

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, October 17, 2012 – 7:00 p.m.
SAWYER FREE LIBRARY-FRIEND ROOM
-Minutes-

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Jackie Hardy
Absent: None.

Also Present: Councilor Ciolino; Councilor Whynott; Councilor LeBlanc; Councilor Theken; Councilor Cox; Gregg Cademartori; Paul Keane; Karen Andrews

The meeting was called to order at 7:01 p.m. There was a quorum of the City Council

Items were taken out of order.

1. RZ2012-003: Atlantic Road #107 and #125 to Create an Existing Hotel Overlay District (Cont'd from 10/3/12))

Attorney J. Michael Faherty, representing his clients, Bass Rocks Ocean Inn, Inc. (Bass Rocks), Tracey Muller, President; and Bonmal, Inc. (Atlantis Oceanfront Inn a/k/a Atlantis), Jan Bordinaro, President for a hotel overlay district, 107 and 125 Atlantic Road stated that the Committee had asked for an original stamped plan from the Registered Professional Land Surveyor with respect to the plan previously submitted which incorporated both lots under one plan (submitted at meeting). He represented it is the same plan but with a stamp on it. In addition there were two requests made at the last meeting seeking further refinement of the name of the proposed overlay and include the addresses that were affected. They amended the draft ordinance to reflect the name is now "107 & 125 Atlantic Road Hotel Overlay District," and the acronym is now "ARHOD." Copies of the amendment changes were provided to the City Clerk's office (on file) earlier in the day.

With respect to changes in the ordinance, there were no additional changes from that which was previously provided with the exception of the distance that they were proposing and willing to accept with respect to set back from any lot on which there is a one- or two-family residential use. In this instance the only lot in this area that abuts this property and is used as such is the Fonzo residence. He showed a picture of the Atlantis which showed that it does not affect the Bass Rocks Inn because the rear abutter is the golf course and the side abutter is the Elks Lodge. Along the side of the Atlantis, and when they made their site visit, they identified the "L" as the commercial building; and Map 72, Lot 13 is the Fonzo property they also visited during the site visit. The existing set back from that property line to the building is 22.4 feet. When they were on the roof they showed a distance with posts of approximately 45 feet from the property line. At the previous Committee meeting, they proposed 55 feet. They have gone back and done photo-imaging to show the impact. They are prepared to accept in consideration of an "As of Right," for this building, for the third floor addition of not more than 10 rooms, a set back of 90 feet. To put it in perspective, as to where else in the City 90 feet is required as a set back from any use, it doesn't exist. The issue that relates to building to multi-families or in existing hotel regulations would require 40 feet in an R- 2 district plus 1 foot for every foot that the building exceeded 15 feet in height. Their building would be proposed to be approximately 30 feet. Thirty feet is 15 feet more than the other, than the 40 feet. It would be 55 feet which is what they proposed the last time. In order to trigger a 90 foot setback using the existing regulations, they would have to have a building of over 60 feet in height.

There has been considerable discussion among the applicants as to what was fair. **Mr. Faherty** expressed he was pleased to hear Mr. Cademartori refer earlier to the site plan review. That in fact when the site plan process was adopted by the Council, "it was designed to address those instances where there were as of right proposals that might trigger various unintended or unanticipated consequences." The Zoning Ordinance for Site Plan Review applies to various activities, one of which is Sec. 5.8.2(a) any new industrial or commercial construction or expansion over 2,000 sq. ft. The proposal they make is approximately 150 feet long and 20 feet in depth being over the existing building. That would trigger over the 2,000 sq. feet. For Site Plan Review if it was "As of Right." There is nothing in their proposed amendment that eliminates the Site Plan Review. The construction or creation of any new parking lot or the expansion or redesign of any existing parking lot also requires Site Plan Review. Their activity even if it is "As of Right" would fall under the Site Plan Review which would mean a review by the Planning Board. He called particular attention to the issue that was raised by several people about what it will look like architecturally. He said it was not an aesthetic concern personal to a property owner, because they accepted a condition that the face of the building closest to the residential use would have no windows except for ventilation and would be stark, with no architectural feature. In Section 5.8.5.1 (d) says that architectural plans shall include ground floor plan, proposed exterior building

materials, treatments, and colors, architectural elevations of all proposed buildings and a color rendering where necessary to determine the proposal's affect on the visual environment, and shall include the design of any free-standing signs." He suggested with an "As of Right" proposal and specific language and purpose of the site plan review, this project would be reviewed for the issues that have been raised. The Planning Board as an appointed board would be competent to make determinations on these issues that would be relevant. It is clear that the properties have been maintained meticulously. It is unlikely given the minimal change in the structure that it would be affected by this, that it would be very similar to the architectural styles, very similar in colors and context.

They did come up with a series of pictures (submitted prior to meeting and on file). The computer program used is Photoshop which uses an existing picture and produces a new image to represent a new building. The first picture is a picture of the Bass Rocks Ocean Front Inn. This particular facility doesn't seem to have the same issues as to objections. He pointed out a third floor addition on the bump out that already exists on the property. The construction would be limited to the bump out. He said it makes no sense to have it any other place. He noted it appeared to be 11 units. They told the Committee from the beginning the reason for making these renovations is to provide more space in each of the units and to make them wide enough so the amenities expected by 2012 travelling public are available. If he put in 10 units it would not be an accurate representation of the space. This is a representation of what the space that would be required, approximately 165 feet in linear footage. In all the pictures they used 11 units for what footage is needed. The next picture he showed the Committee was the existing conditions at the Atlantis. The next two pictures is "Option A & Option B." He indicated the preferred option which showed about 8 to 10 feet more than the 90 feet. This is the center of the building. The set back is 90 feet. He showed the Committee again the line plan and indicated the same thing to them. **Councilor Hardy** asked where the first position poles were from the site visit which **Mr. Faherty** pointed out to the Committee their location and described it on the plan. The fourth picture is a replication of what Attorney Ralph Pino (representing the direct residential abutter, Jane Fonzo) suggested to push it to the end, but it is not nearly attractive and symmetrical. All the office and building needs such as laundry, storage and check-in/reception, are all at the other end of the building. He asked why they would build something further away from guest activities. The third floor should be centered. He indicated he and Mr. Pino did have conversations. They were restricted by Mr. Pino's schedule. They can't reach an agreement. It comes down to whether or not there has to be a City Council Special Permit. They think that the concessions they have made eliminate reasonable arguments that take it away from anyone else's land and accepted the Committee's suggestions. **Mr. Faherty** commented that no one person should drive legislation. To the point that an overlay is not the proper mechanism; he stated this is an overlay to the zoning ordinance, because it is over existing zoning regulations. This will be recorded as an amendment to the zoning ordinance. It is allowable and a way to address two unique properties in the one location that abut each other that have been there a long time. They don't know the next owner. But the safeguards protect from anything else, a wholesale sale, new construction. They have an amendment that addresses legitimate issues raised.

Councilor Hardy asked why the Council should give up its purview over the Special Council Permit so an overlay can be enacted on these two properties. **Mr. Faherty** said this is referring to Council discretion to require a hearing or not. There is no reason why they shouldn't and just as many reasons to say there is a public policy to require that they want to require that hearing. If they adopt that it is their prerogative. In the context of this application, he expressed they have shown that the elements that would be subject to review because they are so controlled through this amendment would not be very big and not be creating any issues. The Council also has the right to change zoning through amendment. The Council just finished a process in which zoning relief was given to one lot and changed the landscape as to what could go there and what couldn't and was their prerogative also. He said there are just as many reasons to have it "As of Right" and just as many to not give it up. That is the Council's prerogative as well. There has to be some basis as to why it needs review. If there are reasons why it needs review, he has only heard one so far. They haven't heard any objection to the dimensional requirements they have put forward. That is a major component of this zoning amendment. It is possible they could say they think the dimensional relief is appropriate; a lot of things are appropriate; the Site Plan Review is appropriate; but the Council want them to come in for a Special Permit. That is their prerogative. He does not control that. "As of Right" requires total compliance with the ordinance. **Councilor Tobey** suggested if the Council enacted this without the "As of Right" provision, it would eliminate the need to go to the ZBA. **Mr. Faherty** responded, "Yes." **Councilor Tobey** commented there is at least that degree of advantage for the lesser enactment of leaving the Special Council Permit piece in place.

Councilor Hardy asked if it eliminates the non-conformity. **Mr. Faherty** stated, "No." There is a legal misnomer when people speak of "grandfathering" and non-conformities. Once a property is non-conforming it is always non-conforming until the ordinance changes to let it back in. The building would still be considered non-conforming. They have said with respect to the additions only on the ground floor would they have new set backs. But they comply with most of the set backs. They don't have enough land area. If they apply the current ordinance, they could have 11 units on each hotel only. That non-conformity would be resolved. As to the building set backs, they are going larger

than the existing set backs. There is still some “vintage” of non-conformity. They would also be legal. It can be legal and non-conforming.

Councilor Hardy commented on the plan where it shows the third floor being erected on the Atlantis, it shows 11 units but is only to show the lineage/distance. They are looking to increase the size of the rooms; but she expressed that to her it seemed if these rooms were wider than 10 feet. **Mr. Faherty** confirmed they are wider than 10 feet, that the rooms’ interior dimensions are more like 14 feet plus. **Councilor Hardy** suggested that the 11th room would represent 14 additional feet that could be shared by the other 10 rooms. **Mr. Faherty** confirmed that was the goal. There is an assumption at least with the Atlantis that every room will be identical. When they talked about this, different people have different needs. The proposal they looked at earlier shows not all of the room the same - the rooms and depth and height could be different. It could be they are not necessarily talking 10 rooms. He reminded the Councilor the ordinance says not more than 10 units. **Councilor Hardy** stated they don’t really know what the layout looks like, size of rooms. She understood the centering is appealing as shown. If each room is to be a different configuration, she would like to see that through the Special Council Permit process. **Mr. Faherty** stated that is interior design of rooms which is “far fetched”. Interiors are usually not within the Council’s purview. **Councilor Hardy** cannot see how the rooms are longer or wider. **Mr. Faherty** didn’t know how the mass is different and the setbacks. It still has to go to the Planning Board and has to be aesthetically pleasing. **Councilor Hardy** expressed she would be in favor of the overlay but not the “As of Right.” She would eliminate it.

Ralph Pino, representing Jane Fonzo and Tom Berger stated that there were numerous neighbors who were at the Planning Board and were universal in their objection not to the specifics to the proposal but to the notion of the matter “As of Right.” **Mr. Faherty** is saying that the overlay is appropriate because of the uniqueness of the properties. Each of the hotels being unique, it is clear that there will be an amendment process of each new project if this becomes a matter of right. They have discussed this and have come a long way since the start of the process. The sticking point is clear that it is on the matter of “As of Right.” His client and the neighbors need for this project to be reviewed. They don’t know what any of the floors will look like. That is critical in terms of his client. The Planning Board who does the Site Plan Review unanimously required dimensions have adjustments. They have proposed that if you want to do the overlay it should require a Special Council Permit so they know what is going to be built and be enforced and is what the neighbors are looking for. It would be a mistake to do otherwise. **Councilor Tobey** stated in this scenario **Mr. Faherty** photo-shopped photos in totality of the third floor all the way down to the northerly sidewalls [of the Atlantis] and asked would his client object to that “As of Right” vision. **Mr. Pino** stated they would. They don’t know what it would look like. It is also about the dimensional requirements which are important. **Councilor Tobey** added it is not about the dimensional requirements; it is more about the concept. **Mr. Pino** responded that it was both. They were completely against 40 foot height 20 feet from his client’s building. A lot has been alleviated. That dimensional requirement of pushing to the other end is eliminated. The other concern is what is being built here and that isn’t alleviated by photo-shopped pictures and saying it isn’t going to look like that. It is conceivable they would be in agreement if they had elevations that showed them what is going to be built. That is easily done in the context of the special permit process. It is taking away power vested to the City Council. It is a duty, not an obligation that what is built on the Back Shore is appropriate.

Councilor Verga stated as he had said at the last P&D meeting, there has been a lot of one-sided compromises made. He would be ready to vote on the project as presented. And while the renderings presented were not the final product, he said it was unlikely something would be put up with an exterior that wouldn’t match the current exterior. He is comfortable with the proposed amendment but was one vote. **Councilor Tobey** stated he was inclined to Councilor Verga’s view, and was a second vote. He asked for guidance on the “allowability” of the idea of the overlay from the point of view of all the way on “As of Right” versus the lesser version. **Mr. Cademartori** stated it is clear that what is on the books right now does not calculate to produce a hotel on either of these sites. It is probably accurate that the dimensional requirements would suggest a maximum of 12 units on one of these sites unless they seek relief from the Council which is also in the existing ordinance. It is an “absurd” starting point for what is there now and what is proposed to be allowed in this amendment. The first approach by the Planning Board was to extend or clarify the ability of the Council to further waive some of the dimensional standards in Sec. 3.6 that deal with hotels currently. Where does someone entering into the process think they can go with that when they are starting with 12 units. You can do something else, but you have to show us. At least there is some hope there, but it doesn’t give an applicant an indication of what they might propose. There was a lot of time focused on dimensional requirements. They are comparable to existing hotels in other communities and how they are treated. There are other communities that have hotel districts. Going further with the direction with the Planning Board, they looked at the R-20 district for existing hotel use; and did look at the 13 sites in the City that have hotel or motel use on them. They are existing dimensions, and one cannot come up with one set of standards that would do anything with those 13 sites in a comprehensive review. **Councilor Tobey** asked why they would want to do that. **Mr. Cademartori** didn’t suggest that it should be

looked at. He was suggesting they can't come up with one set of dimension that would affect those 13 properties in the same way; and that wouldn't necessarily help some of those properties if they enacted them. Set backs on those properties range from 0-35 feet depending on all four sides. They looked at different approaches to amending the ordinances. The diligence was done, and it was concluded there is something different on these sites by their size and existing use, and it is allowable.

Councilor Tobey stated this has to be before the full Council in its most expansive form; and Council can decide if they want to enact this in its current form by amendment scale it back to a lesser form or defeat it in its entirety.

Councilor Verga suggested that should this get recommended to the Council, if they want to propose suggested language that would work if the Council took out "As of Right." He supported as is, so the Council had that to consider for their meeting of October 23rd. **Mr. Faherty** stated as a practical matter the permit and the sections "As of Right" with the permit are in two separate sections. It would not take a lot of words to change that. He made clear if the Council took the position they're all right with the dimensional requirements but they want a hearing and severed this amendment and approved something but not this particular segment, which is within the Council's purview, the concession made on the 90 feet is in anticipation of the whole ordinance amendment being passed. If they are coming in for a Special Council Permit application depending on the design and location, and the size of the rooms, providing they are still complying with all the underlying dimensional requirements, it might not be at 90 feet. The Council would have to decide whether it is far enough. **Councilor Tobey** asked if they strike "As of Right," they're contemplating withdrawing the application. **Mr. Faherty** stated, "No." They would want it to proceed. But the footnote that controls the created special condition for abutting properties that are one-or two-family residential use is only intended to apply to the 10 units "As of Right" not generally in the district. If they wanted to keep that set back, there is only one word that has to come out. These were concessions; discussions put forward by the applicant to try and eliminate one issue. If they are not successful, they would have the right because it is within the Council's prerogative under the other parts of the ordinance to grant relief or not. If it came in at 70 feet, the Council would have to decide if it was 70 feet or needs to be more. He made clear that if it wasn't "As of Right," he reiterated they are not promising a 90 foot set back. That is giving up a lot of space that they don't think really impacts somebody. There could be construction constraints. **Councilor Tobey** stated they still retain the option that if they want to bypass ZBA, 90 feet because of that abutting single-family home situation, could be enacted into the legislation. He asked where the 70 feet came from. **Mr. Faherty** said if the vote is otherwise, that opens it up to them since they're coming in for a permit, and the City Council is the only group that gives relief, that it may not be at 90 feet. The 90 feet may or may not be a part of that application. He will provide alternative language to address that in anticipation of what the Chair is indicating. **Mr. Pino** requested that the language Mr. Faherty is to submit be sent to him in advance also.

Councilor Verga offered a motion for the zoning amendment and **Councilor Hardy** seconded the motion for the sake of discussion. She then offered an amendment so as to delete the portion of the ordinance in Sec. 5.26.3 Uses "As by Right." **Councilor Verga** seconded for purposes of discussion but stated he did not support the amendment.

Councilor Hardy said they just did another overlay not long ago. During that overlay there was certain "As of Right" conditions sought then. She said then she would not approve any "As of Right" sections to an overlay so that neighbors could have their right to come forward and have their voices be heard no matter the situation, and was why she offered the amendment. **Councilor Verga** said he didn't agree; that what is proposed by the applicant is a good proposal. There have been a lot of concessions made. He wished to send it to the Council as is and see what happens.

Councilor Tobey stated he would vote against the amendment so there is full 9 member participation on whether or how they should proceed. If they amend it now that discussion on the whole would be forestalled. He would vote no on the amendment.

On a vote of 1 (Hardy) in favor, and 2 (Tobey, Verga) opposed, the amendment to the main motion to eliminate "As by Right" Uses in Section 5.26.3 failed.

Councilor Verga reiterated his stance that there has been compromise, and the zoning amendment deserves to go to the Council. **Councilor Hardy** stated it should be unanimous. She seconded the main motion for the sake of discussion, but said she would be leaning towards making an amendment at the Council to eliminate the "As by Right" section. But she would vote favorably to move this matter to the City Council. Councilor Tobey inquired how many votes it would take to amend the motion. He asked an inquiry be made to General Counsel as to how many votes it would take to pass an amendment to a proposed zoning amendment Council to a zoning ordinance motion as it takes six votes to approve a zoning amendment under State law.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council under Gloucester Zoning Ordinance Sec. 1.11.5 to AMEND the Gloucester Zoning Ordinances by enacting Section 5.26 entitled "107 & 125 Atlantic Road Hotel Overlay District" for the parcels located at Atlantic Road #107 and #125, Assessor's

Map 72, Lots 1 and 3, as submitted to the City Clerk's office on October 17, 2012, which is attached hereto and incorporated herein by reference, and AMEND the Gloucester Zoning Map to create a 107 & 125 Atlantic Road Hotel Overlay District located at Atlantic Road #107 and #125, Assessor's Map 72, Lots 1 and 3 in the R-20 District as shown on the plan entitled "Structure Location Plan at 107 & 124 Atlantic Road located in Gloucester, MA," as signed by Richard G. Loud, R.P.L.S, dated 09/21/12, to accompany an amendment to the Gloucester Zoning Ordinance 107 & 125 Atlantic Road (f/k/a Back Shore Existing) Hotel Overlay District, dated October 17, 2012.

2. SCP2012-010: Application of Beauport Gloucester LLC under Sec. 5.25 Hotel Overlay District; GZO Sec. 5.5.4 Lowlands; Sec. 5.7 Major Project (Cont'd from 10/3/12)

Paul Keane, City Engineer informed the Committee they went through a comprehensive procurement process over the summer, and in September signed a contract with AECOM, an international engineering consulting firm. The group that is working on the project for the City was formerly Metcalf & Eddy, experts in water and sewer matters. Work was started on October 2nd. That week, he and Ryan Marques, City Civil Engineer met with most of the businesses on Commercial Street. With the help of the DPW they notified the residents of the area that work would be starting the week of October 8th doing utility and survey work. They have done borings and are completed. Survey work continues. AECOM hired BSI Engineering to mark out utilities; that work continues. Surveyors are then locating those utilities. There is a crew out now TV inspecting the existing pipes in the Fort to assess conditions and to see where the building connections are so they can be able to reconnect folks as new structures are placed. That work will be done by Friday or Saturday this week. The week of October 29th, notices will be handed out to businesses where they would like to do building inspections for utility connections from the major users primarily on Commercial Street to make sure plans developed for the project don't miss any connections; and to craft a way to minimize as much as practicable disruptions during the infrastructure construction. It is a very congested area. It will be a difficult construction project with plans in place for water, sewer and storm drains. It is a lot of work in a very narrow corridor that they have to accommodate. They have to provide temporary bypass water and sewer service while that work proceeds. They are gathering as much existing information as possible before AECOM starts their design work. The schedule for the field work investigation should be completed by the week of November 5th. The week of November 12th there is an expectation they will have a base plan laid out to look at what the alternatives might be. After that time he understood members of the Council would do a site walk; and they would be in a good position for it any time after that. The week of December 10th they expect to have 25 percent of the design plans, and will start looking at alternative layouts and cost estimates. That is the current schedule depending on what is found, and based on that they will refine the schedule as appropriate. The plan is to have the project permitted and bid around April 1st; with bids opened May 1st and construction to start on or around June 1-15th. They are doing everything they can to make this a comprehensive project for the City. In addition, the City engaged the BETA Group to do a peer review on the hotel project. That effort is on-going, and those folks are at ConCom this evening. They were here on September 20th for the joint P&D and Planning Board meeting. They're expecting preliminary things from BETA Group in a few weeks. They are working closely with Mr. Cademartori (Acting Community Development Director), and have met with the Fire Chief, Building Inspector, BETA Group to start to look at public safety issues and the like.

Councilor Cox entered the meeting at 7:13 p.m.

Councilor Tobey understood that the first time they will have preliminary cost estimates will be at the 25% design stage in early December which **Mr. Keane** confirmed was the case. The Councilor suggested this would be a better time for the site visit, as it would be difficult to engage cost considerations prior to that benchmark. This then would be a readjustment of expectations only. **Councilor Tobey** further commented that on one hand the project has been the designing of an infrastructure "renewal" project for the Fort which has been advanced and highlighted because of the Special Council Permit application. But he expressed the assumption that the Administration is committed to the project going forward regardless of the hotel project. **Mr. Keane** also confirmed that was the case, as the infrastructure needs to be done. The hotel provided an opportunity for them to advance their schedule from 2015-2016. He noted Beauport Gloucester LLC has been helpful with the funding for the design piece in getting it moving forward as early as they have. **Councilor Tobey** stated if the MassWorks Grant would come through in whole or in part, they must start soon because they could lose the grant. **Mr. Keane** expressed his understanding that would be the case, but didn't know exactly what conditions would be placed on the grant if awarded. He understood they expect the work to start before or by the first part of June 2013. But they won't know until they see the grant. **Councilor Tobey** said he anticipated three possible outcomes for the hotel's Special Council Permit: it might be denied, granted and appealed, or granted with no appeals. He asked if any of those outcomes change the

City's commitment to starting the infrastructure work on or around June 1st. **Mr. Keane** reported Mike Hale, DPW Director had informed him they are committed to moving forward regardless. It is one of the reasons they wanted to make this a public works project "stand alone" so this project goes forward no matter what, subject to financing.

Councilor Hardy pointed out another reason to be a public works stand alone project is so there is more control as to what goes into the ground. **Mr. Keane** stated, "Yes". The contractor will be working for the City. They comply with their specifications. He noted the Governor's Hill water project. The City controls that project; and for its size, it has gone well. **Councilor Hardy** asked Mr. Keane to comment on the memo from Suzanne Egan, General Counsel dated October 1, 2012 (on file) about the layout of Commercial Street. **Mr. Keane** assured the Committee and the Council one of the charges to AECOM and their surveyor is to establish what is on the record for Commercial Street as to its layout. If they have to address that through the street acceptance process, they will do that as directed Counsel. **Councilor Hardy** asked Mr. Keane if he saw the lack of an actual layout as an obstruction to the infrastructure project the City wishes to move forward, to which **Mr. Keane** replied, "No."

Councilor Theken entered the meeting at 7:18 p.m.

Councilor Ciolino asked if they have had conversation with the harbor side businesses on water pre-treatment, and will it be part of the overall plan. **Mr. Keane** stated they are doing is a public infrastructure project for the entire Fort. It is not a project for the hotel. He reiterated he had met briefly with the various businesses on the north side of Commercial Street. He will be back out there tomorrow or Monday for more meetings. Once they have a better sense of the plan they will meet with all of the businesses and discuss those issues. He spoke with Mr. Hale today; and the pre-treatment issues are being addressed specifically. They have to comply with all the federal and state regulations. It is a matter that is high on their agenda and will be addressed. **Councilor Ciolino** restated they would have discussions on pre-treatment on the harbor side businesses. **Mr. Keane** added for a lot of other things as well – their schedules, their traffic issues, for instance. **Councilor Theken** asked if the construction would go around the St. Peter's Fiesta. **Mr. Keane** confirmed it would be. **Councilor Tobey** asked Mr. Keane to collaborate with the Clerk of Committees to fix a date for the site visit on or around the Saturday nearest December 10th.

Attorney John Cunningham, 59 Main Street representing Beauport Gloucester LLC for its application for a Special Council Permit under GZO Sections 5.25 Hotel Overlay District; 5.5.4 Lowlands and 5.7 Major Project, reported that last night at the American Legion they held a neighborhood meeting. They had published advertisements in the newspapers, an article appeared on the matter; leaflets and flyers were distributed to the neighborhood area and posted prominently as well. There were about 80 people there. He expressed the opinion it was a productive meeting. The format: There were three tables with the building design plans, engineering site plans and traffic information which the public viewed for the first 45 minutes. They had their respective consultants at each table to answer any questions that arose from the public. The report from their people stated it was helpful to folks to see the plans and ask questions. The second part of the meeting, about a little over an hour was moderated by Jack Clark, former chair of the Planning Board, who entertained questions from the floor, one each per person. Through the many questions asked, he said it was productive for them and for those who were in attendance to understand the project better. They are compiling their notes from the first 45 minutes and notes from the question and answer period so there are topics they can take a further look at. **Councilor Hardy** asked to whom the Council were forwarding the questions the Council has received since that meeting. **Councilor Tobey** stated the process is continuing to work as it has – as constituents questions are logged with the Committee through the City email server; they are forwarded to appropriate City staff and to Mr. Cunningham's office.

Gregg Cademartori, Acting Community Development Director stated he has been copied on all the email exchanges that have come in through the City Clerk's office. They have also been forwarded to the Planning Board. The nature of the questions is varied. He hoped some of what is done this evening is identify a number of questions related to infrastructure in the street and construction related concerns within Commercial Street and Fort Square, Beach Court and Pascucci Court. That is a project in early stages. If people have questions or concerns as the project goes on, they will be focused to Paul Keane as the project manager, and those concerns can be relayed to the consultants who are dealing with that. There are number of questions that have come through the City that fall into that category of "stay tuned" and on-going as the project moves forward. Construction in that area will be difficult; and will take intense management and concentrated on business operation which is not only a concern of the businesses but concerns of the City. There have also been number questions that the Council will follow up in the discussions of the Special Permit process related to the height of the building, representation of suggestions of more information from the applicant. There are a number of things will be directed to the applicant. There are a number of things, on a variety of topics that they are working with two separate consultants, BETA Group and subbing some of their needed area expertise to GZA Vine looking at some specific issues for the Conservation Commission (ConCom) related to the seawall construction and potential environmental impact. They are scoped to look at parking, traffic safety, circulation, site layout, emergency access, utilities, stormwater management, landscaping,

lighting, fiscal impact, economic impacts and everything related to the filing of the Notice of Intent with ConCom. About 80 percent of the questions fall into those category in a review in its initial stages. The Beauport team is before ConCom later this evening. That process is just beginning. He envisioned process of the review to occur, is that they are looking at big picture things on the site first. If something impacts site layout it has a chain reaction effect in how they may respond. They will move into some broader issues on traffic impacts later in the process. They are focused on site related issues, specifically public safety. They've met with staff members and will continue to do that to formulate some preliminary points on big ticket items and will happen in the next month or so. P&D has meetings scheduled every two weeks; the Planning Board is scheduled every two weeks and will depend on when there is enough information to make a coherent discussion and will have to watch for opportunities to bring those discussions forward to P&D and the Planning Board Site Review. **Councilor Tobey** asked how the P&D review was synchronizing with the ConCom and the Planning Board's Site Plan Review. **Mr. Cademartori** stated site plan review, in this instance; there are a lot of cross cutting standards. When that ordinance was created it was predominantly trying to look at impacts of as of right uses that might have an impact. Someone could pull a building permit for a 10,000 sq. ft. building, and as long as it was allowed in the district they could do that, not taking into consideration access, parking and a number of site related impacts. It is a process that looks at a lot of things that coincides with what is already required for a Major Projects Special Council Permit. The consultants have both lists of standards. They will end up with a recommendation from the Planning Board on the technical aspects on the Major Project and anything contained in Sec. 5.25. , and a site plan determination. ConCom will have an environmental review; and that will have to take place before the Committee can be fully informed to make their deliberations at the Council level.

Councilor Hardy stated there is a lot that has been said about the deed to Pavilion Beach. Are the deeds public record. **Councilor Verga** stated if it is recorded at the Registry of deeds they are. Councilor Hardy then asked if they have a copy of the deed. **Councilor Tobey** asked Mr. Cunningham to provide a copy of the deed where the claims of ownership are noted. **Mr. Cunningham** informed the Committee General Counsel had a copy of that deed and would provide a copy to the Committee. Mr. Cademartori and Councilor Tobey discussed the process of updating the Committee on the Major Project review from ConCom and the Planning Board. Mr. Cademartori He would provide an update the Friday in advance of the P&D meetings. If there is something ready to be discussed he will be here to do so with the Committee. **Councilor Tobey** asked that there be a collation of summary from submitted questions. **Mr. Cademartori** expressed that some questions would be inclusive and that he would like to do that as a topic is discussed, they could reference them. They are all excellent questions and are concerns that will be looked at through the review process. He assured they will all be reviewed. It will be conveyed through the consultants, himself and Mr. Keane. The flow of information is fine as is. It is early for check lists. **Councilor Tobey** expressed he took that answers would not be forthcoming immediately so that they can do the due diligence. **Mr. Cademartori** pointed out that there are valid concerns and are not unique to those who are raising them. These are serious matters that need to be addressed.

This matter is continued to November 7, 2012.

3. Memorandum from the Engineering Dept. re: proposed street naming & numbering plans

Councilor Tobey stated that the Committee has received the department recommendations according to the ordinance, Sec. 9-3 according to the Clerk of Committees with the exception of the Planning Director. **Councilor Verga** knew that there were two specific properties in the case of the renaming and numbering of Kettle Cove Lane that are on Western Avenue and asked if the abutters were all notified. **Karen Andrews**, Engineering Department noted they had sent out letters to the property owners. However, some of the properties in question have tenants. He referred to two specific properties related to Kettle Cove Lane. Those two properties are owned by one entity, and both properties are vacant. On inquiry by **Councilor Tobey**, **Mr. Cademartori** stated he did not have any concerns with the changes of names or numbering. Very often when someone proposes a development they are generic in their naming conventions. For what is proposed there are no concerns with the three proposed street names. **Councilor Hardy** asked if 4, 6 and 8 Georgia Way are residences, and how did this request come in. **Ms. Andrews** explained that No. 4 is an extra number for a vacant lot. The residents of No.'s' 6 and 8 were notified. **Ms. Andrews** stated a resident stated the addresses are 7R and 9R, but they have to be accessed from the back and it is awkward. This section of Tolman Avenue is actually private property owned by the Carter family who own The Cupboard. She had a letter from the property owner indicating they are fine with this change. It is two lots; 7R would become 6 Georgia Way, and 9R would become 8 Georgia Way. This would be listed as a private way. This

was paved by the City. There is no layout to the road as it is a private road on private property. **Councilor Hardy** stated she had no problem with it.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council under GCO Sec. 21-3 Street Names to rename a portion of Tolman Avenue and Hough Avenue, Assessors Map 216, Lots 75, 83 and 82 to “Georgia Way”, and to renumber those lots to 4, 6 and 8 Georgia Way respectively.

Ms. Andrews noted this road was on private property and will remain a private road. As this was a private road, the Committee did not see an issue with this change.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council under GCO Sec. 21-3 Street Names to rename a portion of Parker Street, Assessors Map 54, Lots 109, 60, 54, and 53 to “Cripple Cove Lane,” and to renumber those lots to 3, 6, 4 and 4R Cripple Cove Lane respectively.

Ms. Andrews stated the name was already there but the numbers was not done. It was not done when a subdivision was approved. It is just to number the lots. The name is already there. They will have to get a street sign up. This is a private road. **Councilor Verga** expressed he had no problem with this change.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council under GCO Sec. 21-3 Street Names to rename and renumber a portion of Western Avenue to Kettle Cove Lane as follows:

<u>Assessor Map/Lot #</u>	<u>Current Address</u>	<u>New Address</u>
194-75	739 Western Avenue	1 Kettle Cove Lane
194-81	0 Kettle Cove Lane	3 Kettle Cove Lane
194-89	0 Kettle Cove Lane	7 Kettle Cove Lane
194-86	0 Kettle Cove Lane	9 Kettle Cove Lane
194-88	0 Kettle Cove Lane	11 Kettle Cove Lane
194-87	0 Kettle Cove Lane	13 Kettle Cove Lane
194-10	15-23 Kettle Cove Lane	15-23 Kettle Cove Lane
194-85	0 Kettle Cove Lane	24 Kettle Cove Lane
194-84	0 Kettle Cove Lane	22 Kettle Cove Lane
194-83	0 Kettle Cove Lane	20 Kettle Cove Lane
194-82	0 Kettle Cove Lane	8-18 Kettle Cove Lane
194-76	743 Western Avenue	6 Kettle Cove Lane

Councilor Hardy asked whose responsibility this is to notify the post office. **Ms. Andrews** informed the Committee it is the Engineering Department’s responsibility. They also update the 911 data base, instruct the DPW to erect the street signs, etc.

4. CC2012-012 (Tobey) Legal constraints governing redevelopment of 65 Rogers Street (I4-C2) and measures Council would need to initiate to seek lifting of those constraints via Home Rule Petition to take parcel out of Designated Port Area (DPA) (Cont’d from 10/3/12)

Councilor Tobey explained that the Home Rule Petitions for this matter and the next matter language has yet to be prepared and submitted to the Committee from the City Clerk and General Council due to work load issues. The Clerk of Committees was directed to place this matter and that of the Protection of the Babson Watershed on the next regularly scheduled meeting agenda and to communicate emphatically to the City Clerk and General Counsel the Chair’s desire that they receive the draft language prior to the next meeting, and that this matter be resolved at that time.

This matter is continued to November 7, 2012.

5. CC2012-041 (Tobey) Protection of Babson Watershed Land and Babson Bird Sanctuary pursuant to Article 97 of the Commonwealth of Massachusetts re: Consider Language for Home Rule Petition

This matter is continued to November 7, 2012.

6. Request to collaborate with Mayor on a non-binding referendum concerning the statutes of Gloucester D.P.A. And consideration of a non-binding referendum question on the disposition of the Fuller School

Councilor Tobey stated they have received nothing from the Administration on a proposed language for a ballot question regarding the statutes of the Gloucester DPA. They will not take up that part of this agenda item at this time. He asked that the Clerk of Committees convey to the Mayor on the Committee's behalf to request she come before the Committee to discuss draft language for their proposed ballot question and would place this matter back on the Committee's agenda when the Mayor could be available.

There was an exploratory discussion on a possible Fuller School disposition question. **Councilor Verga** stated the Mayor didn't specify when this question would be taken up, but it would have to be on a municipal ballot, which would come up in November 2013. Three years ago they tried to do a ballot question on the Fuller School which failed due to vague language. The Administration recently sponsored a school survey. But the Councilor expressed his belief that a definitive way to do ascertain public opinion was to place a question on the ballot and wanted to create more specific language. He noted it appears that the Mayor has suggested the option of sale or lease. He suggested rather, it should allow choices: to keep Fuller as a school; use it as municipal space or maximize the site by sale or lease. It should not be specific to a leaser either. **Councilor Hardy** could not confirm if they were entitled to have a multiple choice option on a question. The Council does approve the ballot questions. They can only have two, and then the School Committee gets one question (for a total of three). She expressed her "wholehearted" support of the Fuller School ballot question especially as they would be assured that each individual voter in the City can vote to make their opinion known; one vote, one ballot. She suggested the Committee each draft some language and at their put that language together. They do need a determination if a multiple choice ballot question is acceptable. If not, then they will need to reexamine how to include the choices into a yes/no question. **Councilor Verga** would meet with the City Clerk to formulate a ballot question on the Fuller School and learn whether a multiple choice question is allowable. The Committee would take the Fuller School draft ballot question language up at their next meeting.

The matter of a Fuller School non-binding referendum question is continued to November 7, 2012.

7. Request and application to hold the 32nd annual Downtown Gloucester Christmas Parade on Sunday, November 25, 2012

Councilor Ciolino commented this is set up as it has been in previous years. This year they have a rain date of the following Sunday.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit the Downtown Gloucester Christmas Parade on Sunday, November 25, 2012 with a rain date of December 2, 2012. Sign offs from the Fire and Police Departments are to be on file as well as written documentation of the parade route by November 16, 2012 in the City Clerk's Office as is the Certificate of Insurance naming the City of Gloucester as the Certificate Holder.

8. Establishment of a proposed partnership between the City and the Downtown Gloucester Cultural District Committee

Councilor Verga declared he has a business relationship with Ms. Hoglander which has been concluded and, therefore, has no conflict of interest regarding this matter.

Judith Hoglander, Co-Chair Downtown Cultural District stated the Committee is familiar with this process as the East Gloucester Cultural District went through earlier in the year. By its nature, the Downtown Gloucester Cultural District (DGCD) has come into some unusual circumstances as it is a mixed district. The downtown has mixed uses, is unique and has a wealth of wonderful things; but is not to be confused with what came before them with the East Gloucester Cultural District. Their issue was in defining what the district should look like. The map is not final. It includes the Harbor Walk, the Historic District, the civic area and Main Street. The other difference is they have

approached it as other communities in which they have a number of partners. Their legal obligations are less. General Counsel has reviewed their partnership contract with the City. They will meet and administer the cultural district in partnership with the City which is a different way of approaching it. **Councilor Hardy** stated there was an email sent that someone had expressed a concern about the DGCD, but that she didn't have an opportunity to forward the email to the Committee. **Joanne Constanza**, 6 Old Bray Street stated she was asked to join the DGCD Committee. She expressed she did have concerns. She has attended meetings, walked the area and attended a public informational meeting. Everyone is doing a lot of work, and the meetings are going well. But she sees that people need to communicate more. She has people asking her questions to find out what is going on. She looked at the Harbor Plans the Mt. Auburn Plans and no one is using them anymore she understood. They all overlay and it seemed to be a rush to see the \$50,000 for public art for the Harbor Walk and asked what is precipitating that. She also said she wondered if the Harborwalk is pushing this agenda. She also asked where is there a say as to what is helping the artists in that cultural district. How do they know the money and legislation will help the cultural districts which in turn will help those institutions and artists in the cultural district. Is there a way to bring all these groups together to communicate and work to get the artists there? **Councilor Tobey** asked which came first the Cultural District or the plan. **Ms. Hoglander** stated what Ms. Constanza refers to with the Mt. Auburn Plan, the public art project and the Harbor Plans have nothing to do with the Cultural District. She stated the DGCD isn't specific to artists. Essex has a cultural district that is just the antique shops. Gloucester's downtown is three cultural districts melded together. They aren't all exclusive to artists. In the case of this cultural district, it is very broad. They have the east end of Main Street included because it is an orphaned area and wish to get more activity there. Artists, institutions, businesses are all their partners. It is not strictly arts driven. **Councilor Tobey** suggested that they could have a public hearing on whether to do a designation. A resolution is required. That needs to be addressed by the Administration. **Ms. Hoglander** stated they would like to have the application in to the Mass Cultural Council (MCC) to be considered at their Board meeting in January. They have the application ready, but the City does the actual submittal. The MCC has to make the approval. **Councilor Tobey** asked they meet with the artist community to come in and talk this through. He suggested they invite the Harbor Planning Director, Sarah Garcia to that meeting. They would reconvene on November 7th, and that this will go to public hearing on November 13th. The responsibility to produce the Resolution has to come from the Administration, and not the Council.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to adopt a resolution under MGL c. 10, §58A by the City of Gloucester, Massachusetts, to create a state-authorized cultural district for at least five (5) years to be named Downtown Gloucester Cultural District AND TO ADVERTISE FOR PUBLIC HEARING.

This matter is continued to November 7, 2012.

9. *Discussion on possible creation of Planning & Development Advisory Committee re: Special Events permitting, etc. pursuant to City Charter Sec. 2-9(c) (Cont'd from 09/05/12)*

The Committee briefly touched upon the matter noting that City Clerk, Linda Lowe would give a definitive list of recommendations of what that body might look like for membership at their first meeting in January.

This matter is continued to January 2, 2013.

10. *Review of Special Council Permit re: Gloucester Crossing as relates to traffic/pedestrian safety for area surrounding Perkins Street as referred from City Council Meeting of 9/25/12 at request of Councilor Cox*

This matter is continued to November 7, 2012.

11. *Discussion of Committee re: Process for PP2012-003: Installation of Underground Conduits re: Atlantic Road, Application by National Grid*

Councilor Tobey stated procedural irregularities have been addressed and resolved prior to this meeting; and therefore a public hearing is to be fixed for November 7, 2012. The Clerk of Committees was asked to advertise for that public hearing and place it on the Committee's agenda. A representative from National Grid was in attendance as requested by the Committee.

12. Essex County Velo Gloucester Grand Prix Cyclo Cross Race held on September 29-30, 2012 at Stage Fort Park

Councilor Verga explained it was brought to his attention recently that the damage from the Cyclo-Cross event hasn't been really corrected, and was also noted in the newspaper. He did a site visit with Councilor Whynott; and it does appear that, if the fixes have been done, they aren't "up to snuff." He asked for a review of what the permit allowed for the last time. They should hear from the Conservation Agent, Lisa Press because of some brush that was potentially cut there; a representative from the Essex County Velo Cyclo-Cross organization, and from Mark Cole, Assistant DPW Director. Before the next permit for next year's event comes before them they should have some of these issues addressed. **Councilor Tobey** stated the goal is not to put a "kibosh" on a future event; but to make they make things better for next year's event. **Councilor Hardy** asked a copy of the Certificate of Insurance to be included in their information packet for the next meeting. **Councilor Whynott** commented that the damage to Stage Fort Park appeared to be worse this year. The area at the Lucy Brown Path before the first stairway was cut open, made wide enough for two bicycles. Each year it has gotten wider. He expressed his belief it has never been repaired, noting the area is totally eroded. He said this will take more than a little fix. The event gets bigger each year, and they are covering more of the park. This needs a major overhaul, and questioned who would pay for it. He agreed that the Committee should look into it. **Councilor Tobey** was troubled by reports that it has impaired the site Walter Hancock's piece also.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to request an analysis of the Essex County Velo Cyclo-Cross Race event which took place on September 29 and 30, 2012 at Stage Fort Park from Mark Cole, DPW Assistant Director; Lisa Press, Conservation Agent and the Essex County Velo Cyclo-Cross organization representative (permit holder) on or before September 27, 2012 as to the condition of Stage Fort Park with suggestions for improvements for such events to continue to take place in that City-owned location and to report in person at the November 7, 2012 meeting.

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:08 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- "ARHOD," 107 & 125 Atlantic Road Hotel Overlay District, final version of proposed GCO Sec. 5.26 filed prior to meeting in the City Clerk's Office, 10/17/12 by Attorney J. Michael Faherty
- Three Color Photo renderings of the Atlantis Oceanfront Inn and the Bass Rocks Ocean Inn related to ARHOD, proposed GCO Sec. 5.26 filed prior to meeting in the City Clerk's Office, 10/17/12 by Attorney J. Michael Faherty
- Stamped locus plan for ARHOD submitted by applicant at meeting for ARHOD, proposed GCO Sec. 5.26 filed prior to meeting in the City Clerk's Office, 10/17/12 by Attorney J. Michael Faherty