

**Planning & Development Committee**  
Wednesday, January 18, 2017 – 5:30 p.m.  
**1<sup>st</sup> Fl. Council Committee Room – City Hall**  
-Minutes-

**Present:** Chair, Councilor Paul Lundberg; Vice Chair, Councilor Cox; Councilor Valerie Gilman

**Absent:** None.

**Also Present:** Councilor O’Hara; Jim Destino; John Dunn; Chip Payson; Gregg Cademartori; Nancy Papows; Rick Noonan;

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

**1. Special Event Application: Request to hold Lone Gull 10K Road Race 9/14/17**

**Attorney Leonard F. Femino**, Race Director of the Lone Gull 10K Race, now in its eleventh year benefitting the Children’s Center for Communications advised that for the fifth year in a row this race will be the New England Championship Road Race which is voted by U.S. Track & Field (USTAF) and their runners. He noted that the Lone Gull 10K Road Race in 2015 was voted Race of the Year by USTAF runners, and this past year the city made the cover of the magazine, New England Runner (circulation 100,000) with an article. The article lauded the beauty of the city and Good Harbor Beach. He said the race organizers hire as many police and EMS from the city as they are advised to do. The race closes down Nautilus Road at 8:40 a.m., with signage out in advance as well as notifying the neighbors in advance of race day.

**Councilor Lundberg** noted the race is essentially unchanged in terms of size, route and what organizers are providing from the previous year. He said it was a very well run race.

**Councilor Cox** advised she attended the Special Events Advisory Committee when Mr. Femino presented to that committee and had no questions.

**Mr. Femino** in response to an inquiry from **Councilor Gilman** said that the race attracts on average 1,000 quality runners as the race length doesn’t attract joggers. He said that there are 56 volunteers on the course and 30 at the start/finish line. The organizers, he advised, spend their funds in the city for race necessities, such as food, shirts, etc. **Councilor Gilman** added her thanks for all Mr. Femino does for the Gloucester.

**MOTION: On a motion by Councilor Gilman, seconded by Councilor Cox, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Lone Gull 10K Road Race sponsored by the Children’s Center for Communication to be held Sunday, September 24, 2017 with a rain date of Sunday, October 1, 2017 with the following conditions:**

1. A Certificate of Insurance naming the City of Gloucester as an additional insured party has been filed with the City Clerk’s office.
2. Road Closure Plan:  
Approvals of the Special Events Advisory Committee giving approval of the plans for the Lone Gull 10K Road Race have been given. Roads to be closed on the Back Shore are to be marked with signage directing the public as to the duration of the closure and alternate routes. Traffic and parking plan and police detail information by the Police Chief or his designee is to be filed with the City Clerk and the DPW Director or his designee on or before September 15, 2017.
3. Refuse and Comfort Stations:  
All event refuse and recycling must be removed by the organizer. Any portable toilets (with two handicapped accessible) are to be provided and maintained by the organizer, placed the evening before the day of the event or early in the morning of the day of the event and be removed by 1:00 p.m., Sunday, September 24, 2017 (or October 1, 2017 if rain date is activated).
4. Emergency Services:  
Any EMS requirements of the City EMS Director must be met.
5. Staffing:  
Event staff is to have cell phones and be identified by the public with distinct shirts. A list of event staff and their cell phone numbers is to be submitted to the Police, Fire, or DPW Departments.
6. Notification of Immediate Abutters and Businesses to Race Route:

Notice shall be made by the event organizer by hand or by mail no later than 7 (seven) days in advance of the event to any function halls, motels and hotels, and other businesses along the race route.

**7. Responsibility of the Children's Center for Communication:**

The applicant is also required to obtain any necessary approvals from the Health Department and the Licensing Commission. It is the sole responsibility of the Children's Center for Communication to ensure that all required documentation is timely filed with the appropriate City departments as indicated. Failure to comply with any conditions precedent may result in permit revocation. Any changes to the route must receive prior approval from the Police and Fire Departments.

**2. Request for renewal of outdoor parking permit from Antonio, Maria and Angela Procaccini pursuant to MGL c. 148, §56 & GCO Sec. 22-153 re: 2 Long Beach Road**

**Kevin Kiley**, Kiley & Ferrante, attorney for Angela Procaccini, permit holder was also representing also Antonio and Maria Procaccini, explained that this is the 45<sup>th</sup> year the outdoor parking lot license will be renewed. He pointed out the applicant has consulted with the Building Inspector and Fire Chief (memo and email respectively on file).

**Councilor Lundberg** noted communications were received from the proprietor of the Cape Ann Inn reporting on the partnership to keep the beach clean with the Procaccini's (on file). He noted the requested amendments to the conditions requested by Ms. Procaccini as to the number of parking spaces and carry in/carry out for trash.

**Councilor Gilman** said it was great the neighbors are supportive. She asked about the restroom and how it would work and how the neighbors perceive this addition, as in the middle of the parking lot it may attract people to congregate. **Mr. Kiley** said it was designed by a professional engineer to meld as much as possible at that location and no one has come forward to object. **Councilor Gilman** asked if there was a key with the attendant.

**Angela Procaccini** noted that she takes her responsibilities seriously as the lot owner, and is sensitive to the fact the property is in a mixed commercial/residential area where she said she has lived for the last 25 years, and very aware of her property's abutters. She cited that she has no employees and runs the lot herself. The parking lot doesn't run without an attendant at any time, she said, and that she discourages lingering of patrons, that patrons are encouraged to keep noise down, and to move along. As far as the restroom building goes, she conveyed that much thought went into it, and showed the Committee a detailed design plan for its renovation. She noted that a reputable manufacturer in New Hampshire will construct small building. It is meant to simulate a typical residential shed, she added. The design is the "American Classic," which she said was chosen because it simulates the design of abutters' homes. **Mr. Kiley** pointed out that the new structure will be more attractive than had previously been at the site. In reviewing the restroom design with the Committee, she pointed out that the restrooms will be ADA (American with Disabilities Act) compliant and features an entry ramp as well. She reassured the Councilors that she is always in attendance at the parking lot. There will be no showers with the restroom for the sake of the abutters, she said. She added the restroom will consist of two ADA stalls with transgender signage. The hours are 9:00 a.m. to 5:00 p.m. and that the restrooms will only be available during those hours to patrons of the parking lot.

**Councilor Lundberg** noted the requested conditions changes (on file) is #3 dropping the number of spaces from 23 to 21, and #12f, the trash policy of carry in/carry out, which is the same for city beaches which eliminates a nuisance and hazard on the property of overflowing trash bins, which he said it is a good policy.

**COMMITTEE RECOMMENDATION:** On motion by Councilor Gilman, seconded by Councilor Cox, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend that the City Council renews the License for Antonio, Maria and Angela Procaccini pursuant to MGL c. 148, §56 & GCO Sec. 22-153 for an open air parking lot at 2 Long Beach Road, Gloucester, MA with the conditions and restrictions listed as follows:

1. That this License shall be valid from April 30, 2017 to May 1, 2022 upon payment of appropriate fees to the City Clerk;
2. That prior to the issuance of the license by the City Clerk, the applicant shall pay over to Cape Ann Motor Inn the sum of \$100.00 for the maintenance of the Gloucester portion of Long Beach;
3. That the number of cars allowed to park on the lot at any one time is limited to 21.
4. That one space of the 21 spaces allowed is to be designated handicapped parking;
5. That the individual parking spaces shall be delineated and be in accordance with the lot plan approved by the Building Inspector dated June 22, 2016 and on file in the City Clerk's office;

6. That the grass in the parking lot be kept short;
7. That an attendant shall be on duty at all times during hours of operation;
8. That the Fire Chief and Building Inspector approve of the parking plan (see Building Inspector memo dated December 29, 2016 and email from Fire Chief dated January 4, 2017);
9. That the applicant obtains and keeps current a favorable restroom inspection from the Board of Health;
10. That the parking lot maintains a carry-in/carry-out trash policy and assures such a policy is adhered to by its paying patrons;
11. That four shrubs that were placed on the property abutting Cliff Road are maintained;
12. Signage: the following shall be posted on a sign to be erected by the applicant, The size and location of said sign to be agreed with the Building Inspector:
  - a. Fee for parking
  - b. Number of cars allowed by the permit
  - c. Location of restrooms and hours they are open
  - d. Hours of operation
  - e. Beach regulations
  - f. Parking lot trash policy of carry in/carry out;
13. That the Permit Fee is to be paid yearly to the City Clerk on April 30. The application is to be reviewed by the City Council in five years unless it deems there is a cause to review the Permit sooner due to any violations of conditions herein.
14. The City of Gloucester's shall not be held liable for any claims incurred by the parking lot operation;
15. That the applicant obtain a certificate of insurance in the aggregate amount of \$1 million naming the City of Gloucester as the Certificate Holder and that the coverage run for the duration of the yearly permit.

This matter will be advertised for public hearing.

3. *SCP2017-001: Lindberg Drive #8, Map 123, Lot 84, R-80 (Rural Residential), GZO Sec. 1.8.3 & Sec. 2.3.6(4) for Arts, crafts and sale of art or crafts if made on premises*

**Councilor Lundberg** advised that this matter will not be heard as the applicant didn't notice the abutters on the submitted Certified Abutters List with the Special Council Permit application of the P&D Committee's public meeting, and so the Committee was unable to hear the matter. The applicant was advised to notice the abutters of the P&D Committee's next public meeting on Wednesday, Feb. 8 and that when notice to abutters had taken place and confirmed that the Committee would then hear the application, he added.

This matter is continued to February 8, 2017.

4. *Memorandum from Planning Board re: GZO Sec. 5.27 Medical Marijuana Treatment Centers (MMTC) & Medical Marijuana Cultivation Facilities (MMCF) proposed amendment to Sec., 5.27.5 "Separation" (Also referred to Planning Board) (Cont'd from 01/04/17)*

**Councilor Lundberg** said that since the Planning Board has taken this matter up and made their recommendation (on file) on the matter regarding GZO Sec. 5.27.5 "Separation" which includes a provision that each Medical Marijuana Treatment Center and/or Cultivation Facility should be physically separated by 1,500 feet from each other, schools, residences, churches, etc. He advised that this issue arose due to a question of relevance to separation.

**Rick Noonan**, Planning Board Chair, Wheeler Street, said this amendment was the result of a long Planning Board process and explained the background of the origin of the 1,500 feet separation under GZO Sec. 5.27.5 as follows: Three years ago when the Board took up the matter of complying with the Mass. state law for Medical Marijuana (MM), the Board looked at what other communities were doing at the inception of this Zoning Ordinance -- some communities zoned for a 50 foot separation, some 75 ft., 1,000 ft. or 1 mile. As a consideration as the Board focused in on siting such facilities at the Blackburn Industrial Park, that while it may be arbitrary, it was decided to put it [1,500 feet] and leave it at that. Due to a procedural misstep as the Medical Marijuana Zoning Ordinance was adopted the Board had a second chance to look at GZO Sec. 5.27 again. But during the application process of two MM facilities the Board got further into the discussion of the 1,500 feet separation of facilities. He said that in judging the applicants on their own merits, it was difficult to not recognize that the issue of separation would be a problem as two applicants would "run afoul" of the Zoning Ordinance. The Board initially looked to the downtown

setting, and determined it could be inappropriate that there by a facility of one every two doors or to see a street taken over by such facilities, but as things became focused on the Blackburn Industrial Park and two applicants the Board became concerned about the fact that whichever applicant got through the permitting process first “wins” when two facilities are sited one across the street from another. As to the merits of regulating one specific business use -- MM facilities, no other business is regulated in that way in the city -- a liquor store, grocery store, or restaurant can be sited side by side. Therefore, it was the will of the Board to lift this separation restriction if two such facilities can coexist and conduct business then it is not for the Board to say that they shouldn't, and encapsulated the spirit of the Board's recommendation to the P&D Committee to remove the 1,500 feet separation restriction as it was more restrictive and doesn't apply to any other business in the city.

**Councilor Lundberg** noted that GZO 5.27.5 “Separation” says, “No Medical Marijuana Treatment Center or Medical Marijuana Cultivation Facility shall be located within fifteen hundred (1,500) linear feet of; 1. Any school or child care establishment; or 2. Any area where large numbers of minors regularly congregate; or 3. Any other Medical Marijuana Treatment Center or Medical Marijuana Cultivation Facility; or 4. Any church or other structure....” He said the sense he got from the Planning Board's memo (on file) was that while 1,500 feet from a school, church, etc., had some relevance, that 1,500 feet from one MM facility to another had no real relevance in terms of the public good; to which **Mr. Noonan** offered, “Correct.”

**Councilor Cox** expressed appreciation for the work by the Board on this matter but said that when the Zoning Ordinance was voted she liked that the separation was there. She indicated her understanding of the examples given by Mr. Noonan, but that Medical Marijuana is a regulated drug; and although the city doesn't interfere with other businesses, and while there are pharmacies, she didn't know that she would be in favor of striking the separation clause as it stands currently. She said she prefers a slower process, and that separation was a good idea three years ago, and now that there has been the experience of two applications for MM facilities, the Board wants to dispense with the separation. She said she prefers it handled as the Zoning Ordinance exists now. She expressed concern that marijuana is still illegal on a federal level, and that if states and local municipalities didn't push the federal government as to how MM what they are regulating and how this could is a useful drug to millions the perhaps that what the federal government needs. While it may be right; but as it is federally illegal, the federal government holds sway -- other than the fact there were two applicants. **Mr. Noonan** pointed out that in a vacuum you create the best product you can. The city pushed the MM Zoning Ordinance off for a year, reached out to other communities to see what they were enacting, and put an ordinance in place the city thought was good and served it well. As applicants come along, processes develop, mature and evolve; and the reality is that if there was a proposed Brownfields site was proposed to be developed by Happy Valley Ventures (HVV) and was permitted, which it was, if an applicant came forward and said they wanted to buy a piece of property next to Anchor Seal which is about 1,700 feet away from the HVV property, then it would be permissible and give the industrial park two facilities. If the Gloucester Schools Administration and Pre-K vacated the former Medical Center property, it, too, could become another MM permitted facility and make it three such facilities in the industrial park. He pointed out that the 1,500 foot regulation doesn't limit the number of units in the industrial park. If there is need or demand for more than two such facilities, as a community, they are looking for the investment and the jobs created and that it is to comply with the law. Getting rid of the separation was part of the evolution. Had there only been one application, he said the Board may have not gotten to the point of this evolutionary step -- but with such two applications, and on the merits of each application each investing money and creating jobs. He indicated at the early stages of the review, the two applicants met the conditions. GZO Sec. 5.27.5 (3.) separation, it became a discussion of what does it really mean, recounting that the Board thought it was more restrictive at 1,500 feet. He highlighted another point that MM facilities can only be sited in the Blackburn Industrial Park which is very limiting and from the Boards perspective this is how they reached their conclusion. **Councilor Cox** conveyed she would have been more comfortable had this been taken up when the Kondelin Road rezoning matter to allow MM facilities came forward rather than two applicants. **Councilor Lundberg** said the Councilor's points are well taken, and that because there is sufficient interest there will be an opportunity to vet this matter at a Council public hearing that there will be a public hearing. He said the Committee understands the rationale behind this zoning amendment recommendation.

**Councilor Gilman** recounted her review of the Planning Board minutes in order to understand what has changed from three years ago. She said that she understood the need for the consistency with other businesses, that such a restriction isn't done for other businesses so then why should this be unique noting that it is more competitive for two facilities; and that competition is great for industry. However, she said she is raising a concern about supply and demand, that it has been suggested that there are about 30 visits with one facility per day, and so should there be two such facilities, that would mean 15 visits per day each facility across the street from each other, for example, highlighting that there are two MM facilities in Ipswich and one in Salem. She pointed out that Gloucester is the end of the line geographically, and questioned the economic viability and was the city creating a risk to itself to

allow for two such facilities without a zoned separation and then one fails due to lack of business. She suggested that perhaps this is not the purview of the Council on some level. She posited that by not knowing where the city will land with the zoning for recreational marijuana, that if they allow something in one location they have to allow recreational marijuana in the same zone and that the Blackburn Industrial Park isn't zoned for retail uses. She expressed her appreciation and respect for the Board's deliberations but said she was still working through what the Council's role is.

**Councilor Lundberg** said the Council has no role as to supply and demand, in determining it or in controlling it. He pointed out that the Council's role is to have an ordinance and ensure that what comes before the Council complies with the ordinance. Before the Committee is to change the Zoning Ordinance, and that Councilor Gilman has raised a group of issues that she thinks could be impacted by a change in the Zoning Ordinance which is something for the Council to debate, he said. He reiterated the Council's role isn't to judge supply and demand, which entity is competitively better, or what jobs might come and go -- that is not the purview of the Council. He added that the Council creates ordinances and makes sure that applicants comply with them whether they are Special Permits or complying with other Zoning Ordinance matters. He said he recognized that there was a great deal of conversation when the Council considered the two MM facility applications of HVV and Mayflower Medicinals and lot of talk about competition, and pointed out again that it wasn't the Council's concern which he said was his opinion. He said they either recommend adoption or not but it has to be referred to the Council for public hearing.

**Councilor Cox** expressed her opposing view saying that this was "a knee jerk" reaction to multiple MM facility applications and that this wasn't a standard at all -- that a standard would mean a review transpires after several years of the Zoning Ordinance in place and then making adjustments. She said this is only before the Council because there had been multiple applications. **Councilor Lundberg** suggested that could be a reason to not vote to recommend.

**Councilor O'Hara** confirmed with Mr. Noonan the vote was 6 in favor, 0 opposed with one absent to recommend the zoning amendment to change GZO Sec. 5.27.5 (3.).

**Councilor Gilman** said agreed with concerns raised by Councilor Cox, and that while wanting to make the right decision she had yet to resolve certain issues on the amendment in her mind.

**Councilor Lundberg** confirmed that with Mr. Noonan and Shawn Henry, a Planning Board member that he was representing himself but was also speaking as a member of the Board who put this Zoning amendment to the forefront of the Board's consideration and as such, **Councilor Lundberg** allowed Mr. Henry to make a brief statement.

**Shawn Henry**, Planning Board member, said this issue came up when the Board were initially re-reviewing the ordinance because it hadn't been approved in whole by the Council. There was an attempt of regulation in terms of relicensing these facilities on an annual basis which doesn't occur on a use permit and isn't required of any other facility and inserted as an attempt by the city to regulate something on which it doesn't have regulatory powers only licensing powers which was a major change, as well as a prejudicial preamble to the Zoning Ordinance. He found state guidance on these separation restrictions, distance from schools, churches, etc., that the state calls for a minimum of 500 feet and nowhere is there a specification for separation distance in those regulations. In the permitting process the other fault within the ordinance is that it doesn't treat the facilities' as the medical facilities which he said they are. He pointed out that there are no restrictions on doctor's offices, on pharmacies in the Zoning Ordinance. It is not about picking winners and losers, he said. As a medical consumer, he said that creating a monopoly in pharmaceuticals is not an appropriate action, and that the city doesn't want to create a situation that citizens can't get what they need because they artificially limited facilities in thereby restricting citizen access.

**Councilor Gilman** expressed her continuing concern about the Zoning Amendment.

**COMMITTEE RECOMMENDATION: On motion by Councilor Cox, seconded by Councilor Gilman, the Planning & Development Committee voted 1 (Lundberg) in favor, 1 (Cox) opposed, 1 (Gilman) present, to recommend that the City Council Amend GZO Sec. 5.27 Medical Marijuana Treatment Centers (MMTC) and Medical Marijuana Cultivation Facilities (MMCF) subsection 3. as follows:**

**To strike language from GZO Sec. 5.27.5: "3. Any other Medical Marijuana Treatment Center or Medical Marijuana Cultivation Facility; or..." and to renumber items #4 and #5 accordingly.**

**5. *Memo from the Mayor's Office to City Council re: Sale of the interest in Parcel E on the former Fuller School site***

**Jim Destino**, CAO, recounted that the city went out to bid on the Fuller School site, 10.63 acres which included a “hockey stick” piece of the overall property (the northern-most part of the site of which Parcel E is part of). During the negotiations with the applicant, Fuller Mixed Use Ventures, LLC (FMUV) that the Committee will see coming forward with a Major Project permit in the near future, the city has an interest in real estate but doesn’t own Parcel E. He advised that the Land Disposition Committee has met on the matter, and that it is recommended by them to the City Council that the city disposes of that interest in real estate. The applicant wants to use this particular piece as part of their overall project, he reported, which falls into the area of the proposed siting of a new YMCA facility. In the Host Community Agreement, this interest in real estate the city has is supposed to be released to the city after Sam Park LLC goes into permanent financing. That could be some time before it happens, he suggested. The Administration was looking for a way for the applicant to include Parcel E in their application which they need a right to in their application, and it was determined that the best way is to do this was through a Purchase & Sale (P&S) agreement, he pointed out. He said that if the applicant isn’t successful through the permitting process, then the interest in real estate reverts back to the city and so the city retains its rights. The parcel has no use to the city if the applicant is successful, he added, and makes no sense for the city to have any interest in this parcel if the sale goes through. The Council is being asked to allow the city to dispose of the interest in the real estate for the purpose of entering into the P&S with the applicant. This can be done because the parcel is assessed at under \$35,000 so the city doesn’t need to issue a Request for Proposal. It was noted that establishing a minimum sale price is consistent with the requirements of the Code of Ordinances and is the Council’s purview. The applicant needs this parcel in order to apply for a Major Project Permit, he said.

**Nancy Papows**, Principal Assessor, spoke pursuant to the Committee setting the minimum price for Parcel E by explaining that she was asked to look at the value of the parcel by the Land Disposition Committee as if it was in existence today because it is a piece of a larger parcel as a separate parcel. The parcel includes 31,659 square feet of land area and classified as an unbuildable commercial piece of land. She explained she utilized the factors from the analysis for FY17 for a commercial parcel in this location, and that by applying those factors the property would be assessed at \$19,600. Because the buyer wouldn’t be acquiring the parcel until a future time, so that a discount would be applied to determine what the present value of the future interest in this parcel is. The \$19,600 just represents the assessed value price today if it was for sale, not that of a future time.

**Councilor Lundberg** asked what the recommendation of the Administration is for the parcel’s minimum price. **Mr. Destino** said it would be \$10,000 to \$15,000, and that this parcel is an integral part of the project. **Councilor Lundberg** said the price should reflect the factors enumerated by Ms. Papows and suggested that that \$12,500 would be a good price. He expressed his appreciation for the manner in which the Administration presented this matter.

**COMMITTEE RECOMMENDATION: On motion by Councilor Cox, seconded by Councilor Gilman, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend that the City Council dispose of Parcel E as shown on Exhibit D of the Host Community Agreement dated 12/8/08 for the purpose of entering into a Purchase & Sale Agreement and further that the minimum price of Parcel E be set at \$12,500 pursuant to GCO Chapter 2, Sec. 3 (1).**

**6. RZ2017-001: GZO Amendment Sec. 1.11(c) re: Creation of a Mixed Use Overlay District including properties at #2 and #4 School House Road and #7 Gloucester Crossing Road**

**Councilor Lundberg** advised that the Planning Board had yet to take up this rezoning matter, and given that the date had yet to be set for that public hearing by the Board, the Committee needs to continue the matter to either February 22 or March 8 in order to be able to have a recommendation from the Board in hand prior to deliberating this matter.

**Councilor Lundberg** spoke about having a joint meeting with the Planning Board on Feb. 16. The matter of RZ2017-001 will be continued by the P&D Committee to March 8.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 6:35 p.m.**

Respectfully submitted,

*Dana C. Jorgensson*  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**