

Planning & Development Committee  
**Wednesday, March 19, 2014 – 5:30 p.m.**  
1<sup>st</sup> Fl. Council Committee Room – City Hall  
-Minutes-

**Present:** Chair, Councilor Greg Verga; Vice Chair, Councilor Paul Lundberg; Councilor Steven LeBlanc  
**Absent:** None.

**Also Present:** Councilor Paul McGeary

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

**Agenda Items 1 and 2 are continued to April 2, 2014.**

1. *SCP2014-004: Commercial Street #47-61, Modification of Special Council Permit (SCP2012-010) under GZO Sec. 1.5.13 & Sec. 5.25 Hotel Overlay District (Cont'd from 03/06/14)*
2. *CC2014-007 (Verga) Request amendment to GZO under Sec. 1.11.2(e) to amend "sign ordinance" Sec. 4.3 by adding new definition to Sec. VI for "programmable scrolling sign" and amend Sections 4.3.2, 4.3.3 and 4.3.4 to include "outdoor programmable scrolling signs (Cont'd from 2/19/14)*
3. *Memorandum and pertinent material from Planning Director re: Land Disposition Committee Recommendations on 6 Stanwood Street (Easement Request by Karen Elliot, 6 Stanwood Street (Cont'd from 03/05/13)*

**This matter is continued to April 2, 2014 at the request of General Counsel.**

4. *SCP2014-005: Fort Hill Avenue #48, GZO Sec. 3.1.6(b) Building Height in Excess of 35 feet*

Overview:

**Attorney Salvatore Frontiero**, representing the applicant, James and Kathleen Stavis, Trustee of Fort Hill Avenue Realty Trust, said that the revised request is for a height exception for 38.5 feet. **Mr. Frontiero** said the Stavis' purchased the property in 2012. Orienting the Committee to a displayed plot of land said the southeast elevation faces the ocean; the northwest elevation faces Drumhack Road, the southwest elevation faces Fort Hill Avenue; and the northeast elevation faces the Holdsworth property, a direct abutter of 48 Fort Hill Avenue. He noted there is a brick gate house on the ocean side (southeast side) of the property. There was a small structure closer to the ocean than the gate house, and another larger structure and a portion of a garage on the existing gate house that were destroyed by a storm some years ago. He pointed out an area of wetlands at the center of the approximately six acre property. He informed the Committee that Federal Emergency Management Agency (FEMA) has proposed to change the flood zone which will change the property's elevation from FEMA elevation 16 to elevation 30.

**Mr. Frontiero** reviewed that the applicant went before the Zoning Board of Appeals (ZBA) to build a new structure and to keep the gate house for an accessory sleeping dwelling for guests. The original relief from the ZBA to allow the gate house to remain and to build the house by moving it northeasterly within 10 feet from the lot line which would gain three feet in elevation. The house would then be situated two feet above the FEMA proposed 30 foot flood zone. Because of the desire to raise the structure of the house above the 30 foot flood zone, it requires relief in the form of a height exception at 38.5 feet from the City Council through a Special Council Permit.

Criteria:

**Mr. Frontiero** reviewed that the proposal must be in harmony with the general purpose and intent of the zoning ordinance, and is specific also to height exceptions and said that: The height exception over 35 feet must be consistent with the neighborhood character, will not be substantially detrimental to the neighborhood because of obstruction of views, overshadowing of other properties, impairment of utilities or other adverse impacts.

General Intent, GZO Sec. 1.2.1: The purpose is to promote health, safety, convenience, quality of life, and welfare of the city's inhabitants. It was pointed out there is a need to be safe from flooding, and conservation of resources, and prevention of pollution of the environment. **Mr. Frontiero** said that the requested height exception is in line with the purposes of the zoning ordinance, as the purpose to protect natural resources is being respected by avoiding the wetlands at the center of the lot. He noted that in terms of safety from flooding, it is proposed that the house is to be constructed on pilings two feet above the flood zone that is to be adopted by FEMA.

**Mr. Frontiero** also noted that the height exception is not detrimental to the neighborhood views, overshadowing, and impairment of utilities or other adverse affects. Pointing to the Holdsworth home on the abutting property to the northeast on the newly revised plan (submitted and placed on file), he said that it is further back from the ocean than the proposed home to be built which will not impact the Holdsworth home in any way. Between the Holdsworth property and the Stavis' property he pointed out also that there is a buffer of trees that would block the view of the new house from the Holdsworth property.

Procedural Matters:

**Mr. Frontiero** noted that on March 18 a neighbor appealed the ZBA decision granting a variance for the rear yard setback. It is now proposed by the applicant to comply with the 30 foot rear yard setback. They have moved the driveway to north and northwest portion of the property in order to avoid the wetland to go out to Fort Hill Avenue. He said it is his clients' position that with the amended plan the issue of the ZBA appeal is moot as it was based on the ZBA relief for the rear yard setback which is now cured. He pointed to a single story bump out on the northeast side of the proposed home which will house three to four oil tanks. He asked that the height exception be approved as it is harmony with the zoning ordinance and is not a detriment to the neighborhood. This lot, he said, has as much lower lot coverage than most lots in the neighborhood and is retaining the rural character and avoiding damage by flood but also not encroaching on the wetlands. He noted another challenge to the property is the septic system, **Dan Ottenheimer**, Mill River Consulting, explained that suitable soil for a septic system is found on the northern portion of the property facing Drumhack Road. He said that portion of the lot will be occupied with a leech field, a septic tank and pump line to this area. The house will be connected to city water, he noted.

**Councilor Lundberg** asked about the FEMA flood plain change. **Mr. Frontiero** said that the current flood line is at the southeasterly portion of the property. The flood plain line runs along a wall on the plan at elevation 16. FEMA is proposing to move the flood line to elevation 30 which would move it to the center of the property, which is a significant difference. The original house was just behind that wall, a much larger house, and destroyed by storm wave action.

**Councilor McGeary** said if new flood map says 30 feet, he pointed out to the eye it appeared the house is below elevation 30 and above elevation 16. **Mr. Ottenheimer** reiterated a previous statement that the house is proposed to be built on pilings placing the base floor of the house at elevation 32 thereby raising up the entire structure out of the flood zone which is at elevation 30.

**Attorney Mark Glovsky**, Beverly, said he represented Eric and Hilary Holdsworth (who were present), as Drumhack Playhouse Group, LLC. The Holdsworth property directly abuts the 48 Fort Hill Road property, he pointed out. He said that the Holdsworth's have a good relationship with the Stavis' but there had been miscommunication about the project. He explained that originally the Holdsworth's had acquiesced on the proposed home by the Stavis' but hadn't seen site plans, elevation plans nor site plans, and incorrectly assumed the house would be in a different location on the property. He said his clients filed an appeal of the ZBA variance. He said it was intended to give his clients an opportunity to talk to the Stavis' to better understand the project and determine whether there is any adverse affect or not. He said the plan changed as of today, and the house that originally was to have been built 10 feet from the lot line that abuts the Holdsworth property is now 30 feet from that line. He also pointed out that the house is going to be 38.5 feet high which he suggested would have the potential of having a deleterious affect on a view from the Holdsworth's'. He asked this mater be continued in order to have an opportunity to fully understand the Stavis' project and make a determination if there is significant detrimental affect. He concluded his remarks by saying it was hoped his clients and the applicants could resolve this matter within a month in order to be able to go forward in concert.

**Mr. Frontiero** said that the only ZBA relief other than set back in the rear which is no longer needed is to allow the accessory structure (gate house) be closer to street than the primary structure and to allow the accessory structure to be closer to the street which is an existing structure (An earlier ZBA decision of 7/26/13 was not appealed). He reiterated that the building (gate house) is an accessory building for sleeping quarters for guests. The applicants took a primary building and made it an accessory building, he pointed out. Compared to what was there before, he said, what is planned is less intensive use of the property.

**Councilor Verga** briefly conferred with the attorneys who offered different views from Google Earth of the property. At that juncture **Councilor Verga** then asked that the conflicting parties work towards consensus and would continue the matter to the Committee's next regularly scheduled meeting.

**This matter will be continued to April 2, 2014 and is to be advertised for public hearing.**

**A motion was made, seconded and voted unanimously to adjourn the meeting at 5:50 p.m.**

**Respectfully submitted,**

**Dana C. Jorgensson**  
**Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- Revised plans for 48 Fort Hill Avenue from Attorney Sal Frontiero on behalf of applicant, Fort Hill Avenue Realty Trust, under SCP2014-005