

CITY COUNCIL AND
CITY COUNCIL STANDING COMMITTEE
Planning & Development

Wednesday, April 7, 2010 – 6:30 p.m.

Council Conference Room, 1st. Fl. – City Hall, 9 Dale Avenue

Present: Chair, Joseph Ciolino, Vice Chair, Robert Whynott, Councilor Greg Verga

Absent: None

Also Present: Councilor Hardy; Councilor McGeary; Suzanne Egan; Gregg Cademartori; Mr. & Mrs. Barry Garvin; Mac Bell; Michael Carrigan; Deborah Elliason

The meeting was called to order at 6:30 p.m. Items were taken out of order.

1. *Unfinished Business*

- A) SCP2010-001: 79-99 Essex Avenue, Section 2.3.1(12) Hotel, motel motor inn under 30 guest units, Section 5.7 Major Projects, Section 3.1.6(b) height excess 35 feet, Section 5.5 Lowlands, Section 3.1.6 lot area per two guests (Continued from 03/24/2010)

This matter is continued to April 21, 2010.

- B) COM2010-009: Planning Board re: Under Zoning Ordinance Sec. 1.11, Initiation of Zoning Amendments to the GZO Sections 2.3.6 Other principal Uses, and Section 5.22 Commercial Land-based WIND Energy Conversion Facilities in large-lot, low-density residential zoning districts (R-80, R-40, and R-30)

Gregg Cademartori, Planning Director made a power point presentation to the Committee (on file) of proposed amendments to Wind Turbine Siting Ordinance (Sec. 2.3.6 and 5.22). He also noted the Planning Board's recommendations to the Committee received earlier and on file.

Councilor Ciolino stated one of the main reasons to change this is because of the National Grid's ability to buy the generated power.

Mr. Cademartori noted that it's from the perspective of private and municipal wind projects and a significant change to promote these projects as well as the buy back. Commercial projects can broker the rate – they are a generator of the rate. There is also a current bill drafted in the Senate to look at comprehensive permitting, akin to a 43B process for Wind Turbine projects. They could file through a newly defined municipal board that is a hybrid. If a project is denied it would go to the Energy Siting Board on appeals taking it away from the 40A process we're in now.

Councilor Ciolino stated this would provide Whole Foods and Stop & Shop the ability to make arrangement with National Grid.

Mr. Cademartori stated they could, provided they could make an arrangement with a property owner.

Councilor Ciolino asked about the current rules still applies.

Mr. Cademartori responded yes.

Councilor Ciolino asked if this could be done [erecting wind turbines] on City-owned land.

Mr. Cademartori stated this is what it would enable. There was a grant-funded study performed back in 2005 that looked at five municipal sites including: the Fuller School, the O'Maley Middle School, the High school, the waste water treatment plant, and a parcel not far from the Varian site. After review of several parameters most of the sites were ruled out, except for the site near Varian. This zoning amendment would allow us to look at a number of sites that haven't been looked before. Grant opportunities require that sites are permitted by zoning so this will facilitate grant funding to examine sites. As he pointed out, with it only being allowed as an accessory use now, this will allow an expansion of sites to be considered and make these projects eligible. Right now there's still grant funding for assessment and feasibility to hopefully find a win for the City.

Councilor Hardy asked as relates to the zoning as it stands now, would an applicant come to the ZBA for a variance on the current criteria?

Mr. Cademartori stated there are some that can be waived now. Setbacks would require them to go to the ZBA. It's not the easiest case to make when there is a robust ordinance. With these amendments they're introducing a number of additional locations with some different parameters but otherwise the setback requirements are more of a concern. The Council has the same flexibility as in the current ordinance. The 12.5 acre was looked at in terms of a circle surrounding the use, it takes a large area. The 12.5 acre threshold is a reasonable one.

Councilor Hardy asked hypothetically if she owned a 30 acre lot could she put a wind turbine there and then build a home. If she built a house on it, would she have to subdivide the property to do it.

Mr. Cademartori responded you'd have to look at if you compromise the two uses. You couldn't have a 30 acre lot with 100 ft. frontage and subdivide for a house that didn't have frontage? It would be more likely a vacant lot. It could be done if they have the area and the setbacks.

Councilor Hardy asked how many wind turbines could be on the 30 acre lot.

Mr. Cademartori stated you're limited by the physical plant. 12.5 acres dictates one turbine. A larger lot could be more. But it would be more about how the turbines would interact with each other. Plus the fact that in these areas the topography is very irregular. There may be only one spot for one turbine over the hypothetical 30 acres.

Councilor Hardy asked if the structures would be taxable.

Mr. Cademartori stated he's posed that to the Assessors. He believes they're taxable, but he didn't have this answer for the Councilor that evening.

Mr. Bell asked if this is an ordinance adjustment dealing with wind generators larger than 60kw.

Mr. Cademartori stated that is untouched.

Mr. Bell stated whatever we can do to create an ordinance to facilitate wind generator investment is our common goal. As a pro-wind advocate, he hoped this proposed ordinance change is more of a simplification of the process. He spoke of the cost of the permitting process. He lost his grant from MassTech because they've not gotten their wind turbine up yet. They had to have a building with it. He encouraged the Committee to be cautious of the 12.5 acre with the frontage requirement as being inhibiting.

Mr. Cademartori reminded Mr. Bell this is on the principal uses.

Councilor Ciolino noted that only three have been permitted in Gloucester. The City believes we need to expand this situation.

Mr. Bell encouraged the Councilors to view the wind turbine in Newburyport and off the Southeast Expressway as excellent examples of integrating turbines into the landscape.

Mr. Carrigan felt it was a huge win for the City. Electric rates will only go up. We have an excellent wind resource here and should be taken advantage of.

Councilor Whynott felt this was enabling legislation.

Councilor Verga also agreed.

Mr. Bell noted it would be huge to be able to have the proposed 33 Emerson Avenue turbine to be able to be expanded to provide service to surrounding non-profit organizations from his property.

Councilor Ciolino asked Mr. Cademartori to work with the Legal Office to create the motions, and will take it up when they are ready.

This matter was continued awaiting notification to present motions on the amendments before the Planning & Development Committee.

Note: Councilor McGeary entered the meeting at 6:47 p.m. thereby creating a quorum of the City Council.

C) COM2010-011: Second Extension of Special Council Permit 2006-15, 201, 205 and 233 Main Street (a.k.a. Main Street Plaza) (Continued from 03/25/2010)

Mr. Bell told the Committee he was looking at the building at Main Street Plaza compared to the Americold Building across the street which is far more offensive to him. They've worked with three different people who are potential renters. None have come to fruition. Putting the shell up was to get something that they could market. He met with a contractor today about the building, and is proposing that they replace some of the plastic, trim some of it. Take the particle board and stain it, and will put more police signs on it. Basically, they want to keep it in as much of a shell form as possible. It's an aesthetic consideration as a work in progress and a matter of economics. They put the first \$100,000.00 in. They built it to the Photographics specifications; and they went bankrupt and he got stuck badly. He pointed out the successful operators on the property who maintain their buildings to high standards. If you come in and create your space in that shell you don't pay rent for the first three, four years. In that way they think they'll have a good model for a good tenant. He believes he has a potential tenant who is local. He noted the difficult economic times is a tough economic times. Banks aren't loaning. It is a work in progress. He was willing to put in another \$1,000.00; but stated more than this is not possible because at this time his resources are limited. They are totally committed to the litter clean up and maintenance. The fact that the rest of the shopping center is cleaned and maintained and cared for says a great deal for the plaza.

Councilor Ciolino stated he wanted to give him the extension. Rogers Street is becoming very important as the City looks forward to the possible acquisition of I4C2. He understood Mr. Bell's stance that he wanted to put the minimum amount of money to it. He made suggestions to Mr. Bell how to tidy up the building. He felt the building in question was not in keeping with even the rest of his plaza. He commented that when it comes time when he has a tenant, and then remove the fix up. He feels it's an equitable solution. Providing he put a skin on the building to cover the Tyvac, he will be willing to go forward and block the windows. When showing the property to potential tenants, the natural light coming in the building is very important. He disagreed with the Councilor. \$5,000.00 for a skin for the building, no matter the type, is not going to make any improvement of the potential of their common goals.

Councilor Hardy asked Mr. Bell about the talks with a potential tenant and how long it might be until he knew he'd have a commitment.

Mr. Bell stated this same potential tenant came to him two years ago, and they're back. He can't make a valid commitment at this time.

Councilor Hardy asked if he made a commitment when he came before them for the Special Council Permit and the first extension.

Mr. Bell asked what the challenge here is. He noted he has the highest gross on that property. That property has a superior 4:1 parking, etc.

Councilor Hardy asked what kind of compromise Mr. Bell was willing to make with the Council.

Mr. Bell responded he would do what he can to appease the Council.

Councilor Hardy stated they wanted to work with him; and we want to improve the downtown. We said this before at the last extension.

Mr. Bell noted he makes the best effort and follows through. They'll do the best that they can. In this economic environment, there are no committed deals. There is no path he can give them.

Councilor Ciolino wanted the building made presentable and felt something had to happen there to improve the look of it. He strongly urged Mr. Bell that the building can't stay with the Tyvac covering only for all these years.

Mr. Bell didn't think that aesthetic was offensive.

The Councilors disagreed with Mr. Bell and asked him to compromise at least on the Rogers Street side of the building.

Councilor Whynott stated he doesn't notice the building. It doesn't really bother him.

Councilor Verga was unwilling to see this deal over the aesthetic. He hoped Mr. Bell's proposed efforts will be enough. If the permit is granted for an extension, there's extension there's no provision for bringing him back before the Committee.

Mr. Bell commented they could take the permit away. He'd still pursue a tenant. He didn't understand what the Councilors issues were. What if they dismantle the building because you don't approve of it aesthetically? If they give up on that development there, they've got \$100,000.00 into it. He felt he had a very solid track record in the City with his developments and his aesthetic sense and was hard pressed to understand the need to remediate the property other than he had proposed.

Councilor Ciolino stated that this is a discretionary permit. It is up to Mr. Bell how he wanted to have this play out. If you don't want to invest the amount to make the property presentable, that is on your shoulders.

Councilor Verga pointed out he was willing to go on faith.

Councilor Ciolino felt a skin has to go on the building. This is a jewel of a property. To invest another \$2,000.00 or \$3,000.00 is not asking much.

Mr. Bell emphasized he felt it's not investing.

Councilor Hardy stated you can recycle the materials afterwards.

Mr. Bell respectfully disagreed

Councilor Verga stated if Mr. Bell does what he says he will do; it will give it a few more months of life. It will appear like something is happening. He is not willing to stonewall the process. This is an acceptable compromise. He will support the extension.

Councilor Whynott felt that it doesn't look ugly. It is in the eye of the beholder.

Councilor McGeary asked what Mr. Bell what he was willing to do.

Mr. Bell stated he would stain the particle board, neaten up anything that is flapping (referring the plastic poly film over the windows). The Tyvac is up.

Councilor Ciolino stated he can't support this at this time. It is contrary to what they're trying to do on Rogers Street.

Mr. Bell hoped he'll get their approval.

Councilor Ciolino stated that the request to extend the Special Council Permit for 201, 205, 233 Main Street, a major project to 1907, LLC (Mac S. Bell, Mgr.) was received by the City Clerk on February 23, 2010 and provided to the City Council on March 2, 2010. Therefore, it should be considered timely; and the following motion was made:

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning and Development Committee voted 2 in favor, 1 opposed (Ciolino) to recommend to the City Council to grant the request of the applicant 1907, LLC (Mac S. Bell, Mgr.) for a second extension to a Special Council Permit (SCP) for a major project pursuant to sections 2.3.4 (49) and 5.7 of the Gloucester Zoning Ordinance for property located at 201, 205 233 Main Street (Map 8, Lots #2 and #25), said extension to be a six (6) month extension of the terms of the Special Permit and to expire October 13, 2010.

D) "Friendly Eminent Domain Taking" of Parcel Known as I4-C2 and Loan Authorization

(Continued from 03/24/2010)

Councilor Ciolino noted there was a site visit and all that is being done this evening was to recommend the Order of Taking to the City Council. He further stated a memorandum dated April 7, 2010 from Suzanne Egan, Legal Counsel entitled, Motion for Recommending City Council Adopts the Order of Taking for I4C2 was received by the Committee and is on file.

Councilor Verga stated he still has questions and is glad that language is not included in the motion as did Councilor Whynott.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to City Council to adopt the Order of Taking for the parcel known as “I4C2”.

E) SCP2010-003: 5 Reef Knot Way, Section 5.5, R-10

Councilor Ciolino noted that all was in order; and that the Affidavit for the Notice to Abutters was on file.

Mr. Garvin stated they’re looking to install a pier and a floating dock, a gravel driveway and a patio area on the property. He noted all the proper sign offs have been given. Mr. Garvin pointed various items on the map (on file) for the property reviewing the proposal with the Committee. He noted the driveway and patio are porous. The dockage is for personal use. They’ve spoken to a couple of neighbors who may want to put kayaks on the float but only if there is room. They’ve talked about sharing maintenance but not charging any fees. The float will be seasonal and will be pulled out.

Councilor Hardy noted many homes in the area have floats and is a beautiful area.

The Committee felt that the project, after examining the attending documentation, and speaking with Mr. and Mrs. Garvin, was appropriate for approval.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Planning and Development Committee finds that in accordance with Gloucester Zoning Ordinances, section 5.5.4 for lowlands special permit are met; the project has been designed to satisfy the requirements of the Hatch Act as there are no hazards to health and safety, and the project will be executed as to conserve shellfish and other wildlife resources of the City; and therefore recommends to the City Council by voting 3 in favor, 0 opposed to grant the Special Council Permit 2010-003: 5 Reef Knot Way, Lowlands 5.5, Map 110, Lot 20, zoning classification R-10 pursuant to Gloucester Zoning Ordinances Section 1.8.3, and Section 5.5 Lowlands requirement.

2. CC2010-016 (Verga) Request filed with City Clerk’s Office on March 19, 2010 re: Lot on corner of Concord Street and Rt. 128

Councilor Verga noted this was from a constituent in Ward 5. According to the MOU with Demoulas, if they didn’t build the supermarket they wouldn’t object to the zoning being returned to what it was previously. There may be an issue because there was a combining of lots. There is more information needed from the Planning Board.

Councilor Ciolino noted they need a list of what further information is need.

Councilor Whynott asked in light of the new lot situation, how could we undo it.

Councilor Verga stated there is a need to get an opinion from General Counsel as to how to return the lot to its original zoning.

The matter is continued to May 5, 2010.

3. CC2010-019 (Hardy/Verga) Process of shifting appropriate private streets onto the public street ledger and to establish process et. al.

Councilor Hardy noted we need Chapter 90 funds so that everyone's streets are treated equally. The last was Carrigan Court and that was a difficult conversion. She's asked for input from Karen Andrews. The Auditor has to approve it, because there has to be funds to maintain the street. There's a state statute that has to be considered.

Councilor Verga stated this is something he was asked about even before he was sworn in as a Councilor.

Councilor Hardy suggested a continuance and see if it can be worked on to create a form and have the information in a central location on the process.

This matter is continued to July 28, 2010.

4. CC2010-020 (Hardy/Theken/Ciolino/Verga/Mulcahey/Curcuru/McGeary) Scheduling a joint meeting of City Departments and utility companies (or their agents) regarding a plan or policy on the removal of double poles throughout the City

Councilor Hardy suggested that they get in touch with Charlie Mahoney, Electrical Inspector, about this matter who is very knowledgeable on the subject.

This matter is continued to May 19, 2010.

5. *Other Business*

None.

It was moved, seconded and unanimously approved to adjourn the meeting at 8:20 p.m.

Respectfully Submitted,

Dana C. Jorgenson

Clerk of Committees