

**GLOUCESTER CITY COUNCIL CALENDAR OF BUSINESS**

**TUESDAY, September 11, 2018**

**7:00 P.M.**

**KYROUZ AUDITORIUM, CITY HALL**

**COUNCIL MEETING #2018-017**

**MEETINGS ARE RECORDED**

CITY CLERK  
GLOUCESTER, MA  
2018 SEP -7 AM 11:31



**FLAG SALUTE & MOMENT OF SILENCE**

**ORAL COMMUNICATIONS**

**PRESENTATIONS/COMMENDATIONS**

Commendation for Will Bren

Presentation on City Charter Review Commission by Ruth Pino and Attorney Meredith Fine

**CONFIRMATION OF NEW APPOINTMENTS**

None

**CONSENT AGENDA**

**ACTION**

- **CONFIRMATION OF REAPPOINTMENTS**
- **MAYOR'S REPORT**

1. *Appointments:*

Clean City Commission (TTE 2/14/21) Sarah Steward

(Refer O&A)

2. Memorandum from Auditor re: adopt Betterment Reserve Funds under MGL c. 44, §53J, and adopt a Special Reserve Fund as part of the FY17 audit

(Refer B&F)

3. Memorandum from Council on Aging Executive Director re: request approval of FY18 Title III Older American's Provider Service Grant in the amount of \$8,190.30

(Refer B&F)

4. Memorandum from General Counsel re: request law firm Anderson Kreiger (A&K) of Boston be classified as a Special Municipal Employee

(Refer O&A)

5. Memorandum and Supplemental Appropriation-Budgetary Request (#2019-SA-4) from the CFO

(Refer B&F)

- **ADDENDUM TO MAYOR'S REPORT**

1. Memorandum from CFO re: loan authorization request to provide funding for the repair of private ways for Nashua Avenue and Diamond Avenue, in the amount of \$215,000

(Refer B&F)

- **COMMUNICATIONS/INVITATIONS**

1. Invitation from the Office of Veterans Services to the Private Joseph S. Mattos Jr., Flag Dedication Ceremony on October 5, 2018

(Info Only)

2. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Grant Clark

(Info Only)

3. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Richard Cousins

(Info Only)

4. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Alice Eastland

(Info Only)

5. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Carrie Fryklund

(Info Only)

6. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Debbie Holland

(Info Only)

7. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Nicholas Holland

(Info Only)

8. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Stephen Kasnet

(Info Only)

9. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Dennis McGurk

(Info Only)

10. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Jennifer McTiernan

(Info Only)

11. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to Peter Radochia

(Info Only)

12. Response from Mayor's Office to Oral Communications of August 14, 2018 City Council Meeting to John Rogers

(Info Only)

- **INFORMATION ONLY**

- **APPLICATIONS/PETITIONS**

- **COUNCILLORS ORDERS**

- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**

1. City Council Meeting: 8/28/2018

(Approve/File)

2. Standing Committee Meetings: B&F 9/6/2018 (no meeting), Special B&F 9/11/2018 (under separate cover), O&A 9/3/2018 (no meeting), P&D 9/5/2018

(Approve/File)

**STANDING COMMITTEE REPORTS**

**ACTION**

B&F 9/6/2018 (no meeting), Special B&F 9/11/2018, O&A 9/3/2018 (no meeting), P&D 9/5/2018

**Individual items from committee reports may be consolidated into a consent agenda**

**SCHEDULED PUBLIC HEARINGS**

- 1. PH2018-031: Draft Marijuana Establishments ordinance to replace existing GZO Sec. 5.27 "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" with a new Sec. 5.27 "Marijuana Establishments Ordinance"; Amend Sec. 2.3 "Use Tables"; Amend Sec. 2.3.2 "Community Service Uses"; and DELETE Sec. 5.31 "Temporary Moratorium on Recreational Marijuana Establishments" (Cont'd from 8/28/2018)

**FOR COUNCIL VOTE**

- 1. Decision to Adopt: SCP2017-012: School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5 for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sec. 5.29 (including Major Project under GZO Sec. 5.7) and Sec.'s 5.29.10 and 5.11.8 (FCV)
- 2. City Council Civility Resolution (Cont'd from 8/28/2018) (FCV)

**UNFINISHED BUSINESS**

**INDIVIDUAL COUNCILLOR'S DISCUSSION INCLUDING REPORTS BY APPOINTED COUNCILLORS TO COMMITTEES:**

Update of the Animal Advisory Committee by City Council Representative, Councillor Jen Holmgren

**COUNCILLOR'S REQUESTS TO THE MAYOR**

**ROLL CALL** Councillor Scott Memhard



\_\_\_\_\_  
City Clerk

Meeting dates are subject to change. Check with City Clerk's Office

NEXT REGULAR CITY COUNCIL MEETING, September 25, 2018

**Minutes filed in City Clerk's Office of other Boards and Commissions August 24, 2018 thru September 6, 2018**

Clean Energy Commission 6/28/18; EDIC 8/16/18; Historical Commission 7/30/18; Historic District Commission 8/14/18; Stage Fort Park Advisory Committee 6/7/18

**NOTE: The Council President may rearrange the Order of Business in the interest of public convenience.**

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.

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930

CITY CLERK  
GLOUCESTER, MA

2018 SEP -6 PM 4:11



CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

**TO: City Council**  
**FROM: Sefatia Romeo Theken, Mayor**  
**DATE: September 5, 2018**  
**RE: Mayor's Report for the September 11, 2018 – City Council Meeting**

---

Members of the City Council:

This Mayor's Report includes one appointment to the Gloucester Clean City Commission, a memo from Kenny Costa, City Auditor requesting adopting Betterment Reserve Funds and a memo from Lucy Sheehan, Executive Director, COA requesting approval for the Title III Older American Grant submitted by Executive Director, COA, Lucy Sheehan to be referred to Budget and Finance subcommittee. Also included in this report is a memo from Chip Payson, General Counsel requesting Special Municipal Designation for Anderson Kreiger to be referred to Ordinance and Administration and a Supplemental Appropriation from John P. Dunn, Chief Financial Officer requesting appropriating funds within the Capital Project Stabilization Fund to make improvements to city owned buildings.

As always, I encourage the City Council to contact my office for any questions or comments regarding this submission and we will continue to update you on these matters as they move forward.

#### **Boards, Committee & Commissions:**

##### **Appointment**

I respectfully request that the City Council consider the following appointment:

##### **Gloucester Clean City Commission**

- **Sarah Steward**, three-year term, expires 2/14/2021

**Enclosure 1** contains the relevant information regarding the above appointment request. *Please refer this matter to the **Ordinance and Administration subcommittee** for review and approval.*

#### **Financial Matters:**

- **Enclosure 2** is a memo from Auditor Kenny Costa to Adopt Betterment Reserve Funds under MGL c. 44 §53J and to adopt a Special Reserve Fund as part of the Fiscal Year 2017 audit, recommended by the City's outside auditors, Roselli, Clark & Associates ***Please refer this matter to the Budget and Finance subcommittee for review and approval.*** Auditor Kenny Costa, or appropriate personnel will be available to answer questions and provide further information.
- **Enclosure 3** is a memo from Executive Director, COA, Lucy Sheehan requesting approval for the FY2019 Title III Older American's Provider Services Grant. ***Please refer this matter to the Budget and Finance subcommittee for review and approval.*** Executive Director, COA, Lucy Sheehan or appropriate personnel will be available to answer questions and provide further information.

**Ordinance & Administration:**

- **Enclosure 4** is a memo from General Counsel Chip Payson regarding a request from Attorney Art Kreiger of A&K to be classified as a Special Municipal Employee under the State Ethics Code. They are representing the city in a lawsuit against the opioid manufacturers ***Please refer this matter to the Ordinance and Administration for review and approval.*** General Counsel Chip Payson, or appropriate personnel will be available to answer questions and provide further information.
- **Enclosure 5** is a Supplemental Appropriation (FY 2019 SA #4) from Chief Financial Officer John P. Dunn requesting approval to fund a contract with Dore & Whittier Architects to produce a multi-year Master Plan for Municipal Buildings. ***Please refer this matter to the Ordinance and Administration for review and approval.*** Chief Financial Officer John P. Dunn, or appropriate personnel will be available to answer questions and provide further information.

###



---

Sefatia Romeo Theken, Mayor

# **ENCLOSURE 1**

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930



TEL 978-281-9700  
FAX 978-281-9738  
stheken@gloucester-ma.gov

CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

August 29, 2018

Sarah Steward  
15 Wall Street  
Gloucester, MA 01930

Dear Sarah:

Thank you for your interest in becoming a member of the Gloucester Clean City Commission. I am pleased to appoint you to a three year term to the **Gloucester Clean City Commission**. Your appointment will be sent to the City Council for their meeting on September 11, 2018. Confirmation of your appointment will be referred out to the next Ordinance & Administration subcommittee meeting, and you will be notified by the Clerk of Committee as to the date on which the O & A Committee will review your appointment.

In order for you to attend and vote at meetings until your appointment confirmation is finalized, I have issued you a 90 day temporary appointment. Please report to the City Clerk's Office to pick up your appointment card and be sworn in at your earliest convenience.

On behalf of the City of Gloucester, I greatly appreciate your dedication to public service and look forward to working with you in the coming years to help make Gloucester a better place for all of us to live.

If you have any questions or if you require additional information, please feel free to contact my office.

Thank you again,

Sincerely,

A handwritten signature in black ink, appearing to read "Sefatia Romeo Theken".

Sefatia Romeo Theken,  
Mayor

cc: Mayor's Report to the City Council



Enza Taormina &lt;etaormina@gloucester-ma.gov&gt;

---

## Following up on Sarah Steward's appointment

---

**Sarah Steward** <sarah.steward.e@gmail.com>  
To: Ainsley F Smith <ainsleyfsmith@gmail.com>  
Cc: Enza Taormina <etaormina@gloucester-ma.gov>

Wed, Jun 13, 2018 at 3:08 PM

Sarah Steward  
15 Wall Street  
Gloucester, MA 01930  
(617)-838-4680  
Sarah.steward.e@gmail.com

June 13, 2018

Mrs. Sefatia Romeo Theken  
Gloucester Clean City Commission  
9 Dale Avenue  
Gloucester, MA 01930

Dear Mrs. Theken,

It is with great enthusiasm that I submit my qualifications for the Gloucester's Clean City Commission Alternate Member position. I am an active community member with a background in business management who wants to give back by lending my skills to an organization like yours. I have included my resume for your review.

Since moving to Gloucester in 2015 I have been actively engaged in volunteer cleanups around town. As the General Manager of an environmentally conscious local business, we often plan and host our own cleanups. I'm also a member of the local nonprofit organization Cape Ann Maritime Partnership (CAMP) which was created to combat marine pollution. Helping to protect and preserve this beautiful earth is number one in my mind and I believe it is our duty to help ensure a healthy environment is around for our future generations. I believe my **experience, community involvement abilities, and communications and management skills will help benefit this commission.**

I warmly welcome a time to meet to discuss my past and ongoing successes, as well as what goals you have for this open spot on the Clean City Commission. Thank you so much for your time and for considering me for this position. I look forward to hearing from you.

Sincerely,

Sarah Steward

Enclosure: Resume

[Quoted text hidden]

--

Sarah Steward

---

**Steward Sarah Resume 2018.docx**

## Sarah Steward

15 Wall Street Gloucester, MA 01930  
838-4680

**Phone:** 617-

**Email:** Sarah.Steward.e@gmail.com

**Linkedin:** <https://www.linkedin.com/in/stewardsarah>

### Professional Objective

---

Outgoing business professional with an entrepreneurial mind set looking to pursue a career in management or marketing. Always open to learn new tasks that will broaden my skillset and help me grow as a professional.

### Education

---

#### University of Maine

2015

2011 –

**Bachelor of Science-** Business Administration- Management  
Concentration in Entrepreneurship

### Skills

---

- Extremely organized and detail oriented
- Proficient in Microsoft Office
- Strong interpersonal skills
- Social media management
- Proven leadership and supervising abilities
- Ability to handle confidential information

### Experience

---

#### Accounts Payable Clerk, Cape Ann Marina, LLC

2015 - 2018

Assist the CFO with all accounts payable duties.

#### General Manager, One Ocean One Love Shop

2018

2015 –

Run all aspect of the business. Scheduling hiring and firing of employees. Marketing and social media management. Daily cash deposits. All booking and Accounting.

#### Administrative Aide V, University of Maine

2015

2012 –

Department of Industrial Cooperation- Assisting the lead fiscal and grant manager by maintaining records of financial transactions for University Research and Development accounts.

#### Administrative Aide IV, University of Maine

2014

2013 –

Office of Research & Sponsor Programs- Maintaining records for research grants and contracts into university database.

#### Student Aide, University of Maine

2012

2012

Office of University Development- Calling alumni to update them on current campus events and asking for their support through donations.

#### Event Manager Assistant, Crashline Productions

2015

Supported the event manager with all things dealing with the execution of Boston Calling Music Festival.

**Manager, Strand Cinema**  
2013

2009 –

Manage money, employees, inventory, and company equipment during shifts. Also in charge of scheduling employees, updating and monitoring social media accounts, tracking inventory, and daily bank deposits.

# **ENCLOSURE 2**



CITY OF GLOUCESTER  
CITY AUDITOR'S OFFICE

MEMORANDUM

TO: Honorable Mayor Sefatia Romeo Theken and City Council  
FROM: Kenny Costa, City Auditor *KC*  
RE: Adopt Betterment Reserve Funds under MGL c. 44, §53J  
Date: September 4, 2018

---

The City of Gloucester collects funds from old and recent betterment projects. The entire process is extremely complicated and has been a challenge for the City to match debt service and incoming payments. Additionally, each project varies City vs. homeowner responsibility percentages. The majority of the betterment funds are in relation to sewer betterments such as the various phases of North Gloucester. Previously, the City created dedicated betterment funds to separate each project. However, the City did not receive special legislation to the best of its knowledge to accumulate funds in such a manner. The City may now adopt MGL c. 44, §53J for the reservation of revenues from betterments or special assessments to repay debt issued in connection to such improvements. The new legislation was part of the Municipal Modernization Act, Chapter 218 of the Acts of 2016 that become effective on November 7, 2016. Attached please find a list of the current Betterment Reserve funds and a copy of MGL c. 44, §53J. I recommend that the City adopt the current Betterment Reserve funds and allow any new funds in the future in accordance with MGL c. 44, §53J.

Additionally, the City's outside auditors, Roselli, Clark & Associates recommended that the City adopt a Special Reserve Fund as part of the Fiscal Year 2017 audit. The recommendation was part of the City's Management Letter Report.

Please refer this matter to the Budget and Finance subcommittee for review and discussion.

**CITY OF GLOUCESTER, MA**

**BETTERMENT RESERVE FUNDS**

**ADOPT CHAPTER 44, SECTION 53J, RESERVATION OF REVENUES FROM BETTERMENTS  
OR SPECIAL ASSESSMENTS TO REPAY DEBT ISSUED IN CONNECTION TO SUCH IMPROVEMENTS**

| <u>FUND</u> | <u>NEW FUND DESCRIPTION</u>                                     |
|-------------|---|
| 6700        | SEWER BETTERMENT RESERVE - NORTH GLOUCESTER PHASE 1             |
| 6701        | SEWER BETTERMENT RESERVE - NORTH GLOUCESTER PHASE 2             |
| 6702        | SEWER BETTERMENT RESERVE - NORTH GLOUCESTER PHASE 3             |
| 6703        | SEWER BETTERMENT RESERVE - MARBLE, POND, EASTERN, WITHAM        |
| 6704        | SEWER BETTERMENT RESERVE - NORTH GLOUCESTER PHASE 4 & 5         |
| 6705        | SEWER BETTERMENT RESERVE - KENT CIRCLE                          |
| 6706        | SEWER BETTERMENT RESERVE - BOND, EASTERN, STAGE FORT, ELIZABETH |
| 6707        | SEWER BETTERMENT RESERVE - BARKER, GRUDEN                       |
| 6708        | SEWER BETTERMENT RESERVE - ADAMS                                |
| 6709        | SEWER BETTERMENT RESERVE - CALDER, SUNSET, HILLIER              |
| 6710        | SEWER BETTERMENT RESERVE - HILLSIDE, GILBERT                    |
| 6711        | SEWER BETTERMENT RESERVE - PAGE & WAY                           |
| 6712        | SEPTIC MANAGEMENT BETTERMENT RESERVE                            |
| 6713        | SEWER BETTERMENT RESERVE - COMPENSATORY SEWER PRIVILEGE FEE     |
| 6714        | SEWER BETTERMENT RESERVE - WEST GLOUCESTER A & B                |

**Part I** ADMINISTRATION OF THE  
GOVERNMENT

**Title** CITIES, TOWNS AND DISTRICTS  
**VII**

**Chapter** MUNICIPAL FINANCE  
**44**

**Section** RESERVATION OF REVENUES  
**53J** FROM BETTERMENTS OR SPECIAL  
ASSESSMENTS TO REPAY DEBT  
ISSUED IN CONNECTION TO SUCH  
IMPROVEMENTS

*[ Text of section added by 2016, 218, Sec. 93 effective November 7, 2016.]*

Section 53J. Notwithstanding sections 53 and 53F 1/2, in any city, town or district that borrows money to pay for improvements for which betterments or special assessments are assessed, revenues from such betterments and assessments, including interest charged thereon, shall be reserved for appropriation for the payment of debt issued in connection with such improvements. Any such revenues received by the treasurer shall be kept separate from all other monies of such city, town or district. Interest earned on the revenues shall remain with and become part of such revenues available for appropriation. No appropriations from the revenues for payments of principal and interest on such debt issue for any fiscal year shall exceed the same percentage of the principal and interest payment due in such year as the percentage of project costs for which the

betterments or special assessments are assessed. Any surplus remaining after such debt is repaid shall belong to any enterprise fund established under section 53F 1/2 that the improvement for which the betterments or special assessments are assessed is part of, or, if no such enterprise fund is established, to the general fund of such city, town or district.

# **ENCLOSURE 3**

City of Gloucester  
Office of the Council on Aging  
Rose Baker Senior Center  
Telephone: 978 281-9765 Fax: 978 282-1350

## Interoffice Memo

To: Enza Taormina  
Office of Mayor Sefatia Romeo Theken

From: Council on Aging  
Lucia E. Sheehan 

Date: September 5, 2018

Enclosed for the Mayor's Report, is the FY2019 Title III Older American's Provider Services Grant Contract provided by SeniorCare, Inc., which requires City Council approval.

The FY19 Title III Older American Grant for the amount of \$8,190.30, reflects a roll-over of the FY2018 grant. This grant provides partial salary amount for the Council on Aging Outreach Social Worker.



City of Gloucester  
Grant Application and Check List

Granting Authority: State \_\_\_\_\_ Federal \_\_\_\_\_  Other \_\_\_\_\_

Name of Grant: Title III B Older American's Grant

Department Applying for Grant: Council on Aging

Agency-Federal or State application is requested from: SeniorCare, Inc.

Object of the application: Partial Salary / Outreach Coordinator

Any match requirements: No

Mayor's approval to proceed: \_\_\_\_\_  
Signature Date

City Council's referral to Budget & Finance Standing Committee: \_\_\_\_\_  
Vote Date

Budget & Finance Standing Committee: \_\_\_\_\_  
Positive or Negative Recommendation Date

City Council's Approval or Rejection: \_\_\_\_\_  
Vote Date

City Clerk's Certification of Vote to City Auditor: \_\_\_\_\_  
Certification Date

City Auditor:  
Assignment of account title and value of grant: \_\_\_\_\_  
Title Amount

Auditor's distribution to managing department: \_\_\_\_\_  
Department Date sent

NOTE: A copy of all grant paperwork must be submitted to the Auditor's Office



**Title III Provider Services**

WHEREAS SeniorCare, Inc. hereafter referred to as the Corporation and Gloucester Council on Aging hereafter referred to as the Provider, entered into a Title III Agreement on October 1, 2017 and;

WHEREAS Section 11 of said Agreement entitled AMENDMENT of the Agreement between the Corporation and the Provider outlines the procedures by which said Agreement may be modified or amended; and

WHEREAS, the Corporation and the Provider do mutually desire to modify and amend said Agreement;

NOW THEREFORE, it is agreed that said Agreement will be amended in the following respects, but otherwise be maintained in full force and effect.

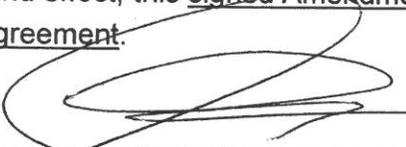
1. Corporation and Provider agrees to have the current Agreement funding remain in effect, see above agreement, for one fiscal year period starting on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ .
2. Provider name is amended to reflect an official change to: \_\_\_\_\_ effective \_\_\_\_\_, 20\_\_ .
3. Section 3, Funding and/or Services, is amended as follows to take effect on the 1st day of October, 2018.

3a.

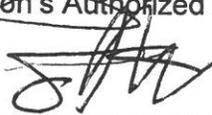
| Service(s) | Added | Deleted | Current \$ | Amended \$      | Per Unit (yrly) |
|------------|-------|---------|------------|-----------------|-----------------|
| Outreach   |       |         | \$8,190.00 | *<br>\$8,190.00 | yrly            |
|            |       |         |            |                 |                 |
|            |       |         |            |                 |                 |

\*In the event that there is a reduction in Title III funds the Corporation reserves the right to decrease the maximum obligation to some or all contracts executed as a result of this reduction.

In all other matters, the above-referenced Agreement between the Corporation and the Provider remains in full force and effect; this signed Amendment to said Provider Agreement shall be attached to and made a part of said Agreement.

  
\_\_\_\_\_  
Corporation's Authorized Signature

7/25/18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Provider's Authorized Signature

8/2/18  
\_\_\_\_\_  
Date

# **ENCLOSURE 4**

**CITY OF GLOUCESTER  
LEGAL DEPARTMENT**

Memorandum

TO: Mayor Sefatia Romeo Theken  
FROM: Chip Payson, General Counsel   
RE: Special Municipal Designation for Anderson Kreiger  
DATE: August 30, 2018

---

As you know, at your request, we have retained the law firm of Scott + Scott from New York to represent the City in a lawsuit against the opioid manufacturers. The local counsel for Scott + Scott in this matter is Anderson Kreiger (A&K) of Boston.

Attorney Art Kreiger of A&K has requested that they be classified as a Special Municipal Employee under the State Ethics Code. According to Attorney Kreiger, “[t]his classification will allow A&K to continue to represent private clients in matters unrelated to opioids, such as telecommunications permitting and environmental matters, before permitting boards and other municipal bodies in Gloucester.”

Further, “[t]he statute specifies that: ‘All employees who hold equivalent offices, positions, employment or membership in the same municipal agency shall have the same classification.’”

Accordingly, I urge that you, and the City Council, accept this request and designate all outside counsel representing the City of Gloucester in litigation against the opioid manufacturers as Special Municipal Employees. This will require Council vote.

Attached hereto, for your and the City Council’s consideration, please find a copy of Attorney Kreiger’s letter requesting the same. Please let me know if you have any questions or concerns. Thank you.

Attachment

# ANDERSON KREIGER

ARTHUR P. KREIGER  
akreiger@andersonkreiger.com  
Direct phone: 617-621-6540  
Direct fax: 617-621-6640

August 23, 2018

**BY EMAIL**

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

Re: Opioid litigation – Special Municipal Employee status under the State Ethics Act

Dear President Lundberg and Councillors,

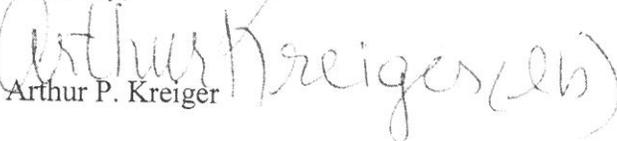
As you know, the City has retained Scott+Scott LLP and Anderson & Kreiger LLP as outside counsel for litigation against pharmaceutical manufacturers and distributors for the City's damages from the opioid epidemic.

A&K requests that you classify us as Special Municipal Employees under the State Ethics Act, General Laws Chapter 268A. A "Special Municipal Employee" is "a municipal employee ... whose position has been expressly classified by the city council ... as that of a special employee under the terms and provisions of this chapter...." G.L. c. 268A, § 2. This classification will allow A&K to continue to represent private clients in matters unrelated to opioids, such as telecommunications permitting and environmental matters, before permitting boards and other municipal bodies in Gloucester. *See* G.L. c. 268A, § 17.

The statute specifies that: "All employees who hold equivalent offices, positions, employment or membership in the same municipal agency shall have the same classification...." G.L. c. 268A, § 2. Accordingly, we request that you classify all outside counsel in the opioid litigation (or any broader category of outside counsel that the City retains) as Special Municipal Employees.

Thank you.

Sincerely,

  
Arthur P. Kreiger

c: Chip Payson, Esq. (by email)  
Scott+Scott LLP (by email)

# **ENCLOSURE 5**

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930



TEL 978-281-9707  
FAX 978-281-8472  
jdunn@gloucester-ma.gov

**CITY OF GLOUCESTER**  
**OFFICE OF THE TREASURER/COLLECTOR**

To: Sefatia Romeo Theken, Mayor  
From: John P. Dunn, CFO   
Date: September 5, 2018  
Re: Public Buildings Master Plan

We have a proposal from our on-call architects, Dore & Whittier, to produce a Master Plan for City owned buildings. The goal is to scope and prioritize repair, renovation and upgrade projects on the major City owned buildings. The estimated cost of the Master Plan is \$325,000

I have attached a copy of the Dore & Whittier proposal and a Supplemental Appropriation Request appropriating the funds within the Capital Project Stabilization Fund.

If you are in agreement with this proposal, please submit this request in your next Mayor's Report.

Thank you.

August 6, 2018



Michael Hale, AICP, Director  
City of Gloucester  
Department of Public Works  
c/o City Hall  
9 Dale Avenue  
Gloucester, MA 01930

**Project:** On-Call Architect Task 1 – Public Building Master Planning

**Subject:** Letter of Agreement - Scope of Work and Fee Proposal

Dear Michael,

Dore & Whittier Architects, Inc. (the Architect) is pleased to present this proposal for professional services for the above-named project, to be contracted with the City of Gloucester (the Owner), the scope of which is described below.

#### PROJECT DESCRIPTION

Dore & Whittier Architects has been awarded an "umbrella" contract with the Owner to provide On-Call architectural services to the City of Gloucester. The first project under this contract will be known as Project #1, Master Planning, with the goal of scoping and prioritizing repair, renovation, and upgrade projects on the major city-owned buildings, including:

- Gloucester Public Schools (7 buildings)
- Fire Department (4 buildings)
- Police Station/Courthouse (1 building)
- Government (2 buildings)
- Public Works (3 buildings)
- Other Municipal (5 buildings)

A detailed list of the buildings with vital statistical information and a city map with their locations shown are attached.

Project #1 Scope will include:

- Existing conditions surveys; except City Hall Annex and Harbormaster Building
- Program and space use confirmation; initial space planning and fit testing as required
- Capital improvement planning, phasing/logistics planning, and budgeting
- Project scoping and prioritization
- Production of a report summarizing findings and conclusions

#### ARCHITECTS PROJECT MANAGERS

260 Merrimac Street Bldg 7  
Newburyport, MA 01950  
978.499.2999 ph  
978.499.2944 fax

212 Battery Street  
Burlington, VT 05401  
802.863.1428 ph  
802.863.6955

[www.doreandwhittier.com](http://www.doreandwhittier.com)

We understand that there are three likely higher-priority projects the City already has in mind that may result from Project #1:

- Police Station/ Courthouse: window and door replacement and possible HVAC upgrades
- City Hall: Electrical and IT infrastructure upgrades
- Visitor Center at Stage Fort Park – Structural and Architectural Upgrades

We will prioritize work required to start these projects as quickly as possible.

#### **PROJECT SITE**

The proposed project will be located at the above-mentioned sites in the City of Gloucester, MA.

#### **PROJECT TEAM**

The Owner will be entered into a contract with Dore & Whittier Architects (D&W), who will prepare and coordinate the project documents. We will sub-contract the services (as required per building/ site) of the following consultants, which will be part of the scope of our services. Collectively, we and our consultants will be the Project Team:

Civil Engineering: *Judith Nitsch Engineering, Inc.*

Structural Engineering: *Engineers Design Group (EDG)*

Mechanical, Electrical, Plumbing, Fire Protection Engineering: *Garcia, Galuska, DeSousa (GGD)*

Technology/ Communications Consultants: *EdVance Technology Consulting*

Environmental Consultants: *Universal Environmental Consultants (UEC)*

Cost Estimating: *Project Management & Cost (PM&C)*

Food Service Consultants: *Crabtree McGrath Associates (as required)*

Theatrical Equipment: *Scheu Consulting Services, Inc. (as required)*

Acoustical Consultants: *Acentech, Inc. (as required, hourly allowance)*

Historic Preservation Consultants: *Spencer, Sullivan, & Vogt (as required, hourly allowance)*

#### **SCOPE OF WORK**

The Scope of Basic Services proposed by the Architect for the successful completion of this Project shall include, and be limited to, the following work as outlined below:

## **PHASE 1 – EXISTING CONDITIONS SURVEY**

### **Kick-off Meeting/ Information Gathering**

This initial meeting will serve to establish the process by which we will be engaged with the City, and confirm:

- communication plan and public relations
- project goals and objectives
- team roles and responsibilities
- scope of work
- project budget
- aesthetic and historical requirements
- sustainability requirements
- schedule and deliverables

The Architect will require copies of any pertinent architectural and/or engineering drawings, site plans, reports, studies, permits, or other documents related to the general description of the project sites, ideally in advance of this kickoff meeting. We will work with you to determine what is needed for each building/site. Such documents will be reviewed by the team prior to the commencement of the project.

### **Existing Conditions Documentation**

The Project Team will conduct a site visit to each building/site to field-verify, quantify, generally measure (as needed), document, and photograph existing conditions. This information, along with existing documentation provided by the owner, will be used to develop single-line schematic drawings of existing floor plans using Revit 3-D BIM software.

We will work with the City to arrange dates and times to visit the facilities that minimize disruptions to building users and conform to any security protocols. We are happy to coordinate with the City to provide information for background checks for team members if required.

### **Preliminary Report**

The Project Team will compile a preliminary report that comprehensively details the existing conditions of each building/site, broken down by consultant discipline. The report will identify existing issues with recommendations to resolve the issue, referenced to photographs and/or diagrams.

The report will be presented to the Owner, and any feedback incorporated. This report will comprise a major section of the Final Report at the end of the project.

## **PHASE 2 – PROGRAM AND SPACE USE CONFIRMATION; INITIAL SPACE PLANNING AND FIT TESTING**

### **Programming**

The Project Team will arrange meeting with key department heads to discuss:

- Current staff numbers, growth or shrinkage trends
- Spatial needs and relationships – what is working, what is not working?
- Ideas for improving efficiency, function, and flow
- Space sizes and quantities – deficiency or surplus?

Note: Educational Planning for school buildings is not included as part of this scope of service but can be provided as an Additional Service if requested.

### **Space Planning and Fit Testing**

If clear deficiencies or issues become apparent as a result of these discussions, we may elect to take a next step and propose conceptual solutions in a schematic, high-level or diagrammatic fashion. These would include such materials as floor plans with shaded regions indicating departmental blocks of space, bubble diagrams indicating preferred relationships and adjacencies, and the like. We will not provide detailed floor plans or layouts. At the direction of the Owner, we may also entertain such concepts as relocating or consolidating departments to free up space and increase efficiency. We may generate different options that satisfy the program requirements in diverse ways. Our aim will be to identify and quantify any major issues from a space planning perspective, not attempt to resolve them as part of the Master Planning scope.

We will meet to review this information with the Owner, and incorporate any feedback. If proposals to change space are deemed appropriate and necessary, we may, at the direction of the Owner, include them in Capital Improvements Planning scenarios.

## **PHASE 3 - CAPITAL IMPROVEMENT PLANNING, PHASING/LOGISTICS PLANNING, AND BUDGETING**

### **Capital Improvement and Phasing/Logistics Planning**

Using the existing conditions survey report, and any space planning proposals, the Project Team will organize issues in buildings into reasonable scopes of work that make sense with phasing and logistical/sequential planning for organized, logical, cost-effective construction/ renovation/ upgrade projects. For example, groups of related scope that are made possible by the removal of finish ceilings (mechanical, electrical, plumbing, fire protection, and/or technology) will be grouped together to be done at one time in an efficient manner that minimizes disruption and cost.

For historically significant buildings, we will engage the preservation consultant to develop a plan that does not degrade or diminish the historical nature and value of the building and/or site.

### **Budgeting**

Once the scopes of work are defined in a preliminary way, they will be cost-estimated by our cost consultant, keeping with the same organizational format. Both Construction Cost Estimates and Project Cost Estimates will be provided, to help in overall budget discussions. Note that at this stage estimates will be provided at a conceptual level on a \$/SF basis that representing differing levels of renovation and/or new construction.

We will meet to review this information with the Owner, and incorporate any feedback.

#### **PHASE 4 – PROJECT SCOPING AND PRIORITIZATION**

Subsequent to the cost estimate review meeting, we will use Owner feedback to prepare refined scopes of work for specific projects at the various buildings, and using Owner feedback we will make a preliminary project priorities list.

We will conduct a meeting with the Owner to review these materials, confirm priorities, and discuss budget and schedule processes with the City. Further feedback will be incorporated into the scopes of work and priority list.

#### **PHASE 5 – FINAL SUMMARY REPORT**

The Project Team will produce a final report incorporating the Existing Conditions Report, and detailing decisions made leading to the Project Priorities List with associated Estimated Project Costs. Materials will be presented in a clear, coherent fashion, and including the Cost Estimates as backup to the List.

#### **PROJECT SCHEDULE**

Based upon our current workload, staffing, and project schedules, the Architectural team is prepared to begin work on this project immediately upon the execution and receipt of a signed Letter of Agreement.

We anticipate an approximate project schedule as follows:

- Phase 1 – 6 weeks
- Phase 2 – 10 weeks, some concurrent with Phase 1
- Phase 3 – 6 weeks
- Phase 4 – 2 weeks
- Phase 5 – 4 weeks
- Total Calendar Duration – ~24 weeks

#### **PROFESSIONAL FEES**

We propose to provide the above described services for a fixed fee as follows:

**Lump Sum fee of \$325,000 (Three Hundred Twenty-Five Thousand Dollars).**

We will carry an additional Allowance of **\$5,000 (Five Thousand Dollars)** for Acoustical Consulting Services. Because of the lack of definition of this scope of work at this time, we propose to bill hourly, as required, for Acoustical Consulting services, up to this upset limit.

We will carry an additional Allowance of **\$8,000 (Eight Thousand Dollars)** for Historic Preservation Services. Because of the lack of definition of this scope of work at this time, we propose to bill hourly, as required, for Historic Preservation Consulting services, up to this upset limit.

Michael Hale, AICP, Director  
City of Gloucester  
Department of Public Works  
August 6, 2018

Page 6

## ASSUMPTIONS

Our Scope of Work and Fee Proposal is based on the following assumptions:

- Some basic Conceptual Design may need to be done in order to facilitate phasing and logistical plans.
- Detailed Design of New Construction, Additions, or Renovations is outside the scope of work of this project.
- Preparation for and attendance at any hearings/meetings with any authorities having jurisdiction over this project, including but not limited to building and/or health depts., zoning and/or planning board or municipal departments having jurisdiction are not part of this project.
- Architect will not prepare As-Built Record Drawings, including the updating of engineering contract drawings as part of this project.
- Life Cycle Cost Analysis of various MEP systems is not included.

We appreciate the opportunity to submit this Proposal to you and we look forward to your favorable response. If you have any questions, or if we can be of further assistance, please call me at your earliest convenience.

If this Proposal is acceptable to you, please sign and date this letter below and return it to us. We look forward to working with you, and to a successful completion of this Project.

Sincerely,

**DORE & WHITTIER ARCHITECTS, INC.**  
Architects • Project Managers

Accepted by:



C. Bradley Dore, Assoc. AIA, LEED AP  
Principal

\_\_\_\_\_  
Name Date

Cc: TH / File

**City of Gloucester**  
**SUPPLEMENTAL APPROPRIATION - BUDGETARY REQUEST**  
**Fiscal Year 2019**

\*\*\*\*CITY COUNCIL APPROVAL- 6 VOTES NEEDED\*\*\*\*

APPROPRIATION # 2019-SA- 4 Auditor's Use Only

DEPARTMENT REQUESTING APPROPRIATION: \_\_\_\_\_ Treasurer/Collector \_\_\_\_\_

APPROPRIATION AMOUNT: \$ 325,000.00

|                              |                     |  |
|------------------------------|---------------------|--|
| Account to appropriate from: | Unifund Account #   | <u>7600/359000</u>                                   |
|                              | Account Description | <u>CP Stabilization Fund - Undesignated Fund Bal</u> |
| Balance Before Appropriation | \$                  | <u>1,435,769.00</u>                                  |
| Balance After Appropriation  | \$                  | <u>1,110,769.00</u>                                  |

|                                  |                     |                                    |
|----------------------------------|---------------------|------------------------------------|
| Account Receiving Appropriation: | Unifund Account #   | <u>760020 - 584000</u>             |
|                                  | Account Description | <u>Public Building Master Plan</u> |
| Balance Before Appropriation     | \$                  | <u>-</u>                           |
|                                  | #                   | <u></u>                            |
| Balance After Appropriation      | \$                  | <u>325,000.00</u>                  |

DETAILED ANALYSIS OF NEED(S): To fund a contract with Dore & Whittier Architects to produce a multi-year Master Plan for Municipal Buildings

APPROVALS:

DEPT. HEAD: \_\_\_\_\_

DATE: 9/5/2018

ADMINISTRATION: \_\_\_\_\_

DATE: 9/5/2018

BUDGET & FINANCE: \_\_\_\_\_

DATE: \_\_\_\_\_

CITY COUNCIL: \_\_\_\_\_

DATE: \_\_\_\_\_

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930



TEL 978-281-9700  
FAX 978-281-9738  
sromeo@gloucester-ma.gov

CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

TO: City Council  
FROM: Sefatia Romeo Theken, Mayor  
DATE: September 6, 2018  
RE: Addendum to the Mayor's Report for the September 11, 2018– City Council Meeting

---

Councilors,

Please include the following enclosure as an Addendum to the latest Mayor's Report:

**Enclosure 1** is a memo from Chief Financial Officer John P. Dunn regarding a Loan Order in the amount of \$215,000.00 to provide funding to pave Nashua and Diamond Avenue which are private roads. ***Please refer this matter to the Budget and Finance subcommittee for review and approval.*** John P. Dunn, Chief Financial Officer or appropriate personnel will be available to answer any questions and provide further information.

Thank you.

###

Sefatia Romeo Theken, Mayor

CITY CLERK  
GLOUCESTER, MA  
2018 SEP -6 PM 1:37

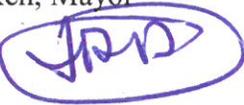
# **ENCLOSURE 1**

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930



TEL 978-281-9707  
FAX 978-281-8472  
jdunn@gloucester-ma.gov

**CITY OF GLOUCESTER**  
**OFFICE OF THE TREASURER/COLLECTOR**

To: Sefatia Romeo Theken, Mayor  
From: John P. Dunn, CFO   
Date: September 6, 2018  
Re: Loan Order – Private Way Paving

Attached, per your request, is a Loan Order in the amount of \$215,000 to provide funding for the paving of the private ways known as Nashua Avenue and Diamond Ave. Please let me know if you have any questions on this Loan Order.

Thank you.

Ordered: That the City of Gloucester appropriates Two Hundred Fifteen Thousand Dollars (\$215,000) to pay costs of permanent repairs, including paving to Nashua Avenue and Diamond Avenue, private ways in the City, including costs incidental or related thereto. To meet this appropriation the Treasurer, with the approval of the Mayor is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, Section 7(5), or pursuant to any other enabling authority. Although any borrowing by the City to meet this appropriation shall constitute a general obligation of the City and a pledge of its full faith and credit, one hundred percent (100%) of the amount needed to repay any borrowing pursuant to this order shall be raised in the first instance through the assessment of betterments upon the abutters of the private way, in accordance with M.G.L. Chapter 80, and any other applicable authority. The Mayor and any other appropriate official of the city are authorized to take any and all actions necessary to assess the betterments described above, the term of which will not exceed 10 years, or such shorter time as proscribed by Massachusetts General Law. Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Further Ordered: That the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

# NOCELLA LANDSCAPING AND PAVING

185 New Boston Street, Woburn, MA 01801

Telephone: 781-938-9162 Fax: 781-491-0149

E-mail: mikenocella@msn.com

Gloucester DPW  
Attn: Mike Hale

RE: Gloucester Paving

Nashua Ave/Diamond Ave

|                                 |              |
|---------------------------------|--------------|
| 4950 sy reclaim @ \$5.00        | \$24,750     |
| 1110 ton paving @ \$81.00       | \$89,910     |
| 1110 ton <u>escalation@8.11</u> | \$ 9,002.10  |
| 377.50 to 525                   |              |
| 45 Structures lower/raise       | \$45,000     |
| Cut back trees                  | \$ 7,250     |
| Handwork/Cut back match drives  | \$24,000     |
| TOTAL                           | \$199,912.10 |

Police details as necessary

*28%*

*≈ \$215,000*



**Office of the City Clerk**  
9 Dale Avenue • Gloucester, Massachusetts 01930  
**Office (978) 281-9720      Fax (978) 282-3051**

**MEMORANDUM**

TO: Mayor Sefatia R. Theken

FROM: Joanne M. Senos, City Clerk *JMS*

DATE: July 25, 2018

RE: Petition for Repair of Private Way pursuant to Gloucester Code of Ordinances Sec. 21-80 through Sec. 21-86 regarding Nashua Avenue and Diamond Avenue

On May 24 2018, the City Clerk's Office received the above petition for repair of private way. On May 29, 2018, the petition was forwarded to you with a request for a feasibility determination in order to commence the process under this ordinance.

Please be advised as City Clerk, the petitioners have fulfilled the requirements of Ch. 21, Article IV, Sec. 21-84 (e), (f) and (g).

Pursuant to Sec. 21-84(h), we are providing you with a copy of the official record for your consideration.

# Nashua & Diamond Avenues Abutters Repaving Meeting

## Minutes

**DATE:** July 21, 2018  
**TIME:** 10 a.m.  
**LOCATION:** 48 Nashua Ave. Gloucester, MA

2018 JUL 25 AM 8: 46  
CITY CLERK  
GLOUCESTER, MA

Meeting opened by John "Jock" Bourneuf at 10:05 a.m.

Jock turned meeting over to Tony Gross

At this time Tony asked if by a show of hands, we could take agenda item #1 and combine it with agenda item #4; all were in favor.

### Agenda

1. Roll call
2. Presentation of Nashua Ave. Repaving: scope of work and costs.
3. Discussion
4. Vote of the abutters as required by Gloucester Code of Ordinance Chapter 21, Article IV, Section 21-80 through 86.
5. Adjourn

### Presentation of the repaving scope of work and costs included;

- Drainage issues
- Diamond Ave. retaining wall structural integrity and the ability to withstand paving machinery.
- Road width
- Elimination of encroaching trees and branches.
- Process of present asphalt removal, regrading and laying of base and top coats of new asphalt
- Next steps including City Council loan order approval and possible schedule.
- Hopefully project will be completed with the installation of the top coat of asphalt in the spring.
- Project budget with break out of costs.

### During the discussion questions were asked about:

- Water runoff diversion to the cove and away from properties.
- Final thickness of the asphalt.
- Unused water pipes removal.

- Identification and replacement, as necessary, of all shutoffs water, sewer and gas covers.
- Any change to the private road status with the City.
- How far down the turn around at the end of Diamond Ave the asphalt will continue.

Richard Brown did the roll call for attendance and vote. 43 of the 50 abutters were in attendance, an 86% tally.

43 of the 50 abutters voted in favor of repaving Nashua and Diamond Avenues, an 86% tally.

Adjourn, 10:45 a.m.

Respectfully submitted,  
Tony Gross

CITY CLERK  
GLOUCESTER, MA

2018 JUL 25 AM 8:47

Nashua Ave and Diamond Ave Official Vote for Repaving in Accordance with GCO Article IV Section 21-80 through Section 21-86

| ID     | Site Address  | Owner Name                               | Attended Yes / No | Vote Yes (X) | Vote No (X) |
|--------|---------------|--|-------------------|--------------|-------------|
| 187-31 | 31 NASHUA AV  | AGNEW THOMAS J & ARIANE L                | Yes               | X            | No          |
| 187-1  | 32 NASHUA AV  | COX ROBERT K                             | Yes               | X            | No          |
| 187-34 | 33 NASHUA AV  | CONCORD TRUST COMPANY TR                 | No                |              | No          |
| 187-33 | 34 NASHUA AV  | COX CAROL A                              | Yes               | X            | No          |
| 187-19 | 35 NASHUA AV  | MCKENNA KERRY P TR                       | Yes               | X            | No          |
| 187-32 | 36 NASHUA AV  | UNDERWOOD JAMES & LISA                   | Yes               | X            | No          |
| 187-18 | 37 NASHUA AV  | RAYMOND LAURIE MARK LORING H JR & EDYTHE | Yes               | X            | No          |
| 187-30 | 39 NASHUA AV  | STERN ROBERT S & HOWRIGAN GAIL A         | Yes               | X            | No          |
| 187-21 | 39R NASHUA AV | STERN ROBERT S HOWRIGAN GAIL A           | Yes               | X            | No          |
| 187-5  | 40 NASHUA AV  | DUNCAN ROBERT J & BARBARA MARIE          | Yes               | X            | No          |
| 187-29 | 41 NASHUA AV  | GURLEY JOHN T TR                         | Yes               | X            | No          |
| 187-6  | 42 NASHUA AV  | CALLAHAN ANTOINETTE R TR                 | Yes               | X            | No          |
| 187-7  | 42R NASHUA AV | LEVINE PHILIP & GRANT LINDA              | Yes               | X            | No          |
| 187-28 | 43 NASHUA AV  | KASHDAN MAURICE A & JAQUITH DIANE J ET A | Yes               | X            | No          |
| 187-9  | 44 NASHUA AV  | CALLAHAN ANTOINETTE R TR                 | Yes               | X            | No          |
| 187-8  | 44R NASHUA AV | TRUAX RANDALL                            | Yes               | X            | No          |
| 187-10 | 46 NASHUA AV  | ANDERSON BARBARA C                       | No                |              | No          |
| 187-11 | 46R NASHUA AV | JOHNSON KATHLEEN                         | Yes               | X            | No          |
| 187-27 | 47 NASHUA AV  | BURRUSS JAN H & JOHN C TRS               | Yes               | X            | No          |

Nashua Ave and Diamond Ave Official Vote for Repaving in Accordance with GCO Article IV Section 21-80 through Section 21-86

| ID     | Site Address   | Owner Name  | Attended | Yes / No | Vote | Yes (X) | Vote | No (X) |
|--------|----------------|---|----------|----------|------|---------|------|--------|
| 186-28 | 152 LEONARD ST | BORGESANI ROBERT S & CYNTHIA D                              |          | NO       | Yes  |         | No   |        |
| 186-25 | 3A NASHUA AV   | OCONNOR RORY A TR   |          | Yes      | Yes  | X       | No   |        |
| 186-8  | 6 NASHUA AV    | OCONNOR RORY A TR   |          | Yes      | Yes  | X       | No   |        |
| 186-7  | 4A NASHUA AV   | DENNEY MARK R & FRIEND WENDY H                              |          | Yes      | Yes  | X       | No   |        |
| 186-6  | 4 NASHUA AV    | DENNEY MARK R & FRIEND WENDY H                              |          | Yes      | Yes  | X       | No   |        |
| 186-26 | 5 NASHUA AV    | HORN DAVID D & ANGUS BONNIE S                               |          | Yes      | Yes  | X       | No   |        |
| 186-24 | 7 NASHUA AV    | AMES ADELBERT III ET AL TR<br><i>Jessie Howard, Trustee</i> |          | Yes      | Yes  | X       | No   |        |
| 186-9  | 8 NASHUA AV    | SCHENCK GARRET  |          | NO       | Yes  |         | No   |        |
| 186-23 | 9 NASHUA AV    | PUDDINGSTONE PROP. LMTD PTRNSHP                             |          | Yes      | Yes  | X       | No   |        |
| 186-11 | 14 NASHUA AV   | RIPLEY BRUCE A & FLYNN-RIPLEY MEREDITH                      |          | Yes      | Yes  | X       | No   |        |
| 186-34 | 16 NASHUA AV   | MARTIN DANIEL & LILLIAN                                     |          | Yes      | Yes  | X       | No   |        |
| 186-22 | 17 NASHUA AV   | TURNER KATHRYN R  |          | NO       | Yes  |         | No   |        |
| 186-33 | 18 NASHUA AV   | GROSS ANTHONY & LUNDBERG ABBIE                              |          | Yes      | Yes  | X       | No   |        |
| 186-20 | 19 NASHUA AV   | STEVENS KEVEN M & CARA H                                    |          | Yes      | Yes  | X       | No   |        |
| 186-35 | 20 NASHUA AV   | FANTARONI JENNIFER M  |          | NO       | Yes  |         | No   |        |
| 186-12 | 22 NASHUA AV   | WOOD KRISTIN A  |          | Yes      | Yes  | X       | No   |        |
| 186-18 | 23 NASHUA AV   | BROWN RICHARD C & BOUDREAU JANET L                          |          | Yes      | Yes  | X       | No   |        |
| 186-14 | 29A NASHUA AV  | BOURNEUF JOHN J & VICKI L TRS                               |          | Yes      | Yes  | X       | No   |        |
| 186-15 | 29 NASHUA AV   | BOURNEUF JOHN J & VICKI L TRS                               |          | Yes      | Yes  | X       | No   |        |

Nashua Ave and Diamond Ave Official Vote for Repaving in Accordance with GCO Article IV Section 21-80 through Section 21-86

| ID     | Site Address   | Owner Name                                      | Attended Yes / No | Vote Yes (X)                        | Vote No (X)              |
|--------|----------------|---|-------------------|-------------------------------------|--------------------------|
| 187-26 | 49 NASHUA AV   | HOWARD NANCY S                                  | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-12 | 48 NASHUA AV   | HOWARD NANCY SARGENT                            | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-15 | 51 NASHUA AV   | MARSTON JEFFREY L & MAUREEN R                   | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-14 | 53 NASHUA AV   | LEE PAUL W & MARY Y                             | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-13 | 55 NASHUA AV   | BARRETT CYNTHIA E & MCDONOUGH INGRID            | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-25 | 4 DIAMOND AV   | DANGELMAYER VICKI H                             | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-22 | 5 DIAMOND AV   | GURLEY JOHN T TR                                | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-23 | 7 DIAMOND AV   | COX EVELYN K                                    | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-24 | 9 DIAMOND AV   | GUSTIN DIANE A                                  | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-17 | 11 DIAMOND AV  | DIAMOND COVE ASSOC <i>John Barnhart Trustee</i> | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-16 | 13 DIAMOND AV  | LEGELIS JOHN ALFRED & KIMBERLY MORRISON         | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 187-4  | 4 PARKHURST CT | DUNCAN DAVID M TR ET AL                         | <i>Yes</i>        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

CITY CLERK  
GLOUCESTER, MA  
2018 JUL 11 AM 10:25

**Nashua Avenue Abutters  
Repaving Meeting**

**AGENDA**

**DATE: July 21, 2018**  
**TIME: 10 a.m.**  
**LOCATION: 48 Nashua Ave. Gloucester, MA**  
**Alternative rain location: Annisquam Village Church, lower level**

1. Roll call
2. Presentation of Nashua Ave. Repaving: scope of work and costs.
3. Discussion
4. Vote of the abutters as required by Gloucester Code of Ordinance Chapter 21, Article IV, Section 21-80 through 86.
5. Adjourn



**OFFICE OF THE CITY CLERK**  
9 Dale Avenue • Gloucester, Massachusetts 01930  
Office (978) 281-9720 Fax (978) 282-3051

TO: Mayor Sefatia Theken

FROM: Joanne M. Senos, City Clerk *JMS*

DATE: May 29, 2018

RE: Petition for Repair of Private Way pursuant to Gloucester Code of Ordinances Sec. 21-80 through Sec. 21-86 regarding Nashua Avenue

On May 24, 2018, the City Clerk's Office received the above petition for repair of private way.

Please be advised as City Clerk, in regard to the above matter, I have fulfilled the requirements of Ch. 21, Article IV, Sec. 21-84(b). Pursuant to Sec. 21-84(c), we are providing you with said petition and request a feasibility determination in order to commence the process under this ordinance.

REPAIR OF PRIVATE WAY PETITION FORM  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA

We, the undersigned, being owners of property having frontage on and directly abutting  
Nashua Avenue and Diamond Avenue  
 a private way that has been open to the public for at least six (6) years, do hereby request that the  
 City of Gloucester repair the aforementioned private way to the degree as allowed by law.

MAY 24 AM 11:35

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

**PLEASE NOTE:** The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

| Name            | Signature | Address         | Phone        | Email                  |
|-----------------|-----------|-----------------|--------------|------------------------|
| 1. Tom Moriarty |           | 46 R NASHUA AVE | 978-223-8503 | tombellrock@gmail.com  |
| 2. Jock Bourne  |           | 29 NASHUA AVE   | 617-510-9562 | JOCKBOURNE@OUTLOOK.COM |
| 3. Tony Gross   |           | 18 Nashua Ave.  | 978-281-5593 | 144tony@gmail.com      |

Abutters (must have 75% of all abutters to the private way):

| Name            | Signature | Address          | Phone        | Frontage | Map & Lot |
|-----------------|-----------|------------------|--------------|----------|-----------|
| Richard Brown   |           | 23 Nashua Ave    | 617 961 3298 |          | 186-18    |
| Kristin Long    |           | 22 Nashua Ave    | 978 771 9217 |          | 186-12    |
| Diane Eustin    |           | 9 Diamond Ave    | 978 874 1874 |          | 187-24 ✓  |
| Rory Connor     |           | 6 Nashua Ave     | 617 285 4487 |          | 186-8 ✓   |
| Jan Heese Swann |           | 47 Nashua Ave    | 508-655-8064 |          | 187-27 ✓  |
| Jeffrey Logan   |           | 33 Nashua Ave    | 603-475-3265 |          | 187-34 ?  |
| Robert K. Cox   |           | 32 Nashua Avenue | 978 283 5223 |          | 187-1     |

REPAIR OF PRIVATE WAY PETITION FORM  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA

We, the undersigned, being owners of property having frontage on and directly abutting Nashua Avenue and Diamond Avenue a private way that has been open to the public for at least six (6) years, do hereby request that the City of Gloucester repair the aforementioned private way to the degree as allowed by law.

2018 MAY 24 AM 11:35

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

**PLEASE NOTE:** The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

| Name           | Signature | Address          | Phone        | Email                 |
|----------------|-----------|------------------|--------------|-----------------------|
| 1. Tom Morica  |           | 46 R. NASHUA AVE | 978-223-8503 | tombellrock@gmail.com |
| 2. John Burnet |           | 29 NASHUA AVE    | 617-510-9562 | JOHN.BURNET@PROX.COM  |
| 3. Tony Gross  |           | 18 Nashua Ave    | 978-281-5593 | 144tony@gmail.com     |

Abutters (must have 75% of all abutters to the private way):

| Name                   | Signature | Address        | Phone        | Frontage | Map & Lot |
|------------------------|-----------|----------------|--------------|----------|-----------|
| M KASH DAN             |           | 43 NASHUA AVE  | 781-373-3997 | 187-2    |           |
| JIM UNDERWOOD          |           | 36 NASHUA AVE  |              | 187-32   |           |
| THOMAS AGNEW           |           | 31 NASHUA AVE  | 617-840-3943 | 187-31   |           |
| Antoinette R. Gallison |           | 44 Nashua Ave  | 978-283-6247 | 187-9    |           |
| Kim Legakis            |           | 13 Diamond Ave | 617-620-8135 | 187-16   | Duplicate |
| Barbara E Cox          |           | 7 Diamond Ave  | 978-283-2476 | 187-23   |           |
| Tony Gross             |           | 18 Nashua Ave  | 978-281-5593 | 186-33   |           |

| Name  | Signature | Address          | Phone          | Frontage | Map & Lot |
|---|-----------|------------------|----------------|----------|-----------|
| JOHN BOURNEUF                                       |           | 29 Nashua Ave    | 607-510-9562   |          | 186-15    |
| Kathleen Johnson                                    |           | 46 R Nashua Ave  | 978-578-8148   |          | 187-11 ✓  |
| Kerry McKenna                                       |           | 35 Nashua Ave    | 978-288-7857   |          | 187-19 ✓  |
| Roxy Connor   |           | 348 Nashua       | 617-285-4487   |          | 186-25 ✓  |
| Mary + Paul Lee                                     |           | 53 Nashua        | 978-281-1214   |          | 187-14 ✓  |
| Kim Legellis  |           | 13 Diamond Ave   | 617-620-0135   |          | 187-16 ✓  |
| Angie McNamara                                      |           | 55 Nashua (Rear) | 978-283-9117   |          | 187-13 ✓  |
| Nancy Steward                                       |           | 48 Nashua Ave    | (978)356-0908  |          | 187-12 ✓  |
| John Steward  |           | 4 Parkhurst Ct   | 603-806-0645   |          | 187-4 ✓   |
| Carol A Cox   |           | 34 Nashua Ave    | 617-435-5702   |          | 187-33 ✓  |
| Richard F Howard                                    |           | 49 Nashua Ave    | 978-500-6583   |          | 187-26 ✓  |
| Steven Stew   |           | 19 Nashua Ave    | 978 302 5719   |          | 186-20 ✓  |
| Trustee Jessie W. Howard for the Beach Realty Trust |           | 7 Nashua Ave     | 978 626-1726   |          | 186-24 ✓  |
| Vicki Dangelmayr                                    |           | 4 DIAMOND AVE    | 978-987-1938   |          | 187-25 ✓  |
| Cynthia R. Collette                                 |           | 42 Nashua Ave    | 978-283-6247   |          | 187-6 ✓   |
| Nancy Steward                                       |           | 49 Nashua        | (978) 356-0908 |          | 187-12 ✓  |
| JOHN BOURNEUF                                       |           | 29A NASHUA AVE   | 617-510-9562   |          | 186-14 ✓  |
| JOHN BOURNEUF - TRUSTEE - DIAMOND COVE ASSN         |           | 11 DIAMOND AVE   | 617-510-9562   |          | 187-17 ✓  |

REPAIR OF PRIVATE WAY PETITION FORM  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA

We, the undersigned, being owners of property having frontage on and directly abutting Nashua Avenue and Diamond Avenue, a private way that has been open to the public for at least six (6) years, do hereby request that the City of Gloucester repair the aforementioned private way to the degree as allowed by law.

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

**PLEASE NOTE:** The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

| Name             | Signature          | Address           | Phone        | Email                     |
|------------------|--------------------|-------------------|--------------|---------------------------|
| 1. Tom Moriarty  | <i>[Signature]</i> | 416 P. NASHUA AVE | 978-723-8503 | tombellrock@gmail.com     |
| 2. John Bourneuf | <i>[Signature]</i> | 29 NASHUA AVE     | 617-510-9862 | JOHN.BOURNEUF@OUTLOOK.COM |
| 3. Tony Gross    | <i>[Signature]</i> | 18 Nashua Ave     | 978-781-5593 | 144tony@gmail.com         |

Abutters (must have 75% of all abutters to the private way):

| Name         | Signature          | Address       | Phone          | Frontage | Map & Lot               |
|--------------|--------------------|---------------|----------------|----------|-------------------------|
| Robert Stern | <i>[Signature]</i> | 39 NASHUA AVE | (617) 734-4190 | 187-30   | R Stern @ B10MK Harvard |
| Robert Stern | <i>[Signature]</i> | 39 NASHUA AVE | 617-734-4190   |          | 187-21 ✓                |
|              |                    |               |                |          |                         |
|              |                    |               |                |          |                         |
|              |                    |               |                |          |                         |
|              |                    |               |                |          |                         |
|              |                    |               |                |          |                         |

REPAIR OF PRIVATE WAY PETITION FORM  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA  
 2018 MAY 24 AM 11:35

We, the undersigned, being owners of property having frontage on and directly abutting Nashua Avenue and Diamond Ave a private way that has been open to the public for at least six (6) years, do hereby request that the City of Gloucester repair the aforementioned private way to the degree as allowed by law.

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

**PLEASE NOTE:** The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

| Name             | Signature          | Address           | Phone        | Email                     |
|------------------|--------------------|-------------------|--------------|---------------------------|
| 1. Tom Moriarty  | <i>[Signature]</i> | 916 P. NASHUA AVE | 978-223-8503 | tombellrock@gmail.com     |
| 2. Jack Bourneff | <i>[Signature]</i> | 27 NASHUA AVE     | 617-510-9862 | JOHN.BOURNEFF@OUTLOOK.COM |
| 3. Tony Gross    | <i>[Signature]</i> | 18 Nashua Ave     | 978-281-5593 | 144tony@gmail.com         |

Abutters (must have 75% of all abutters to the private way):

| Name        | Signature          | Address             | Phone    | Frontage | Map & Lot |
|-------------|--------------------|---------------------|----------|----------|-----------|
| Mark Denney | <i>[Signature]</i> | 4 Nashua Ave (508)  | 930-2555 |          | 186-6 ✓   |
| Mark Denney | <i>[Signature]</i> | 4A Nashua Ave (508) | 930-2555 |          | 186-7 ✓   |
|             |                    |                     |          |          |           |
|             |                    |                     |          |          |           |
|             |                    |                     |          |          |           |
|             |                    |                     |          |          |           |





REPAIR OF PRIVATE WAY PETITION FORM  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA

We, the undersigned, being owners of property having frontage on and directly abutting Nashua Avenue and Diamond Avenue a private way that has been open to the public for at least six (6) years, do hereby request that the City of Gloucester repair the aforementioned private way to the degree as allowed by law. MAY 21 AM 11:35

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

PLEASE NOTE: The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

| Name           | Signature          | Address          | Phone        | Email                     |
|----------------|--------------------|------------------|--------------|---------------------------|
| 1. Tom Morahan | <i>[Signature]</i> | 46 P. NASHUA AVE | 978-723-8823 | tom.morahan@gmail.com     |
| 2. John Bourne | <i>[Signature]</i> | 29 NASHUA AVE    | 617-510-4862 | JOHN.BOURNE@PGOUTLOOK.COM |
| 3. Tony Gross  | <i>[Signature]</i> | 18 Nashua Ave    | 978-781-5593 | 1444tony@gmail.com        |

Abutters (must have 75% of all abutters to the private way):

| Name            | Signature          | Address   | Phone        | Frontage | Map & Lot |
|-----------------|--------------------|-----------|--------------|----------|-----------|
| MAUREEN MARSTON | <i>[Signature]</i> | 51 Nashua | 510-384-6481 |          | 187-15 ✓  |
|                 |                    |           |              |          |           |
|                 |                    |           |              |          |           |
|                 |                    |           |              |          |           |
|                 |                    |           |              |          |           |
|                 |                    |           |              |          |           |

REPAIR OF PRIVATE WAY PETITION FORM  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA

We, the undersigned, being owners of property having frontage on and directly abutting Nashua Avenue and Diamond Avenue a private way that has been open to the public for at least six (6) years, do hereby request that the City of Gloucester repair the aforementioned private way to the degree as allowed by law. MAY 24, AM 11:35

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

**PLEASE NOTE:** The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

| Name             | Signature          | Address           | Phone        | Email                     |
|------------------|--------------------|-------------------|--------------|---------------------------|
| 1. Tom Moria     | <i>[Signature]</i> | 916 P. NASHUA AVE | 978-223-8503 | tombellrock@gmail.com     |
| 2. John Bourneuf | <i>[Signature]</i> | 29 NASHUA AVE     | 617-510-9862 | JOHN.BOURNEUF@OUTLOOK.COM |
| 3. Tony Gross    | <i>[Signature]</i> | 18 Nashua Ave.    | 978-281-5593 | 1444tony@gmail.com        |

Abutters (must have 75% of all abutters to the private way):

| Name         | Signature          | Address   | Phone                 | Frontage | Map & Lot |
|--------------|--------------------|-----------|-----------------------|----------|-----------|
| BRUCE MAPLEY | <i>[Signature]</i> | 14 NASHUA | 781-288-2200<br>-0243 |          | 186-11 ✓  |
|              |                    |           |                       |          |           |
|              |                    |           |                       |          |           |
|              |                    |           |                       |          |           |
|              |                    |           |                       |          |           |
|              |                    |           |                       |          |           |

REPAIR OF PRIVATE WAY PETITION FORM  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA

2018 MAY 24 AM 11:3

We, the undersigned, being owners of property having frontage on and directly abutting Nashua Avenue and Diamond Avenue a private way that has been open to the public for at least six (6) years, do hereby request that the City of Gloucester repair the aforementioned private way to the degree as allowed by law.

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

**PLEASE NOTE:** The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

- | Name             | Signature          | Address          | Phone        | Email                     |
|------------------|--------------------|------------------|--------------|---------------------------|
| 1. Tom Moriarty  | <i>[Signature]</i> | 46 P. NASHUA AVE | 978-223-8503 | tombellrock@gmail.com     |
| 2. John Bourneuf | <i>[Signature]</i> | 29 NASHUA AVE    | 617-510-9862 | JOHN.BOURNEUF@OUTLOOK.COM |
| 3. Tony Gross    | <i>[Signature]</i> | 18 Nashua Ave    | 978-281-5593 | 144tony@gmail.com         |

Abutters (must have 75% of all abutters to the private way):

| Name                      | Signature          | Address       | Phone        | Frontage | Map & Lot |
|---------------------------|--------------------|---------------|--------------|----------|-----------|
| John T. Gurley<br>Trustee | <i>[Signature]</i> | 5 Diamond Ave | 207-749-8342 |          | 187-22 ✓  |
|                           |                    |               |              |          |           |
|                           |                    |               |              |          |           |
|                           |                    |               |              |          |           |
|                           |                    |               |              |          |           |
|                           |                    |               |              |          |           |



REPAIR OF PRIVATE WAY PETITION FORM  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA

We, the undersigned, being owners of property having frontage on and directly abutting Nashua Avenue and Diamond Avenue a private way that has been open to the public for at least six (6) years, do hereby request that the City of Gloucester repair the aforementioned private way to the degree as allowed by law. MAY 21, AM 11: 35

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

**PLEASE NOTE:** The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

- | Name             | Signature          | Address          | Phone        | Email                      |
|------------------|--------------------|------------------|--------------|----------------------------|
| 1. Tom Moriarty  | <i>[Signature]</i> | 46 R. NASHUA AVE | 978-223-8503 | tombellcock@gmail.com      |
| 2. John Bourneuf | <i>[Signature]</i> | 29 NASHUA AVE    | 617-510-9562 | JOHN.BOURNEUF@CIVILCOM.COM |
| 3. Tony Gross    | <i>[Signature]</i> | 118 NASHUA AVE   | 978-281-5593 | 144tony@gmail.com          |

Abutters (must have 75% of all abutters to the private way):

| Name          | Signature          | Address       | Phone        | Frontage | Map & Lot |
|---------------|--------------------|---------------|--------------|----------|-----------|
| Evelyn M. Cox | <i>[Signature]</i> | 7 DIAMOND AVE | 978-283-2476 | 187-23   |           |
|               |                    |               |              |          |           |
|               |                    |               |              |          |           |
|               |                    |               |              |          |           |
|               |                    |               |              |          |           |
|               |                    |               |              |          |           |

**REPAIR OF PRIVATE WAY PETITION FORM**  
 Gloucester Code of Ordinances 21-80 through 21-86

CITY CLERK  
 GLOUCESTER, MA

We, the undersigned, being owners of property having frontage on and directly abutting  
 \_\_\_\_\_  
 a private way that has been open to the public for at least six (6) years, do hereby request that the  
 City of Gloucester repair the aforementioned private way to the degree as allowed by law.

2018 MAY 24 AM 11:36

We, the undersigned, agree (1) that the City may not accept this road as public as a result of the permanent repair process undertaken under the Gloucester Code of Ordinances (GCO) sections 21-80 through 21-86; (2) that City employees shall be allowed on each abutting parcel for the purposes of repairing the private way; (3) that any deviation from the current layout of the private way shall be done at the discretion of the Director of the Department of Public Works; and (4) that a non-refundable fee shall be assessed with this petition of \$1.00 per linear foot of the private way at the discretion of the Director of the Department of Public Works. The costs resulting from the improvements to be carried out are described in GCO section 21-83, "Funding for approved construction or repair."

**PLEASE NOTE:** The following information is required to begin the process. The process will not move forward without the initial approval (including signatures) of seventy-five percent (75%) of all abutters of the private way.

Points of Contact (must have three):

| Name             | Signature          | Address          | Phone        | Email                     |
|------------------|--------------------|------------------|--------------|---------------------------|
| 1. Tom Moriarty  | <i>[Signature]</i> | 46 P. NASHUA AVE | 978-223-8503 | tombellrock@gmail.com     |
| 2. Jack Bourneuf | <i>[Signature]</i> | 27 NASHUA AVE    | 617-510-9862 | JOHN.BOURNEUF@OUTLOOK.COM |
| 3. Tony Gross    | <i>[Signature]</i> | 18 Nashua Ave    | 978-281-5593 | 144tony@gmail.com         |

Abutters (must have 75% of all abutters to the private way):

| Name               | Signature                     | Address       | Phone           | Frontage | Map & Lot |
|--------------------|-------------------------------|---------------|-----------------|----------|-----------|
| The Andisway Trust | <i>[Signature]</i><br>Trustee | 41 Nashua Ave | 207<br>749 8342 |          | 187-29 ✓  |
|                    |                               |               |                 |          |           |
|                    |                               |               |                 |          |           |
|                    |                               |               |                 |          |           |
|                    |                               |               |                 |          |           |
|                    |                               |               |                 |          |           |



CITY CLERK  
GLOUCESTER, MA

2018 SEP -5 PM 2:14

Office: 12 Emerson Avenue

Mail: City Hall, 9 Dale Avenue

Gloucester, MA 01930

City of Gloucester

Cape Ann Veterans Services

TEL 978-281-9740

FAX 978-282-3053

[acurcuru@gloucester-ma.gov](mailto:acurcuru@gloucester-ma.gov)

Greetings,

The Cape Ann Office of Veterans Services, the City of Gloucester, and the Light Up Mattos Field Committee invite you to join us at the Private Joseph S. Mattos, Jr. Flag Dedication Ceremony.

The ceremony is to be held at 4:00 P.M. on Friday, October 5, 2018 at Mattos Field on Webster Street, Gloucester, Massachusetts.

Refreshments will be served immediately following the ceremony at the Gloucester Fraternity Club, 27 Webster Street, Gloucester, Massachusetts.

Cordially,

*Adam J. Curcuru*

Adam J. Curcuru, Director



CITY CLERK  
GLOUCESTER, MA

2018 AUG 28 AM 10:41

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

**CITY OF GLOUCESTER  
OFFICE OF THE MAYOR**

August 28, 2018

Grant Clark  
279 Concord Street  
Gloucester, MA 01930

Dear Mr. Clark,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken**  
Mayor

CITY CLERK  
GLOUCESTER, MA



City Hall 2018 AUG 28 AM 10:41  
Nine Dale Avenue  
Gloucester, MA 01930

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

August 28, 2018

Richard Cousins  
137 Bray Street  
Gloucester, MA 01930

Dear Mr. Cousins,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken**  
Mayor

CITY CLERK  
GLOUCESTER, MA



City Hall 2018 AUG 28 AM 10:41  
Nine Dale Avenue  
Gloucester, MA 01930

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

**CITY OF GLOUCESTER  
OFFICE OF THE MAYOR**

August 28, 2018

Alice Eastland  
7 Whale Rocks Road  
Gloucester, MA 01930

Dear Ms. Eastland,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken  
Mayor**

CITY CLERK  
GLOUCESTER, MA



City Hall  
Nine Dale Avenue  
Gloucester, MA 01930

2018 AUG 28 AM 10: 41

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

**CITY OF GLOUCESTER  
OFFICE OF THE MAYOR**

August 28, 2018

Carrie Fryklund  
240 Concord Street  
Gloucester, MA 01930

Dear Ms. Fryklund,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken  
Mayor**

CITY CLERK  
GLOUCESTER, MA



City Hall 2018 AUG 28 AM 10:42  
Nine Dale Avenue  
Gloucester, MA 01930

TEL 978-281-9700  
FAX 978-281-9738  
sromeothenken@gloucester-ma.gov

**CITY OF GLOUCESTER  
OFFICE OF THE MAYOR**

August 28, 2018

Debbie Holland  
11 Jebeka Lane  
Gloucester, MA 01930

Dear Ms. Holland,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken**  
Mayor

CITY CLERK  
GLOUCESTER, MA



City Hall 2018 AUG 28 AM 10:41  
Nine Dale Avenue  
Gloucester, MA 01930

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

August 28, 2018

Nicholas Holland  
11 Jebeka Lane  
Gloucester, MA 01930

Dear Mr. Holland,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken**  
Mayor

CITY CLERK  
GLOUCESTER, MA



2018 AUG 28 AM 10:41

City Hall  
Nine Dale Avenue  
Gloucester, MA 01930

TEL 978-281-9700  
FAX 978-281-9738  
sromeothenken@gloucester-ma.gov

**CITY OF GLOUCESTER  
OFFICE OF THE MAYOR**

August 28, 2018

Stephen Kasnet  
25 Overlook Avenue  
Gloucester, MA 01930

Dear Mr. Kasnet,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken**  
Mayor

CITY CLERK  
GLOUCESTER, MA



City Hall  
Nine Dale Avenue  
Gloucester, MA 01930

2018 AUG 28 AM 10:41

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

August 28, 2018

Dennis McGurk  
283 Concord Street  
Gloucester, MA 01930

Dear Mr. McGurk,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken**  
Mayor

CITY CLERK  
GLOUCESTER, MA



City Hall  
Nine Dale Avenue  
Gloucester, MA 01930

2018 AUG 28 AM 10:41

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

**CITY OF GLOUCESTER  
OFFICE OF THE MAYOR**

August 28, 2018

Jennifer McTiernan  
34 Coles Island Road  
Gloucester, MA 01930

Dear Ms. McTiernan,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken  
Mayor**

CITY CLERK  
GLOUCESTER, MA



City Hall  
Nine Dale Avenue  
Gloucester, MA 01930

2018 AUG 28 AM 10: 41

TEL 978-281-9700  
FAX 978-281-9738  
sromeothenken@gloucester-ma.gov

**CITY OF GLOUCESTER  
OFFICE OF THE MAYOR**

August 28, 2018

Peter Radochia  
259 Concord Street  
Gloucester, MA 01930

Dear Mr. Radochia,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken  
Mayor**

CITY CLERK  
GLOUCESTER, MA



City Hall  
Nine Dale Avenue  
Gloucester, MA 01930

2018 AUG 28 AM 10:41

TEL 978-281-9700  
FAX 978-281-9738  
sromeotheken@gloucester-ma.gov

**CITY OF GLOUCESTER  
OFFICE OF THE MAYOR**

August 28, 2018

John Rogers  
139 Bray Street  
Gloucester, MA 01930

Dear Mr. Rogers,

Thank you for your comments at the August 14<sup>th</sup>, 2018 City Council meeting regarding the Cluster Development at 186 Concord Street. First, let me assure you that my administration is listening, and hears your concerns with the proposed Cluster Development.

I followed up on your concern with Gregg Cademartori, City Planner, and he gave me the following information regarding the development. Under Section 5.9 Cluster Development of the Gloucester Zoning Ordinance, the Planning Board is the special permit granting authority for cluster housing developments. Following a Planning Board approval of a preliminary cluster development plan approved in March of this year, an application for Definitive Cluster Plan was filed with City Clerk and Board of Health on May 10, 2018. The applicant, Carrigan Development LLC has proposed 12 single family homes, consisting of 2 and 3 bedroom units, and associated infrastructure at 186 Concord Street, which is proposed to be accessed from its frontage on Bray Street. The Planning Board held a public hearing over several months and accepted both oral and written testimony from the applicant, his representatives, and interested parties. The Planning Board has closed its public hearing and is scheduled to hold deliberations on the application at its meeting on September 6, 2018. Several elements of the proposal are also under the jurisdictions of the Conservation Commission and the Board of Health. The Conservation Commission's public hearing is open with an independent review of wetland resources still outstanding. The Board of Health has reviewed a concurrent filing with the Planning Board and confirmed soil evaluations, and the capacity of the proposed septic leaching area, and will ultimately be the reviewer of final septic system design plans.

I would like to thank you again for bringing this to my attention and hope you find this information helpful. Thank you for sharing your concerns at our City Council Meeting. Should you have any further questions or concerns, please contact my office.

Sincerely,

**Sefatia Romeo Theken**  
Mayor

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, August 28, 2018 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

**Present:** Chair, Councilor Paul Lundberg; Councilor Melissa Cox; Councilor Valerie Gilman; Councilor Kenneth Hecht; Councilor Jennifer Holmgren; Councilor Scott Memhard; Councilor James O'Hara

**Absent:** Councilor LeBlanc; Councilor Nolan

**Also Present:** Joanne Senos; Jim Destino; Amit Chhayani; Chip Payson; Mike Hale; Fire Chief Eric Smith

The meeting was called to order at 7:00 p.m. The Council President announced that this meeting is recorded by video and audio in accordance with state Open Meeting Law.

**NOTE:** Some agenda items were taken out of order.

**Flag Salute & Moment of Silence.** The Moment of Silence was dedicated to the memory of George Belezos, a former Deputy Fire Chief, a decorated WWII veteran and a valued member of the City of Gloucester who passed away over the weekend.

**Oral Communications:** None.

**Presentations/Commendations:**

Presentation by General Counsel and Director of Public Works re: Private and Public Roads:

**Chip Payson**, General Counsel, explained the following:

- Three types of ways existing in Massachusetts:

**Public Way** - the public has a right to pass and repass over all public ways. Municipalities are responsible for costs associated with the repair and upkeep. Private individuals generally may not make major repairs to a public way without prior authorization from the municipality. They may petition the municipality to have inadequate public ways upgraded, and the municipality may contract with abutters to do so.

**True Private Way** - ways that are wholly the subject of private ownership and private use; the public has no right to pass and repass.

**Statutory Private Way** - privately owned usually by the abutters along the way but the public has right to pass and repass. The Supreme Judicial Court (SJC) has noted in a case as far back as 1866 that the origin of some of these private ways may be so ancient as to be unknown, predating the founding of the country and incorporation of cities. These were likely ways that were necessary for access to the lands of certain person or properties and likely laid out by the municipality or its predecessor but paid for by the persons or properties that benefitted from them. Massachusetts law provides a legal presumption that the ownership of abutters on statutory private ways runs to the center line of the way and carries with it the right to use the private way for its entire length. These ancient roads are the statutory private roads of today. They were never subsumed by the city when it was incorporated and remained private in ownership but public in use. There are constitutional and legal restrictions on what a municipality can and cannot do with them. The SJC has "firmly" stated, "It is a fundamental principle conforming to constitutional requirements and frequently declared that money raised by taxation can be used only for public purposes and not for the advantage of private individuals." This means that *public funds cannot be used for private purposes which include the repair of private ways*. The Massachusetts legislature has provided municipalities in statute with the ability to appropriate money to plow and make minor repairs, such as filling potholes, to statutory private ways *only* if these ways are open to the public. As to liability, the abutting owners are liable for such defects or lack of repairs on statutory private ways that may exist.

- **Private Way Becoming Public:** In order for a private way to become public, the city must follow certain steps laid out in statute. The City Council must take an affirmative vote to take the private way and make it public. The procedural "hurdle" of affirmative acceptance is there for a purpose -- a taking of a private way by a municipality is an eminent domain action. Some misconceptions about this process: 1) The city doesn't designate private ways as public. The procedure is statutorily substantial and must be adhered to. 2) There is no grandfathering of private ways into making them public ways. The city must follow the statutory procedure in order to take a private way. 3) Allowing the public to use a statutory private way doesn't make it public. 4) A municipality providing minor repairs or snow removal to a statutory private way doesn't make a statutory private way public. 5) Landowners can't force a municipality to take a private way and make it a public way.

- The taking of a private way by a municipality has its legal basis in eminent domain. The Council must take an affirmative vote to take the private way and make it a public way. Absent that, there is not a public way. There are specific reasons why a municipality would want to go slow in taking private ways public. As the courts have said, "If any way could be made public solely by the acts of land owners with no accompanying act by public authorities, the municipality would be responsible for the maintenance and repair of countless ways." Assuming the care and control of numerous ways can have significant budget implications. Taking them all at once in a short period of time could bankrupt a municipality.
- Municipalities may, under law, establish an ordinance by which they may better a statutory private way: As long as a statutory private way is open to the public and benefits the public and the abutters or private owners repay the costs of that betterment, the municipality may better a statutory private way. The process is outlined in the **Gloucester Code of Ordinances (GCO) Sec. 21-80 through 21-86** (Note: Code of Ordinances is available on line at: [www.gloucester-ma.gov](http://www.gloucester-ma.gov)). The total cost of road repairs will be borne by the abutters. GCO Sec. 21-84 provides guidance to anyone wishing to avail themselves of this ordinance. The process starts with the abutters submitting a petition obtained from the City Clerk's office and submitted signed by not less than 75% of all abutting owners to the private way. The abutters must pay a fee with the petition of \$1.00/linear foot, a fee added to the newly revised ordinance to help defray some of the engineering costs now borne by the DPW. The City Clerk then refers the petition to the Mayor's office with a request for a feasibility determination. The Mayor's office then refers the petition to the DPW for that feasibility determination which shall include consulting with various city departments -- Police; Fire; ConCom -- determining the parameters of the project and setting a price for the project. The DPW will then respond to the abutters with this information. Abutters then call and hold a meeting that 75% of all abutting owners must attend to vote on the project parameters and project cost of which 66% must vote in favor -- **there are no proxy votes**. However, abutters are not required to avail themselves of this process. They are free to seek bids from other contractors. It was noted that they would encourage abutters to explore this option in order to get the lowest bid possible. The abutters submit a record of this meeting to the City Clerk's office, and the City Clerk provides a copy to the Mayor's office. The Mayor's office may submit the petition and record to the City Council for funding consideration. The Mayor's office is not required to do so. Once submitted, the Council holds a public hearing and votes on the funding. GCO Sec. 21-85 establishes a deadline of December 31 for submission to the City Clerk in order to be included in the next year's scheduled projects. If the city fails to complete the project in the year scheduled, the city will automatically finish it the following year. If the abutters fail to secure the appropriate approvals they have to wait two years before they can resubmit (their petition).

**Mike Hale**, Public Works Director conveyed the following information to the Council:

- Maintenance of Public Roads: There about 90 public road miles in the city -- 40 miles of Statutory Private Ways and about 20 +/- miles of True Private Ways. Of those road miles, the city gets about \$650,000 in Chapter 90 funds annually from the state -- money that's allocated to cities and towns for the maintenance of public ways only and *can't be used for any type of private way*. Since 2000 the city has received just under \$11 million in Chapter 90 funds. In 2013 the DPW did a pavement management study of all ways in the city. The maintenance of all ways to bring them to standard above a grade of a "70" (above 2/3 complete) would cost \$17 million at that time. That price today is close to \$17 million *just for public roads*. The city uses every dollar they get annually to pave public roads. The DPW rarely buys equipment with Chapter 90 funds although they can under the state law -- it's all used on paving in recent years. The state Chapter 90 funding formula is: the number of accepted road miles; population; and population of employment within a municipality. Adding private roads to this formula doesn't increase funding as much as expected. A way accepted in good condition takes 30 years to earn back enough to repave it and some much more than that. It was noted that a recently repaved roadway has a 106 year payback. **Mr. Hale** noted that in his 20 years with the DPW, only once has his department come before the Council for a loan authorization to fund the paving of public ways; all paving has been done completely with Chapter 90 funds. The request for loan funding came in 2011 for a reallocation of old CSO funds transferred from the Sewer Enterprise Fund to the General Fund in order to pave Farrington Avenue, East Main Street and Rocky Neck Avenue because they were in "deplorable" condition causing significant damage to fire apparatus and was a priority of the Administration at that time.
- Criteria for providing temporary service to private ways: The Ordinance allows the city to make temporary repairs on private roads that don't need to be resurfaced. It was indicated that many times when sending out an inspector they find that pothole repair wouldn't be enough to manage the condition of the way. If that is the case, the repairs are not undertaken by the city. Pothole repair should not be the means by which

those roads are maintained to make an adequate travel surface for people who live on a way. It is not the city's responsibility to maintain the way -- the city provides temporary relief to potholes only. The city doesn't provide culvert repair, drain repair, or upgrades to private ways. Those are expenses prohibited to be paid for by the city on private ways.

- The abutters of private ways can solicit pricing from paving vendors to do pothole repair or a full-service repaving. **Mr. Hale** suggested that was a good method as the private way abutters can choose how much they're willing to pay and what they want done. Some of that is lost when moving to a private/public paving betterment project under the city's ordinance.

QUESTIONS POSED TO MR. HALE WITH ANSWERS RE: PRIVATE/PUBLIC WAYS: *If we agree on a betterment to repave our street, can this betterment be used as a tax credit or deduction?* The city doesn't discount real estate taxes just because an abutter received a paving betterment. *Who's responsible if someone gets hurt on a private way?* It is not the city. *When a street sign color is changed it used to be green which typically indicated a public way.* The color of street signs does not indicate a public or private way -- moving forward the city is going with all green street signs with white lettering. If it is a public way there will be a city seal attached to it. *Is there a city-wide map showing the locations of all private ways.* There is a GIS map available but it only shows proximity of what the city believes to be private ways and public ways but is not a deciding factor. It can be viewed at the DPW on Poplar Street or at the Engineering Department at the City Hall Annex, 3 Pond. *What are the conditions of the private ways?* Many are in poor condition. Since the 2013 inventory not many private roads have undertaken full paving projects. *Can the city provide a rough approximation of conditions, given weekly access by trash and recycling trucks and other city vehicles?* There is a lot of wear and tear on roadways from many trucks -- UPS, FedEx, oil delivery trucks, city vehicles. There are a number of reasons roads fail which is in large part because of how they were constructed or the age of them. *Approximately how many potholes need to be filled before the start of the winter season?* **Mr. Hale** advised he didn't have an answer to this submitted question. Many communities have a winter private road inspection process -- in the southeastern part of the state and portions western Massachusetts communities inspect their roadways in August/September checking their towns' private ways to meet certain specified criteria. If the criteria aren't met the abutters are noticed to remedy those issues prior to the start of the winter season. *Are there more substantial repairs or improvements needed?* Many private roads don't have hard-pipe drainage or can't have it due to their location -- proximity to wetlands or other infrastructure to receive those storm waters. A big challenge for the DPW is to coordinate with other public utilities (electric, gas, cable) -- they may not be on the same schedule as the city. **Mr. Hale** advised he meets with the utilities frequently to share capital project scheduling with them well in advance so they can prepare for it. He pointed out that utilities' capital planning is as difficult as the city's and they don't have an endless supply of money to upgrade their infrastructure either. He gave several examples of instances where public ways were repaved by the city, and utilities had to come back and dig the roadway up for a variety of reasons even after all the best planning. **Mr. Hale** highlighted that they work closely with the utilities to ensure they restore the roadways to a good condition when they are done. *What would the estimated costs for homeowners on a private road come to if they were to get a private contractor?* That is a case-by-case issue. The price of a private contractor repairing anyone's private road is going to be a better price than through the city. Road maintenance is unlike other maintenance, such as hiring lawn maintenance services to mow lawns for the city is exempt from paying prevailing wages. The city is not exempt from paying prevailing wages for road maintenance work, and that adds to the city's costs which private contractors don't incur. *There is a presumption that it is a larger efficiency of costs when the city is taking on these projects.* **Mr. Hale** suggested that wasn't necessarily true. The city can't take on 40 miles of road paving projects in one year. The efficiency would be in individual projects versus a "massive" project. *What is the history of the city work on private roads? Many residents remember the city working on roads and are surprised by this new policy. When did this take effect?* The ordinance dates back to at least 1980 with the state law older than that. **Mr. Hale** advised that there is \$30,000 allocated in the DPW's entire FY19 budget for road repairs which would be gone in one week for three mid-grade private roads just for pothole repairs. Any public road the city is obligated to take care of would be left undone. *Is there an inventory of private roads as approved by the Council in the 1950's or 1960's?* Roads aren't approved by lists; there is a specific statutory process. He suggested that there could have been a "culling" of records by the Council or the Mayor's office to have a better understanding. In the mid-2000's after the development of Bennett Street it was, in fact, a public road laid out by the selectmen of the "Town of Gloucester" in the 1700's well before Gloucester was incorporated. A full year of Chapter 90 money and most of the next year's funding was spent to put that road into the condition it is today. *What is the process for additional private roads to be accepted?* Mr. Payson previously reviewed the ways in which a roadway is accepted as a public way. One of the biggest determining factors is, is there funding available to do. By adding road miles, **Mr. Hale** indicated with the Chapter 90 formula it actually is detrimental to the city's funding by putting the city on a much longer paving cycle. Right now the city's

paving schedule is once every 40 years. Road life expectancy is 15 years for a newly paved road. *What are the private roads on deck for public consideration?* **Mr. Hale** advised he'd put forward a list a number of years ago of roads that made sense for the city to accept -- some are roads that an Administration or Council missed the acceptance process that were laid out by the city but a vote wasn't taken -- or the roads are completely on public land such as Lane's Cove Road which the city owns in total and is listed but abutters don't even touch the layout. It should be a public road, he pointed out, although small. There are a number of fire lanes that act as roads laid out by the city which should be included in the public road miles. *What is the public road paving queuing timeline?* Middle Street was finished this past spring; Duncan Street will be paved starting the following week which will be paid for by CDBG monies as it is an ADA project for accessibility to Rogers and Main Streets. Thatcher Road will be paved from Barn Lane to Witham Street which will include some pedestrian improvements as well -- that work is Chapter 90 funding which finishes all the Chapter 90 funding of road paving for the year. **Mr. Hale** advised that they seek other ways proactively to gain paving monies. Complete Streets is one such program through MassDOT, and Gloucester is a Complete Streets. He highlighted the competitive nature of the grant process. The city was declined funding three years in a row; but the city was accepted this year. The Complete Streets funding will be used to create new sidewalks on Reynard Street; realigning the intersection of Reynard and Cherry Streets and Poplar and Cherry Streets. The project was desirable because there is a Middle School and an elementary school within a certain zone, and an elderly housing project at Cherry and Poplar Streets. *Has there been preliminary conversations including budget implications for FY20?* **Mr. Hale** indicated he didn't know what the answer is at this time, pointing out that it is a difficult task for the city to maintain what they have, which is a very challenging responsibility as a public obligation. *An open discussion on public access to private ways specifically towards public landings?* Just because there is a public landing or a public amenity on a private road doesn't make it any less private. It depends who owns the public landing or public amenity as they become a party to the private way as well.

**Mr. Payson** advised that there's a significant difference between abutters of statutory private ways availing themselves of the city's Ordinance as opposed to going out and hiring a private paving contractor. The city's Ordinance requires, "75% approval but 100% pay." When there is a vocal minority who doesn't want to pay, in a private contracting situation the surrounding abutters can't require that person to pay. The city betterment Ordinance requires 100% pay as long as the threshold of approval is met; everyone else is "on the hook."

**Council President Lundberg** offered his thanks to Messrs. Payson and Hale for their comprehensive presentation.

#### COUNCILOR QUESTIONS:

**Councilor Holmgren**, having no questions, extended her thanks to Mr. Payson and Mr. Hale for their thorough work.

**Councilor Memhard**, offering his thanks, noted this is an important issue for taxpayers and constituents. He mentioned that there are private ways in Ward 1 after consultation with the DPW that have chosen to pave their private way through a private contractor. He noted there are roads that have gone through the betterment process in his Ward pointing to High Popples Road and adjoining ways; Starknought Heights and several adjoining ways. He pointed out that there are currently projects pending on Souther Road and Brier Neck. He mentioned that there is a road that is actually in private ownership that has been suggested should be made public -- Beach Road and asked if there was some mechanism to address it. **Mr. Payson** noted that other than the statutory allowance of snow plowing or temporary repairs, if the way is not taken as public, the abutters are responsible for the roadway's maintenance. The courts are clear on what taxpayer money can and can't be spent on those, saying that in his legal opinion, these are the only things that can be done. **Councilor Memhard** noted there were ownership issues and survey work that needed to be done to clearly establish the parameters of the roadway. **Mr. Hale** advised that Beach Road has been difficult to determine ownership but that there's never been a Council vote on it.

**Councilor Cox** asked where the state gets the money for Chapter 90 funding. **Mr. Hale** conveyed it is a bond floated by the state annually, and the money comes mostly through the state gasoline tax. If the money isn't released until mid-summer the paving season is almost completely lost, he noted. **Councilor Cox** advised she would reach out to Sen. Tarr to work to increase the city's Chapter 90 funding. Advising that he is President of Essex County Highway Association, he noted that most communities need \$1 million annually to maintain their public obligation. This private way piece isn't discussed much by Public Works Directors as it is a challenge to just maintain their public ways. The city has (no line item) budget for full paving of public ways. The Sewer and Water Enterprise Funds have a line item for trench repair for their work. The full paving funding for FY19 for the city, he reiterated, is \$30,000 for pothole repair. If they do a capital project they try to incorporate paving but that they must be mindful it affects the water and sewer rates, he added, saying they don't want to drive those rates up too high just

for the benefit of paving and sidewalks. *If there is a private road has a school bus stop on or near the entrance to the road, is it something that the city can improve if it is a hazard for a school bus stop?* **Mr. Hale** pointed out that addressing hazards on a private way is the responsibility of the abutters of the private way. If it was really unsafe, the DPW would simply ask the transportation division to move the bus stop.

**Councilor O'Hara** noted the poor road conditions of Lake, Maple, and Englewood Roads which are private, saying that fire apparatus are designed overweight. Is there some directive that the city can give to the owners of statutory private ways (for emergency vehicle accessibility)? **Mr. Hale** pointed out that the GCO outlines specifically that it is the abutters of the private ways' responsibility to keep the roads safe for the passage of emergency vehicles. He noted he didn't know who is responsible to force the abutters of a private way to take corrective action. If there is a need for an emergency vehicle to get to a call they'll be there regardless. He recounted that former Fire Chief McKay's biggest complaint was that the streets the Fire Department needs to go quickly on are main arterial roads -- Washington Street, Eastern Avenue, Thatcher Road, Atlantic Road Concord Streets, Hesperus and Magnolia Avenues, which was where the department lost the most time when he first became the DPW Director. As of today all of the city's arterial roads have been repaved. **Councilor O'Hara** noted that certain East Gloucester roadways that were private ways sought private paving contractor quotes which came in lower than the city's quote for Souther Road. In West Gloucester Brooks Road was paved through a betterment process. Is there some way the city can put these jobs out to public bid. **Mr. Hale** pointed out that all city paving projects are put out to bid for specific projects -- They bid out; whether they have a specific bid for a project or an overall general bid for the city's general paving every three years, competitively, a process which he touched upon briefly. They do two bids - one for Chapter 90 paving and one for general paving. **Councilor O'Hara** and **Mr. Hale** also touched upon the city's ownership of a property on Brooks Road that the abutters have the benefit of an easement over city land so they could build their home but didn't own frontage. Because of the easement the abutter had the responsibility to maintain that city-owned land. In a statutory private way situation where the city may own property or an amenity, they've not had many petitions before the city where the city was a major abutter. The new ordinance allows for an initial reduction in the fee based on city-owned frontage, and he gave the example of Laurel Street where the city owns significant frontage on one side of the street. It would be unfair to expect all abutters to pick up the total cost and so the initial cost would be reduced, he mentioned.

**Councilor Gilman** asked for an explanation why looking at one's property deed was so important. **Mr. Hale** noted maps and lists are subject to error. The ownership of a way is always true in a deed. If it is misrepresented, sometimes it means a property owner needs to go back several deeds to locate a better description. There could be error references, and it is important to trace it back. SalemDeeds.com is a good site to check this information, he advised. **Councilor Gilman** asked about the Reynard Street safe walking grant. **Mr. Hale** noted the work will likely be done this fall. He advised they're moving as quickly as they can as the season is now very short. **Councilor Gilman** noted many residents talk about assessed value of their house and on a private way why don't they receive an abatement on their taxes because they receive less city services. **Mr. Hale** pointed out he is not the city's Principal Assessor, but indicated that collectively property taxes go to the General Fund and that taxes are assessed on real property and its condition on the land and the dwelling. Regardless of where you live the tax structure is the same. Collectively those tax dollars are spent by the Mayor's office at the approval of the City Council on services: Police; Fire; Public Health; Public Schools; Public Schools all things we take advantage of daily. There are lots of people who pay their taxes and don't have children in the city's school system, he pointed out. **Councilor Gilman** asked that if a tree falls on a private road obstructing it what is the city's process for intervention. **Mr. Hale** noted the DPW almost always clears safe passage suggesting he couldn't recall an instance where they hadn't. Clean-up may be part of that question. Noting that there are a lot of questions as to what makes a public shade tree, he advised that a public shade tree by statute is a tree on public property or a tree planted within 20 feet of the public property by the public with the permission of the landowner. If the tree is the middle of someone's yard but falls on a way they will remove the tree off of the roadway, and what remains on the private property is the homeowner's responsibility to remove. **Councilor Gilman** asked that Mr. Hale think about a better way to communicate this information to make it easier for the public to examine it and navigate their issues. **Mr. Hale** pointed out the Code of Ordinances is on line, easily navigated and simply typing the words "private ways" will bring the pertinent sections up. The list of public and private ways is available on line on the city's website ([www.gloucester-ma.gov](http://www.gloucester-ma.gov)).

**Councilor Hecht** asked if property owners abutting the public roads get 75% together, can they move forward to a betterment process. **Mr. Payson** noted abutters along public roads can petition a municipality to repave the public road but don't go through the betterment process which is solely for statutory private roads and private roads. They need the municipality's permission to do that and would have to have the conversation with Mr. Hale and the CAO. With 40 miles of statutory private ways, the general feeling is that the prevailing wages the city has to pay

raise the city's costs for paving projects. **Councilor Hecht** asked if there is anything available for private financing getting a lower bid. **Mr. Hale** suggested that private paving possibly may be privately financed through a bank; there are no grants for the financing private way paving.

#### QUESTIONS FROM THE PUBLIC:

**Greg Figurido**, 20 New Way Lane, asked what if a state road abuts the private road. **Mr. Hale** noted that the state abuts the way only where the way intersects with the state layout of Route 133 and is the same for any city public roadway.

**Paul Borgman**, 37 Lake Road, noted they had an ambulance at their house and were told because of the road's condition his sister wouldn't be able to receive an IV and asked if there anything the city can do to address the issue. This question will be forwarded to the Mayor, **Council President Lundberg** advised.

**Robert Bliss**, 9 Juniper Road, noted people use Juniper Road to gain access to a public landing. The public is passing over their road every day and asked why is Juniper Road designated a private road. The state sends the city money to pave money and private roads for minimal temporary repairs. They're paying the same city and state taxes and suggested they are receiving "short shrift." **Mr. Payson** pointed out that there is no designation of private roads making them public because the law doesn't operate that way. In order for a government, a public body, to take a piece of property there has to be an affirmative action. He said that it was his opinion that over the course of the incorporation of the city, there have been various takings of private roads making them public. They didn't all start as public and then get converted over to private, they all started as private and over time were slowly taken by the city and made public by affirmative votes of the governing body. **Mr. Hale** clarified as to funding that they fund only locally for pothole repair; there is no state money for it. Money is spent on public roads.

**Rose Ferrara**, 32 Lake Road, noted that their road needs to be repaired and asked what they can do in the meantime. The residents can get together and hire a contractor and repair the potholes, **Council President Lundberg** advised which was noted earlier during the presentation.

**Sal Ferrara**, 32 Lake Road, asked if they repair their private road and someone is injured on their private road are they liable for that repair. **Council President Lundberg** advised this would be a matter for their private attorney.

#### Confirmation of New Appointments:

Zoning Board of Appeals

Michele H. Harrison

TTE 02/14/21

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted in 3 favor, 0 opposed, to recommend that the City Council appoint Michelle H. Harrison to the Zoning Board of Appeals, TTE 02/14/21.

#### DISCUSSION:

**Councilor O'Hara** reported that Ms. Harrison is a well-known attorney who has practiced in the city for over 30 years. She has appeared frequently before the Zoning Board of Appeals on behalf of her clients and is always available for questions and providing good answers. Her experience will be invaluable to the Board, he added.

**MOTION: On a motion by Councilor O'Hara, seconded by Councilor Cox, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to appoint Michelle H. Harrison to the Zoning Board of Appeals, TTE 02/14/21.**

#### Consent Agenda:

- **CONFIRMATION OF REAPPOINTMENTS**
  - **MAYOR'S REPORT**
1. Memorandum from Assistant DPW Director re: request to pay FY18 invoices with FY19 funds, in the amount of \$2,159.34 (Refer B&F)
  2. Memorandum from Fire Chief & Special Budgetary Transfer Request 2019-SBT-002 from the Fire Department (Refer B&F)
    - **COMMUNICATIONS/INVITATIONS**
    - **APPLICATIONS/PETITIONS**
  1. Memorandum from City Clerk re: Request of Patrick Titus, Jr., to rename 602-606 Washington Street to Seaglass Lane per GCO Ch. 21, Sec. 21-3 "Street names" subsections (a) through (f) (Refer P&D)
  2. Special Events Application: Request to hold the Community Safety Day on September 29, 2018 (Refer P&D)
    - **COUNCILORS ORDERS**
  1. CC2018-033 (LeBlanc/Nolan) Request Traffic Commission perform a speed study on Bond Street to determine whether the speed limit should be reduced to 20 MPH and make a written recommendation to O&A, and depending on results of study, O&A recom-

- mend the City Council request MassDOT approve a 20 MPH speed limit on Bond Street (Refer O&A & TC)
2. CC2018-034 (LeBlanc) Amend GCO Ch. 22 "Traffic and Motor Vehicles", Sec. 22-270.1 "Resident Sticker Parking Only" be Amended by ADDING: "Babson Street" (Refer O&A & TC)
  3. CC2018-035 (Gilman/Cox) Amend the February 28, 2017 City Council Rules of Procedure by ADDING Rule 17 re: a City Council Civility Resolution Review & Approval will be placed on a City Council meeting agenda during the month of January of each new term of office (Refer O&A)
    - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
      1. City Council Meeting: 08/14/2018 (Approve/File)
      2. Standing Committee Meetings: B&F 08/23/18 (under separate cover), O&A 08/20/18, P&D 08/22/18 (Approve/File)

**Items to be added/deleted from the Consent Agenda:**

**Councilor Gilman** asked to remove CC2018-35 (Gilman/Cox) and under Approval of Minutes Item #2 P&D 08/22/18. She highlighted that CC2018-35 is to amend the Council's Rules of Procedure as to the Civility Resolution that is a procedural matter which she described briefly. **It was voted unanimously by the Council to refer CC2018-035 to O&A.** She moved to amend the P&D minutes of 08/22/18 as follows:

**"On Page 8 of 9, in Condition 12. A Performance/Surety Bond for Repairs to Stage Fort Park, second paragraph by striking "2017" and ADDING "2018" and in the third paragraph striking "May 11, 2018" and ADDING "May 15, 2019".**

**Councilor Holmgren** seconded the amendment. **On a unanimous vote of the Council, the 08/22/2018 Planning & Development Minutes were amended as requested.**

**By unanimous consent the Consent Agenda was accepted as amended.**

**Committee Reports:**

**Budget & Finance: August 23**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, a state grant from the Massachusetts Executive Office of Public Safety and Security, a FY19 State 911 Department Support & Incentive Grant in the amount of \$86,795. The grant period is from July 20, 2018 through June 30, 2019.

**Councilor Memhard left the dais.**

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Holmgren, the City Council voted 6 in favor, 0 opposed, 3 (LeBlanc, Nolan, Memhard) absent, to accept under MGL c. 44, §53A, a state grant from the Massachusetts Executive Office of Public Safety and Security, a FY19 State 911 Department Support & Incentive Grant in the amount of \$86,795. The grant period is from July 20, 2018 through June 30, 2019.**

COMMITTEE RECOMMENDATION: On motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A a Federal Emergency Management Agency (FEMA)/ Department of Homeland Security (DHS), a FY2017 Assistance to Firefighters Grant (AFG) in the amount of \$321,819. The purpose of this grant is to fund replacement of the oldest Fire Department ambulance with a 10 percent local match funded by the City of Gloucester.

**Councilor Memhard returned to the dais.**

**DISCUSSION:**

**Councilor Cox** explained that the city is in receipt of FEMA's Assistance to Firefighter Grant to purchase a new ambulance. There is a 10% match to the grant which she noted was a small cost to pay for a much larger

capital expense. She had the firefighters who helped write the grant to stand up and be acknowledged who were present.

**MOTION: On motion by Councilor Cox, seconded by Councilor Holmgren, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to accept under MGL c. 44, §53A a Federal Emergency Management Agency (FEMA)/ Department of Homeland Security (DHS), a FY2017 Assistance to Firefighters Grant (AFG) in the amount of \$321,819. The purpose of this grant is to fund replacement of the oldest Fire Department ambulance with a 10 percent local match funded by the City of Gloucester.**

COMMITTEE RECOMMENDATION: On motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve the following Supplemental Appropriation 2019-SA-1 for \$32,181 (Thirty Two Thousand One Hundred Eighty-One Dollars) from Account #7600-359000, Capital Projects Stabilization Fund, Undesignated Fund Balance to Account #760017-585001, Capital Projects Stabilization Fund Fire Department Ambulance, Vehicles, for the purpose of funding a 10 percent local match for the Federal Emergency Management Agency (FEMA)/Department of Homeland Security (DHS), FY2017 Assistance to Firefighters Grant (AFG) for the purpose of funding a Fire Department ambulance.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to approve the following Supplemental Appropriation 2019-SA-1 for \$32,181 (Thirty Two Thousand One Hundred Eighty-One Dollars) from Account #7600-359000, Capital Projects Stabilization Fund, Undesignated Fund Balance to Account #760017-585001, Capital Projects Stabilization Fund Fire Department Ambulance, Vehicles, for the purpose of funding a 10 percent local match for the Federal Emergency Management Agency (FEMA)/Department of Homeland Security (DHS), FY2017 Assistance to Firefighters Grant (AFG) for the purpose of funding a Fire Department ambulance.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, from the Massachusetts Division of Marine Fisheries (MA DMF), a FY2018 Great Marsh Green Crab Trapping Program Grant in the amount of \$10,000 for the purpose of funding a program to capture and remove European green crabs from coastal marine and estuarine waters within the Great Marsh ecosystem to improve shellfish, eelgrass, and other fishery resources within the City's jurisdiction. The grant period is from July 1, 2017 through June 30, 2018.

**DISCUSSION:**

**Councilor Cox** conveyed that the Great Marsh Green Crab Trapping Program Grant for \$10,000 is from the Mass. Division of Marine Fisheries noting that this is an annual grant with no match.

**COMMITTEE RECOMMENDATION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to accept under MGL c. 44, §53A, from the Massachusetts Division of Marine Fisheries (MA DMF), a FY2018 Great Marsh Green Crab Trapping Program Grant in the amount of \$10,000 for the purpose of funding a program to capture and remove European green crabs from coastal marine and estuarine waters within the Great Marsh ecosystem to improve shellfish, eelgrass, and other fishery resources within the City's jurisdiction. The grant period is from July 1, 2017 through June 30, 2018.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL Chapter 44, §53A-½ the donation by Harbor Cove Dental of 200 cloth grocery bags with a monetary value of \$100.00 for the purpose of distribution to Gloucester senior citizens and low-income residents to aid in the transition from single-use plastic checkout bags, through the Clean City Commission.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to accept under MGL Chapter 44, §53A-½ the donation by Harbor Cove Dental of 200 cloth grocery bags with a monetary value of \$100.00 for the purpose of distribution to Gloucester senior citizens and low-income residents to aid in the transition from single-use plastic checkout bags, through the Clean City Commission.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council in accordance with MGL c. 44, §64 approve payment of a prior year invoice for services rendered by ReadyRefresh by Nestle, Louisville, KY, Invoice Number 08F0442310744 dated July 2, 2018, for services and goods rendered in FY2018 and paid with FY2019 General Fund – Community Development budgeted funds for a total of \$12.87.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, that in accordance with MGL c. 44, §64 approve payment of a prior year invoice for services rendered by ReadyRefresh by Nestle, Louisville, KY, Invoice Number 08F0442310744 dated July 2, 2018, for services and goods rendered in FY2018 and paid with FY2019 General Fund – Community Development budgeted funds for a total of \$12.87.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council in accordance with MGL c. 44, §64 approve payment for services rendered by Quick Base, a software platform service provider, Quote Number 10958 dated July 20, 2018, for services provided from 03/27/2018 through 06/30/2018 and paid with FY2019 General Fund – Information Technologies Department budgeted funds for a total of \$3,156.16.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, that in accordance with MGL c. 44, §64 approve payment for services rendered by Quick Base, a software platform service provider, Quote Number 10958 dated July 20, 2018, for services provided from 03/27/2018 through 06/30/2018 and paid with FY2019 General Fund – Information Technologies Department budgeted funds for a total of \$3,156.16.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, a state grant from the Executive Office of Energy and Environmental Affairs, Office of Coastal Zone Management, a Coastal Resilience Grant of \$63,345 for the purpose of better addressing and protecting the Gloucester High School campus from future flooding risk and hazards. The grant match is 25% of the total project cost on a reimbursement basis. The grant period is through June 30, 2019.

**DISCUSSION:**

**Councilor Cox** reviewed for the Council that the city has been awarded a Coastal Resilience Grant administered through the Mass. Office of Coastal Zone Management (CZM) with a 25% match; a Supplemental Appropriation will follow, along with in-kind services. She explained as follows: There is a proposal from GZA to start the design and permit work for raising the seawall along the Annisquam River canal from Dun Fudgin Landing towards Western Avenue. There is a low point in the middle where the water breaches first, and once there is water incursion, the water can't flow back out easily as the field is at a lower level. The High School property won't flood in a 100 year event in scenarios the government has laid out. They will have the design and bid documents created through this grant, she noted.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to accept under MGL c. 44, §53A, a state grant from the**

**Executive Office of Energy and Environmental Affairs, Office of Coastal Zone Management, a Coastal Resilience Grant of \$63,345 for the purpose of better addressing and protecting the Gloucester High School campus from future flooding risk and hazards. The grant match is 25% of the total project cost on a reimbursement basis. The grant period is through June 30, 2019.**

**NOTE: The B&F Committee voted unanimously at the August 23 meeting to allow the matter of 2019-SA-4 to be taken up although not having been referred through the Mayor's Report on August 14, 2018 for the purpose of a 20% match to the FY19 Coastal Resilience Grant.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Cox, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2019-SA-4 in the amount of \$20,000 (Twenty Thousand Dollars) from Account #7600-359000, Capital Project Stabilization Fund-Undesignated Fund Balance to Account #760018-584000, Capital Project Stabilization Fund-FY2019 Coastal Resilience Grant, for the purpose of funding a 25% local grant match by the City of Gloucester.

**DISCUSSION:**

**Councilor Cox** advised that this is the 25% Grant match for the just accepted CZM Coastal Resilience Grant.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to approve Supplemental Appropriation 2019-SA-4 in the amount of \$20,000 (Twenty Thousand Dollars) from Account #7600-359000, Capital Project Stabilization Fund-Undesignated Fund Balance to Account #760018-584000, Capital Project Stabilization Fund-FY2019 Coastal Resilience Grant, for the purpose of funding a 25% local grant match by the City of Gloucester.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council in accordance with MGL c. 44, §64 approve payment for the City of Gloucester's Unemployment Insurance by the Commonwealth of Massachusetts Executive Office of Labor and Workforce Development, Department of Unemployment Assistance, Boston, MA, a software platform service provider, EAN Number 78303680 dated June 12, 2018 and July 10, 2018, for unemployment claims of May and June of 2018 to be paid with monies from the FY2019 General Fund Budget for a total of \$10,811.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, that in accordance with MGL c. 44, §64 approve payment for the City of Gloucester's Unemployment Insurance by the Commonwealth of Massachusetts Executive Office of Labor and Workforce Development, Department of Unemployment Assistance, Boston, MA, a software platform service provider, EAN Number 78303680 dated June 12, 2018 and July 10, 2018, for unemployment claims of May and June of 2018 to be paid with monies from the FY2019 General Fund Budget for a total of \$10,811.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2019-SA-2 in the amount of \$23,780.00 (Twenty Three Thousand Seven Hundred Eighty Dollars) from the Stabilization Fund-Transfer to General Fund, Account #75005-596001, to Executive – Mayor's Office, Purchase of Services, Account #0112152-520000 for the purpose of funding the Assessment Center to review and make recommendations for a new Police Chief.

**DISCUSSION:**

**Councilor Cox** conveyed that this Supplemental Appropriation is to release funds in order to hire the assessment center to review and make recommendations for a new Police Chief as laid out in the city ordinance.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to approve Supplemental Appropriation 2019-SA-2 in the amount of \$23,780.00 (Twenty Three Thousand Seven Hundred Eighty Dollars) from the Stabilization Fund-Transfer to General Fund, Account #75005-596001, to Executive – Mayor’s Office, Purchase of Services, Account #0112152-520000 for the purpose of funding the Assessment Center to review and make recommendations for a new Police Chief.**

COMMITTEE RECOMMENDATION: On motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve 2019-SA-3 for \$91,930.00 (Ninety One Thousand Nine Hundred Thirty Dollars) from Account #7600-359000, Capital Projects Stabilization Fund, Undesignated Fund Balance to Account #760018-58400, Capital Projects Stabilization Fund-Magnolia Pier Reconstruction Project – Site Improvements for the purpose of funding a contract for survey, geotechnical investigation, design, engineering and permitting services for the reconstruction of the Magnolia Pier.

**DISCUSSION:**

Councilor Cox noted that estimates are between \$660,000 and \$820,000 to rebuild. It is a goal from the Magnolia Pier Committee to raise half of that amount. This funding is for the engineering, she added.

**MOTION: On motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to approve 2019-SA-3 for \$91,930.00 (Ninety One Thousand Nine Hundred Thirty Dollars) from Account #7600-359000, Capital Projects Stabilization Fund, Undesignated Fund Balance to Account #760018-58400, Capital Projects Stabilization Fund-Magnolia Pier Reconstruction Project – Site Improvements for the purpose of funding a contract for survey, geotechnical investigation, design, engineering and permitting services for the reconstruction of the Magnolia Pier.**

**Ordinances & Administration: August 20**

There were no matters under this heading for Council action.

**Planning & Development: August 22**

There were no matters under this heading for Council action.

**Scheduled Public Hearings:**

1. PH2018-031: Draft Marijuana Establishments ordinance to replace existing GZO Sec. 5.27 “Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities” with a new Sec. 56.27 “Marijuana Establishments Ordinance”; Amend Sec. 2.3 “Use Tables”; Amend Sec. 2.3.2 “Community Services Uses”; and DELETE Sec. 5.31 “Temporary Moratorium on Recreational Marijuana Establishments” (TBC 09/11/2018)

**This public hearing is opened at 8:43 p.m.**

Council President Lundberg announced that this public hearing is continued to September 11, 2018.

**This public hearing is continued at 8:44 p.m.**

2. PH2018-048: SCP2018-002: Pleasant Street #93, Map 13, Lot 43, to convert an existing 4-family dwelling into a 5-family dwelling, pursuant to GZO Sec. 1.8 and 2.3.1(7) conversion to or new multi-family or apartment dwelling, four to six dwelling units in the R-5 district

**This public hearing is opened at 8:44 p.m.**

**Those speaking in favor:**

Attorney Catherine Schlichte, Schlichte & Johnstone P.C., 14 Pleasant Street, representing the Applicant, Action, Inc., as follows:

- Action, Inc., owner of the property at 93 Prospect Street is seeking through this Special Council Permit Application to add a fifth dwelling unit to an existing four dwelling unit building. The three story building is on a property at the corner of Chestnut and Prospect Streets, with two units on the first floor and two units on the second floor, between 600 and 700 square feet. Action is undertaking extensive renovations and while doing so wishes to add an 11 foot dormer to raise the roof to add a 370 square foot unit on the third floor.
- The Applicant has received dimensional relief from the Zoning Board of Appeals (on file).

**Ms. Schlichte** then reviewed the six criteria under GZO Sec. 1.8.3 as follows:

1. Social, economic or community need served by the proposal: This will add another affordable unit to the city's housing roster. The mission of Action, Inc. is to provide safe and secure affordable housing.
2. Traffic flow and safety: This fifth unit isn't expected to affect traffic flow in the neighborhood adversely. While there is no parking on site due to topography, none of the current tenants have cars and the future tenant of this new unit isn't expected to have a car. The property is very close to the downtown and public transportation. It isn't anticipated the tenant of the new unit will own a car.
3. Adequacy of utilities and other public services: The current utilities and services in Prospect Street are available to the building and will accommodate the additional unit.
4. Neighborhood character and social structure: The neighborhood character and social structure will be maintained. This is a densely populated downtown neighborhood with many multi-family homes in the immediate vicinity of property with an 11-unit multi-family dwelling directly across on Chestnut Street and two- and five-unit dwellings in the immediate area of Prospect Street to #93. The dormer will be on the street side and will not have an adverse impact on adjacent buildings.
5. Qualities of the natural environment: The building is situated in an urban downtown landscape. It was noted this project will be part of a total building renovation with some landscaping.
6. Potential fiscal impact: The fiscal impact will be negligible.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 8:48 p.m.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant a Special Council Permit (SCP2018-002) to Action, Inc., for a property at Prospect Street #93, Map 13, Lot 43, zoned R-5 to add a fifth dwelling unit in an existing four dwelling unit building under GZO Sec. 1.8, 1.8.3 and 2.3.1(7) pursuant to an unsigned plan set submitted to the City Clerk July 12, 2018 with the application, rendered by Seitz Architects, Arlington, MA (A1.3, EX1.1, EX1.2, and EX1.3) contingent upon receipt of a signed, stamped plan set by the Architect from Seitz Architects.

#### **DISCUSSION:**

**Councilor Gilman** offered the following amendment to the main motion, seconded by **Councilor Holmgren**:

**"...pursuant to a plan set entitled, "93 Prospect Street, Gloucester, MA 3rd Floor Renovations + Dormer Addition" rendered by Seitz Architects; signed by Patricia A. Seitz, Registered Architect and dated 7-8-18."**

**By a unanimous vote of the Council, the motion to amend the main motion passed.**

**Councilor Gilman** noted that this proposal to add a fifth dwelling unit to Action, Inc.'s housing property which will help the city by creating more affordable housing. She added that this Special Council Permit application meets the standards of GZO 1.8.3 and is in harmony with the city's Zoning Ordinance. She asked Councilors to join her in supporting Action, Inc.'s Special Council Permit Application.

**Council President Lundberg** offered his support to the Application, expressing his appreciation for Action, Inc.'s mission and partnership with the city on affordable housing.

**Councilor Holmgren** thanked Ms. Schlichte for her presentation and Action, Inc. for coming up with a creative solution to a "challenging" problem. She also offered her support for the Application.

**MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to grant a Special Council Permit (SCP2018-002) to Action, Inc., for a property at Prospect Street #93, Map 13, Lot 43, zoned R-5 to add a fifth dwelling unit in an existing four dwelling unit building under GZO Sec. 1.8, 1.8.3 and 2.3.1(7) pursuant to a plan set entitled, "93 Prospect Street, Gloucester, MA 3<sup>rd</sup> Floor Renovations + Dormer Addition" rendered by Seitz Architects; signed by Patricia A. Seitz, Registered Architect and dated 7-8-18.**

- 3. PH2018-049 Amend GCO Ch. 22 "Traffic and Motor Vehicles" Sec. 22-270 "Parking prohibited at all times" AND Amend GCO Ch. 22 "Traffic and Motor Vehicles" Sec. 22-291 "Tow-away Zones" by ADDING "Pleasant Street westerly side beginning at a point 130 feet from its intersection with Warren Street in a northerly direction for a distance of 25 feet"**

**This public hearing is opened at 8:53 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 8:54 p.m.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Ch. 22 "Traffic and Motor Vehicles" Sec. 22-270 "Parking prohibited at all times" by ADDING "Pleasant Street westerly side beginning at a point 130 feet from its intersection with Warren Street in a northerly direction for a distance of 25 feet."

**DISCUSSION:**

**Councilor O'Hara** explained that the parking space proposed to be eliminated is in front of the Carroll Steele Insurance Agency on Pleasant Street that is currently narrowing the roadway creating a traffic bottleneck. This proposed action will open up this area of Pleasant Street for safer traffic flow, he added.

**Councilor Hecht** noted that by removing this one parking spot it changes the "pinch point" on Pleasant Street from 14 feet to 19 feet. He advised that the Carroll Steele Insurance Agency is in favor of this action, adding that it sense and is generally supported.

**Councilors Memhard and Gilman** added their support.

**MOTION: On a motion by Councilor O'Hara, seconded by Councilor Cox, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to Amend GCO Ch. 22 "Traffic and Motor Vehicles" Sec. 22-270 "Parking prohibited at all times" by ADDING "Pleasant Street westerly side beginning at a point 130 feet from its intersection with Warren Street in a northerly direction for a distance of 25 feet."**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Ch. 22 "Traffic and Motor Vehicles" Sec. 22-291 "Tow-away Zones" by ADDING "Pleasant Street westerly side beginning at a point 130 feet from its intersection with Warren Street in a northerly direction for a distance of 25 feet."

**DISCUSSION: None.**

**MOTION: On a motion by Councilor O'Hara, seconded by Councilor Cox, the City Council voted 7 in favor, 0 opposed, 2 (LeBlanc, Nolan) absent, to Amend GCO Ch. 22 "Traffic and Motor Vehicles" Sec. 22-291 "Tow-away Zones" by ADDING "Pleasant Street westerly side beginning at a point 130 feet from its intersection with Warren Street in a northerly direction for a distance of 25 feet."**

**For Council Vote:**

- 1. City Council Civility Resolution: TBC 09/11/2018.**

**Unfinished Business: None.****Individual Councilor's Discussion including Reports by Appointed Councilors to Committees:**

**Update on the Tourism Commission by City Council Representative, Councilor Ken Hecht**, highlighted that there will be a "restart" of the Tourism Commission, noting five entities related to tourism in the city -- the Cape Ann Chamber of Commerce; Discover Gloucester; the Tourism Commission; the Downtown Development Commission and the Downtown Merchants Association. It was noted Councilor Hecht met with these entities as well as the Administration. The Community Development Director is organizing a meeting of the Commission. A key goal at that first meeting is to select a chairperson to move forward with initiatives.

**Council President Lundberg** thanked Councilor Hecht for taking on the liaison role saying it isn't an easy job.

**Councilors' Requests to the Mayor:**

**Councilor Hecht** touched on the Salem Murals program saying that he's working to bring that arts program to Gloucester to the downtown area to visually enhance public spaces. He'll do an inventory of available building walls and will seek the Committee for the Arts input; noting that the program will be privately funded with the artwork placed on private properties. He noted he walked Main Street with the Public Works Director recently, to discuss improvements.

**Councilor Gilman** announced that the annual Parade of Sail is slated around 10:30 a.m. on Sunday, Sept. 2<sup>nd</sup>. She asked that more fans be installed in Kyrouz Auditorium for future Council meetings in hot weather noting the high heat under which the meeting this evening was conducted. She mentioned her understanding that there was still a need for poll workers for next week's state primary election. **Joanne M. Senos**, City Clerk, noted her office has a complete roster of poll workers for the state primary on Tuesday, Sept. 4, but are still looking for additional poll workers for the Nov. 6 state election. She asked that anyone interested to contact her office at 978-281-9720.

**Councilor O'Hara** expressed his appreciation for Messrs. Payson and Hale's informative presentation. He reminded the public about a Red Cross Blood Drive, scheduled for Monday, Sept. 24, 2:00 p.m. to 7:00 p.m. at the Magnolia Library. Call 1-800-Red-Cross to make an appointment.

**Councilor Holmgren** encouraged the community to come out and vote on September 4 highlighting that there are 14 different slots open and being contested in some cases. Polls will be open 7:00 a.m. to 8:00 p.m. She extended her thanks to the City Clerk's office for all the work they do to ensure a smoothly run election each time. She announced that the next Animal Advisory Committee meeting is scheduled for Wednesday, Sept. 12 at 6:30 p.m. in the 1<sup>st</sup> Fl. Council Meeting Room at City Hall.

**Councilor Memhard** also thanked Messrs. Payson, Hale and Destino for their work on the private/public roadway issues saying that the presentation was very helpful, professional and clear. He expressed empathy for constituents' frustration and the perception that the process seems inequitable, but pointed out that progress is being made in laying the groundwork for communicating these issues. Now that the Middle Street paving project is completed, Duncan Street and Thatcher Road between Barn Lane and Witham Street paving will commence saying that it will be a major improvement for the city's residents.

**Councilor Cox** announced the Maritime Gloucester Heritage Day at Harbor Loop during the Labor Day weekend with lots of activities for children and a wide variety of vendors along with tours offered of the visiting sloops. She encouraged everyone to come out and vote on Tuesday, Sept. 4.

**Council President Lundberg** commended to the community the Schooner Festival activities taking place over the Labor Day weekend, offering his thanks to Maritime Gloucester for taking a lead role each year; and to the Beauport Hotel for stepping up as a sponsor as well as all who work to make it an exceptional event.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 9:06 p.m.**

Respectfully submitted,

*Dana C. Jorgenson*  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:** None.

**SPECIAL BUDGET & FINANCE MEETING MINUTES**

**9/11/2018**

**(UNDER SEPARATE COVER)**

**Planning & Development Committee**  
Wednesday, September 5, 2018 – 5:30 p.m.  
**1<sup>st</sup> Fl. Council Committee Room - City Hall**  
-Minutes-

**Present:** Chair, Councilor Valerie Gilman; Vice Chair, Councilor Jen Holmgren; Councilor Paul Lundberg  
**Absent:** None.

**Also Present:** Gregg Cademartori; Chip Payson; Police Chief John McCarthy; Joanne M. Senos;  
Jim Destino; Jill Cahill

The meeting was called to order at 5:30 p.m.

**1. Special Events Applications for Approval**

A. Request to hold a Community Safety Day on Saturday, September 29, 2018

**Police Chief John McCarthy** advised the committee that he is before them to request permission to partially close Harbor Loop (businesses will still be accessible) for the Community Safety Day event. The purpose of closing the street is mainly due to pedestrian traffic at the event.

The event's focus is public safety; it is geared for children and is similar to the Touch-a-Truck event. He gave a brief description of the activities, which will include:

- Coast Guard Station will be open and tours will be given of boats
- Harbormaster will allow boats to come in and take part in the tours
- North Shore Police Departments (and beyond), the DPW and the Fire Department will bring equipment to the event
- Civic groups will be bringing motorcycles and vintage cars

The proceeds from the event will go to *Cops for Kids with Cancer*.

NOTE: As this is a city-sponsored event, there is a memo on file from the Mayor's office which indicated that the event is covered under the city's liability insurance.

**MOTION:** On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Community Safety Day on Saturday, September 29, 2018 from 10:00 a.m. to 2:00 p.m. with a rain date of Sunday, September 30, 2018. Harbor Loop is to be closed to vehicular traffic with the exception of emergency vehicles from 10:00 a.m. to 2:00 p.m. with roadway signs indicating same from 23 Harbor Loop to 27 Harbor Loop.

**2. Memorandum from City Clerk re: request of Patrick Titus, Jr., to rename 602-606 Washington Street to Seaglass Lane per GCO Ch. 21, Sec. 21-3 "Street names" subsections (a) through (f) - Vote to refer to certain department heads under GCO Sec. 21-3(e) for their recommendation**

**MOTION:** On a motion by Councilor Lundberg, seconded by Councilor Holmgren, the Planning & Development Committee voted 3 in favor, 0 opposed, to request recommendations from certain department heads pursuant to the request of Patrick Titus, Jr., to rename 602-606 Washington Street to Seaglass Lane per GCO Ch. 21, Sec. 21-3(e).

**3. Planning Board Formal Review and Recommendations regarding Zoning for Recreational Marijuana Establishments (Cont'd from 08/08/18)**

**Gregg Cademartori, City Planner** and **Chip Payson, General Counsel**, walked the committee through their recommendations for proposed revisions to the *Planning and Development Draft Marijuana Establishments Ordinance: 9/5/2018* (on file):

- Sec. 5.31 "Marijuana Establishments" paragraph 3: regarding the rounding language, language has been clarified so as to read "less than .5"

- Sec. 5.31.4 “Use Allowance and Special Permit Procedures” paragraph 2: regarding who will be the Special Permit permitting authority, language has been changed so as to remove the Planning Board as the permitting authority and replace with the City Council as being the permitting authority, and adding the Planning Board as the permitting authority for Site Plan Approvals.
- Sec. 5.31.4 “Use of Allowance and Special Permit Procedures” paragraph 5: regarding the location of a marijuana retail establishment being prohibited within 500 feet of a pre-existing public or private school providing Kindergarten thru 12<sup>th</sup> grade, the language “or any playgrounds” has been added.
- Sec. 5.31.4 “Use Allowance and Special Permit Procedures” paragraph 5: the following language has been added “The Applicant shall submit proof to the City Council that it has provided notification in writing to all churches, libraries, schools and licensed daycares within one thousand (1,000) feet of its proposed location to provide them with notice and the opportunity to comment at the hearing before the City Council.”
- Sec. 5.31.5 “Additional Filing Requirements and Standards” Sub-Sec. 1(c): regarding a written description stating how the proposed marijuana establishment will meet the minimum requirements of 935 CMR 500.105, language was modified to give more leeway and discretion to City Council on policies and procedures for energy efficiency and conservation.
- Sec. 5.31.5 “Additional Filing Requirements and Standards” Sub-Sec. 7: this section was added as additional standards for retail establishments beyond what is required to be in the EB (extensive business) district.
- Sec. 5.31.8 “Special Permit Findings”: changes were added to clarify and maintain consistency of terms.
- Sec. 5.31.10 “Unlawful Acts” Sub-Sec. 4: this section was added to address the display of tobacco and marijuana paraphernalia and accessories.

The Committee and staff discussed certain sections of the proposed revisions in more detail. Concerning **Jim Destino, CAO**, pointed out two areas of concern to the committee:

- Speaking to the proposed revision to Sec. 5.31.4 which added playgrounds to the 500 foot buffer zone, he read the following from the Cannabis Control Commission (CCC) recommendations for municipalities: State Law establishes a 500 foot buffer zone around K-12 schools. A municipality may choose to reduce that size of the buffer. It is unclear whether buffer zones around other uses such as parks are legally permissible. The Commission suggests that the additional buffer zones and separation requirements may not be necessary and cautions communities against acting arbitrarily.
- Speaking to providing notice to certain abutters within 1,000 feet, he advised the committee that the CCC’s guidance on Host Community Agreement has a stipulation that requires that the applicant host a community outreach meeting, the notice of which must be published in the newspaper 7 calendar days prior to the meeting, and a copy of the notice be filed with the City Clerk, Planning Board and contracting authority and the licensing authority. A copy of the notice must be mailed to abutters and parties of interest identified in the regulations. A Host Community Agreement will not be signed until he has attended a meeting hosted by the applicant.

**Mr. Payson** advised the committee that the CCC’s recommendation is on buffers generally. He added that buffer zones are important and he does not feel that adding playgrounds to the buffer zone is arbitrary.

**Councilor Lundberg** requested that the special notice stipulation in the revision (requiring an applicant to notify churches, libraries, schools and licensed daycares within 1,000 feet of the establishment) be removed. He also disagreed with playgrounds being included in the 500 foot buffer zone.

**Councilor Gilman** clarified that if the playground was attached to a school, it would be in the 500 foot buffer zone; therefore, “playground” does not need to be added. She further requested that notification to certain institutions within 1,000 feet of the establishment remain in the revision.

**Councilors Lundberg and Holmgren** pointed out that abutters will almost certainly be notified through social media conversations and newspaper articles that will be stimulated from any proposed project, as well as the required notices to abutters which will be mailed for any Host Community Agreement or Special Council Permits.

**Councilor Lundberg** suggested that that portion of the revision to Sec. 5.31.4 be left out of the P&D motion, allowing **Councilor Gilman** to discuss it at City Council and propose an amendment there.

The committee was in agreement that “playground” be removed from the revision.

A question was posed by the committee as to how the city would deal with current establishments that have visible exterior advertising for paraphernalia and accessories (referencing Sec. 5.31.10 “Unlawful Acts”, Sub-Sec. 4, which prohibits a marijuana establishment from clearly displaying, and making visible from the exterior of the establishment, marijuana advertising, products, paraphernalia or accessories, including any of the same that have multiple uses, one of which is for marijuana), **Mr. Payson** advised the following:

- Current shops should not be grandfathered
- Enforcement will further be discussed with General Counsel and the Police Chief as to enforcing the ordinance on establishments that already have visible exterior advertising prior to the passage of the ordinance

A question was posed by the committee as to what happens to the moratorium if the proposed ordinance is adopted. **Mr. Cademartori** advised, per all the recommendations, there would be a sunset of the moratorium if the ordinance is adopted. The current Sec. 5.31, which is the moratorium, would be repealed and replaced with the new Sec. 5.31, which is the ordinance, and would go into effect immediately at the time of adoption.

**Councilor Gilman** thanked the committee and the staff for their work on the ordinance.

The committee waived the reading of the *Planning and Development Draft Marijuana Establishments Ordinance*.

**COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Holmgren, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve the Planning and Development Draft Marijuana Establishments Ordinance, dated September 5, 2018.**

**COMMITTEE RECOMMENDATION: On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council the repeal of the existing GZO Sec. 5.31 Temporary Moratorium on Recreational Marijuana Establishments.**

**COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Holmgren, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to adopt the Planning Board recommendation Use Tables regarding Marijuana Establishments, dated June 21, 2018.**

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:41 p.m.

Respectfully submitted,

*Grace E. Poirier*

Assistant City Clerk & Substitute Recorder

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None**



# GLOUCESTER CITY COUNCIL 2018 PUBLIC HEARING

**PUBLIC HEARING NUMBER:** PH2018-031

**SUBJECT:** Draft Marijuana Establishments ordinance to replace existing GZO Sec. 5.27 “Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities” with a new Sec. 5.27 “Marijuana Establishments Ordinance”; Amend Sec. 2.3 “Use Tables”; Amend Sec. 2.3.2 “Community Service Uses”; and DELETE Sec. 5.31 “Temporary Moratorium on Recreational Marijuana Establishments”

**DATE OPENED:** 9/11/2018

**CONTINUED TO:**

**CONTINUED FROM:** 8/28/2018

**COMMITTEE:** P&D 6/6/2018, 6/13/2018, 7/18/2018, 8/8/2018, 8/22/2018, 9/5/2018  
City Council 6/26/2018, 7/10/2018, 7/24/2018, 8/14/2018

## NOTICE OF PUBLIC HEARING

In accordance with the provisions of MGL Chapter 40A, Section 5, and the Gloucester Zoning Ordinance, Sec. 1.11 and Section 1.11.4(b), the Gloucester City Council will hold a public hearing on **Tuesday, June 26, 2018 at 7:00 PM in the Kyrrouz Auditorium, City Hall**, to consider the following petition to amend the Gloucester Zoning Ordinance as follows:

1) Replace existing Section 5.27 Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities with a new Section 5.27 Marijuana Establishments Ordinance, which will govern the allowance of medical and recreational marijuana establishments in the City.

2) Amend Section 2.3 Use Tables by adding the following new uses and allowance: 2.3.4 (#25) Recreational Marijuana Retailer, allowed by Planning Board Special Permit (PB) in the Extensive Business (EB) district. 2.3.4 (#26) Conversion of a Medical Marijuana Treatment Center to a Recreational Marijuana Retailer, allowed (Y) in the Business Park (BP) district. 2.3.5 (#8) Marijuana Cultivator, allowed (Y) in the BP and General Industrial (GI) districts. 2.3.5 (#9) Marijuana Product Manufacturer, allowed (Y) in the GI and BP districts. 2.3.5 (#10) Marijuana Testing Facility, allowed (Y) in the EB, GI and BP districts. Other than as designated these uses are prohibited (N) in all other zoning districts. Existing use 2.3.4 (#25) shall be renumber (#27) and read as follows (#27) Retail, consumer service or other non-industrial business use, other than those set forth in Section 2.3.4, Uses #1 thru #26. Existing Use 2.3.4 (#26) to be renumber to (#28).

3) Amend Section 2.3.2 Community Service Uses by changing the allowance of 2.3.2 (#15) Medical Marijuana Treatment Center from allowance by City Council Special Permit (CCS) to allowance by Planning Board Special Permit (PB) in the BP district. And by deleting 2.3.2 (#16) Medical Marijuana Cultivation Facility.

4) And by deleting Section 5.31 Temporary Moratorium on Recreational Marijuana Establishments.

A copy of the proposed amendments is available for viewing at the City Clerk's Office, 9 Dale Avenue and the Community Development Office, 3 Pond Road. At the public hearing, all interested persons will have the opportunity to be heard based on the procedures determined by the Council. **All written communications to the Council must be received by the office of the City Clerk no later than 3 business days (excluding holidays and weekends) prior to the scheduled hearing date or any continuation by the Council of such date in order to be considered by the Council as part of the public hearing.**

By Vote of the City Council  
Joanne M. Senos, City Clerk  
GT - 6/11, 6/18/18

# Planning and Development Draft Marijuana Establishments Ordinance September 5, 2018

## ZONING HIGHLIGHTS FOR CITY COUNCIL MEETING 9/11/18

---

- **Initial Planning Board recommendations for City's marijuana establishments submitted to City Council on July 5, 2018 (6-0 vote)**
  - Increased their proposed buffer from K-12 schools from 250 to 500 feet. Change was made after receiving feedback from three parents at their public hearing on 6/21/18.
  - Proposed ordinance consolidates the review and permitting of medical marijuana cultivation facilities by right, and medical marijuana treatment centers by special permit.
  - Zoning recommendations supported good feeder roads, turn around and access points for retail outlets in addition to reasonably sized shops with adequate square footage, ample parking, thus eliminating downtown area.
  - In section 5.31.5 section 6., PB defined parking layout and design standards of Section 4 of the Zoning Ordinance, *"a retail marijuana establishment shall provide a minimum of 1 parking space per 100 square feet of retail space and 1 parking space per 200 square feet of bulk storage."*
  - The cultivation energy efficiency section of the CCC guidelines were eliminated from their initial draft because there was consensus that other non-marijuana businesses did not have that stringent requirement. NOTE: They are in the CCC regs for applicants to adhere to.

- Typical retail store size predicted to be 2,000 – 5,000 square feet
  - Board recommended that their proposed zoning ordinance addresses cultivation, production and testing facilities, and the special permitting of retail marijuana establishments.
  - Recommendation that Planning Board be the Special Permitting granting authority and that section 5.31 Temporary Moratorium on Recreational Marijuana Establishments be deleted and Use Table amendments dated June 21, 2018 accompany this proposal.
- **Planning and Development, after two initial preparation meetings on June 6 and June 13, 2018, and followed by meetings on August 8<sup>th</sup> and September 5, 2018, these recommendations were voted 3-0 on 9/5/18.**

**Section 5.31 Establishments**

- Formula on retail establishments outlined should 20 percent of the number of licenses issued be a whole number and .5 or greater, ***the number shall be rounded up to the next whole number: should it be less than .5, the number shall be rounded down.***

**Section 5.31.4 Use Allowance and Special Permit Procedures**

- ***The City Council*** may grant a Special Permit and the Planning Board may grant a Site Plan Approval for a retail marijuana establishment as defined in MGL c. 94G in the zoning districts identified in Section 2.3 in accordance with the procedures set forth in Section 1.5 and Section 5.8 of the Zoning Ordinance....

**Section 5.31.5 Additional Filing Requirements and Standards**

- 1c. A written description stating how the proposed marijuana establishment will meet the minimum requirements of 935 CMR 500.105, including, without limitation and ***subject to the discretion of the City Council, policies and procedures for energy efficiency and conservation.***
  
- 7. In addition to the use of Section 2.3 and the dimensional requirements of Section 3 of the Zoning Ordinance, marijuana retail establishments ***shall only be permitted in an allowable zoning district(s) on lots with a minimum of 20,000 square feet and frontage and access from an Arterial Street(s) including, but not limited to, Route 128, Bass Avenue, Eastern AVENUE, Essex Avenue, Thatcher Road, and Gloucester Crossing Road.***

#### **Section 5.31.10 Unlawful Acts**

- ***4. In addition to the requirements of 935 CMR 500, specifically 934 CMR 500.105 (4)(b) Prohibited Practices, it shall be unlawful for any person to operate an establishment so as to clearly display any marijuana advertising, products, paraphernalia or accessories so that it is visible to a person from the exterior of establishment. This includes any of the same that have multiple uses of which one is for marijuana.***

#### **➤ Facts about Marijuana Establishments linked to ordinance development**

- On November 8, 2016, voters in the Commonwealth of MA approved “An Initiative Petition for a Law Relative to the Regulation and Taxation of Marijuana. In Gloucester, 56.7% voted in favor (9,484) and 41.1% voted against it. (6,869)
  
- The zoning ordinance in front of us tonight regulate the time, place and manner of all marijuana establishments.

- The Cannabis Control Commission (CCC) received extensive input from the public and from other states who have already legalized recreational marijuana. Their regulations are extensive and remain a work in progress. You are encouraged to review their documents and minutes. <https://mass-cannabis-control.com>
- All ordinances may not be “*unreasonably impracticable*”. This means that the local laws cannot be so difficult to comply with that they would subject licensees to unreasonable risk, or require such a high investment of risk, money, time or any other resource or asset, that a reasonably prudent businessperson would not operate a marijuana establishment.
- *Our City, under the leadership of Mayor Sefatia Romeo Theken, is committed to earmarking the revenues generated by anticipated community impact fees to public safety and the continued education of our children and teens about the dangers of using drugs.*

➤ **Shout out to Elected Officials, City Staff, Boards and Commissions, and Citizens who played a key role in our ordinance development.**

- Thanks City Councilors and City Staff and the 100 residents who attended five listening forums two years ago.
- Mayor’s Recreational Task Force led by Karin Carroll, and included Jim Destino, Val Gilman, Chip Payson, Melissa Cox, Kathy Clancy, Jill Cahill, John McCarthy, Joanne Senos, Gregg Cademartori, Chris Sicuranza, Joan Whitney, and Bill Sanborn.
- Planning Board lead by Rick Noonan, Chair; Hank McCarl, Shawn Henry, Doug Cook, Jonathan Pratt, Jane Remsen and Beverly Bookin.
- Planning and Development Committee including Vice Chair Jen Holmgren and Member/Council President Paul Lundberg as well as support from the City Clerk’s office of Dana Jorgensson, Grace Poirier, and Joanne Senos.
- Administrative Team who lead the charge, Gregg Cademartori, Planning Director; Chip Payson, City Solicitor; Jim Destino, Chief Administrative Officer; and Karin Carroll, Public Health Director.

***Overview submitted by City Councilor and P and D Chair, Val Gilman***

**Marijuana Establishments**

**Section 5.31 - Marijuana Establishments**

M.G.L. c. 94G, authorizes a system of state licensing for businesses engaging in the cultivation, testing, processing and manufacturing, and retail sales of marijuana, collectively referred to as “marijuana establishments.” In addition M.G.L. c. 94G, §3, *Local Control*, allows cities and towns to adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with the laws and regulations of M.G.L. c. 94G or 935 CMR 500.

Marijuana retailers shall be subject to M.G.L. c. 94G, §12 and the following restrictions to ensure there are no undue impacts on the health, safety, and well-being of the public:

As defined in M.G.L. c. 94G, and as established in Chapter 28 Marijuana Retail Establishments of the Code of Ordinances, the number of marijuana retailers shall be limited to no more than 20% of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L. c. 138, §15. Should 20% of the number of licenses issued be a whole number and .5 or greater, the number shall be rounded up to the next whole number; should it be less than .5, the number shall be rounded down.

**Section 5.31.1 - Purpose**

The purpose of this ordinance is to allow state-licensed marijuana establishments to exist in the city in accordance with applicable state laws and regulations and impose reasonable safeguards to govern the time, place and manner of marijuana establishment operations and any business dealing in marijuana accessories in such a way as to ensure public health, safety, well-being, and undue impacts on the natural environment as it relates to the retailing, cultivation, processing, manufacturing or testing subject to the provisions of this Zoning Ordinance, M.G.L. c. 40A, M.G.L. c. 94G, and 935 CMR 500.

**Section 5.31.2 - Applicability; Effective Date**

This section applies to all marijuana establishments including, but not limited to, marijuana cultivators, testing facilities, product manufacturers, processors, medical marijuana treatment centers and/or retailers.

Under the state law, M.G.L. c. 94G, experienced marijuana establishment operators including medical marijuana treatment centers as defined in Chapter 369 of the Acts of 2012 with a registration in good standing, or a reorganized marijuana business established by a vote of at least two-thirds (2/3) of the Board of Directors of any entity that submitted an application for a registration to operate a medical marijuana treatment center to the Department of Public Health before October 1, 2015, and was issued a provisional registration to operate a medical marijuana treatment center by the Department of Public Health are also subject to this Zoning Ordinance should said experienced marijuana establishment operator of a medical marijuana treatment center convert into a retail marijuana establishment.

**Section 5.31.3 - Definitions**

The following definitions, consistent with M.G.L. c. 94G, shall apply in the interpretation and enforcement of this section:

“Experienced marijuana establishment” or “Experienced marijuana operator” – shall include:

(a) a medical marijuana treatment center as defined in chapter 369 of the acts of 2012 with a registration in good standing, or

(b) a reorganized marijuana business established by a vote of at least two-thirds (2/3) of the board of directors of an entity that submitted an application for a registration to operate a medical marijuana treatment center to the Department of Public Health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the department of public health.

“Marijuana” or “Marihuana” - all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94C, §1; provided that “Marijuana” shall not include:

(a) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

(b) Hemp; or

(c) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

“Marijuana accessories” - equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

“Marijuana cultivator” or “Marijuana cultivation facility” - an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

“Marijuana establishment” - a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, medical marijuana treatment center or any other type of licensed marijuana-related business.

## Draft Marijuana Establishments Zoning Ordinance 09/07/18

“Marijuana manufacturing” - to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

“Marijuana product manufacturer” or “Marijuana manufacturing facility” - an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

“Marijuana processing” - to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means.

“Marijuana products” - products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

“Marijuana testing facility” - an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

“Marijuana retailer” - an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

### **Section 5.31.4 – Use Allowance and Special Permit Procedures**

Marijuana establishments including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, medical marijuana treatment centers and conversions of medical marijuana treatment centers shall be permitted in zoning districts as identified in Section 2.3 with Site Plan Approval by the Planning Board pursuant to Section 5.8 of the Zoning Ordinance.

The City Council may grant a Special Permit and the Planning Board may grant a Site Plan Approval for a retail marijuana establishment as defined in M.G.L. c. 94G in the zoning district(s) identified in Section 2.3 in accordance with the procedures set forth in Section 1.5 and Section 5.8 of the Zoning Ordinance and subject to the standards set forth in this section and the general criteria for granting a special permit contained in section 1.8.3 of the Zoning Ordinance.

The issuance of a site plan approval or special permit pursuant to this section or other applicable sections of the Zoning Ordinance does not create an exception, defense, or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution, or possession of marijuana.

A site plan approval or special permit issued for a marijuana establishment is not transferable or assignable to a different location or a different type of marijuana establishment.

In addition to the dimensional standards in Section 3 of the Zoning Ordinance, marijuana establishments shall not be located within 500 feet of a pre-existing public or private school

## Draft Marijuana Establishments Zoning Ordinance 09/07/18

providing education in kindergarten or any of grades 1 through 12. Distances shall be calculated by direct measurement from the nearest property line of the land used for purposes described above to the nearest portion of the building in which the marijuana establishment is located using a route of direct pedestrian access.

### Section 5.31.5 – Additional Filing Requirements and Standards

The following apply to all marijuana establishments as defined above and in M.G.L. c. 94G including marijuana cultivation facilities, manufacturing facilities, testing facilities, medical marijuana treatment centers and retail establishments.

1. Any Site Plan Review or Special Permit application for a marijuana establishment shall include:

a. A copy of the application materials submitted to the Cannabis Control Commission as described in 935 CMR 500.101.

b. A Transportation Plan as described herein. A proposed marijuana establishment shall prepare and submit a Transportation Plan that will, among other things, provide a detailed analysis of how the use may impact traffic and parking in the area immediately surrounding the proposed site of a marijuana establishment and how best practices of the industry may be utilized to address traffic and parking.

c. A written description stating how the proposed marijuana establishment will meet the minimum requirements of 935 CMR 500.105 including, without limitation and subject to the discretion of the City Council, policies and procedures for energy efficiency and conservation.

d. A written description of how the proposed marijuana establishment will meet the requirements of 935 CMR 105 and requirements of section 4.3 of the Zoning Ordinance relating to marketing and signage.

2. No marijuana shall be smoked, eaten or otherwise consumed or ingested within any type of licensed marijuana establishment.

3. Hours of operation for marijuana retailers shall be consistent with those of package stores licensed under M.G.L. c. 138.

4. Deliveries of products to retail marijuana establishments shall comply with the Code of Ordinances.

5. Marijuana plants, products, and paraphernalia shall not be visible from outside the building of any marijuana establishment.

## **Draft Marijuana Establishments Zoning Ordinance 09/07/18**

6. In addition to the parking layout and design standards of Section 4 of the Zoning Ordinance, a retail marijuana establish shall provide a minimum of 1 parking space per 100 square feet of retail space and 1 parking space per 200 square feet of bulk storage.

7. In addition to the use allowance of Section 2.3 and the dimensional requirements of Section 3 of the Zoning Ordinance, marijuana retail establishments shall only be permitted in allowable zoning district(s) on lots with a minimum of 20,000 square feet and frontage and access from an Arterial Street(s) including, but not limited to, Route 128, Bass Avenue, Eastern Avenue, Essex Avenue, Thatcher Road, and Gloucester Crossing Road.

### **Section 5.31.8 - Special Permit Findings**

In addition to the findings for a special permit in section 1.8.3 of the Zoning Ordinance, the City Council must also make the following findings:

1. The Applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth and will be in compliance with all applicable state laws and regulations, including, but not limited to M.G.L. c. 94G, §12.
2. The Applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The establishment provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public and that storage and/location of cultivation is adequately secured.

### **Section 5.31.9 - Host Community Agreements**

All marijuana establishments under this section shall enter into Host Community Agreements (HCAs) with the city in compliance with the requirements of M.G.L. c. 94G and all regulations promulgated by the Cannabis Control Commission that pertain to the execution of a host community agreement with the city. Specifically, under M.G.L. c. 94G, §3, a marijuana establishment seeking to operate or continue to operate in the city shall execute a host community agreement with the city setting forth conditions which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment. An agreement between a marijuana establishment and the city may include a community impact fee for the city; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the city by the operation of the marijuana establishment and shall not amount to more than 3 per cent (3%) of the gross sales of the marijuana establishment or be effective for longer than 5 years. Any cost to the city imposed by the operation of a marijuana establishment shall be documented and considered a public record. All HCAs shall address any known and additional impact of marijuana related use on the municipal departments and services including but not limited to public safety, health services, schools and infrastructure, and any other stipulations deemed necessary by the Office of the Mayor, and such agreement shall accompany any required special permit application.

**Section 5.31.10 - Unlawful Acts**

1. It shall be unlawful for any person to operate any marijuana establishment in the city without a valid license issued by the state licensing authority under the M.G.L. c. 94G.
2. When a marijuana establishment has received a renewal license from the state, the marijuana establishment shall submit a copy to the Building Department within 30 days of receipt.
3. It shall be unlawful under for any person to operate a marijuana establishment as outlined in this section including, but not limited to, retail marijuana, marijuana product manufacturing, marijuana cultivation, marijuana processing, or marijuana testing establishment without a Special Permit from the City Council or Site Plan Approval from the Planning Board.
4. In addition to the requirements of 935 C.M.R. 500, specifically 935 C.M.R. 500.105(4)(b), Prohibited Practices, it shall be unlawful for any person to operate an establishment so as to clearly display any marijuana advertising, products, paraphernalia or accessories so that it is visible to a person from the exterior of establishment. This includes any of the same that have multiple uses of which one is for marijuana.

**Section 5.31.11 – Violations and Penalties**

All marijuana establishments shall be subject to M.G.L. Chapter 94G, § 13 and 935 C.M.R. 500. For any violation of the terms and conditions of a Special Permit issued pursuant to the Zoning Ordinance or any section of this Zoning Ordinance that, after proper notice and demand, is not abated, the Building Inspector shall institute appropriate action or proceedings on behalf of the city. A fine of \$300.00 per violation per day for each day the violation continues shall be issued.

**Section 5.31.12 - Severability**

If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

**Planning Board Recommended Use Table Amendments – Re: Marijuana Establishments – June 21, 2018**

Draft Use Table Amendments

| Use   | EB | GI | BP |
|---|----|----|----|
| 2.3.2 (#15) Medical Marijuana Treatment Center  | N  | N  | PB |
| 2.3.4 (#25) Recreational Marijuana Retailer   | PB | N  | N  |
| 2.3.4 (#26) Conversion of a Medical Marijuana Treatment Center to a Recreational Marijuana Retailer | N  | N  | Y  |
| 2.3.5 (#8) Marijuana Cultivator   | N  | Y  | Y  |
| 2.3.5 (#9) Marijuana Product Manufacturer   | N  | Y  | Y  |
| 2.3.5 (#10) Marijuana Testing Facility  | Y  | Y  | Y  |

Other than identified by special permit above, the above uses would be prohibited in all other districts.

Existing 2.3.4 use #25 to be renumbered #27 and revised to read as follows:

#27 Retail, consumer service or other non-industrial business use, other than those set forth in Section 2.3.4, Uses # 1 thru #26

Existing 2.3.4 use #26 to be renumbered #28

Delete Table 2.3.2 Community Service Uses #16 Medical Marijuana Cultivation Facility

City Hall Annex  
Three Pond Road  
Gloucester, MA 01930



GREGG M. CADEMARTORI  
Planning Director  
tel 978-325-5242  
[gcademartori@gloucester-ma.gov](mailto:gcademartori@gloucester-ma.gov)

**CITY OF GLOUCESTER  
Community Development Department  
Planning Division**

**Date: July 5, 2018**  
**To: Paul Lundberg, City Council President**  
**From: Gregg Cademartori, Planning Director**  
**RE: Planning Board Review and Recommendations regarding  
Zoning for Recreational Marijuana Establishments**

2018 JUL -6 AM 7:59  
CITY CLERK  
GLOUCESTER, MA

Upon referral by the City Council, the Planning Board held a public hearing on June 21, 2018 to gather further input on the proposed Section 5.27 Marijuana Establishments Zoning Ordinance and associated Use Table amendments, allowing for the as-of-right siting of marijuana establishments. The proposed ordinance addresses cultivation, production and testing facilities, and the special permitting of retail marijuana establishments. In addition, the proposed ordinance consolidates the review and permitting of medical marijuana cultivation facilities by right, and medical marijuana treatment centers by special permit.

After the close of the public hearing, the Planning Board voted unanimously (6-0) to recommend to the City Council the proposed Use Table amendments for retail and medical marijuana establishments and the attached draft Marijuana Establishments ordinance dated June 21, 2018. Incorporated changes include: more explicit references to medical marijuana establishments, corrections to the formula regulating the number of licensed establishments in the community, and an increase in the buffer from K-12 schools from 250 to 500 feet. This proposed ordinance is also accompanied by the recommendation to delete of Section 5.31 Temporary Moratorium on Recreational Marijuana Establishments.

**Marijuana Establishments**

**Section 5.31 - Marijuana Establishments**

M.G.L. c. 94G, authorizes a system of state licensing for businesses engaging in the cultivation, testing, processing and manufacturing, and retail sales of marijuana, collectively referred to as “marijuana establishments.” In addition M.G.L. c. 94G, §3, *Local Control*, allows cities and towns to adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with the regulations of M.G.L. c. 94G or 935 CMR 500.

Marijuana retailers shall be subject to M.G.L. c. 94G, §12 and the following restrictions to ensure there are no undue impacts on the health, safety, and well-being of the public:

As defined in M.G.L. c. 94G, and as established in **Chapter 28 Marijuana Retail Establishments** of the Code of Ordinances, the number of marijuana retailers shall be limited to no more than 20% of the number of licenses issued within the city for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L. c. 138, §15. Should 20% of the number of licenses issued be a whole number and .5 or greater, the number shall be rounded up to the next whole number; should it be **.5** or less, the number shall be rounded down.

**Section 5.31.1 - Purpose**

The purpose of this ordinance is to allow state-licensed marijuana establishments to exist in the city in accordance with applicable state laws and regulations and impose reasonable safeguards to govern the time, place and manner of marijuana establishment operations and any business dealing in marijuana accessories in such a way as to ensure public health, safety, well-being, and undue impacts on the natural environment as it relates to the retailing, cultivation, processing, manufacturing or testing subject to the provisions of this Zoning Ordinance, M.G.L. c. 40A, and M.G.L. c. 94G. and 935 CMR 500.

**Section 5.31.2 - Applicability; Effective Date**

This section applies to all marijuana establishments including, but not limited to, marijuana cultivators, testing facilities, product manufacturers, processors, medical marijuana treatment centers and/or retailers.

Under the state law, M.G.L. c. 94G, experienced marijuana establishment operators including medical marijuana treatment centers as defined in Chapter 369 of the Acts of 2012 with a registration in good standing, or a reorganized marijuana business established by a vote of at least two-thirds (2/3) of the Board of Directors of any entity that submitted an application for a registration to operate a medical marijuana treatment center to the Department of Public Health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the Department of Public Health are also subject to this Zoning Ordinance

## Planning Board Recommended Draft Marijuana Establishments Ordinance – June 21, 2018

should said experienced marijuana establishment operator of a medical marijuana treatment center convert into a retail marijuana establishment.

### Section 5.31.3 - Definitions

The following definitions, consistent with M.G.L. c. 94G, shall apply in the interpretation and enforcement of this section:

“Experienced marijuana establishment” or “Experienced marijuana operator” – shall include:

(a) a medical marijuana treatment center as defined in chapter 369 of the acts of 2012 with a registration in good standing, or

(b) a reorganized marijuana business established by a vote of at least 2/3 of the board of directors of an entity that submitted an application for a registration to operate a medical marijuana treatment center to the Department of Public Health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the department of public health.

“Marijuana” or “Marihuana” - all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94C, §1; provided that “Marijuana” shall not include:

(a) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

(b) Hemp; or

(c) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

“Marijuana accessories” - equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

“Marijuana cultivator” or “Marijuana cultivation facility” - an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

## **Planning Board Recommended Draft Marijuana Establishments Ordinance – June 21, 2018**

“Marijuana establishment” - a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, medical marijuana treatment center or any other type of licensed marijuana-related business.

“Marijuana manufacturing” - to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

“Marijuana product manufacturer” or “Marijuana manufacturing facility” - an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

“Marijuana processing” - to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means.

“Marijuana products” - products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

“Marijuana testing facility” - an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

“Marijuana retailer” - an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

### **Section 5.31.4 – Use Allowance and Special Permit Procedures**

Marijuana establishments including marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, **medical marijuana treatment centers** and conversions of medical marijuana treatment centers shall be permitted in zoning districts as identified in Section 2.3 with Site Plan Approval by the Planning Board pursuant to Section 5.8 Site Plan Review.

The Planning Board may grant a Special Permit and Site Plan Approval for a retail marijuana establishment as defined in M.G.L. c. 94G in the zoning district(s) identified in Section 2.3 in accordance with the procedures set forth in Section 1.5 and Section 5.8 Site Plan Review and subject to the standards set forth in this section and the general criteria for granting a special permit contained in section 1.8.3 of the Zoning Ordinance.

The issuance of a site plan approval or special permit pursuant this section or other applicable sections of the Zoning Ordinance does not create an exception, defense, or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution, or possession of marijuana.

## Planning Board Recommended Draft Marijuana Establishments Ordinance – June 21, 2018

A site plan approval or special permit issued for a marijuana establishment is not transferable or assignable to a different location or a different type of marijuana establishment.

In addition to the dimensional standards Section 3 of the Zoning Ordinance, marijuana establishments shall not be located within **500** feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distances shall be calculated by direct measurement from the nearest property line of the land used for purposes described above to the nearest portion of the building in which the marijuana establishment is located using a route of direct pedestrian access.

### Section 5.31.5 – Additional Filing Requirements and Standards

The following apply to all marijuana establishments as defined above and in M.G.L. c. 94G including marijuana cultivation facilities, manufacturing facilities, testing facilities, **medical marijuana treatment centers** and retail establishments.

1. Any Site Plan Review or Special Permit application for a marijuana establishment shall include:
  - a. A copy of the application materials submitted to the Cannabis Control Commission as described in 935 CMR 500.101.
  - b. A Transportation Plan as described herein. A proposed marijuana establishments shall prepare and submit a Transportation Plan that will, among other things, provide a detailed analysis of how the use may impact traffic and parking in the area immediately surrounding the proposed site of a marijuana establishment and how best practices of the industry may be utilized to address traffic and parking.
  - c. A written description stating how the proposed marijuana establishment will meet the minimum requirements of 935 CMR 500.105.
  - d. A written description of how the proposed marijuana establishment will meet the requirements of 935 CMR 105 and requirements of section 4.3 of the Zoning Ordinances relating to marketing and signage.
2. No marijuana shall be smoked, eaten or otherwise consumed or ingested within any type of licensed marijuana establishment.
3. Hours of operation for marijuana retailers shall be consistent with those of package stores licensed under M.G.L. c. 138.
4. Deliveries of products to retail marijuana establishments shall comply with the Code of Ordinances.
5. Marijuana plants, products, and paraphernalia shall not be visible from outside the building of any marijuana establishment.

## **Planning Board Recommended Draft Marijuana Establishments Ordinance – June 21, 2018**

6. In addition to the parking layout and design standards of Section 4 of the Zoning Ordinance, a retail marijuana establish shall provide a minimum of 1 parking space per 100 square feet of retail space and 1 parking space per 200 square feet of bulk storage.

### **Section 5.31.8 - Special Permit Findings**

In addition to the findings for a special permit in section 1.8.3 of the Zoning Ordinance, the Planning Board must also make the following findings:

1. The Applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth and will be in compliance with all applicable state laws and regulations, including, but not limited to M.G.L. c. 94G, §12, General Marijuana Establishment Operation.
2. The Applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public and that storage and/location of cultivation is adequately secured.

### **Section 5.31.9 - Host Community Agreements**

All marijuana facilities under this section shall enter into Host Community Agreements (HCAs) with the city in compliance with the requirements of M.G.L. c. 94G and all regulations promulgated by the Cannabis Control Commission that pertain to the execution of a host community agreement with the city. Specifically, under M.G.L. c. 94G, §3, a marijuana establishment seeking to operate or continue to operate in the city shall execute a host community agreement with the city setting forth conditions which shall include, but not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment. An agreement between a marijuana establishment and the city may include a community impact fee for the city; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the city by the operation of the marijuana establishment and shall not amount to more than 3 per cent (3%) of the gross sales of the marijuana establishment or be effective for longer than 5 years. Any cost to the city imposed by the operation of a marijuana establishment shall be documented and considered a public record. All HCAs shall address any known and additional impact of marijuana related use on the municipal departments and services including but not limited to public safety, health services, schools and infrastructure, and any other stipulations deemed necessary by the Office of the Mayor, and such agreement shall accompany any required special permit application.

### **Section 5.31.10 - Unlawful Acts**

## **Planning Board Recommended Draft Marijuana Establishments Ordinance – June 21, 2018**

1. It shall be unlawful for any person to operate any marijuana establishment in the city without a valid license issued by the state licensing authority under the M.G.L. c. 94G.
2. When a marijuana establishment has received a renewal license from the state, the marijuana establishment shall submit a copy to the Building Department within 30 days of receipt.
3. It shall be unlawful under for any person to operate a marijuana establishment as outlined in this section including, but not limited to, retail marijuana, marijuana product manufacturing, marijuana cultivation, marijuana processing, or marijuana testing establishment without a Special Permit or Site Plan Approval from the Planning Board.

### **Section 5.31.11 – Violations and Penalties**

All marijuana establishments shall be subject to M.G.L. Chapter 94G, § 13 and 935 C.M.R. 500. For any violation of the terms and conditions of a Special Permit issued pursuant to the Zoning Ordinance or any section of this Zoning Ordinance that, after proper notice and demand, is not abated, the Building Inspector shall institute appropriate action or proceedings on behalf of the city. A fine of \$300.00 per violation per day for each day the violation continues shall be issued.

### **Section 5.31.12 - Severability**

If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A a federal grant from the National Park Service passed through the Essex National Heritage Commission, a 2018 Essex Heritage Visitor Center Grant for a total of \$2,500 for the purpose of supporting the activities of the City's Visitor Welcome Center at Stage Fort Park. The grant period is from July 1, 2018 through June 30, 2019.

**DISCUSSION:**

Councilor Cox noted that this annual no match grant the city receives.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a federal grant from the National Park Service passed through the Essex National Heritage Commission, a 2018 Essex Heritage Visitor Center Grant for a total of \$2,500 for the purpose of supporting the activities of the City's Visitor Welcome Center at Stage Fort Park. The grant period is from July 1, 2018 through June 30, 2019.**

COMMITTEE RECOMMENDATION: On motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, a cash donation of \$1,800 to the City of Gloucester from Michael Deneen for the purchase of light timers as a part of the "Light Up Main Street" Project.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A, a cash donation of \$1,800 to the City of Gloucester from Michael Deneen for the purchase of light timers as a part of the "Light Up Main Street" Project.**

**Ordinances & Administration: August 4**

There were no matters for Council action from this meeting.

**Planning & Development: August 6**

There were no matters for Council action from this meeting. Councilor Gilman mentioned that the conversation on the zoning of recreational marijuana retail establishments continues at the Committee's next meeting on August 22. She added there had been a rigorous conversation at the Committee's last meeting on the subject as found in the minutes of 08/08/18.

**Scheduled Public Hearings:**

- 
1. PH2018-031: Draft Marijuana Establishments ordinance to replace existing GZO Sec. 5.27 "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" with a new Sec. 6.27 "Marijuana Establishments Ordinance"; Amend Sec. 2.3 "Use Tables"; Amend Sec. 2.3.2 "Community Services Uses"; and DELETE Sec. 5.31 "Temporary Moratorium on Recreational Marijuana Establishments (TBC 08/28/2018)

This public hearing is opened at 8:18 p.m.

Council President Lundberg announced this public hearing is continued to August 28, 2018.

This public hearing is continued to August 28, 2018 at 8:18 p.m.

2. PH2018-043: Loan Order 2018-008: Loan Authorization request to pay costs of various improvements to Newell Stadium, in the amount of \$1.15 million

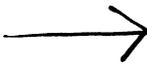
This public hearing is opened at 8:18 p.m.

Those speaking in favor:

Guidelines, including but not limited to marketing and advertising, as administered and monitored by the Gloucester Housing Authority. Such guidelines shall be in compliance with all other applicable city, state and federal housing assistance programs. As to Maximum Rent as defined in Section 5.11.2, the rents for the affordable units, including utilities, shall not exceed 30% of the annual income of eligible households.

31. The Applicant and Project shall comply with the Development Standards described under Section 5.11.7 of the City Zoning Ordinance.
32. As a condition of the issuance of this Decision, and prior to the issuance of a building permit for any of the residential units, the City shall work with the Applicant to set time schedules for the construction of both affordable and market-rate units.
33. If at any time it appears that the Applicant is in violation of any affordable housing restriction held by the City hereunder, by and through the City Council, at any time when said restriction is in effect as described above, following a hearing of which the Applicant has been given prior notice, then the City, by and through the City Council or its designee, may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law. Notwithstanding the foregoing, to the extent there is a conflict between the City's inclusionary zoning requirements and the requirements of the DHCD under the Local Action Unit Program, the requirements of the DHCD's Local Action Unit Program shall control.

The Council recessed at 10:56 p.m. and reconvened at 11:03 p.m.

- 
3. PH2018-031: Draft Marijuana Establishments ordinance to replace existing GZO Sec. 5.27 "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" with a new Sec. 6.27 "Marijuana Establishments Ordinance"; Amend Sec. 2.3 "Use Tables"; Amend Sec. 2.3.2 "Community Services Uses"; and DELETE Sec. 5.31 "Temporary Moratorium on Recreational Marijuana (TBC 07/24/2018)

This public hearing is opened at 11:04 p.m.

Council President Lundberg announced this public hearing was continued to August 14, 2018.

This public hearing is continued at 11:05 p.m. to August 14, 2018.

**For Council Vote:**

1. Warrant for the 2018 State Primary Election on September 4, 2018

**MOTION:** On a motion by Councilor LeBlanc, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to approve the warrant for the State Primary Election to be held September 4, 2018.

**Unfinished Business:** None.

**Individual Councilor's Discussion including Reports by Appointed Councilors to Committees:**

Update on the Council on Aging by City Council Representative, Councilor Valerie Gilman continued to August 14, 2018.

**Councilors' Requests to the Mayor:** None.

A motion was made, seconded and voted unanimously to adjourn the meeting at 11:06 p.m.

Respectfully submitted,

*Dana C. Jorgensson*  
Clerk of Committees

|                  |        |                            |                  |        |                             |    |           |                      |
|------------------|--------|----------------------------|------------------|--------|-----------------------------|----|-----------|----------------------|
| Account:         |        | Account:                   |                  |        |                             |    |           |                      |
| From             |        | To                         |                  |        |                             |    |           |                      |
| Account: 0129152 | 558010 | Em. Mgmt, Supplies         | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 6,000.00  |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0129251 | 511000 | Animal Control, Salaries   | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 3,000.00  |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0151051 | 511000 | BOH, Salaries              | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 6,000.00  |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0156351 | 512000 | Tourism, Sal. & Wage Temp  | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 6,000.00  |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0122051 | 511000 | Fire, Salaries             | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 67,000.00 |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0122051 | 513001 | Fire, OT – Training        | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 13,000.00 |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0122052 | 530025 | Fire, In Service Training  | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 13,800.00 |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0147252 | 540000 | DPW-Facilities., Supplies  | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 14,417.00 |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0147052 | 553006 | DPW-Pub Svc, Masonry Sup   | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 15,300.00 |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0149951 | 512000 | DPW-Cent. Svc, S&W Temp    | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 8,000.00  |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0149952 | 545000 | DPW-Cent. Svc, Cust. Supp. | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 25,000.00 |                      |
| From             |        |                            | To               |        |                             |    |           |                      |
| Account: 0149958 | 585000 | DPW-Cent. Svc, Cap. Equip. | Account: 0142352 | 529014 | DPW-Snow Removal, Snow Plow | \$ | 3,500.00  |                      |
|                  |        |                            |                  |        |                             |    |           |                      |
|                  |        |                            |                  |        |                             |    |           | TOTAL: \$ 270,067.00 |

**Ordinances & Administration: July 2-No Meeting**

**Planning & Development: July 4 Holiday-No Meeting**

**Scheduled Public Hearings:**

- PH2017-059: SCP2017-012: Schoolhouse Road #2, #3 and #4, Map 262, Lots 14 & 37, and Gloucester Crossing Road #7, Map 37, Lots 4 & 5, for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sections 5.29 (including Major Project GZO Sec. 5.7), 5.29.10 and 5.11.8 (TBC 7/24/18)**

This public hearing is opened at 7:46 p.m.

Council President Lundberg announced this public hearing will be continued to July 24, 2018.

This public hearing is continued at 7:46 p.m.

- PH2018-016: Local adoption of the Commonwealth of Massachusetts DEP Division of Air Quality Control Policy, Noise Regulation (310 CMR 7.10) AND Amend GCO Ch. 13 "Noise"**

Councillor Memhard advised the City Council that the reasons behind this request being put forward are being resolved and he therefore requested that the proposed adoption and GCO amendment be withdrawn without prejudice.

**On a Motion by Councilor Memhard, Seconded by Councilor O'Hara, the City Council voted unanimously to allow the withdrawal of the Proposal to adopt Commonwealth of Massachusetts DEP Division of Air Quality Control Policy, Noise Regulation (310 CMR 7.10) AND Amend GCO Ch. 13 "Noise" without prejudice.**



- PH2018-031: Draft Marijuana Establishments ordinance to replace existing GZO Sec. 5.27 "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" with a new Sec. 6.27 "Marijuana Establishments Ordinance"; Amend Sec. 2.3 "Use Tables"; Amend Sec. 2.3.2 "Community Services Uses"; and DELETE Sec. 5.31 "Temporary Moratorium on Recreational Marijuana (TBC 07/24/2018)**

**This public hearing is opened at 7:49 p.m.**

**Council President Lundberg** announced this public hearing was continued to July 24, 2018.

**This public hearing is continued at 7:49 p.m.**

**4. PH2018-036: Loan authorization request in the amount of \$1,500,000 re: Babson Water Treatment Plant Emergency SRF Support Request**

**This public hearing is opened at 7:49 p.m.**

**Those speaking in favor: Larry Durkin, Environmental Engineer for the City of Gloucester**

**Mr. Durkin** reported the following information regarding the loan authorization request:

- Babson Water Treatment Plant has electrical, generator and flow issues that could result in a situation where water would not be provided to the city for a few days.
- The Massachusetts Department of Environmental Protection (DEP) has accepted the treatment plant for funding through the State *DEP Drinking Water State Revolving Fund Emergency Program*.
- The City has obtained an Engineer and Contractor and started a preliminary design report to address the problems at the treatment plant.
- The city is shooting to have the work completed in December 2018.

**Those speaking in opposition: None**

**Communications: None**

**Councilor Questions: None**

**This public hearing is closed at 7:51 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Memhard, seconded by Councilor Holmgren, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve the following loan order:

Ordered: That the City of Gloucester appropriates One Million Five Hundred Thousand Dollars (\$1,500,000) to pay costs of improvements to the Babson Water Treatment Plant, including costs incidental or related thereto. To meet this appropriation the Treasurer, with the approval of the Mayor is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, Section 7(1), or pursuant to any other enabling authority. The Mayor and any other appropriate official of the city are authorized to apply for, accept and expend any grants or gifts that may be available to the City to pay costs of the projects. Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Further Ordered: That the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL in 8 favor, 0 opposed, 1 (Nolan) absent, to approve the following loan order:**

**Ordered: That the City of Gloucester appropriates One Million Five Hundred Thousand Dollars (\$1,500,000) to pay costs of improvements to the Babson Water Treatment Plant, including costs incidental or related thereto. To meet this appropriation the Treasurer, with the approval of the Mayor is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, Section 7(1), or pursuant to any other enabling authority. The Mayor and any other appropriate official of the city are authorized to apply for, accept and expend any grants or gifts that may be available to the City to pay costs of the projects. Any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the**

- 1. **PH2017-059: SCP2017-012: Schoolhouse Road #2, #3 and #4, Map 262, Lots 14 & 37, and Gloucester Crossing Road #7, Map 37, Lots 4 & 5, for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sections 5.29 (including Major Project GZO Sec. 5.7), 5.29.10 and 5.11.8 (TBC 7/10/18)**

Councilor Gilman reviewed the Planning & Development Committee held a site visit at 4:30 p.m. Monday, June 25 accompanied by the Applicant's development team asking questions of them while walking the site. She reported the Committee viewed where drainage will be placed; sewer systems; entrances to the site; a pedestrian walkway to Gloucester Crossing, etc. There was no discussion or deliberations on the part of the Committee, she pointed out. She reminded the Council that the following evening that the Planning Board will hold a special meeting at 5:00 p.m. in Kyrouz Auditorium regarding the matter of the FMUV LLC project.

Council President Lundberg advised that upon the vote and recommendation of the Planning Board the P&D Committee will then begin its deliberation on the matter.

**This public hearing is opened at 8:08 p.m.**

Council President Lundberg announced this public hearing was continued to July 10, 2018.

**This public hearing is continued at 8:08 p.m.**

2. **PH2018-016: Local adoption of the Commonwealth of Massachusetts DEP Division of Air Quality Control Policy, Noise Regulation (310 CMR 7.10) AND Amend GCO Ch. 13 "Noise" (TBC 7/10/2018)**

**This public hearing is opened at 8:08 p.m.**

Council President Lundberg announced this public hearing was continued to July 10, 2018.

**This public hearing is continued at 8:08 p.m.**

3. **PH2018-031: Draft Marijuana Establishments ordinance to replace existing GZO Sec. 5.27 "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" with a new Sec. 6.27 "Marijuana Establishments Ordinance"; Amend Sec. 2.3 "Use Tables"; Amend Sec. 2.3.2 "Community Services Uses"; and DELETE Sec. 5.31 "Temporary Moratorium on Recreational Marijuana (TBC 07/10/2018)**

**This public hearing is opened at 8:09 p.m**

Council President Lundberg announced this public hearing was continued to July 10, 2018.

**This public hearing is continued at 8:09 p.m.**

4. **PH2018-032: Loan Authorization to amend Loan Order 2017-002, in the amount of \$1,800,000 by increasing it to \$2,300,000 to pay costs of Phase 1 of the Haskell Dam upgrade project**

**This public hearing is opened at 8:09 p.m.**

**Those speaking in favor:**

Larry Durkin, City Environmental Engineer advised that state is giving the city a \$500,000 grant; and in order have enough funds to process a change order, it is necessary to seek an increase in the loan authorization by \$500,000.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 8:11 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council authorize the following loan order:

Ordered: That Loan Order 2017-002, Certificate of Vote 2017-056 of this Council approved March 20, 2017 authorizing the borrowing of \$1,800,000 to pay the costs of Phase 1 of the Haskell Dam upgrade project is amended in its entirety to provide as follows:

**Planning & Development Committee**  
 Wednesday, September 5, 2018 – 5:30 p.m.  
**1<sup>st</sup> Fl. Council Committee Room - City Hall**  
 -Minutes-

**Present:** Chair, Councilor Valerie Gilman; Vice Chair, Councilor Jen Holmgren; Councilor Paul Lundberg  
**Absent:** None.

**Also Present:** Gregg Cademartori; Chip Payson; Police Chief John McCarthy; Joanne M. Senos;  
 Jim Destino; Jill Cahill

The meeting was called to order at 5:30 p.m.

**1. *Special Events Applications for Approval***

A. Request to hold a Community Safety Day on Saturday, September 29, 2018

Police Chief John McCarthy advised the committee that he is before them to request permission to partially close Harbor Loop (businesses will still be accessible) for the Community Safety Day event. The purpose of closing the street is mainly due to pedestrian traffic at the event.

The event's focus is public safety; it is geared for children and is similar to the Touch-a-Truck event. He gave a brief description of the activities, which will include:

- Coast Guard Station will be open and tours will be given of boats
- Harbormaster will allow boats to come in and take part in the tours
- North Shore Police Departments (and beyond), the DPW and the Fire Department will bring equipment to the event
- Civic groups will be bringing motorcycles and vintage cars

The proceeds from the event will go to *Cops for Kids with Cancer*.

NOTE: As this is a city-sponsored event, there is a memo on file from the Mayor's office which indicated that the event is covered under the city's liability insurance.

**MOTION:** On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Community Safety Day on Saturday, September 29, 2018 from 10:00 a.m. to 2:00 p.m. with a rain date of Sunday, September 30, 2018. Harbor Loop is to be closed to vehicular traffic with the exception of emergency vehicles from 10:00 a.m. to 2:00 p.m. with roadway signs indicating same from 23 Harbor Loop to 27 Harbor Loop.

**2. *Memorandum from City Clerk re: request of Patrick Titus, Jr., to rename 602-606 Washington Street to Seaglass Lane per GCO Ch. 21, Sec. 21-3 "Street names" subsections (a) through (f) - Vote to refer to certain department heads under GCO Sec. 21-3(e) for their recommendation***

**MOTION:** On a motion by Councilor Lundberg, seconded by Councilor Holmgren, the Planning & Development Committee voted 3 in favor, 0 opposed, to request recommendations from certain department heads pursuant to the request of Patrick Titus, Jr., to rename 602-606 Washington Street to Seaglass Lane per GCO Ch. 21, Sec. 21-3(e).

**3. *Planning Board Formal Review and Recommendations regarding Zoning for Recreational Marijuana Establishments (Cont'd from 08/08/18)***

Gregg Cademartori, City Planner and Chip Payson, General Counsel, walked the committee through their recommendations for proposed revisions to the *Planning and Development Draft Marijuana Establishments Ordinance: 9/5/2018* (on file):

- Sec. 5.31 "Marijuana Establishments" paragraph 3: regarding the rounding language, language has been clarified so as to read "less than .5"

- Sec. 5.31.4 “Use Allowance and Special Permit Procedures” paragraph 2: regarding who will be the Special Permit permitting authority, language has been changed so as to remove the Planning Board as the permitting authority and replace with the City Council as being the permitting authority, and adding the Planning Board as the permitting authority for Site Plan Approvals.
- Sec. 5.31.4 “Use of Allowance and Special Permit Procedures” paragraph 5: regarding the location of a marijuana retail establishment being prohibited within 500 feet of a pre-existing public or private school providing Kindergarten thru 12<sup>th</sup> grade, the language “or any playgrounds” has been added.
- Sec. 5.31.4 “Use Allowance and Special Permit Procedures” paragraph 5: the following language has been added “The Applicant shall submit proof to the City Council that it has provided notification in writing to all churches, libraries, schools and licensed daycares within one thousand (1,000) feet of its proposed location to provide them with notice and the opportunity to comment at the hearing before the City Council.”
- Sec. 5.31.5 “Additional Filing Requirements and Standards” Sub-Sec. 1(c): regarding a written description stating how the proposed marijuana establishment will meet the minimum requirements of 935 CMR 500.105, language was modified to give more leeway and discretion to City Council on policies and procedures for energy efficiency and conservation.
- Sec. 5.31.5 “Additional Filing Requirements and Standards” Sub-Sec. 7: this section was added as additional standards for retail establishments beyond what is required to be in the EB (extensive business) district.
- Sec. 5.31.8 “Special Permit Findings”: changes were added to clarify and maintain consistency of terms.
- Sec. 5.31.10 “Unlawful Acts” Sub-Sec. 4: this section was added to address the display of tobacco and marijuana paraphernalia and accessories.

The Committee and staff discussed certain sections of the proposed revisions in more detail. Concerning **Jim Destino, CAO**, pointed out two areas of concern to the committee:

- Speaking to the proposed revision to Sec. 5.31.4 which added playgrounds to the 500 foot buffer zone, he read the following from the Cannabis Control Commission (CCC) recommendations for municipalities: State Law establishes a 500 foot buffer zone around K-12 schools. A municipality may choose to reduce that size of the buffer. It is unclear whether buffer zones around other uses such as parks are legally permissible. The Commission suggests that the additional buffer zones and separation requirements may not be necessary and cautions communities against acting arbitrarily.
- Speaking to providing notice to certain abutters within 1,000 feet, he advised the committee that the CCC’s guidance on Host Community Agreement has a stipulation that requires that the applicant host a community outreach meeting, the notice of which must be published in the newspaper 7 calendar days prior to the meeting, and a copy of the notice be filed with the City Clerk, Planning Board and contracting authority and the licensing authority. A copy of the notice must be mailed to abutters and parties of interest identified in the regulations. A Host Community Agreement will not be signed until he has attended a meeting hosted by the applicant.

**Mr. Payson** advised the committee that the CCC’s recommendation is on buffers generally. He added that buffer zones are important and he does not feel that adding playgrounds to the buffer zone is arbitrary.

**Councilor Lundberg** requested that the special notice stipulation in the revision (requiring an applicant to notify churches, libraries, schools and licensed daycares within 1,000 feet of the establishment) be removed. He also disagreed with playgrounds being included in the 500 foot buffer zone.

**Councilor Gilman** clarified that if the playground was attached to a school, it would be in the 500 foot buffer zone; therefore, “playground” does not need to be added. She further requested that notification to certain institutions within 1,000 feet of the establishment remain in the revision.

**Councilors Lundberg** and **Holmgren** pointed out that abutters will almost certainly be notified through social media conversations and newspaper articles that will be stimulated from any proposed project, as well as the required notices to abutters which will be mailed for any Host Community Agreement or Special Council Permits.

**Councilor Lundberg** suggested that that portion of the revision to Sec. 5.31.4 be left out of the P&D motion, allowing **Councilor Gilman** to discuss it at City Council and propose an amendment there.

The committee was in agreement that “playground” be removed from the revision.

A question was posed by the committee as to how the city would deal with current establishments that have visible exterior advertising for paraphernalia and accessories (referencing Sec. 5.31.10 “Unlawful Acts”, Sub-Sec. 4, which prohibits a marijuana establishment from clearly displaying, and making visible from the exterior of the establishment, marijuana advertising, products, paraphernalia or accessories, including any of the same that have multiple uses, one of which is for marijuana), **Mr. Payson** advised the following:

- Current shops should not be grandfathered
- Enforcement will further be discussed with General Counsel and the Police Chief as to enforcing the ordinance on establishments that already have visible exterior advertising prior to the passage of the ordinance

A question was posed by the committee as to what happens to the moratorium if the proposed ordinance is adopted. **Mr. Cademartori** advised, per all the recommendations, there would be a sunset of the moratorium if the ordinance is adopted. The current Sec. 5.31, which is the moratorium, would be repealed and replaced with the new Sec. 5.31, which is the ordinance, and would go into effect immediately at the time of adoption.

**Councilor Gilman** thanked the committee and the staff for their work on the ordinance.

The committee waived the reading of the *Planning and Development Draft Marijuana Establishments Ordinance*.

**COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Holmgren, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve the Planning and Development Draft Marijuana Establishments Ordinance, dated September 5, 2018.**

**COMMITTEE RECOMMENDATION: On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council the repeal of the existing GZO Sec. 5.31 Temporary Moratorium on Recreational Marijuana Establishments.**

**COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Holmgren, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to adopt the Planning Board recommendation Use Tables regarding Marijuana Establishments, dated June 21, 2018.**

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:41 p.m.

Respectfully submitted,

*Grace E. Poirier*

Assistant City Clerk & Substitute Recorder

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None**

The P&D Committee thanked Mr. Boudreau and Mr. Cole for taking into consideration the concerns of the Stage Fort Park Advisory Committee.

→ 3. ***Planning Board Formal Review and Recommendations regarding Zoning for Recreational Marijuana Establishments (Cont'd from 08/08/18)***

**Councilor Gilman** announced that this item would be continued to the next meeting as the appropriate city personnel was not available to attend the meeting.

This public hearing will be continued until September 5, 2018.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 6:18 p.m.**

Respectfully submitted,

*Grace E. Poirier*

Assistant City Clerk & Substitute Recorder

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant a Special Council Permit (SCP2018-002) to Action, Inc., for a property at Prospect Street #93, Map 13, Lot 43, zoned R-5 to add a fifth dwelling unit in an existing four dwelling unit building under GZO Sec. 1.8, 1.8.3 and 2.3.1(7) pursuant to an unsigned plan set submitted to the City Clerk July 12, 2018 with the application, rendered by Seitz Architects, Arlington, MA (A1.3, EX1.1, EX1.2, and EX1.3) contingent upon receipt of a signed, stamped plan set by the Architect from Seitz Architects.

→ 2. ***Planning Board Formal Review and Recommendations regarding Zoning for Recreational Marijuana Establishments (Cont'd from 07/18/18)***

Councilor Gilman thanked Rick Noonan, Chair, for his leadership with the Planning Board's work on the recreational marijuana Zoning Ordinance proposal, and then moved to a review of the Planning Board's July 5, 2018 recommendations.

"Marijuana Establishments"

Sec. 5.31 Marijuana Establishments:

Councilor Lundberg advised that the language should read in the last sentence; "...; *should it be less than .5, the number shall be rounded down.*"

Section 5.31.1 - Purpose: No comments by the Committee.

Sec. 5.31.2 - Applicability; Effective Date:

Gregg Cademartori, Planning Director, noted this is "boiler plate" and is setting up what the city is seeking to regulate to mirror the language and types of uses the state is licensing.

Sec. 5.31.3 - Definitions: No comments by the Committee.

Sec. 5.31.4 - Use Allowance and Special Permit Procedures:

Mr. Cademartori noted the categories of uses, that through the effort of the Planning Board, they've consolidated the medical uses within the same Ordinance. This isn't just about establishments newly permitted by the state but also treatment centers. They're looking at cultivation centers as "either or" in that it doesn't matter which use in the industry the cultivation center is supplying. It is culled to five categories of uses. Along with Sec. 5.31 are the changes to the use tables in GZO Sec. 2.3. This is an approach as recommended by the Planning Board of as-of-right siting for all the uses except for retailing and is cross referenced in this section for the listing of uses and which districts the uses are permitted.

He highlighted that the second paragraph shows the Planning Board as the Special Permit Granting Authority and as the approvers of site plans for those uses allowed as-of-right. Every one of the uses will require site plan approval by the Board. There are some additional dimensional standards for the uses for the district these establishments would be allowed in -- EB (Extensive Business), GI (General Industrial), and BP (Business Park). Those additional requirements are setbacks from preexisting public or private schools K-12 (Kindergarten through Grade 12), 500 feet, recommended as the one receptor mentioned in state regulations. A lesser standard can be adopted locally by state regulation, but it has remained at 500 feet although initially proposed at 250 feet, he reported. Councilor Holmgren expressed agreement with 500 foot setback distance.

Councilor Gilman highlighted that if the city is only going to have three recreational marijuana retail Special Permits, she would recommend because the Board is responsible for the site plan review for those applications, that the Council should be the Special Permit Granting Authority for the recreational marijuana retail establishments, noting preliminary discussions on this matter at previous P&D meetings. She advised she had a comfort level with what the City of Salem has recommended -- with an addition to the dimensional standards of Section 3 of the Zoning Ordinance, asking the Committee to consider adding "A marijuana establishment which is proposing a location within 500 feet of any church, library, institute of higher education, licensed daycare, nursery school, preschool, must provide written notice of its intention to these entities prior to or in conjunction with any request for a Letter of Support or Non-opposition and/or the application for a Special Permit." (Salem Ordinance, Sec. 6 General Provisions, #5). She mentioned this is a good outreach effort before Applicants come forward -- it adds good will on the part of the Applicant, and doesn't create an added undue administrative burden to them. Councilor

**Lundberg** asked how this factually could come about if they say that the retail marijuana establishments can't be within 500 feet of these places; there wouldn't be an occasion for them to be located. **Councilor Gilman** highlighted that the CCC says nothing on these extra locations, quoting again the language from Salem's ordinance. **Councilor Lundberg** pointed out the section of the proposed Gloucester Zoning Ordinance language, "...shall not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any grades 1 through 12." If they can't site one of these establishments within 500 feet it will never come about that an applicant will be able to obtain a Letter of Support as it won't ever be less than 500 feet.

**Councilor Holmgren** asked if any receptors, such as houses of worship, are in the proposed districts. **Mr. Cademartori** clarified that the Salem ordinance has setbacks for all the other uses the Councilor identified. The current Gloucester draft only has a setback from schools. There could be instances that there could be a proposal where one of those other uses may be within 500 feet of a church or daycare center. Jurisdictionally there will be no setback requirement from them but the Councilor is suggesting those types of receptors be noticed prior to an applicant "taking a step." **Councilor Lundberg** pointed out that it is more than notice -- it's seeking a Letter of Non-opposition which he said was a "big leap," in his view. He asked what is it about these other entities that rise to the same level as schools; why are they concerned about houses of worship, for instance. **Councilor Gilman** conceded that may not be a big issue regarding houses of worship. She conveyed that there was discussion by the Task Force about trying to keep the retail establishments in places that were less visible to children under the age of 21. In looking at matters like licensed daycare centers, pre-schools, playgrounds, even the library, it seemed to be areas where there'd be a fair amount of children. She conveyed she was considering concerns expressed to her by parents in the community. **Councilor Lundberg** explained he was concerned by the notice and the Letters of Non-opposition -- rather, say they won't be within 500 feet and leave it at that. If there is opposition expressed by the public the Council will hear about it. He expressed he understood the Councilor's concern and suggested listing them all and add them with the last paragraph of 5.31.4. If someone voices that it is unfair at the public hearing, then they'll hear about it. **Councilors Holmgren and Gilman** expressed agreement. **Mr. Cademartori** pointed out if they include all those receptors, they will eliminate a lot of the sites that have been noted as good examples of locations -- it will exclude a site that is a shopping center in the city that has a daycare center as a tenant in addition to a liquor store. He advised that they did look at a bubble map of what it looks like when you start to put 500 feet on all of those different types of receptors needing a buffer, and it has a significant impact on the potential locations. The Planning Board recommendation was that the state has identified schools (K-12) to what they will consider as a buffer in licensing. The Planning Board, he conveyed, has agreed with that approach because of the impact to some of the sites from a capacity and access perspective. He proffered that it's a challenging balance of wanting visibility as a positive which was conveyed by the city's Public Safety officials, but with that comes the potential exposure to youth. He highlighted that much of that has been addressed by the districts that have been selected -- 105 lots with some undersized, some on residential streets with other ways to focus on sites with capacity, good access and visibility which are predominantly shopping centers. He reported that none of the 105 sites are within 500 feet of any of the schools in the EB district. **Mr. Cademartori** stated that giving people notice and then asking for some sort of support when they don't really have any standing in the ordinance is one point of concern and that if the Committee is moving in the direction of adding back in what they feel are types of uses that should be protected with a buffer they'd have to relook at what they've done so far. **Councilor Holmgren** noted that they'll take a look at how these establishments will look from the outside, and can regulate how attractive the visuals are to children especially. There is a liquor store in a shopping plaza with a daycare center now which is as much of a concern to parents as a retail recreational marijuana establishment, she noted.

**Councilor Gilman** cited comments made by a Planning Board member, at one of the Board's meetings on this subject, that there is still a conversation during any permitting process and that there would be an opportunity for the public to share their concerns even if they didn't mention all these sensitive receptors (in the Zoning Ordinance).

**Councilor Lundberg** pointed out that's the whole point of a Special Council Permit to allow that to happen. He advised he was comfortable with that, highlighting that the Planning Board did vet this issue. If they want to re-vet it they can, he added. **Councilor Gilman** pointed out this was about people who have expressed concern to her and adding something into the ordinance that may seem reasonable in terms of notice. **Councilor Lundberg** cautioned that when there is a move towards an inclusive route something invariably is omitted as Councilors are substituting their judgement for the public. When they have a public hearing, the Council will have taken a stand on schools -- anyone else who has an objection can make that objection at the public hearing. He advised he was against having in the ordinance allowing abutters to have a veto over these things and shouldn't have a role in a veto. It is the Council who is making the decision, he conveyed.

**Councilor Gilman** asked about the city's pre-school; would it cut out any sites. **Mr. Cademartori** pointed out pre-schools/daycare centers are licensed by the state which can change from year to year. The city's pre-school is

licensed through the Mass. Dept. of Education, **Jill Cahill**, Community Development Director conveyed. **Jim Destino**, CAO, asked for clarification if the Committee is asking for Applicants to give notice before a Host Agreement is signed by the city or giving abutters the ability to veto by their objecting to it which he advised didn't make sense. **Chip Payson**, General Counsel, observed the Salem ordinance is set up much like the draft ordinance before the Committee but Salem has gone "above and beyond" that and as a matter of public policy they're going to require that the Special Permit Applicant directly notice because of the importance of this issue so that they have the opportunity to come in. It is a step up from ordinarily watching the newspapers and the Committee and Council agendas. It is just noticing by a direct letter to churches to let them know there will be an establishment. It is not giving them a veto -- it is noticing this extra group. If this is just about notice, that is not a burden on anyone, **Mr. Destino** advised. **Councilor Gilman** agreed that a Letter of Non-opposition was asking too much, but expressed her agreement to the notice by an Applicant to "special abutters" of their intent. **Mr. Payson** then read Sec. 6.10.7.10 of the Salem ordinance. He explained that Salem placed a notice requirement with the onus on the Applicant to notice and provide proof that they did notice, so the "special abutters" are alerted and can come in and make public comment during the permitting process.

After a lengthy discussion, the Committee agreed that notice was appropriate with language to the effect that, "The petitioner shall submit proof that it provided notification in writing to all churches, libraries, institutes of higher education, licensed daycare, nursery schools or pre-schools within 500 feet of its proposed location to provide them an opportunity to comment at a public hearing." **Mr. Payson** advised it is reasonably related to what the Council is trying to do in the ordinance.

**Councilor Holmgren** expressed that the Council should be the Special Permitting Granting Authority which **Councilors Gilman** and **Lundberg** expressed agreement.

**Rick Noonan**, Planning Board Chair, advised the discussion on the Planning Board level on the belts and suspenders of additional noticing was a lengthy discussion. One of their members asked why would they go down this moral or ethical path as to who is or isn't in that group. These are business districts and why do they have to notice Donut Jim's or Pleasant Street Café that I'm putting in a coffee shop in East Gloucester, come and speak for or against my proposal at City Council. He pointed out these are legal businesses with a product which they sell that need parking and access, reporting that the Board didn't want to go to the "slippery slope" of saying who's in this select group. He reminded the Committee they don't have standing. People have the right to appear at a public hearing on the Special Permit to voice their opinion. This was the basis for a more simplified recommendation from the Planning Board.

#### Sec. 5.31.5 - Additional Filing Requirements and Standards:

**Mr. Cademartori** reported that there are several examples where Sec. 2.3 will identify different uses, where and how they're allowed either by right or by Special Permit. This section gets into the submission standards that will be required. He touched on not wanting to create a standard of what an applicant was already going to develop with a state license. Much of this language is taken from the CCC regulations noting prohibitions consistent with the state regulations. The addition by the Planning Board was about sites having adequate parking and access. The EB district is typically more of a city-wide draw or beyond; and may have a greater parking demand and so there is an additional standard for parking. He pointed out that there's a great variety of size of properties in the EB district; how they're accessed and where they're located. He reviewed that there was discussion of what are the sites in that 105 parcels that might have the capacity and can provide this type of parking and meet other standards. There are means of adding standards to eliminate sites that are in residential neighborhoods; smaller lots that are zoned EB but properties that house businesses like hair salons and building contractors, citing the Whittemore Street area. Larger sites are on arterial streets and is defined in the Zoning Ordinance, which he cited such streets that are numbered Routes as Essex, Eastern, Bass Avenues, Thatcher and Gloucester Crossing Roads and Route 128. Some language talks about roads created after the time of the Zoning Ordinance. From a lot size perspective, there is a lot of variety in size of operations that are beginning to be permitted in the state -- there are examples of permitted businesses of 2,000 square feet up to 5,000 square feet, and consider building footprint, required parking and access. He suggested it may make sense to look at a threshold of 20,000 square feet in lot size to accommodate that type of parking demand as well as the size of facility that might open. A combination of those two elements of needing to be on an arterial road and minimum lot size may remove many of the smaller parcels. **Councilor Gilman** advised the parking will be a guide for lots that can accommodate these retail establishments. It was recommended that this section is talking about additional filing requirements and standards.

The Committee agreed this language should be added. **Mr. Payson** suggested regarding the issues raised by the Committee for language additions and changes that he and **Mr. Cademartori** will take the time to draft the

recommendations carefully. The Committee expressed agreement to await the full documentation of the redrafted Zoning Ordinance amendment before considering a possible vote to recommend.

**Mr. Noonan** noted the district approach versus the list of abutters. It is about applicability and casting a broad enough net that gives some sort of separation and opportunity without picking numbers. It is a limiting exercise, he pointed out. He advised he had no problem with it, that the Board's concern was not to regulate these businesses at a higher level than other businesses in the city. These are adult use only stores and kids aren't going to be allowed in to make a purchase, he highlighted.

Sec. 5.31.8 - Special Permit Findings:

**Mr. Cademartori** noted this would change slightly. This is just for the retail establishments only, **Councilor Gilman** pointed out and the Committee expressed its agreement.

Sec. 5.31.9 - Host Community Agreements:

**Councilor Gilman** mentioned the phrase, "effective for longer than 5 years." suggesting it has to be three years as to the term of a Host Agreement. **Mr. Payson** advised he would confirm that if it is the case. **Councilor Holmgren** confirmed that the host agreement is renegotiated every three years. **Mr. Destino** advised there have been a lot of cautionary tales about the Host Agreements and the Administration has to be careful to put things that relate to direct impact on adult use.

Sec. 5.31.10 - Unlawful Acts:

Subsection three would change to City Council from Planning Board as the Special Permit Granting Authority.

Sec. 5.31.11 - Violations and Penalties: No comments

Sec. 5.31.12 - Severability: No comments

Further Discussion by the Committee not on specific sections:

**Councilor Gilman** suggested the draft language could have kept the CCC language on energy efficiencies in cultivation centers mentioning concerns raised by National Grid that these new businesses, particularly cultivation centers could take a "lion share" of cities' and towns' energy capacity. Noting her understanding of the Planning Board's position, she suggested that the city could make sure that cultivation centers should be reminded about this issue and be urged to be responsible about their energy use. She advised she preferred the redline version (on file) which is repeating what the CCC says is important. She pointed out that in California they're taking 3% of the state's electricity. She pointed out she's not saying they want to make it harder but want to ensure the city has enough water and electricity for other businesses in a particular location. It is part of the (state) application that you have to do these things. **Mr. Cademartori** confirmed it is in the licensing application to the state. **Councilor Gilman** expressed she wanted Councilors to consider repeating this energy request in the zoning language. **Councilor Lundberg** agreed that it is good to make it a statement but that they didn't have any way of knowing if these new cultivation centers would take up any more utility capacity than that of Gorton's processing plant or any of the large freezer establishments in the city that run 24/7. He advised he wasn't prepared to substitute his judgement as a requirement on a business. They aren't in a position to start making those kinds of technical assessments because they don't have the tools to do that. **Mr. Payson** noted the CCC regulations are different from what was stricken. The CCC and the state put the onus on the applicant to come up with energy conservation and energy policies and procedures not with particular specificity. What was stricken was that particular specificity which goes a step beyond what the CCC requires, for example, of requiring the offset of 100% of electricity consumption with at least 50% of onsite generation facilities, renewable energy credits or some other method approved by the city. He explained that there is recognition throughout the regulations of the probability of increased energy consumption, to what degree, the regulations are somewhat vague. There are requirements under the regulations, Sec. 500.105 1P for Marijuana Establishments and also for outdoor marijuana cultivators. It is not as specific as what was included in the draft and then stricken. It wasn't a repetition of the CCC regulations, he added. **Mr. Cademartori** pointed out that in the submission standards and filing requirements they have exactly what they are mentioning. It is putting it up front from the Planning Board recommended draft Page 4, Sec. 5.31.5 1. c) by asking the applicants to provide a written description of how they are addressing specific standards and regulations. **Councilor Gilman** asked for a descriptive sentence which takes note of what that entails. **Mr. Payson** offered simple language to the Committee which he suggested could be inserted to which the Committee voiced its

approval. **Mr. Destino** noted he attended the Cannabis Business Association meeting where there was talk about the mistakes made by other states where they licensed too many cultivation centers and demand doesn't keep up with supply. Massachusetts isn't going to make those mistakes, he assured, that the state has learned from those examples and won't allow outpacing supply with demand -- in turn they may not have the same energy issues as Colorado and California by not permitting as many cultivation establishments.

**Mr. Destino** then addressed Board of Health Regulations that has to be adopted. The smoke shops in the city are now selling CBD (Cannabidiol) foodstuff which falls under the Board of Health regulations. They don't know the levels of THC (Tetrahydrocannabinol) a foodstuff may contain until they test them. They still need to deal with these businesses and deal with the edibles which he termed a "gray area." They're thinking about leaving this in the Board of Health regulations as this is constantly evolving situation, he advised.

**Councilor Gilman** there is a need to deal with the paraphernalia that is being displayed in smoke shop windows. **Mr. Destino** advised the state is going to take a look at this. Regulations will have to be put in place, he agreed, and they'll need something on foodstuffs, signs and displays. As long as it is enforceable, it can be in the Board of Health regulations or the Code of Ordinances, **Mr. Payson** advised. He suggested perhaps considering language in this ordinance about marijuana paraphernalia in windows of accessories stores. It was noted that a definition would have to be added. **Mr. Payson** advised they would look into this and he and **Mr. Cademartori** would prepare the list for the Committee.

**Councilor Lundberg** touched on the use table and asked why is there a "yes" for Marijuana Testing Facility in the EB district when the other product manufacturers are "No." **Mr. Cademartori** advised a testing facility could be 500 square feet, like a biomarine type of facility. It is not producing or retailing whereas a cultivator requires the additional space requirements.

The definition of bulk storage was touched upon between **Mr. Cademartori** and **Councilor Gilman** and how the parking is calculated for retail uses. He suggested they add for the use table at the end: "(see section 5.31)."

**Attorney Joel Favazza**, 123 Main Street, noted the difficulty of permitting with Gloucester; that there is no "one stop shopping." Every applicant is already at the Planning Board doing site plan review, they could hear the Special Council Permit simultaneously, he suggested.

**Attorney Deborah Eliason**, 63 Middle Street, asked with regard to the use table it appeared to hear that Medical is only allowed in the BP district and retail in the EB district. She asked what the rationale is. **Mr. Cademartori** noted there was a lot of discussion at the Planning Board about the potential for expanding the opportunities but knowing the potentially limited number of retail establishment locations which was the primary focus, there was also the consolidation of the uses into one ordinance so there may be the ability to expand the allowance into other districts but that it is narrow at this time. This is all fairly new, he pointed out, and for the time being they are segregated in two districts. **Ms. Eliason** expressed concern that the way the ordinance is written it limits the opportunity for people to obtain Medical Marijuana businesses. **Mr. Cademartori** and **Mr. Noonan** noted this was a topic of discussion with the Planning Board and is something the Board would like to revisit particularly on the dispensing side.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 7:02 p.m.**

Respectfully submitted,

*Dana C. Jorgenson*

Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.**

4. The existing sidewalks are cast in place concrete and the City of Gloucester will only accept full panel pours.
5. All excavated trenches shall be patched flush with the surrounding asphalt using hot mix asphalt binder at the end of each work day to minimize pedestrian hazards. Asphalt shall be applied in two lifts of 2 (two) inches totaling 4 (four) inches.
6. All final paving shall be full width paving of affected area

→ 4. ***Planning Board Formal Review and Recommendations regarding Zoning for Recreational Marijuana Establishments (Cont'd from 06/13/18)***

Councilor Gilman announced this matter would be continued to August 8, 2018.

5. ***SCP2017-012: School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5 for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sec. 5.29 (including Major Project under GZO Sec. 5.7) and Sec.'s 5.29.10 and 5.11.8 (Cont'd from 07/11/18)***

Councilor Gilman recounted that at the last P&D Committee meeting there was a rigorous conversation that concentrated on four particular areas of the Special Council Permit/Major Project that needed further conversation. She noted the Administration worked diligently to amend Conditions #2, #7, #17 and #22, as well as additional matters that were discussed.

Gregg Cademartori, Planning Director, reviewed that there were suggestions by the Applicant for language amendments as well as through the P&D Committee. The final recommendation from the Planning Board included fairly general conditions, he pointed out, saying that there needed to be language that addresses regulation and creation of the affordable units that will be required under GZO Sec. 5.11 "Inclusionary Housing Requirements." He highlighted two documents he forwarded to the Committee for their review (on file): a red-line version of a 15-page document, and a second document known as a "clean copy" without redlining. The redline version showed the changes for the related conditions on Affordable Housing, he noted.

Deborah Eliason, Attorney for the Applicant, advised the Chair that there would need to be a substantive discussion of the Affordable Housing conditions from their perspective.

Mr. Cademartori then continued with the suggested changes to the Conditions as follows:

- The word "should" throughout the proposed conditions from the conditions has been changed to "shall."
- Condition #2: From a staff level on how project modification of project plans are considered, reviewed and approved or required to go through additional permitting for review, the language now captures the review process. Councilor Gilman then read the final draft Condition #2. Mr. Cademartori commented that as these larger project move to construction and tenancing, things change, so there is a process that when changes are consistent with a Special Permit decision and the plan set that are minor modifications there's an allowance for those things to be considered -- as long as the changes are consistent with the Special Council Permit approved through the construction process. Should there be a change that is more of a departure and inconsistent with the plan set, the process is already outlined in the Zoning Ordinance, and it is considered through the public hearing process as an amendment to the City Council Permit, as in this case. This condition also captures that process, he advised. Peter Gourdeau, Windover Construction, asked if the Building Inspector must consult with those other named parties, or is it his discretion. Mr. Cademartori conveyed the Building Inspector can make decisions under the Zoning Ordinance but that this is to ensure communication between city staff, pointing out it is a consultation. This language requires the consultation, Chip Payson, General Counsel, pointed out. Jim Destino, CAO, noted the Building Inspector would do it regardless.
- Condition #7: Mr. Cademartori reviewed as follows on Occupancy Permits issuance -- not all uses will come on line at the same time and pursue occupancy permits. This language covers the expectation of what would be required if one component of the project pursues occupancy; it is allowable even if other parts of the project are not at that same stage. The same parts remain and are not a departure from the construction review process, he noted. This condition is making clear what is required and also anticipates that everything doesn't have to be complete in order to start occupancy of parts of the site but ensures the essential utilities and things that are servicing the use are in place should the housing piece, YMCA or retail

**Special Planning & Development Committee**

Wednesday, June 13, 2018 – 5:30 p.m.

**Kyrouz Auditorium – City Hall**

-Minutes-

**Present:** Chair, Councilor Valerie Gilman; Vice Chair, Councilor Jen Holmgren; Councilor Paul Lundberg  
**Absent:** None.

**Also Present:** Councilor Hecht (entered the meeting at 4:12 p.m. and departed the meeting at 4:55 p.m.); Joanne M. Senos; Jim Destino; Gregg Cademartori; Chip Payson; Rick Noonan (entered the meeting at 5:12 p.m.)

The meeting was called to order at 4:05 p.m.

→ 1. ***Planning Board Informal Review and Recommendations regarding Zoning for Recreational Marijuana Establishments - to review and discuss the draft marijuana establishment ordinance and proposed Use Table amendments with city staff (Cont'd from 06/06/18)***

Councilor Gilman reviewed and asked for responses for each of the outstanding questions the Committee submitted to the Planning Director, Gregg Cademartori; and General Counsel, Chip Payson, from the June 6, 2018 meeting. They are as follows:

- Request the administration provide the committee with the document that the Planning Director and the City Solicitor presented to the Planning Board on March 1, 2018. NOTE: Prior to June 6<sup>th</sup> meeting, Chairperson Gilman had requested the red lined working document from Planning Director, Gregg Cademartori.
- Request clarification on whether the CCC's energy specifications for marijuana cultivators are operational recommendations or regulations
- Modify the third paragraph in Sec. 5.31-Marijuana Establishments to reflect the most current language – it should say *less than .5*.
- Request clarification in regards to what would happen if the City Council was made the permit granting authority (instead of the Planning Board, as stated in Sec. 5.31.4-Use Allowance and Special Permit Procedures), and how that section would work if it were changed to make the City Council the permit granting authority.
- Modify the fifth paragraph in Sec. 5.31.4-Use Allowance and Special Permit Procedures to say 500 feet to be consistent with the CCC regulations.
- Request clarification on Sec. 5.31.9-Host Community Agreement as to what department the CCC contacts after a license application is made to the CCC, who writes the agreement and how it works in the approval process.
- Requested zoning maps are made available to the Committee at the next committee meeting.

**COMMITTEE DISCUSSION:**

- Request clarification on whether the CCC's energy specifications for marijuana cultivators are operational recommendations or regulations

Chip Payson, General Counsel, reviewed the language in the original draft language to the Planning Board that spoke to energy restrictions that marijuana facilities shall offset 100% of their electricity consumption through at least 50% of on-site generation facilities, New England based renewable energy credits and/or an equivalent that is subject to approval by the city. The Code of Massachusetts Regulations (CMR) for the CCC includes language that requires marijuana establishments have and follow a detailed set of operating procedures such as, policies and procedures for energy efficiency and conservation measures which shall include: 1) Identification of potential energy use reduction opportunities; 2) consideration of opportunities for renewable energy generation; 3) strategies to reduce electric demand; and 4) engagement of energy efficiency programs offered pursuant to MGL Ch. 25, §21 or through municipal light plants. Mr. Payson offered his opinion what Salem did, which both he and Mr. Cademartori based the Zoning Ordinance first draft on -- Salem passed the ordinance "as is" meaning that the first draft that was produced was Salem's final ordinance. The CMR puts standards in place but not particularly detailed energy reduction, or efficiency/energy conservation standards. What was originally proposed was built upon what the regulations said in terms of requirements of the marijuana establishments--the regulations sets a baseline. What was proposed was

stricter and required specific energy reduction requirements to be complied with which the Planning Board eliminated from the draft language. He further opined that the CCC through the regulations addresses and requires certain energy conservation efforts. By doing that the CCC and the state recognize that there's going to be high energy consumption in this industry. Had the CCC left the energy consumption and conservation issues out, then an argument could be made this industry is like any other, but because the CCC included those, in his opinion, the CCC is recognizing that this industry is going to have high energy consumption which is something that cities and towns should pay attention to. He indicated that the question is whether or not the Council is satisfied with the CMR requirements or whether the Council wants to take the next step as the city of Salem did by adding specific energy efficiency standards to be complied with as opposed to the general CMR regulations for marijuana establishments.

Responding to an inquiry by **Councilor Gilman**, Gregg Cademartori, Planning Director pointed out that the requirements enumerated in the current draft of the Zoning Ordinance amendments, whoever the permit granting authority is, will receive all the information that an applicant will be submitting to the CCC for licensure. The way in which applicants have to outline and address how they're going to deal with their energy consumption through the four specifications will have to be provided. It is not setting a standard to be applied, he noted, but that information is parallel just not reinstated in the current draft language. **Mr. Payson** advised that he didn't know that the language out of the regulations was inserted in the original draft because it applies whether it's in the ordinance or not. The ordinance draft did include that "next step" and took a position of going one step further than the CCC and CMR regulations. There are many ways to achieve energy credits; they could pay to buy energy credits, **Jim Destino**, CAO, pointed out that there are different ways to achieve energy efficiency and briefly reviewed what the possible options for a marijuana establishment could do, highlighting one example of placing solar panels on a building. He advised there are options as to how they meet those regulations. **Mr. Payson** pointed out that the language that was in the draft that was stricken listed on-site energy generation facilities; New England based renewable energy credits, or an equivalent that is subject to approval by the city. **Mr. Destino** suggested they may want to leave room to be flexible to allow the businesses to come up with other energy conservation options to limit their energy use in the Gloucester grid.

**Councilor Lundberg** confirmed there is no language in the current draft language from the Planning Board's informal recommendations about energy efficiency with **Mr. Cademartori** who indicated that the applicants will have to address this issue with the CCC and that package of information will be forwarded to the city for its consideration that the applicant is meeting those standards in the regulations.

**Councilor Gilman** sought clarity on the Planning Board's decision to remove this language because the Board wanted to make it easy for a non-cultivation business. **Mr. Cademartori** advised it was about an equal application of the standard; that there could be other proposed uses that might come into the Industrial Park that are allowed, as of right, that would not be held to this standard. He assured it wasn't a dismissal that these were uses that were going to have high energy demands. It was more that given the CCC regulations there is a lot of attention to detail to these future businesses that the standards that have been set terms of evaluation and demonstration of dealing with this issue was the level at which it was fair at this juncture rather than setting a new higher standard for one industry that the city doesn't have or any other industry. **Mr. Payson** pointed out that inherent in that conclusion is the fact that there appears to be a belief that it is similar to all the other industries, and because it is similar to all the other industries it shouldn't take this next step. **Mr. Cademartori** suggested that the Board is simply saying that they don't know what might come in as there are a number of as-of-right uses; they don't know what a business's energy demand is categorically by industry, and that this is a new standard. He advised he met with people at National Grid's (NG) headquarters before the discussions were held at the Planning Board, and that this is something they're concerned about on a variety of energy delivery issues. It is for the Council to consider if they want to pursue trying to protect the infrastructure of the city in setting a standard like that. **Councilor Gilman** noted that the state is providing the oversight; what is the benefit to the city including this in the ordinance. **Mr. Cademartori** indicated this would hold them to a higher standard which is what Salem is doing. This was driven by National Grid's comment to the CCC because NG was concerned about it, **Mr. Destino** pointed out. That is the genesis of why the CCC wrote that into their regulations. If the city had two or three cultivation facilities at the Blackburn Industrial Park, he suggested it could be a drain on the city's infrastructure. **Mr. Cademartori** noted that the CCC is trying to raise the bar on energy consumption.

**Councilor Hecht** asked how much more is the consumption of these marijuana establishments. **Mr. Cademartori** advised he didn't have that information. **Councilor Lundberg** pointed out that there are industries that consume far more energy, and that this is an unknown yet.

- **Modify the third paragraph in Sec. 5.31-Marijuana Establishments to reflect the most current language – it should say *less than .5*.**

**Councilor Gilman** pointed out this is a small change, suggesting when the Planning Board holds their public hearing it would be good to make a note of this is the current language which the Council approved.

- o **Request clarification in regards to what would happen if the City Council was made the permit granting authority (instead of the Planning Board, as stated in Sec. 5.31.4-Use Allowance and Special Permit Procedures), and how that section would work if it were changed to make the City Council the permit granting authority.**

**Councilor Gilman** referred to the Informal Draft Recommendation dated of May 21, 2018, last page, draft use table amendments: Sec. 2.3.4 (25) Recreational Marijuana Retailer in the Extensive Business district (EB) it is suggested that the permit granting authority be "PB" (Planning Board). **Mr. Cademartori** advised this would have to be mapped all the way through the process -- there would be a use table change and any reference to the Special Permit Granting Authority (SPGA) would be substituted. The question would be whether the Council would treat this as a City Council Special Permit or a CCS in terms of submission requirements. He pointed out that there are already additional requirements that applicants have to make for licensure application with the CCC; and it would be the substitute for identification who the SPGA would be. All of the uses proposed require site plan approval from the Planning Board which wouldn't change. He indicated that procedurally it made sense for the application to be submitted and go concurrently without need for referral to the Planning Board --they'll already have to be in front of them for site plan approval. **Mr. Payson** highlighted that the necessity of a Site Plan Review requires the Planning Board to weigh in which was why the Board suggested that they should be the permit granting authority to create a "one-stop" shopping. He pointed out that if the Council becomes the SPGA it adds extra steps because the application needs to go to the Planning Board and then come back to the Council which adds time. **Mr. Destino** recounted that the Council wanted the city's permit granting to become streamlined pointing out that if there is a Site Plan Review at the Planning Board, then the permit granting authority should be at the Planning Board. He added that the Council is elected officials, and that this isn't the average Special Council Permit as this is not subjective which he briefly expanded upon. **Mr. Payson** added that technically the CCC is the licensing authority but what the SPGA can do is limit it. Where the lines are in terms of denial of a Special Permit which stops the applicant from getting the license, securing their location and opening their business, based on economics; or any of the six criteria under GZO Sec. 1.8.3, that body of law doesn't exist yet. **Mr. Destino** noted it is not that they don't have some oversight and jurisdiction over the special permit but it isn't a usual one because the state plays such a big role in all of it unlike any other Special Permit. It will be the most regulated business ever, he noted, saying it is a long process. **Councilor Lundberg** noted that is all true but it isn't a rubber stamp; they wouldn't have the Building Inspector approve such permits. He suggested that having nine elected councilors say yes after a City Council public hearing is a good thing. He agreed that the Council's discretion is limited, and no one will turn down anything with their ducks in a row, but the applicants should come before the Council.

**Councilor Holmgren** advised she agreed with Councilor Lundberg because they are elected and the Planning Board is appointed; and while respecting their experience, professional background and commitment, but putting it through the process by vetting it through the Special Council Permit process is the best way to go to her. She added that she didn't want to make it seem it unreasonably impracticable for any applicant. **Councilor Lundberg** pointed out they'll most likely have only three or four retail recreational retail outlets in the city which is capped at three. **Mr. Cademartori** advised that the Planning Board was provided a draft that had the Planning Board as the Permit Granting Authority. He pointed out they didn't decide this but did make the point should the Council choose to consolidate the permit granting, that they were willing to do it. If the Council wants to be the SPGA it was fine, too, he noted. The three categories that aren't proposed to have a Special Permit tied to them will require a Site Plan Review, and will be looking at the same issues for the different uses; if it makes sense to consolidate they will take that on. Salem has the Zoning Board as the permit granting authority. The drafts they looked for modelling before advancing anything to the Planning Board were gleaned mostly from towns rather than cities -- in most towns it is the Zoning Board not the Board of Selectmen who are the SPGA. He pointed out that the Zoning Board of Appeals in the city is a permit granting authority for three-family domiciles, and if there was a variance that was also needed, they'd consolidate the permitting, he pointed out. **Councilor Lundberg** noted when they get to this part they have to make that decision by consulting with the entire Council.

**Councilor Hecht** noted an article in the Washington (State) Times which highlighted the high energy consumption of cannabis growing facilities and read briefly selected parts of it to the Committee.

**Councilor Gilman** noted that the CCC did a great job getting information from other states and expressed she is comfortable with the regulations for the protections put in place. She added the CCC has done a good job regulating this in part from lessons learned from other states.

- **Requested zoning maps are made available to the Committee at the next committee meeting.**

A colored map that would be applicable to adult use recreational marijuana outlets was made available to the Committee to view from Mr. Cademartori. He highlighted the Extensive Business districts which would be where recreational marijuana establishments would be allowed. Schools were also identified showing a 250' setback. He noted there are about 105 parcels, all potentially sites that could make sense for someone to pursue a Special Permit, but many of those properties have some constraints. The Planning Board's thinking about from capacity and access of sites, didn't want to invite congestion where areas don't have the capacity to accommodate, same type of thing people are looking to open up to be accessible and visible. He then reviewed some of the parcels saying that the combination of the existing use of property; its accessibility; provision of on-street parking; all these things have to be considered because of a higher standard being applied to this use than typical retail which will eliminate some of these sites. It is modeled after the shopping center which is mostly what is in the EB districts; grocery stores are in shopping centers. Beyond that there are some smaller centers that are multiple tenant locations that may make sense. There was a link on the city's website, he advised, which will call up the zoning map and show EB zones, and clicking on any of those parcels will give the Assessors information. It is up to the property owner in terms of leasing or sale of the property. **Mr. Destino** added as to property owner's willingness to lease space mentioning Shaw's Plaza and Gloucester Crossing. He advised that in a conversation he had with Sam Park of Gloucester Crossing, Mr. Park informed him it will be up to his tenants. He suggested that the most likely places for these establishments are the larger places with empty buildings that have parking. **Joanne M. Senos**, City Clerk, pointed out that there is a day care center at the Shaw's Plaza on Eastern Avenue and there's a play area there also. **Mr. Destino** highlighted that it shouldn't preclude the city from zoning there. **Mr. Payson** and **Councilor Gilman** engaged in a brief discussion as to the issue of possibly adding a higher level of qualifications as Salem did with **Mr. Payson** clarifying it is a notification issue if within 500 feet of a church, institution of higher learning, licensed day care, etc., that the applicant must provide written notice of their intention to these entities to or in conjunction with any request for a Letter of Support or Non-Opposition for a Special Permit. **Councilors Lundberg** and **Gilman** discussed this with **Mr. Payson** and **Mr. Destino** clarifying that there is a Letter of Non-Opposition that has to be with the Host Agreement. **Mr. Payson** advised that the language wasn't in the original draft and is not in the draft that is before the Committee now.

**Councilor Gilman** noted the 105 parcels are only EB confirmed with **Mr. Cademartori**. She asked for on-street information as to what surrounds these particular parcels. With 105 parcels, **Mr. Cademartori** advised he can't give that much information for that many parcels but that he could obtain a list of the properties with addresses and who owns it. He noted that there is a way in which Councilors and the public can click onto that information on the city's website on a map. Both **Councilors Gilman** and **Lundberg** advised the information on the website was sufficient.

- **Modify the fifth paragraph in Sec. 5.31.4-Use Allowance and Special Permit Procedures to say 500 feet to be consistent with the CCC regulations.**

**Mr. Cademartori** advised that 250' or 500' doesn't have a lot of impact on retail establishments. He suggested that if they're focusing primarily on the impact to retail, it is a matter of what additional things they think are sensitive receptors to put a setback on. EB districts aren't immediately adjacent to schools in the city. Part of this recommendation from the Planning Board is also to remove those restrictions for the medical uses. They didn't see the necessity to have all those different additional associated setback requirements associated with a medical marijuana facility. **Councilor Gilman** advised she personally is more concerned about retail marijuana recreational use sales locations than medical marijuana uses. Guidance from the CCC is that it is 500' unless the city or town reduces it. There wasn't a lengthy discussion about the recommendation. With some of the knowledge of the potential locations in the EB district it doesn't have a lot of impact either way. If the Council feels strongly he would need to know what those considerations are. Daycare is a state licensed use that changes from time to time. They can do some analysis now but he pointed out that many of them could be home based. He can go based off of the latest state database of licensed facilities advising he did that a year ago but offered they can start to look at it again if it is a consideration. There was some discussion at the Planning Board because the question was for an adult use 21 years of age and older retail operation how does that relates to children of a young age within that distance. He pointed out that the Eastern Avenue daycare facility in Shaw's Plaza has a liquor store in the same plaza. The Board didn't see that as a reason to prohibit a location, he added. **Councilor Gilman** suggested that the 500' buffer would put more people at ease. She read the pertinent CCC regulations to setbacks to the Committee which spoke to being able to regulate changes at a local level.

**Councilor Lundberg** reminded the Committee that a marijuana establishment is not just a retail store but it can also be the cultivator, the testing facilities, the product manufacturer as well as the retailer, which raises the issue of what is this buffer zone designed to do; why have a buffer zone. He pointed out that there is a state requirement of a buffer zone for schools asking if it was for all marijuana establishments which **Mr. Cademartori** confirmed it was. **Councilor Lundberg** noted that there comes a point where they've reduced it too much and they might be unreasonably eliminating locations; and you can't make an ordinance that unreasonably impracticable -- this too will need to be pointed out to the Council. **Mr. Cademartori** advised it could be that after the Planning Board's public hearing the draft language of the Informal Recommendations could be modified in the Formal Recommendation. What is the delta between K-12 for 500' versus 250' -- what do they lose if they go from one to the other because if they lose nothing then they should keep it at 500'. It is about putting concerned people at ease, she opined.

- **Request clarification on Sec. 5.31.9-Host Community Agreement as to what department the CCC contacts after a license application is made to the CCC, who writes the agreement and how it works in the approval process.**

**Mr. Payson** advised that according to the CCC from guidance to municipalities in 2017 that the Executive branch would engage with the applicant and agree to the parameters of the Host Agreement. That is a piece of the application that has to go back to the CCC; and in turn the CCC notifies the municipality. Then the Council has 60 days to determine that the applicant is in compliance with the Zoning Ordinance. **Councilor Lundberg** asked if the Executive branch knows at this time how that would work -- is the notification that they have an applicant that requires that they shall enter into a Host Agreement. The applicant would come to the Mayor, **Mr. Destino** advised, and would advise they want to open their business in the city, and they'd then negotiate a Host Agreement. He assumed the Mayor's Office would do that. Many aspects of this law could get challenged he cautioned, referencing the use of funds gained in a Host Agreement, as the funds the city receives have to correlate to adult use marijuana impact in the community--the maximum would be 3%. **Councilor Lundberg** noted it is similar to what the Mayor's Office did with the Happy Valley's medical marijuana facility. **Councilor Gilman** understood that Happy Valley's Host Agreement is for five years which can be renewed for another three years, **Mr. Destino** noted. There is a five-year Host Agreement with Happy Valley now, and thereafter it is a renewable three-year agreement which is the new rule, and the percentage moves to 3% from 5%. The city starts seeing the revenue when the facility opens, **Mr. Payson** advised.

There was a brief discussion of the red-lined versions of the draft ordinance by the Committee with staff that was present.

**Rick Noonan**, Planning Board Chair advised there are typographical errors in the language of the Informal Recommendation from the Planning Board, and he gave several examples. **Mr. Payson** explained that after the PB has their hearing if there are any changes he advised he'd go through and perform a grammar check.

**Councilor Lundberg** reviewed the Council process briefly, and that they should let the Planning Board finish their formal process and await their formal recommendation. Once the Committee receives that formal recommendation, the Committee can take what they're learning, take that recommendation and continue to evaluate that proposal. What was presented on May 21 is the working draft the Committee has to use and will still need to undergo possible modifications, **Councilor Gilman** advised.

**Mr. Noonan** advised he's already received a phone call from a potential applicant.

This matter is continued to July 18, 2018.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 5:30 p.m.**

Respectfully submitted,

*Dana C. Jorgenson*

Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.**

Written notice shall be made by event organizer at least seven days in advance of the event to function halls, motels and hotels and other businesses along the route.

7. **Responsibility of the Cape Ann YMCA:**

Failure to comply with any conditions above and any conditions placed on these events by the Special Events Advisory Committee may result in permit revocation.

2. *Application of DML Properties LLC for the storage of diesel at 24 Kondelin Road, Assessors Map 197, Lot 13, per MGL Ch. 148, §13 & GCO Ch. 8, Sec. 8.1 "License for Storing Inflammables" (Cont'd from 5/16/18)*

John Favazza, General Manager of Eastern Disposal (formerly Hiltz Disposal) requested a license for the storage of diesel. The tanks would be used in the same capacity in which they were used by Hiltz Disposal. The people involved with testing reached out to neighboring abutters as well as the Fire Department.

The committee confirmed this is a new license and that the renewal is annual at a cost of \$100.

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Holmgren, seconded by Councilor Gilman, the Planning & Development Committee 2 voted in favor, 0 opposed, 1 (Lundberg) absent to recommend that the City Council grant a license under GCO Ch. 8 "Fire Prevention and Protection," Sec. 8-1 "License for storing inflammables," MGL. Ch. 148, §13 and 527 CMR 1.00 for storage of inflammables at 24 Kondelin Road, Assessors Map 197, Lot 13, owner DLM Properties LLC, specifically to store Diesel, Class 16, (UST) for a total quantity of 10,000 gallons.

This matter will be advertised for public hearing.

3. *Memorandum from City Clerk re: request of Thomas P. Testaverde to rename Mooncusser Lane to Midnight Sun Lane per GCO Ch. 21, Sec. 21-3 Subsections (a) through (f) - Vote to refer matter per GCO for recommendations from certain city departments (GCO 21-3(3))*

As the applicant was not in attendance at the meeting and not all of the departmental recommendations had yet been received, the committee continued this matter.

This matter will be continued to June 20, 2018

4. *SCP2017-012: School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5 for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sec. 5.29 (including Major Project under GZO Sec. 5.7) and Sec.'s 5.29.10 and 5.11.8 (Cont'd from 05/14/18) (TBC 06/20/18)*

At 5:44 p.m. the committee moved to take a five minute recess to allow for Councillor Lundberg to arrive prior to moving forward on the agenda. The recess ended upon Councillor Lundberg's arrival at 5:52 p.m.

→ 5. *Planning Board Informal Review and Recommendations regarding Zoning for Recreational Marijuana Establishments*

Prior to beginning the discussion the review and recommendations from the Planning Board, Councillor Gilman relayed the following information to the committee:

- 164 communities have implemented moratoriums on recreational marijuana establishments, according to the June 2018 MMA newsletter
- 15% of Massachusetts cities and towns have adopted zoning changes
- The Mayor's Task Force zoning sub-committee (of which she was the City Council representative) recommended that the city not allow recreational retail establishments in areas heavily trafficked by, or routinely visible to, youth.
- The Mayor's Task Force zoning sub-committee recommended a zoning ordinance in the form of an overlay district in Extensive Business, Commercial Business and Village Business with language pertaining to parcel size and parking

- Highlighted Sec. 5.31.1 – Purpose, which states “The purpose of this ordinance is to allow state-licensed marijuana establishments to exist in the city in accordance with applicable state laws and regulations and impose reasonable safeguards to govern the time, place and manner of marijuana establishment operations and any business dealing in marijuana accessories in such a way as to ensure public health, safety, well-being, and undue impacts on the natural environment as it relates to the retailing, cultivation, processing, manufacturing or testing subject to the provisions of this Zoning Ordinance” [*Draft Marijuana Establishments Ordinance of 5/18/18* (on file)]

**Councillor Gilman** relayed that, due to unforeseen circumstances, Gregg Cademartori, Planning Director, was unable to attend the meeting. She requested that **Rick Noonan**, Planning Board chair, give the committee some background on the proposed draft ordinance and Use Table amendments. Mr. Noonan relayed the following:

- The Planning Board was focused on *where* and *when*.
- They used a Bubble Map with a 500-foot radius and used it to overlay different areas such as Lanesville, the downtown and Kondelin Road. The downtown might have yielded one or two potential locations.
- Good feeder roads, turn around and access points for a retail outlet were important. The facility would need to be a reasonable size with square footage and parking, which makes downtown an unlikely place for a retail establishment.
- In the state guidelines, the only mandate is that an adult use medical marijuana dispensing facility is prohibited from being within 500 feet of a grade school, K thru 12. A local community is allowed to adopt an ordinance that reduces the requirement.
- The Board removed the cultivation energy efficiency sections of the CCC guidelines because they felt that other non marijuana businesses do not have that requirement.

The committee then reviewed and discussed the individual sections of the proposed draft ordinance as well as the Use Table amendments. After review, the following issues and requests were identified and put forward by the committee for clarification from the administration:

- Request the administration provide the committee with the document that the Planning Director and the City Solicitor presented to the Planning Board on March 1, 2018. NOTE: Prior to tonight’s meeting, Chairperson Gilman had requested the red lined working document from Planning Director, Gregg Cadamartori. Mr. Cadamartori had replied that the changes from the 3/1/18 original draft were significant and that a red lined document was not available.
- Request clarification on whether the CCC’s energy specifications for marijuana cultivators are operational recommendations or regulations
- Modify the third paragraph in Sec. 5.31-Marijuana Establishments to reflect the most current language – it should say *less than .5*.
- Request clarification in regards to what would happen if the City Council was made the permit granting authority (instead of the Planning Board, as stated in Sec. 5.31.4-Use Allowance and Special Permit Procedures), and how that section would work if it were changed to make the City Council the permit granting authority.
- Modify the fifth paragraph in Sec. 5.31.4-Use Allowance and Special Permit Procedures to say 500 feet to be consistent with the CCC regulations.
- Request clarification on Sec. 5.31.9-Host Community Agreement as to what department the CCC contacts after a license application is made to the CCC, who writes the agreement and how it works in the approval process.
- Requested zoning maps be available for the committee at the next committee meeting.

It was determined by the committee that a special meeting would be beneficial between now and the next regularly scheduled Planning & Development meeting in order to further discuss the proposed amendments with the Planning Director, Planning Board Chair and City Solicitor.

This matter was continued to a special meeting tentatively scheduled for June 13, 2018.

**Councillor Gilman** opened the floor for questions from those in attendance at the meeting and the committee answered a couple of questions asked regarding definitions in the Use Table and the process for adopting changes to the zoning ordinance.

6. *Memorandum from Mayor re: Recreational Marijuana Recommendations: That the Council adopt the requisite ordinances and zoning requirements necessary in that regard currently at the Planning Board (Cont'd from 04/18/18)*

The committee determined this item was no longer necessary as the committee was currently reviewing the recommendation through the Planning Board's Informal Review and Recommendations regarding Zoning for Recreational Marijuana Establishments.

This matter was withdrawn.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:10 p.m.

Respectfully submitted,

*Grace E. Poirier*

Assistant City Clerk & Substitute Recorder

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.**

**In Re:**

**Application of Fuller Mixed Use Venture, LLC )  
for a Special Permit (including Major Project) )  
)  
Pursuant to the )  
City of Gloucester Zoning Ordinance )  
Sections 5.29 (including Major Project )  
Section 5.7) and Section 5.29.10 and 5.11.8 )  
)  
)  
)  
SCP 2017-012 )**

**DECISION OF THE CITY  
COUNCIL OF THE CITY  
OF GLOUCESTER**

---

The City Council of the City of Gloucester, Massachusetts, constituting the Special Permit granting authority under the laws of the Commonwealth of Massachusetts and the Zoning Ordinance of the City of Gloucester, hereby adopts the following findings and decision (“Decision”) with regard to the application of Fuller Mixed Use Venture, LLC (“FMUV”) for a Special Permit to allow the development of 1) a new YMCA of approximately 65,000 square feet; 2) two (2) retail/commercial buildings totaling no more than 26,000 square feet; and 3) three (3) four-story residential apartment buildings comprised of two hundred (200) residential units and a club house building (the “Project”) in the Mixed Use Overlay District pursuant to Sections 5.29 (including Major Project Section 5.7) and Section 5.29.10 of the City of Gloucester Zoning Ordinance (“GZO”). The original application also sought a hardship exemption under GZO section 5.11.8, but that request was withdrawn by FMUV and accepted by the City Council on April 10, 2018.

In addition to the technical requirements of the Special Permit, on September 6, 2017, FMUV filed an Application for a Special Permit for the Project. The application set forth the anticipated benefits to the City as follows: 1) the sale of the former Fuller School site to FMUV will generate approximately \$4.1 million of revenue to the City; 2) the Project will eliminate the City’s eventual responsibility to abate and demolish the Fuller School, a complex and costly process which will now be assumed by FMUV; 3) the Project will generate annual property and excise taxes in excess of \$600,000; 4) the Project will generate approximately \$500,000 in one-time permit fees; 5) the Project is expected to create more than 165 new jobs in retail, property management and recreation; 6) the Project will result in a substantial increase in local spending from 200-300 new residents who will frequent local businesses and support the Cape Ann economy; 7) the Project will result in the construction of a state of the art YMCA with greater capacity to serve Cape Ann; and 8) the Project will provide expanded housing options, including affordable housing units, consistent with the Housing Production Plan. The application is incorporated herein by reference.

The property is located at School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Maps 43, Lots 4 & 5 ("Site"). The Site is located in the Mixed Use Overlay zoning district. FMUV seeks a Special Permit as required by Section 5.29 which lays out the standards for issuing the Special Permit in a mixed use overlay district, Section 5.29.10 which allows the City Council to issue zoning relief for any nonconformity with the GZO by issuance of a special permit and Section 1.8.3 which outlines the standards to be considered when granting a Special Permit.

### **PLANNING AND DEVELOPMENT COMMITTEE**

On September 12, 2017, this application was referred by the City Council to the Planning and Development Committee ("P&D") and the Planning Board. On September 20, 2017, P&D scheduled the first meeting on the Project, which was continued to October 18, 2017, and thereafter continued to November 8, 2017, to wait for the Planning Board to conduct its review and make its recommendations.

### **PLANNING BOARD**

On September 21, 2017, the Planning Board held its first properly noticed meeting regarding its major project special permit review of the Project. FMUV, represented by Attorney Deborah Eliason and Peter Gourdeau of Windover Construction LLC, presented the details of the Project to the Planning Board. The presentation included explanations of the YMCA, retail and residential components of the Project by Project consultants, as well as a financial and legal analysis of FMUV's hardship request under GZO 5.11.8.

The Planning Director recommended that the Planning Board require a peer review to evaluate the technical aspects of the Project, such as civil, traffic, and site design, as well as how FMUV addressed the inclusionary zoning requirement.

After discussion, a motion was made by Hank McCarl, seconded by Shawn Henry, for the Planning Board to engage peer review consultants to provide a technical review of the application in the areas outlined in the memorandum of the Planning Director and require the applicant to submit a review fee to be deposited with the City Treasurer in the Planning Board's project review account and authorize the Planning Director to develop the scope of such peer review, solicit response(s), and administer and manage consultant contracting. The motion passed unanimously.

In addition to a peer review of the technical aspects of the Project, the Planning Board discussed the merits of obtaining peer review expertise regarding the inclusionary zoning issue. Without taking a vote on this issue, the meeting was continued to October 5, 2017, and subsequently continued to October 19, 2017.

On October 19, 2017, the Planning Board held a properly noticed meeting regarding its major project special permit review of the Project. FMUV requested that the

Planning Board move forward with Environmental Partners Group, the first peer reviewer presented by the Planning Director.

After discussion, a motion to initiate the peer review with Environmental Partners Group and for the Planning Board to direct the applicant to submit funds to initiate the peer review process was made by Doug Cook, seconded by Jonathan Pratt and unanimously approved.

The meeting was continued to December 7, 2017, and subsequently continued to December 21, 2017.

Following the Planning Board meeting of October 19, 2017, and receipt of additional quotes for peer review, the technical peer review was awarded by the City to CDM Smith with the assent of FMUV.

### **PLANNING AND DEVELOPMENT COMMITTEE**

On November 8, 2017, P&D held a properly noticed meeting on the Project. Attorney Eliason spoke on behalf of FMUV and provided a general overview of the members of FMUV, the Project development team and the Project consultants and provided a chronology of the proposal and permitting process. She also discussed the due diligence FMUV had undertaken, the unanticipated costs associated with the site development, the benefits the Project will bring to the City and specifically reviewed the permits and waivers that were being requested by FMUV, including the inclusionary hardship request. Mr. Gourdeau of Windover Construction, LLC, development manager for the Project, along with the Project consultants, explained each design component of the Project and discussed FMUV's hardship request. Mr. Gourdeau also addressed in detail how the Project met all of the criteria set forth in GZO sections 1.8.3, 5.7.5 and 5.29.2.6. Throughout the presentation, the Project representatives responded to numerous questions from P&D members, including among others, the need for a drop off at the YMCA entrance, traffic, sewer design, and inclusionary housing.

After discussion, on a motion by Councilor Gilman, seconded by Councilor Cox, P&D vote 3 in favor, 0 opposed, to seek a peer review for the establishment of economic hardship as proposed by FMUV, through the Planning Director.

The matter was continued to a special meeting of December 13, 2017, for a single agenda item. P&D subsequently continued the matter several times to January 29, 2018, for a Special P&D meeting.

### **PLANNING BOARD**

On December 21, 2017, the Planning Board held a meeting and the peer reviewer, CDM Smith, presented its preliminary findings to the Planning Board regarding the site plan, stormwater standards, traffic, environmental review, and the proposed sewer system. Because the peer reviewer's report was filed shortly before the meeting, Mr.

Gourdeau of Windover Construction, LLC, the representative of FMUV, provided preliminary feedback on the report and was given an opportunity to review the materials in more detail and provide a response at the next Planning Board meeting. Questions from the Planning Board were asked and answered by CDM Smith.

The meeting was continued to January 4, 2018, and subsequently continued several times to February 15, 2018.

### **PLANNING AND DEVELOPMENT COMMITTEE**

On January 29, 2018, P&D held a special meeting to hear the report of the peer reviewer regarding the question of financial hardship under GZO section 5.11.8. FMUV representatives and consultants responded to points in the peer reviewer's report. After much discussion, James Destino, Chief Administrative Officer for the City, suggested that, if the Council desired, it could remand the matter of inclusionary housing back to the Administration to negotiate with FMUV, and the Administration would be pleased to do so.

After discussion, on a motion by Councilor Lundberg, seconded by Councilor Holmgren, the P&D voted 3 in favor, 0 opposed to recommend that the City Council refer the matter of the Affordable Housing Hardship Claim made by FMUV under GZO Sec. 5.11.8 to the Administration of Mayor Sefatia Romeo Theken for the purpose of renegotiation for that part of the Application submitted that addresses GZO Sec. 5.11.

Further discussion of the special permit application was continued to February 7, 2018, and thereafter continued several times to April 4, 2018.

### **CITY COUNCIL**

On February 13, 2018, at a properly noticed meeting of the City Council, as part of its committee report, P&D recommended on a motion by Councilor Lundberg, seconded by Councilor Holmgren, and on a vote of the P&D 3 in favor, 0 opposed that the City Council refer the matter of the Affordable Housing Hardship Claim made by FMUV under GZO Sec. 5.11.8 to the Administration of Mayor Theken for the purpose of renegotiation for that part of the Application submitted that addresses GZO Sec. 5.11. Council President Lundberg explained that the Council will suspend its process pending a further negotiation between the Administration and FMUV; and then the matter will return to the P&D agenda for its consideration and then to the Council.

After discussion, on a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted 9 in favor, 0 opposed to refer the matter of the Affordable Housing Hardship Claim made by FMUV under GZO Sec. 5.11.8 to the Administration of Mayor Theken for the purpose of renegotiation for that part of the Application submitted that addresses GZO Sec. 5.11.

On February 13, 2018, at a properly noticed meeting of the City Council, the public hearing on the Project was opened and continued to February 27, 2018.

### **PLANNING BOARD**

On February 15, 2018, the Planning Board held a properly noticed public meeting and FMUV representative Mr. Gourdeau of Windover Construction, LLC, updated the Planning Board on the status of negotiations with the City regarding the inclusionary zoning issue, the peer review process, and shared some changes to the plan which addressed some issues previously raised by the Planning Board regarding the site plan. Mr. Gourdeau answered questions from Planning Board Members and after some discussion, the meeting was continued to March 15, 2018, and subsequently continued several times to May 17, 2018.

### **PLANNING AND DEVELOPMENT COMMITTEE**

On April 4, 2018, P&D held a duly noticed public meeting and heard from Mr. Destino that the City and FMUV had reached agreement on the Affordable Housing hardship issue and proceeded to highlight the terms of the agreement as follows: 1) the purchase and sale agreement dated September 30, 2016, between the City and FMUV was amended to provide that FMUV will comply with the provisions of GZO 5.11.8 regarding inclusionary housing and that the agreed upon consideration for the purchase will be \$4.1 million; 2) a Brownfields Program Income Fund Grant in an amount no less than \$475,000 was awarded to FMUV for environmental clean-up of the Site, provided certain conditions are met; and 3) a letter of support from Mayor Theken was provided to the YMCA of the North Shore for the future development for affordable housing by the YMCA and Harborlight Community Partners at 71 Middle Street (site of the current Cape Ann YMCA). Mr. Destino further conveyed the Administration's wholehearted support for the Project. Mr. Gourdeau of Windover Construction, LLC, representing FMUV, thanked the Administration and expressed his hope that the Project could now move forward expeditiously.

After discussion, on a motion by Councilor Lundberg, seconded by Councilor Holmgren, P&D voted 3 in favor, 0 opposed to recommend that the City Council accept the documents negotiated by the Administration and FMUV that include an Addendum to the Purchase and Sale Agreement regarding affordable housing; a Memorandum of Understanding regarding a Brownfields grant; and a letter of support regarding the proposed development at 71 Middle Street from Mayor Theken dated March 17, 2018, for the proposed development at 71 Middle Street.

The public meeting on the Project was thereafter continued to April 18, 2018. On April 18, 2018, the public meeting was continued to May 16, 2018, pending recommendations from the Planning Board and certain City Department Heads as required under the Zoning Ordinance for Special Council Permits. The meeting was subsequently continued several times to June 20, 2018.

## **CITY COUNCIL**

On April 10, 2018, during committee reports, P&D reported to the City Council that on a motion by Councilor Lundberg, seconded by Councilor Holmgren, P&D voted 3 in favor, 0 opposed to recommend that the City Council accept the documents negotiated by the Administration and FMUV that include an Addendum to the Purchase and Sale Agreement regarding affordable housing; a Memorandum of Understanding regarding a Brownfields grant; and a letter of support regarding the proposed development at 71 Middle Street from Mayor Theken dated March 17, 2018, for the proposed development at 71 Middle Street.

After discussion and on a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted 9 in favor, 0 opposed to accept the documents negotiated by the Administration and FMUV that include an Addendum to the Purchase and Sale Agreement regarding affordable housing; a Memorandum of Understanding regarding a Brownfields grant; and a letter of support regarding the proposed development at 71 Middle Street from Mayor Theken dated March 17, 2018, for the proposed development at 71 Middle Street.

At the same meeting, Mr. Gourdeau, representing FMUV, presented the City Council with a letter dated April 10, 2018, in which FMUV indicated its withdrawal of the request dated September 6, 2017, for the approval of an Alternative Method of Affordability under GZO 5.11.8. Mr. Gourdeau then read the letter and submitted it for the record.

The City Council subsequently opened the public hearing on the Project and continued the public hearing to May 22, 2018, which was continued one more time to June 26, 2018.

## **PLANNING BOARD**

On May 17, 2018, the Planning Board held a properly noticed public meeting to discuss the status of the peer review by CDM Smith for the Project. The Planning Director explained that since September 2017, the Planning Board has reviewed the peer review comments and FMUV has provided a series of responses. Mr. Gourdeau of Windover Construction, LLC, representing FMUV, stated that there has been a productive peer review with CDM Smith and that most of the design related issues had been addressed. One open item is the sewer system that has two components: the pump station and the gravity system that will feed into the City sewer. Robert Parsons, CDM Smith's representative, explained that his firm had been working on addressing the comments and responses from FMUV and he confirmed that the wastewater comments remain to be addressed. There was further discussion by the Planning Board with regard to other aspects of the site plan before the meeting concluded. The meeting was continued to June 7, 2018.

On June 7, 2018, the Planning Board held a properly noticed public meeting and Mr. Gourdeau of Windover Construction, LLC, representing FMUV, updated the Planning Board on the status of the peer review by CDM Smith. He stated that the stormwater issue has been resolved and traffic items are still being reviewed and that there are two wastewater components that are being discussed. The Planning Director indicated that CDM Smith has updated their responses and are waiting for the redesigned pump station. Mr. Gourdeau indicated that he believed that the final comments would be submitted in the next week to ten days. The meeting was continued to June 21, 2018.

### **PLANNING AND DEVELOPMENT COMMITTEE**

On June 20, 2018, the P&D public meeting on the Project was continued to July 18, 2018. At this meeting, Councilor Gilman announced that P&D had posted a site visit for the Project for June 25, 2018.

### **PLANNING BOARD**

On June 21, 2018, the Planning Board held a properly noticed public meeting and the Planning Director provided the Planning Board with an update on the Project's schedule, particularly regarding the sewer and utility peer review. The meeting was continued to a special meeting on June 27, 2018.

### **CITY COUNCIL**

On June 26, 2018, at a duly notice public meeting of the City Council, Councilor Gilman reported that P&D held a site visit on June 25, 2018, accompanied by FMUV's development team asking questions of them while walking the site. There were no discussions or deliberations on the part of P&D. The public hearing on the Project was then opened and continued to July 10, 2018, and subsequently opened and continued to July 24, 2018.

### **PLANNING BOARD**

On June 27, 2018, at a properly noticed special public meeting of the Planning Board, the Planning Director provided an overview of what took place at the last meeting and reviewed the draft recommendation with the Planning Board. Mr. Gourdeau of Windover Construction, LLC, representing FMUV, highlighted the site plan changes that had been made between December 2017 and the final version. The major changes highlighted included: 1) the addition of a drop-off in front of the YMCA; 2) minor modifications to on-site paths; and, 3) modification to parking areas near the YMCA to reduce encroachment on wetland resource areas. An extended discussion was had between the Planning Board, the Planning Director and FMUV regarding the content of the draft recommendation and revisions that were made to the recommendation.

A Motion to forward the recommendations dated June 27, 2018, to the Gloucester City Council reflecting all modifications, was made by Mr. Henry, seconded by Jane Remsen and unanimously approved.

### **PLANNING AND DEVELOPMENT COMMITTEE**

On July 11, 2018, at a properly noticed special public meeting of P&D, FMUV, through its representatives and consultants, explained revisions that had been made to the Project plan that was last presented to P&D, including changes related to architectural, civil, traffic and landscape designs. An overview of the recommendation of the Planning Board was also presented by the City Planning Director and the Planning Board recommendation was then discussed in detail with the P&D members and FMUV representatives. The P&D public meeting on the Project was continued to July 18, 2018.

On July 18, 2018, at a duly noticed public meeting of P&D, the recommendation of P&D to the City Council was thoroughly discussed point by point, including all conditions that would be placed on FMUV. There was a detailed discussion of the provisions related to compliance with the inclusionary zoning ordinance.

After completing its review and vetting of the recommendation, on a motion by Councilor Lundberg, seconded by Councilor Holmgren, P&D voted 3 in favor, 0 opposed, to recommend that the City Council approve the Fuller Mixed-Use Development, LLC, Special Council Permit 2017-012 School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5 for a Special Permit under the Mixed Use Overlay District pursuant to GZO Section 5.29 (including Major Project under GZO Sec. 5.7) and Section's 5.29.10 and 5.11.8 subject to the following conditions:

In view of the particular characteristics of the Site, and of the proposed Project in relation to the Site, P&D finds that siting requirements for each use have been satisfied. All references hereinafter to the "Applicant" shall be construed to also refer to successor owners of the Site and, where applicable, to all tenants and occupants of the Site. The development of the Project, at a minimum, shall be subject to the following recommended conditions, which shall be binding upon the Applicant:

#### *General*

1. The Project shall be constructed in accordance with the following Record Plans, which are on file with the Planning Board and City Clerk's Office:

- Site development plans entitled: "Fuller Mixed Use Venture, Gloucester Massachusetts, Permit Site Development Plan", dated March 29, 2018, by Meridian Associates, Inc. as revised May 30, 2018, by Meridian Associates, Inc.<sup>1</sup>, and,

---

<sup>1</sup> As a point of clarification, this is the same plan that has a submittal date of August 28, 2017, and was last revised on May 30, 2018.

- Landscape plans entitled: “Fuller Mixed Use Venture, Gloucester, Massachusetts, Permit Site Development Plan”, dated July 11, 2018 by Hawk Design, Inc.
- Sewer pump station and force main design drawings entitled “Sewer Pump Station Location Plan” and “Sewer Pump Station Details” dated January 19, 2018 as revised June 11, 2018.

2. If the Applicant wishes to modify the approved Record Plans, it shall submit proposed modifications in accordance with this paragraph. Where such modification is deemed to be substantial in the opinion of the Building Inspector, after consultation with, including but not limited to, the Planning Director, Director of Public Works, Conservation Agent, and/or City Engineer, such modifications shall be approved according to the special permit approval process. Review of such modifications shall require recommendation by the Planning Board and public hearing(s) by the City Council. In the event the Building Inspector or other applicable staff determines that proposed modifications are not substantial or inconsistent with the approved plans and decision, such modifications may be approved by the Building Inspector without further review.

3. The Applicant has proposed, and the Planning and Development Committee hereby recommends, that any action by the City Council include specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:

- All roadways and parking areas within the Project
- Stormwater management facilities, including detention basins
- Trash removal
- Street lighting within the Project
- Building repair and maintenance
- Water and sewer services within the Project. Notwithstanding, the City’s water booster station and its associated water main, valves, hydrants and other elements which shall remain the responsibility of the City.

4. The internal driveways within the Project shall remain private in perpetuity and shall not be proposed by the Applicant for acceptance by the City.

5. In the event of any emergency, the Applicant shall allow the City of Gloucester DPW access to the sewer and water lines on the Site for repair purposes.

6. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, shall be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to

---

City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.

7. Following construction of each element (retail, YMCA, residential) of the Project, the Applicant shall provide an "as-built" site plan to the City Council, the Planning Board, the Department of Public Works, and the Building Department prior to the issuance of the final certificate of occupancy for buildings in the Project in accordance with applicable regulations. Partial Certificates of Occupancy may be issued upon completion of individual Project buildings provided that the applicant submits an interim as-built prepared and stamped by a registered professional engineer for the building in question containing, at a minimum, the following information: foundation perimeter, sidewalks, and other hardscaping, and all underground and aboveground utilities related to the building which demonstrate the adequacy of utilities to serve the use and compliance with the Record Plans. The Applicant shall provide a separate as-built plan depicting the water mains and services and sewer mains and facilities to the Department of Public Works demonstrating compliance with the Record Plans and installation specifications. These plans shall also be submitted in electronic format.

*Conditions Pertaining to the Construction Phase of the Project*

8. A preconstruction conference with City departments shall be held prior to the commencement of construction of the Project. For the purposes of this report, "commencement of construction" shall occur when either the clearing and grubbing (removal of stumps and topsoil) or abatement and demolition of the existing buildings has been initiated. The contractor shall request such conference at least thirty days prior to commencing construction by contacting the Building Inspector, Planning Director and Director of Public Works in writing. At the conference, the Applicant, and municipal officials shall agree upon a schedule of inspections. The Applicant shall provide the City with emergency contact numbers as well as the name and telephone number of a designated owner's representative for all Project related communication.

9. During construction of the Project, the Applicant shall conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m. except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department.

10. Construction monitoring shall occur as required under the Conservation Commission's Order of Conditions.

11. The City Council's agents may enter onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

12. Prior to the commencement of construction of the Project, the Applicant shall submit to the Director of Public Works, Building Department and the Planning Director a Construction Management Plan for the Project, which includes the following elements and requirements:

A. Material deliveries, contractor equipment, and material removal shall be routed off of Route 128.

B. Construction access/egress gates shall be located at the intersections near the uses.

C. Staging of equipment and material shall be located within the Project. Good faith efforts shall be made to schedule material deliveries to avoid peak traffic hours.

D. Blasting and excavation must be conducted according to all city and state regulations including 527 CMR. 13.00 and the Gloucester Code of Ordinances Section 13 Noise. No rock crushing operations may be conducted prior to 7:30AM or after 4PM Monday through Friday. Rock crushing and drilling for blasting operations shall not be permitted on Saturdays, Sundays or Federal Holidays.

E. Sedimentation and erosion controls, as shown on the Record Plans, must be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent, Building Inspector or Department of Public Works.

F. Dust from construction activities must be controlled. The Applicant and its contractors shall effectuate the following practices to minimize levels dust:

- Wetting soils that are excavated from unsaturated zones
- Wetting equipment during excavation/loading activities
- Minimizing dust generation from areas that have been excavated through the wetting of soils, or by other means of stabilizing dust particles.
- Stockpiles left more than 30 days shall be stabilized
- Restricting vehicle speeds and travel routes on the Site
- Covering truck beds transporting soils off-site/on-site to prevent dust generation.
- Sweeping paved areas if a nuisance is created by blowing soil, dust, or debris.

G. Construction fencing of the individual elements during the construction phase of the project shall be erected and maintained for the duration of the project.

13. The Applicant must be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.

*Conditions Pertaining to Traffic*

14. Due to the lack of available trip generation data associated with the proposed multi-use YMCA, the Applicant shall submit annual traffic monitoring reports including Average Daily Traffic (ADT) and Turning Movement counts for the (i) weekday AM/PM and (ii) Saturday midday peak periods at the following locations: Schoolhouse Road/Sargent Street/Site Drive; Gloucester Crossing Road at Site Drive. Such reports shall be submitted on November 15th of the two consecutive years following full occupancy/operation of the proposed YMCA. If such reports indicate an increase above projected traffic, the report shall include updated capacity analysis and recommendations for potential mitigation.

15. The Applicant shall work with CATA to have the Site added to CATA's bus routes and coordinate accommodations for one or more permanent bus stop(s) on-site, subject to approval by CATA.

16. The final site plans shall meet all requirements of Americans with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB), 521 CMR, In addition, the Applicant shall support but not contribute financially to the work by the City to enhance pedestrian links to the existing residential neighborhood to the south of the Site.

17. The Applicant has proposed certain modifications to Schoolhouse Road in the vicinity of the Schoolhouse Road/Sargent Street/Site Drive location southwest of the site. The City will, to the extent reasonable, cooperate with the Applicant with regard to logistics around work in the public way.

*Conditions Pertaining to Water and Sewer*

18. No Building Permit application for construction of any of the proposed buildings shall be approved until off-site sewer design improvements are permitted and contract awarded for construction. The Project shall be connected to the City of Gloucester sanitary sewer lines and a copy of the permit shall be provided to the City Council. The Applicant shall pay all applicable sewer connection fees related to installation and inspection of on-site sewer infrastructure to the City of Gloucester. The schedule of fees shall be that in effect on the date hereof.

19. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.

*Conditions Pertaining to Stormwater Management*

20. The Stormwater Management Report Submitted with the applications includes a long-term maintenance plan. The Applicant shall submit to the Planning Director an annual report on or before November 15th of each year detailing the performance and maintenance activities associated with the stormwater management systems facilities. Due to the discussed potential need for maintenance of Basin #2 during the permitting process, no building permit shall be issued until such assessment, maintenance and reporting of maintenance activities is submitted for review.

21. Prior to the issuance of a building permit the Applicant shall be required to perform subsurface explorations in Basin #2 to determine the level of seasonally high groundwater and to verify soil conditions to ensure the Basin will achieve designed infiltration rates. Such evaluations shall be documented and submitted to the Planning Director for review.

*Conditions Requiring Certain Community Benefits*

22. Prior to opening, the Applicant shall actively recruit in Gloucester for all open staff positions, including making such efforts as advertising jobs in the local Gloucester newspapers and having a job fair in Gloucester for qualified Gloucester residents. To the extent practicable, local recruitment of qualified applicants, but not including job fairs, shall be an ongoing obligation of the Applicant.

*Conditions Pertaining to Conservation and the Natural Environment*

23. The Project shall be constructed in compliance with Order of Conditions issued by the Gloucester Conservation Commission.

24. Subject to seasonal limitations, substantially all landscaping for each building shall be installed prior to the issuance of any the building's occupancy permit. All plant materials shall be maintained and replaced, if damaged or killed due to snow storage or removal, or lack of maintenance within a reasonable timeframe and subject to seasonal limitations.

*Affordable Housing Conditions*

25. The Project is subject to, and shall comply with, Section 5.11 (Inclusionary Housing Requirements) of the Zoning Ordinance of the City of Gloucester (the City Zoning Ordinance) and other applicable requirements, including but not limited to, the requirements of the Massachusetts Department of Housing and Community Development (DHCD) such that the Project Affordable Units are eligible for listing, and are listed, as Affordable Units in the City's Subsidized Housing Inventory (SHI). The Applicant shall also follow the Local Action Units requirements and process established under the DHCD's "Guidelines, G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory, as most recently updated December 2014, as amended (the "Affordable Housing Guidelines").

26. The Applicant shall assume all costs, and shall work with the City's Community Development Department, to prepare and submit a Local Action Units Application as well as all other supporting documentation to the DHCD's Local Initiative Program prior to the issuance of any certificate of occupancy for any unit within the Project, and shall work with reasonable diligence to ensure all Affordable Units are marketed and listed on the SHI. As provided under Section 5.11.4(c), the requirements of the Inclusionary Housing Ordinance shall, as a condition to the grant of this special permit, be satisfied prior to the issuance of 50% of the occupancy permits for market-rate units requiring the creation of an Affordable Unit in a multi-family development. All agreements with the City of Gloucester as contemplated herein, including restrictive instruments and other documents necessary to ensure compliance with this Inclusionary Housing Ordinance, including Section 5.11.9(a) of the Gloucester City Ordinance, shall be subject to prior written review and approval by the City General Counsel, and shall be executed prior to the issuance of a Building Permit.

27. Fifteen percent (15%) of the total number of Project Units, shall be developed on the Property and be made available to Eligible Households whose annual income may not exceed 80% of Area Median Income, adjusted for household size, as determined by the United States Department of Housing and Urban Development ("Affordable Units) which shall permanently remain affordable and the Project Affordable units shall remain as rental units in perpetuity or for the longest period allowed by law, so as to be binding on and enforceable against any person claiming an interest in the Property, so that the Affordable Units shall continue to serve the public purposes of Section 5.11 of the City Zoning Ordinance.

28. The Applicant shall execute a Regulatory Agreement, acceptable in form and substance to City's General Counsel, that shall also be approved as to form by the DHCD under the LIP Program for Local Action Units, and the Applicant shall submit annual reports to the DHCD in accordance with the Regulatory Agreement. A subordination by or assent to the Regulatory Agreement and the affordable and rental restrictions shall be provided by all monetary lienholders of record for the Property.

29. To the extent allowed by applicable state, local and federal laws, with respect to up to 70% of the Affordable Units or the maximum allowed by the DHCD, the Applicant shall provide the following local preference categories, including eligible households: (i) who are current residents of the City of Gloucester; and, (ii) who are currently employed in Gloucester, in the initial lease up to the extent DHCD determines there is a demonstrated need for a local preference, and provided that such local preference is consistent with the Department of Housing and Community Development's Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines, as amended, and all applicable state and federal requirements. This preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the City for compliance with the local preference set forth herein. The local preference shall be implemented pursuant to procedures approved by the DHCD. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units shall be borne by the Applicant. The Applicant shall

submit to the Community Development Department a report on marketing activity at the Project during the initial lease-up of the Project regarding the status of compliance with the local preference requirement pursuant to the plan approved by the DHCD as set forth below.

30. The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the DHCD, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirement set forth above. The costs associated with the development and implementation of the marketing plan, including advertising and processing for the Affordable Units, shall be borne by the Applicant. As required under Section 5.11.5 of the City Zoning Ordinance (Requirements for Eligible Households), the affordable units must be rented or sold to eligible households, whose total income does not exceed 80% of the Area Median Income, using HUD Selection Guidelines and DHCD Affirmative and Fair Housing Marketing Guidelines, including but not limited to marketing and advertising, as administered and monitored by the Gloucester Housing Authority. Such guidelines shall be in compliance with all other applicable city, state and federal housing assistance programs. As to Maximum Rent as defined in Section 5.11.2, the rents for the affordable units, including utilities, shall not exceed 30% of the annual income of eligible households.

31. The Applicant and Project shall comply with the Development Standards described under Section 5.11.7 of the City Zoning Ordinance.

32. As a condition of the issuance of this Decision, and prior to the issuance of a building permit for any of the residential units, the City shall work with the Applicant to set time schedules for the construction of both affordable and market-rate units.

33. If at any time it appears that the Applicant is in violation of any affordable housing restriction held by the City hereunder, by and through the City Council, at any time when said restriction is in effect as described above, following a hearing of which the Applicant has been given prior notice, then the City, by and through the City Council or its designee, may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law. Notwithstanding the foregoing, to the extent there is a conflict between the City's inclusionary zoning requirements and the requirements of the DHCD under the Local Action Unit Program, the requirements of the DHCD's Local Action Unit Program shall control.

### **CITY COUNCIL**

The public hearing opened at 7:48 p.m. on July 24, 2018. Attorney Eliason spoke on behalf of FMUV and provided a general overview of the members of FMUV, the Project development team and the Project consultants and provided a chronology of the proposal and permitting process. She also specifically reviewed the permits and waivers that were being requested by FMUV. Mr. Gourdeau, development manager of the Project, detailed the due diligence process that FMUV had undertaken, discussed the

benefits the Project will bring to the City, and, along with the Project consultants, explained each design component of the Project. The adequacy of utilities and the transportation component of the Project were also addressed. Mayor Theken expressed her support for the Project and public comments in favor of and opposed to were also taken. City staff and FMUV responded to questions raised by the Councilors. The public hearing was closed at 10:08 pm.

Councilor Gilman, seconded by Councilor Holmgren, moved that the City Council vote to approve the Fuller Mixed-Use Development, LLC, Special Council Permit 2017-012 School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5 for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sec. 5.29 (including Major Project under GZO Sec. 5.7) and Sec.'s 5.29.10 and 5.11.8 subject to the following conditions:

In view of the particular characteristics of the Site, and of the proposed Project in relation to the Site, the Planning and Development Committee finds that siting requirements for each use have been satisfied. All references hereinafter to the "Applicant" shall be construed to also refer to successor owners of the Site and, where applicable, to all tenants and occupants of the Site. The development of the Project, at a minimum, shall be subject to the following recommended conditions, which shall be binding upon the Applicant:

*General*

1. The Project shall be constructed in accordance with the following Record Plans, which are on file with the Planning Board and City Clerk's Office:

- Site development plans entitled: "Fuller Mixed Use Venture, Gloucester Massachusetts, Permit Site Development Plan", dated March 29, 2018, by Meridian Associates, Inc. as revised May 30, 2018, by Meridian Associates, Inc.<sup>2</sup>, and,
- Landscape plans entitled: "Fuller Mixed Use Venture, Gloucester, Massachusetts, Permit Site Development Plan", dated July 11, 2018 by Hawk Design, Inc., and
- Sewer pump station and force main design drawings entitled "Sewer Pump Station Location Plan" and "Sewer Pump Station Details" dated January 19, 2018 as revised June 11, 2018.

2. If the Applicant wishes to modify the approved Record Plans, it shall submit proposed modifications in accordance with this paragraph. Where such modification is deemed to be substantial in the opinion of the Building Inspector, after consultation with, including but not limited to, the Planning Director, Director of Public Works, Conservation Agent, and/or City Engineer, such modifications shall be approved according to the special permit approval process. Review of such modifications shall require recommendation by the Planning Board and public hearing(s) by the City

---

<sup>2</sup> As a point of clarification, this is the same plan that has a submittal date of August 28, 2017 and was last revised on May 30, 2018.

Council. In the event the Building Inspector or other applicable staff determines that proposed modifications are not substantial or inconsistent with the approved plans and decision, such modifications may be approved by the Building Inspector without further review.

3. The Applicant has proposed, and the Planning and Development Committee hereby recommends, that any action by the City Council include specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:

- All roadways and parking areas within the Project
- Stormwater management facilities, including detention basins
- Trash removal
- Street lighting within the Project
- Building repair and maintenance
- Water and sewer services within the Project. Notwithstanding, the City's water booster station and its associated water main, valves, hydrants and other elements which shall remain the responsibility of the City.

4. The internal driveways within the Project shall remain private in perpetuity and shall not be proposed by the Applicant for acceptance by the City.

5. In the event of any emergency, the Applicant shall allow the City of Gloucester DPW access to the sewer and water lines on the Site for repair purposes.

6. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, shall be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.

7. Following construction of each element (retail, YMCA, residential) of the Project, the Applicant shall provide an "as-built" site plan to the City Council, the Planning Board, the Department of Public Works, and the Building Department prior to the issuance of the final certificate of occupancy for buildings in the Project in accordance with applicable regulations. Partial Certificates of Occupancy may be issued upon completion of individual Project buildings provided that the applicant submits an interim as-built prepared and stamped by a registered professional engineer for the building in question containing, at a minimum, the following information: foundation perimeter, sidewalks, and other hardscaping, and all underground and aboveground utilities related to the building which demonstrate the adequacy of utilities to serve the

use and compliance with the Record Plans. The Applicant shall provide a separate as-built plan depicting the water mains and services and sewer mains and facilities to the Department of Public Works demonstrating compliance with the Record Plans and installation specifications. These plans shall also be submitted in electronic format.

*Conditions Pertaining to the Construction Phase of the Project*

8. A preconstruction conference with City departments shall be held prior to the commencement of construction of the Project. For the purposes of this report, "commencement of construction" shall occur when either the clearing and grubbing (removal of stumps and topsoil) or abatement and demolition of the existing buildings has been initiated. The contractor shall request such conference at least thirty days prior to commencing construction by contacting the Building Inspector, Planning Director and Director of Public Works in writing. At the conference, the Applicant, and municipal officials shall agree upon a schedule of inspections. The Applicant shall provide the City with emergency contact numbers as well as the name and telephone number of a designated owner's representative for all Project related communication.

9. During construction of the Project, the Applicant shall conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m. except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department.

10. Construction monitoring shall occur as required under the Conservation Commission's Order of Conditions.

11. The City Council's agents may enter onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

12. Prior to the commencement of construction of the Project, the Applicant shall submit to the Director of Public Works, Building Department and the Planning Director a Construction Management Plan for the Project, which includes the following elements and requirements:

- A. Material deliveries, contractor equipment, and material removal shall be routed off of Route 128.
- B. Construction access/egress gates shall be located at the intersections near the uses.
- C. Staging of equipment and material shall be located within the Project. Good faith efforts shall be made to schedule material deliveries to avoid peak traffic hours.
- D. Blasting and excavation must be conducted according to all city and state regulations including 527 CMR. 13.00 and the Gloucester Code of Ordinances Section 13 Noise. No rock crushing operations may be conducted prior to 7:30AM or after 4PM Monday through Friday. Rock crushing and drilling for blasting operations shall not be permitted on Saturdays, Sundays or Federal Holidays.
- E. Sedimentation and erosion controls, as shown on the Record Plans, must be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent, Building Inspector or Department of Public Works.
- F. Dust from construction activities must be controlled. The Applicant and its contractors shall effectuate the following practices to minimize levels of dust:
- Wetting soils that are excavated from unsaturated zones
  - Wetting equipment during excavation/loading activities
  - Minimizing dust generation from areas that have been excavated through the wetting of soils, or by other means of stabilizing dust particles.
  - Stockpiles left more than 30 days shall be stabilized
  - Restricting vehicle speeds and travel routes on the Site
  - Covering truck beds transporting soils off-site/on-site to prevent dust generation.
  - Sweeping paved areas if a nuisance is created by blowing soil, dust, or debris.
- G. Construction fencing of the individual elements during the construction phase of the project shall be erected and maintained for the duration of the project.

13. The Applicant must be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.

*Conditions Pertaining to Traffic*

14. Due to the lack of available trip generation data associated with the proposed multi-use YMCA, the Applicant shall submit annual traffic monitoring reports including Average Daily Traffic (ADT) and Turning Movement counts for the (i) weekday AM/PM and (ii) Saturday midday peak periods at the following locations: Schoolhouse Road/Sargent Street/Site Drive; Gloucester Crossing Road at Site Drive. Such reports shall be submitted on November 15<sup>th</sup> of the two consecutive years following full occupancy/operation of the proposed YMCA. If such reports indicate an increase above projected traffic, the report shall include updated capacity analysis and recommendations for potential mitigation.

15. The Applicant shall work with CATA to have the Site added to CATA's bus routes and coordinate accommodations for one or more permanent bus stop(s) on-site, subject to approval by CATA.

16. The final site plans shall meet all requirements of Americans with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB), 521 CMR. In addition, the Applicant shall support but not contribute financially to the work by the City to enhance pedestrian links to the existing residential neighborhood to the south of the Site.

17. The Applicant has proposed certain modifications to Schoolhouse Road in the vicinity of the Schoolhouse Road/Sargent Street/Site Drive location southwest of the site. The City will, to the extent reasonable, cooperate with the Applicant with regard to logistics around work in the public way.

*Conditions Pertaining to Water and Sewer*

18. No Building Permit application for construction of any of the proposed buildings shall be approved until off-site sewer design improvements are permitted and contract awarded for construction. The Project shall be connected to the City of Gloucester sanitary sewer lines and a copy of the permit shall be provided to the City Council. The Applicant shall pay all applicable sewer connection fees related to installation and inspection of on-site sewer infrastructure to the City of Gloucester. The schedule of fees shall be that in effect on the date hereof.

19. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.

*Conditions Pertaining to Stormwater Management*

20. The Stormwater Management Report Submitted with the applications includes a long-term maintenance plan. The Applicant shall submit to the Planning Director an annual report on or before November 15<sup>th</sup> of each year detailing the performance and maintenance activities associated with the stormwater management systems facilities. Due to the discussed potential need for maintenance of Basin #2 during the permitting process, no building permit shall be issued until such assessment, maintenance and reporting of maintenance activities is submitted for review.

21. Prior to the issuance of a building permit the Applicant shall be required to perform subsurface explorations in Basin #2 to determine the level of seasonally high groundwater and to verify soil conditions to ensure the Basin will achieve designed infiltration rates. Such evaluations shall be documented and submitted to the Planning Director for review.

*Conditions Requiring Certain Community Benefits*

22. Prior to opening, the Applicant shall actively recruit in Gloucester for all open staff positions, including making such efforts as advertising jobs in the local Gloucester newspapers and having a job fair in Gloucester for qualified Gloucester residents. To the extent practicable, local recruitment of qualified applicants, but not including job fairs, shall be an ongoing obligation of the Applicant.

*Conditions Pertaining to Conservation and the Natural Environment*

23. The Project shall be constructed in compliance with Order of Conditions issued by the Gloucester Conservation Commission.

24. Subject to seasonal limitations, substantially all landscaping for each building shall be installed prior to the issuance of any the building's occupancy permit. All plant materials shall be maintained and replaced, if damaged or killed due to snow storage or removal, or lack of maintenance within a reasonable timeframe and subject to seasonal limitations.

*Affordable Housing Conditions*

25. The Project is subject to, and shall comply with, Section 5.11 (Inclusionary Housing Requirements) of the Zoning Ordinance of the City of Gloucester (the City Zoning Ordinance) and other applicable requirements, including but not limited to, the requirements of the Massachusetts Department of Housing and Community Development (DHCD) such that the Project Affordable Units are eligible for listing, and are listed, as Affordable Units in the City's Subsidized Housing Inventory (SHI). The Applicant shall also follow the Local Action Units requirements and process established under the DHCD's "Guidelines, G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory, as most recently updated December 2014, as amended (the "Affordable Housing Guidelines").

26. The Applicant shall assume all costs, and shall work with the City's Community Development Department, to prepare and submit a Local Action Units Application as well as all other supporting documentation to the DHCD's Local Initiative Program prior to the issuance of any certificate of occupancy for any unit within the Project, and shall work with reasonable diligence to ensure all Affordable Units are marketed and listed on the SHI. As provided under Section 5.11.4(c), the requirements of the Inclusionary Housing Ordinance shall, as a condition to the grant of this special permit, be satisfied prior to the issuance of 50% of the occupancy permits for market-rate units requiring the creation of an Affordable Unit in a multi-family development. All agreements with the City of Gloucester as contemplated herein, including restrictive instruments and other documents necessary to ensure compliance with this Inclusionary Housing Ordinance, including Section 5.11.9(a) of the Gloucester City Ordinance, shall be subject to prior written review and approval by the City General Counsel, and shall be executed prior to the issuance of a Building Permit.

27. Fifteen percent (15%) of the total number of Project Units, shall be developed on the Property and be made available to Eligible Households whose annual income may not exceed 80% of Area Median Income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (“Affordable Units”) which shall permanently remain affordable and the Project Affordable units shall remain as rental units in perpetuity or for the longest period allowed by law, so as to be binding on and enforceable against any person claiming an interest in the Property, so that the Affordable Units shall continue to serve the public purposes of Section 5.11 of the City Zoning Ordinance.

28. The Applicant shall execute a Regulatory Agreement, acceptable in form and substance to City’s General Counsel, that shall also be approved as to form by the DHCD under the LIP Program for Local Action Units, and the Applicant shall submit annual reports to the DHCD in accordance with the Regulatory Agreement. A subordination by or assent to the Regulatory Agreement and the affordable and rental restrictions shall be provided by all monetary lienholders of record for the Property.

29. To the extent allowed by applicable state, local and federal laws, with respect to up to 70% of the Affordable Units or the maximum allowed by the DHCD, the Applicant shall provide the following local preference categories, including eligible households: (i) who are current residents of the City of Gloucester; and, (ii) who are currently employed in Gloucester, in the initial lease up to the extent DHCD determines there is a demonstrated need for a local preference, and provided that such local preference is consistent with the Department of Housing and Community Development’s Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines, as amended, and all applicable state and federal requirements. This preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the City for compliance with the local preference set forth herein. The local preference shall be implemented pursuant to procedures approved by the DHCD. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units shall be borne by the Applicant. The Applicant shall submit to the Community Development Department a report on marketing activity at the Project during the initial lease-up of the Project regarding the status of compliance with the local preference requirement pursuant to the plan approved by the DHCD as set forth below.

30. The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the DHCD, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirement set forth above. The costs associated with the development and implementation of the marketing plan, including advertising and processing for the Affordable Units, shall be borne by the Applicant. As required under Section 5.11.5 of the City Zoning Ordinance (Requirements for Eligible Households), the affordable units must be rented or sold to eligible households, whose total income does not exceed 80% of the Area Median Income, using HUD Selection Guidelines and DHCD Affirmative and Fair Housing Marketing Guidelines, including but not limited to

marketing and advertising, as administered and monitored by the Gloucester Housing Authority. Such guidelines shall be in compliance with all other applicable city, state and federal housing assistance programs. As to Maximum Rent as defined in Section 5.11.2, the rents for the affordable units, including utilities, shall not exceed 30% of the annual income of eligible households.

31. The Applicant and Project shall comply with the Development Standards described under Section 5.11.7 of the City Zoning Ordinance.

32. As a condition of the issuance of this Decision, and prior to the issuance of a building permit for any of the residential units, the City shall work with the Applicant to set time schedules for the construction of both affordable and market-rate units.

33. If at any time it appears that the Applicant is in violation of any affordable housing restriction held by the City hereunder, by and through the City Council, at any time when said restriction is in effect as described above, following a hearing of which the Applicant has been given prior notice, then the City, by and through the City Council or its designee, may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law. Notwithstanding the foregoing, to the extent there is a conflict between the City's inclusionary zoning requirements and the requirements of the DHCD under the Local Action Unit Program, the requirements of the DHCD's Local Action Unit Program shall control.

During discussion of the main motion, Councilor Lundberg stated that the goal of affordable housing in the Zoning Ordinance and in general is that the affordable units not be segregated in one place within the three residential buildings but spread throughout the buildings. He noted that there was a discussion with FMUV at P&D on the timing of the construction of the buildings and how the 15% affordable units will evolve during the construction. Through a discussion among FMUV, General Counsel and the Planning Director, language was developed to amend Condition 26 to assure that the units will be spread proportionately throughout the three buildings. He was assured that no less than 15 % of the units in any given building will be designated as affordable.

### **CITY COUNCIL AMENDMENTS**

On a motion by Councilor Lundberg, seconded by Councilor Gilman, the City Council voted 9 in favor, 0 opposed, to AMEND the main motion by DELETING in its entirety Condition #26 and ADDING a new Condition #26 as follows:

“26. The Applicant shall assume all costs, and shall work with the City's Community Development Department, to prepare and submit a Local Action Units Application as well as all other supporting documentation to the DHCD's Local Initiative Program prior to the issuance of any certificate of occupancy for any unit within the residential portion of the Project, and shall work with reasonable diligence to ensure all Affordable Units are marketed and listed on the SHI. Prior to the issuance of a certificate of occupancy for any unit within the residential portion of the Project, the Applicant shall

provide a schedule setting forth the allocation of affordable units which shall be allocated proportionally among the three residential buildings. The allocation in all but the final building shall be at least 15% per building. In the final building, the Applicant shall provide the appropriate number of units so that not less than 15% of the total units in the Project shall be Affordable Units. The schedule setting forth the allocation of affordable units (“Schedule”) shall be submitted to the City’s Community Development Department for approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Schedule shall be deemed approved unless the City’s Community Development Department delivers a written notice to the Applicant on or before twenty (20) days after the Applicant’s submission of the Schedule expressly stating its objection(s) to the Schedule. As stated above, where the 15% of affordable units per building in the first two buildings results in a fraction, the number shall be rounded up with appropriate adjustment to occur within the final building. As provided under Section 5.11.4(c) and as a condition to the grant of this special permit, the Applicant shall complete construction of the affordable units in each individual building in accordance with the Schedule prior to the issuance of an occupancy permit for said building. All agreements with the City of Gloucester as contemplated herein, including restrictive instruments incorporating the Schedule and other documents necessary to ensure compliance with this Inclusionary Housing Ordinance, including Section 5.11.9(a) of the Gloucester City Ordinance, shall be subject to prior written review and approval by the City General Counsel, which approval shall not be unreasonably withheld, conditioned or delayed, and shall be executed and recorded prior to the issuance of a Building Permit for the residential portion of the Project.”

On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 9 in favor, 0 opposed, to AMEND the main motion by amending Condition #14 by adding the sentence: “The Traffic monitoring report is to be done consistent with MassDOT Transportation Impact Assessment (TIA) Guideline.”

“During further discussion of the main motion, as amended, Councilor Gilman noted that all six conditions of GZO 1.8.3 as standards to be applied have been met. She advised that all Special Permit conditions have been properly vetted first by the Planning Board after many rigorous meetings from September 21, 2017 to June 27, 2018 under the direction of Planning Director, Gregg Cademartori and Planning Board Chair, Rick Noonan. The packet the Planning Board turned over to the Council dated June 29, 2018 with its recommendations was thorough. On July 11, 2018 after the Planning Board recommendation was received by the Council, P&D held a special meeting to vet the Special Council Permit conditions. Four conditions were identified for fine tuning: #2, #7, #17 and #22 and affordable housing, #26. The conditions were finalized at the P&D meeting of July 18, 2018 excepting Condition 26 which was finalized by the Council at this meeting. She advised the Council that this Special Council Permit and conditions have been fully vetted and are now ready for a full discussion by the Council. Other Councilors spoke in support of the Project and the process that was followed by the City boards and staff.”

## **FINDINGS OF THE CITY COUNCIL**

On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve the Fuller Mixed-Use Development, LLC, Special Council Permit 2017-012 School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5 for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sec. 5.29 (including Major Project under GZO Sec. 5.7) and Sec.'s 5.29.10 and 5.11.8 subject to the following conditions:

In view of the particular characteristics of the Site, and of the proposed Project in relation to the Site, the Planning and Development Committee finds that siting requirements for each use have been satisfied. All references hereinafter to the "Applicant" shall be construed to also refer to successor owners of the Site and, where applicable, to all tenants and occupants of the Site. The development of the Project, at a minimum, shall be subject to the following recommended conditions, which shall be binding upon the Applicant:

### *General*

1. The Project shall be constructed in accordance with the following Record Plans, which are on file with the Planning Board and City Clerk's Office:
  - Site development plans entitled: "Fuller Mixed Use Venture, Gloucester Massachusetts, Permit Site Development Plan", dated March 29, 2018, by Meridian Associates, Inc. as revised May 30, 2018, by Meridian Associates, Inc.<sup>3</sup>, and,
  - Landscape plans entitled: "Fuller Mixed Use Venture, Gloucester, Massachusetts, Permit Site Development Plan", dated July 11, 2018 by Hawk Design, Inc.
  - Sewer pump station and force main design drawings entitled "Sewer Pump Station Location Plan" and "Sewer Pump Station Details" dated January 19, 2018 as revised June 11, 2018.
2. If the Applicant wishes to modify the approved Record Plans, it shall submit proposed modifications in accordance with this paragraph. Where such modification is deemed to be substantial in the opinion of the Building Inspector, after consultation with, including but not limited to, the Planning Director, Director of Public Works, Conservation Agent, and/or City Engineer, such modifications shall be approved according to the special permit approval process. Review of such modifications shall require recommendation by the Planning Board and public hearing(s) by the City Council. In the event the Building Inspector or other applicable staff determines that

---

<sup>3</sup> As a point of clarification, this is the same plan that has a submittal date of August 28, 2017 and was last revised on May 30, 2018.

proposed modifications are not substantial or inconsistent with the approved plans and decision, such modifications may be approved by the Building Inspector without further review.

3. The Applicant has proposed, and the Planning and Development Committee hereby recommends, that any action by the City Council include specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:

- All roadways and parking areas within the Project
- Stormwater management facilities, including detention basins
- Trash removal
- Street lighting within the Project
- Building repair and maintenance
- Water and sewer services within the Project. Notwithstanding, the City's water booster station and its associated water main, valves, hydrants and other elements which shall remain the responsibility of the City.

4. The internal driveways within the Project shall remain private in perpetuity and shall not be proposed by the Applicant for acceptance by the City.

5. In the event of any emergency, the Applicant shall allow the City of Gloucester DPW access to the sewer and water lines on the Site for repair purposes.

6. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, shall be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.

7. Following construction of each element (retail, YMCA, residential) of the Project, the Applicant shall provide an "as-built" site plan to the City Council, the Planning Board, the Department of Public Works, and the Building Department prior to the issuance of the final certificate of occupancy for buildings in the Project in accordance with applicable regulations. Partial Certificates of Occupancy may be issued upon completion of individual Project buildings provided that the applicant submits an interim as-built prepared and stamped by a registered professional engineer for the building in question containing, at a minimum, the following information: foundation perimeter, sidewalks, and other hardscaping, and all underground and aboveground utilities related to the building which demonstrate the adequacy of utilities to serve the use and compliance with the Record Plans. The Applicant shall provide a separate as-built plan

depicting the water mains and services and sewer mains and facilities to the Department of Public Works demonstrating compliance with the Record Plans and installation specifications. These plans shall also be submitted in electronic format.

*Conditions Pertaining to the Construction Phase of the Project*

8. A preconstruction conference with City departments shall be held prior to the commencement of construction of the Project. For the purposes of this report, "commencement of construction" shall occur when either the clearing and grubbing (removal of stumps and topsoil) or abatement and demolition of the existing buildings has been initiated. The contractor shall request such conference at least thirty days prior to commencing construction by contacting the Building Inspector, Planning Director and Director of Public Works in writing. At the conference, the Applicant, and municipal officials shall agree upon a schedule of inspections. The Applicant shall provide the City with emergency contact numbers as well as the name and telephone number of a designated owner's representative for all Project related communication.

9. During construction of the Project, the Applicant shall conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m. except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department.

10. Construction monitoring shall occur as required under the Conservation Commission's Order of Conditions.

11. The City Council's agents may enter onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

12. Prior to the commencement of construction of the Project, the Applicant shall submit to the Director of Public Works, Building Department and the Planning Director a Construction Management Plan for the Project, which includes the following elements and requirements:

A. Material deliveries, contractor equipment, and material removal shall be routed off of Route 128.

B. Construction access/egress gates shall be located at the intersections near the uses.

C. Staging of equipment and material shall be located within the Project. Good faith efforts shall be made to schedule material deliveries to avoid peak traffic hours.

D. Blasting and excavation must be conducted according to all city and state regulations including 527 CMR. 13.00 and the Gloucester Code of Ordinances Section 13 Noise. No rock crushing operations may be conducted prior to 7:30AM or after 4PM Monday through Friday. Rock crushing and drilling for blasting operations shall not be permitted on Saturdays, Sundays or Federal Holidays.

E. Sedimentation and erosion controls, as shown on the Record Plans, must be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent, Building Inspector or Department of Public Works.

F. Dust from construction activities must be controlled. The Applicant and its contractors shall effectuate the following practices to minimize levels dust:

- Wetting soils that are excavated from unsaturated zones
- Wetting equipment during excavation/loading activities
- Minimizing dust generation from areas that have been excavated through the wetting of soils, or by other means of stabilizing dust particles.
- Stockpiles left more than 30 days shall be stabilized
- Restricting vehicle speeds and travel routes on the Site
- Covering truck beds transporting soils off-site/on-site to prevent dust generation.
- Sweeping paved areas if a nuisance is created by blowing soil, dust, or debris.

G. Construction fencing of the individual elements during the construction phase of the project shall be erected and maintained for the duration of the project.

13. The Applicant must be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.

#### *Conditions Pertaining to Traffic*

14. Due to the lack of available trip generation data associated with the proposed multi-use YMCA, the Applicant shall submit annual traffic monitoring reports including Average Daily Traffic (ADT) and Turning Movement counts for the (i) weekday AM/PM and (ii) Saturday midday peak periods at the following locations: Schoolhouse Road/Sargent Street/Site Drive; Gloucester Crossing Road at Site Drive. Such reports shall be submitted on November 15<sup>th</sup> of the two consecutive years following full occupancy/operation of the proposed YMCA. If such reports indicate an increase above projected traffic, the report shall include updated capacity analysis and recommendations for potential mitigation. The Traffic monitoring report is to be done consistent with MassDOT Transportation Impact Assessment (TIA) Guideline.

15. The Applicant shall work with CATA to have the Site added to CATA's bus routes and coordinate accommodations for one or more permanent bus stop(s) on-site, subject to approval by CATA.

16. The final site plans shall meet all requirements of Americans with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB), 521 CMR, In addition, the Applicant shall support but not contribute financially to the work by the City to enhance pedestrian links to the existing residential neighborhood to the south of the Site.

17. The Applicant has proposed certain modifications to Schoolhouse Road in the vicinity of the Schoolhouse Road/Sargent Street/Site Drive location southwest of the site. The City will, to the extent reasonable, cooperate with the Applicant with regard to logistics around work in the public way.

*Conditions Pertaining to Water and Sewer*

18. No Building Permit application for construction of any of the proposed buildings shall be approved until off-site sewer design improvements are permitted and contract awarded for construction. The Project shall be connected to the City of Gloucester sanitary sewer lines and a copy of the permit shall be provided to the City Council. The Applicant shall pay all applicable sewer connection fees related to installation and inspection of on-site sewer infrastructure to the City of Gloucester. The schedule of fees shall be that in effect on the date hereof.

19. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.

*Conditions Pertaining to Stormwater Management*

20. The Stormwater Management Report Submitted with the applications includes a long-term maintenance plan. The Applicant shall submit to the Planning Director an annual report on or before November 15<sup>th</sup> of each year detailing the performance and maintenance activities associated with the stormwater management systems facilities. Due to the discussed potential need for maintenance of Basin #2 during the permitting process, no building permit shall be issued until such assessment, maintenance and reporting of maintenance activities is submitted for review.

21. Prior to the issuance of a building permit the Applicant shall be required to perform subsurface explorations in Basin #2 to determine the level of seasonally high groundwater and to verify soil conditions to ensure the Basin will achieve designed infiltration rates. Such evaluations shall be documented and submitted to the Planning Director for review.

*Conditions Requiring Certain Community Benefits*

22. Prior to opening, the Applicant shall actively recruit in Gloucester for all open staff positions, including making such efforts as advertising jobs in the local Gloucester newspapers and having a job fair in Gloucester for qualified Gloucester residents. To the extent practicable, local recruitment of qualified applicants, but not including job fairs, shall be an ongoing obligation of the Applicant.

*Conditions Pertaining to Conservation and the Natural Environment*

23. The Project shall be constructed in compliance with Order of Conditions issued by the Gloucester Conservation Commission.

24. Subject to seasonal limitations, substantially all landscaping for each building shall be installed prior to the issuance of any the building's occupancy permit. All plant materials shall be maintained and replaced, if damaged or killed due to snow storage or removal, or lack of maintenance within a reasonable timeframe and subject to seasonal limitations.

*Affordable Housing Conditions*

25. The Project is subject to, and shall comply with, Section 5.11 (Inclusionary Housing Requirements) of the Zoning Ordinance of the City of Gloucester (the City Zoning Ordinance) and other applicable requirements, including but not limited to, the requirements of the Massachusetts Department of Housing and Community Development (DHCD) such that the Project Affordable Units are eligible for listing, and are listed, as Affordable Units in the City's Subsidized Housing Inventory (SHI). The Applicant shall also follow the Local Action Units requirements and process established under the DHCD's "Guidelines, G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory, as most recently updated December 2014, as amended (the "Affordable Housing Guidelines").

26. The Applicant shall assume all costs, and shall work with the City's Community Development Department, to prepare and submit a Local Action Units Application as well as all other supporting documentation to the DHCD's Local Initiative Program prior to the issuance of any certificate of occupancy for any unit within the residential portion of the Project, and shall work with reasonable diligence to ensure all Affordable Units are marketed and listed on the SHI. Prior to the issuance of a certificate of occupancy for any unit within the residential portion of the Project, the Applicant shall provide a schedule setting forth the allocation of affordable units which shall be allocated proportionally among the three residential buildings. The allocation in all but the final building shall be at least 15% per building. In the final building, the Applicant shall provide the appropriate number of units so that not less than 15% of the total units in the Project shall be Affordable Units. The schedule setting forth the allocation of affordable units ("Schedule") shall be submitted to the City's Community Development Department for approval, which approval shall not be unreasonably withheld, conditioned or delayed.

The Schedule shall be deemed approved unless the City's Community Development Department delivers a written notice to the Applicant on or before twenty (20) days after the Applicant's submission of the Schedule expressly stating its objection(s) to the Schedule. As stated above, where the 15% of affordable units per building in the first two buildings results in a fraction, the number shall be rounded up with appropriate adjustment to occur within the final building. As provided under Section 5.11.4(c) and as a condition to the grant of this special permit, the Applicant shall complete construction of the affordable units in each individual building in accordance with the Schedule prior to the issuance of an occupancy permit for said building. All agreements with the City of Gloucester as contemplated herein, including restrictive instruments incorporating the Schedule and other documents necessary to ensure compliance with this Inclusionary Housing Ordinance, including Section 5.11.9(a) of the Gloucester City Ordinance, shall be subject to prior written review and approval by the City General Counsel, which approval shall not be unreasonably withheld, conditioned or delayed, and shall be executed and recorded prior to the issuance of a Building Permit for the residential portion of the Project.

27. Fifteen percent (15%) of the total number of Project Units, shall be developed on the Property and be made available to Eligible Households whose annual income may not exceed 80% of Area Median Income, adjusted for household size, as determined by the United States Department of Housing and Urban Development ("Affordable Units) which shall permanently remain affordable and the Project Affordable units shall remain as rental units in perpetuity or for the longest period allowed by law, so as to be binding on and enforceable against any person claiming an interest in the Property, so that the Affordable Units shall continue to serve the public purposes of Section 5.11 of the City Zoning Ordinance.

28. The Applicant shall execute a Regulatory Agreement, acceptable in form and substance to City's General Counsel, that shall also be approved as to form by the DHCD under the LIP Program for Local Action Units, and the Applicant shall submit annual reports to the DHCD in accordance with the Regulatory Agreement. A subordination by or assent to the Regulatory Agreement and the affordable and rental restrictions shall be provided by all monetary lienholders of record for the Property.

29. To the extent allowed by applicable state, local and federal laws, with respect to up to 70% of the Affordable Units or the maximum allowed by the DHCD, the Applicant shall provide the following local preference categories, including eligible households: (i) who are current residents of the City of Gloucester; and, (ii) who are currently employed in Gloucester, in the initial lease up to the extent DHCD determines there is a demonstrated need for a local preference, and provided that such local preference is consistent with the Department of Housing and Community Development's Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines, as amended, and all applicable state and federal requirements. This preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the City for compliance with the local preference set forth herein. The local preference shall be implemented pursuant to procedures approved by

the DHCD. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units shall be borne by the Applicant. The Applicant shall submit to the Community Development Department a report on marketing activity at the Project during the initial lease-up of the Project regarding the status of compliance with the local preference requirement pursuant to the plan approved by the DHCD as set forth below.

30. The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the DHCD, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirement set forth above. The costs associated with the development and implementation of the marketing plan, including advertising and processing for the Affordable Units, shall be borne by the Applicant. As required under Section 5.11.5 of the City Zoning Ordinance (Requirements for Eligible Households), the affordable units must be rented or sold to eligible households, whose total income does not exceed 80% of the Area Median Income, using HUD Selection Guidelines and DHCD Affirmative and Fair Housing Marketing Guidelines, including but not limited to marketing and advertising, as administered and monitored by the Gloucester Housing Authority. Such guidelines shall be in compliance with all other applicable city, state and federal housing assistance programs. As to Maximum Rent as defined in Section 5.11.2, the rents for the affordable units, including utilities, shall not exceed 30% of the annual income of eligible households.

31. The Applicant and Project shall comply with the Development Standards described under Section 5.11.7 of the City Zoning Ordinance.

32. As a condition of the issuance of this Decision, and prior to the issuance of a building permit for any of the residential units, the City shall work with the Applicant to set time schedules for the construction of both affordable and market-rate units.

33. If at any time it appears that the Applicant is in violation of any affordable housing restriction held by the City hereunder, by and through the City Council, at any time when said restriction is in effect as described above, following a hearing of which the Applicant has been given prior notice, then the City, by and through the City Council or its designee, may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law. Notwithstanding the foregoing, to the extent there is a conflict between the City's inclusionary zoning requirements and the requirements of the DHCD under the Local Action Unit Program, the requirements of the DHCD's Local Action Unit Program shall control.

### **GENERAL CONDITIONS**

1. The minutes of the Planning and Development Committee and Planning Board meetings and City Council public hearings and all documents and testimony received during the hearings are incorporated into this Decision.

2. Each finding, term and condition of this Decision is intended to be severable. Any invalidity in any finding, term or condition of this Decision shall not be held to invalidate any other finding, term or condition of this Decision.

All minutes of the Planning Board, the Planning and Development Committee and the City Council, as well as any and all documents considered by them, are incorporated herein by reference.

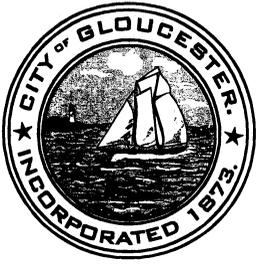
On \_\_\_\_\_, 2018, the City Council adopted this Decision.

Pursuant to Rule 25 of the City Council Rules of Procedure, the President of the City Council and the City Clerk have signed this decision demonstrating that it is a true and accurate reflection of the July 24, 2018 vote of the City Council sitting as the special permit granting authority.

\_\_\_\_\_  
Paul Lundberg  
President, Gloucester City Council

\_\_\_\_\_  
Joanne Senos  
City Clerk

Dated: \_\_\_\_\_, 2018



**OFFICE OF THE CITY CLERK**  
9 Dale Avenue • Gloucester, Massachusetts 01930  
Office (978) 281-9720 Fax (978) 282-3051

TO: Chip Payson, General Counsel  
Krisna Basu, Assistant General Counsel

FROM: Joanne M. Senos, City Clerk *JMS*

DATE: July 31, 2018

RE: SCP2017-012: Schoolhouse Road #2, #3 and #4, Map 262 Lots 14 & 37 & Gloucester Crossing Road #7, Map 37, Lots 4 & %, for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sections 5.29 (including Major Project GZO Sec. 5.7), 5.29.10 and 5.11.8

The public hearing on the above application was held on July 24, 2018, and the City Council voted 9 in favor 0 opposed to grant a Special Council Permit for said project.

We are providing you with the Council file. The 90<sup>th</sup> day of the Decision would be October 23, 2018.

Please prepare the decision for Council adoption at your earliest convenience.

Thank you.



**GLOUCESTER CITY COUNCIL**

**CIVILITY RESOLUTION**

***WHEREAS: On this 11<sup>th</sup> day of September, 2018.***

***WHEREAS: Gloucester is a special place because we have a long history of community.***

***WHEREAS: In collaboration with the Mayor and City Administration, the City Council is proud to continue our community spirit by honoring our commitments to respectfulness, equality, non-discrimination, and keeping all of our people safe.***

***WHEREAS: Any acts of violence, discrimination, or harassment do not reflect the values of the Gloucester community, and will not be tolerated.***

***WHEREAS: The Gloucester Police Department has been instructed by our City Administration to take all allegations seriously and will work diligently to investigate any claims of discrimination.***

***WHEREAS: If you fear for your immediate safety, call the Gloucester Police Department via 911 or 978-283-1212.***

***Paul Lundberg, Council President***

***Steven LeBlanc, Jr., Council Vice-President***

***R. Scott Memhard, Ward 1 Councillor***

***Ken Hecht, Ward 2 Councillor***

***Valerie H. Gilman, Ward 4 Councillor***

***Sean Nolan, Ward 5 Councillor***

***Melissa Cox, Councillor at Large***

***James W. O'Hara, Jr., Councillor at Large***

***Jen Holmgren, Councillor at Large***