



# CITY OF GLOUCESTER

## PLANNING BOARD

### MEETING MINUTES

Thursday September 16, 2010 at 7:00 PM  
Senior Center, 6 Manuel F. Lewis Street, Gloucester  
Richard Noonan, Chair

#### **Members Present:**

Richard Noonan, Chair  
Mary Black, Co-Chair  
Marvin Kushner  
Karen Gallagher  
Henry McCarl- **Absent**

#### **Staff:**

Gregg Cademartori, Planning Director  
Pauline Doody, Recording Clerk

#### **I. BUSINESS**

- A. Call to Order with a Quorum of the Planning Board
- B. Introduction of Planning Board Members and Staff

**Mr. Noonan** called the meeting to order at 7:05pm. Mr. Noonan stated that there would be public comment this evening and to please keep it to new information.

#### **II. APPROVAL OF MINUTES**

- A. Meeting of August 19, 2010
- B. Meeting of September 2, 2010
- C. Meeting of September 9, 2010

**Motion: To approve the August 19, 2010 minutes.**

**1<sup>st</sup>: Marvin Kushner**

**2<sup>nd</sup>: Mary Black**

**Vote: All approved 4-0**

**Motion: To approve the September 2, 2010**

**1<sup>st</sup>: Karen Gallagher**

**2<sup>nd</sup>: Marvin Kushner**

**Vote: All approved 4-0**

**Motion: To approve the September 9, 2010 minutes.**

**1<sup>st</sup>: Mary Black**

**2<sup>nd</sup>: Marvin Kushner**

**Vote: All approved 4-0**

#### **III. CONTINUED PUBLIC HEARING**

In accordance with the provisions of MGL Chapter 40A, Section 5, and the Gloucester Zoning Ordinance, Section 1.11, the Gloucester Planning Board will hold a public hearing to consider the following petition to amend the Zoning Map and Zoning Ordinance as follows:

Amend the Gloucester Zoning Map by creating an overlay district zone consisting of 3 +/- acres in the Marine Industrial district located at 33 & 47 Commercial Street, Assessor's Map 1 Lots 33 & 22, respectively, and to amend the Zoning Ordinance by adopting a corresponding new Section 25 entitled Birdseye Mixed-Use Overlay District (BMOD) governing the permitting new uses by master plan and special permit in the overlay district.

**Presenter: Lisa Mead, Blatman, Bobrowski & Mead, LLC, 30 Green Street, Newburyport, MA.**

**Attorney Mead** handed out a memo as a follow up to the discussions of the previous meeting. It addresses the questions by Mr. Noonan and Mr. Cademartori concerning the elimination of certain submittal requirements from the proposed BMOD proposal as compared to the Major Project requirements in the Zoning Ordinance. It is not the intention of the applicant to not include review criteria and the applicant proposes the following items to be submitted as part of a PUD Master Plan application. (The documentation attached).

**Richard Griffin, Richard Griffin Architects, 37 Turner Street, Salem MA**

**Mr. Griffon** presented information to clarify questions regarding total square footage and parking requirements.

(The documentation is attached.)

**Public Comment:**

**Ann Malloy, 88 Commercial Street, Gloucester**

**Ms. Malloy** asked if the drawing was accurate in scale for the height reference for the skyline.

**Mr. Griffin** stated that it was scaled up to the background. The drawing on the website is not to scale. It is a prototype based on the constraints of the BMOD district and is not a final design. He stated that that this drawing demonstrates what it could be.

**Attorney Mead** stated that we are not proposing this building. It was for us to show you what the bulk will be. It is the zoning that is being presented to the board. When everyone sees a visual everyone thinks that it will happen but it not what is being proposed.

**Irene Frontiero, 28 Fort Square, Gloucester**

**Ms. Frontiero** stated that she was concerned with feasibility studies, shadow impacts, utilities, traffic & parking etc. and when they would be done. She also stated that she has seen Mac Bell parking lot full many times and clarified that every residential unit needs 1.5 spaces not 1.

**Vince Mortilaro, 3 Tidal Cove Way.**

**Mr. Mortilaro** stated that during a recent heat wave the city's Board of Health department came to my office because the neighbors complained about the smell from my dumpster. He asked the board "Do you think people living in condo next to me are going to appreciate that?" This is a marine industrial area.

**Lenoard McCollum**

**Mr. McCollum** submitted photographs to the board from a Nor'easter from a few weeks ago. They are before and after shots.

**Suzanne Altenburger 66 Atlantic Street, Gloucester**

**Ms. Altenburger** stated her concern over the historic significance that will be lost once the Birdseye's building is demolished.

**Anne Malloy, 88 Commercial St, Gloucester**

**Ms. Malloy** stated that when the building is torn done it would create a huge pile of rubble where the road will have to be closed. This will create a huge problem, as there is only one way in and out of the area. What if there was an emergency in this area.

**Patty Page 3 Tidal Cove Way, Gloucester**

**Ms. Page** stated she was glad that the square footage issue was addressed. She stated that this is between 3-4 acres and is the minimum and the zoning will cover the whole site. She wondered if the 377,000 square feet is the minimum size building and we should be looking at the maximum.

**Mr. Noonan** stated that these numbers are new to us tonight.

**Attorney Mead** stated that you can not fill the site and go up by the zoning proposed. It requires it to be graduated it requires water access etc. and many other components. Give the constraints this is about what you can get.

**Ms. Page** stated that she understands its about the zoning, but my the whole site has to be identified somewhere between 3-4+ acres. This proposal of 377 thousand square feet is just one proposal. Maybe the question is: is this a minimum or maximum?

**Mr. Noonan** stated that this is for zoning and the Board has asked for some hard numbers.

If it goes as proposed then they will have to generate a project. This is their best guess today on what we may or may not see.

**Clayton Sove 28 Fort Square**

**Mr. Sove** asked how many residential units are there between the hotel and condos?

**Mr. Griffin** stated that it is 140 units that would be a combination of overnight and residential. The exact mix is 100 resident and 40 hotel rooms.

**Attorney Mead** stated that she wanted this to be clear that this was a concept and there is no project proposal in under review.

**Laurel Tarantino 26 Fort Square**

**Ms. Tarantino** stated that if this project should get beyond the zoning; would it be possible to we get a scale model of the project showing homes and business' in the area to get an of the proportions with home etc and is there a process we should be following?

**Mr. Noonan** stated that if this were adopted as proposed then there would be public opportunity every step of the way. When a project comes forward it is to the benefit the proponent to sell the project to the community. It would be appropriate to request that.

**Ms. Tarantino** asked, "so we can request a model to be done?"

**Mr. Cademartori** it sounds like a specific statement about the zoning as proposed, that you think that its appropriate for a scale model to be required in the review process and it is on the record in these minutes and will be forwarded to City Council to consider. If they deem it useful and appropriate that the community should be able to see as well as themselves as the potential permit granting authority the could include that as a requirement.

**Ms. Tarantino** stated a scale model will be a better visual, because looking at this drawing doesn't help show how the building will be incorporated into the area.

**Ralph Popolo, 39 Main st**

**Mr. Popolo** stated that with respect to current standing building vs. what you propose; can you give me a difference in elevation>

**Mr. Griffin** stated that the existing has a parapet of 27 feet and then it jumps up 10 feet or so and the tower is again is 68 feet, so the difference would be about 57 feet for a portion of the building as described.

**Mr. Popolo** said that is my concern; keep in mind, if you superimpose a photo from a block away you are looking at a three time the current allowed height. Also adding 300 vehicles and how it will happen to impact Washington St and the Boulevard.

**Irene Frontiero. 28 Fort Square**

**Ms. Frontiero** stated that we strongly oppose the zoning change. Gloucester is historic and tourists come here to see that. If you start to change zoning on the waterfront, you will open up a floodgate for anyone who owns property on the waterfront. The identity will be lost and it won't be unique.

### **Jim Tarantino 26 Fort Square**

**Mr. Tarantino** submitted a drawing to the Board based on what was done by Mac from his website. It shows what the building will look like. He stated that this is basically a massive and ambitious structure and it will shadow all of downtown. He asked if it is generally normal procedure to rezone something without a particular purpose? If there is a total of 140 hotel and condominium units, then what is the difference between that and the earlier proposed Marriott couple years ago? You could simply state thanks for the rezoning and Marriott come on down! I see a huge difference between this drawing and the other drawing. It feels like we are being bamboozled. To clarify the drawings; one drawing is from the website and the other Ann Malloy drew to scale what the building would look like in comparison. The heights are from the document on the website. If you add those heights to scale as Ann did, you can see how they dwarf the buildings around it.

### **Vince Mortilarro, 3 Tidal Cove Way**

**Mr. Mortilaro** stated that last week someone stated that 100 years ago there were 1,000 hotels rooms in Gloucester and I bet they were all filled by fisherman.

### **Attorney John Witten. Daley & Whitten, Duxbury, MA**

**Attorney Witten** gave his credentials to the Board and public, stating that he is a planner, professor and land use attorney in the Commonwealth and represents many communities.

Attorney Witten gave a brief history of the PUD's. He stated that have had mixed success, with most being where there are large tracts of land. He stated that it is not that it cannot work on a small parcel, but it is more complicated because you are faced with incompatible uses that are trying to live with each other. Massachusetts has seen PUD's with some success. The bylaw before you regarding small parcel undefined uses and the opportunity for an applicant to pick and choose what the uses to be. I have see the applicants being able to pick and choose, but I have never really seen it with such a broad term with more information to be presented at a later date. It renders the public and the Board the inability to predict what the site will be. It almost impossible as to the cluster approach as being proposed here to predict other possibilities and makes it difficult from a planning perspective for what the future will be.

**Mr. Noonan** stated that this is what we are grappling with here. There is a unique opportunity here; it is a small site with a lot of potential uses. Is there a guiding principle to strike a balance?

**Attorney Witten** stated that the by law address's some of that as does the special permit process. The more the potential use can be regulated, the more predictability can be proposed. The more specifics can be included in the bylaws the better. It raises the questions that even with special permit uses that you can't predict today what the range or world of possibilities are under this ordinance. The traditional zoning that Gloucester has adopted for many years allows for predictability. No one can predict today for the success what this ordinance calls for even with the special permit criteria.

**Ms. Black** asked if there is any way that the predictability of the uses can be controlled by how the clusters have been bundled?

**Attorney Witten** stated yes, if they are very specific in the ordinance. Enumerating the use, the structure or both. It will help the cluster. The way the draft works now is that the use clusters are freely interchangeable.

**Ms. Black** asked if Attorney Witten could walk the board through an example.

**Attorney Witten** referenced page 5-6 of the PUD. He read from the third sentence and stated that the sentence leads me to say any of the uses for which I receive the special permit can now be changed or morphed. Which leads me to believe that it can be changed. The problem with page 6 is that nothing is identified specifically. Whether this kind of broad approach is right for this site is up to the Planning Board and the City Council.

**Mr. Noonan asked** about picking a number regarding the height; He stated in your expertise, are there any other guiding principles to offer us as well as performance standards; there seem to be traditional tools that we would apply to any project that are not present here..

**Attorney Witten** stated that the interesting thing about the proposal is it very specific and controlling in establishing maximums, but soft in other areas because it's not predicable. In term of height; performance shadow studies, etc. all of those should factor in. It should have that kind of data. In regards to performance standards and tools to review them, he stated he has seen it both ways. An ordinance can be created that will have a whole new set of rules. In this case you would still apply traditional site plan

reviews. I think this would be difficult to change and this parcel is unique because it is waterfront and downtown. My answer would be no, the standards that normally apply should apply.

**Ms. Black** inquired based on his experience if Mr. Witten could provide a comparison concerning the time frame for a project of this size. They are proposing a 15-year period.

**Attorney Witten** stated that he has never seen a time period that extensive. Under special permit process there is a two-year time line. A 15-year is extensive because an awful lot can happen in the city. The other problem is binding the judicative judgment of one board for a long time. It starts to feel like a permanent bind.

**Ms. Black** stated that recognizing that the applicant may feel it is too short; have you seen something of a compromise?

**Attorney Witten** stated that the Special Permit Granting Authority could grant any amount of time- there is no bar to that. This 15-year window that I can submit this special permit is frozen in time. It strikes me as a very long period of time. What is the purpose of the master plan?

**Ms. Black** stated the zoning statute already provides for the possibility of extension.

**Attorney Witten** stated that the application of construction is measured very liberally. It can be written into the ordinance.

**Mr. Noonan** asked Attorney Witten to expand on the length of time regarding City Council changes, economics change etc.

**Attorney Witten** referenced Page 11 -PUD approval. The PUD approval in itself is fine. One question is whether the master plan approval automatically leads to an approval of the special permit? Master plan is a plan and plans change all the time. The plan itself should have a shelf life or limitation. The majority of plans are good for 5 years.

**Mr. Noonan** thanked Attorney Witten for the context. It gives us a landscape of what we are looking at.

**Attorney Whitten** commented on the gradation by right and by special permit. Use by right the only control of the project is ministerial. There is no discretion. It depends on the level of special permit requirement, and then the applicant will balk. It is up to the Planning Board and City Council, but he cautioned the Board on the mix of as of right uses in the ordinance. If by special permit there is discretion by the Planning Board and by City Council. Could there be a master plan with all as of right uses.

**Mr. Noonan** stated that this has been brought up. If the cluster can change they are interchangeable.

**Attorney Witten** stated that if they use by right and they can switch. It is initially by right and then by special permit. He referenced page 5 "A use by special permit" Use by right, Special permit. It sounds like you are special permitting the clusters.

**Attorney Mead** asked to respond to some of the statements of Attorney Witten. She stated that uses allowed by right by PUD are allowed uses. The ability of the use cluster has two limitations; the gross square footage and special permit. It's not wholesale without any limitations. When the master plan is presented the city council would have the control and that is where the applicant would have to propose the master plan approval process and the special permitting. It cannot be overlooked. The applicant has to show the impacts on the criteria.

### **Mac Bell, 33 Commercial St**

**Mr. Bell** wanted to note for the record we are not Weston or Wellesley. Our zoning is broken. The recent harbor study shows that 36 of the building are 50% or more underutilized. This is first proposal to ever propose a several level parking garage and the largest parcel and where by a factor of 2 in the last 40 years. There is some relatedness to size in the Gloucester. The total income from the harbor is less than six hundred thousand dollars a year. We see this as an increase tax base, we see this as productivity. What are we afraid of? We are cutting off our nose in spite of our face.

**Mr Noonan** closed the public hearing at 8:27pm. He stated to the public that this would be a continued discussion and there will be another advertised meeting.

**Motion: To continue to September 27 at 7:00. The location will be determined.**

**1<sup>st</sup>: Karen Gallagher**

**2<sup>nd</sup>: Marvin Kushner**

**Vote: All approved 4-0**

**IV. ADJOURNMENT**

**1<sup>st</sup>: Karen Gallagher**

**2<sup>nd</sup>: Mary Black**

**Vote: All approved 4-0**

**V. NEXT MEETING**

***Next regular meeting of the Planning Board is Thursday, October 7, 2010***

***Planning Board Members: If you are unable to attend the next meeting please contact the Planning Office at (978) 281-9781.***