

Planning & Development Committee
Wednesday, August 16, 2017 – 5:30 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Paul Lundberg; Vice Chair, Councilor Melissa Cox; Councilor Gilman
Absent: None.

Also Present: Councilor Orlando; Chip Payson; Gregg Cademartori

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

1. *Special Event Application: Request to hold Halloween Festival on October 29, 2017*

Roseanne Cody, 23 Stanwood Point, member of the Organizing Committee for the mayoral-sponsored Halloween Festival scheduled for Sunday, October 29 at City Hall, explained the duration of the event is shorter this year, 1:00 p.m. to 4:00 p.m., and food and activities are scaled back for logistical purposes but that it will still be a great celebration for youngsters at City Hall. There will be no prizes given out although a bag of goodies will be given to children upon their leaving the event. There will be a hayride once again pulled by Police trucks. Associated road closures will be Dale Avenue in its entirety on the day of the event, along with Warren Street and the portion of Middle Street from Dale Avenue to Pleasant Street. She briefly reviewed several of the activities planned. She confirmed that the Special Events Committee had reviewed all aspects of the event.

MOTION: On a motion by Councilor Cox, seconded by Councilor Gilman, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Mayor of the City of Gloucester to hold a city-sponsored Halloween Party on Sunday, October 29, 2017 from 1:00 p.m. to 4:00 p.m. Additionally, the Planning & Development Committee hereby permits a “hayride” to commence on or around 1:30 p.m on Sunday, October 29 to conclude on or around 3:30 p.m. on a route starting at the Gloucester City Hall employees’ parking lot entrance, out onto Dale Avenue, turning left onto Middle Street, turning left onto Pleasant Street, and left onto Warren Street. Those portions of Dale Avenue, Middle Street from Dale Avenue and Warren Street will be closed to all vehicular traffic. Parking is to be banned on Dale Avenue and Warren Street for their lengths and on Middle Street from Dale Avenue to Pleasant Street from 8:00 a.m. to 6:00 p.m. Sunday, October 29. Traffic control during the road closures will be overseen by the Gloucester Police Department. As this is a city-sponsored event, it is covered under the city’s liability insurance through MIIA.

2. *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 08/02/17)*

Joel Favazza, Seaside Legal Solutions, 111 Main Street, representing Happy Valley Ventures for a Major Projects Special Council Permit for a Medical Marijuana Treatment Center and Cultivation Facility at 38 Great Republic Drive offered at the request of the Committee the following update as to the application’s status in the permitting process:

This project restarted in the spring of 2017 when the applicant filed to amend the existing Special Council Permit which was withdrawn because of a legal matter. In late April a new application for a completely changed new Special Permit for a Major Project was filed to construct a Medical Marijuana Cultivation Facility and Dispensary at 38 Great Republic Drive. This Committee and the Planning Board heard the matter; there were departmental meetings, and the consensus was that there were inconsistencies between plan sets that needed clarification before a review leading to recommendations from department heads could be completed. The applicant drew up plans with detailing acceptable not only for a Special Council Permit but for “pulling” building permits. Submitted was a 164 page supplement on August 3 to the Council and Planning Board. Conservation Commission (ConCom) approval for this project had already been obtained. It is hoped on August 17 that the Planning Board will complete its Site Plan Review which would enable the applicant to make a full presentation to the Committee at its September 6 meeting and move the application forward for public hearing.

Mr. Favazza concluded his remarks by saying that due to “construction-related concerns, his clients hope to move this project along to enable breaking ground in early fall.

Councilor Cox asked if HVV plans to offer recreational marijuana sales at 38 Great Republic Drive. **Mr. Favazza** said there are “no plans right now” to sell recreational marijuana out of the dispensary that is proposed. He advised that HVV has 58 Great Republic Drive under contract to purchase, anticipated to close the middle of September. He said it is HVV’s intention at this time to permit an approximately a 100,000 square foot production facility for recreational marijuana at that location. He said he’s seen nothing that indicates that his client will be in the retail consumer-facing side of this business “as of yet.” He advised there are on-going discussions as to how the city is going to deal with allowing or not allowing retail recreational marijuana establishments, but that at this time, he said that the applicant is only forwarding plans designed around a Medical Marijuana production facility and dispensary at 38 Great Republic Drive. He added that future plans for 58 Great Republic Drive is still under development.

This matter is continued to September 6, 2017.

3. SCP2017-011: Colburn Street #1, Map 157, Lots 72 & 39, GZO Sec. 3.1.6(b) Special Permit for Building Heights in Excess of Sec. 3.2 Limits – Building Heights in Excess of 35 ft.

Councilor Lundberg advised this is a public meeting for the applicant to present their plans to the P&D Committee for a Special Council Permit and the Committee will make a recommendation to the City Council. At that time there will be a public hearing when neighbors can address the Council and make comments for or against this proposal.

Frederick J. Geisel, P.E., 15 Steep Hill Dr., Gloucester, representing Sam Avola, applicant of 9 Trueman Dr., Malden, MA, regarding an application (and purchaser of 949 Washington Street and 1 Colburn Street) for a Special Permit for Building Heights in Excess 35 feet, under GZO Sections 1.8.3, 3.1.6(b) and 3.2, as purchaser of Colburn Street #1 utilizing and Washington Street #929 in order to access and build a duplex at Colburn Street #1 (addendum to Purchase & Sale Agreement for both properties on file with application). Also present was Sam Avola, purchaser of the properties and Chad Ketchopulos, builder, Rockport, MA. He conveyed the following information:

The lot is considered restrictive in that it is filled tidelands and is under control of the Mass. Chapter 91 Waterways Division (of Coastal Zone Management or “CZM”) and that they need to apply to that entity for a permit. That state entity wants all local and state permits in place first before building. The applicant has a Conservation Commission (ConCom) Order of Conditions in hand for the application before the Committee, and they will seek drainage and curb cut permits further in the process. There is a presumptive line of fill further back into the property which was the line of the original cove, filled over 150 years ago. There were buildings previously on the site -- a granite processing building and a railroad leading to it from the quarries, which was briefly described. Much of the fill including along the banks of the cove are “chunks” of granite.

FEMA (Federal Emergency Management Agency) established that this property is in a velocity flood Zone VE (El. 20), requiring that the lowest structural member of the dwelling be a minimum of two feet above the Flood Zone (El. 22). CZM has reviewed this project as part of the MEPA (Massachusetts Environmental Policy Act) process and recommended that the structure be raised an additional two feet higher (bottom of lowest structural member at El. 24) (Opinion of CZM on file with application). Under NOAA’s (National Oceanographic & Atmospheric Administration) moderate predictions for sea level rise over 50 years it is just over two feet. To meet those recommendations, the first floor have would be 10 feet above existing grade and the total height of the structure would be 38 feet.

PROPOSED STRUCTURE:

This residential dwelling will be in reality a 1-1/2 story building. Plans for the first and second floor (not a full story) were noted (on file). The lower level is open space for parking with garage doors that can be left open in a flood period. He pointed out the average grade, the Flood Zone height at 20 feet; above that is 22 feet which is the minimum structural member and then 24 feet which is CZM’s recommended minimum horizontal structural member. This then takes the total height from existing grade to the peak of the roof to 37 feet, 10 inches which is rounded to 38 feet. Without the flood zone, if it was just a normal lot, there would be nine feet of clearance from “15 to 24” which would have made the dwelling a total height of 29 feet, therefore

negating the need for a height exception. The foundation plan is a varied spread footing wall with square/rectangular piers coming from that which are finished off; the structure is built on top of that.

A floor plan of the first floor of the building was shown and described (all plans on file). The proposed dwelling is a duplex. The units were described as having a moderate amount of living space, each with three bedrooms upstairs. Water, sewer electrical, telephone and gas come right to the property line on Washington Street, and the gas line can be extended to serve the new dwelling.

Councilor Lundberg noted that this was the former site of the High Line House Restaurant which burned down in 1966 and that the lot(s) have been vacant since that time.

Mr. Geisel pointed out the closest adjacent buildings on a map (on file) of the neighborhood, saying that the first floor level of the proposed dwelling is approximately equal to "their first floor level" which is on Quarry Street. Houses surrounding the property were noted to be positioned substantially on higher ground and uphill. Referring back to the site plan, **Mr. Geisel** conveyed that zoning restrictions, because this is a corner lot require, 30 feet frontage from Washington Street, 30 feet from Colburn Street; 20 feet side yard, and 30 feet in the rear. The applicant is further restricted to be 100 feet away from mean high water, he noted, and pointed out on the site plan -- the dwelling is restricted to where it is shown positioned on the plans.

Councilor Lundberg reiterated that the City Council's role in this particular development is limited to granting the Special Permit for a height exception. Other exceptions are granted by other Boards or Commissions.

Mr. Geisel then reviewed the six criteria for a Special Council Permit under GZO Sec. 1.8.3 as follows:

1. Social, Economic, or community need served by the proposal: This project would provide a duplex housing unit on a property that has sat vacant for 50 years. The site has been over-run by invasive trees, brush and vines and became a dumping ground for trash. Developing the site will remove this dumping ground and provide an aesthetically pleasing landscape.
2. Traffic Flow and Safety: Access to the site will be through a single drive at the northwest corner of the property onto Washington Street. Sight line visibility exceeds 300 feet in each direction. A curb cut permit from MassHighway will be required.
3. Adequacy of Utilities and other public services: There are pressure sewer and an eight inch water main on Colburn Street. Both have more than adequate capacity. Natural gas ends at the property line on Washington Street and will be extended to the dwelling with an easement to serve #3 Colburn Street (not part of this Special Council Permit). Electrical and communications utilities are by overhead service -- they will be connected to the proposed building via underground conduit if allowed by Waterways, otherwise it remains overhead.
4. Neighborhood character and social structure: The neighborhood is a mixture of housing types. The neighborhood character is comprised of long-term residents with independence and community pride. This proposed project will not adversely affect the neighborhood character or values.
5. Qualities of the natural environment: The natural environment is dominated by moderate to heavy tree stands with invasive species removed. Overflow from the Klondike Reservoir feeds a nearby pond which goes to a stilling basin and is then piped to the cove. The proposal is to replace the entire pipe to keep the area from flooding. The open ocean of Hodgkins Cove and Essex Bay dominate the westerly landscape. Significant changes to the natural environment will not result from this project.
6. Potential fiscal impact: The duplex building will generate significant tax revenues. It is estimated the final assessed value will be over \$1,000,000.

COUNCILOR QUESTIONS:

Councilor Gilman said that she attended the ConCom site visit of Colburn Street #3 and viewed the water issues there, and walked this piece of property as well. She said she didn't see dumping of trash on Colburn Street #1 but rather across the street from it. **Mr. Geisel** said when surveying Colburn Street #1 they had to be careful where they stepped because there were abandoned car parts, old pipes, and some may have been left and buried from the burned down restaurant. He pointed out that this property was used as a staging area by the city during the sewer construction and some of the 'trash' may be discarded items from that time. **Councilor Gilman** said there was a great deal of overgrown brush and weeds. She asked if these plans have been shared with the neighbors. **Mr. Geisel** said they had and even before they went before ConCom and noted they'd have to come before the Council for height, and didn't skirt that issue with the neighbors. **Councilor Gilman** asked if Mr. Geisel would be willing to speak with neighbors before the public hearing because when a tall

house goes up, and a FEMA issue, concerns are raised when it is a height issue in light of the expansive water views across the street. **Mr. Geisel** said that what is blocked is a view of the bridge but not of the water or the cove area or out to Essex Bay by a dwelling as proposed to be situated on the Colburn Street #1 lot. He suggested that perhaps slightly on an angle but the vast majority of homeowners' views will be maintained. **Councilor Gilman** asked if garages with pilings are acceptable to FEMA. **Mr. Geisel** confirmed that was the case. She confirmed with Mr. Geisel that all abutters on the submitted Certified Abutters List with the application were notified of the P&D Committee's public meeting.

Councilor Cox said that this is straightforward height exception, noting that views are not protected. She noted that the Special Council Permit has to be taken as it is.

Councilor Gilman advised those interested parties who were present that this is the recommendation of the P&D Committee now but that at the public hearing they will hear the public's opinions after a presentation of the applicant and encouraged participation in the public discourse on the application in that venue.

COMMITTEE RECOMMENDATION: On a motion by Councilor Gilman, seconded by Councilor Cox, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant to Sam Avola, purchaser, 91 Truman Drive, Malden, MA, through property owner Jean O'Gorman, a Special Council Permit (SCP2017-011), for the property located at Colburn Street #1 (Assessor's Map 157, Lot 72), and Washington Street #929 (Assessor's Map 157, Lot 39) zoned R-20, pursuant to Gloucester Zoning Ordinance Sections 1.8.3, 3.1.6(b) and 3.2 for a building height in excess of 35 feet, for a home to be 38 feet (for a total height increase of 3 feet over 35 feet) for a Special Council Permit. This permit is made on the basis of the plans and elevations dated 3/16/2017 by Frederick J. Geisel, P.E., 15 Steep Hill Dr., Gloucester, MA, submitted to the City Clerk on July 27, 2017, entitled, "Site Development Permit Plan, 1 Colburn Street, Gloucester, MA for Sam Avola." This Special Council Permit is in harmony pursuant to the governing Zoning Ordinances.

4. Memorandum from Planning Board re: Initiation of Zoning Amendments to GZO Sec. VI "Definitions" – "Recreational Marijuana Establishments" and Sec. 5.31 "Temporary Moratorium on Recreational Marijuana Establishments" (TBC 09/20/17)

Councilor Lundberg advised that this matter is currently with the Planning Board for a public hearing. The Committee will continue this matter to September 20 when it is anticipated that the Committee will have the Board's recommendation.

This matter is continued to September 20, 2017.

5. 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 08/02/17)

Councilor Orlando said that there was a meeting the previous week with Gregg Cademartori, Acting Community Development Director; Matt Coogan, Senior Planner; Frank Wright, Zoning Board of Appeals (ZBA) Chair, to address areas of concerns raised about the proposed zoning amendments. He said they met halfway on many of the issues and came up with satisfactory ordinance amendments to work as intended that the ZBA will be more comfortable with. He explained that rather than the Zoning Administrator being the "ultimate decision maker," that the Zoning Administrator will now be appointed by the ZBA, as always intended, and will have the responsibility of gathering required documentation and certifying to the ZBA that an applicant meets the requirements. The ZBA, if necessary, will hold a public hearing after notice to abutters and take testimony on any issues of neighborhood concern and be the ultimate permit granting authority. The Zoning Administrator will have the same function but that there is a public hearing before the ZBA. This will streamline the ZBA's usual process down to only one meeting which was a goal of the amendments.

Highlighting the "Purpose" section of the proposed amendments, **Councilor Orlando** said it was agreed that once the Zoning Administrator has certified that the applicant has produced all the required documentation, that it is prima facie evidence that it is a "go" unless there are neighbor issues. The goal was to

have these applications be pro forma in front of the ZBA as much as possible which is why the purpose section is stricter, he noted. Evidence of continuous occupancy and use is much the same as in previous iterations, he reported, as is much of what was initially drafted, but that the procedure is different. Officially the previous drafts didn't contain a sunset clause, and now it is placed in this draft that is before the Committee from when the amendment are enacted and sunsets three years from that date. He noted that the Administration advised that some sections of the city in the R-5 and R-10 districts have sewer betterments and that there may be need for a compensatory betterment fee to be paid for someone who is getting more units in the same building that weren't otherwise previously classified. That is addressed in Sec. 5.30.4(g), he pointed out. He also pointed out that here is more language about the Affordable Housing restriction about the paperwork required to bring to the ZBA meeting to obtain the relief sought.

Gregg Cademartori, Planning Director, said that the evolution of these draft Zoning Ordinance amendments started out as a word document which he and the Planning Board worked on. Frank Wright, ZBA Chair, worked on it also, he said. He highlighted some minor housekeeping matters of naming and syntax which he offered for clarity and were incorporated by the Committee into the final draft of the amendments.

Councilor Lundberg, speaking to Sec. 5.30 (a), asked for confirmation that there have been Memorandums of Agreement of this nature previously (between a Board or Commission and the Council). He said if not, he was okay with such a construct. **Mr. Cademartori** said it was a bit different, but that it was an "overt" way to set the system up. **Frank Wright**, ZBA Chair, explained much of that came from a disconnect with the statute which says that, "the ZBA may," and the original draft that says, "The ZBA shall." He highlighted that they want to make this process as expeditious as possible, but the ordinance can't say that the ZBA will move such matter along expeditiously, rather that belongs in an agreement. **Councilor Lundberg** offered he was fine with that. **Councilor Orlando** said they tried to make it as strong as they could. **Councilor Lundberg** said that from his time on the Planning Board and going through matters such as this over the years, they did a great job to come up with something workable for everyone. He expressed his appreciation for the efforts that were made. If it has its desired effect it will be a great thing for the city with a mechanism in place and added his thanks to Councilor Orlando.

Councilor Gilman questioned that once an Affordable Housing restriction is in place on a particular unit, how would it be handled for an existing tenant in that unit whose salary may be higher than what the requirement is for that restriction and what is done to make sure they're qualified. **Councilor Orlando** said it is for a landlord to deal with and expressed his hope that a landlord would work this out with their tenant who may fall into that situation. **Councilor Lundberg** expressed his agreement that it would be a landlord issue. **Mr. Cademartori** said there are guidelines from the state and agreed the biggest challenge is the changeover, which is called "buy down." or "market-rate conversion." From the start of the restriction the tenant has to be income qualified. Once they are in the unit, he explained that there are guidelines that they have to certify each year through W-2 review that the tenant income qualifies. The state has room if during the lease agreement for a year that if a tenant goes up to 110% of the area median income guideline they are then given one year to relocate. There is a lot of process on the other end, with a lot of policing, **Mr. Cademartori** said, and is why most of the subsidy programs are geared to new construction. Converting from market rate to affordable housing will require that the tenant is income eligible, he reiterated. **Councilor Gilman** suggested that the Committee should follow up in a year and a half to see how these amendments are working. She lauded the work of Councilor Orlando and all involved.

Mr. Wright asked if anyone has thought any further as to who would be the Zoning Administrator. **Councilor Orlando** said Administration representatives conveyed to him they don't want to hire anyone that is not currently within the Administration or city government to create a new position. He said it would be someone coming from within an existing city board, committee or commission. He said it makes sense for someone who is a member of the ZBA to take on that role. That would be a conversation with the CAO for budgetary reasons, **Chip Payson**, General Counsel said. The Committee expressed their agreement.

Councilor Cox said the Zoning Administrator will help put the paperwork together to present to the ZBA, and the goal is to not only to streamline a process but to make it easier, but that is dependent upon an applicant moving forward quickly and providing documentation in a timely fashion. She asked what the action plan is for complaints that the process took too long to accomplish the end goal. **Councilor Orlando** said he envisions a checklist with directions for applicants which he said he would work through with the ZBA and the Administration, contained on one page to show the steps needed to be taken and what is required for each step.

This is significant relief, he pointed out; and said that the applicant should have to do some work, but not to make it so cumbersome that it acts as a roadblock. He said he didn't want applicants to have to hire a lawyer to get through this process. **Councilor Cox** said they talked about waiving fees noting she'd not received an answer on whether it is possible for them to offer. **Councilor Orlando** said it is but not within the Zoning Ordinance amendments. **Mr. Cademartori** said fees are in Appendix B of the Zoning Ordinance and is not the actual Zoning Ordinance. He advised that by majority vote the Council can change those fees and expanded upon what would be needed within the Appendix. He said there is an administrative cost to this process, and assigning additional responsibilities to a person, and the fee is \$250. If they want, the Council can do that with specificity and touched briefly on how that would transpire to zero the fee out. **Councilor Cox** advised that after thinking about the fee waiver further and seeing the unfairness to people who are legally permitting their housing units, she wouldn't support a fee waiver. **Councilor Orlando** said that they should see what happens, and if they need another enticement to encourage property owners/landlords to step forward, then they can make that suggestion of a waiver of fee at that time. **Councilor Gilman** said people who spoke to her about this matter expressed a concern about a fee waiver, and she said she agreed it should go forward without a waiver in a "spirit of fairness." She said she was pleased with the overall initiative.

COMMITTEE RECOMMENDATION: On a motion by Councilor Cox, seconded by Councilor Gilman, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Gloucester Zoning Ordinance pursuant to the document, "PROPOSED REDRAFT OF ZONING ADMINISTRATOR AMENDMENTS, 8/15/17," as submitted to the Planning & Development Committee on August 15, 2017 and attached hereto by incorporation and reference.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:25 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.