

Planning & Development Committee
November 12, 2014 – 5:30 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

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

Also Present: Councilor Cox; Councilor Whynott; Sal DiStefano; Suzanne Egan; Gregg Cademartori; Henry McCarl

The meeting was called to order at 5:30 p.m. Matters were taken out of order. There was a quorum of the City Council until Councilor Whynott left the meeting at 6:10 p.m.

1. *Memorandum from Administration re: Options for the Fuller property RFP (Cont'd from 10/022/14)*

This matter is continued to December 10, 2014.

2. *SCP2014-011: Main Street #260, Map 13, Lot 8, GZO Sec. 1.10.1(a)(3) and 3.2.2(a) for a decrease in the minimum lot area and open space per dwelling unit*

Councilor Verga noted that after the site visit on October 23 nothing jumped out at the Committee as an issue. Both **Councilors LeBlanc** and **Lundberg** indicated their agreement.

Attorney Robert Coakley, 64 Middle Street, representing Fernwood Holdings, LLC, owners of the property at 260 Main Street, Map 13, Lot 8, and Tom Taliadoros of Fernwood Holdings, LLC reviewed the Special Council Permit application very briefly at the request of **Councilor Cox**, as he had done at the previous Planning & Development Committee meeting of October 22 as follows: The proposed building after razing the former Cape Ann Animal Aid building will consist of a new building with two residential units above a commercial unit at street level. There will be a ground level garage for one car each for the two units above, he noted, and said that the residential units will each have three bedrooms. The building will be just about lot line to lot line. The height is in keeping with the neighborhood as were the building materials, with the building being finished with a brick façade. The necessary dimensional relief had been previously granted by the Zoning Board of Appeals (on file with application) based on the multi-family classification which is a higher upgrade in zoning dimensions than is normally in that particular district. There were two aspects for relief, lot area per unit and open space per unit. While concern had been expressed by a member of the ZBA going “wall to wall” on the lot, it is, he said, actually a purpose of urban planning to not have openings between buildings. The request in the Council permit is for reducing lot area per dwelling unit and open space per unit.

Councilor Verga said that Cape Ann Animal Aid did great work at 260 Main Street for many years, but the building and the site was an eyesore, and this new building will be an improvement to the neighborhood and pointed out that there are residential buildings on Main Street without any off street parking, but this plan does.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant a Special Council Permit (SCP2014-011) for 260 Main Street to Fernwood Holdings, LLC pursuant to Sections 1.10.1(a)(3) and Sec. 3.2.2(a) of the Zoning Ordinance for a decrease in the minimum lot area requirement of 2,500 square feet per dwelling unit by 930 square feet per dwelling unit to a lot area of 1,569 square feet per dwelling unit; and for a decrease in the minimum open space per dwelling unit requirement of 1,250 square feet by 838 square feet per dwelling unit to 412 square feet per dwelling unit of open space, in order to build a three-unit building consisting of a commercial unit on the ground level and two residential units above at 260 Main Street, Gloucester, Massachusetts, Assessors Map 13, Lot 8, zoned Central Business as shown on the Zoning Board of Appeals Plan, by Gateway Consultants, Inc. of Lynnfield, MA, dated 6/24/14 and Floor Plans A-1 and A-2 by Robert I. Mitnik, AIA of Gloucester, MA, dated 05/05/14. The applicant has met the six

criteria of GZO Sec. 1.8.3 and the two criteria under GZO Sec. 3.2.2(a) concerning neighborhood character as shown by the Special Council Permit application.

This matter is advertised for public hearing on Nov. 18.

3. *Memorandum from Engineering Department re: proposed street naming and numbering plan for Mooncusser Lane*

Councilor LeBlanc said he noted in an email communication from the Planning Director that the “street” being named was actually a driveway. **Karen Andrews**, Senior Engineering Assistant made note of the fact that this now vacant lot that now has a proposal for a home to be built on it. The City Engineer when reviewing the plans felt the location would be difficult to find based on the address, and that after the Assistant Police Chief took a drive by the location, he advised naming a “street” would be appropriate so the location can be found easily by emergency services because there is no frontage on Magnolia Avenue.

Councilor Verga stated that under GCO Sec. 21-3 “Street Naming” that all relevant city departments, Assessors’, Fire and Police Departments, Planning and Engineering forwarded the required memos giving their assent to the name change. He noted that the proposed naming is not of a public or private way but to avoid any confusion in the future, and that the drive may not be used to claim frontage and that its maintenance is a private responsibility. This street naming is being named for 911 purposes so that the property can be found by emergency departments as well as the general public.

It was also noted that the Police Department has requested that parties contact their phone carrier and make them aware of the numbering changes and that they also contact the Police Chief after this the Council votes on the street naming so that the Police Department may set up a test 911 call to insure the proper information displays for the system.

MOTION: On a motion by Councilor Lundberg, seconded by Councilor LeBlanc, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council under GCO Sec. 21-3 Street Names rename and renumber 220R Magnolia Avenue to 3 Mooncusser Lane, Assessors Map 207, Lot 37.

This matter will come forward under Committee Report at the Nov. 18 City Council meeting.

4. *Application for License of Flammable and Combustible Liquids, Flammable Gases & Solids Re: 2 Washington Street*

Representing Energy North was Samad Madkour, District Manager, as the operator, Carolyn Carter as manager of Tally’s Truck Center. The name of the business entity is being changed only, **Ms. Carter** noted, and that this is a transfer of the license.

Councilor LeBlanc noted that there have been several complaints about the corner of this property where Commercial Street intersects at 2 Washington Street because of vehicles parked against the building. He said that the Department of Public Works will be painting stripes in the roadway indicating no parking 20 feet to the corner which should prevent this problem from continuing.

MOTION: On a motion by Councilor Lundberg, seconded by Councilor LeBlanc, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant Energy North, 1700 Shawsheen Street, Tewksbury, MA, as operator/manager of Tally’s Truck Center, a License of Flammable and Combustible Liquids, Flammable Gases and Solids for the property at 2 Washington Street for the storage of 32,000 gallons of Combustible Liquids—under M.G.L. Chapter 148, Sec. 13 and regulations thereunder as well as Gloucester Code of Ordinances, Chapter 8, Fire Prevention and Protection, Article I, In General and sections thereunder. Said applicant is responsible under GCO Sec. 8.1 requiring that the applicant shall be responsible for payment of fees for advertising for public hearing and postage for legal notices to all abutters.

This matter is advertised for public hearing for Dec. 16.

5. Memorandum & 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 12/04/13

Councilor Verga noted that this matter was before the Committee a year ago. The Committee asked that the property owners come up with an agreement for a requested easement by Karen Elliot of 541 Washington Street for 6 Stanwood Street.

Suzanne Egan, General Counsel, reported the following: Ms. Elliot at 541 Washington Street and the Cape Ann Amateur Radio Association (CAARA) at 6 Stanwood Street have come up with an agreement where once the property is transferred to CAARA by the city, CAARA will grant a license to Ms. Elliot to use the property, which is in an access agreement. The city has a reversionary interest in the property because it reverts to the city if CAARA no longer operates as a non-profit organization. If that does occur, then the city will also be a party to the license. Access to this property has been on-going for at least 40 years. The P&D Committee wanted to make sure that use was memorialized in the agreement.

Ms. Egan said that this licensing agreement will protect everyone's interest and alleviates any neighborhood conflicts.

Councilor Verga pointed out that like with the Blynman School property which was sold for well below market rate where the city put in a reversionary clause, this, too, is very similar and appropriate to the situation. The language does protect the city's interest.

Attorney Meredith Fine, representing the Cape Ann Amateur Radio Association inquired about the matter of the original easement request by Ms. Elliot. **Ms. Egan** said the Committee can say they consider the easement, and that the license covers that matter.

Ms. Fine added that she appreciated that everyone worked hard on the license agreement and will be good for the neighborhood over time.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that in order to address a request for an easement, that the City Council grant to Karen Elliot of 541 Washington Street a non-exclusive, revocable License to use the Access Area shown in the agreement entitle for vehicular and pedestrian passage to, from and between 541 Washington Street and 6 Stanwood Street pursuant to the terms of the License agreement between Karen Elliot of 541 Washington Street, Gloucester and Cape Ann Radio Association.

This matter will come forward under Committee Report at the Nov. 18 City Council meeting.

6. Discussion of City permitting processes

Present at the invitation of the Committee Chair were: Tom Gillett, Executive Director of the EDIC; Chair of the Planning Board, Rick Noonan was unable to attend – Henry McCarl of the Planning Board attended in his stead; and Attorney Meredith Fine, representing the Cape Ann Chamber of Commerce Government Affairs Committee. City staff participating: Salvatore DiStefano, CAO; Suzanne Egan, General Counsel and Gregg Cademartori, Planning Director.

Councilor Verga explained that this is something that has been hovering for a while, that there are permitting processes that can be improved.

Salvatore DiStefano, CAO, said that there are several sections permitting falls into – Special Permits which the Council is involved in, and all other permits. He pointed out that depending on what permit is referenced, there is a wide range of requirements whether it is something that is building related that is governed by the state building code, Fire, Dept. of Environmental Protection. He said from his past experience in Boston, everyone wants to streamline and improve permitting processes. The challenge is that there are multiple governing bodies for each permit process.

He suggested a starting point for a discussion, noting a program to be held in late December by Barry Bluestone, who has municipalities fill out a survey on economic development and permitting is part of that process, then through that program comparing how the city rates as far as other municipalities. This program is being presented in cooperation with the Chamber of Commerce, he said. He also noted the

Mayor would be pleased to entertain any ordinance that comes forward from the Council regarding ideas for streamlining of permitting processes, and would cooperate with the Council.

Councilor Verga said this is about permitting major projects like the Beauport hotel, or for a homeowner who just wants to add a deck on their house. He said there are always complaints, but some of the complaints come from vague ordinances which can make things hard for those navigating the permitting process.

Gregg Cademartori, Planning Director noted as some amendments have come to the Council in the past, there has been a lot of discussion about the number of Special Permits enforced by the Council; then the Planning Board, ZBA and Council that all administers special permits of different types. The one most difficult is before a nine member board of both elected officials as well as the legislative body. He said he would be pleased to hear what ideas there are.

Councilor Whynott said when he was the City Clerk he was chosen to go to Boston to participate in the streamlining of city processes for the Secretary of State of Massachusetts, which resulted in a booklet to guide people through various permitting processes. This also resulted in a committee of city officials and a person who wanted to learn preliminarily what to do regarding permitting would get guidance. He suggested that the booklet would be a good place to start as would put together such a committee of city officials once again.

Councilor LeBlanc said several cities and towns he does business in as a contractor with a permitting process that consists of all pertinent city/town officials meeting in one room, Fire Chief, Police Chief, Building Inspector, Planning Director, Plumbing Inspector, etc., at a specific time and get everyone on board. **Mr. Cademartori** pointed out that already happens here. He suggested that there are two different discussions here – one is about the different permits that have to be pursued for a particular project versus the process itself. Once something is elevated either going to the Council or the Planning Board that type of coordination happens, where an applicant can come in before they file permits and get feedback on early iterations of a project before making a full submission and during the process as well. In the past it was the technical advisory group; and there were issues with the perception that it was a closed meeting with an applicant to provide feedback. It is now called inter-departmental meetings with Public Works, Public Safety as well as what other requirements there are. If someone has to come for a Special Permit from the Council whether they also have to get relief from the Zoning Board of Appeals (ZBA) for something that's not germane to what the project actually is.

Attorney Meredith Fine said she represented about 35 businesses and that when the City Council was discussing the Tax Classification, she was a member of a delegation from the Cape Ann Chamber of Commerce (the Chamber) where at that time the Council heard some of the concerns of the Chamber and subsequently was invited to offer her opinions this evening regarding permitting. She said that one issue is the underlying (zoning) documents are poorly written, pointing to the wetland ordinance as an example. Distributing a copy of GZO Sec. 2.3.2 "Community Service Uses" (on file) she reviewed the interpretation by an attorney and by the Building Inspector on the matter of subsection 1 "Public, religious, or other non-profit school, building or use. She cited a situation by a client who went to a city office to make an appointment with the boss, and the clerk said appointment had to be made by phone. That client obtained the number, made the call on his cell phone standing there and made an appointment she said.

She also cited the issue of needing to obtain an abutters list to submit with a zoning application where an applicant or their lawyer has to first obtain the list from the Building Inspector in the City Hall Annex on Pond Road, carry it to the Assessor's Office at City Hall to obtain the certified abutters list and then bring it back to the Building Inspector's office as part of the application. The application then has to go back to City Hall to the City Clerk's office to time stamp it in and bring it back to the City Hall Annex. She said it is time consuming and expensive and suggested that there should be someone from the City Clerk's office at the Annex to time stamp the documents there. She pointed out sometimes the ZBA meets only once a month, and noted what she termed the lengths that have to be taken to get on a ZBA agenda, how long it takes before the application submitted in November isn't finished with the ZBA process until February or March.

For a building permit the City Engineer has 30 days to make his decision once an application has been submitted, she said and that at every step of the process the client is paying another fee, not all at once but every time they have to do something. In the short term, she suggested someone from the City Clerk's office at the City Hall Annex. She noted that if a half hour was added to the Building Inspector's office hours it would help greatly. She said she wished there were just one application for a zoning application. In the long term she suggested separating out the small stuff so that not everything has to have the full 360

degree municipal experience pointing out that a porch doesn't need to be treated like a 50 unit subdivision. She said the City of Peabody had a concierge, someone who takes a person or business through the permitting process and sticks with them through the entire process and suggested such a program could work here as well.

Councilor Cox suggested to Ms. Fine that if someone from the City Clerk's office should be at the City Hall Annex in association with the Building Inspector's office, that there would also need to be a representative of the Assessor's office. **Ms. Fine** said even if it was while the Building Inspector's office had office hours it would be helpful from 8:30 to 9:30 a.m. and from 1:00 to 2:00 p.m. **Councilor Cox** pointed out that there was another part-time Building Inspector added to the Building Inspector's office and that adding a half hour to those office hours might be possible.

Tom Gillett, Executive Director, Economic Development Industrial Corporation, added that in speaking with developers over the last two years and their perceptions of the city's permitting processes are not positive who have told him why should they come here when other communities make it easier for them to get a project through the permitting process. Having spent two years working in the Annex, he said that based on his observations, it is not a personnel problem as these are very talented municipal employees, but that it is the process around them that needs attention.

Councilor Whynott expressed his support of the concierge concept. Within the process, he has had two complaints, one about the Planning Board, that when someone is on the agenda to send out to the members asking whether they need a site visit, and arrange it prior to the initial meeting when an application is heard so it moves things along faster. As to the Building Inspector, it takes two weeks at a minimum or more to get a building permit which is unfair when it is an immediate problem like a repairing a damaged roof.

Henry McCall, Planning Board said as far as site visits are concerned, they are very rare. **Mr. Cademartori** said the Planning Board process now has a great deal of visual aids and that the board meets twice a month and suggested that the issue may be with the fact that the ZBA meets less frequently than the Planning Board. **Mr. McCall** added that a site visit every couple of months is a lot.

Attorney Bob Coakley said as to the Site Visit, the ZBA is similar to the Planning Board except for an unusual matter when all members feel they should see the same thing at the same time. He said it is also based on the special permit criteria to approve the special permit and those are statutory by state law. It is the exception, not the rule for the ZBA to do a site visit, he said.

Councilor Cox suggested that the abutters list from the Building Inspector might be able to be sent by inter-office to the Assessor's Office, and send it back the same and be done internally or via electronically. She also asked about a database accessible to the Annex that is the same information as the Assessors. **Mr. Cademartori** said one of the efforts being considered is permitting software. They are challenged with populating the calendar of the timeframe of the steps in the process, he said. Sometimes it takes a meeting to map things out, he suggested. As to the abutter list which is part of everything that is filed under MGL Chapter 40A, there is some discussion whether or not there can be a digital signature on that aspect to save one trip. The City Clerk's office is the Clerk's office, he pointed out, which is the place of record retention and that office takes in the Special Council Permit applications, permits for the Zoning Board of Appeals and anything that requires a timestamp, but that is likely a longer term issue and moving people around in office or having someone else do another person's job. **Councilor Verga** concurred that the issue of someone else doing another's job could be an issue even if it is electronically to get the abutters list it is someone not in the Assessor's office doing the job. There may be a way to handle things without the applicant having to go back and forth and it is a work in progress, **Mr. Cademartori** said, but it is still much better than it was in the past.

Councilor Verga said that there is room for improvement and that everyone seems to be on the same page whether it is about making the permitting process more customer-friendly or economically developmentally appealing. **Ms. Fine** said the underlying documents still need review and leave too much discretion and are inadequate to the task.

Ms. Egan added that a lot of what is contained in the city's zoning ordinance or wetland ordinance and city subdivision rules and regulations are right out of the statute. She said that in most instances that those state statutes have been adopted locally. A lot of the complaints with timing and Assessor's maps (MGL Chapter 40A) and abutter's lists are requirements of the statute. When a municipality starts coming up with their own processes and procedures it leaves room to allow for permits to be appealed because the proper procedure isn't followed through. She said that hurts not only the city who as the permit granting authority that the permitting is defensible, but it also in the long run hurts the applicant who is interested in the

permits being issued more quickly. She cautioned when a city tries to make shortcuts and then the permits issued are not defensible because, for example an abutter is angry says the city created its own process and it didn't follow the law that's required, then they end up in litigation then two to six years later in the courts attempting to perfect whatever permit was issued. She said it was very important to take a look at the documents and in most cases, it is by state law. There may be room, but the zoning act is known to be a very difficult statute to understand not just here or for local attorneys or the Building Inspector, but all the cases that Mass. Supreme Judicial Court issues decisions saying specifically that the zoning act is a really difficult issue as is the process. She expressed she understood the frustration, but said there are a lot of requirements from the state.

Councilor Verga said if they hear from people who do business in the city, and say it is more difficult here than elsewhere, perhaps there may be better ways to conduct business.

Mr. Cademartori added that anything filed under Chapter 40A contemplates five months without anything – 65 days to open a hearing and then 90 days from the close of the hearing for a decision assuming everything happened in one night. He said time wise if they went back retrospectively how the city issues permits; the city does better than that. He pointed out that the city has to legally notice in the paper twice, and there is a lot of frustration on both sides especially if by chance a newspaper deadline is missed then they're stuck, and it can add two weeks. There is a lot they can't do much about, but it comes down to uses; who administers and to some extent some of the front-end work that they do their best to help people through the process. However, he pointed out that applications are different and as set up in Gloucester with three different permitting authorities, it can be confusing.

Mr. Gillett said it is not about quicker but being more accurately about what a developer has to go through first so there are no surprises during the process.

Councilor Lundberg asked what are the areas developers are finding difficult to navigate through the permitting processes and where are they finding it not difficult; and how is it different from other communities. He said that kind of information would be helpful. **Councilor Verga** agreed with Councilor Lundberg and asked Ms. Fine to do likewise and both to submit that information to the Committee prior to their February 4 meeting.

This matter is continued to February 4, 2015.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:58 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS RECEIVED AT MEETING: