

CITY CLERK
GLOUCESTER, MA
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GLOUCESTER CITY COUNCIL
Planning & Development Committee
Wednesday, December 4, 2019 – 5:30 p.m.
1st Fl. Council Conference Room – City Hall
(Items May be taken out of order at the discretion of the Committee)

1. *Memorandum from General Counsel re: Sewer Force Main Easement for the Fuller Project*
2. *CC2019-041 (Gilman): request amendment to GZO Appendix A – Rule 25: Rules of Procedure – Special Permit Procedures*

COMMITTEE
Chair, Councilor Valerie Gilman
Vice Chair, Councilor Jen Holmgren
Councilor Paul Lundberg

CC: Mayor Theken
Jim Destino
Joanne Senos
Chip Payson
Jill Cahill
Gregg Cademartori

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 OF GLOUCESTER
LEGAL DEPARTMENT**

Memorandum

TO: Mayor Sefatia Romeo Theken
FROM: Chip Payson, General Counsel
RE: Sewer Force Main easement for the Fuller Project
DATE: November 13, 2019

Attorney Deb Eliason has requested on behalf her client that the City grant to Fuller Residential Holdings, LLC, and the YMCA of the North Shore, Inc., a sewer force main easement that is necessary for the ultimate completion of the Fuller Project. Mike Hale has reviewed this easement and supports it.

Accordingly, attached hereto, for your and the City Council's consideration, please find a copy of a draft easement.

Thank you.

Attachment

SEWER FORCE MAIN EASEMENT AGREEMENT

Property
Address:

Gloucester,
MA

This Easement Agreement ("Agreement") is entered into this ____ day of _____, 2019 by and between **CITY OF GLOUCESTER**, a municipal corporation duly organized under the laws of Commonwealth of Massachusetts, with a principal place of business at City Hall, 9 Dale Avenue, Gloucester, MA 01930 (hereinafter "City"), **FULLER RESIDENTIAL HOLDINGS, LLC**, a Delaware limited liability company having an address of 150 Presidential Way, Suite 220, Woburn, Massachusetts 01801 (hereinafter "FRH"), **GX-PH4, LLC**, a Massachusetts limited liability company having an address of in care of Sam Park & Company, LLC, 333 School Street, Suite 200, Mansfield, Massachusetts 02048 (hereinafter "GX"), and **YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE NORTH SHORE, INC.**, a Massachusetts corporation having an address of 245 Cabot Street, Beverly, Massachusetts 01915 (hereinafter "YMCA"), successors in title to FULLER MIXED USE VENTURE, LLC (collectively referred to herein as "Grantees");

WHEREAS, FRH owns the property located at Lot A, 2 School House Road, Gloucester, Essex County, Massachusetts described in a deed recorded with the Essex South District Registry of Deeds at Book 37448, Page 353 ("FRH Property");

WHEREAS, GX owns the property located at Lot B, 4 School House Road, Gloucester, Essex County, Massachusetts described in a deed recorded with the Essex South District Registry of Deeds at Book 37448, Page 358 ("GX Property");

WHEREAS, YMCA owns the property located at Lot C, 7 Gloucester Crossing Road, Gloucester, Essex County, Massachusetts described in deeds recorded with the Essex South District Registry of Deeds at Book 37448, Page 361 ("YMCA Property");

WHEREAS, the City owns the property located at _____, Gloucester, Massachusetts described in a deed recorded with the Essex South District Registry of Deeds in Book _____, Page _____ and shown on the plan entitled "_____" dated _____, 2019 recorded herewith ("Easement Sketch Plan"), which property contains the existing sewer force main that serves the FRH Property, the GX Property and the YMCA Property;

WHEREAS, Special Council Permit #SCP2017-012 as modified by #SCP 2019-002 and #SCP 2019-007 requires the Grantees' properties to connect to the City of Gloucester sanitary sewer lines, which connection will be through a newly installed sewer force main passing through the City Property;

WHEREAS, the parties desire to establish a sewer force main access and maintenance easement encumbering the City Property for the benefit of the FRH Property, the GX Property and the YMCA Property;

WHEREAS, FRH, GX and the YMCA desire the right and the City desires to grant FRH, GX and the YMCA, jointly and severally, a perpetual, non-exclusive 20' wide easement in, under, upon, through, and above the City Property generally in the area depicted on the Easement Sketch Plan as "Prop Sewer Easement," for the benefit of and as appurtenant to the FRH Property, the GX Property and the YMCA Property, to become established by and upon the final installation of improvements therein by the Grantees (referred to herein as "Sewer Force Main Easement");

NOW THEREFORE, the parties grant, reserve, covenant and agree, in consideration of One (\$1.00) Dollar and other good and valuable consideration, the receipt of which in hand is hereby acknowledged by each of the parties hereto, as follows:

The City hereby grants to FRH, GX and the YMCA, jointly and severally, a perpetual, non-exclusive 20' wide easement appurtenant to and for the benefit of FRH, GX and the YMCA, jointly and severally, and each of their successors and assigns, in, under, upon, through, and above the City Property generally in the Sewer Force Main Easement area, the specific location of which is to become established by and upon the final installation of improvements therein by the Grantees with said main to be in the center of the 20' wide easement, for the purpose of installation, construction, replacement, reconstruction, inspection, maintenance and repair, and the use and enjoyment of, a sewer force main, and all appurtenant facilities to transport sewerage together with the right to perform such excavation, grading, and general earth disturbing activities necessary or incidental to the easement rights granted herein in accordance with the terms hereof. The Sewer Force Main Easement granted herein shall include the necessary easements and rights for ingress and egress over the City Property and the access ways located within the City Property as the same now exist or may be relocated or created in the future, but shall not include the right to park within the Sewer Force Main Easement area or access ways, except when FRH, GX and/or YMCA or their contractor(s) are involved in the installation, construction, replacement, reconstruction, inspection, maintenance or repair of the sewer force main or appurtenant facilities. No equipment or materials shall be stored in the Sewer Force Main Easement area except on a temporary basis when FRH, GX and/or YMCA or their contractor(s) are involved in the installation, construction, replacement, reconstruction, inspection, maintenance or repair of the sewer force main or appurtenant facilities.

Upon completion of any excavation, grading, and general earth disturbing activities, FRH, GX and/or the YMCA shall restore the surface area and all disturbed landscaping, paving, utilities and other improvements to the same condition as existed before such disturbance of the area. Any such restoration shall be in a workman like manner. All such rights and obligations of FRH, GX and YMCA stated herein shall be

performed at their sole cost and expense. The parties agree that all rights set forth herein may be exercised jointly or severally by FRH, GX and/or YMCA and the City agrees to look solely to the party or parties exercising the rights in the event obligations set forth herein are not met.

FRH, GX and the YMCA agree that they shall each exercise their rights under this Agreement at their own risk, and the City shall not be liable to FRH, GX and/or the YMCA for any injury or death to persons entering the Sewer Force Main Easement area pursuant to this Agreement, or loss or damage to equipment or other personal property of any nature whatsoever of FRH, GX and/or the YMCA, or of anyone claiming by or through FRH, GX and/or the YMCA, that are brought upon the Sewer Force Main Easement area pursuant to this Agreement, specifically excluding any loss or damage caused by the gross negligence of the City. FRH, GX and the YMCA further each agree that they shall be responsible for obtaining any and all governmental permits and/or approvals prior to exercising their rights under this Agreement.

FRH, GX and/or the YMCA shall also carry insurance and require any third-party contractors to carry insurance, including workers compensation insurance, in amounts sufficient to cover its obligations under this Agreement, which insurance shall name the City (or any fee, leasehold, or condominium owner of the City Property) as an additional insured party.

The Sewer Force Main Easement is subject to easements and restrictions of record, if any, insofar as the same are in force and applicable.

All rights and privileges herein granted or reserved, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed, acknowledged and delivered on the date first written above.

CITY OF GLOUCESTER, a municipal corporation

By: Sefatia Romeo Theken
Its: Mayor

THE COMMONWEALTH MASSACHUSETTS

_____, ss.

On this ____ day of _____, 2019 before me, the undersigned Notary Public, personally appeared, **Sefatia Romeo Theken, Mayor** of the **City of Gloucester** proved to me through satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory to be the person whose name is signed above, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed this document voluntarily for its stated purpose before me on behalf of said municipality.

Notary Public
My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed, acknowledged and delivered on the date first written above.

**FULLER RESIDENTIAL HOLDINGS,
LLC**, a Massachusetts limited liability
company

By:
Its: Manager

COMMONWEALTH MASSACHUSETTS

_____, ss.

On this _____ day of _____, 2019 before me, the undersigned Notary Public, personally appeared, _____, **Manager of Fuller Residential Holdings, LLC**, proved to me through satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory to be the person whose name is signed above, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed this document voluntarily for its stated purpose before me on behalf of said company.

Notary Public
My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed, acknowledged and delivered on the date first written above.

GX-PH4, LLC, a Massachusetts limited liability company

By:
Its: Manager

COMMONWEALTH MASSACHUSETTS

_____, ss.

On this ____ day of _____, 2019 before me, the undersigned Notary Public, personally appeared, _____, **Manager of GX-PH4, LLC**, proved to me through satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory to be the person whose name is signed above, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed this document voluntarily for its stated purpose before me on behalf of said company.

Notary Public
My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed, acknowledged and delivered on this ____ day of _____, 2019.

**YOUNG MEN'S CHRISTIAN
ASSOCIATION OF THE NORTH
SHORE, INC.**, a Massachusetts non-profit
corporation

By: _____
Name: Jennifer Buras
Title: President

By: _____
Name: Kim Meader
Title: Treasurer

COMMONWEALTH MASSACHUSETTS

_____, ss.

On this ____ day of _____, 2019 before me, the undersigned Notary Public, personally appeared, _____, **President of Young Men's Christian Association of the North Shore, Inc.**, proved to me through satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory to be the person whose name is signed above, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed this document voluntarily for its stated purpose before me on behalf of said company.

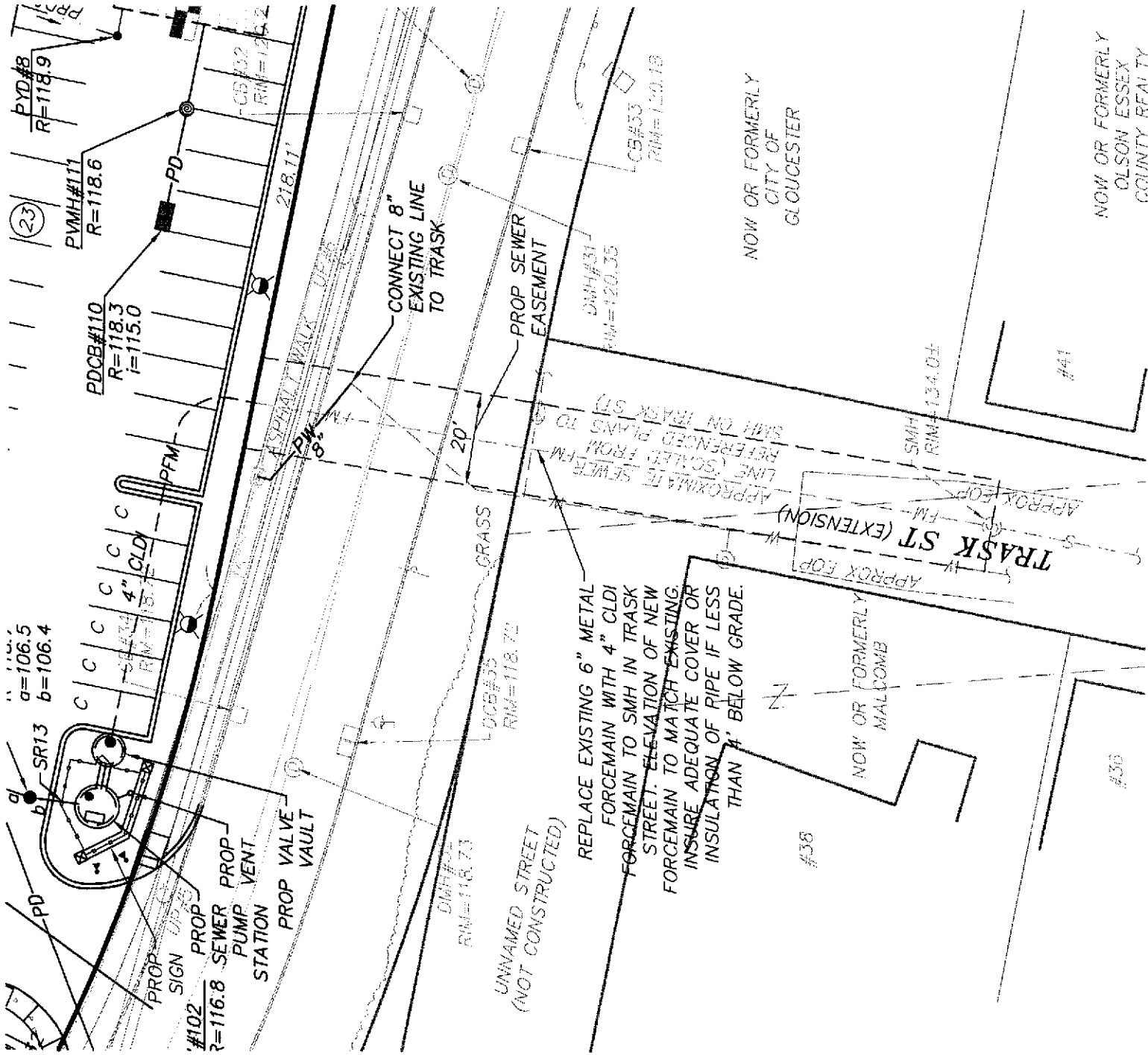
Notary Public
My Commission Expires: _____

COMMONWEALTH MASSACHUSETTS

_____, ss.

On this ____ day of _____, 2019 before me, the undersigned Notary Public, personally appeared, _____, **Treasurer of Young Men's Christian Association of the North Shore, Inc.**, proved to me through satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory to be the person whose name is signed above, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed this document voluntarily for its stated purpose before me on behalf of said company.

Notary Public
My Commission Expires: _____



23

PVD#8
R=118.9

PVMH#117
R=118.6

PDCB#110
R=118.3
i=115.0

a=106.5
b=106.4

SR13

#102 PROP. SEWER PUMP STATION
R=116.8

PROP. VALVE VAULT

PROP. VENT

4" CLDI

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

PROP. VENT

CONNECT 8" EXISTING LINE TO TRASK

PROP. SEWER EASEMENT

GRASS

DCB#35
RIM=118.71

DGH#22
RIM=116.73

UNNAMED STREET (NOT CONSTRUCTED)

REPLACE EXISTING 6" METAL FORCEMAIN WITH 4" CLDI FORCEMAIN TO SMH IN TRASK STREET. ELEVATION OF NEW FORCEMAIN TO MATCH EXISTING INSURE ADEQUATE COVER OR INSULATION OF PIPE IF LESS THAN 4' BELOW GRADE.

APPROXIMATE SEWER LINE (SCALED FROM REFERENCED PLANS TO MATCH TRASK ST.)

TRASK ST (EXTENSION)

NOW OR FORMERLY MALDOME

NOW OR FORMERLY CITY OF GLOUCESTER

NOW OR FORMERLY OLSON ESSEX COUNTY REALTY

SMH#134.04

DMH#31
RIM=120.35

CB#53
RIM=120.18

#38

#36

#41

N

APPROX. EOP

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**CITY OF GLOUCESTER 2019
CITY COUNCIL ORDER**

ORDER: CC#2019-041
COUNCILLORS: Val Gilman

DATE RECEIVED BY COUNCIL: 11/26/19
REFERRED TO: P&D & Planning Board
FOR COUNCIL VOTE:

ORDERED that the Gloucester Zoning Ordinances Appendix A – Rule 25: Rules of Procedure shall be **AMENDED** as follows:

SPECIAL PERMIT PROCEDURES

PART I: STATUTORY REQUIREMENTS

The following summary of the provisions of Chapter 40A of the General Laws of Massachusetts that govern the City Council's actions on Special Permits is included for the convenience and information of applicants for Special Permits and other interested citizens. The Council cannot depart from the following prescribed procedures in its handling of such Special Permits as are assigned to it for decision by the Zoning Ordinance.

These rules are adopted by the City Council in compliance with Section 9, Chapter 40A, M.G.L.

GENERAL PROCEDURE:

Special Permits by the City Council shall only be issued following a public hearing(s) held within sixty-five (65) days after the filing of an application with the City Council. The date of filing shall be considered the date a complete application is received by the City Clerk's Office. A complete application will contain all the information required under Section ~~4.4.2.2~~ 1.5.5 Planning Board: Application Form and Content of this Ordinance, and "Major Projects" as defined herein shall be submitted in conformance with the additional requirements of Section 5.7.2. Personal Wireless Service Facilities, as defined herein shall be submitted in conformance with Section ~~4.4.4.2~~ 1.5.5 Planning Board: Application Form and Content of the Ordinance and the additional requirements of Section 5.13.5. All reference to Special Permits, without specifying type (i.e., "CC", "CCS", or "Major Projects") shall be considered a "CC" permit.

The required public hearing may be held before a Committee of the City Council, or before the entire City Council, as the Council so chooses. The entire City Council shall vote on the Special Permit application within ninety (90) days following the close of the public hearing, after receiving a report by the Committee, if any, that held the public hearing. The vote to grant a Special Permit will be by two-thirds vote of all members of the City Council. Failure by the City Council to take final action upon any application for a Special Permit within said ninety (90) days following the close of the public hearing shall be deemed to be a grant of the permit applied for. The Council shall follow the Council Rules on Special Permit Procedures set forth in Part II of this section.

NOTICE:

Notice of the public hearing shall be published in the local newspaper of general circulation in each of two successive weeks, the first publication at least fourteen (14) days before the day of the hearing, and by posting such notice in the City Hall for a period of not less than fourteen (14) days before the day of said hearing.

Notice shall also be mailed, postage prepaid, to:

- (a) The applicant, or petitioner;
- (b) The Planning Board;
- (c) The owners of land abutting the applicant's property, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recently applicable tax list;
- (d) The owners of land directly opposite on any public or private street or way;
- (e) The owners of all other property deemed by the City Council to be affected;
- (f) The Planning Boards of all abutting cities or towns.

The Assessor's Department shall certify to the City Council the names and addresses of parties in interest as defined above and such certification shall be conclusive for all purposes.

The notice shall contain the name of the applicant, the location of the area or premises for which the permit is applied, the street address, if any, the subject matter of the hearing, the nature of the action or relief being sought, and the date and place of the public hearing.

PUBLIC HEARING:

The presiding officer at the hearing may administer oaths, summon witnesses, and call for the production of papers.

All hearings shall be open to the public.

DECISION:

There must be a detailed record of the Council's proceedings, showing the vote of each member on each question (or if absent or failing to vote). This record must set forth clearly the reasons for the Council's decisions. City Council decision shall be based upon the written determination of the impact on the items of consideration listed in Section ~~1.4.2.2(e)~~ 1.5.5 Planning Board: Application Form and Content of this Ordinance. Copies of the record are to be filed with the City Clerk and the Planning Board. Notice of the decision shall be mailed to all parties in interest, and also to each person at the public hearing who so requests.

The Council shall issue to the landowner a certified notice of the granting of any Special Permit, containing the name and address of the landowner, identifying the land affected, and stating that a Special Permit has been granted as set forth in the decision on file with the City Clerk. The permit does not take effect until this decision has been recorded in the Registry of Deeds, with the recording fee paid by the owner.

If an application has been denied by the City Council it may not be again considered on its merits within two (2) years of the decision except with the consent of all but one of the members of the Planning Board.

APPEALS:

Any person aggrieved by a decision of the City Council on a Special Permit, whether or not previously a party to the proceeding, or any Municipal Officer or Board may appeal to the Superior Court Department of

Essex County, by bringing action within twenty (20) days after the decision has been filed in the Office of the City Clerk. Appeal procedures shall conform to Section 17 of Chapter 40A, M.G.L.

PART II: COUNCIL RULES ON SPECIAL PERMIT PROCEDURES

As required by Chapter 40A of the General Laws, the Gloucester City Council adopts the following rules for its procedure in acting on Special Permits assigned to the City Council for decision by the Zoning Ordinance:

1. Preliminary Informal Review

To promote better communication and avoid misunderstanding, applicants for Special Permits are encouraged to submit preliminary materials for informal review by the City Council or its standing committee, the Planning Board, the Building Inspector, the City Planner, and any other City officials or agency that the applicant considers likely to be considered in the decision. On all major projects, in addition to preliminary informal review, an applicant is encouraged at the 25% design stage, to submit materials for an informal interim review; said materials should show the location, height, density, and architectural treatment of buildings, traffic, environmental and utility considerations and the fiscal impact to the City. It is important, however, for applicants to realize that these preliminary informal reviews are not to be thought of as preliminary approvals, and interim informal reviews are in no way binding on the City Council in its action on the final application.

2. Applications for Council Special Permits

- a. The Application shall be submitted on forms available at the City Clerk's Office, which have been prescribed and approved by the City Council.
- b. The Special Permit shall include a description of whatever criteria are or may be listed in ~~4.4.2.2(e)~~-1.5.5 Planning Board: Application Form and Content; for Major Projects there shall be an additional form listing the criteria in 5.7.5.
- c. City staff shall be available to assist applicants in preparing the applications, including when appropriate the Building Inspector and the City Planner.
- d. No application shall be received by the City Clerk and placed on the City Council agenda unless it is complete, including the materials required by ~~4.4.2.2(b)~~-1.5.5 Planning Board: Application Form and Content, 5.7.2 for a Major Project, and 5.13.5 for Personal Wireless Service Facilities. The City Clerk, in determining the completeness of an application, may at his discretion refer it to the Building Inspector, the City Planner, or other City officials. If it is determined through such review that the project cannot be built unless a zoning variance is granted, the City Clerk shall rule that the application is not complete and return it to the applicant without prejudice, so that the applicant may either appeal to the Board of Appeals for the grant of such variance prior to reapplying to the City Council, or revise the plans to eliminate the need for a variance.
- e. The City Clerk shall affix the date of receipt of a complete application for Special Permit on the application form. Such date shall constitute the date of filing as set forth in Chapter 40A, M.G.L.

3. First Action by City Council

- a. When a completed special permit application, including a report and recommendation from the City Staff Review Committee, is received by the City Council, the Council shall refer same to its Planning & Development Committee for their initial review, to make a date for a site visit and set a date for public hearing before the full City Council.
- b. The Planning & Development Committee after review may also make a recommendation to the full City Council on disposition of the application, to be read after the City Council's public hearing.
- c. Proper notification of the public hearing before the full City Council (as required by State Statute) to the abutters shall be handled by the City Council. However, the applicant shall be responsible for sending out

notices to abutters and parties of interest of the date(s) of Planning & Development Standing Committee Review(s).

- d. The public hearing date shall be set within sixty-five (65) days of the filing of the application with the City Clerk.

4. **Public Hearing**

- a. The first order of business at the public hearing shall be the reading of the notice of the hearing and a determination that the hearing is being properly held.
- b. The second order of business shall be a description of the proposed project and the presentation of arguments in favor of the application by the applicant and by any others who wish to speak in favor of the application. There shall be provided by the applicant and displayed within view of the Council and of those attending the hearing such maps, drawings, models, or other graphic materials required to have been submitted with the application as are necessary to explain the proposal.
- c. The third order of business shall be presentation of all advisory reports requested or required under 3.c. above. These reports shall have been submitted in writing, but may be presented and summarized orally either by a representative of the reporting agency if one is present or by the City Planner. For Major Projects, the Council may request the presence of representatives of one or more of the reporting agencies.
- d. The fourth order of business shall be arguments opposed to the application. This shall be followed by presentation of all communications not covered in Paragraph 4.c., then by brief opportunities for rebuttal by the proponents and counter-rebuttal by the opponents.
- e. With all testimony complete, and all questions concerning the proposal answered to the satisfaction of the Council, the public hearing shall be closed. If testimony is not complete, or questions remain to be answered by the applicant(s), opponent(s) or other source(s) of information, as directed by the City Council, the public hearing shall be continued to a time and date certain, and the record shall remain open for additional written communications. Upon reopening the public hearing, such additional testimony or information shall be presented as set forth in 4.b., 4.c. and 4.d. above. At the conclusion of such additional testimony or presentation of information and all rebuttals as stated in 4.d. above, the public hearing shall be closed.
- f. The final order of business shall be Council action, either final or preliminary. (See 5 below)

5. **Council Action**

- a. Final action by City Council on a request for Special Permit shall be taken within ninety (90) days following the public hearing. Failure to take action within said ninety (90) day period shall be considered a grant of the permit applied for.
- b. If in the course of the public hearing it appears that the project cannot be built unless a zoning variance is granted, the Council shall rule that the application is not complete and therefore is not properly before it; and the application shall be returned to the applicant without prejudice for such action or revision as he may choose.
- c. Final Council action on an application for a Special Permit shall be by adoption, by a two-thirds roll call vote, of a written document which shall have been available to every member of the Council prior to the vote, and subject to normal procedures of debate, amendment, and action.
- d. This document shall include a specific finding and judgment, in relation to the case in hand, on each of the considerations listed in ~~1.4.2.2(e)~~ 1.5.5 Planning Board: Application Form and **Content** and, where applicable, each of the criteria listed in 5.7.5, 5.13.3 and 5.13.4. It shall conclude with a summary evaluation of the findings and judgments, supporting one of the following actions:
 - (1) Denial of the Special Permit;
 - (2) Approval, subject to specified conditions or modifications;

- (3) Approval as submitted, without conditions or modifications.
- e. Drafts of this document to be considered by the Council may have been prepared by any member of the Council, or by any City official or employee upon instruction by the Council. Written material may be submitted by either proponents or opponents prior to the close of the public hearing, as set forth under Section 4 of these rules.
 - f. For a simple or non-controversial case, an acceptable draft of this document may be available to the Council at the time of the public hearing. When this is applicable, the Council will take final action on the application at the close of the public hearing.
 - g. For a complex or controversial case, the Council at the close of the hearing may or may not be ready to make a decision. If the decision is already clear, the Council may pass a motion instructing a specific official or employee to prepare a document in support of the decision for consideration at the next Council meeting. If the decision is not clear, the Council will defer action to its next meeting, but no additional information will be received or considered in addition to the testimony and information obtained during the course of the public hearing and constituting the record of same.
 - h. The City Council, on each permit granted, shall specify a time period, of not more than two years, within which substantial use thereof must commence, or in the case of construction, that the construction must commence, except for good cause, including such time required to pursue or await appeals proceedings as provided for in state law.
 - i. The successful applicant shall be required to provide documentary evidence to the City Council proving that any and all conditions specified by the Council in the Special Council Permit issued have been complied with and there upon, the Council will issue a "Certificate of Conditions Complete" or Occupancy Permit for the premises until the City Council has issued said certification of completion.

Modification of Application of Rules

In a specific case the Council may find it necessary or desirable to depart from the letter of one or other or these rules. If or when this is done, the departure will be noted in the record together with the reason for it.

(Ord. of 11-29-2011(1))

FURTHER ORDERED that this matter be referred to the Planning and Development Committee and the Planning Board for review and recommendation.