing a dialog with the DPW and Engineering Department to develop a sensible plan. **Councilor Tobey** inquired if the sequencing plan would be ready by Thanksgiving, and was informed by **Mr. Cunningham** expressed he didn't see any reason why they couldn't have a plan but that the plan is contingent on the success of getting permits. If the building can't come down until permit issues are resolved, that is part of the planning process as well. He thought there would be a likely plan. They have presented a concept plan and will review it with the third-party reviewers and parties involved. The design of the plan was so the businesses in that area can continue to operate. It is a work in progress. **Councilor Hardy** expressed she interpreted the previous discussions that the infrastructure in the City in the streets of the Fort will be performed by the City and go forward whether this hotel application is granted. **Mr. Cunningham** stated in no way is the Special Council Permit application a condition of the design money contributed by his client; that is going forward. **Mr. Hale** stated added there is a need to improve the Fort Square/Commercial Street area regardless. This was planned by the City to be done in 2015/2016 and is now moved up to 2013/2014, upping their schedule by two years. He said that in fairness to the applicant, they still have to do a fair amount of research with the residents and businesses to see what their schedules are; to figure out when the

construction can happen during normal business hours or does it need to be off hours/night construction. It still has to be worked out. It is a lot of work on both sides on the scheduling portion. **Councilor Hardy** stated she was looking to better understand the phasing and expressed that Mr. Hale's scheduling was paramount at this juncture. **Mr. Hale** stated the potential for the hotel demolition allows them a bypass road for a portion of Commercial Street which would alleviate some of the choke points of traffic. If that was not an option, they would still have to manage their project around that. In other words, if the Birdseye building is not coming down they would have to sequence the construction without a bypass road. It can be done, but it is more complicated, more time and generally more money. **Councilor Hardy** asked the timeframe would be for obtaining demolition permits. **Councilor Tobey** made clear that the City is committed. This Administration and Mr. Hale's team is committed to getting the infrastructure renewed in the Fort ASAP whether or not the hotel project goes through and building comes down. **Mr. Hale** confirmed it was true. **Councilor Tobey** continued that to the extent that there are going to be difficulties for traffic is residential, commercial, or industrial, they will have to manage and live with it whether the Birdseye building comes down or not which **Mr. Hale** reconfirmed.

Demolition Permitting: **Councilor Hardy** asked the timeframe would be for obtaining demolition permits. **Mr. Cunningham** responded there are permits from the Special Council Permit process; there is a site plan review, and the ConCom review. The demolition of the Birdseye building depends on the time it takes to send in the experts to determine the plan for any sort of abatement, and to arrange for the demolition process. Without talking to construction people he cannot say what that timeframe is. They have not filed the applications for demolition. The ones filed are site plan review, Special Council Permit, and for ConCom, the Notice of Intent. The demolition permit is akin to a building permit and that comes after these other permits.

Bypass/Gravel Road: **Councilor Tobey** pointed out questions were raised on the matter of the nature of the gravel access road; its risk to washing out; adequacy for safety vehicles. **Mr. Cunningham** suggested this was a matter that will evolve. However, the sheet piling wall he described earlier is design to protect the site when the building is down so that the concerns about wash over are met. As to the roadway, there is a discussion of whether that is a City-managed roadway or owner-managed roadway, if there is a gravel roadway it will be maintained in a way to allow it to be used for the purpose.

Height Exception: **Mr. Cunningham** noted there are several comments received having to do with height and height exception. That is a work in progress. Their architects are working on some of the requests that have been made. At the site visit Councilor McGeary asked that a balloon or similar device be placed so the Council and public can see that. They will put that into place for the site visit.

Possible Industrial Water Pre-Treatment: **Councilor Tobey** stated given that they are dealing with a hardy marine industrial park in the Fort, on one side of it, to what extent is a study going to address the need for industrial pre-treatment which may give rise to enhanced capacity for more growth in that sector of the Fort. **Mr. Hale** touching on the previous discussion on pre-treatment, they will include their consultant and their local contract operator of the City's water system in that discussion to look at that the existing businesses, potential for future growth in the Fort area of how industrial pre-treatment may be provided or what type of services the City can provide to facilitate greater industrial pretreatment. **Councilor Tobey** commented it appears, then, on Mr. Hale's "to do" list, which **Mr. Hale** confirmed.

Mr. Cunningham noted there are other questions that were received from the last meeting that are addressed clearly to the City. They will continue to use this list as their guideline, and expect more questions evolve. The Planning Board is conducting a separate review and anticipates them and the City's third-party reviewer will have additional questions. They wanted to address as many as they could this evening and commit to working with the City and the staff and the reviewers as the questions come along.

Councilor Verga, noting some questions were for the applicant, and some for the City; how were they broken down. He asked for confirmation that they were assigned appropriately and answered in a timely fashion. **Mr. Cademartori** stated several questions have been identified as evolving and or will be addressed through the peer review, particularly those related to traffic impacts, and potential impacts of the site development. He has the list, and is taking notes on what the applicant has addressed; and there are some specific questions as to how the Council weighs this Special Permit Application when the Council makes their final disposition on it related to the height; to other potential impacts and weighing the balance of what they receive in testimony. Those questions related to infrastructure design, they don't have answers for. Most, if not all, will have to be addressed. There is a sensitive timing issue with when the Council would be comfortable making a decision because there are two parallel processes taking place. They've outlined some of the milestones. November is one, and then as they move into the 30 percent design phase. As that gets refined, they'll have more information; it will be over the course of several months.

Meeting with Neighbors of 46-61 Commercial Street/Council Participation: **Councilor Tobey** stated they have a commitment for outreach to and meeting with neighborhood for intimate concerns by the applicant and that Mr.

Cademartori would participate. Mr. Cunningham will coordinate that meeting. **Councilor Hardy** stated for the record as it pertains to the meeting the applicant will have with the neighbors, would that meeting preclude the attendance of any City Councilors. **Councilor Tobey** expressed they need to get an opinion from General Counsel. Until that time he advised that no Councilor should participate. The Clerk of Committees was instructed to contact General Counsel for clarification on the matter of Councilor attendance at a meeting arranged by the applicant with neighbors.

Councilor Hardy commented that pending that opinion, she took that Councilor Tobey is correct.

Councilor Tobey asked Attorney Michael Faherty (in attendance) if he had received General Counsel's October 21st memo (on file) responding to the question of the Commercial Street Roadway Layout, which he had not. The Clerk of Committees was asked to forward a copy of this memo to Mr. Faherty. **Councilor Tobey** explained for the record that General Counsel agrees with Mr. Faherty and quoted Suzanne Egan's memo: "...that the City records do not include a formal layout of Commercial Street." There are issues that need to be worked through. "The fact that the City has formally extended and widened Commercial Street as a public way gives rise to the assumption that the entire length of the street was formally laid out at one point." He didn't know if the Council or the City, residents or property owners want to go forward using a roadway they assume is a roadway. One step General Counsel proposes is that further research at the Registry of Deeds can be conducted and asked for that to be done to figure out a path forward to resolve this issue and confirmed to exist as it looks to be.

This matter is continued to October 17, 2012.

The Committee recessed at 8:52 p.m. and reconvened at 9:00 p.m.

3. RZ2012-003: Atlantic Road #107 and #125 to Create an Existing Hotel Overlay District (Cont'd from 8/22/12)

Councilor Tobey described the results of the site visit to Atlantic Road #107 and #125 by the Committee on the morning of September 8th and made the following suggestions to Attorney J. Michael Faherty representing his clients, Bass Rocks Ocean Inn, Inc. (Bass Rocks), Tracey Muller, President; and Bonmal, Inc. (Atlantis Oceanfront Inn a/k/a Atlantis), Jan Bordinaro, President.

Attorney J. Michael Faherty, in response to a number of comments that were made when this matter was last before the P&D Committee (08/22/12) and emphasized in part at the site visit, they have made three changes to the proposed overlay ordinance (clean copy & marked copy on file). The first was an issue raised by Councilor Hardy concerning the name of the overlay district which they had named the "Existing Hotel Overlay District" (EHOD). Giving it more specificity it is now changed to the "Back-Shore Hotel Overlay District" (BHOD). In Sections 5.26.1, 5.26.2 and elsewhere throughout the document where it was shown as EHOD, it is now replaced with BHOD. In Sec. 5.26.2.1, they have produced the plan of the two lots joined together (on file). They are still individual lots; by that it is meant it is a two-lot plan prepared by Richard Loud, Registered Land Surveyor which they will submit a stamped certified copy in a larger size for the Council.

On page 2, Sec. 5.26.3.2, they put in a subsection (c) in response to Councilor Ciolino's and other folks' comments of what was there to prevent someone from buying both lots and building one hotel, facility, or a facility that joins the two; and would the benefits of the overlay apply to that without City Council review. That subsection, "Uses Authorized by Special Permit," which reads "Alternations, expansions, or replacement of an existing Hotel, or construction of a new Hotel that would result in a Hotel that encroaches across the common boundary between the two lots in the BHOD as such lots exist as of the date of the adoption of this Section 5.26, regardless of the number of guest units." So even with than less than 10 additional units, it would require City Council approval and be subject to Special Council Permit (SCP) standards.

In Sec. 5.26.3 and **Mr. Faherty** clarified what they are requesting as being allowed as by matter of right is the addition of not more than 10 additional guest units in either of these facilities. Anything more than 10 units would require all of the formalities of a SCP process. The only thing outside of the SCP process would be an addition of not more than 10 units. And it would have to comply with all dimensional requirements under this ordinance. Any failure to comply with those dimensional requirements will then require a review under the SCP process. It is a limited exception. It has to meet all the requirements of the set backs and 10 or less guest units.

In Sec. 5.26.4.1 "Dimensional Table", they added to the side yard set back requirement, in an additional footnote. The normal set back would be 20 feet. Footnote (ii) says that it is either 20 feet or the dimension that exists at the time of the ordinance. As shown in the plan (on file), there are only a couple of places on both properties. That is an exception, but does not relate side yards because they exceed the side yard in all cases. Footnote (iii) is an accommodation towards the neighbor who has a residence abutting the property, and so included the following: "If a side yard abuts a lot containing a one- or two-family residential dwelling the set back for an addition to a Hotel higher

than the existing height of the Hotel building as of the date of the adoption of this Sec. 5.26, but not for any addition or alteration or replacement of the Hotel at or below the existing height, from only the side yard property line that abuts the lot containing the one- or two-family dwelling, shall be 55 feet.” Under existing dimensional requirements take a side yard of 40 (feet) and then add a foot for ever foot over 15 feet. They have a height restriction in this proposed ordinance of 30 feet so 15 feet plus 40 feet equals the 55 feet. This would represent with respect at least to the property line of a person owning a one- or two-family house (one such property abuts one of the two properties). The dimension would be no different than it is today. For reference, he noted that the columns they set out at the site visit were at 45 feet. This is moved over an additional 10 feet away from the property line. At this time the Committee was shown an enlarged version of a lot plan (on file) by the Mr. Faherty. **Councilor Tobey**, upon viewing it commented that from his memory of the site visit, the 10 feet didn’t “feel like much.” Rather, the notion was centering it more. **Mr. Faherty** pointed to what they term the commercial section of the building where the restaurant was. They had represented it was 45 feet to the bottom part of this building to the property line (referring to the Atlantis Oceanfront Inn), the southerly most portion. The line for these properties, they set up the stakes on the neighbor’s side. The neighbor and the neighbor’s attorney wanted it pushed in further away from the neighbor’s direction. He said that the only thing that would make sense if it was centered over. The issue in this case is that there are structural elements on this building that likely, based on the preliminary structural review they’ve done on this building review within the last couple of weeks, it would have to be built wall-on-wall (to put on a third floor on the building). If there is a wall on the ground floor and second floor, the structural elements for a third floor would have to be stacked on top that structural element. It could not fit in just anyplace. **Councilor Tobey** stated in effect they would be replicating the footprint atop on which it is placed. **Mr. Faherty** continued that the dimension was to go to 55 feet which is what is in the ordinance presently. It is not a change with respect to that side. **Councilor Tobey** asked for clarification of what would be the southerly boundary of 55 feet, or the closest boundary to the Fonzo home; where is the outer wall of the third floor. **Mr. Faherty** stated they measure the set back at a line perpendicular to the side yard line on the westerly side of the building approximately 15 feet from where the posts were would be the starting point. One would not build anything that was diagonal. Pointing out on the plan, he said that from this distance “here” it is getting closer to 60 feet, and 55 feet plus on the westerly side. Pointing to a solid dark line, he said that this would be the furthest-most extent of any third floor structure. **Councilor Tobey** asked to the extent that certain Councilors, he being one of them, they asked this line to be moved to the north, it appeared that did not occur. **Mr. Faherty** noted it did occur, but not to the extent they asked for. **Councilor Tobey** disagreed stating that he recalled the stakes being a little to the north of where the line is. **Mr. Faherty** commented that the Councilor was speaking of the southerly border. The stakes were to the south and pointed out on the displayed plan the line where the stakes were the more shallow line. Additionally on the second part of the Footnote iii, they agreed previously publically any such upper portion of set back from the side yard property line pursuant to the footnote should not contain any windows facing that side yard unless installed for ventilation purposes only, meaning windows above eye height that may be necessary to create cross ventilation. Those are the only changes. **Councilor Tobey** expressed he sensed that more that the third floor was centered on the two limbs of the structure, the better off they were; and didn’t see any movement in that direction. **Mr. Faherty** in response stated the whole purpose was to create bigger rooms than currently exist because of the need for room amenities. If they are stuck with wall-over-wall construction they have gained nothing; they are duplicating the same rooms they are looking to expand. **Councilor Tobey** contended that in order to get this as a matter of right, there are some trade-offs to be given. If that means putting in a couple of steel beams, he asked where the down side was. The proponent is gaining something substantial should this overlay district be passed; which is “of right,” and wondered where was the “give and get.”

Councilor Verga, who noted he was not at the site visit, stated it seemed what they were showing, and what Mr. Faherty said at the end didn’t look like it matched up. It looked to him, he said, like the current side of the building is perpendicular line is like a terrace type thing. But that won’t work if it is wall-on-wall. It is about dispersion of weight. **Mr. Faherty** responded that the first line is where the poles were shown for the site visit. Further north is what they are asking for as a set back from that addition. People can say you have to give to get, he expressed the belief they have made significant concessions. If this is a matter of the “as of right” issue, then he suggested that perhaps it just needs to be rethought on their part. At this juncture, they are asking for only 10 additional units. If the Council feels any placement of those 10 guest units have to be spread in the center of any such building, then it can be worded that way. To Councilor Tobey’s comment, they will have to use steel and other structures which still achieve the objective. The planning process and the process of renovating these facilities, the owners could then know there is Option A, that if it is set back over the middle with a number units, they can go forward as long as they meet the requirements. Option B, if they can’t meet the requirements, then they go to the Council for SCP. That would achieve an objective if the 55 feet is not enough. **Mr. Faherty** was not expressing his objection to that. He pointed out he stated from the beginning they want certainty so proper planning can go into their facilities, because it is costly, and can make determinations

what goes on. They don't want to engage in a costly process and have everything become a "shoot." He said it was not appropriate for these on-going businesses.

Councilor Hardy asked would that include their continued agreement that there would be no windows on the southerly side of a third floor. **Mr. Faherty** stated, "Yes;" that there is no value in the view there, except out towards the Twin Lights and the ocean. He confirmed it is the second paragraph in Sec. 5.26.4, footnote (iii). The plan is part of the BHOD. **Councilor Hardy** asked that the words "southerly side" be inserted into Sec. 5.26.4, footnote (iii) between the words "facing" and "that" with which **Mr. Faherty** agreed.

Councilor Tobey stated he had no problem with these existing long-standing, highly productive businesses having an opportunity of having some degree of certainty and an "as of right" provision, particularly in a market that they hope would become more, "vigorous and competitive." But the Councilor expressed it was reasonable to view this process of legislating to need to capture what a SPC process might be; and plant this "thing" on the third floor on the southerly of the two hotels, in a way that is most acceptable to all folks involved. He asked this be engaged now, and expressed it is the trade off to the certainty. **Mr. Faherty**, noting this matter is up for public hearing before the Council on October 23, 2012, if they go back to P&D at their October 17th meeting, they could see if there was some other suggestion they could make on this zoning proposal.

Attorney Ralph Pino, representing Mrs. Jane Fonzo (direct abutter to the southerly side of the Atlantis Oceanfront Inn) stated they have been in the details of over eight meetings and a site visit, he suggested the "big picture" was lost. This was brought forward as an overlay district in order to avoid going before multiple boards for permitting. The zoning proposal went to the Planning Board who, he said, gave a confusing recommendation and were unanimously against the "matter of right" provision. He stated there was a simple solution to the matter because with this process they are trying to permit a project none have seen, or know what it will be. At the site visit they saw a version of what could be. But if they apply the most current version of the BHOD ordinance, it doesn't have to look like that because it doesn't have to be centered; be that shape or size. That is a version of what could go in the zoning. If they back up and look at zoning ordinance, rather than start a new process of coming in and for every project try a new overlay for every hotel in the City, he suggested in looking at the current dimensional schedule, a couple of them are not appropriate in size; the minimum lot area per guest unit; the open space per guest unit; they can be waived by a Special Permit by the Council, which he pointed out they did on the Hampton Inn project (hotel proposal on Essex Avenue). Currently in GZO Sec. 3.2.6, under the footnotes it says, "Both may be decreased by Special Permit issued by the City Council but only upon a finding that such lesser lot area or open space is in keeping with the neighborhood character or structural density." If they took the current dimensional requirements and put in a footnote to say they can be decreased by Special Permit from the City Council. It then requires not a "matter of right," and comes to the Council under a single permit, a Special Permit from the Council. Now they can permit the project. The Council is not giving away the power to review a project and not giving away what Mr. Pino said he believed was an obligation by the Council to review a project to make sure the project is appropriate. Referring to the Muller building (part of the Bass Rocks Inn) he stated he could picture a white addition consistent with the rest of the buildings on the property. There is nothing there that says that it has to be a white attractive building. It is total units in the building; they could have giant time share units on the top looking at the ocean with no permit review. He asked the Committee to give the Council the power to do it by SCP; or to decrease them by SCP; and this matter is then resolved. The neighbors are unanimous that these are well run, attractive properties, he said. If the owners came to them, showed them what they were going to do, and it was reasonable, he suggested the neighbors would have, "gone for it." They are not against the project because they don't know what it is. If reasonable, attractive and fits, that is their obligation and not give it way. The Council is being asked to permit a project they have not seen. **Councilor Tobey** asked what Mr. Pino's stance would be if the Council may want, given these existing buildings there for 50 years, to what extent would he want to modify the dimensional requirements if they were willing to consider the overlay concept. **Mr. Pino** stated if they are doing dimensional requirements, then they need to push a third floor 130 feet. When they stood in the [abutter's] bedroom, there were four posts. The third post was something that seemed reasonable from their perspective because it didn't wipe out his clients view of all of Good Harbor Beach. Anything else does. From their perspective, they think it would be better to place a third floor on the other wing centered which places it far from the ends. It would be the same size. That would be the setback. There was a concern with the ability to put on non-habitable roof structures which his client would not be pleased with. They could be large decks with lawn chairs with hotel guests overlooking his client's yard. **Councilor Tobey** reminded Mr. Pino they had discussed that at the site visit which Mr. Pino participated in, and asked can the assurances Mr. Pino needs be built into a zoning ordinance. **Mr. Pino** stated they can in a permit. There is supposed to be no deck on they building next to his client. If they take out the non-habitable structures on that one, but they have it on the other building, and expressed he thought they could. The Council is permitting not changing zoning at that point. **Councilor Tobey** argued that there is good basis in the law for an overlay district of this nature, and asked Mr. Pino was he willing to engage in further dialog with Mr.

Faherty to make a "Plan B" on behalf of his client. **Mr. Pino** stated his Plan B is to have a concept of what this is going to look like; where it will be; what it will be, say, a white building that blends with the rest of the building. Then they can talk. That is a simple matter within a permitting project. They are not in a position to do that. **Councilor Hardy** commented she couldn't see either hotel erecting anything that would look "off." The properties have been able to be maintained over the years in a meticulous manner and couldn't see them putting "a monstrosity." **Mr. Pino** responded if they could limit the zoning to the current owners he would agree with the Councilor. But there is nothing to say they can't sell the properties once the BHOD comes through. They are not close with the distances proposed. If they push the building over, and they saw what the building looked like, and if it is substantially similar to the current building, he said it should not be difficult to come up with a conceptual plan. **Councilor Hardy** didn't know how the Council could dictate through an overlay district what the building is to look like, the color the building would be painted, the windows to be used, etc. **Mr. Pino** pointed out this was why it should go back to a Special Permit so they end up with a project that is harmonious with the neighborhood and the Back Shore; and the Council keeps the control that is built into the ordinance. For some reason, he said, the Council is giving it away. **Councilor Tobey** noted he believed the proponent's and the opponent's attorney had provided the answer to stylistic consideration by the alliterative phrase, "substantially similar" and may well have proposed the answer. **Mr. Pino** commented that hadn't been agreed to. **Councilor Verga** expressed it seemed that a lot of giving and no take on this process so far. It seems like applicants have made several concessions and seems to be willing to be more and yet there is more pushing for more concessions by the proponent being asked by the opponent. **Mr. Pino** expressed his disagreement. They haven't changed their stance since the beginning that they are supportive of a reasonable project. This came forward at a 45 foot height. It is now at 30 feet; but he said to him it was two different projects. If it looked like Muller's building, they have no problem. He said they are not being unreasonable. **Councilor Verga** commented that is not compromise. **Mr. Pino** stated for them to go to 45 feet with 25 feet set backs was inappropriate. **Councilor Tobey** urged they find a compromise. He asked Mr. Cademartori to communicate with Counsel for the proponent for metes and bounds for the set backs on the Atlantis structure. **Councilor Hardy** appreciated Mr. Faherty's taking into consideration of the naming of the Hotel overlay district. She asked it be called "107 & 125 Atlantic Road Hotel Overlay District" to be precise. This is specific to these two lots. **Mr. Faherty** agreed to the change. He further stated they have agreed that it would be substantially same architectural style. The issue is that they do not want to get into aesthetics. The presentation is on the front of the building. The southerly side has no windows. It is difficult when there is a position of solid blank walls, but around front there are additional issues. They will work diligently and have more information from the structural engineer, and come to a reasonable accommodation. There is always the opportunity to sever a section and leave the dimensional table but severing the "as of right." This is a remarkably different process than they were dealing with before. These are simple, modest proposals. There are distinctions. **Councilor Ciolino** expressed he asked that the Planning Director look at Sec. 3.2.6. That seemed to him the problem in the whole scenario. Because of Sec. 3.2.6 the applicant came in to circumvent it. If a revision was made to it, he suggested it may solve the matter and start the dialog from there. This chart is out of date, he further suggested, and doesn't work - especially for existing hotels. He also mentioned he had some research done about the overlay from Sen. Tarr's office. He pointed out an overarching theme of "common good". Most of these [overlay] projects are assisted living, and has to do with the common good of the community. **Councilor Tobey** asked if the Councilor was suggesting they look to Sen. Tarr for legal advice. **Councilor Ciolino** clarified he had wanted to know the intention of the State legislature when they voted to allow for overlay districts. **Councilor Hardy** asked if the Senator addressed his concern as to the intent of the legislature in that memo. **Councilor Ciolino** stated he gave examples of overlay districts. **Councilor Hardy** stated then the Senator did not address intent. He gave samples of what other communities have done. **Councilor Ciolino** stated that overlays are not designed to circumvent a permitting process. As a Council they would set a bad precedent by saying an overlay is good for an existing hotel. Rather, they can come up with a compromise, solution if they change the zoning chart. **Councilor Tobey** asked position of modification of 3.2.6 might provide a resolution to this matter, and specifically the filing of their plan. **Mr. Faherty** stated before this was even contemplated an amendment to the zoning ordinance; they looked at whether a proposed revision to GZO Sec. 3.2.6 would achieve any objectives. He concluded that because they had similar circumstances as with the definition of multi-family in Lanesville, a recent GZO amendment would ripple through the community as that did, and would not achieve the objective. The concern was discussed at the Planning Board level. These two properties are distinct because characteristics of land different than the other hotels in the R-2 district. Each of them is tucked in among residential residences. The Ocean View, the Vista and Sea Lion Inn. To have the same rules apply to those situations would raise even more issues; and so Mr. Cademartori was given a directive by the Planning Board and came up with a scheme which concluded they are unique properties; and to change this section would not be appropriate for the existing facilities. They came before the Council because these properties are unique. At the site visit they were stood

on the roof and were hard pressed to see any other homes. They could not see the neighborhood save the property nearest it. They saw meticulous maintenance and people who cared. They do not see the suggestion as helpful.

This matter is continued to October 17, 2012.

4. SCP2012-009: GZO Sec. 1.5.5(b) Sec. 3.1.6(b) and Sec. 3.2 for building height over 35' Re: Wingersheek Road #132 (Cont'd from 09/05/12)

Attorney Robert Coakley, 63 Middle Street was before the Committee to representing the applicants, Antonio M. Bertone (present) and Alexandra Drane for a Special Council Permit for a height exception over 35 ft. for a new residential structure to be not more than 37 feet, 6 inches. **Councilor Tobey** asked if they had accord among the neighbors. **Mr. Coakley** explained they had reached an accord. At the September 5th meeting, Mr. Winthrop and his son, who are abutters at 153 Wingersheek Road, to the rear of the property in question, had expressed some concerns. P&D scheduled a site visit. There was a discussion centered on a tree. His client, Mr. Bertone, hired a local arborist; and has met on site. The arborist suggested a quercis bicolor, known as a swamp white oak to be placed on an abutter's property (Winthrop family at 153 Wingersheek Road) at a location where the abutter would be looking up. The tree would block any visualization of the height addition to the client's property. His client asked Mr. Winthrop if he was planning on attending, but he informed Mr. Bertone that as long as they represented this fact of the tree being planted and will be a condition to be incorporated into the motion, the abutter would not plan to attend. They are left with the basic application for a height exception of over 35 feet, specifically for 37.6 feet. He reiterated there is a roof deck on this property. The actual roof is at 34.6 feet. You need by law a 36 inch railing. The top most portion of the railing is open railing architectural design railing; it is see-through. **Councilor Hardy** noted the height exception is 7.6 feet. The members of the Committee who attended the site visit were satisfied with what they saw there; and found it is in keeping with the Gloucester Zoning Ordinance under Sec. 1.8.3. That is what she would predicate her positive vote upon; that she agreed with the applicant's assertion that Sec. 1.8.3 has been satisfied. **Attorney Coakley** stated the application is also in keeping with GZO Sections 3.1.6(b) and 3.2 provisions as well, which is more specific to the height exception. **Councilor Verga** noted the agreement between the applicant and the abutter was what the Committee had heard at the site visit. He would vote favorably also. **Councilor Hardy** was encouraged and appreciated that neighbors were working with neighbors to have a good end result so that it works for everyone involved.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant Antonio M. Bertone and Alexandra Drane a Special Council Permit (SCP2012-009) for the property located at Wingersheek Road #132, Assessors Map 260, Lot 18, zoned R-80 (Rural Residential), pursuant to Sections 1.8.3, 1.5.5(b) and 3.2 of the Gloucester Zoning Ordinance for building height in excess of 35 feet but not more than 37 feet, 6 inches with the following conditions:"

- 1. that a tree, named quercis bicolor, also known as a swamp white oak, be planted in a location at 153 Wingersheek Road as agreed to by the applicant and the abutter at the applicant's expense.**

5. SCP2012-011: Magnolia Avenue #46 (former Blynman School), GZO Sec. 2.3.2(13) Operate a Museum & Cultural Center

Attorney Mark Nestor, representing the Magnolia Historical Society (MHS) explained that they have a Purchase & Sale Agreement to purchase from the City, pursuant to an RFP, the property known as the Magnolia Schoolhouse at 46 Magnolia Avenue. They wish to use it as a museum. It is zoned R-30, and under the current zoning ordinance use schedule, they cannot have a museum there unless they obtain a Special Council Permit. He had signatures of almost all abutters have signed a document in support of this Special Council Permit. He spoke with Attorney Jack McElinney, who represents the new owner of what used to be known as Magnolia Woods/Magnolia Reach. It is now Magnolia Reach LLC. They are in favor of it also. So there are no objections from any of the neighbors. The MHS wants to take all the artifacts stored in the Magnolia Library and have not had a proper way to show them, to bring them to this building as well as preserve the school house. The use of a museum for this property is a great blending of culture and use. **Councilor Hardy** asked if the museum and cultural center be only uses for the building. **Mr. Nestor** affirmed that was the case. There may be some special events, but any events would be geared to the museum. This is to primarily display and operate as a museum, as well as anything else allowed under

R-30. There will be no clubs or associations involved. **Councilor Hardy** noted the neighbors were in favor of the purchase of the land given that it would be for the MHS. The neighbors were concerned about a club or two going in there, subleasing, or holding meetings there. Mr. Nestor responded, "No," on all counts. **Councilor Verga** expressed his support of the application stating it was a benefit not just to Magnolia but to the whole community as well, and is a change worth going forward. **Councilor Hardy** congratulated Attorney Nestor and the MHS expressing her hope this brings a new vitality into the neighborhood. **Mr. Nestor** agreed stating it would be a dramatic improvement to the neighborhood.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant the Magnolia Historical Society a Special Council Permit (SCP2012-011) for the property located at Magnolia Avenue #46, Assessors Map 174, Lot 3, zoned R-30 pursuant to Sec. 1.8.3 and Sec. 2.3.2 (13) of the Gloucester Zoning Ordinances "Philanthropic Institution," in order to operate a Museum and Cultural Center in the former Blynman School; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

6. RZ2012-005: Amend GZO Sec. 3.1.8 re: Lot Frontage (Cont'd from 09/05/12)

Mr. Cademartori explained that this amendment was proposed to the Council from the ZBA, who initiated this. It will restore a provision in the Gloucester Zoning Ordinance (GZO) related to the definition of "lot frontage" and the dimensional requirements for a new lot as it's created. Between the additions of the 2002 and re-released 2008 version of the GZO, an essential phrase was dropped from the definition of lot frontage. When you try to lay out a new lot, you have to carry the minimum required frontage for that district to the building on the lot. They create fairly rectangular lots with the absence of this provision. People can get fairly creative; and it becomes a less than predictable process. This has been continually enforced without the provision by the Building Inspector as it always has. It hasn't resulted with any challenges, but folks do question it because it is not specifically identified in the zoning ordinance. The Planning Board held a public hearing on it and unanimously supported the reinstatement of the phrase that requires that carrying of lot frontage into the lot to the principal building (on file).

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Zoning Ordinance Sec. 3.1.8 by DELETING in its entirety the definition of "Lot Frontage" as set forth therein, and ADDING a new definition of "Lot Frontage" as follows:

"Lot Frontage: That portion of a lot fronting upon and having access to a street or public way. Except as authorized by the Planning Board pursuant to Section 5.20, compliance with the lot frontage requirement shall be determined by measuring the shortest distance, on a line parallel with the frontage street or way, within that portion of a lot between the frontage street or way and the principal building. Unless authorized by variance from the Board of Appeals, access to a lot must be over its frontage;" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

7. SCP2012-012: Kondelin Road #16, GZO Sec. 5.13.3.1(a) and Section 5.13.7 (PWSF)

[Note: This Special Council Permit Application differs from previous modifications to PWSF's due to the original installation pre-dating the enactment of a PWSF Zoning Ordinance.]

Attorney Daniel D. Klasnick, Duval & Klasnick LLC of Westboro, MA representing Bell Atlantic Mobile of Massachusetts Corporation Ltd. d/b/a Verizon Wireless explained to the Committee that his client wished to apply for a Special Council Permit to modify the PWSF to allow Verizon wireless to address expand coverage gap in 4G technology service in the City of Gloucester to provide improved wireless data service. There is an existing 12 antennas located at 232 feet on the 340 foot guy tower. There is existing equipment on the ground located in a common shelter. They propose to remove 12 antennas from the existing wireless service facility on the existing tower and replace them with 12 new antennas that will support the 4G network requirements. They will also add six lines of 1-5/8 inch co-axial cable inside the existing cable tray to support the additional requirements. There won't be any physical change to the ground equipment. Included in the application were photo simulations (on file). At 232 feet they will not notice a change in the antennas. It is very de minimus. Also included were coverage maps (on file) and an RF affidavit (on file) certifying to the need for the facility to fill a substantial gap in 4G coverage.

They included an RFR study (on file) certifying continuing compliance with RFR exposure requirements. They are taking off 12 antennas; putting 12 in their place and six new lines of co-axial cable. The Facility is in compliance with the intent of the ordinance. **Councilor Hardy** asked confirmed the owner of the guy tower is American Tower who owns the property as well. She asked if there is any City equipment presently on the tower such as Police/Fire repeaters. **Mr. Klasnick** expressed his research did not cover that aspect. The Councilor asked would this change or alters anything that might belong to the City. **Mr. Klasnick** stated nothing will be altered that belongs to anyone but what is owned by their firm. Both this matter and the Verizon application for Great Republic Drive are advertised for public hearing on October 23, 2012.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless a Special Council Permit (SCP2012-012) for modification of an existing Wireless Communications Facility pursuant to Sections 5.13.3.1.a and Sec. 5.13.7 to remove twelve (12) existing antennas and in their place to install twelve (12) new antennas in their place and add six (6) lines of 1 and 5/8 inch co-axial cable inside the existing cable tray on a tower at Kondelin Road #16(Assessors Map #198, Lot #39). All replacement antennas are to be substantially similar to the dimensions of the existing antennas to be replaced on the tower owned by American Tower Management, Inc. zoning classification G-I with the following condition:

- **That Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless is not to impede use of the communication tower located at 16 Kondelin Drive by Gloucester public safety organizations to maintain and install hardware necessary to their communications systems; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.**

8. SCP2012-013: Great Republic Drive, GZO Sec. 5.13.3.1(a) and Sec. 5.13.7 (PWSF) Modification

Attorney Klasnick, also representing Bell Atlantic Mobile of Massachusetts Corporation Ltd. d/b/a Verizon Wireless in this Special Council Permit modification explained this application is extremely similar to the one prior, in that it is to upgrade Verizon's service to 4G technology. This installation is on a City-owned water tank. They have 12 antennas located at 104 feet on a 120 foot tank. There are 12 antennas located on the tank that Verizon maintains. It will take those 12 antennas off and replace with same number of new antennas to support the 4G service and also add six lines of 1-5/8 inch co-axial cable to support the 4G service. There will be no change to the equipment shelter located at the base of the water tank inside the fenced area. Included in the application (on file) are photo simulations at 104 feet; LTE coverage maps; an RF affidavit certifying to the need for the facility to fill a substantial gap in 4G coverage. They included an RFR exposure study (on file) certifying continuing compliance with requirements. The Facility is in compliance with the intent of the ordinance. **Councilor Hardy** asked if any equipment will be disturbed; and **Mr. Klasnick** confirmed only that equipment owned by Verizon will be touched or altered. He also confirmed for the Councilor they had a lease with the City. There is no negotiated change on the lease because this is a direct swap out of equipment. The lease is about or around \$28,000. **Councilor Tobey** asked they confirm the annual lease rate at the public hearing.

Councilor Tobey asked how the City needs to do to suggest another location to the applicant for cell coverage. **Mr. Klasnick** would be able to pass that information on to their site acquisition group. It depends on whether that group needs an additional site. He knew that Verizon Wireless is issuing an RFP for another water tank in the City.

Councilor Hardy also confirmed that it is for a water tank in North Gloucester. **Councilor Verga** confirmed that the Special Council Permits modifications are for just data not cell phone reception for this and the Kondelin Road application. **Councilor Hardy** asked what it would take for Verizon to increase cell coverage in the City as downtown Gloucester and parts of North Gloucester suffer from no or very little cell coverage. **Mr. Klasnick** stated they would need to look to add additional sites to improve reception currently within the City. If the Council wishes to direct something through him he would communicate it to Verizon Wireless as they are committed to provide the best service to their customers. **Councilor Verga** asked if there was any will on the part of Verizon to find where the cell phone weaknesses are. **Mr. Klasnick** stated they currently are looking at a site downtown and are continuing to look at the situation and assess it. **Councilor Tobey** suggested that they would face similar questions at public hearing also.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant Bell Atlantic Mobile of

Massachusetts Corporation Ltd., d/b/a Verizon Wireless a Special Council Permit (SCP2012-013) for modification of an existing Wireless Communications Facility pursuant to Sections 5.13.3.1.a and Sec. 5.13.7 to remove twelve (12) existing antennas and in their place to install twelve (12) new antennas in their place and add six (6) lines of 1 and 5/8 inch co-axial cable inside the existing cable tray on a water tank at Great Republic Drive (Assessors Map #296, Lot #1). All replacement antennas are to be substantially similar to the dimensions of the existing antennas to be replaced on the water tank owned by the City of Gloucester zoning classification R-20 with the following condition:

- That Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless is not to impede use of the communication tower located at 16 Kondelin Drive by Gloucester public safety organizations to maintain and install hardware necessary to their communications systems;
- That all replacement antennas will be painted to match the water tank to which the antennas and cables are affixed;
- And that all previous conditions of the original Special Council Permit adopted by the Gloucester City Council on April 30, 2002 remain in place; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

9. *Memorandum from the Engineering Dept. re: proposed street naming & numbering plans & request for Review of the GCO Sec. 21-3 Street Names*

Karen Andrews, Engineering Aide in the Engineering Department explained to the Committee that according to GCO Sec. 21-3, the Committee needs to make referral of these street naming and numbering plans to certain City departments for their review and recommendations with 14 days to respond. Those departments are: Engineering, Fire, Police, Planning and Assessors.

The Committee voted unanimously to make the referral to the appropriate departments to review the Engineering Department proposals for street naming and numbering plans prior to the next P&D meeting of October 17, 2012.

This matter is continued to October 17, 2012.

10. *Application for License of Flammable and Combustible Liquids, Flammable Gasses and Solids re: 27-37 Harbor Loop*

Attorney John D. Colucci representing Kristensen Realty, LLC and Cape Ann Fuel & Ice, operator of the fuel facility at 27-37 Harbor Loop explained that they are looking for a transfer of the license from Star Fisheries/Star Realty to Kristensen Realty, LLC as owner for Cape Ann Fuel & Ice, Inc, a facility that has been in existence for many years. The Fire Department has inspected and signed off on the permit. They are looking for permission to go to a Council public hearing on the matter. **Councilor Hardy** stated for the record that Joseph Mountain of the Gloucester Fire Department signed off on the application signifying his approval on September 20, 2012.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant Kristensen Realty, LLC as owner, for Cape Ann Fuel & Ice, Inc., a License of Flammable and Combustible Liquids, Flammable Gases and Solids for the property at 27-37 Harbor Loop for the storage of 19,800 gallons of Combustible Liquids – under M.G.L. Chapter 148, Sec. 13 and regulations thereunder as well as Gloucester Code of Ordinances, Chapter 8, Fire Prevention and Protection, Article I, In General and sections thereunder; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

11. *CC2012-045 (Tobey/Hardy) Review of outdoor portable toilets & consideration of new regulations or new Ordinance (Cont'd from 8/22/12)*

This matter is continued to November 7, 2012.

12. *CC2012-046 (Hardy) Review of outdoor dumpsters & consideration of new regulations or new ordinance (Cont'd from 8/22/12)*

This matter is continued to November 7, 2012

13. *Compliance by businesses holding DEP Chapter 91 licenses pursuant to City Council discussion of 07/24/12 and a Councilor Request to the Mayor dated week of 07/23/12: Review by Building Inspector regarding posting of signage for public restrooms (Cont'd from 09/05/12)*

Bill Sanborn, Building Inspector informed the Committee that they did talk with DEP concerning public accessible bathrooms, and found that there are three establishments on Gloucester Harbor that are required to have them under their Chapter 91 license; the Studio is one, which was not opened this year. The other two are the Latitude 43 Restaurant on Rogers Street and the Cape Ann Brewing Company on Rogers Street; both have signage. There is not a requirement for specific signs. It is a requirement that they put a sign on their door for public bathrooms. **Councilor Tobey** believed that the Gloucester House had a similar requirement, noting they had signage. **Mr. Sanborn** said the Gloucester House didn't have the requirement, but have signage and open their restrooms to the public as a courtesy on their own. **Councilor Hardy** asked in going through the Special Council Permit process, did that prohibit the Council from making it a condition which she expressed would be, in her opinion, "No." Councilor Tobey stated his agreement with the Councilor, that they could make that a condition. She further stated her belief they have made this a condition in the past with Special City Council Permits whether the DEP requires it under Chapter 91 or not. **Mr. Sanborn** noted he did look at the Gloucester House permit and didn't see that there was a restriction put on them by the City Council. **Councilor Hardy** wanted to be sure they have the authority to place such a condition on a Special Permit legislatively. **Mr. Sanborn** confirmed that was the case.

This matter is closed.

The Committee took a brief recess and reconvened immediately.

14. *Waterways Board re: Transient Floating Marina as referred by the City Council from 08/28/12*

[Note: Tony Gross, Chair of the Waterways Board and a quorum of the Waterways Board was in attendance as well as the Harbormaster.]

Councilor Tobey asked how the project was progressing and were they making any headway with it. The Council wants to see this project happen. **Mr. Gross** stated this project is conversation only. It has gotten head of steam way beyond itself. **Councilors Hardy Tobey** expressed their disagreement. **Councilor Tobey** expressed he wished to make clear that he was the Mayor that activated the Waterways Board. He had the privilege of appointing every single harbormaster as well. If they can't get this project done, he informed Mr. Gross he would be the City Councilor who would file the order to repeal the ordinance that established the Waterways Board. **Mr. Gross** stated his understanding but also wished to clarify there is a lot more fact finding to be done; there are still many questions as to funding which is a major issue and costs. It is a project that is being worked on; not a project that has been given the affirmative action of the independent Waterways Board. **Councilor Tobey** expressed he feels no sense of urgency. **Mr. Gross** stated at the last ad hoc subcommittee meeting, Harbor Planning Director, Sarah Garcia gave them information that allowed them to be able to discuss at their meeting they held that night whether to continue to move forward and find out what is the cost to do a feasibility study. He would contact Ms. Garcia the following day to ask she put that together so the Board can vote on going out to bid. They meet once a month, which is 12 times a year. **Councilor Hardy** suggested they hold special meetings such as the Council and School Committee do when needed. It is in their purview. **Mr. Gross** stated they will be doing that for an audit for their organization. It will be in the order of priorities of what they need to do. The project is on a priority of going in line with priorities they have already established. They have to by a launch (boat to service the proposed transient floating marina). At the last meeting they voted to set a deadline to discontinue the search for a used launch which is now December. Once they do, they will go to Council to ask for \$100,000 for a new launch out of their Enterprise Fund. They need that before they can move forward. **Councilor Verga** noted the decision of the Board was that they voted to find out the cost of a feasibility study. **Mr. Gross** responded they would do an RFP as to the cost and at their November meeting vote yes or no to get it. The launch is separate. If funding collapses, they don't have a marina. They are regridding the harbor. They will need to go from a 3-1 scope to a 2-1 scope (for anchor line). To go to 60 feet, the swing is less and rides harder. They did preliminary in-house mooring regridding. CLE Engineering will do the regridding to come up with whether or not the marina will be able to exist with the 62 moorings that already exist there. They will have to have specialized mooring for those individuals. **Councilor Verga** stated some people on the Board are

excited about the marina, and some appear not to be. If the Board votes no, is that the end of it, or would the Council pursue this. **Councilor Tobey** stated it would be awkward for the City to disregard they have a professional staff in the Harbormaster, and winding up bypassing the Waterways Board. But they could do it. **Mr. Gross** stated if the Board says no to it, they would have looked at all the facts. **Councilor Tobey** was concerned with the biases built into the majority of the board towards a recreational facility where the community is consistently viewed by recreational boaters as hostile of the transient recreational vessels. **Mr. Gross** state he knew they need to make changes. If the Board votes not to go with it, there will be good reasons. They can't assume anything, and asked for some caution. **Councilor Tobey** stated due diligence is fine, but they are, he said, feeling like they are coming up against a wall. **Mr. Gross** explained was presented with a template summary from Ms. Garcia, and they had some additions, and Ms. Garcia had a handle on it. **Councilor Verga** stated it seems they bought time and a window to make a decision. He asked if the Board could get the decision made so the floating transient marina can begin at the start of the building season. **Mr. Gross** stated the regriding has to go through the Council process. There is four to six weeks for that. Simultaneously they'll get their feasibility study. They will have to buy new ground tackle. The process is not made for speed, but they are doing it. **Jim Caulkett**, Harbormaster was asked by Councilor Tobey if he brings any preconceived notions to this matter. **Mr. Caulkett** expressed that he does support the transient floating marina, and that it can be a productive, positive thing for the City. He stated is on board, "definitely." **Councilor Hardy** asked how many marina owners are on the Board, and was told there was one. She asked would that person be able to vote on the project. **Peter Bent**, Waterways Board member and owner of Browns Yacht Yard expressed that "laughable" that he wouldn't support this project. The least profit area of any marina is transient dockage. The proof was if wouldn't all his docks be only for transients. He has more income from someone who is there all the time for the season and to think he is worried about competition he assured he has many businesses surrounding his yard; he has many amenities there. He would never vote against the project. He would recuse himself. **Councilor Hardy** reiterated her question to Mr. Bent if he would vote on this matter. **Mr. Bent** stated he would recuse himself from the vote. If there is a question, he would seek the opinion of General Counsel, stating it is not his decision but that of General Counsel for the City whether he should actually vote. **Ralph Pino**, a new Board member stated it is a business plan, this project. There is a c. 91 license to be obtained and opinion from DEP; they need to bring power and water from the DPA. He didn't see the method where they would license that. The application for an opinion has been filed. Very preliminary costs are up to \$2 million. Of the difference of the number of slips, before they do it they will do a study, the best estimate result right now is 13 more transient slips than a simple regriding will do; 13 more slips with power and electric worth \$2 million. He stated no private person would pay \$2 million for 13 slips. If no power and water is able to go to the floating marina, this makes this marginal. Things are being worked on; there are a number of new people to the Board who are impatient and want to see it come to fruition. **Capt. Phil Cusamano**, Waterways Board member who brought this project proposal forward agreed but questioned the number of moorings to be displaced. He did not think it is a matter of 13 moorings. The feasibility study will come up with it. **Councilor Tobey** expressed concern to yet see something that states the municipal commitment. **Capt. Cusamano** commented that even if there were small differences nothing compares to the attraction to a floating marina with power and water. This is an attraction with slips with a sense of being at a marina. The attraction is in that itself, an island. When someone goes to different ports as a transient they're looking to be at a marina. Most transient boaters go to moorings only because there is no choice. The whole idea is a sizable thing. It can handle boats from 26 feet on up to 150 feet or better. If they do the bed moorings, the large mega-yachts prefer a dock. **Mr. Gross** suggested they meet again at their December meeting. **Councilor Ciolino**, Council liaison to the Board expressed that the definition is that a boat can't stay more than 10 days at a transient marina. It is not a permanent marina. Funding dictates 10 days, then a vessel has to move out and possibly can come back. The Board surveyed marina owners about this project, and the majority are in favor. They don't want to deal with the transients. He spoke to the launch vessel saying the Board will move forward with a new vessel if they cannot find a use one and have it operational in May (by voting at their December meeting). He said the Board is a tight, good board. He guaranteed they listen to the Council; that they know the Council and the Mayor would like for them to go forward. **Mr. Gross** pointed out that Councilor Ciolino stated the 10 days. That is if they go with a big grant which comes with a lot of strings. They are exploring that avenue but also trying to realize revenue and money elsewhere. **Councilor Tobey** confirmed that the concept is strictly transient; and was told that on the transient moorings vessels can stay up to 14 days. **Mr. Caulkett** invited the Committee to come to his office to see the regriding they have done which includes the transient boats in the mooring field.

This matter is continued to a special joint meeting of the Waterways Board and the Planning & Development Committee on Wednesday, December 5, 2012 at 6:00 p.m., venue at City Hall to be determined.

15. *Review of Special Council Permit re: Gloucester Crossing as relates to traffic/pedestrian safety for area surrounding Perkins Street as referred from City Council Meeting of 9/25/12 at request of Councilor Cox*

Councilor Tobey explained that this matter, referred to the Committee from the 09/25/12 City Council meeting at the request of Councilor Cox, at her written request has been withdrawn from the agenda. Councilor Cox has successfully engaged Legal Counsel for the project. However the Committee would keep this matter on the agenda for advisement, and continue it to the next P&D meeting but expected that there would be no action.

This matter is continued to October 17, 2012.

A motion was made, seconded and voted unanimously to adjourn the meeting at 10:40 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Samples of building materials for the Beauport Gloucester LLC proposed hotel as submitted by Sandra Smith, Perkins & Will, Architects
- Letter from State Senator Bruce Tarr to Councilor Ciolino dated September 12, 2012 responding to the Councilor's inquiry regarding zoning overlays, specifically whether it was the intent of the Mass. State Legislature to develop these overlay for use in blighted areas
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DOCUMENTS USED AT MEETING AND SUBSEQUENTLY SUBMITTED:

- Power Point Presentation submitted by Attorney John Cunningham presented to City Clerk's office on 10/04/12