

Planning & Development Committee
Wednesday, February 19, 2020 – 5:30 p.m.
1st Fl. Council Conference Room – City Hall
-Minutes-

Present: Chair, Councilor Valerie Gilman; Vice Chair, Councilor Jen Holmgren; Councilor Barry Pett
Absent: None.

Also Present: None.

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

1. *Special Event Application Requests:*

A. Request to hold the Community Safety Day on September 12, 2020

Officer Joseph Parady of the Gloucester Police Department, advised that this year's Community Safety Day will be held on Saturday, September 12, 2020 with a rain date of Sunday, September 13, 2020. He confirmed plans are in place to host many returning law enforcement groups with no changes. Harbor Loop will be managed in a bottleneck manner for the duration of the event, he noted – from Captain Carlos to the Building Center to get people into the event. Nothing will inhibit the public from accessing the Harbormaster's Office and the U.S. Coast Guard Station. It is anticipated there'll be drone demonstrations; canine officer and motorcycle unit and the Fire Department doing a demonstration of the Jaws of Life.

Councilor Gilman offered a suggestion that event organizers might consider adding a demonstration about the new state law about hands-free cell phone use in vehicles which just went into effect with **Councilor Pett** mentioning a possible static display manned by a police officer.

MOTION: On a motion by Councilor Holmgren, seconded by Councilor Pett, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Community Safety Day on Saturday, September 12, 2020 from 10:00 a.m. to 2:00 p.m. on Harbor Loop with a rain date of Sunday, September 13, 2020. Vehicular traffic will be managed in a "bottleneck" manner as directed by the Gloucester Police Department. This event is covered under the city's general liability insurance.

B. Request to hold the following Cape Ann YMCA Road Races:
Backshore 5 Mile Road Race & Backshore 5K Road Race

Carol Meyer, representing the Cape Ann YMCA, explained that this year's Backshore 5K Mile Road Race plans are all the same. The 5 mile road race wasn't run in; the route is the same. The road closes at Nautilus Road at the Good Harbor Beach footbridge until the runners go off, which takes about 15 minutes.

MOTION: On a motion by Councilor Pett, seconded by Councilor Holmgren, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Cape Ann YMCA to hold on Thursday, May 14, 2020 the Backshore 5K Road Race and the Backshore 5 Mile Road with the following conditions:

1. Certificate of Insurance:

A Certificate of Insurance naming the City as an additional insured party is on file with the City Clerk's Office.

2. Road Closure Plans & Routes:

Routes for race are as shown on maps or plans on file as approved by the Special Events Advisory Committee. Applicant must have Police/Fire Department approval of any road closure/traffic plans 30 days before event, including any police details. Roads to be closed are to be marked with signage directing the public as to the duration of the closure and alternate routes. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.

3. Refuse and Comfort Stations:

All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early on the day of the event and removed by 9:00 p.m. the day of the event.

4. Emergency Services are as determined by City EMS Director.
5. Staffing:
Event staff is to have cell phones and wear distinct shirts. A list of event staff and cell phone numbers is to be submitted to Police, Fire and DPW Departments before race day.
6. Notification to Immediate Abutters and Businesses to Race Course:
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:
It is the sole responsibility of the Cape Ann YMCA to ensure that all required documentation is timely filed with the appropriate City departments. Failure to comply with any conditions may result in permit revocation.

Fiesta 5K Road Race on June 25, 2020:

Ms. Meyer confirmed that this year's Fiesta 5K Road Race will be on Thursday, June 25th. She noted that last year's arrangements for the event worked well, and that there are no changes for this year's event. The Coast Guard has been notified to close the Blynman Bridge 10 minutes before the runners go over the bridge and then for an additional 15 minutes only. **Councilor Gilman** mentioned a letter from the Police Chief and MassDOT in the packet (on file) and asked whether the Harbormaster had been notified of the race date. **Ms. Meyer** advised she notified the Harbormaster. She added that at the Special Event Advisory Committee, it was agreed that she'll consult with Police Lt. Fitzgerald two months and one month out to see if the entrant numbers move to 1,000 which would necessitate bringing in more Police Officers according to Lt. Fitzgerald, which he would coordinate.

MOTION: On a motion by Councilor Holmgren, seconded by Councilor Pett, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Cape Ann YMCA on Thursday, June 25, 2020 to hold the St. Peter's Fiesta 5K Road Race with the following conditions:

1. Certificate of Insurance:
A Certificate of Insurance naming the City as an additional insured party is on file with the City Clerk's Office.
2. Road Closure Plans:
Applicant must have Police/Fire Department approval of any road closure/traffic plans 30 days before the event, including any police details. Applicant and its staff must comply with specific directives of the Police Chief for managing runner traffic. Roads to be closed are to be marked with signage directing the public as to the duration of the closure and alternate routes. A route map must be provided to the City Council. Any substantial changes, as determined by either the Police or Fire Chief or their designees, to the route or related to safety issues will require Council approval.
3. Refuse and Comfort Stations:
All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early on the day of the event and removed by 11 p.m. the day of the event if applicable.
4. Emergency Services are as determined by City EMS Director.
5. Staffing:
Event staff is to have cell phones and to wear distinct shirts. A list of event staff and cell phone numbers to be submitted to Police, Fire and DPW Departments before race day.
6. Responsibility of the Cape Ann YMCA:
It is the sole responsibility of the Cape Ann YMCA to ensure that all required documentation is timely filed with the appropriate City departments. Failure to comply with any conditions may result in permit revocation.

2. *SCP2020-001: Wingersheek Road #105, Map 261, Lot 31, GZO Sec. 3.1.6(b) "Building Heights in Excess of 35 Feet" in the R-20 Low/Medium Density Residential District*

Councilor Pett declared under MGL Ch. 268A, §23(b)(3) that this was discussed with the State Ethics Commission and filed notice that 30+ years ago he worked with the Applicant, Lawrence Costa, and at this time has no financial interest or connection with the Applicant and can participate in this process going forward.

Councilor Gilman reviewed that the Committee first heard the matter of SCP2020-001 at their February 5th P&D meeting. The Applicant is asking under GZO 1.8.3 a Special Council Permit pursuant to Sec. 3.1.6(b) "Building Heights in Excess of 35 Feet." She touched on the requisite criteria the Committee must consider and review evidence under the Zoning Ordinance that the increase for the allowable height is consistent with neighborhood character and not be substantially detrimental to the neighborhood because of obstruction of views, overshadowing of other properties, impairment of utilities or other adverse impacts. She reported the site visit was informative having taken place the previous day. She noted the footprint of the entire proposed home was staked out, and that on the existing building's roof poles were erected indicating the elevations -- by right and the requested additional nine feet. She noted that the Committee walked by the direct abutter's house, owned by the Archer family (close to the right side of the subject property, and to the home owned by Ann Marie Lindquist at 101A Wingersheek Road (who also owns 101B Wingersheek Road) and looked out from her second floor towards the subject property. She added that there were abutters present at the Site Visit with a total of six City Councilors as well. Only questions were asked during the Site Visit and no deliberation was conducted, she pointed out.

Councilor Holmgren reported she was unable to stay for the part of the Site Visit where the Committee viewed the subject property from inside Ms. Lindquist's house as she needed to go to work.

Attorney Wilhelmina Sheedy, representing the Applicant, Lawrence Costa, and Robert Gulla, Architect for the Applicant were present. **Mr. Gulla** reviewed that:

- The structure was laid out on the ground; showed heights by right. Had there been more sun, because of the northwest orientation, they would have seen that as the sun rises and sets behind there would have been shadowing issues. If there was any shadowing it would be minimal.
- By viewing the proposed home layout, it helped to give an understanding that of all the neighbors that were there, they are all non-conforming. This will be the house in the whole area that is conforming everything else except for the height issue which is being driven by FEMA's changes to the flood maps seven years ago not because of the Applicant. With the FEMA velocity zone, it pushes the height of the building up another two feet. Because of the FEMA requirements, it then requires the Applicant to seek a Special Council permit for a height over 35 feet.
- The by right views are already gone, decimated, for the neighbors if the Applicant built something immediately without the attic. They did the best they could by flaring the building back for views out and pulled the house back by 14 feet thereby doing a lot to address direct views out, but crossing views just by the nature of the by right structure, those views are gone either way.
- The documentation provided (on file) shows that the Applicant has only used 7.5% of what they could use, and aren't near the threshold of up to 25% the Applicant could use. They did what they thought was right for the neighborhood.

Mr. Gulla concluded his summary by saying that given the heights alone, the non-conformity of everybody else in the area, this house will now conform. The height and everything seen there (referring to the displayed plans on file) has been driven by something else other than the Applicant wanting a house on the subject property. They are trying to do the right thing, he highlighted. He conveyed that a woman at the Site Visit said to him that she probably wouldn't have a problem with a flat roof. He indicated his lack of understanding that a flat roof is in keeping with the texture or context of the neighborhood, pointing out that a box-type residential structure (a home "down the street" from 105 Wingersheek Road) which has been said many times that it doesn't fit the context of the neighborhood. By not giving the Applicant the nine feet, **Mr. Gulla** advised that in his opinion, they are forcing it to be not in the context of the neighborhood by not allowing a pitched roof.

Ms. Sheedy confirmed that it is a 25% lot coverage that the Applicant could use, and that the lot coverage is in fact 7.5% of the 25%. She added that the lot is four times the required by Zoning – it is 90,000 sq. ft. which is almost two acres. This property could potentially two separate lots, 25% each or could be 50% lot coverage, and this is 7.5% centered on the lot to prevent any future subdivision of the subject property.

Ms. Sheedy, adding to the matter of a flat roof indicated in that location with winds off the ocean, a flat roof wouldn't be a sound architectural feature. **Mr. Gulla** explained that flat roofs will peel back in wind events and are more susceptible. He conveyed that steeper pitch roofs aren't built only for aesthetic purposes. A low slope roof will bend shingles back and snap them; the pitch of the roof for this house will prevent that and help longevity. **Ms.**

Sheedy added that the configuration of the proposed structure allows the abutting properties to retain approximately their current view of Coffins Beach. She conveyed the Applicant is not going to the setback lines. It is at 25 (ft.) at the closest point and then it moves away instead of moving up and moves towards the center of the lot, thereby preserving more of the abutters' views.

Ms. Sheedy noted for the Committee on the site plan (on file) the property labelled Map 261, Lot 28 (101A Wingersheek Rd.) to the south of the proposed structure and lot, which is the Lindquist property that doesn't directly abut the road. Also pointed out to the right of the subject property is the property owned by the Archers, at 103 Wingersheek Road (Map 261, Lot 30). She oriented the Committee to the directional points on the plan before them (on file).

Ann Marie Lindquist, an abutter to the subject property, owner of 101A & B Wingersheek Road, was noted as present. She noted that 101B was not a buildable lot, and 101A does not directly abut Wingersheek Road.

Councilor Gilman noted when they were in the Lindquist house, when they looked anywhere to the left (north), the view whether by right or with nine feet was completely obstructed with the Applicant's proposed house (from the upper floor) which she indicated was obvious standing in a room the upper floor of the Lindquist house. The Archers, closer to the beach, the shape of the proposed house, the wings was more appealing to them because the angle helped them still be able to see of the north view. **Mr. Gulla** confirmed for Councilor Gilman that the stakes would be left on the property outlining the proposed home for a week or as long as the Councilor deemed necessary. She mentioned that some of the Councilors may want to go back and look at the property from the Kinzie side of the subject property. **Ms. Sheedy** pointed out that the Kinzie home, Map 261, Lot 33 is the lot to the north of the subject property. She advised that during the 2017 Council Permit application process, in reviewing the minutes of the Council from that time, the Kinzie's submitted a letter to the Council saying they were intending to move and rebuild their house closer to the beach. Other direct abutters were noted as Craig and Beth Collins, Map 261, Lot 27, 101 Wingersheek Road. All abutters were confirmed again as having been noticed of the public meeting (see 2/5/20 minutes of the P&D Committee). **Councilor Gilman** noted she would advise Councilors that the stakes will remain on the subject property for them to go by and view the outline of the home. **Mr. Gulla** offered that he would have someone be on the site if Councilors let him know they are going by at a certain time.

DISCUSSION ON CONSERVATION COMMISSION DETERMINATIONS:

Councilor Pett noted that Mr. Gulla is on the Conservation Commission, and asked if any of the presentations in the packet are from the last application that he'd voted on or are involved in. **Councilor Gilman** asked Mr. Gulla to explain to the Committee some corrections he will need to make to properly acknowledge that he has recused himself on matters before Con Com. **Mr. Gulla** learned recently in the shuffle at the Conservation Commission's (ConCom) last meeting from which he'd recused himself [on the subject application], and went back to his desk at the end of the night, he signed the Order the Conditions on this. He advised he will have to disclose his conflict and have to have it cleaned up. On the whole the project didn't change at all. ConCom reviewed renewed the extension (to the Order of Conditions), which he indicated he didn't sign, that said everything that was there is still the same. **Councilor Pett** pointed out some of this is three years old, and it is known that sands and dunes change, but ConCom has given an extension that this data is still valid for this application. **Mr. Gulla** indicated that was correct because the house when built can't be within a certain distance from the dune – that never changes. They have to be two feet minimum above dune which is a main criteria, as well as any vegetation loss has to be replaced/mitigated. He added that both of those datum and criteria are unchanged.

Councilor Gilman suggested that the WPA Form 5 should be updated with the new date and under Item B Findings, Coastal Dunes, which three years ago said the square footage was 6,844 (ft.), and the mitigation footage was 13,690. She conveyed she'd like to ask that ConCom, excluding Mr. Gulla, go back and do another measurement of that. She explained her reasoning was that there has been erosion on the beach in the last three years. One of the conditions of this Special Council Permit is adverse impacts, and part of this is the protection of the dunes, and if there has been movement of the dunes. **Councilors Holmgren** and **Pett** conveyed their assent and appreciation with Councilor Gilman's request on behalf of the Committee. **Attorney Sheedy** confirmed she will contact the Conservation Agent to place this matter at the request of the P&D Committee on the ConCom agenda for their next regularly scheduled meeting so that the Order of Conditions can be redone with the proper signatures; that Item B under Findings, Coastal Dunes is reviewed, and that ConCom review the Order of Conditions overall.

There was a brief discussion of timing to continue the matter of the Special Council Permit due to the ConCom schedule. **Councilor Gilman** expressed that she'd appreciate a site visit by ConCom to review the dunes and any other on-the-ground matters so that they get the right information from ConCom to go into the Committee's decision-making process.

DISCUSSION ON VIEW:

Councilor Holmgren cited Mr. Gulla's statement that the views were already decimated on the adjacent properties and asked for a further explanation. **Mr. Gulla** indicated that the Archer and Lindquist houses are due south of the proposed project. When they stood in the Lindquist residence looking north there was a "slot" view past the existing house that looked up to the ocean, like a corridor. There was a telephone pole in the southern corner and between that pole and the heights on the roof of the building, people extrapolated across to the top of the telephone pole, saying that's there by right line. If you're standing in this house (he pointed to the Lindquist property) looking across, there is no view anymore up this north corner. By right if they built a hypothetical square building or the current building the view would also be gone, **Councilor Holmgren** confirmed. **Councilor Pett** offered that whether it is this design or the by right, the view would disappear. With the hypothetical square building where the corner of the telephone pole is and at this point with the design of the project, the Archers and Lindquist's still have a view to the north from that point around the edge of the house. If by the right type of design was done, that would also be lost.

Councilor Gilman highlighted if the by right square option that maximizes the property, option, (Drawing A-2 dated January 27, 2020 on file) at 30 feet would negate the view to the north for both Lindquist's and Archers'. The proposed structure negates the view completely by right for the Lindquist's but not the Archers who'd still have somewhat of a north view of the ocean. She indicated this is a very large proposed structure. **Mr. Gulla** confirmed that was the case. With Kinzie's house Map 261, Lot 33, it also applies looking easterly, **Mr. Gulla** noted. This swept design allows them to continue with this view and in both cases with the by right it blocks everything and is not as neighborly. **Ms. Sheedy** added that this is why the proposed structure is more in keeping with the neighborhood.

DISCUSSION ON OVERSHADOWING:

Councilor Pett spoke to overshadowing reviewing that the sun comes up at the east, at the end of Coffin's Beach and sets in the west which is across the street of Wingaersheek Road in the other direction from where this house is located. At no time, he conveyed, did he see at the 30 ft. or 39 ft. height (overshadowing, but that it was possible if the sun is low enough there might be overshadowing at the Archer house for a very short period of time. **Councilor Gilman** asked if it is unreasonable to have a shadow study. **Mr. Gulla** pointed out on Sheet A-1 (on file), there will be raking shadows (pointing to the wings of the proposed structure) from the east and west. **Councilor Gilman** asked how that effects the Kinzie's. It follows the wings of the proposed home, **Mr. Gulla** indicated. The wing design helps with that aspect allowing the shadows to avoid the homes adjacent to the proposed home. It is the middle of winter that sees the longest, deepest shadows in both directions, he advised. He noted that as the sun sets, the trees will block the shadow from the setting sun. It may overshadow slightly in the summer but will be caught in the vegetation, he highlighted. The design was intended to avoid shadowing, he advised. **Councilor Gilman** advising that the subject property is likely the largest she's seen on a beach in Gloucester. She conveyed saying that the Committee wants to do the right thing based on what is before them, and that shadowing is a part of that consideration. She suggested that if it is possible to do a shadow study in the next month before the Committee meets on this matter again it would be helpful to have that data to confirm assumptions; and if it does not, then there perhaps could be modifications made. She cited that this is a huge property at 11,000 sq. ft.

Councilor Pett expressed his understanding of possible shadowing suggesting that it would only affect the Kinzie property during the height of the winter, possibly at high noon. If they can get the study done in a short period time at a reasonable cost it would be good to include the information, he pointed out. **Councilor Holmgren** advised that if it is the will of the Committee she would offer her agreement. **Ms. Sheedy** pointed out that these are all seasonally used properties with **Councilor Gilman** mentioning that some folks could move to their summer property to reside year round. **Mr. Gulla** conveyed he could advise about time and cost when known, through the Chair. **Ms. Sheedy** expressed concern as to the reliability of a shadow study saying that they had done their own shadow study and to her it wasn't reliable. She indicated she didn't want to procure any kind of data that isn't reliable. They'll have to look into it to being able to do something that is reliable when they make that representation that it is authentic. **Councilor Pett** offered that the site visit was educational and helpful. He thanked the Applicant and the abutters. **Councilor Holmgren** expressed she would like to go back to the site to review it.

DISCUSSION ON NEIGHBORHOOD CHARACTER:

Councilor Gilman, citing comments made by the Applicant at the February 5, 2020 P&D Committee meeting, asked questions on what defines the boundaries of "neighborhood character," a factor in GZO Sec. 3.1.6(b). She noted that because of the proposed 11,000 square footage of 105 Wingaersheek Road that the Special Council Permit height of approved properties, #25 and #132 Wingaersheek Road, as referenced in that meeting's presentation, extends beyond the visual eye of #105 neighborhood. She noted that she interpreted "neighborhood character" to reflect the abutting and visual properties surrounding the subject site. **Attorney Sheedy**, referencing her past career in real estate, respectfully stated that she has a broader interpretation of neighborhood character and defined it as the

gated community in its entirety, of the private section of Wingersheek. She also pointed out in response to Councilor Gilman's mentioning how large the proposed home and that it was atypical for the beach. She highlighted that the lot is atypical for the beach. She advised the Archer's lot is 22,000 sq. ft. and the subject property is 90,000 sq. ft.; the Zoning Ordinance controls density and this more than meets that requirements with 7.5% lot coverage. For this particular site it is well within the Zoning requirements, **Ms. Sheedy** concluded. **Councilor Pett** pointed out that at 90,000 sq. ft., the property is over two acres. **Mr. Gulla** offered that if Councilors want to go out to the site he is open to meet with them there and would convey his contact information through the Committee.

Both **Councilors Holmgren** and **Gilman** expressed appreciation for the candid responses to Councilor questions and context on the project.

Councilor Gilman announced that the Committee would again take this matter up in four weeks when they should have the requested documentation from the Conservation Commission and if it is possible the shadow study.

This matter is continued to March 18, 2020.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:45 p.m.

Respectfully submitted,

Dana C. Jorgensson

Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.