



GLOUCESTER CITY COUNCIL

9 Dale Avenue, Gloucester, MA 01930
Office (978) 281-9720 Fax (978) 282-3051

CITY COUNCIL STANDING COMMITTEE

Planning & Development Committee

Wednesday, April 3, 2013 – 7:00 p.m.

1st Fl. Council Conference Room – City Hall

AGENDA

(Items May be taken out of order at the discretion of the Committee)

1. *Communication from Attorney J. Michael Faherty to D.E.P. re: I4-C2 Temporary Permit*
2. *SCP2012-014: Mansfield Street #3/Washington Street #24, Map 6, Lots 36 & 37 re: GZO Sec. 1.8.1 and Sec. 2.3.1(7) Conversions to new or multi-family or apartment dwelling, four to six dwelling units (Cont'd from 03/20/13)*
3. *Certificate of Vote from Planning Board recommending the appointment of Tom Daniel to the position of Community Development Director*
4. *CC2013-017 (Verga) Amend GCO Chapter 21, Article IV (Repair of Private Ways) Sections 21-81 through 21-85 To add specific standards on what the City should require for the level of design, amount of work, and allocation of funds for permanent repairs to private ways*
5. *CC2012-072 (Hardy/McGeary/Verga) Request City Council review Law Proposed by Initiative Petition 3 re: Zoning/marijuana dispensaries - Returned to Committee at Request of City Council for administrative considerations*

COMMITTEE

Councilor Bruce Tobey, Chair
Councilor Greg Verga, Vice Chair
Councilor Jacqueline Hardy

Committee members – Please bring relevant documentation

Back-up and Supporting Documentation all on file at the City Clerk's Office, City Hall

CC: Mayor Kirk
Jim Duggan
Linda T. Lowe
Sarah Garcia
Gregg Cademartori
Tom Daniel
Michael Hale

The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

LAW OFFICES
OF
J. MICHAEL FAHERTY CITY CLERK
GLOUCESTER, MA

13 MAR 19 AM 11:23
111 MAIN STREET
GLOUCESTER, MA 01930
TELEPHONE: (978) 283-9233
(978) 281-0999
FAX: (978) 283-0314

March 18, 2013

Alex Strysky
Waterways
D.E.P.
1 Winter St.
Boston, Ma 02108

RE: City of Gloucester – Temporary Waterways Permit
W13-3804-N

Dear Mr.Strysky:

In furtherance of the comments that I made at the public hearing on February 28, 2013, I would offer the following comments.

The City's request for a ten year temporary permit is just too long. When the property was purchased several years ago, the City Administration promised development, increased tax base and jobs. To date nothing has happened except periodic fill to keep the parking area afloat and the construction of a temporary harbor walk across portions of so-called I4-C2.

I do not oppose the lot being used temporarily for parking. Frankly, it is the only useful purpose it can serve under current conditions. As I see it however, if the City intends to charge for parking on Commonwealth tidelands within a D.P.A. then a significant portion of the money collected should be committed to uses that will promote and facilitate a change from its current non-water and non-marine dependent uses to authorized uses in the D.P.A. I would therefore suggest the D.E.P. consider placing the following conditions on any permit that it issues.

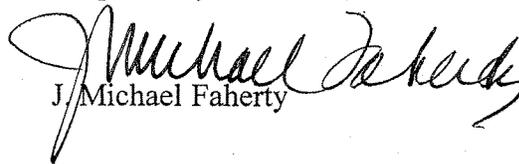
1. The permit shall run for not more than three years. One year extensions may be applied for upon a showing of positive steps towards bringing uses of the land into compliance with Chapter 91/DPA.
2. Not less than fifty percent of the gross revenues collected for parking be dedicated for the following purposes:
 - a. The City shall commission a complete Phase II Environmental Site Assessment to determine if any environmental hazards exist on the site. If the property is clean, this will add value to the price of the land. If not, then at least the City will recognize the extent of its liability when it attempts to market the property. Please note that in both the initial attempts to market the property and in the latest

revision of the RFP, the City has put the burden on the developer to determine the extent of environmental issues.

- b. The City shall commission a complete subsurface soil and sheet pile analysis. Clearly, any building on the site will need to be pile supported but there is no record of what fill was used. Many locals purport to have knowledge and at least in the area where the Harborwalk meets the wharf, there were issues with subsoil conditions. See attached photo. Again, knowing for sure will facilitate the marketing of the property and add/subtract value.
- c. The bonded debt that the City incurred shall be reduced. It is illogical to allow monies raised by renting public tidelands to be used for any other purpose than paying for the land.

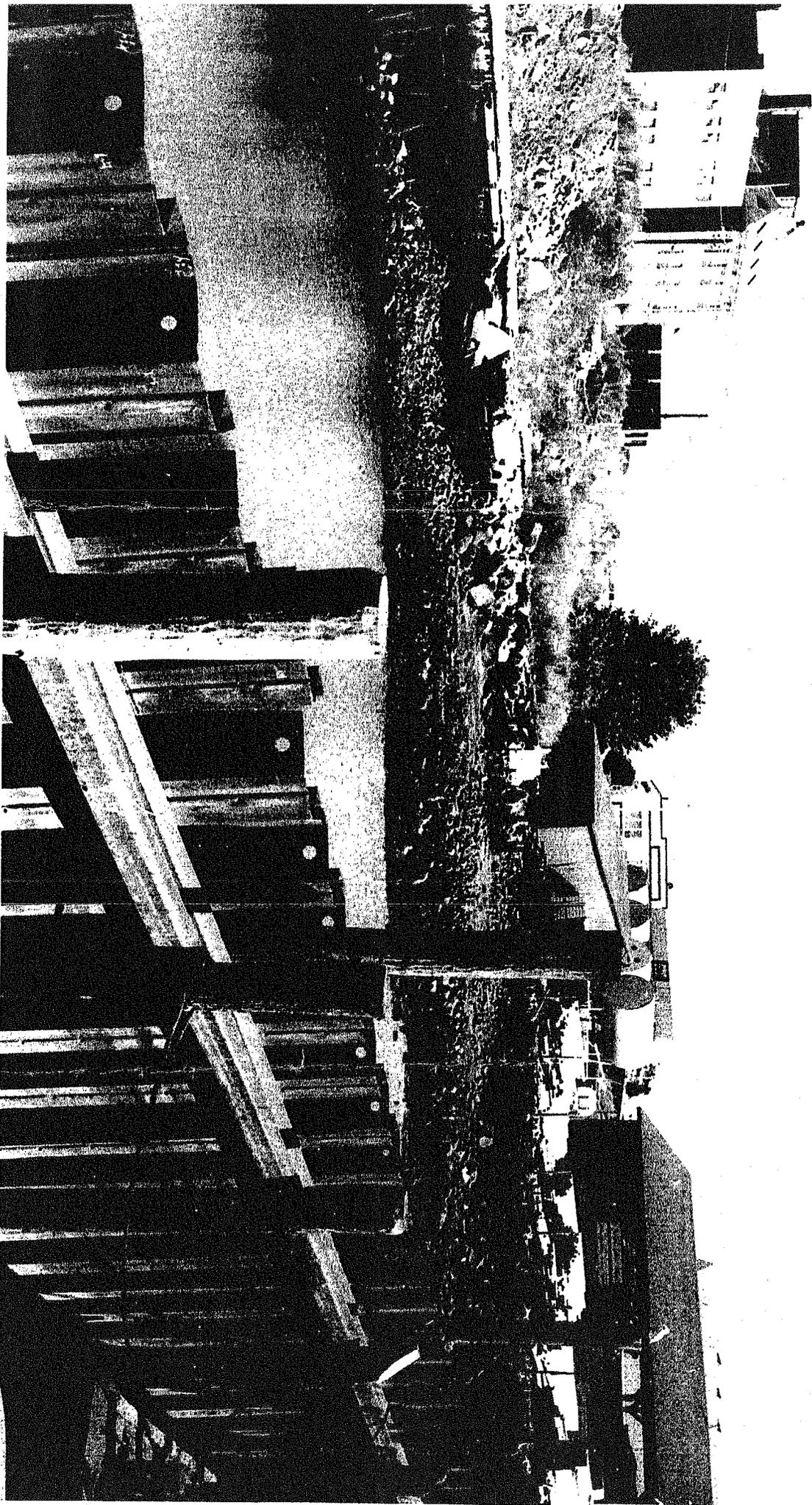
In closing, I would remind you that significant state seaport bond funds were donated to the City for the purchase. My comments are only directed to the \$700,000.00 - \$800,000.00 that the City put up.

Respectfully submitted,



J. Michael Faherty

cc.
Mayor Kirk
Sarah Garcia
Gloucester City Council



SCP2012-014



CITY OF GLOUCESTER
GLOUCESTER, MASSACHUSETTS - 01930

City of Gloucester
Special Council Permit - Application

Feb. 8, 2013

(Public hearing to be held no later than above date)

12 DEC -5 PM 11:38 AM
CITY CLERK
GLOUCESTER, MA

In conformance with the requirements of the Zoning Ordinance of the City of Gloucester, the undersigned hereby applies for a Special Council Permit (CC or CCS) in accordance with Section 1.8.3 of the Ordinance and other Sections as listed below:

Type of Permit (Give specific section of Zoning Ordinance) Special Permit (CC) per Section 1.8.3 and Section 2.3.1(7) of the Use Table.

Applicant's Name: James Santo, Trustee of Family Realty Trust

Owner's Name SAME
(if different from applicant)

Location 3 Mansfield St./24 Washington St Map # 6 Lot# 36, 37
(Street Address)

Zoning Classification: R-5

- Attached is a list of owners (with complete addresses) of land directly opposite on any public or private street or way, direct abutters, and abutters to the abutters of land within three hundred (300) feet of the property line, as they appear on the most recent City of Gloucester Assessor's Maps and Tax list.
- Attached is a listing of criteria set forth in Section 1.8.3 of the Zoning Ordinance, including any supportive material or comments the applicant may wish to include (i.e. ZBA decisions, Order of Conditions, ect.) if necessary.
- Attached are the necessary plans as set forth in Section of 1.5.3 of the Zoning Ordinance, which at a minimum consist of an accurate plot plan (to scale) showing existing and/or proposed building or structures.

City of Gloucester - Action

Fee: 350.00

City Clerk (received): ATL

City Council (received): 12/11/12

Public Hearing (ordered) _____

Public Hearing (opened) _____

Public Hearing (closed) _____

Final Decision _____

Disposition _____

(Approved, Denied, Approved w/conditions)

Applicant: [Signature]

Name (Signature) James Santo, Trustee

34 Railroad Ave., Gloucester, MA

Address

978-283-3383

Telephone

Certified for completeness: _____

Building Inspector: [Signature] Date: 12/4/12

Planning Director: [Signature] Date: 12/5/12

Section 4.8.3.3 - (Use additional sheets, if necessary)

1. Social, Economic, or community needs served by the proposal:

See Attached Addendum

2. Traffic flow and safety :

See Attached Addendum

3. Adequacy of utilities and other public services :

See Attached Addendum

4. Neighborhood character and social structure :

See Attached Addendum

5. Qualities of the natural environment :

See Attached Addendum

6. Potential fiscal impact:

See Attached Addendum

The applicant is advised that City staff is available to assist the applicant in preparing the application, including the Inspector of Buildings and City Planner.

Application For Special Permit

The undersigned applicant hereby applies for a special permit under M.G.L. Ch. 40A, § 9 as follows.

1. Applicant (includes equitable owner or purchaser on a purchase and sales agreement):

Name: James Santo, Trustee of Family Realty Trust

Address: 34 Railroad Ave., Gloucester, MA

Tel. #: Days 978-283-3383 Evenings 978-927-2037

Check here if you are the purchaser on a purchase and sales agreement.

2. Owner, if other than applicant:

Name: SAME

Address:

Tel. #: Days Evenings

3. Property:

Street address: 3 Mansfield St./24 Washington Ave.

Assessor's map: 6 Lot: 36, 37

Registry of deeds where deed, plan, or both records:

Essex South

Deed recording: Book 8904 Page 278 and Book 31098 Page 430

Plan recording: ~~Blank~~ Book 5979 Page 84 and Book 2791 Page 341.

Property is location in the R-5 zoning district.

4. Nature of relief requested:

Special permit pursuant to Article/Section 1.8.3 (CC) of the
Zoning Ordinance/By-Law which authorizes City Council to permit
construction of a 6 unit residential dwelling per Section 2.3.1 (7)

Detailed explanation of request:

Applicant seeks to replace 6 residential units and 1 commercial unit destroyed
by a fire. He is not expanding on the previous use - he is just replacing
the lost units. There will be 6 town house-style residential units fronting
on Mansfield Street, with 10 off-street parking spaces, and 1 commercial
unit fronting on Washington Ave.

5. Evidence to support grant of special permit:

Because of reasons set forth below, the special permit requested will be in harmony with the intent and purpose of the Zoning Ordinance/By-Law:

The Applicant references the attached Addendum regarding Section 1.8.3
standards as evidence that this project will be in harmony with the intent
and purpose of the Zoning Ordinance. He is seeking to replace the previous
use, he is not changing the use nor is he increasing the density of the use.
There will be no adverse effect on the neighborhood, the zoning district or
the city and there will be significant benefits.

Because of reasons set forth below, the special permit requested will meet the additional requirements of the Zoning Ordinance/By-Law as follows:

None of the uses specified in Section 1.8.4 apply to this project thus there are no required Additional Standards.

If someone other than owner or equitable owner (purchaser on a purchase and sales agreement) is the Applicant or will represent the Applicant, owner or equitable owner must designate such representative below.

Name of Representative: Thomas F. Murphy, Jr., Esquire

Address of Representative: 35 Center Street, Burlington, MA 01803

Tel. #: Days 781-272-0900 Evenings

Relationship of representative to owner or equitable owner:

Attorney

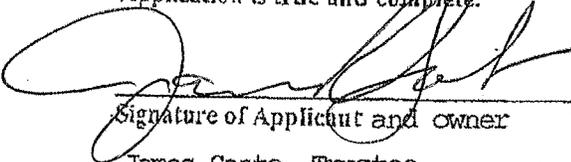
I hereby authorize Thomas F. Murphy, Jr. to represent my interests before the

Special Permit Granting Authority with respect to this Special Permit Application.

(Signed by owner/equitable owner)

James Santo, Trustee

I hereby certify under the pains and penalties of perjury that the information contained in this Application is true and complete.

 12/4/12

Signature of Applicant and owner

Date

James Santo, Trustee

Signature of Owner, if other than Applicant

Date

N/A

Signature of Equitable Owner Who is filing Application to satisfy condition of Purchase and sales agreement

Date

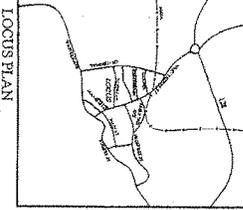
CITY OF GLOUCESTER

SPECIAL PERMIT APPLICATION

ADDENDUM RE: SECTION 1.8.3 STANDARDS

1. **Social, economic or community needs served by the proposal:** This proposal involves the construction of 6 residential units in addition to a commercial unit at the corner of Washington Street and Mansfield Street. The new construction will replace two previous buildings which were destroyed by a fire earlier this year. The previous buildings contained a total of 6 residential apartments as well as a retail commercial unit that fronted on Washington Street. Thus the new project will replace the lost residential units which is a benefit to social and community needs for housing as well replacing the lost commercial space which serves the City's economic needs by restoring a commercial space which previously has housed successful small retail businesses.
2. **Traffic flow and Safety:** It is submitted that this project will result in an improvement of traffic flow and safety over the previous condition in the area. There is no increase in units so there should be no increase in traffic however the proposed project will create 10 off street parking spaces for the residential units – previously there was not any off street parking. Getting 10 cars off the street will certainly improve traffic flow and safety along Mansfield Street.
3. **Adequacy of utilities and other public services:** This is a well settled area and utilities and public services exist in the neighborhood and will be available to and adequate for the 6 residential units and 1 commercial unit proposed in this project.
4. **Neighborhood character and social structure:** Mansfield Street is a well settled residential area – Washington Street is a main street with commercial and residential uses. This project will certainly not change the neighborhood character or social structure as it is replacing uses that have been in existence for many years. Arguably it will enhance the neighborhood character and social structure as there will now be new buildings which will be aesthetically pleasing and will be an improvement over the former buildings and certainly an improvement over the burned out shells that are currently present.

5. **Qualities of the natural environment:** As stated, this project seeks to replace the previously existing use – it does not expand on the previous use. A new building built to current codes will enhance the natural environment as it will be more energy efficient than the old buildings and it will be more aesthetically pleasing than the old buildings.
6. **Potential fiscal impact:** As a result of the fire the City lost 6 residential units and 1 commercial unit – the loss of those units means a loss of tax revenue to the City. Replacing those units will restore the lost tax revenue thus it will have a positive fiscal impact on the City. In addition the commercial unit will potentially provide jobs which is also a positive fiscal impact on the community.



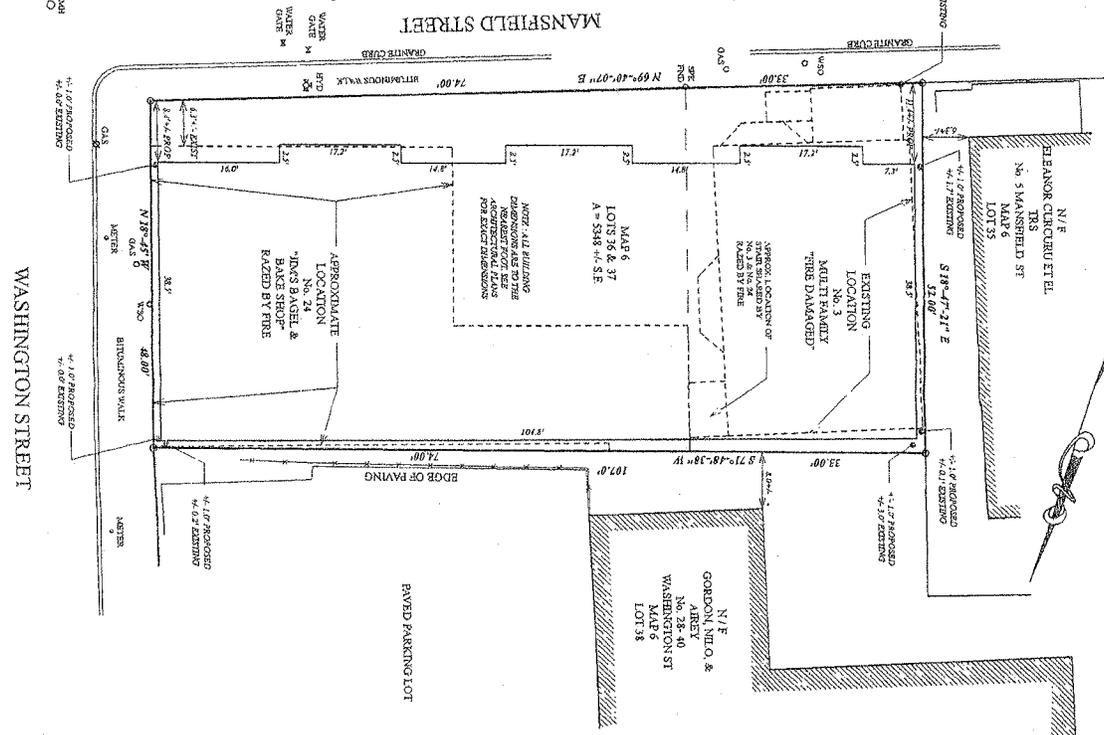
THIS PLAN IS BASED ON THE REFERENCED PLANS, DEEDS, AND THE RESULTS OF A FIELD SURVEY AS OF THIS DATE. NO CERTIFICATION IS INTENDED AS TO PROPERTY TITLE OR AS TO THE EXISTENCE OF UNWRITTEN OR UNRECORDED EASEMENTS.

HEREBY CERTIFY THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE BOARD OF REGISTRATION AND CONFORMANCE OF MASSACHUSETTS.



KIRK W. BENSON, PRESIDENT, PLS

REGISTRY USE ONLY



NOTES:

- ASSESSOR'S MAP 6 LOTS 36 & 37
- LOT ADDRESS: 3 MANSFIELD ST GLOUCESTER, MA
- RECORD OWNER: JAMES SANTO BOOK 31098 PAGE 490
- LOT ADDRESS: 24 WASHINGTON ST GLOUCESTER, MA
- RECORD OWNER: JAMES SANTO, TRUSTEE HANLEY R.E. TRUST BOOK 5979 PAGE 87
- PLAN REFERENCE: PLAN 234 OF 1973
- VERTICAL DATUM: NGVD 1929

GLOUCESTER ZONING BOARD

DATE: _____

PROPOSED PLAN OF LAND
GLOUCESTER, MA

Prepared By:
American Land Survey Associates, Inc.
Kirk W. Benson, President, PLS
42 Cherry Street Gloucester, MA 01930
978-281-7878

Prepared For:
JAMES SANTO

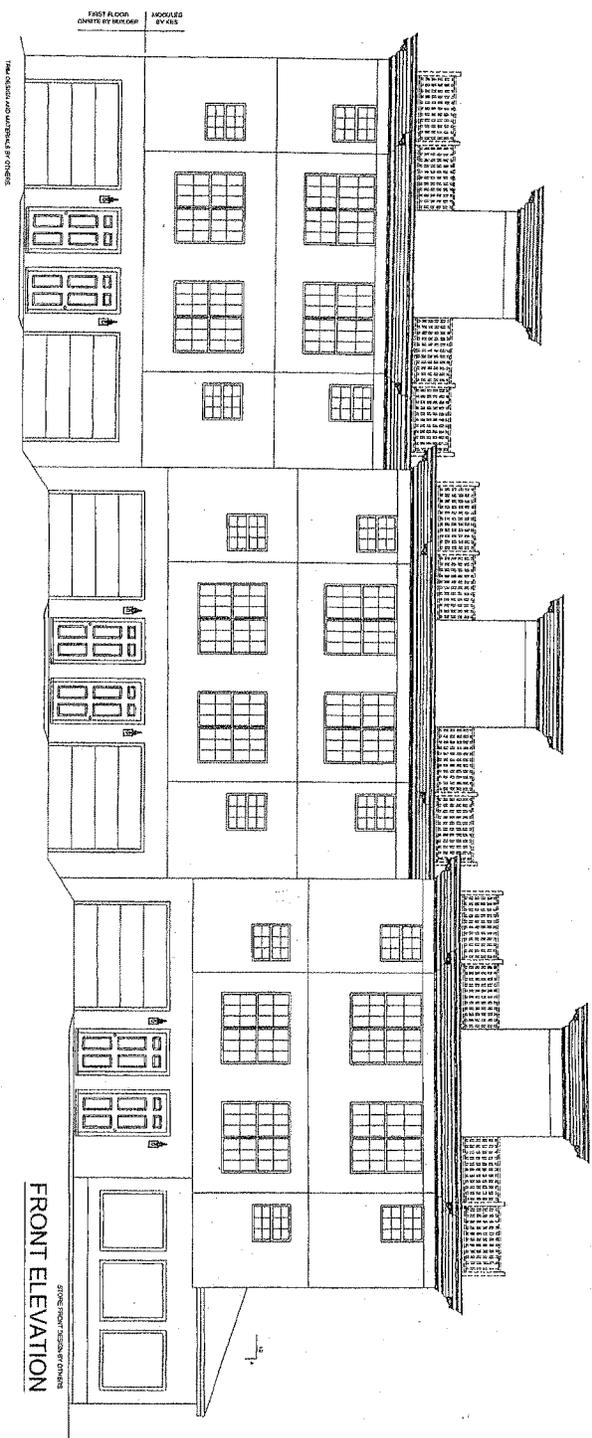
SCALE 1" = 10' SEPTEMBER 29, 2012



J-1342

12 DEC -5 AM 11:56
CITY CLERK
GLOUCESTER, MA

12 DEC -5 AM 11:54
 GLOUCESTER, MA



NOTE:
 - ELEVATIONS ARE FOR GRAPHIC REPRESENTATION ONLY. REFER TO WORK ORDER FORM FOR DETAILED INFORMATION.
 - EXTERIOR STEPS, RAILINGS & LANDINGS ONSITE BY OTHER.

6 UNIT
 WASHINGTON STREET
 GLOUCESTER, MA
 45# GSL / 110 MPH

JIM SANTO

MULTI-FAMILY, RETAIL

FILE NAME: O-12-0222-MAC
 SERIAL #

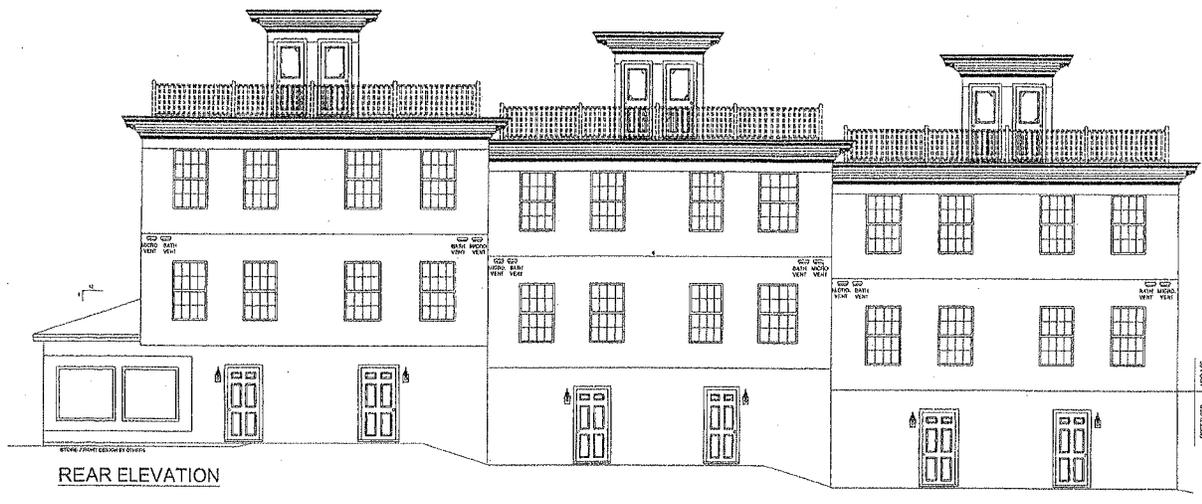
SHEET # P2
 SCALE 1/2" = 1'-0"
 DWN BY: WVA
 DATE: 08/04/12

REVISIONS	DATE	BY



KBS BUILDING SYSTEMS, INC.
 300 PARK STREET, SOUTH PARIS, ME 04281
 PHONE: 207-739-2400 FAX: 207-739-2223

FRONT ELEVATION



REAR ELEVATION

KBS DESIGN AND MATERIALS BY OTHERS

NOTE:
 - ELEVATIONS ARE FOR GRAPHIC REPRESENTATION ONLY. REFER TO WORK ORDER FORM FOR DETAILED INFORMATION.
 - EXTERIOR STEPS, RAILINGS & LANDINGS ONSITE BY OTHER.

PROJECT: 6 UNIT
 WASHINGTON STREET
 GLOUCESTER, MA
 45# GSL / 110 MPH

OWNER: JIM SANTO

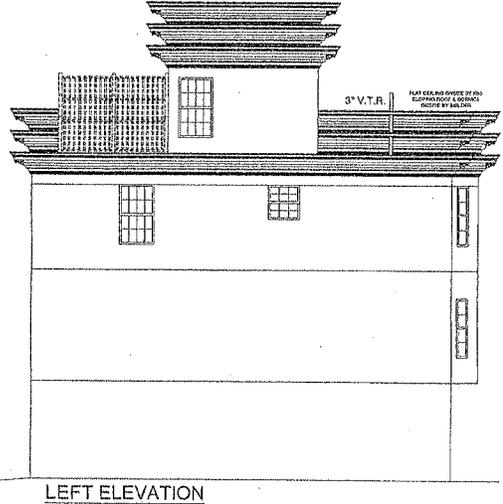
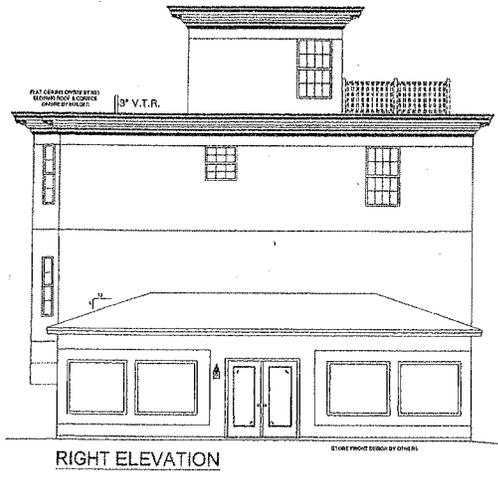
PROJECT: MULTI-FAMILY, RETAIL
 FILE NAME: Q-12-0222-MAC
 SERIAL #:

REAR ELEVATION
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 SCALE: 1/4" = 1'-0"
 DRAWN BY: WM
 DATE: 08/04/12

REVISIONS	Eng. Rec. #:	02/10/12 P1 / WSM
	Eng. Rec. #:	02/06/12 AG

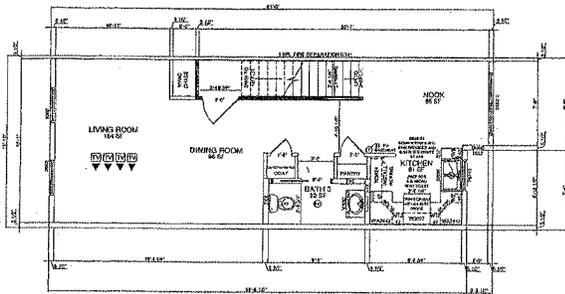


KBS BUILDING SYSTEMS, INC.
 300 PARK STREET, SOUTH PARIS, ME 04281
 PHONE: 207-739-2400 FAX: 207-739-2223

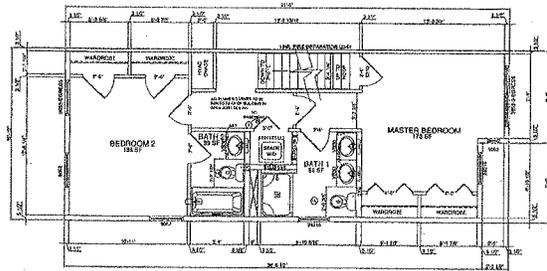


NOTE:
 - ELEVATIONS ARE FOR GRAPHIC REPRESENTATION ONLY. REFER TO WORK ORDER FORM FOR DETAILED INFORMATION.
 - EXTERIOR STEPS, RAILINGS & LANDINGS ONSITE BY OTHER.

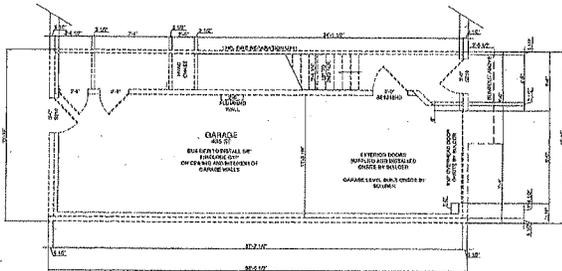
PROJECT 6 UNIT WASHINGTON STREET GLOUCESTER, MA 45# GSL / 110 MPH	ARCHITECT JIM SANTO	PROJECT MULTI-FAMILY, RETAIL FILE NAME: Q-12-0222-MAC SERIAL #:	SIDE ELEVATIONS SHEET # P2 SCALE: 1/4" = 1'-0" DWN BY: WM DATE: 08/04/12	REVISIONS Eng. Rev. #2 08/04/12 PHJ/WM Eng. Rev. #3 08/04/12 AD	 KBS BUILDING SYSTEMS, INC. 300 PARK STREET, SOUTH PARIS, ME 04281 PHONE: 207-739-2400 FAX: 207-739-2223
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SECOND FLOOR



THIRD FLOOR



LOWER LEVEL

HARVEY WINDOWS
9'-0" CEILINGS

6 UNIT
WASHINGTON STREET
GLOUCESTER, MA
45# GSL / 110 MPH

JIM SANTO

MULTI-FAMILY, RETAIL

FILE NAME: Q-12-0222-MAC
SERIAL #:

TYPICAL UNIT PLANS

SHEET # P48
SCALE: 1/4" = 1'-0"
DWN BY: WM
DATE: 08/04/12

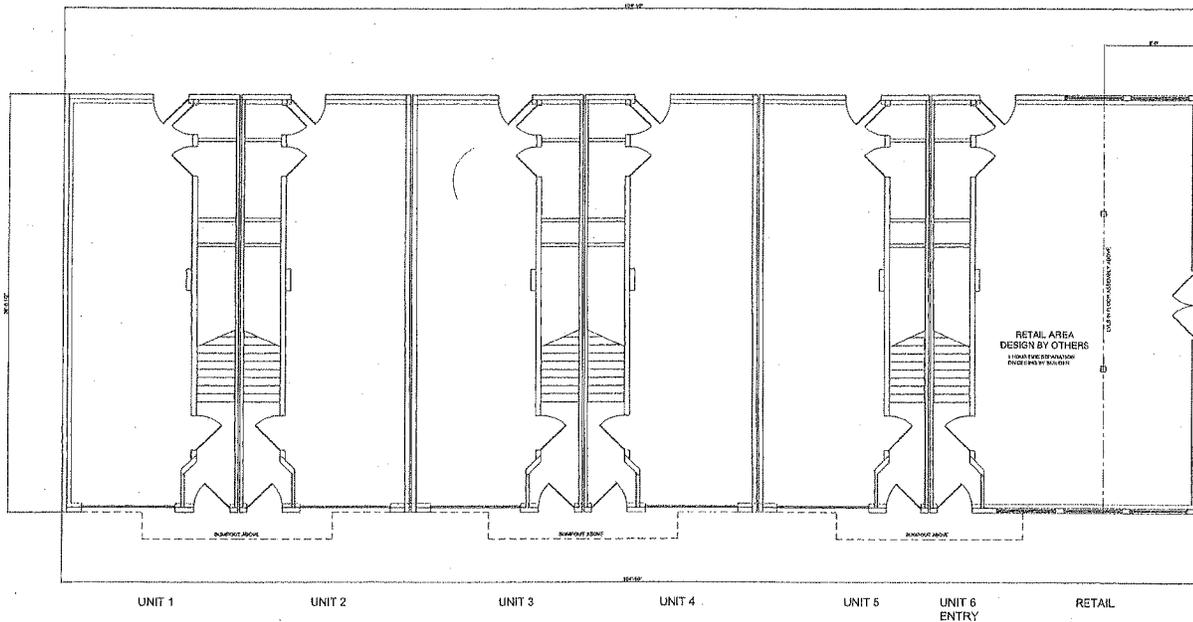
REVISIONS

ENG. PROJ. #
08/01/12 P48 (1/04)
ENG. REQ. #
08/01/12 AG



KBS BUILDING SYSTEMS, INC.

300 PARK STREET, SOUTH PARIS, ME 04281
PHONE: 207-739-2400 FAX: 207-739-2223



PROJECT
6 UNIT
 WASHINGTON STREET
 GLOUCESTER, MA
 45# GSL / 110 MPH

DESIGNER
JIM SANTO

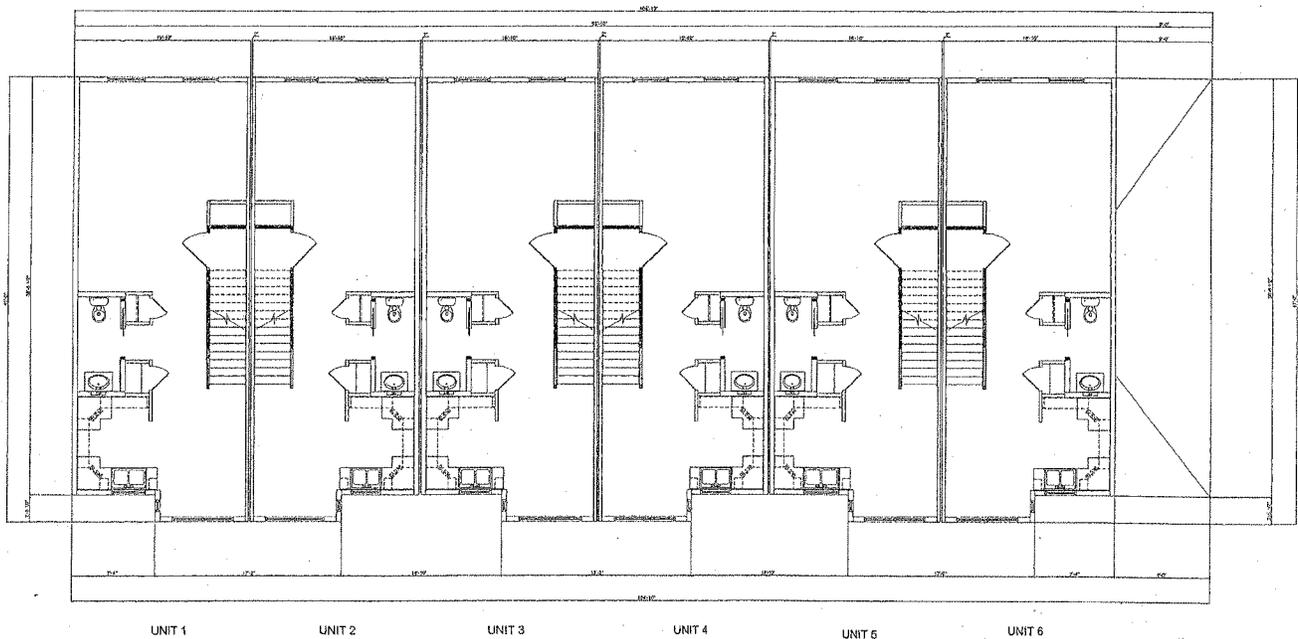
PROPERTY
MULTI-FAMILY, RETAIL
 FILE NAME: Q-12-0222-MAC
 SERIAL #:

LOWER LEVEL LAYOUT
 SHEET # P19a
 SCALE: 1/4" = 1'-0"
 DWN BY: WM
 DATE: 08/04/12

REVISIONS	ENG. PROJ. #	CONTRACT #	DATE



KBS BUILDING SYSTEMS, INC.
 300 PARK STREET, SOUTH PARIS, ME 04281
 PHONE: 207-739-2400 FAX: 207-739-2223



6 UNIT
 WASHINGTON STREET
 GLOUCESTER, MA
 45# GSL / 110 MPH

JIM SANTO

MULTI-FAMILY, RETAIL
 FILE NAME: Q-12-0222-MAC
 SERIAL #:

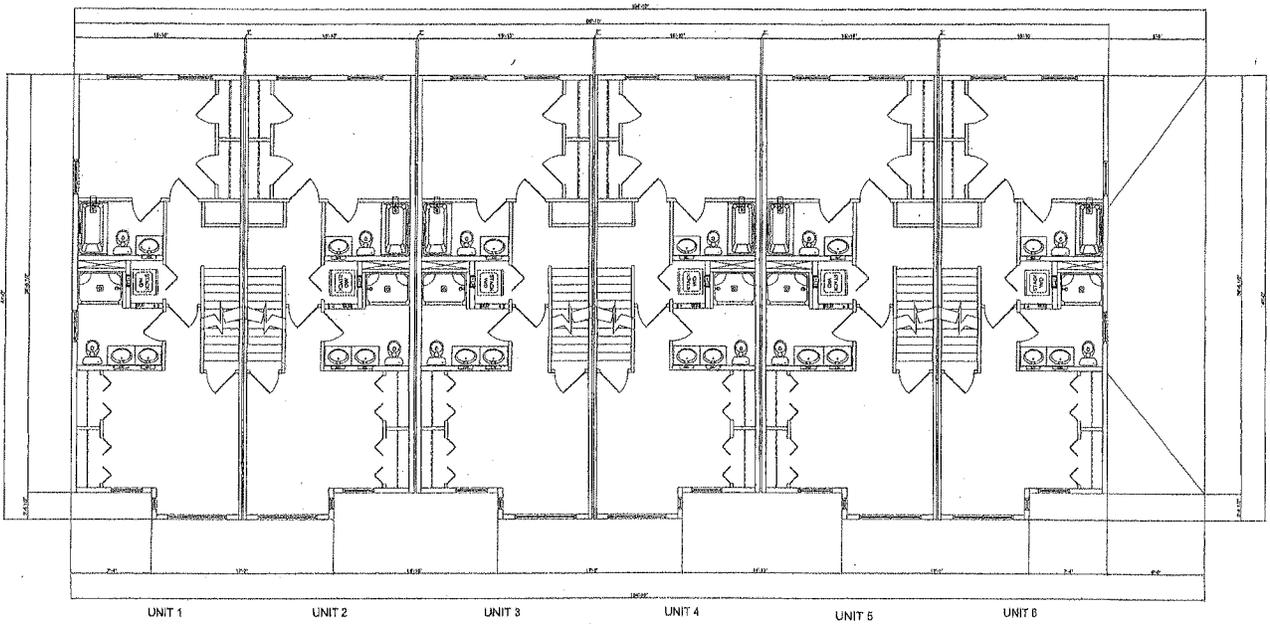
2nd FLOOR PLAN
 SHEET # P3
 SCALE: 1/4" = 1'-0"
 DWN BY: WM
 DATE: 08/04/12

REVISIONS

Eng. Rev. #2	08/12/12 PFM/WM
Proj. Recl. #1	08/26/12 JG



KBS BUILDING SYSTEMS, INC.
 300 PARK STREET, SOUTH PARIS, ME 04281
 PHONE: 207-739-2400 FAX: 207-739-2223



6 UNIT
 WASHINGTON STREET
 GLOUCESTER, MA
 45# GSL / 110 MPH

JIM SANTO

MULTI-FAMILY, RETAIL

FILE NAME: Q-12-0222-MAC
 SERIAL #:

3rd FLOOR PLAN

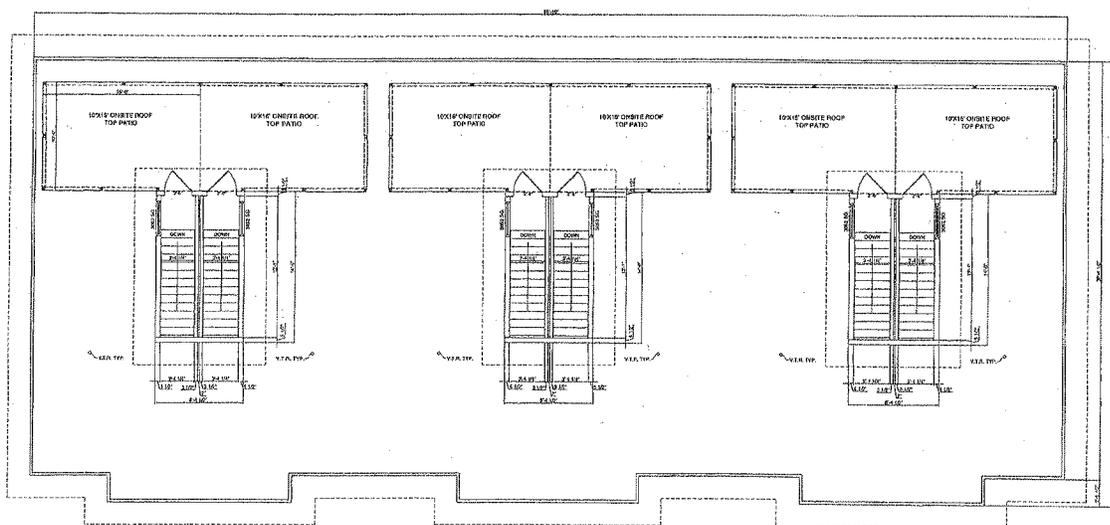
SHEET # P4B
 SCALE: 1/4" = 1'-0"
 DWN BY: WM
 DATE: 08/04/12

REVISIONS

ENR. REV. #2
 08/01/12 PJA/WMJ
 ENR. REV. #3
 08/06/12 JMS



KBS BUILDING SYSTEMS, INC.
 300 PARK STREET, SOUTH PARIS, ME 04281
 PHONE: 207-739-2400 FAX: 207-739-2223



UNIT 1 UNIT 2 UNIT 3 UNIT 4 UNIT 5 UNIT 6

PROJECT
6 UNIT
 WASHINGTON STREET
 GLOUCESTER, MA
 45# GSL / 110 MPH

ARCHIT
JIM SANTO

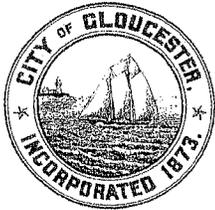
OWNER
MULTI-FAMILY, RETAIL
 FILE NAME: Q-12-0222-MAC
 SERIAL #:

ROOF PLAN
 SHEET # P4a
 SCALE: 1/4" = 1'-0"
 DWN BY: WM
 DATE: 08/04/12

REVISIONS	1	FOR PLOT BY	08/04/12
	2	ENG. REV. BY	12/04/12 AG
	3	DRAWN BY	WM



KBS BUILDING SYSTEMS, INC.
 300 PARK STREET, SOUTH PARIS, ME 04281
 PHONE: 207-739-2400 FAX: 207-739-2223



CITY OF GLOUCESTER

ZONING BOARD OF APPEALS

November 8, 2012

ZBA CASE NUMBER: 2012-

PETITIONER: JAMES SANTO, AS TRUSTEE OF THE FAMILY REALTY TRUST, 34
Railroad Avenue, Gloucester

LOCUS (hereafter, the "Site"): 3 MANSFIELD STREET AND 24 WASHINGTON STREET
(Assessors Map 6, Lots 36 and 37)

RELIEF REQUESTED:

1. Special permit to alter a non-conforming structure (Section 2.4.3 of the Zoning Ordinance)
2. Variance to reduce front yard setback requirement (Sections 1.7 and 3.2.2 of the Zoning Ordinance)
3. Variance to reduce side yard setback requirement (Sections 1.7 and 3.2.2 of the Zoning Ordinance)
4. Variance to reduce rear yard setback requirement (Sections 1.7 and 3.2.2 of the Zoning Ordinance)
5. Variance to reduce lot area requirement (Sections 1.7 and 3.2.2 of the Zoning Ordinance)
6. Variance to reduce vegetative cover requirement (Sections 1.7 and 3.2.2, fn. (b) of the Zoning Ordinance)

PURPOSE OF PETITION: to enable petitioner to apply to City Council for special permits to construct a new multi-family building on the Site, to replace the two buildings which were destroyed or heavily damaged by fire in 2011 and subsequently razed by order of the Inspector of Buildings.

HEARING DATE, TIME AND PLACE: as advertised, November 8, 2012; 7:00 PM; Gloucester City Hall, Dale Avenue, Gloucester, Massachusetts.

BOARD MEMBERS PRESENT AND VOTING ON THE PETITION:

JAMES P. MOVALLI, CHAIRMAN
VIRGINIA BERGMANN
ROBERT G. STEWART
FRANCIS S. WRIGHT
LEONARD GYLLENHAAL

ZONING DISTRICT: R-5 (High Density Residential)

PETITIONER REPRESENTED BY: himself

12 DEC 11 AM 10:56
CITY CLERK
GLOUCESTER, MA

APPEARING IN SUPPORT OF THE PETITION: no one

APPEARING IN OPPOSITION TO THE PETITION: no one

**PLANS, ELEVATIONS, ETC. SUBMITTED IN SUPPORT OF THE PETITION
(COLLECTIVELY, THE "PROJECT PLANS"):**

site plan entitled "Proposed Plan of Land . . . Prepared for James Santo", prepared by American Land Survey Associates, Inc. and dated September 29, 2012;

elevations and floor plans, entitled "6 Unit Washington Street", prepared by KBS Building Systems, Inc., dated 8/4/12 and consisting of 12 sheets

SITE VISIT PHOTOGRAPHS?: No

PHOTOGRAPHS BY OTHERS: No

**OTHER LETTERS, REPORTS, DOCUMENTS, ETC. SUBMITTED IN SUPPORT OF THE
PROJECT:** None

**OTHER LETTERS, REPORTS, DOCUMENTS, ETC. SUBMITTED IN OPPOSITION TO
THE PROJECT:** None

FACTUAL FINDINGS OF THE BOARD:

Based on the Project Plans, the testimony of James Santo and site visits by Board members, the Board finds that:

1. The Family Realty Trust (hereinafter, "FRT") owns the lots at 3 Mansfield Street and 24 Washington Street. Both lots had buildings on them: 3 Mansfield Street contained three apartments; 24 Washington Street contained a retail business on the ground floor and three upper story apartments.
2. In 2012 a fire destroyed the building at 24 Washington Street and so damaged the building at 3 Mansfield Street that it was ordered razed by the Inspector of Buildings. At the time of the fire FRT owned only 3 Washington Street; it subsequently acquired 3 Mansfield Street.
3. FRT proposes to combine the lots and build one building to replace the previous two. Like the earlier buildings, the new building will front on both Mansfield and Washington Streets. The new building will contain one retail unit, at the corner of the two streets, and six residential units, the entrances to which will be on Mansfield Street. Thus there will be no change in the collective use of the former buildings, and the number of commercial units (one) and the residential units (six) will remain the same.
4. Like most buildings in downtown Gloucester, the previous buildings extended well into the front, side and rear yard setbacks, as well as exceeding other dimensional restrictions of the current zoning ordinance. As shown on the Project Plans, the footprint of the new building will extend no further towards the property lines than the previous buildings; indeed, on its Mansfield Street Side the exterior wall of the new building will be pulled back at several

locations (See the Site Plan, showing the outline of the new building in red and the outline of the previous buildings in dotted lines).

5. Unlike the situation prior to the fire, where practically all of the tenants had to find parking on the street, FRT proposes to provide two interior parking spaces for five of the six apartments, for a total of 10 off-street spaces.

6. Mr. Santo testified that he has discussed his plans with neighbors on both streets, and that they were unanimous in their support of the project. In the Board's opinion this is not surprising, given the rubble-strewn nature of the present property and the fact that the number of rental units in the proposed building will be no greater than that which previously existed.

7. The exterior of the building will be clapboard. Mr. Santo agreed to give every consideration to using wood or composite clapboards rather than vinyl, and the Board commends him for his commitment. This portion of Washington Street is the gateway to downtown Gloucester and its waterfront, making the exterior appearance of the new building all the more critical.

STANDARD TO BE APPLIED BY THE BOARD:

1. Special permit to alter, expand or reconstruct a non-conforming structure (Section 2.4.3 of the Zoning Ordinance)

Pursuant to Section 2.4.3 of the Zoning Ordinance, in considering whether to grant a special permit to alter, expand or reconstruct a non-conforming structure, the Board must find, upon consideration of all the evidence, that the proposed structure will not be substantially more detrimental to the neighborhood than the existing use.

2. Variances to reduce various dimensional requirements (Section 1.7 of the Zoning Ordinance)

Pursuant to Section 1.7 of the Zoning Ordinance, in considering whether to grant a variance the Board must find that literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise, to petitioner. Furthermore, the Board must make two additional findings:

1. that the hardship arises from circumstances relating to the soil conditions, shape or topography of the land or structure(s) in question, which circumstances particularly affect such land or structure(s) but which do not generally affect the zoning district in which they are located; and
2. that the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance his ordinance.

DECISION OF THE BOARD:

1. Special permit to alter, expand or reconstruct a non-conforming structure (Section 2.4.3 of the Zoning Ordinance)

The true impact of this project on the Washington Street–Mansfield Street neighborhood will not be assessed until the City Council rules on petitioner’s forthcoming applications for the following relief:

- multi-family special permit pursuant to Sections 1.8.3 and 2.3.1;
- special permit to exceed 35 feet in height pursuant to Section 3.1.6;
- special permit to reduce required lot area per dwelling unit pursuant to Section 3.2.2, fn. a;
- special permit to reduce required open space per dwelling unit pursuant to Section 3.2.2, fn. a

For purposes of the Board’s limited jurisdiction over this proposal, however, and assuming that the City Council approves the project pursuant to the above-referenced sections of the Zoning Ordinance, the Board has no trouble finding that the proposed building will be generally in keeping with the character of the neighborhood, will not affect traffic and safety in the neighborhood, will provide 10 off-street parking spaces, and enjoys the active support of petitioner’s immediate neighbors. Accordingly, the Board finds that the proposed building will not be substantially more detrimental to the neighborhood than the previous two buildings.

BASED ON THESE FINDINGS, AND SUBJECT TO THE GENERAL AND SPECIAL CONDITIONS SET FORTH BELOW, THE BOARD GRANTS PETITIONER A SPECIAL PERMIT TO CONSTRUCT THE PROPOSED BUILDING, IN ACCORDANCE WITH THE PROJECT PLANS,

2. Variances to reduce various dimensional requirements (Section 1.7 of the Zoning Ordinance)

The Board finds that literal enforcement of the applicable provisions of the zoning ordinance would involve substantial hardship to petitioner, for the following reason. Petitioner does not seek to significantly increase the aggregate footprint of the two destroyed buildings; indeed, as it fronts on Mansfield Street the proposed building will be pulled back at several locations where the previous buildings sat virtually on the property line. Similarly, other discrepancies between the previous buildings and the dimensional requirements of the current zoning ordinance will not be made any more egregious by the proposed building. Petitioner is only obliged to ask for the above-referenced variances because of a procedural requirement that a change in structure such as that proposed by petitioner can only be brought before the City Council with all dimensional requirements satisfied or variances obtained.

Thus the variance requests are technical in nature, and the real issue in this case – i.e., the impact of petitioner’s proposal on the neighborhood – will be decided by the City Council pursuant to the criteria set forth at Sections 1.8.3; 3.1.6(b) and 3.2.2, fn.(a) of the Zoning Ordinance. If petitioner proposed a new building significantly in excess of the aggregate mass of the earlier buildings, or to increase the number of units, then the Board would be required to view the hardship question in light of the narrow criteria of Chapter 40A – soil conditions, lot shape, etc. Since this is not the case, under the special circumstances presented by this application the Board finds hardship in the fact that if the variances were not granted petitioner would be prevented from making its case before City Council, where the criteria referenced above come into play and the real issues will be fairly debated.

The Board also finds that the new building will not be inconsistent with other residential and commercial structures in the neighborhood and will not increase the intensity of use of the Site.

Accordingly, the desired relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance.

SUBJECT TO THE GENERAL AND SPECIAL CONDITIONS SET FORTH BELOW, THE BOARD HEREBY GRANTS THE FOLLOWING DIMENSIONAL RELIEF:

DIMENSIONAL REQUIREMENT	REQUIRED	PROPOSED/ EXISTING	VARIANCE GRANTED
Lot area	10,000 sf	5,348 sf	4,652 sf
Front yard setback	20 Feet	1 Foot	19 Feet
Left side yard setback	12.5 Feet	1 Foot	11.5 Feet
Right side yard setback	12.5 Feet	1 Foot	11.5 Feet
Rear yard setback	12.5 Feet	1 Foot	11.5 Feet
% Vegetative cover	65%	0 %	65 %

GENERAL CONDITIONS:

1. All work authorized by this decision shall be in accordance with the above-referenced Project Plans, which have been stamped and endorsed by the Board Chairman and which are the sole plans of record in this matter. Any unauthorized deviation from the Project Plans shall result in automatic revocation of this special permit and variance, and shall subject petitioner to all available remedies at law.
2. This decision shall not take effect until notice thereof is filed in the Registry of Deeds of Essex County. The fee for filing such notice shall be paid by petitioner. Prior to filing this decision with the Registry of Deeds, petitioner shall have the Seal of the City affixed to same.

SPECIAL CONDITIONS:

1. The variances and special permit granted hereby are solely for the purpose of enabling petitioner, pursuant to Sections 1.8.3; 2.3.1; 3.1.6 and 3.2.2, fn. a of the Zoning Ordinance, to apply to City Council for the requisite special permits to construct the building shown on the Project Plans. The variances and special permits granted hereby shall take effect only upon the granting of such special permit by the City Council. In the event that petitioner fails to apply for such special permits within six months of the date of this decision, or in the event that the City Council denies one or more of such special permits, the variances and special permits granted hereby shall be considered void and of no further force or effect. Provided, however, that for good cause shown, the Board may extend the time for filing an application with City Council.
2. To the extent that the variances, special permits or other approvals granted by this Board in prior proceedings concerning the Site are inconsistent with or are made superfluous by this decision, the provisions of this decision shall control.

VOTE OF THE BOARD

In favor:



JAMES P. MOVALLI, CHAIRMAN



VIRGINIA BERGMANN



ROBERT G. STEWART



FRANCIS S. WRIGHT



LEONARD GYLLENHAAL

Opposed: NONE

December 11, 2012

CITY CLERK
GLOUCESTER, MA

12 DEC 27 PM 4:05

The City Gloucester
Gloucester City Council
9 Dale Avenue
Gloucester, MA 01930

RE: Applicant: MetroPCS Massachusetts, LLC - Proposed Modification of an Existing Wireless Communications Facility
30 Blackburn Drive, Bldg. 4 (aka 14-20 Blackburn Drive)
(Assessor's Map 262, Lot 24)

Dear Honorable Members of the City Council:

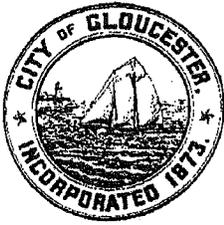
Please find the attached application for a Special Council Permit or Amendment of the existing Special Council Permit from the Gloucester City Council (the "Council"), in connection with its proposed modification of a Personal Wireless Service Facility ("PWSF"). This proposed modification regards Metro's existing PWSF approved in 2009 which is located on existing tower within the Business Park (BP) zoning district. Pursuant to Section 5.13.7 of the City of Gloucester Zoning Ordinance (the "Ordinance"), the use of the Property for a PWSF is permitted by Special Permit from the City Council. The modification of such a facility may require the Amendment of an existing Special Council Permit or new Special Council Permit.

This letter is submitted in support of the attached application, together with various other supporting materials enclosed herewith.

Company Information:

MetroPCS Massachusetts, LLC. (herein MetroPCS) is one of a limited number of companies to have received licensing by the Federal Communications Commission to provide wireless communication services to not only the residents and businesses of the City of Gloucester but also throughout the Greater New England region. On the basis of these licenses, MetroPCS is mandated by the Federal Communications Commission to actively construct and operate a seamless wireless telecommunications network in various markets throughout the country, including the Commonwealth of Massachusetts, and in particular in the City of Gloucester and the greater surrounding area. A copy of MetroPCS's FCC license is attached hereto.

MetroPCS is in the process of upgrading and modernizing a telecommunications system to serve the New England Market. MetroPCS offers wireless broadband personal communication services, or PCS, on a no long-term contract, flat rate, and unlimited usage basis in selected major metropolitan areas in the United States. Since MetroPCS has launched their innovative wireless service in 2002, they have been among the fastest growing wireless broadband PCS providers in the United States as measured by growth in subscribers and revenues during that period. MetroPCS currently owns or has access to



CITY OF GLOUCESTER

Health Department
3 Pond Road, City Hall Annex
Gloucester, Massachusetts 01930
PHONE: 978-281-9771 · Fax: 978-281-9729
EMAIL: healthdept@gloucester-ma.gov
WEBSITE: www.gloucester-ma.gov



Public Health
Prevent. Promote. Protect.

James Santos
34 Railroad Ave
GLOUCESTER, MA 01930

March 12, 2013

RE: TRASH IN YARD
3 Mansfield Street
MAP 6 / LOT 36

SENT VIA CERTIFIED MAIL

Dear Mr. Santos]:

On March 7, 2013 this office received a complaint that trash from the above referenced property was found in the back yard. A representative from our office performed a site visit and observed a large quantity of loose trash.

Under the Gloucester City Code of Ordinances, Chapter 9:

Sec. 9-7. Duty to maintain private property free of litter.

(a) *The owner or person in control of any private property shall, at all times, maintain his premises free of litter so that the same does not constitute a danger to the public health, safety and public welfare. This section shall not prohibit the storage of litter in authorized private receptacles for collection.*

(b) *The board of health, or its agents, police officers, building inspector, or DPW director is hereby authorized and empowered to request the owner of any open or vacant private property within the city or agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Any such request shall be by registered mail, addressed to the owner at his last registered address.*

You are hereby notified that the loose trash in your yard must be collected and properly disposed of in order to prevent any further violations to public health. Failure to do so will be cause for an administrative hearing and applicable fines may be imposed.

Please contact our office immediately with your plan to remediate the issue. You can contact me directly using the information provided in this letter.

Regards,

Chris Sargent

Cc:

13 MAR 26 PM 12: 51
CITY CLERK
GLOUCESTER, MA



**CITY OF GLOUCESTER
PLANNING BOARD**

3 Pond Road, Gloucester, MA 01930

Tel 978-281-9781

Fax 978-281-9779

CERTIFICATE OF VOTE

In accordance with the Gloucester Charter Section 5.3(d), at a regularly scheduled meeting of the Gloucester Planning Board held on March 7, 2013, after review and discussion with the candidate Tom Daniel, the Planning Board voted unanimously (7-0) to recommend to the City Council the appointment of Tom Daniel to the position of Community Development Director.

CITY CLERK
GLOUCESTER, MA
13 MAR 20 PM 12: 09

Thomas M. Daniel, AICP

EDUCATION

Humphrey Institute of Public Affairs, University of Minnesota, Minneapolis, MN. Master of Urban and Regional Planning. Course work included community and economic development, private sector development, public finance, land use planning, urban design, strategic planning, GIS, and microeconomics.

Grinnell College, Grinnell, IA. Bachelor of Arts degree with major in French.

EMPLOYMENT EXPERIENCE

Salem Department of Planning and Community Development, Manager, Economic Development, Salem, MA, December 2007-present.

Manage city's economic development program including CDBG small business loans, storefront improvement program, technical assistance, and incentive financing for business development. Led development of comprehensive parking study and revision to downtown parking system including extensive public outreach and presentations to businesses, community groups, Mayor, and City Council. Developed multi-faceted public art program. Prepare grant applications and manage grant funding for various city initiatives. Administer applications for review and approval by Salem Redevelopment Authority and Design Review Board. Serve as City liaison to the region's creative economy initiative, Salem Main Streets, and Salem Chamber of Commerce. Present case studies of Salem's downtown redevelopment success to state and national conferences.

Minneapolis Department of Community Planning and Economic Development, Acting Manager, Economic Development, September 2004-February 2005; Manager, Economic Development, Minneapolis, MN, February 2005-November 2007.

Managed, planned, directed, administered, and monitored functions of the Business Development department. Supervised 15-member professional team and managed work program for commercial corridor, downtown, industrial, riverfront, and cultural facilities development. Shaped economic development policy, programmatic focus, annual budget, and business plan. Collaborated on regional approach to economic development. Worked directly with Mayor, City Council, and other elected and appointed officials. Continued management of key downtown redevelopment projects with responsibilities as described below.

Minneapolis Community Development Agency/Minneapolis Department of Community Planning and Economic Development, Project Coordinator I, II, III, and Principal Project Coordinator, Minneapolis, MN, May 2000-February 2005.

Negotiated, implemented, and managed complex development agreements, loans, plans, and projects for urban redevelopment. Engaged in area planning studies and pre-project planning, established development objectives, created redevelopment area plans, solicited citizen input, and coordinated with staff from other departments and units of government. Acquired and sold land, secured brownfields cleanup funding, analyzed financial feasibility of development proposals, identified gap funding sources (tax increment financing, CDBG and other federal, state, and local grants), developed tax increment financing plans, facilitated planning and zoning approval process, recommended actions to City Council, monitored budgets and contract compliance. Projects ranged from small neighborhood retail to large multi-party, mixed-use downtown projects resulting in more than \$300 million of investment in the city.

- PROFESSIONAL TRAINING** **National Development Council.** Housing Development Finance Professional Certification, 2003; Economic Development Finance Professional Certification, 2001.
- City of Minneapolis Leadership Development Program,** 2002-2003. Competitive program for leadership development of city staff.
- Community Leadership Institute,** Hamline University, St. Paul, MN, 1997. Non-degree program for leadership development.
- BOARDS AND MEMBERSHIPS** **North Shore Workforce Investment Board,** *Member*, 2008-present.
- German Marshall Memorial Fellowship,** *Fellow*, 2006-present. Competitive award for European study and transatlantic collaboration.
- University of Minnesota Humphrey Institute Alumni Board,** *President*, 2007-2008; *Member*, 2005-2008.
- Greater Metropolitan Foreign Trade Zone Commission,** *Commissioner*, 2004-2007.
- American Institute of Certified Planners,** *Member*, 2003-present.
- American Planning Association,** *Member*, 1998-present. Member of Economic Development Division and Massachusetts Chapter.
- PRESENTATIONS** **Southern New England American Planning Association Conference,** *Presenter*, "Putting Cars in Their Place: Walking, Biking and Parking" and *Presenter*, "Parking Reform Comes to New England," Hartford, CT, September 21, 2012.
- American Planning Association National Conference,** *Presenter*, "Salem's Magical Tale: Downtown and Waterfront Revitalization Mobile Workshop," Boston, MA, April 12, 2011.
- Rail-Volution National Conference,** *Presenter*, "Magic Express Mobile Workshop," and *Presenter*, "TOD Around Commuter Rail," Boston, MA, October 29, and 31, 2009.
- Massachusetts Association of Planning Directors Annual Conference,** *Presenter*, "Downtown Salem Mobile Workshop," Salem, MA, June 5, 2009.
- COMPUTER SKILLS** Experienced user of PCs and Mac computers. Working knowledge of Microsoft Office Suite (including Word, Excel, PowerPoint, Outlook, and Access), ArcGIS, Acrobat, PageMaker, Photoshop.
- LANGUAGES** French, Spanish.
- REFERENCES** Available upon request.



**CITY OF GLOUCESTER 2013
CITY COUNCIL ORDER**

ORDER: CC#2013-017
COUNCILLOR: Greg Verga

DATE RECEIVED BY COUNCIL: 03/26/13
REFERRED TO: O&A & P&D
FOR COUNCIL VOTE:

ORDERED that the Gloucester Code of Ordinances, Chapter 21 "Streets, Sidewalks, and Other Public Places", Article IV "Repair of Private Ways", sections 21-81 through 21-85 as amended April 10, 2012, be **AMENDED** to **ADD** specific standards on what the City should require for the level of design, the amount of work, and the allocation of funds for permanent repairs to private streets; and further

ORDERED that this matter shall be referred to the Ordinances and Administration Standing Committee and the Planning and Development Standing Committee for review and recommendation.

Greg Verga
Ward 5 Councillor

Sec. 21-81. - Type and extent of work.

- (a) Permanent construction or repair shall include, but not be limited to, the construction, resurfacing and reconstruction of private ways. Permanent construction or repair may include the installation and construction of drainage systems in those instances in which the city council, with advisory reports from the director of public works or city engineer, has determined that a drainage system is necessary. Petitioners should discuss proposals with director of public works and city engineer for guidance.
- (b) Temporary construction or repair shall include the filling of holes in the subsurface of private ways and repairs to the surface materials, but shall not include the resurfacing thereof. Oiling and tarring of private ways by the city shall not be permitted.

(Ord. of 11-18-1980, § 2)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 21-82. - Permanent or temporary construction or repair, when available.

- (a) Permanent construction or repair may be performed by the city upon approval of the city council in accordance with the procedures set forth in section 21-84
- (b) Temporary construction or repair may be performed by the city upon a determination by the director of public works that the condition of a way adversely affects the safety of the inhabitants and that construction or repair of a permanent nature is unnecessary to cure the condition, or upon determination that the condition of the way constitutes an emergency which requires the immediate performance of construction or repair in order to protect the health or safety of the inhabitants of the city.

(Ord. of 11-18-1980, § 3)

Sec. 21-83. - Funding for approved construction or repair.

- (a) Fifty percent of the total cost of performance of approved permanent construction and repair work, including the cost of plans or specifications developed subsequent to city council approval, but excluding the cost of preliminary plans developed prior to city council approval, shall be paid by the city from funds appropriated to a separate account in the yearly city budget or from the capital improvement program, except that the city in no case shall be obligated to pay any portion of any costs in excess of 110 percent of the estimated costs to the city as represented in the petition and plans approved by the city council pursuant to section 21-84 herein; the remaining 50 percent of the total cost as described in this subsection shall be paid by the abutting owners, the amount to be so paid to be divided by the number of abutting parcels and assessed to the owners thereof.
- (b) In the case of temporary repairs, the city shall be obligated to pay 100 percent of the total cost.
- (c) In any case involving construction or repairs costing less than \$4,000.00, the city may satisfy its financial obligation under subsections (a) and (b) of this section through the provision of either in-kind services or cash payment of the amount established pursuant to this section. In-kind services may be performed by the department of public works if, in the judgment of its director, the department has the existing capability to render such performance. Where the cost of construction or repair exceeds \$4,000.00, the work shall be awarded to private contractors by means of the applicable bidding procedures.

- (d) The city shall not require that abutting owners pay a cash deposit as a prerequisite to the performance of approved work. However, betterments shall be assessed and collected for such work in accordance with the provisions of M.G.L. c. 80, § 1 et seq. and other applicable laws.

(Ord. of 11-18-1980, § 4)

Sec. 21-84. - Procedural prerequisites for permanent construction or repair.

- (a) Any performance of permanent construction or repair as set forth in this article must be authorized by a majority vote of the city council. No such authorization shall be granted unless the requirements of subsection (b) through (i) of this section have been satisfied.
- (b) A petition, signed by no less than 51 percent of the abutting owners of the portion of the private way subject to the proposed construction or repair, must be submitted to the city council. Such petition must conform to the requirements of subsections (c) through (f) of this section.
- (c) Petitioners shall use only official petition forms, available from the city clerk's office upon request.
- (d) The original petition shall be submitted to the city clerk. The city clerk shall file a copy of the petition with the mayor's office and with the director of public works. Prior to the filing of any petition, prospective petitioners shall be encouraged to contact the city engineer and/or the director of public works to discuss the proposal informally for the purpose of receiving guidance and relevant information.
- (e) All petitions submitted to the city council for consideration must be accompanied by a set of preliminary engineering plans prepared and signed by a registered engineer qualified in the field. Such plans must be of sufficient detail to indicate the nature and extent of the work requested and the quantity and type of materials necessary. Such plans must also indicate an estimated cost of the requested construction or repair. In no event shall the cost of any such preliminary plans be included in the project costs to be shared by the city and the abutting owners. All petitions submitted to the council also must plainly indicate that a meeting of the abutting owners has been held and votes recorded as provided in section 21-85.
- (f) After the filing of the petition as described in subsection (d) of this section, the city engineer or director of public works shall be consulted by the petitioners for purposes of preliminary review and comment upon the petition and plans prior to the forwarding of said materials to the city council. Such review may include a recommendation that the petition be withdrawn by the petitioners or rejected by the city council as an insufficient or inappropriate solution to the problem presented.
- (g) Within 30 days after the filing date of the petition, the mayor and the director of public works shall review the petition and shall submit to the city council their recommendations concerning the necessity and feasibility of the project, the appropriate priority to be assigned to the project, and the availability of funding. Failure to submit the required reports shall be deemed to signify approval of the proposed work.
- (h) The city council must hold a public hearing upon the petition within 60 calendar days of filing thereof, except that in a particular case the council by two-thirds vote thereof may extend the deadline for hearing by a maximum of 30 days. Review of the petition by the city council shall include a determination whether the construction or repair is required by public convenience and necessity.
- (i) Approval of a petition shall require a majority vote of the city council. Notice of the council's decision shall be posted and a copy thereof shall be mailed to all abutting owners.

(Ord. of 11-18-1980, § 5)

Sec. 21-85. - Meeting and vote by abutting owners.

- (a) Prior to submitting any petition under this article, a meeting of all abutting owners must be held, after notice, and a vote recorded to perform and pay for certain repairs to the private way in question. The meeting shall be called by any two or more abutting owners. Notice of the meeting, stating the date, time and location thereof, shall be given at least seven days in advance by posting the notice in the city clerk's office and by mailing the notice to all abutting owners by registered mail, return receipt requested. Submission of such receipts shall be deemed sufficient evidence that notice has been given to abutting owners.
- (b) At the meeting of abutting owners as required by subsection (a) of this section, separate votes shall be taken and recorded to determine whether certain repairs are to be sought and whether such repairs shall be paid for pursuant to the terms of this article. A majority of the abutting owners attending the meeting must vote in favor of both issues in order to qualify for construction or repair under this article.

(Ord. of 11-18-1980, § 6)

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, March 20, 2013 – 7 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Joseph Ciolino (Alternate); Councilor Paul McGeary (Alternate)

Absent: Councilor Hardy

Also Present: Councilor McGeary; Councilor LeBlanc; Rick Noonan

The meeting was called to order at 7:04 p.m. Councilor McGeary sat in for Councilor Tobey until his arrival at 7:09 p.m. Upon Councilor Tobey's arrival there was a quorum of the City Council.

1. Memorandum from Mayor re: Request for Referendum Question on Designated Port Area (DPA) (Cont'd from 01/16/13)

Councilor Tobey shared with the Committee that this afternoon he had a discussion with the Mayor; as the Council was advised through the last Mayor's Report, the Harbor Planning Committee voted unanimously to propose that State's Office of Coastal Zone Management (CZM) conduct a boundary review of the existing Designated Port Area (DPA) to see the extent to which some areas, particularly the East Gloucester stretch, might be considered for removal from the DPA as a matter of regulatory action by CZM. That is a matter officially filed several weeks ago and is in process and could take 6 to 10 months. He said his and the Mayor's consensus is this may be a matter to start thinking whether or how to frame a question but wait. He asked the Clerk of Committees to ask the City Clerk to compose an advisory memorandum to the P&D Committee about how long a vote by the Council for a ballot question can wait so that close to the last moment the Committee can compose a ballot question based on the input from the Harbor Planning Committee (HPC), the Administration's team.

Rick Noonan, Chair of the Harbor Planning Committee noted this is a parallel discussion. The HPC has a much broader charge he pointed out. Boundary review was one of several items the Council will hear a report on. He said the process is asking the questions, understanding the answers and moving forward from there. [The request to CZM] takes a big question out of the HPC's hands because this is a much larger public process than an advisory committee to the City Council.

Councilor Tobey also asked the Committee to think about I4-C2 and if the Committee would want to put forward an advisory question on any aspect of the DPA, he said he would want to see a question that puts I4-C2 in front of the electorate to see what their feelings are on the matter.

Councilor McGeary, Vice Chair of the Harbor Planning Committee said the boundary review is not in the purview of the HPC but, he said, it is an important piece of information as they look at the dimensions of the DPA. The HPC felt it would be useful to have that information as part of their process. From the HPC's perspective it is vital information. The only caution, he said he had, is that in general he believed the voters should be able to weigh in on this matter. But having looked at the harbor and the DPA rules for several months, the Committee will need to carefully craft the question, he said. **Councilor Tobey** noting CZM has a bureaucratic process, a ballot question, he said, might send a political message to certain folks.

Councilor Ciolino pointed out his position that sometimes there is a push to make a premature decision. He agreed the composition of and vote for a ballot question should be held off to hear what the HPC has to say; then formulate a ballot question and work together. The HPC is recognizing the City is at a tipping point on the harbor; what worked in 1970 isn't working in 2013, he said.

Mr. Noonan noted that Kathryn Glenn who works for CZM at the State Fish Pier (and acts as the HBC's unofficial advisor) spoke to the HPC on two separate occasions to understand the regulatory challenge the City faces. He explained in layperson's terms that there are two buckets - the DPA bucket and non-DPA bucket. The HPC has worked hard to focus the discussions around complying with the regulations of a DPA and siting their vision outside of business as usual. A very rigorous discussion was held the previous evening by the HBC, he reported, about the relationship. **Mr. Noonan** noted that the reality of boundary review is that the HPC petitions the Mayor: the Mayor writes a letter to CZM, and then the City get something back from them. There will be public hearings organized by the State to have discussion around the 30 day public hearing process. The City, from a legislative standpoint, doesn't have any input other than to show up at a meeting and speak about what you think. **Mr. Noonan** said from his perspective moving forward the City will be in the DPA. Whatever recommendations

will come out of the HPC will comply with the regulations but hopes to have a broader understanding of potential uses.

Councilor Tobey said he didn't think the HPC is going to tell the Council how to scope a question, which **Mr. Noonan** confirmed with **Councilor Tobey** adding that the Council shouldn't expect too much. **Councilor Ciolino** noted the last time this was done there was the 75:25 rule. That was changed to a 50:50 rule; perhaps the recommendation could be 75:25 the other way which is "a big deal." **Mr. Noonan** noted the HPC had discussed that fact. Councilor Tobey confirmed to the Committee of Mayor Kirk's intent to join the Committee's conversation in a later phase on the matter.

This matter is continued to August 21, 2013.

2. *CC2012-072 (Hardy/McGeary/Verga) Request City Council review Law Proposed by Initiative Petition 3 re: Zoning/marijuana dispensaries (Cont'd from 12/19/13) and to consider Planning Board recommendation of January 25, 2013*

Councilor Verga said when this matter was looked at the first time the Committee wasn't sure where to start. There was an interim regulation from the Planning Department which he informed the Committee he did not care for. One Massachusetts town tried to completely ban Medical Marijuana Treatment Centers (MMTC) but the Attorney General said MMTC's cannot be banned. The moratorium "route" seems to be coming forward for communities who are not completely on board with the concept. He noted he requested through the City Clerk's office the results of the election ballot question, and found the votes averages out on the ballot question to about high 60's in favor. He said he didn't think roadblocks and things of that nature do voters any good. **Councilor Tobey** asked when regulations are expected from the State. **Councilor McGeary** said it could take as much as a year or maybe less before the Department of Public Health (DPH) releases regulations.

Councilor Verga said Sec. 5.27.1 of the proposed moratorium ordinance that gave him pause as suggested by the Planning Department says "shall provide this opportunity to study their potential impacts on adjacent uses." He said as soon as he sees the word "study" it indicates it is a matter that one doesn't want to deal with which did not make sense to him. **Councilor Tobey** pointed out that some State legislators use the "trick" of study commissions to avoid an issue.

Councilor Ciolino asked why pharmacies can't handle the distribution and have to be a separate entity. **Councilor McGeary** explained the reason is marijuana is not a medicine under the Federal Food & Drug Act. Marijuana can be taken as an herb for medicinal purposes but is not regulated that way. He said pharmacies would be in the position of violating federal law as would hospitals. He said the original proposal was to keep MMTC's away from schools and churches much like liquor stores. The object is not to frustrate the will of the voters but to allow the regulations to percolate a bit, he said. Noting Councilor Verga was right in that the voters have spoken on this issue, he said having spent some time in California where it is a "free for all" it is wise to not be on the leading edge and advised the Committee to let it settle a bit. There will be a maximum of five MMTC's in Essex County, and the City will get its chance. **Councilor McGeary** also advised it would be wise to defer adoption of zoning until the City sees what the State regulations are to make sure the City doesn't do something that is in conflict with the State regulations.

Councilor Tobey inquired why there would be any reason the Council couldn't do the zoning ordinance with a sunset clause on it. **Mr. Noonan**, responding in his role as Planning Board Chair said he had no insight on this issue at the moment but advised that "caution is the better part of valor." He said his preference would be to maintain a moratorium until there is guidance [from the State] and then adopt zoning. **Councilor Tobey** noted that a temporary moratorium by the terms of the Attorney General's opinion is allowed and suggested to the end of the year.

Councilor Verga said he would be willing to compromise for a sunset clause ending at the close of the calendar year; and as that deadline closes in, the Committee and Council can revisit the matter. **Councilor Tobey** noted his intent for this moratorium to end at the close of the year did not mean he wished for this matter to be put onto the new Council on January 1, 2014. Rather, his intent is that the Council revisits this matter prior to the moratorium ending to determine whether to bring zoning restrictions forward or hold off after determining when regulations are expected from the DPH. **Councilor Ciolino** said he felt the Planning Board was on target, and that he wanted to see what the State does and then follow suit. **Councilor Verga** said didn't want to push the ordinance out too much and that the compromise is fair. **Councilor Ciolino** said he would agree to the end of the calendar year for the moratorium, and if the DPH hasn't come through with regulations, that the City Council can extend the moratorium date. **Councilor Tobey** said the Massachusetts Municipal Association is also pushing the State on coming out with regulations. The Committee further discussed the instituting date and the expiration of a moratorium.

Mr. Noonan said in conclusion that the Planning Board was not comfortable setting a date and had an underlying intent with their proposed moratorium to mirror receiving guidance from the State regulations and having that benefit to craft something more or less restrictive based on State regulations. **Councilor Verga** agreed the proposed sunset clause is a good compromise and that the Committee will review the moratorium mid-fall. **Councilor McGeary** said there are two kinds of dispensaries one which is a retail store with marijuana on premise, and that another is private stock where someone can grow their own marijuana. **Councilor Verga** read Sec. 5.27.2 Definition. **Councilor Tobey** told the Committee a Medical Marijuana Treatment Center could have helped his father with his Multiple Sclerosis and should he have had access to that help. The approach to this topic as a society, he said, has been counterproductive, and this was a step in the right direction.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND under Zoning Ordinance Section 1.11.2(e) by adding a new definition of "Medical Marijuana Treatment Centers in GZO Sec. VI Definition as follows and ADDING a new section under GZO Sec. 5.27 Temporary Moratorium on Medical Marijuana Treatment Centers" for adoption as follows:

"5.27 Medical Marijuana Treatment Center Moratorium

5.27.1 Purpose. This section is intended to provide restrictions that will allow the City adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and if so, where and under what conditions. Given that a law permitting the medical use of marijuana in the Commonwealth of Massachusetts is in effect since January 1, 2013, and that the Massachusetts Department of Public Health has yet to promulgate the regulations by which facilities that produce or dispense medical marijuana shall be registered and administered, a restriction on the establishment of such facilities in the City of Gloucester shall provide this opportunity to study their potential impacts on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations with statewide regulations and permitting procedures.

5.27.2 Definition. A Medical Marijuana Treatment Center shall mean any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies; or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

5.27.3 Exclusion of Other Marijuana Uses. Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures; aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly registered and licensed in accordance with applicable state and local laws and regulations, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Medical marijuana Treatment Center.

5.27.4 Exclusion of Accessory Uses. In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any use.

5.27.5 Moratorium: Interim Restriction. Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the City of Gloucester so long as this Section 5.27 is effective, as set forth in Section 5.27.6 below. Use variances shall be strictly prohibited.

5.27.6 Expiration. Section 5.27 shall be effective through December 31, 2013."