

**Planning & Development Committee**  
Wednesday, September 20, 2017 – 5:30 p.m.  
**1<sup>st</sup> Fl. Council Committee Room – City Hall**  
-Minutes-

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

**Absent:** None.

**Also Present:** Jim Destino; Chip Payson; Gregg Cademartori; Rick Noonan

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

1. *PP2017-005: Petition by Comcast to install underground conduit and manhole extensively from Dory Road & Blackburn Circle -- To be conducted as a public hearing*

**This public hearing is opened at 5:30 p.m.**

**Those speaking in favor:** David Fwelling, Specialist 2 Construction with Comcast explained that this is a request to install Comcast service lines for Dory Road as part of a bigger project which starts on the Blackburn Circle rotary from a utility pole there, travels across the rotary, to Dory Road. He advised that two 4" conduits will be installed for a distance of 675 feet and two manholes. The area within Blackburn Circle rotary is part of the MassDOT layout, and he noted Comcast is awaiting a permit from MassDOT. He said that Comcast has also been before the Conservation Commission and gone through that process. The last part of the permitting process is contingent on the outcome of this hearing, he noted, and said that Comcast expects to obtain the MassDOT permit in the next few weeks to get underway for this construction season.

**Those speaking in opposition:** None.

**Communications:** None.

**Councilor Questions:** None.

**This public hearing is closed at 5:32 p.m.**

Councilor Lundberg made note of a memo from the Public Works Director (on file) from which conditions for this permit was derived as follows:

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Gilman, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Vermont LLC to continue conduit installation from the MassDOT Layout to excavate install two (2) four (4) inch PVC conduit 675 feet +/- to a proposed 36" x 60" Manhole, and from that Manhole continuing with two (2) four (4) inch PVC conduits 588 feet +/- to Utility Pole No. 443/4 including the necessary sustaining and protecting fixtures as shown on, "Proposed Comcast Underground Essex County Plan of Land in Gloucester, MA as prepared by Dewsnap Engineering Assoc. LLP, Saugus MA for Project Location: State Route 128 & Dory Road, Gloucester, MA with the following conditions:

- 1.) Notification to the Department of Public Works 72 hours in advance of the proposed work. A construction schedule will be prepared by the applicant for review and acceptance by the Department of Public Works;
- 2.) Proposed excavation may only occur during accepted road opening and construction season, 15 March – 15 November. No winter construction shall be permitted.
- 3.) In the absence of a detailed construction plan, the Department of Public Works requests: all proposed conduits and appurtenances shall be placed so as to cause minimum conflict with existing underground utility services.
- 4.) The existing sidewalks are cast-in-place concrete and the City of Gloucester will only accept full panel pours.
- 5.) All excavated trenches shall be patched flush with the surrounding asphalt using hot mix asphalt binder at the end of each work day to minimize pedestrian hazards. Asphalt shall be applied in two lifts of 2-inches, totaling 4-inches.
- 6.) All final paving shall be full width (curb to curb) paving in accordance with Department of Public Works specifications.

2. *Special Events Application: Gran Prix Cyclo-Cross, October 14 & 15, 2017*

**Paul Boudreau**, Gran Prix Cyclo-Cross Event Director recounted that this is the 19<sup>th</sup> year of the event and recounted the following. The Gran Prix organization has worked with the city to ensure parking and traffic flow is enhanced for this year's event. He said that the residents around the area are better pleased by the improvements that have been made for traffic flow. The route maps (on file) at Stage Fort Park were touched upon, and it was noted that both courses are similar and essentially the same as in previous years. Vendor applications are on-going and he acknowledged a new process for vendor permits which they are complying with. He advised he has a meeting next week for the liquor license for the event which will consist of two one-day licenses.

**Councilors Lundberg and Cox** acknowledged a memo from the City Clerk (on file) advising that the Special Events Advisory Committee reviewed the application for a permit and that all department sign-offs are in place. The Committee agreed that most of the previous years' glitches have been worked out and that the imposed conditions are the same as previous year.

**Councilor Gilman** asked if any lessons were learned from last year that caused any changes for this year's event. **Mr. Boudreau** noted he talked to Councilor LeBlanc earlier this year about some resident issues and an issue with one particular resident, resulting from last year's event, which is fine after speaking with that Councilor. He mentioned that he was told things ran more smoothly in 2016 than in previous years. He pointed out that in the last several years they've closed the northern entrance to the park, sometimes one day, then the next day closing the southern entrance. He said that regardless of the way the course is laid out, if they are consistent and use the south entrance both days, traffic flow is much improved -- people know what to expect and it ensures there is parking for the dog park. This traffic access method, he added, keeps people away from the area around The Cupboard. He explained that while The Cupboard is closed by that time of year, racers were parking close to the building and not respecting property nearby. He said the consistent flow of traffic eliminates people parking there. **Mr. Boudreau** said. **Councilor Gilman** asked if there is a rain date. **Mr. Boudreau** said the race is rain or shine. There is a landscaping plan in place with the city, he pointed out, for remediation of the park.

**MOTION: On a motion by Councilor Gilman, seconded by Councilor Cox, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Essex County Velo Gran Prix of Gloucester Cyclo-Cross Race event to be held at Stage Fort Park on Saturday, October 14 and Sunday, October 15, 2017, with the following conditions:**

**1. Certificate of Insurance:**

**A Certificate of Insurance naming the City of Gloucester as an additional insured party is to be filed with the City Clerk's Office on or before September 30, 2017.**

**2. Traffic and Road Closure Plans:**

**a) Memoranda from the Police Department and Fire Department giving approval of the plans for the Essex County Velo Cyclo-Cross Race to be on file with the City Clerk's office on or before September 29, 2017. Roads to be closed 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 29, 2017. After the race permit is granted if either the Police Chief or Fire Chief or their designees determine that a substantial change(s) has been made to the route, then the applicant shall obtain City Council approval or the change.**

**b) Traffic Signage: The applicant is to place signage on the roads leading in and out of Stage Fort Park to be sure it is clear to the public which access roads are closed but that the Visitor's Center is accessible.**

**3. Refuse and Comfort Stations:**

**All event refuse and recycling must be removed by the Essex County Velo, event organizer. Any portable toilets (including the two required handicap accessible) are to be provided, maintained and paid for by the event organizer and must be in place the evening before the first day of the event or early in the morning of the day of the event and removed no later than 9:00 p.m. Sunday, October 15, 2017.**

**4. Emergency Services:**

Emergency services are as required by the Fire Department Emergency Medical Services Director, Sander Schultz.

**5. Staffing:**

Event staff is to have cell phones and be identified by the public with distinct shirts, and list of event staff and their cell phone numbers submitted to the Police, Fire and Public Works Departments prior to the first day of the event.

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

Notice shall be made by the Essex County Velo Gran Prix of Gloucester Cyclo Cross event organizer by hand or by mail no later than 7 days in advance of the event to any function halls, motels and hotels, and other businesses along the race route and Hough Avenue.

**7. Course Adjustments:**

The Essex County Velo event organizers are to present a written detailed list of all activities that require the assistance of the Department of Public Works (rocks to be moved or equipment to be moved, etc.) at least 7 calendar days prior to the event.

**8. On-Site City Staff:**

The Public Services Superintendent, or his representative, is to be on site during the Gran Prix of Gloucester Cyclo Cross event in order to facilitate any problems that might arise during the event. The cost of this service will be covered by the event organizers.

**9. Videotaping of Pre-Event Conditions:**

Once the course is set up, the Essex County Velo event organizers will walk the entire course with a video camera. This video will be delivered to the Department of Public Works within 7 calendar days prior to the event; the video will then be used to determine prior conditions when discussing the repairs post-race.

**10. Site Walk Post-Event:**

On the Monday immediately following the event a group consisting of the Assistant Director of Public Works, Public Services Superintendent, a member from Essex County Velo, Ward Councilor, the Chair of the Stage Fort Park Advisory Committee, and the landscape contractor hired for the Stage Fort Park repairs will walk the entire course to inspect the course for damages. Any damage to the park will be documented, discussed and a solution agreed upon by the group prior to any repairs being started. A start date for repairs will be agreed upon and a follow-up meeting at the site will be scheduled two weeks after the repairs have been completed. Any discrepancies will be reviewed with the help of the pre-race video.

**11. Responsibility of the Essex County Velo organization:**

The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health, Conservation Commission, and the Licensing Commission. It is the sole responsibility of the Essex County Velo organization 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.

**12. A Performance/Surety Bond for Repairs to Stage Fort Park:**

A performance/surety bond in the amount \$10,000 for repairs to Stage Fort Park will be posted by Essex County Velo and payable to the City of Gloucester submitted to the Director of Public Works by Essex County Velo to insure that repairs are made to Stage Fort Park following the Gran Prix event of October 14 and 15,

**2017. Said repairs are to restore Stage Fort Park to the original or better condition of that prior to the event. The performance/surety bond is to be returned to Essex County Velo in whole if it is determined by the Director of Public Works, or his designee, that the reparations made to the park are completed by May 11, 2018. If by that date the Director of Public Works or his designee determines the reparations are not complete, Essex County Velo has 30 calendar days to cure any defects as indicated. If after the determination that reparations are found deficient by the end of that 30 calendar day period, notice will be given to Essex County Velo that the performance/surety bond will then be used to take the necessary steps to complete the park reparations.**

**In the event that Essex County Velo cannot obtain a performance/surety bond to insure that repairs are made to Stage Fort Park following the Gran Prix event of October 14 and 15, 2017, the City shall require as an alternative, that Essex County Velo place \$5,000 payable to the City of Gloucester, in a non-interest bearing escrow account no later than 7 days prior to the 2017 event with John Dunn, City of Gloucester CFO, serving as escrow agent with Essex County Velo only liable in the event of willful default.**

**Said repairs are to restore Stage Fort Park to original or better conditions to that prior to the event. If it is determined by the Director of Public Works, or his designee, that the reparations made to the park are completed by May 11, 2018, the escrowed funds are to be returned to Essex County Velo in full. If by that date the Director of Public Works or his designee determines the reparations are not complete, Essex County Velo has 30 calendar days to cure any defects as indicated. If after the determination that reparations are found deficient by the end of that 30 calendar day period, notice will be given to Essex County Velo that the escrowed funds will then be used to take the necessary steps to complete the reparations.**

**13. Cap of Entrants:**

**The maximum number of entrants to this event is set at 1,100 per day for each day of the 2017 Gran Prix of Gloucester Cyclo Cross event.**

**14. Staking of Repaired Areas to Stage Fort Park:**

**Post-event, staking of the repaired areas of Stage Fort Park that require loam and seed will be erected to prevent damage to the areas by foot traffic or vehicles and shall be maintained in good order until the DPW determines the date of removal.**

**15. Related Costs to the Event:**

**Essex County Velo organization is to pay the City of Gloucester any costs for City services related to the race course and affected adjacent areas of Stage Fort Park before, during and after the 2017 Gran Prix of Gloucester Cyclo Cross event.**

**16. Restricted Use of Gloucester Dog Park during Gran Prix of Gloucester Cyclo Cross Event 2017:**

**Essex County Velo shall be restricted from use of the Gloucester Dog Park which is located in the southerly section of the Stage Fort Park parking area. Said restriction shall include but not be limited to the following:**

- **That the Dog Park is not to be used as part of the event course;**
- **There shall be no parking of automobiles or storage of bicycles or other equipment or any erection of temporary structures, tents.**
- **DPW to mark off approximately 20 spaces for Gloucester Dog Park users for the duration of the event.**

**17. Areas of Stage Fort Park not to be used in the 2018 Essex County Velo Gran Prix Race Course:**

- **Half Moon Beach;**
- **The area from Lucy B. Davis Pathway to the playground area (so called “Run up”);**

- **The area surrounding the Elizabeth Smith Garden and the Gloucester Garden Club Garden;**
- **The area between the Visitors Welcome Center and the fort which is a wetlands protection area.**

**18. Overnight camping or tenting before, during and after the Gran Prix of Gloucester Cyclo Cross Event at Stage Fort Park is prohibited:**

**Overnight camping/tenting is expressly prohibited at Stage Fort Park before, during and after the Gran Prix of Gloucester Cyclo Cross event. Event organizer is to prominently display this fact on their website and at the event informing all participants when registering and checking in to the event of this prohibition.**

**19. This permit is contingent upon Essex County Velo receiving any necessary approval by the Licensing Board in order to serve alcoholic beverages during the event as needed.**

**3. RZ2017-001: Rust Island Road #4, Map 233, Lot 72, from R-10 (Medium/High Density Residential) to EB (Extensive Business) (Cont'd from 08/02/17)**

**NOTE:** The Committee does not yet have a recommendation from the Planning Board. The applicant, Corey Grammas, has yet to appear before the Planning Board.

**This matter is continued to October 4, 2017.**

**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" (Cont'd from 08/20/17)**

**Gregg Cademartori**, Acting Community Development Director, explained that the Planning Board, in developing the temporary moratorium language, utilized models provided from law firms and communities who've adopted similar ordinances. This proposed zoning amendment takes a "belt and suspenders approach" while awaiting feedback from the Cannabis Control Commission ("CCC") on how this use will be regulated and puts an extension beyond that point that provides the community more of an opportunity to address the zoning if the regulations come forward at a later date. He advised that this is language tested and adopted by other communities; defining uses and timeframes which have been reviewed by the Attorney General's office that is acceptable learn more about it, to discuss with the community, and how to suit the zoning to the city.

**Councilor Gilman**, Council representative to the city's Recreational Marijuana Task Force, noted that 95 people attended five city forums, and highlighted a common theme that even with some people indicating they were in favor of retail establishments, that a moratorium was not untoward because of changing regulations at the CCC, which won't be released until March 2018. Of the 95 attendees, she reported that approximately 36% of attendees thought a moratorium was acceptable; 31% recommended a ban and no established retail outlets; 11% were in favor of four or more establishments; and 22% were in favor of one or two establishments. She expressed her agreement that a moratorium is the best way to move forward right now. She said the city needs to figure out appropriate zoning and learn what the regulations will be.

**Councilor Cox** said she didn't want the city to become complacent while awaiting the establishment of rules and regulations but to actively continue to work on city planning and the zoning ordinance. **Jim Destino**, CAO, said the Administration would be very aggressive ensuring appropriate zoning will be in place with an eye to have it completed by April or May 2018 so when July 2018 comes around the city isn't in a position to be challenged on the moratorium. **Councilor Cox** said they were at one point talking about July 1 date versus the moratorium date in December. She asked if there was a ruling on the institution of moratoriums from the state. **Chip Payson**, General Counsel, said, "It is legal." He advised that the Attorney General's office has issued a ruling on Tyngsboro, Mass., which said that town can extend its moratorium out to December 31, 2018. He noted there have been arguments raised despite that ruling, but said getting things done sooner rather than later, would be advisable, but reiterated December 31, 2018 is legal.

**Councilor Gilman** added a reminder that for people to better understand all the details of this new law, that Governor Baker's office issued a document in July 2017 which describes all the specific things that have to be done by March 15, 2018 about recreational marijuana packaging, safety for kids, advertising, etc., as to the totality for the issues and regulations.

**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, Section VI “Definitions” by ADDING a definition for Recreational Marijuana Establishments as follows:

**“Recreational Marijuana Establishment:** A marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business, subject to regulation under Chapter 94G of the Massachusetts General Laws (MGL c. 94G); provided, however, that a Registered Marijuana Dispensary shall not be deemed to be a Recreational Marijuana Establishment.”

**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 by ADDING new Section 5.31 “Temporary Moratorium on Recreational Marijuana Establishments to prohibit the establishment of a Recreational Marijuana Establishment on a temporary basis through December 31, 2018 as follows:

**“Section 5.31 Temporary Moratorium on Recreational Marijuana Establishments**

#### **Section 5.31.1 Purpose.**

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes. The law, which allows certain personal use and possession of marijuana, took effect on December 15, 2016 and (as amended on December 30, 2016; Chapter 351 of the Acts of 2016) requires a Cannabis Control Commission to issue regulations regarding the licensing of commercial activities by March 15, 2018 and to begin accepting applications for licenses on April 1, 2018.

Currently under the Zoning Ordinance, a non-medical Marijuana Establishment (hereinafter, a “Recreational Marijuana Establishment”) as defined by MGL c. 94G, is not specifically addressed in the Gloucester Zoning Ordinance. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments. The regulation of Recreational Marijuana Establishments raises novel legal, planning, public health and public safety issues, and the City requires time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Ordinance regarding regulation of Recreational Marijuana Establishments and other uses related to the regulation of recreational marijuana. The City adopts this temporary moratorium on the use of land and structures in the City for Recreational Marijuana Establishments so as to allow sufficient time to engage in a planning process to address the effects of such structures and uses in the City and to amend the Gloucester Zoning Ordinance in a manner consistent with sound land use planning, and the goals and objectives of the community.

#### **5.31.2 Temporary Moratorium.**

For the reasons set forth above and notwithstanding any other provision of the Zoning Ordinance to the contrary, the City hereby adopts a temporary moratorium on the use of land or structures for a Recreational Marijuana Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through December 31, 2018, or six months from the date that final regulations are issued by the Cannabis Control Commission, whichever date is later. At any point prior to the referenced timeframes the City Council may amend the Zoning Ordinance to regulate Recreational Marijuana Establishments and terminate the moratorium. During the moratorium period, the City shall undertake a planning process to address the potential impacts of recreational marijuana use in the City, consider the regulations established by the Cannabis Control Commission regarding Recreational Marijuana Establishments and related uses, and shall consider amending the Gloucester Zoning Ordinance in response to these new issues.”

This matter will be advertised for public hearing.

**5. As returned to Committee from City Council meeting of 09/12/17: SCP2017-011 Colburn Street #1, Map 157, Lots 72 & 39, GZO Sec. 3.1.6(b) and Sec. 3.2 for a building height in excess of 35 feet**

**Councilor Lundberg** recounted that this matter was before P&D several meetings ago and the Committee made a recommendation to the Council that it approve this Special Council Permit application. The Council took up this matter on Sept. 12 at a public hearing. After the close of the public hearing because there was such an interest of the neighborhood in this project, the City Council voted to return the matter to P&D so that the Committee could conduct a Site Visit and answer questions that were raised by neighbors. He reported the Site Visit was conducted (Friday, Sept. 15); questions have been submitted, with some of them answered when the Councilors were conducting the Site Visit to specific facts. There will be a review of answers to the questions submitted to the applicant and other questions that may seem relevant that came up during the Site Visit that the public has submitted through Councilors. **Councilor Lundberg** made clear to those in attendance that this was a public meeting, not a public hearing, and no testimony will be taken from any interested parties, rather the Committee will complete the record and return this matter to the City Council at its next meeting. He confirmed that the Council is considering the six criteria under GZO Sec. 1.8.3 and the specific language of the zoning and what needs to be addressed.

**Councilor Gilman** thanked Mr. Geisel for the answers and noted she'd sent by email those answers to eight people who signed up at the site visit with her. She then reviewed the questions with Mr. Geisel's answers (on file).

**Councilor Lundberg** thanked the applicant for the answers to the questions that were submitted and on file which he called above and beyond what is required of an applicant in cases such as this which was helpful considering the inquiries received by Councilors from the neighbors. He noted that the four corners of the proposed building were staked out for the purpose of the Site Visit.

**Fred Geisel**, P.E., representing the applicant for a Special Council Permit for Colburn Street #1 for a height exception responded to **Councilor Gilman's** posing questions based on further submitted questions grouped by the six criteria under GZO 1.8.3 which the Council considers when deciding on a Special Council Permit with input from the Planning Director and members of the Committee as follows:

**1. Social, Economic, or Community need served by the proposal.** From the application: 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.

QUESTION: Does it benefit the developer in any way in the permitting process pursuant to zoning that the applicant's immediate family will share the site in the form of a two-family home. **Mr. Geisel** said, "Yes," adding that it is an "emotional" issue; that the term "developer" has a negative connotation and that "homeowner, family" have positive connotations. They can't avoid their emotions and feelings as much as they try to be objective, he said.

QUESTION: Do FEMA height requirements affect the character of the neighborhood? "FG" said a building twice this footprint could be built and comply with zoning. The building's size is well within zoning requirements. If this building was to assume a maximum height of 20 feet, which is less than 30 feet seeing that the existing height starts at 9 feet for a structure, would any permitting be required from either ZBA or Council? **Councilor Lundberg** said that if the building was under 30 feet an applicant could simply go to the Building Inspector and obtain a building permit. **Mr. Geisel** added that current lot coverage is slightly over 11% and they could take the two floor areas and spread it over one story with a roof and comply with zoning. He advised that isn't what they want to do and said he didn't believe it would serve the neighborhood.

**Councilor Cox** said she'd like to draw attention to, if they adopted the FEMA Flood Maps, then this would have been by right because of their recommendations, and most of it is mandatory now. **Mr. Geisel** said the city has adopted the FEMA flood zone maps and must abide by them. Because they have rising sea levels and more flooding, that eventually for situations by these, the city may have to change heights to be excepted. **Councilor Lundberg** said outside of FEMA regulations, in the Zoning Ordinance currently, any structure to be built over 35 feet the Council has to approve. He added that if they were saying could they amend the Zoning Ordinance and say "except if it's required by FEMA it is a matter of right," it could be done. They've adopted the FEMA flood maps not a change in the city's Zoning Ordinance. **Gregg Cademartori**, Planning Director, said this is a rare instance with the base flood elevation is nine feet above the existing average grade. There are about 71 properties in the community that aren't built upon currently in the "V" (Velocity) zone -- 50 of which are at the tip of Magnolia (including the south side of Shore Road) and the Back Shore. He said there is a handful of property in this very situation, and 1 Colburn Street is a "very unique case" where the first floor elevation is going to have to be 11 feet. He reiterated it is a unique situation where there is construction proposed in a V zone.

**Councilor Cox** said a concern was raised that such structures are going to start proliferating all over the city. **Mr. Cademartori** said there is a distinction between V but “A” (Coastal Flooding) zone and in those A zones there a lot of structures that exist and if they hit a threshold of investment and have to meet the code, the property owners have to meet the new regulations where they may have to raise their structures up several feet – some may be able to be accommodated within the 30 foot restriction. This, he said, is this is a unique case and potentially some in the Wingaersheek area would be in a similar situation, he pointed out.

**Councilor Gilman** then read GZO Sec. 3.1.6(b) building heights in excess of 35 feet. **Councilor Lundberg** said there are parts of the Zoning requirements for the Council to consider for a Special Council Permit that are subjective in nature and each Councilor will have their own opinion as to neighborhood character and as to what they consider it consists of in Bay View. He pointed out that everyone can have their own opinion on that but in the end it is the Council that decides. **Councilor Gilman** noted eight out of nine Councilors had already visited the property prior to the site visit on their own, and said that Councilor O’Hara, in addition to the P&D Committee members was present at the Site Visit.

**2. Traffic Flow and Safety.** **Councilor Gilman** noted there was nothing new to add to this heading as it was the same as on the original application, nothing has changed.

**3. Adequacy of Utilities and other public services.** From the application: 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.

QUESTION: Some neighbors were concerned about the water pressure on upper Colburn that is already inadequate. Can you further explain what Mike Hale told Councilor Gilman that was shared at the site visit for the record?

**Councilor Gilman** noted Mr. Geisel had contacted Mike Hale, Public Works Director, and talked about the Bond Hill water tower, and that because the end of Colburn Street is higher than the water tower, the water pressure will not be affected at all -- even if it was a YMCA facility at 1 Colburn Street, it wouldn’t affect the water pressure.

**4. Neighborhood character and social structure.** From the application: 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. QUESTION: Will two 2,700 (square foot) side by side homes, by definition, overshadow the homes of a neighborhood with mostly 1,500 square foot homes? What is an alternative if special permit didn’t get approved -- there could be a widow’s walk? Is the rail of a widow’s walk part of the Zoning height requirement or is it exempt? **Mr. Geisel** said he understood that to be exempt as it is a ridge of the building and that adornments are not considered part of the height. He commented that they have compared two 2,700 foot side by side which is actually less than 2,700 square feet, using the criteria which the assessors judge living space which is not a full height, they use factors of .2 to .9, and he used a factor of .9 for the second floor, which gives 2,415 square feet for each of the units. He mentioned a neighbor, Ted Reed, who submitted by email and handout (on file) an assessment of houses in the area which he indicated averaged 1,500 square feet and that the proposed duplex is 3 ½ times that size. **Mr. Geisel** said they are not – is 1,500 square feet versus 2,400 square feet, and suggested it is about 50% higher. He noted examples from Mr. Reed’s compilation, 924 Washington Street which across the street from the subject property is 3,434 square feet of living space for a single-family home with five bedrooms; 954 Washington Street is 3,476 square feet for a single-family home; next door is 956 Washington Street at 2,794 square feet. He cited that in the immediate neighborhood there are homes equal to or substantially larger than the application proposes and all of them fit in with the neighborhood based on those criteria. He pointed to a photograph of 925 Washington Street saying it has a substantial presence in terms of visual impact to the street being nearly the same size as proposed through this application. The proposed duplex is set back from the road.

**5. Qualities of Natural Environment.** From the application: 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 pip to keep the area from flooding. The open ocean of Hodgkin’s Cove and Essex Bay dominate the westerly landscape. Significant changes to the natural environment will not result from this project. QUESTION: Will the stream water flowing from above #3 lot pond come through #1? How will be diverted? **Mr. Geisel** explained water won’t be diverted; it will be collected and discharged to the cove with a 24” pipe set at a lower elevation which has four times the capacity of the existing pipe which is being reviewed under application for #3 Colburn Street with the Conservation Commission (ConCom). He pointed out because it isn’t on this property they have no say what is done there – that’s left up to that left up to that applicant and ConCom. QUESTION: How will this structure effect my house and possibly flooding (that I have never had) at 927 Washington Street? **Mr. Geisel** previously answered that



FEMA requires the building be raised on piers to allow flood waters to pass through the structure without significant damage and without displacing flood waters to other properties. **Councilor Gilman** asked if this meant that the back side of the garages will be moved up in case of flooding. It was noted that Mr. Geisel had previously commented at the site visit that cars would be removed prior to any flooding. **Mr. Geisel** said that there is no back wall as these are in essence, car ports. He noted the rendering of the face of the building (on file) shows garage doors which enhances the look of the home which serves as a screen and assured there will be no backing -- there'll be lattice and flood waters will pass right through. There will be screening so that it doesn't appear that a house is built on piers.

**Councilor Lundberg** said this matter now goes back to the Council. The public hearing was concluded and they were at the point of Council discussion where he will report on the Site Visit and the answer to these questions, and if it is the will of the Council, by vote they can reopen the public hearing.

This matter is closed.

**6. 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 09/06/17)**

**Joel Favazza**, Seaside Legal Solutions, 111 Main Street, representing Happy Valley Ventures Massachusetts INC. ("HVV") for a Major Projects Special Council Permit for a Medical Marijuana Treatment Center ("MMTC") and Cultivation Facility ("MMCF") at 38 Great Republic Drive. With him was Michael Reardon, Manager of the Happy Valley LLC and Chair of the Board of the non-profit. **Mr. Favazza** conveyed the following information: **GZO Sec. 5.7.3** - Department Review: No issues came from the Building Department. The Conservation Commission (ConCom) issued an Order of Conditions in May 2017, and that Ken Whittaker, Conservation Agent, has written a letter (placed on file) that there is nothing on this application that requires further ConCom consideration. The Engineering Department issued a memo recommending the application move forward. The Fire Department issued a memo that the Fire Chief is satisfied with the fire access lanes and reminded that they want to make sure of certified qualified engineer assures that the Fire Department vehicles can access along the back side of the property which is held up by a large retaining wall. There is a memo from Public Works Director, Mike Hale saying he's confident the permit to connect sanitary sewer will serve to protect the interests of the city. The applicant reached out to Mr. Hale regarding landscaping in the public way up to the back of the existing sidewalk which is a distance of several feet between the property line and that. As part of the screening landscaping design they will landscape into that. At Mr. Hale's suggestion the applicant's attorney has reached out to General Counsel and is in early discussions to craft a perpetual agreement for maintenance and responsibility agreement for that landscaping. The Health Department had questions regarding the kitchen facilities. It was noted that the state Department of Public Health Department examined all the floor and site plans including that kitchen and certified that as proposed the kitchen satisfies state requirements.

**GZO Sec. 5.7.4** - Planning Board Review: The Planning Board put forward a positive recommendation.

**GZO Sec. 5.7.5** – Special Permit Criteria in addition to Sections 1.8.3 and 1.8.4 in acting upon Major Projects: (a) Access from an arterial or collector street via ways serving not more than ten single-family homes. It was noted that Great Republic Drive is one of the widest streets in the city and one of its newer roads. (b) When not connected to municipal sewerage assisted living facilities, multi-family or hotel, motel or motel in ...this subsection doesn't apply. (c) Site plan shall include access, drainage and utilities serving each structure ...” All plan requirements have been met. (d) All other requirements of the Zoning Ordinance and of all applicable building codes must have been satisfied....” All requirements to Zoning Ordinance have been met. Subsections (e), (f) and (g) are not applicable to this Major Project which relate to multi-family residential or assisted living facility use, and shopping centers.

**GZO Sec. 5.8** – Site Plan Review: The Planning Board completed its Site Plan Review and issued their approval at their last meeting.

**GZO Sec. 5.8.7** – Review Guidelines and Approval: A) A reasonable effort shall be made to conserve and protect natural features... The property is a dirt lot with invasive species which is being replaced with a comprehensive landscaping plan, and that there will be mitigation planting on the westerly side of the property because that is where the parking lot is closest to the existing wetland. B) Topography and drainage plan.... touched on briefly. C) The placement of buildings, structures, fences, lighting, signs, and fixtures on each site shall not interfere with traffic circulation... During the Site Plan Review this subsection was reviewed in great detail, and the traffic flow plan “heavily scrutinized.” Access will be adequate for employees, patients and city vehicles accessing the property during emergencies. D) All areas designed for vehicular use shall be paved.... this is met. E) All

parking spaces shall be arranged and clearly marked in accordance with the design and layout standards contained in Sec. 4.14 of the Zoning Ordinance. There are more than adequate parking spaces created on the property to satisfy the Zoning Ordinance and are exceeded, and as verified in the Site Plan Review. F) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground. This was noted that no overhead wires are planned. G) All surface water runoff from structures and impervious surfaces shall be disposed of on site.... There is a comprehensive on-site stormwater drainage system plan in place that was approved by ConCom and DEP as part of their ConCom work as had the Engineering Dept. H) In the MI District... The property is not in an MI District so this subsection isn't applicable. I) Pedestrian safety and vehicular safety to and from the site shall be maximized provided it does not interfere with the proposed use. Based on conversations with the Planning Board and the EDIC, from original set of plans, additional sidewalks have been added and circulation that was initially proposed as one-way is now two way along the front of the building (southerly side). J) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity. This is a 330 ft. long, 40 ft. high white sheet metal building which fits in with the buildings in immediate vicinity with #21 Great Republic Drive being noted as a similar structure in size with similar building face. The Blackburn Industrial Park is comprised of a variety of types of buildings. The nearest building in size and scale is similar in material. K) Ensure compliance with the provisions of this Zoning Ordinance. Noted as completed. L) Promote orderly and reasonable internal circulation within the site so as to protect public safety and not unreasonably interfere with access to a public way or circulation of pedestrian or vehicular traffic on a public way. Parking spaces are designed, as are walkways, to ensure the safety of employees and patients.

**GZO Sec. 5.27 – Medical Marijuana Treatment Centers (MMTC) and Medical Marijuana Cultivation Facilities:** This section triggers the Site Plan Review and the requirements under Sec. 5.7 Major Project. This section discusses criminal background checks which are noted as completed at the MDPH level. This section requires separation of facilities that is no MMTC or MMCF may be located 1,500 feet from any school or childcare establishment, where large numbers of minors regularly congregate, any church or any other structure used in whole or part for religious or spiritual services, etc., and shall be located 500 linear feet from the property line of any residentially zoned property as well as 1,500 feet from any other similar facility. All these requirements are met by the proposed facility. Signage is noted to be in compliance with this section. It was noted that any such facility must be directly attached to a MMTC or MMCF which it is associated, and that in this instance it is in fact attached. As an annual report must be submitted to the MDPH, so too will that report be submitted to the city as required by this section of the Zoning Ordinance, it was pointed out.

**Mr. Favazza** then reviewed the six criteria under GZO Sec. 1.8.3:

- 1. Social, Economic or community need:** There will be 97 jobs created with a payroll of approximately \$3.8 million a year which was termed as a, “boon to the local job market.” It will cost approximately \$12 million for construction which will benefit local construction companies.
- 2. Traffic Flow and Safety:** Traffic flow and safety was noted as having been intensely scrutinized through the Planning Board Site Plan Review, the DPW, Engineering. The parking lot meets the requirements of the Zoning Ordinance and the EDIC as well as the practical demand this facility will place on the site and the public safety requirements ensuring that even the city's largest fire truck can get through this site unimpeded.
- 3. Adequacy of Utilities and other public services:** 38 Great Republic Drive is located in the Blackburn Industrial Park where the utilities were termed more than adequate. In talks with National Grid discussing the electricity load and received back from National Grid that the in-place utilities will be able to handle the facility's electrical demands.
- 4. Neighborhood character and social structure:** It was noted that this is the only city Zoning District where a MMTC and MMCF can be located.
- 5. Qualities of the natural environment:** This facility is located in an industrial park. The site will be improved through this construction and use and through a comprehensive landscaping plan (on file).
- 6. Potential fiscal impact:** By Year 3 the city will reap a minimum from the Host Community Agreement of \$100,000 in additional revenue annually which is projected at \$240,000 if HVV hits their target servicing of their patients. HVV is a non-profit and is leasing the property from a for-profit LLC entity and so property taxes will be paid. It is hoped that the 97 employees will be spending a part of their paycheck locally.

**COUNCILOR QUESTIONS:**

**Councilor Cox** said that everything was contained in the Site Plan review and in the department recommendations -- this was done thoroughly and she had no questions.

**Councilor Gilman** clarified that Mr. Reardon is the Managing Partner of the development LLC that is dealing with the development and construction of 38 Great Republic Drive and is Chairman of the Board of the non-profit HVV MA Inc., the entity that holds the Medical Marijuana licenses granted by the MDPH.

It was noted that the only outstanding departmental recommendation was that of the Building Inspector. **Mr. Cademartori** advised that the Building Inspector conveyed to him that he had no other concerns about this project. He noted that the Building Inspector indicated that because of the complexity of the plans they'll likely be sent out for review during the building permit process. **Councilor Lundberg** reiterated that because of the complexity of the plans, the Building Inspector does send plans out for review and that in order to receive building permits the Building Inspector will have to give his approval. **Mr. Cademartori also** advised that the Conservation Agent, Ken Whittaker, wrote a letter that he'd reviewed the most recent revised plans which he submitted for the record.

**Councilor Gilman** said she understood two parking spots would be marked compact so that fire trucks can get by and asked how that would be enforced, expressing concern for the fire truck access should an emergency arise. **Mr. Favazza** said that the compact car spaces are out of an "abundance of caution," and that all the parking spaces are 22 feet deep. The path of a fire truck won't intercept them but comes really close. Even with a car that isn't compact, the fire trucks won't clip it. To assure the Fire Department that all steps have been taken to make sure nothing impedes their access, these spaces are designated as employee parking, he pointed out and the dispensary is on the back side along the face of the dispensary (on the northeast side of the building) and these spaces are in the northwesterly corner of the lot. He reassured that the facility's management will be able to clearly see who is and isn't parking appropriate vehicles in those spaces. **Councilor Gilman** asked if the applicant has spoken with abutters. **Mr. Favazza** said the last time they went through this process they did a lot of outreach with abutters and received no negative responses. The folks at Spice Boy LLC wanted to make sure that nothing that HVV would be doing was going to impacted them as they're highly regulated because they make food products. He said they assured that company that every part of the production facility is retained, that there are no open vents nor will any fumes be expressed into the atmosphere. He said abutters were alerted they were redoing this permitting but did no further outreach. If there was a concern after year he said they would hear it.

**Councilor Lundberg** said he spoke with Tom Gillett, the Executive Director of the EDIC who talks with Blackburn Industrial Park constituents on a regular basis, and was advised no concerns were raised by the abutters to the EDIC. **Mr. Favazza** announced that HVV is close to purchasing from Varian #58 Great Republic Drive in order to create another MMCF on that 10 acre site, and advised they'll be permitting that facility as well.

**Councilor Gilman** asked if HVV were to some point decide to sell recreational marijuana that they will go through that process. **Mr. Favazza** pointed out that possibility is contained within Condition #3 in the proposed Special Council Permit noting it is a "belt and suspenders" approach. If the Council said by right they can open up retail recreational pot shops, HVV would still be required to come through and do the whole process which he said they are okay with.

**Councilor Lundberg** noted that the Planning Board approved the Site Plan by a vote of 6 in favor, 0 opposed, and incorporated some conditions to the Special Council Permit that the applicant, in part, proposed themselves and will be before the Council at the public hearing.

**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 issue a Major Project Special Council Permit (SCP2017-006) for a Medical Marijuana Cultivation Facility and Treatment Center to Happy Valley Ventures MA, Inc. (HVV) (applicant), Map 263, Lot 64 at Great Republic Drive #38 pursuant to Sec. 1.5.3(c), Sec. 5.7 "Major Project" & Sec. 5.27 "Medical Marijuana Treatment Centers & Medical Marijuana Cultivation Facilities" and 1.8.3 of the Zoning Ordinance as shown on the Plans as submitted to the City Clerk's Office on April 19, 2017 and Supplemental Plans submitted to the City Clerk's office on August 3, 2017 and Existing Conditions Plan by Gateway Consultants, Inc., Gloucester, MA dated 3/20/17 with revisions through 9/13/17 consisting of four sheets and Landscaping Plan by Annisquam Landcare, Inc., Gloucester, MA, dated 8/22/17. This Special Council Permit is in harmony pursuant to the governing Zoning Ordinance with the addition of the following conditions:**

1. **Façade: At least 1,000 square feet of the southern face of the proposed building be covered in tasteful artwork such as murals, the selection process for which must be initiated within 30 days of receiving a Special Council Permit for the proposed facility. An as-built certification by a licensed architect or engineer stating this condition has been complied with shall be provided to the city prior to receiving an occupancy permit.**

2. **Planting Plan:** HVV must enter into a written agreement with the City satisfactory to the Director of Public Works and General Counsel to perpetually maintain the plantings proposed in the public way prior to receiving an occupancy permit.
3. **Potential Future Use:** Any proposed change in use of the facility to dispense non-medical marijuana products shall require the modification of the City Council Major Project Special Permit and the Planning Board's Site Plan Review Approval.
4. **Snow-Related Debris:** HVV must maintain a landscaping and/or site maintenance agreement that includes an annual (on or before April 30 of each year) cleaning of the northern stone wall to remove any debris deposited during snow removal efforts from the prior winter.
5. **Dedicated Patient Parking:** Parking spaces numbered 11 through 27 on the Site Plan are to be reserved solely for patient parking (with the exception that staff requiring handicap parking be permitted to use such spots) and that, should HVV staff require use of more than two (2) of the existing handicap accessible parking spots, HVV will designate additional spots in the eastern parking field for handicap employee use.
6. **Safety Fence:** A safety fence is to be erected atop the proposed retaining wall along the northern portion of the upland.
7. **Compact Car Parking:** Parking spaces numbered 8, 9 and 10 on the Site Plan be designated compact car parking only in an effort to prevent interference with fire apparatus access while those spaces are in use.
8. **80,000 lb. Vehicle Load:** HVV must produce a certification from a licensed engineer that the northern fire access lane will be able to handle an 80,000 lbs. vehicle load prior to receiving an occupancy permit.
7. *SCP2017-012: School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5 for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sec. 5.29 (including Major Project under GZO Sec. 5.7) and Sec.'s 5.29.10 and 5.11.8 (TBC 10/18/17)*

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:07 p.m.

Respectfully submitted,

*Dana C. Jorgensson*  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- "1.8.3 Conditions to review at P and D for 1 Colburn Street 9/20/17 meeting review double sided document submitted by Councilor Gilman re: SCP2017-011: Colburn Street #1
- Letter from Ken Whittaker, Conservation Agent, to Gregg Cademartori, Planning Director, dated September 20, 2017 re: SCP2017-006: Great Republic Drive #38