

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, February 20, 2013 – 7 p.m.
Kyrouz Auditorium – City Hall
-Minutes-

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Jackie Hardy

Absent: None.

Also Present: Councilor Melissa Cox; Councilor Paul McGeary; Councilor Theken; Jim Duggan; Rick Noonan; Tom Daniel; Tom Gillette

Councilor Verga opened the meeting at 7:04 p.m. noting the presence of Councilors Cox, McGeary, and Theken, a quorum of the City Council. At 7:05 p.m. **Councilor Tobey** entered the meeting to take up the chairmanship of the P&D Committee.

1. Memorandum from Mayor and revised RFP re: 65 Rogers Street (I4-C2) (Cont'd from 02/06/13)

Jim Duggan, CAO introduced Tom Daniel, the new Community Development Director whom he said had many years of economic development experience, and Tom Gillett, new Executive Director of the EDIC. These gentlemen were instrumental in developing a new draft RFP for Real Estate Development Consulting and Marketing Services for 65 Rogers Street (submitted and placed on file). He said there were concerns expressed by the Committee about the proposed RFP that was before them a month ago. With the economic development team, he said he and they worked to develop an RFP for real estate development, consulting and marketing services. He noted the draft RFP was essentially “boilerplate” with the exception of page 7; and noted implementation would take place in two phases over a total of 90 days. Phase 1 will be completed in 45 days. The consultant would be required to establish the estimated value of the property, not just based upon the assessed value; and Phase 2 will be to develop strategies to increase the probability of receiving economically feasible development proposals, he explained. The City did not receive any such proposals three years ago when the City issued its first RFP for the property’s development. He said the Administration wants to have as many resources as possible available to a developer and the consultant in developing the property for alternative funding sources. He asked the Committee to keep the RFP for the sale/lease of 65 Rogers Street at Committee level for the time being. Once challenges are identified as well as solutions to those challenges, the Administration would like to incorporate those solutions into the RFP for 65 Rogers Street; come back to the Committee, get the approval from the Committee for these new updates to the RFP and then initiate Phase 2 of the consulting services which is a marketing strategy. The firm or individual will have to identify a marketing strategy. In Phase 2 that consulting entity will be asked to implement the marketing strategy for the City Council approved RFP for 65 Rogers Street. The consultant’s services would possibly be needed for about another 45 days or perhaps extended for 60 days, he said. The funding source for the services will come out of the Harbor Planning Director’s budget which is an eligible expenditure for this service.

Councilor Verga said the RFP to be held back is the RFP for either the sale or lease of I4-C2, and that the new RFP does not require approval by the Council which was confirmed by **Mr. Duggan**.

Councilor Hardy asked if there is an estimated cost for the consulting services. **Mr. Duggan** said it would cost about \$25,000 to \$30,000 for both services. He noted proposals will be submitted; consultants will be asked to explain their approach which will be ranked “advantageous, highly advantageous or not advantageous [to the City]. Mr. Daniels and Mr. Gillett will be on the review committee, he said. Once the rankings are scored and turned into the Purchasing Agent, price proposals will be asked for which are submitted at the same time. Then a contract will be secured with the consulting entity that is in the best interest of the City.

Councilor Tobey said this RFP issues on March 1st seeking consulting services; three weeks later proposals are due. He asked how long after that would contracts be awarded. **Mr. Duggan** said in speaking with the Purchasing Agent, contract award would be about the first week of April at the latest. About 45 days thereafter, the second half of May, the second RFP would be put forward for approval by the Council.

This matter is continued to May 22, 2013.

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 02/06/13)

Attorney John Cunningham representing the applicant, Beauport Gloucester LLC noted Sheree DeLorenzo, a principal in Beauport Gloucester LLC and Todd Morey of Beals Associates as project engineer were also present. He said since the submission of the application in August 2012, there has been a thorough and complete review process; with several P&D Committee meetings; the Planning Board Site Plan Review which resulted in that body's report and recommendation; a site visit; a neighborhood meeting; a "thorough" peer review by the City's third-party consultant BETA Group and GZA Vine; the Conservation Commission review and revisions based on comments from many sources. **Mr. Cunningham** said that a Special Council Permit under GZO Sec. 5.25 has a consideration of six factors:

Social, economic or community needs:

Recent City planning documents recognize the need for a downtown hotel in the City. He said it is widely recognized that there is not enough year-round hotel capacity in Gloucester. Businesses presently in Gloucester and those who would like to come to the City need hotel and conference space to operate effectively. The proposed hotel, he said, would be an important economic driver for tourism, existing businesses and the development of new marine technology businesses. A hotel such as this would provide employment and create needed local economic activity. The Planning Board report, he pointed out, gives recommendations for conditions related to economic and community needs in that there should be a preference for Gloucester residents for jobs and job fairs and local jobs and for local employment.

Traffic Flow and Safety – On-site traffic flow & parking; Off-site traffic flow; Traffic on Commercial Street; Construction Methods:

- **Parking flow on site – Mr. Cunningham** noted that revisions have been made in response to comments from the peer reviewer and the Fire Chief in the layout of parking in the hotel garage. The parking plan has been adjusted so there will be 141 parking spaces on site. All dimensions for the size and width of the aisles meet or exceed those in the Gloucester Zoning Ordinance. He pointed out that the number of spaces provided also exceeds the number of spaces called for in the Hotel Overlay District (HOD) standard. He said it can be anticipated that at peak times there would be greater demand for parking than the number of spaces on site. He pointed out that a parking management plan has been submitted showing how at peak times approximately 30 additional vehicles can be accommodated in the garage while leaving travel lanes open, by use of managed valet parking. **Mr. Cunningham** said the parking on site will be supervised by hotel staff.
- **Off Site overflow parking:** Off site overflow parking, he said, is routinely used by hotels in downtown areas. As a part of developing the parking management plan incorporated into the responses, the applicant's team looked at several downtown hotels, including two in Salem of similar size and capacity, he said. Both use off-site parking to handle overflow conditions. He said a condition has been suggested by the Planning Board, and which he said the applicant agrees to, that the Special Council Permit would require submission of documentation to the Building Inspector that establishes legal agreements for the use of not less than 50 spaces off site available for overflow and/or employee parking.
- **Off Site Traffic Flow:** **Mr. Cunningham** stated the applicant's traffic consultants Vanasse, Hagan & Van Brustlin submitted a report which was reviewed by BETA who concurred, he said that proper standard methodologies were used in the study and the finding was that there was not significant increase in traffic arising from the hotel. The hours the hotel is likely to be busiest are offset from the peak times for other traffic in the area, he noted. Traffic flow through the West End intersection was looked at, he said and suggestions were made for potential changes to that intersection. As with the area's infrastructure and how the City will deal with that, **Mr. Cunningham** pointed out that the control of the West End intersection lies with the City and the City will undertake a review of it; and Beauport Gloucester LLC has agreed to be, "cooperative and helpful."
- **Traffic on Commercial Street:** **Mr. Cunningham** explained that the entrance and exit to the hotel are located at the westerly side of the site to minimize traffic further down on Commercial Street. The City is designing the layout of Commercial Street. The applicant's engineers and builder are continuing to work with the City, the DPW Director, the City Engineer and AECOM (City consultant) to assist in facilitating the coordination of plans for the [infrastructure] project.
- **Safety & Safety of Sidewalks:** **Mr. Cunningham** said the applicant is continuing discussions for locating a sidewalk within in side yard of the hotel to allow for additional width for Commercial Street in the area in front of the hotel. He noted the Fire Chief reviewed the hotel's plans, and the applicant's architects and engineers met with him. As a result, there have been revisions to the plans, he said that are included within the Planning Board's report which includes a memo (on file) from the Fire Chief indicating his satisfaction

- with the revisions. The proposed sidewalks and walkways have been reviewed at prior meetings; **Mr. Cunningham** pointed out, and said they make a “significant” contribution to safety in an area. Providing for public access improvements, an 8 foot wide walkway leading from Commercial Street to the beach; a 10 foot walkway leading from Commercial Street to the beach; a 10 foot walkway connecting Fort Square to the walkway coming down from Commercial Street; and sidewalks around the entire building, he said. **Mr. Cunningham** said at the site visit by the P&D Committee, additional lighting in the area around the metal building was suggested; and the applicant’s architects have been asked to incorporate that suggestion into the plans, as well as not allowing spot lights or lights shining down from the building onto the beach.
- **Emergency Generator:** Plans, he said, also call for an emergency generator, an important protection for guests in the hotel. He noted as explained at the site visit, the location of the emergency generator will have acoustical enclosure and additional acoustic in front of the emergency generator which will be tall enough to screen all of the residences nearby, he said, as well as the suggestion of planting evergreen vegetation outside of that wall to comply with all regulatory standards for noise. **Mr. Cunningham** said this is not regularly used machinery, but the emergency generator does require a test once a week; and the applicant would schedule the weekly test when it makes the most sense to those in the neighborhood.

Adequacy of utilities and other public services:

Mr. Cunningham stated that at the time of the original submission, Beauport Gloucester recognized the need for updated sewer and water for their proposed hotel. As the applicant’s discussions with the City moved forward, he said the City indicated it wanted to design and construct those public work improvements as part of a comprehensive plan to upgrade the infrastructure in the whole Commercial Street and Fort Square area. He noted that in order to help to move forward that process more expeditiously and to facilitate a MassWorks grant, Beauport Gloucester agreed to and contributed \$600,000 to help initiate the infrastructure design process. Subsequently, the City was the recipient of a \$3 million grant from MassWorks, he said. **Mr. Cunningham** added that Beauport Gloucester has also agreed to advance an additional \$1.4 million towards these off-site improvements, conditional upon receiving permits necessary to build a hotel. He said engineers are proceeding to complete the design of the infrastructure. The applicant’s engineers and builders, he said, are coordinating with the City.

- **Pavilion Beach:** **Mr. Cunningham** explained that the applicant has submitted to P&D and the City attorney for review an agreement which includes a written commitment for Beauport Gloucester’s voluntary financial contribution with the terms of the timing of payment, as well as a provision of the transfer and deeding of the beach to the City. There have been additional amended drafts submitted in response to some suggestions and comments made by the City attorney whom **Mr. Cunningham** noted were forwarded to the Committee.

Neighborhood Character and Social Structure:

Mr. Cunningham explained that the site for the hotel is in the downtown in an area characterized by mixed uses and noted nearby buildings are used for commercial, marine/industrial, office and residential use. The hotel project, he said, will replace an existing derelict, unused industrial building on a beachfront site. Public use of Pavilion Beach, he said, will be protected and access to the beach will be significantly improved. He pointed out that the familiar form of the [Birdseye] tower will be retained as an architectural feature. He noted the City Council approved the HOD which he said confirms the Council’s determination that a hotel is an appropriate use on this site.

Qualities of the Natural Environment: **Mr. Cunningham** reviewed for the Committee that the site is “virtually” impervious presently – pavement and building. He said the project plans call for landscaped areas in the setback, in the parking area and alongside the walkway to the beach. He noted the enhanced accessibility to the beach as an important benefit. **Mr. Cunningham** pointed out another part of BETA’s review was of the stormwater management for the project. He noted revisions to the plans have been made which satisfied those comments.

- **Seawall:** **Mr. Cunningham** said at ConCom’s next meeting (Tuesday, February 26, 2013) will continue its review of the hotel project plans. He said that as it could be seen at the site walk, the proposed seawall, the 10 foot walkway across the beach in front of the hotel, both of the handicapped accessible ramps leading to the beach and the hotel stairway, will be located behind the line of the existing building. He said that in effect, as the site is today, all construction would be inside the footprint of the current building there.

Councilor Tobey asked in reference to ConCom, when **Mr. Cunningham** believed ConCom’s review of the hotel project will be completed. **Mr. Cunningham** said it is hoped their review will be done on Tuesday, February 26th. **Councilor Tobey** asked what issues remain requiring resolution that may stand between ConCom’s review being completed Tuesday. **Mr. Cunningham** responded that ConCom received their report from GZA Vine, who was working with BETA, and handling the seawall. ConCom has also received their report on the stormwater. He said he believes the BETA peer reviewers and GZA Vine were satisfied with the plans as presented. **Councilor Tobey** noted for that reason the P&D Committee will be meeting Wednesday, February 27th (for a special meeting

at 7 p.m. in Kyrouz Auditorium) to receive the report of ConCom to see whether there are any remaining issues and how they might be resolved.

- Pavilion Beach: **Mr. Cunningham** said that Beauport Gloucester has stated “consistently” through the Special Permit process its support of the public’s use of its portion of Pavilion Beach in front of the proposed hotel’s parcel. The written agreement, he said, which is submitted provides for a deed to be signed by Beauport Gloucester, and delivered to the City to be held in escrow and be recorded when the foundation, seawall, stairways and ramps are completed. After those parts are completed, the building, he said, would go up. The applicant is proposing that is to be the timeframe for the release and recording of the deed. He said the public will continue to be able to use Pavilion Beach as it has since Beauport Gloucester acquired this parcel, and including for Fiesta events, he said.

Councilor Tobey said he understood the deed that has been drafted does not assert outright ownership of the beach but notes Beauport Gloucester has a claim, and the City has a claim. **Mr. Cunningham** said in the agreement the whereas clause asserts that Beauport Gloucester owns the uplands and claims the beach and flats in front; and the second whereas clause recites the City’s claim of ownership. He said the “net” result of this agreement is all the “back and forth” on who owns what as relates to the beach, “comes to an end,” because, he said, there will be a deed from Beauport Gloucester to the City of the beach from the line the Committee saw on the site visit where the existing building is. **Councilor Tobey** said if the permit were approved and the agreement regarding the deed captured within it and something went awry, the City would not be a signatory to a document that contained an assertion that Beauport Gloucester claimed the beach; that the City would have acquiesced it. **Mr. Cunningham** responded that was the point the City attorney was making, and it was the revision that was made. He said the “whereas” reflects that Beauport Gloucester own the upland and that they have a claim just as the City does to the beach, an assertion or an acquiescence by the City that Beauport Gloucester owns the beach.

Councilor Tobey brought up a matter from the last P&D Committee meeting on the beach was the question of whether, when and how in the future there may be construction activities, erections of structures, on some piece of the beach in conjunction with the process and asked Mr. Cunningham as to how the most recent draft of the deed accounts for that. **Mr. Cunningham** said there is a reservation of an easement for “some kind” of coastal protection, which he said Beauport Gloucester does not anticipate. There may be appeals and changes to the plans that develop, he said, but all of the construction, all of the walkways, the ramps, are all landward of the line of the existing building. The construction would be all inside the building not on the beach. **Councilor Tobey** noted it was a “take away” from the site visit conducted the previous week that there will be more beach when this is done which **Attorney Cunningham** agreed.

Councilor Tobey mentioned the Godfrey report submitted today to the City Clerk’s office for the record which makes claims about beach erosion concerns, stormwater concerns that may impact how folks ought to view this particular site and what might be constructed on it. **Mr. Cunningham** said he had read the report and added that Beauport Gloucester’s engineers and coastal geologist and structural engineers have read it. He noted Todd Morey of Beals Associates was present and could speak to that report briefly. The rest of the Beauport team, he said, are not available this evening. Those engineers and consultants will be discussing that report with ConCom as well, he said. **Councilor Tobey** asked that Beauport’s other experts be available at the next P&D meeting to answer Councilor questions related to the Godfrey report.

Potential Fiscal Impact: **Mr. Cunningham** said that tax revenues from this project will support the City budget and broaden the real estate tax base. He said the hotel will also generate room and meal tax revenue, all new revenue to the City. The hotel, he said, will contribute to the downtown’s revitalization as well as its local economy. He said the hotel will address the need of the City’s existing major employers by providing accommodations for their business guests. **Mr. Cunningham** said the hotel will also assist in the City’s efforts to bring new marine technology businesses to Gloucester Harbor. He said they heard from two parties hoping to develop those kinds of businesses in the City and that this hotel is critical to those efforts. **Mr. Cunningham** noted employment opportunities will be created with preference given to Gloucester residents.

GZO Sec. 6.25.4.1 (h), by reference to Sec. 3.1.6(b) for Building Height:

Mr. Cunningham noted there is a Special Council Permit for height excess of 40 feet to allow the hotel to be three stories with parking underneath or 61 feet from average grade. This, he said, was brought up in HOD hearings as well. He noted that Beauport Gloucester’s architect prepared a series of views of the site with the existing building and hotel building for comparison as a good way to see the hotel in context with the massing and height of the hotel and were previously submitted. Due to the existing low elevation of this site, he said, it is desirable and a regulatory necessity to bring hotel functions above any potential flood or stormwater elevations. **Mr. Cunningham** said that given the need for parking, he noted it is advantageous to utilize that portion of the site under the building for it. As a result, the height of the hotel is higher than if it were on a flat site not in the downtown, he said. The

goal of Beauport Gloucester and its architects, he noted, was to have a building design that reflects the architecture of other buildings in the area and along the harbor with peaked roofs. The architects, he said, were able to reduce the height of the building from what was first anticipated by incorporating part third floor rooms into the roof. He pointed out another advantage of a peaked roof is it allows for the mechanicals to be moved off of the ground level and put inside the building in a location integrated with the rooftop structure.

Mr. Cunningham said the site's grounds were marked for the Committee's site walk to show how building's footprint has been moved back by +/- 10 feet from Commercial Street and from "hard on" the beach to approximately 15 to 20 feet back. The existing footprint of the building, he said is 49,000 square feet. The hotel at garage level is 37,000 square feet and at the first upper level on the deck is 25,000 square feet, he said, approximately half the footprint of the existing structure. By reducing the hotel footprint and moving the building away from the beach from the street, it results in some increase in height.

Mr. Cunningham noted that submitted for the record (on file) was a shadow study done at winter solstice and summer solstice conditions for the proposed hotel. They are compared with the existing building and a building of projected, or imaginary, 40 foot height that could be built on the site without zoning relief, he said. **Mr. Cunningham** said because of the sloping "nature" of the roof and varied roof shapes, shadows are minimized and do not substantially overshadow the neighborhood. There is, he said, little or no effect during most of the year; no shadows are cast on the beach or residences of the Fort; and that even on the darkest days, sun shines on Commercial Street in the morning. The existing building already casts some shadow on Commercial Street which are larger only during brief periods in the winter months.

A 21 ft exception is requested; **Mr. Cunningham** said and that the Zoning Ordinance allows the City Council as part of the special permitting process, to approve that with reference to Sec. 3.1.6(b) which gives the standards for the City Council to consider in granting this relief. The City Council is to find that such an increase in the allowable height is consistent with neighborhood character and will not be substantially detrimental to the neighborhood because of obstruction of view, overshadowing of other properties, impairment of utilities or other adverse impacts. **Mr. Cunningham** enumerated the requirements individually as:

1. The hotel height is consistent with neighborhood character as the height is similar to that of the Tavern and the tallest building in Fort Square. The design has a peaked roof, which he said is in keeping with the character of the community; and can serve to screen many of the building mechanicals which would otherwise be located on the top of the roof, and provides more architectural interest than a flat roof. **Mr. Cunningham** said that the City has many other downtown buildings with similar height in stories but not in actual height from existing grade. He gave the examples of McPherson Park, Sheedy Park, and other Gloucester Housing Authority buildings that are up to six or seven stories in height. He noted also that the City Council approved height exceptions for the proposed hotels on Essex Avenue and at Gloucester Crossing.
2. **Mr. Cunningham** said that to combine the amenities of a full-service hotel in the downtown including 101 rooms and meeting rooms, restaurant and parking under the building, the height is appropriate for that use.
3. Safety and flood protection, he said, were important to the Beauport Gloucester architects to keep the hotel functions above the potential flood elevations results in one component in the increase in height requested, he said.
4. Focusing on the overshadowing studies prepared by the applicant, **Mr. Cunningham** noted that shadows don't fall on residential portions of the neighborhood, and are not substantially detrimental to the neighborhood.
5. Utilities, he said, are not impaired by the proposed height [of the hotel].

Councilor Tobey noted because of wind conditions last Saturday at the site visit, other than a marking on a tower there was no visual indication of the height of the proposed structure. He asked if there was some way to give the Committee some comparable means to show them the four points of the reduced structure what the relative heights would be. **Mr. Cunningham** said he would speak with the architects and engineers. A concern, he said, is the condition of the roof on the building. He said they wouldn't take the members of the P&D Committee on the roof; and the question would be if it were appropriate for others to go on the roof. He said they would look into it. Lowlands Permit, GZO Sec. 5.25.7.2 and 5.5.4 – The lowland requirements provides that the City Council make a finding that the requirements of the Wetlands Protection Act are satisfied and that the construction will not pose a hazard to health or safety, and will be executed so as to conserve shellfish and other wildlife resources in the City, **Mr. Cunningham** said. ConCom has received reports from BETA and GZA Vine looking at those issues and concluded this project would meet those standards.

Major Project GZO Sec. 5.25.2.4 and Sec. 5.7.5: **Mr. Cunningham** said the Planning Board in its report dated February 7th confirmed it had reviewed the project in light of these standards, the first of which is that access should

be from an arterial or collector street, servicing not more than ten single-family homes. Commercial Street, which will provide access, he said, is an arterial street as defined in the zoning ordinance and the Planning Board found compliance. Sec. 5.75(b) - **Mr. Cunningham** said this is in reference to compliance with the state environmental code for on-site waste water treatment; since the project is going to be connected to the municipal sewer, he said it was not applicable. Sec. 5.75(c) deals with adequate provisions for access, drainage, utility, screening, lighting, egress and topographic change in existing trees. **Mr. Cunningham** noted that the hotel will be accessed from Commercial Street which will be “substantially” upgraded by a utility improvement project to be done by the City. Traffic enters and exits the site via new access driveways of appropriate width and “geometry” to provide access for hotel guests and emergency vehicles driving on the western portion of the site to minimize impact to surrounding Commercial Street businesses. He also touched upon the following:

Drainage – The Stormwater Management plan he said has been reviewed and BETA has found the project meets the city and state stormwater standards and resulted in improved stormwater treatment and handling on the site.

Utilities, water, sewer and storm drains - **Mr. Cunningham** said that these systems will be upgraded by the City. The design flows of the proposed hotel have been considered and the utility upgrades will provide the needed capacity, he said. The Planning Board found the screening including the parking areas would incorporate landscaping and landscape screening that exceeds the requirements of the ordinance to reduce impact on surrounding uses.

Lighting - The project will use cut-off type parking lot lighting and low intensity lighting on bollards which all comply with the City ordinances **Mr. Cunningham** said. A lighting plan has been submitted (on file) and will be in the record plan that demonstrates compliance.

Egress – The project will not require backing into any public way either for ingress or egress. There is, **Mr. Cunningham** said, a safe and adequate circulation pattern for patrons, deliveries, emergency access and pedestrian access.

Topographic changes - **Mr. Cunningham** said that the existing site is low-lying with little topographic relief. The proposed project will include grading changes that are “necessary and appropriate” to protect the proposed use against coastal storms and the project plans, he said, would introduce appropriate coastal landscaping to a site virtually bare of vegetation.

Sec. 5.7.5(d) **Mr. Cunningham** said requires that all other provisions of the zoning ordinance and state building code be satisfied, and the Planning Board concluded that had been addressed.

Parking – Sec. 5.25.5.1 provides that the City Council can approve a Special Permit for off-site valet and tandem parking for the proposed hotel; and the Planning Board has recommended, **Mr. Cunningham** said that Beauport Gloucester agrees as part of the Special Council Permit, a condition that prior to issuance of a building permit to construct the hotel the applicant would submit documentation to the Building Inspector that no fewer than fifty off-site parking spaces would be available and that site would be subject to review under the Zoning Ordinance by the City Council or whatever City agencies were appropriate as well. The Planning Board report also refers to a parking management plan as discussed earlier (full text included in Planning Board report). **Mr. Cunningham** said that even though the applicant meets the minimum requirements by providing additional parking off site and service by valet or shuttle bus service and managed parking in the garage during high use time, the management plan also provides a variety of other strategies to address parking during peak times. He said that employees will not be allowed to park on site during busy seasons as is the practice of many hotels during busy seasons and only one car per room will be allowed to park on site. Employees will be encouraged to use car pools. The applicant, he said, has met with Cape Ann Transportation Authority (CATA) and noted that during the summer CATA provides a great shuttle service throughout the City.

Councilor Tobey asked Todd Morey, Senior Professional Engineer with Beals Associates to speak to the Godfrey Report for a preliminary view of it; additionally he said there were a number of concerns discussed at the site visit which he noted there are no minutes of a site visit. He asked Mr. Morey to address some of those concerns, for example, the Fort Square side of the building and the emergency generator.

Mr. Morey said in reference to the Godfrey Report, that Dr. Godfrey is a coastal ecologist, Professor Emeritus in the Botany Department at UMass at Amherst. **Mr. Morey** said that he is a Professional Licensed Civil Engineer not a coastal ecologist. His project team consists of Licensed Professional Marine Engineers, Licensed Professional Technical Engineers and a Coastal Geologist. He noted those team members have their opinions on the Godfrey Report also. **Mr. Morey** said the Committee will be able to hear their opinion a week from now. He said very little of what he does in a professional sense meshes with what Dr. Godfrey discusses in his report. **Mr. Morey** said there are areas of his report the team agrees with and that is specifically limited to the presence of eel grass in Gloucester Harbor. They have noted it, he said, in their plans with ConCom and in their discussions with ConCom. They do

agree the eel grass does exist and agree that it is an important resource. **Mr. Morey** said that is likely the limit of the report the team does agree with, and that they dispute the rest of the report in its entirety. There are several statements in the report which **Mr. Morey** said are “inflammatory in nature written from an alarmist point of view.” He suggested the team’s coastal geologist would be the best person to address the report from their point of view.

Mr. Morey said a concern rose in the site visit while standing in the existing parking lot about the large amounts of fill to be brought into the site to raise the elevation of the parking lot. He noted they talked briefly about it and about relative elevations on the site. He reviewed the plans and did the calculations and confirmed the construction team will bring in fill to the existing parking lot, approximately 300 cubic yards which **Mr. Morey** said was a small amount of fill. He said if that 300 cubic yards was spread over the existing parking lot today, it would raise the parking lot about 4-1/4 inches only (average grade increase to the parking lot). There are areas of the parking lot to be increased as much as 1 foot, 3 inches and other areas of the parking lot cut down by up to one foot. The overall change in elevation, **Mr. Morey** said, is between 4-1/4 inches and 4-1/2 inches only.

Mr. Morey said they spoke of the emergency generator location and protective sound wall location and size. He said it is shown on plans with the general location of the sound barrier from an aerial point of view looking down. The actual height is not indicated because the exact model of generator and exact model of the sound enclosure have yet to be determined, he said. They know the size of the generator, and what manufacturers have them. He mentioned Caterpillar, Koehler, for example. Once they have the exact height of the generator, he said, that is how they determine the height of the sound wall. The exact height of the emergency generator dictates the height of the sound wall by drawing a straight line from the top of the sound enclosure on the generator up to the highest house on Fort Square. That line of sight where it intersects the vertical plane of that wall will dictate how high that wall will be, he said. If, **Mr. Morey** said, it shows the wall needs to be 7 feet tall; it will have to be 7 feet tall, for example. The reason to do that, he said, in working with sound attenuation walls, is to block the line of sight. If the line of sight can be blocked, then the direct line of sound is blocked.

Councilor Tobey asked about the amount of sound that will escape from that wall and frequency of generation from operation. **Mr. Morey** said for about 15 minutes once a week during the test of the emergency generator, from the top of Fort Square, the sound will be similar to a window air-conditioning unit. During the weekly test the generator is not being run at full load. During power outages the emergency generator will run automatically during the duration of the power outage, again, he said, at about the level of a window air-conditioning unit type of noise. The buildings immediately across the street will have the same level of attenuation, he said. Those buildings are down lower out of the line of sight. It is not just the wall providing the sound buffering. **Mr. Morey** said the generator will have an acoustical surround also; and a few feet away from it is the acoustical wall as well.

Councilor Verga said **Mr. Cunningham** said it would not be as bad shadowing on the residential buildings and not as bad on the commercial side. He said one of the concerns raised was the shadowing on Commercial Street could result in roadway icing. He asked that someone address that situation at the P&D’s special meeting next week. **Councilor Verga** also noted the height exception is 21 feet total which is to the peak of the peaked roof. **Mr. Cunningham** confirmed it was to the peak of the peaked roof. **Councilor Verga** said at the site visit it was pointed out that the ridge of the new roof would be about at the height of the three windows on the tower that are blocked off; and so that 20 feet beyond that would be the new tower. **Mr. Cunningham** said that under the HOD the tower can be 20 feet taller than the peak of the roof and is exactly what is proposed. The tower isn’t in the same location as the existing tower. He said on the site visit they pointed out the location of the building where the tower would exist. The tip of the roof of that tower is approximately 20 ft. x 20 ft. as specified in the HOD (that it can’t be more than that dimension). It is fundamentally the shape and form of the existing tower but a different location, he said.

Councilor Hardy confirmed the existing tower is approximately 20 foot x 20 foot with **Mr. Cunningham** and asked what the new tower will be used for. **Mr. Cunningham** said there is a staircase in the tower up from ground level, up to the first through third level. Because of the ADA rules; it is not possible to have access beyond the top floor because it is not handicap accessible. The rules call for an elevator and two staircases which don’t fit. Within the tower it is proposed to use the space for photographs and other memorabilia having to do with the Birdseye plant and Fort.

Councilor Hardy noting in the Planning Board condition #23, asked if **Mr. Cunningham** anticipates that the agreement between Beauport Gloucester LLC and the City of Gloucester, as relates to conveyance of the deed if he thinks the dates would be the same dates or would they be different as she indicated she would want to split that condition into two separate conditions. **Councilor Hardy** then read Condition #23. **Mr. Cunningham** said he believes the agreement calls for the deed to be signed and delivered when Special Council Permit is signed and delivered. He said he anticipated they could give it a date of next Tuesday, for example. The deed is an exhibit to that agreement and **Mr. Cunningham** said it was clearly defined from a record point of view what that deed is

going to say. He said typically in conveyance practice the deed would be dated on the date it is executed and then to be delivered to the City to be held in escrow.

Councilor Hardy discussed with the Committee its need to start working on motions for the Special Council Permits for the groundwork for the criteria and any conditions to be incorporated in the documents. She also asked the applicant to purchase two decibel meters for the City, devices to be given to the Police Department and to the Building Department. The Committee discussed no lighting on the beach, vegetation on the sound wall and to light the alleyway of the Mortillaro building. **Councilor Hardy** then asked if this is stick built or delivered in units.

Charles Mann, Windover Construction said the hotel as designed, some of it is steel structure with concrete piles, some wood frame components, and it will be stick built on site.

Councilor Tobey noted Councilor Hardy volunteered to “own” the motion drafting process. He said General Counsel and the Planning Director will weigh in and assist her. The idea is to fulfill the Committee’s obligation to bring a positive motion to the City Council next week subject to ConCom materials being in hand by then. He noted the presence of the chair of the Planning Board, Rick Noonan, and expressed his thanks on behalf of the Committee as well as to the City’s Planning Director, Gregg Cademartori.

Councilor Tobey also noted that there are decibel limits within the noise ordinance and asked did the applicant anticipate the generator violating the ordinance and will they be able to quantify the decibel levels of the generator. **Mr. Morey** said they will fully comply with the ordinance and will get some information for the Committee.

Councilor Tobey spoke of the changes of elevation of the site with 300 additional cubic yards to it. **Mr. Morey** said the fill is just in the existing parking lot (standing on the beach on the left side of the building).

Councilor Tobey asked how he would characterize for the rest of the neighborhood the flooding potential they will face after that work is done versus the flooding potential they face now. **Mr. Morey** said if ignoring the new storm drain system to be installed with the infrastructure portion, it would be unchanged. What is experienced in that location is a phenomenon called coastal flood. He explained another type of flooding called riverine flooding. Riverine flooding, he said, it is like slicing a section through a valley where the river flows. The flood plain is say 2,000 feet across. If one took a 200 foot wide site and filled it in, in that flood plain, the capacity would be reduced by 10 percent at any given location which would be significant which would raise the water elevations. Coastal flooding, like on Commercial Street on the subject property in and around that neighborhood, if one took a slice of flood plain – it is the Atlantic Ocean. When that water starts to rise, water seeks its own level through the rest of the entire ocean area. The entire Beauport property could have walls built up around it; the flood levels would stay the same. The water seeks its own level to an unlimited body of water. The analogy a colleague gave him, **Mr. Morey** said, was if a sheet of steel sealed off the inner harbor and it was pumped all out to the ocean, the water level would not change by doing that, nor would it affect the flooding of Commercial Street. **Councilor Tobey** said **Mr. Morey** excluded the stormwater management plan from the analysis. **Mr. Morey** said that the upgrades that are proposed, it takes $\frac{3}{4}$ and 1 inch of rain and Commercial Street becomes inundated because the system is poor there now and can’t handle the flows, and that when the new storm drain systems are put in, it will improve. He was confident it will be much improved.

Councilor Hardy asked about decibel levels and which district supersedes in the case of noise level as it relates to ordinance - is the hotel in a hotel district, an industrial district or a residential zone as far as decibel level enforcement. **Mr. Cunningham** said it is not clear because it is a MI district with an overlay of a residential use. The ordinance was not drafted contemplating that, and added that the Building Inspector would best answer that question. **Councilor Hardy** said enforcement of decibel levels will need to be made clear. **Councilor Tobey** pointed out this is a non-conforming neighborhood in a industrial district.

Councilor Tobey noted Attorney J. Michael Faherty filed a letter on some issues discussed this evening which is on the record. He said he assumed this would be about differing shadow studies and expected that information would be shared.

This matter is continued to a special P&D Committee meeting on Wednesday, February 27, 2013 at 7 p.m. in Kyrouz Auditorium.

3. *SCP2012-014: Mansfield Street #3/Washington Street #24, Map 6, Lots 36 & 37 re: GZO Sec. 1.8.1 and Sec. 2.3.1(7) Conversions to new or multi-family or apartment dwelling, four to six dwelling units (Cont’d from 01/16/13)*

Councilor Tobey stated that this matter is continued upon the request of the applicant (letter on file) to P&D’s March 20, 2013 meeting.

This matter is continued to March 20, 2013.

4. SCP2012-016: 30 Blackburn Drive, Bldg. 4, Map 262, Lot 24, GZO Sec. 5.13.7 (PWSF)

Councilor Toby expressed his appreciation for Attorney Grossman's information on legislation passed in 2012 which affect current situations.

Attorney Brian Grossman of Prince Lobel Tye LLP legal counsel for MetroPCS referred the Committee to his letter dated February 19, 2013 (on file). He noted the basis of his letter is about the Tax Relief Act of 2012 (TRA) which is just making its way to some municipalities. This legislation for the most part is not involved in wireless communications but in one particular section, Sec. 6409, addressed specific situations of either existing base stations, facilities on a building or on a water tank and facilities that are on towers, and towers specifically on co-locations that is new to the tower so long as it meets certain criteria it becomes under the TRA it becomes an eligible facilities request.

Councilor Tobey said the Committee will be considering this matter under the City's existing process. They will take this matter he brought forward into consideration and forward it to General Counsel if it needs to have their ordinance adjusted, they will do that. He asked Mr. Grossman to work with the Committee and get the application moved forward. **Mr. Grossman** said there was request for information which is in hand (referring to a map of PWSF facilities in the City requested by Councilor Hardy from the applicant at the previous P&D Committee meeting). He said under the TRA if it is an eligible request, the application "shall not be denied." He said the applicant is prepared to present information (submitted and placed on file) but wanted to call the TRA to the Council's attention and there will be catch up by many municipalities throughout the country. He said one of the requests had to do with the locations of the PWSF in the City. One is a list of the locations. **Mr. Grossman** said the cooperation of the City's Planning Department in gathering their information for the Committee was appreciated.

Councilor Hardy noted in going back through the files, John McNiff is showing as the owner of the location, but also indicates another owner there at that location and said she wondered if Mr. McNiff owns the platform and tower but sold all else around the tower and platform. **Councilor Hardy** noted that abutters were noticed for the P&D meeting of last week which was continued to this meeting by the applicant.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant MetroPCS Massachusetts LLC a Special Council Permit (SCP2012-016) for modification of an existing Wireless Communications Facility pursuant to Sec. 5.13.7 to replace three (3) existing antennas and in their place to install three (3) new antennas and add six (6) lines of co-axial cables to the shaft of a tower at 30 Blackburn Drive, Bldg. 4 (Assessors Map #262, Lot #24) zoning classification BP. All replacement antennas are to be substantially similar to the dimensions of the existing antennas to be replaced on the tower owned by John D. McNiff, with the following condition:

- **That MetroPCS Massachusetts LLC is not to impede use of the communication tower located at 30 Blackburn Drive, Bldg. #4 by Gloucester public safety organizations to maintain and install hardware necessary to their communications systems.**

Councilor Tobey directed the Clerk of Committees to forward Mr. Grossman's letter regarding TRA of 2012 to General Counsel in order for her to prepare and submit to the Council appropriate amendments to the Zoning Ordinance pursuant to the PWSF sections.

5. SCP2013-001: 25-31 & 43 Rocky Neck Avenue, Map 130, Lot 8; Map 130, Lot 7; Map 130, Lot 6; Map 130, Lot 5; Map 130, Lot 3, GZO Sec. 5.5.4 Lowlands

Mr. Faherty, representing Two Five Three One RNA Realty, LLC explained that this is a site of the Bickford Marina. He reviewed with the Committee the three submitted plans, starting with the existing condition plan and then the proposed conditions plans. He pointed to the existing pier from the marina partly over and from Rocky Neck Avenue. Another property involved is Smith Cove LLC. He said this pier was licensed to be in a location noted as License 2203 and by a dotted line on the plans. This does not present a problem for the DEP since it was licensed so long ago, he said. There was a marine railway that used to be on site. There is some erosion occurring onto some marsh grass on the inner side of Smith Cove. The applicant is proposing a wall not of concrete. The proposal is that they will construct a new series of floats of the new end of the pier. They are bringing the ramp

about 30 feet back from the existing pier which will be cantilevered. There are several sections of 20 foot piers as well. There is also a fixed structure on piles. **Mr. Faherty** showed the Committee pictures which he did not submit for the record. The structure will be re-decked, he said, but that structure is sound. The decking needs to be replaced and is not subject to the lowlands permit. The main structure is the spine of the float system. It will be within the harbor commission line. There will be an area dedicated to transient boating, and the rest is room for 16 boats, **Mr. Faherty** said, and there will be a dinghy dock as well. The Designated Port Area ends at the railways and across to where Brown's Yacht Yard is located. Bickford Marina is not in a velocity zone. The existing wall will be repaired, he said. The rails will be used as a form for the concrete which will be a reinforced concrete ramp. It will be terraced and there will be a launching service into the harbor. He pointed out the pre-cast walks to prevent continued erosion from the boatyard into the marsh. The existing fieldstone walls have been repointed, he said. When the wall was redone they made sure the property's wall was lower than their neighbor's wall. That way, the water will come over the marina wall before the neighbor's wall. There is also a new bath house. The applicant has already received ConCom approval with two Orders of Conditions. **Mr. Faherty** said the Committee is being asked to approve the piles, cement and walls.

The Shellfish Warden, he said, did a site visit with the Harbormaster and the Waterways Board, and the Shellfish Warden submitted a report to ConCom. **Councilor Hardy** asked for the Shellfish Warden's report to be submitted to the City Clerk's office before the public hearing.

Councilor Tobey asked if the marina was under regulatory constraints for charging for transient tie ups. **Mr. Faherty** said it was not. He noted this marina will provide direct access to Rocky Neck and will likely be used for boat launching and for walk-ins for kayaks. **Councilor Hardy** said she was encouraged to see a marina looking towards recreational boaters which will be a boost to the City's economy. **Mr. Faherty** added that under the ordinance they will also provide 12 parking spaces from his own facility. There will be adequate parking and storage.

Councilor Verga said the application appeared to be a good plan that will have a positive impact on the City's economy.

Councilor Tobey said he was pleased to see the marina make a come back.

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 grant J. Michael Faherty, Two Five Three One RNA Realty, LLC and Smith Cove LLC a Special Council Permit (SCP2013-001) for property located at 25-31 and 43 Rocky Neck Avenue (Assessor's Map 130, Lot 8; Lot 7; Lot 6; Lot 5; Lot 3) and known as Bickford Marina, zoning classification NB and R-10, pursuant to GZO Sec. 5.5.4 (Lowlands) for:

- 1 (one) 32 ft. x 4 ft. finger float;
- 1 (one) 38 ft. x 6 ft. finger float;
- 4 (four) 24 ft. x 4 ft. finger floats;
- 1 (one) 22 ft. x 8 ft. finger float;
- 1 (one) 100 ft. x 8 ft. finger float;
- 1 (one) new 6 ft. x 6 ft. gangway access;
- 1 (one) relocated 30 ft. gangway;
- 1 (one) 105 ft. x 8 ft. float

All as shown on a Plan entitled "Proposed Float Layout & Details" dated 11/01/12 drawn by Bourne Consulting Engineers; and also for: converting a concrete boat ramp and adding a retaining wall as shown on a Plan entitled "Proposed Conditions" as drawn by Bourne Consulting Engineers dated 11/1/2012.

6. *CC2013-006 (Cox/Tobey) Request for the flower garden at the Spanish-American War Memorial located at the Intersection of Prospect & Pleasant Streets be formally named "The Austin Connors Memorial Flower Garden" In honor of the late Austin Connors*

Councilor Hardy said that this Council Order of naming the garden at the Spanish-American War Memorial, adjacent to Mr. Connor's former place of business was an appropriate way to honor such an esteemed gentleman.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council that the flower garden at the Spanish-

American War Memorial located at the intersection of Prospect and Pleasant Streets be formally named “The Austin Connors Memorial Flower Garden” in honor of the late Austin Connors.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:51 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Draft RFP #13131: Real Estate Development Consulting & Marketing Services for 65 Rogers Street to be issued March 1, 2013 submitted by Jim Duggan, CAO
- Map of PWSF locations in the City of Gloucester submitted by Mike Johnsen, Agent for MetroPCS Massachusetts LLC