

Planning & Development Committee
Wednesday, August 2, 2017 – 5:30 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Vice Chair, Councilor Melissa Cox; Councilor Gilman; Councilor Sean Nolan (Alternate)

Absent: Councilor Lundberg

Also Present:

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

1. *Special Event Application: Request to hold Fishbox Derby on September 17, 2017*

Barry Pett, 45 Middle Street, member of the Organizing Committee for the Fishbox Derby, explained that there are no changes from last year for the 2017 Fishbox Derby. This event is scheduled for Sunday, September 17. He briefly reviewed that nothing has changed from the previous years, although now there is a rain date so that they have two consecutive Sundays available (rain date of September 24). He described the signage, road closure procedures, notification to neighbors and businesses to the Committee which were noted the same as in previous years along with trash disposal and clean up. The parking issues of neighbors are taken into consideration, he said, and Gorton's opens a lot for the abutters to park. The races start at 12 noon, he noted.

MOTION: On a motion by Councilor Gilman, seconded by Councilor Nolan, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit Fishbox Derby, Inc. on Sunday, September 17, 2017 with a rain date of Sunday, September 24, 2017, to hold the Fishbox Derby ("Soapbox Car" Race) closing Rogers Street from Manuel F. Lewis Street to Flanagan Square that day from 6:00 a.m. to 4:00 p.m. with the following conditions:

1. Certificate of Insurance:

A Certificate of Insurance naming the City of Gloucester as an additional insured party is on file with the City Clerk's Office.

2. Road Closure Plans:

Roads to be closed are to be marked with signage directing the public as to the duration of the closure and alternate routes. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.

3. Refuse and Comfort Stations:

All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early in the morning of the day of the event and removed by 5:00 PM, September 17, 2017 (or September 24, 2017 if event is on rain date).

4. Emergency Services:

Emergency services shall be as determined by Emergency Medical Services Director, Sander Schultz.

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 to be submitted to the Police, Fire or DPW Departments.

6. Notification of Immediate Abutters and Businesses to Race Course:

Notice shall be made by the event organizer by hand or by mail no later than 7 days in advance of the event to any businesses along the race route.

7. Responsibility of the Fishbox Derby, Inc.:

The applicant is also required to obtain any other necessary City Board or Commission necessary approvals. It is the sole responsibility of Fishbox Derby, Inc. to ensure that required documentation is timely filed with the appropriate City departments as indicated. Failure to comply with any conditions precedent may result in permit revocation.

2. *SCP2017-010: Pine Road #10, #14, Maps 219 & 230, Lots 133 & 116, GZO Sec. 5.2 Earth Fill & Removal Regulations*

Christopher McCarthy, 166 Bray Street, applicant for a Special Council Permit under GZO Sec. 5.2 Earth Fill and Removal Regulations said he purchased #10 and #14 Pine Road in December 2016. He said he was aware there was fill brought onto the property prior to his ownership of the two properties. He explained that in speaking with the Building Inspector he learned that in 2013 fill was brought onto the lots in excess of the limit under the standards without a building permit of 50 cubic yards and noted under certain circumstances up to 200 cubic yards can be brought in. The fill brought into the lots by the former owner was over 600 cubic yards, taken from a water line project on Western Avenue, without appropriate permitting. He advised he had to a civil engineer document the type of fill and amount of fill, look at historical maps, in order to estimate the fill that is on the properties. Because the amount of fill far exceeded the standard of 200 cubic yards, it now requires him as the new owner to come before the Council for a Special Council Permit for Earth Fill and Removal, essentially after the fact, he pointed out. He suggested that neighbors have had to live with rocks rolling down onto their property for some time from the lots. He noted these lots are very steep with some stabilization mostly on #14 Pine Road. The lot at 10 Pine Road, depending on the Council, will need a drainage plan for the lot with a retaining wall at the rear of the property as well as other means of protecting neighbors from rocks rolling onto their properties.

Councilor Cox confirmed with **Mr. McCarthy** that he was asking for permission to keep the fill brought onto the lots by the previous owner and not to remove any of it. **Mr. McCarthy** reiterated he didn't want to remove any of the fill saying that the fill stabilizes the properties which may require adding some boulders which he would bring in to build an engineering-designed retaining wall to keep fill and other rocks on the sites from rolling down to neighboring properties. He noted a plan of the existing and former topography of the properties on file with the Special Council Permit application. **Councilor Cox** asked what other boards **Mr. McCarthy** went to for permitting pursuant to the lots. **Mr. McCarthy** said he has been before the Planning Board to realign the lot line as noted on the Division Site Plan of Land (on file).

Councilor Gilman asked that Sec. 1.8.3 be reviewed by the applicant. **Mr. McCarthy** noted as follows:

1. Social, Economic or community need served by the proposal: The construction and sale of two modestly priced single family houses will help local families afford to purchase a new house in the city. He added he typically builds homes of modest structure and has done so for the last 20 years. He said that he plans on two single-family homes not two duplexes for the two lots.
2. Traffic flow and safety: The traffic flow relative to what are there (no homes) wouldn't be a large increase in traffic flow with two single-family homes, he said. Additionally, if he had to take out fill and get large excavator trucks to take out material from the lots, he pointed out it would be a disturbance to the neighborhood and existing roadway. He said the road was built well, but to get a triaxle at 70,000 lbs. going up onto the properties, loading and leaving the property would be "problematic."
3. Adequacy of utilities and other public services: There is existing sewerage, and there will be wells drilled on both lots. He advised that there is only a small $\frac{3}{4}$ " water line that goes up the street past the two lots.
4. Neighborhood character and social structure: The neighborhood consists of colonial, ranch and cottage-style homes.
5. Qualities of the natural environment: It is planned to leave the rear of the properties as they are now – both lots are heavily covered by trees and wildlife.
6. Potential fiscal impact: The construction of two single family market rate houses will add to the local tax base.

Councilor Gilman noted that drainage plan is in place for #14. **Mr. McCarthy** said there is a plan (on file) signed off by the City Engineer and meets the criteria set forth in the standards but not for #10. He said he didn't submit a plan for #10 Pine Road because he wasn't sure whether the Council would want fill from that lot removed. He advised he would have to follow the same process and have the City Engineer approve of anything put on the #10 Pine Road property, similar to what is on for #14, which would have to be in place before a permit to build would be issued. He mentioned if he constructs a small house on #14 or if a customer wants a slightly bigger house than what he had planned, he would have to go back before the City Engineer for approval for any changes to the drainage plan(s). He reiterated that #10 Pine Road's drainage plan would have to be approved by the City Engineer before any work can be started.

Councilor Gilman said this Special Council Permit is specific to the fill on the lots. **Councilor Cox** noted that the application under GZO 1.8.3 it doesn't mention fill to be kept, rather it talks about building houses, which appears is the end goal. Tonight they are talking about retaining fill not building homes, she said. **Councilor Gilman** noted that under Sec. 1.8.3 #5, "Qualities of the natural environment" is applicable. She asked what the quality of the fill was. **Mr. McCarthy** said the fill was gravel left over from the upgrading of a water line on Western Avenue instead of it being taken back to Butman's Pit.

Councilor Nolan noted he got one phone call on this application as soon as the notification to abutters was made by certified mail by the applicant and advised he made a site visit to the properties. He said he understood what the applicant was trying to do, leaving the fill on the properties. He said this is about leaving "dirt" or removing what is on the properties. If fill were to be removed, he pointed out, it makes it less likely to be able to build on the property and

changes the landscape of it. He said he'd like to hear more from the neighbors at the public hearing. He added that as to the drainage plans that he'd like to see more of what may happen by removing the fill to that area, and if it would change the drainage aspects of the area if the property was made lower to the ground by the fill's removal. He said it's about what's there now and how much would it change by removing 650 +/- cubic yards of fill -- would it deter or change groundwater absorption or run-off from these lots or would it be the same as it is found now. **Mr. McCarthy** said "from a layman's perspective" there is more (water) absorption with the fill in place as it is gravel. He said he believed that the intent for the fill was to be able to exit Pine Road onto the property rather than parking a vehicle on a downward slope. It is necessary from a practical building standpoint to be able to pull off the roadway and park vehicles in a yard otherwise it is a strong sloping, steep lot access.

Councilor Cox asked if there were engineering plans that show how it would affect the neighborhood. **Mr. McCarthy** said during the construction that it would be to ensure that no fill "tumbles down" onto neighboring properties. When the fill was installed rocks did roll into neighboring properties, he said.

Councilor Gilman cited that in the application under "Application for Special Permit" "5. Evidence to support grant of special permit" that: "The original front yard slope of the land at 10, 14 Pine Road was very steep. Leaving the fill in place will allow the two new houses to have off-street parking and small level yard areas similar to other homes in the neighborhood...Leaving the fill in place will further stabilization, the two proposed single-family houses will meet all zoning requirements with regard to front yard setbacks and off-street parking." She said that is more relevant to the Special Council Permit than GZO Sec. 1.8.3. **Councilor Cox** pointed out that she appreciated what the Councilor enumerated but that it was the applicant filling out the form, not engineering (plans). She noted when Liberty Street was paved it took the roadway up by two inches and now a resident's garage is flooding. **Councilor Gilman** said that would be information that could come forward from abutters at the public hearing before the Council to hear their concerns.

Councilor Cox asked if the applicant had any feedback to date from neighbors complaining about flooding or adverse effects due to the fill brought onto the properties. **Mr. McCarthy** said he hasn't yet spoken to the abutters. He noted that at the rear of #14 there are wetlands, a brook, and also a bit behind #10 Pine Road.

Councilor Gilman asked if when Mr. McCarthy purchased the properties that he knew the 650 +/- cubic yards of fill was placed on the lot without proper permitting. **Mr. McCarthy** said that he did. **Councilor Nolan** highlighted this was not "dirty" fill.

With the Committee's permission two abutters were allowed to voice their concerns so that the applicant could potentially address them before the public hearing. **Angelo Bertolino**, 8 Stanwood Avenue, expressed concern for the overflow of the lot plus the brook and asked what would happen there. He said when the former owner was filling in the property there were a lot of boulders rolling down the hill. He said neighbors have children and it isn't safe. He noted that even now once and a while you can hear boulders rolling down the hill. He said the lots were overfilled and "illegal" to have done so. He said he didn't understand why if the fill was placed without permitting why it wasn't being removed. He reiterated his concern about further erosion coming down the hill which he said is very steep and whether the fill is clean. **Councilor Cox** asked whether the applicant had the soil tested. **Mr. McCarthy** said he had a civil engineer on the property doing test pits as noted on the drainage plan (Note -- shown on Drainage Plan as: "Test Pits Date: 7/7/17 Performed by: John Hudd P.E. (SE #1163) T-1, T-2, T-3, T-4 & T-5 0-60" mixed loamy sand fill."). **Councilor Nolan** added that any of the neighbors should feel free to contact him to express their concerns before the public hearing and he would assist them in seeking answers.

Meg Gillis, 4 Pine Road, said she has no issue with dirt, and recalled seeing the dump trucks. She said she wanted to learn more about water. She said the road is one-car width wide, and a dead-end. She said she wasn't concerned with rocks, living next door. She said there is a lot of space between where she lives and where the homes are proposed at 10 and 14 Pine Road. She confirmed that the properties simply, "drop off," and recalled there was a house formerly on one of the properties. **Mr. McCarthy** said there was a house that burnt down in 1956 and the chimney still stands at 14 Pine Road composed of granite fieldstone, about 20 feet tall.

Councilor Cox said they are talking about the fill, and if there is plans to build other public bodies may be involved. **Mr. McCarthy** said that the lots meet all side, front and rear yard setbacks. He said the lots meet all the criteria with one lot being over an acre, and the other "29,000." He reiterated he was in front of the Planning Board to adjust the lot lines between the two lots. He also reiterated he would have to go to the City Engineer for further review.

Councilor Cox expressed her concern that there was no drainage plan on file for #10 Pine Road and the possible impact to the neighborhood with that much fill being there.

Councilor Gilman suggested that the applicant speak with the City Engineer to ask him to go out to the Pine Road properties to give Mr. McCarthy some feedback based on what has been put forward this evening. **Mr. McCarthy** said he could do that or he could contact the DPW Director. He said after the meeting he would like to meet with the neighbors to learn more on their concerns and be able to address them. If the rocks are still rolling down he said he

would want to double up what he had planned for snow fencing at the rear of the properties with a second fence line, and perhaps a third further down the hill where it plateaus about 150 feet back.

Councilor Nolan said that he understood why there wasn't a drainage plan for #10 Pine Road because a plan can't be formulated not knowing where the grades are going to be located. He advised the applicant that the best he can do prior to the public hearing is to work with the neighbors to solve issues. He assured there would be a public hearing.

Councilor Gilman said she heard a desire to talk more with the neighbors and do homework to alleviate some of the concerns that have been raised this evening. She said she will vote in favor of this application to move it forward to the Council and wait to hear what happens at the public hearing.

Councilor Cox reminded the applicant that they vote twice -- in Committee and then again at the close of the public hearing. She advised that Committee members can always change their vote when the matter is before the Council.

Councilor Nolan said that in observing 20 years of Mr. McCarthy's building homes in different city neighborhoods. He said overall with what he has observed personally and heard, people are happy with what Mr. McCarthy does. He expressed it was his hope that Mr. McCarthy and the neighbors will get together and come up with a plan to ease concerns. He said he supports the neighborhood in whatever way they want to go, and what is best for the city of Gloucester. He conveyed his support of the application going through to Council this evening to a public hearing but will look forward to hearing what solutions come out at the public hearing.

COMMITTEE RECOMMENDATION: On a motion by Councilor Gilman, seconded by Councilor Nolan, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council GRANT to Christopher McCarthy, owner, a Special Council Permit (SCP2017-010) pursuant to Section 5.2 of the Gloucester Zoning Ordinance for Earth Removal and Fill for Pine Road #10 and Pine Road #14, Assessors Maps 219 & 230, Lots 133 & 118, zoned R-20, to keep existing 650 +/- cubic yards of fill found on these properties to make useable yards as shown on the Division Site Plan of Land Located At 10 & 14 Pine Road, Gloucester, MA prepared for Christopher McCarthy Prepared By American Land Survey Associates, Inc., Kirk W. Benson, PLS, Gloucester, MA dated December 30, 2016 and Drainage Plan, 14 Pine Road, Gloucester, MA Prepared for Chris McCarthy by Gateway Consultants, Inc., Gloucester, MA. Further, it is found that the application meets the standards and is in harmony with GZO Sec. 1.8.3.

Councilor Cox expressed her thanks on behalf of the Committee for the group of neighbors who were attendance at the Committee meeting.

3. *SCP2017-006: Great Republic Drive #38, Map 263, Lot 64, GZO Sec. 1.5.3(c), 5.7 "Major Project" and Sec. 5.27 "Medical Marijuana Treatment Centers & Medical Marijuana Cultivation Facilities" (Cont'd from 06/21/17 TBC 08/16/17)*

This matter is continued to August 16, 2017.

4. *CC2017-009 (Orlando) Request that the Zoning Ordinance be amended by ADDING new Sections 1.5.4.1 "Zoning Administrator" and 5.29 "Certain Pre-Existing Multi-Family Use;" and AMENDING Sections 1.5.1, 1.8.1, 1.8.2, 2.2.1, 2.3.1 re: "Administration and Procedures" and "Use Regulations" (Cont'd from 07/19/17)*

This matter is continued to August 16, 2017.

5. *RZ2017-001: Rust Island Road #4, Map 233, Lot 72, from R-10 (Medium/High Density Residential) to EB (Extensive Business) (TBC 09/06/17) NOTE: The correct Rezoning Number is: RZ2017-002*

This matter is continued to September 6, 2017 pending a Planning Board recommendation.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:10 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.