

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, January 22, 2019 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

**Present:** Chair, Councilor Paul Lundberg; Vice Chair, Councilor Steven LeBlanc (left the meeting at 9:30 p.m.); Councilor Melissa Cox; Councilor Valerie Gilman; Councilor Jennifer Holmgren; Councilor Scott Memhard; Councilor Sean Nolan; Councilor James O’Hara

**Absent:** Councilor Hecht

**Also Present:** Joanne Senos; Jim Destino; Kenny Costa; Chip Payson; John Dunn; Jill Cahill; Mike Hale; Gregg Cademartori; James Pope; Nancy Papows; Grace Poirier

The meeting was called to order at 7:00 p.m. The Council President announced that this meeting is recorded by video and audio in accordance with state Open Meeting Law.

**Flag Salute & Moment of Silence.****Oral Communications:**

**Name:** Kimberly Smith

**Address:** 22 Plum Street

**Subject:** Piping Plovers - short list of recommendations by Piping Plover volunteer monitors (written statement placed on file) to increase the likelihood of piping plover hatchlings will survive after hatching on Good Harbor Beach this spring: 1) Change the dog ordinance to not allow dogs on Good Harbor Beach after April 1; 2) Rope off nesting area by April 1st with signage; 3) Enforce the existing dog ordinances especially during nesting season; 4) Increase trash collection to prevent the attraction of crows and gulls.

**Councilor Holmgren** advised that recommendations will be implemented by the Animal Advisory Committee through her.

**Name:** Karen Spencer

**Address:** 67 Langsford Street

**Subject:** Correlation between fluoridation and dementia, highlighting two studies which make this case and urged the discontinuation of fluoridation of the city’s water supply (written statement on file).

**Name:** Filipe Vieira

**Address:** 5 Stanwood Terrace

**Subject:** Enforcement of a debris/litter ordinance in the city. He urged that responsibility be placed upon property owners to take care of litter, debris and materials that could be recycled accumulated on their property even if they didn’t generate it. He suggested a few ways to clean the downtown and other areas of the city of the litter and debris from examples of other Massachusetts communities able to be adapted for the city.

**Presentations/Commendations:****Confirmation of New Appointments:**

Capital Improvement Advisory Board

Joseph Orlando, Jr.

TTE 02/14/22

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Joseph Orlando, Jr. to the Capital Improvement Advisory Board, TTE 02/14/22.

**DISCUSSION:**

**Councilor LeBlanc** conveyed that that Mr. Orlando will work with the Administration to work towards a five and 10 year capital plan.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 8 in favor, 0 opposed, 1 (Hecht) absent, to appoint Joseph Orlando, Jr., to the Capital Improvement Advisory Board, TTE 02/14/22.**

Gloucester Cultural Council

Amanda Nash

TTE 02/14/22

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council appoint Amanda Nash to the Gloucester Cultural Council, TTE 02/14/22.

**DISCUSSION:**

**Councilor LeBlanc** advised that the O&A Committee was unanimous in putting Ms. Nash forward.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 8 in favor, 0 opposed, 1 (Hecht) absent, to appoint Amanda Nash to the Gloucester Cultural Council, TTE 02/14/22.**

Shellfish Advisory Commission

Michael Orlando  
Andrew Gossom

TTE 02/14/21  
TTE 02/14/22

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council appoint Michael Orlando to the Shellfish Advisory Commission, TTE 02/14/21.

**DISCUSSION:**

**Councilor LeBlanc** explained that Mr. Orlando is already a member of the Fisheries Commission and this Commission is complementary.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 8 in favor, opposed, 1 (Hecht) absent, to appoint Michael Orlando to the Shellfish Advisory Commission, TTE 02/14/21.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council appoint Andrew Gossom to the Shellfish Advisory Commission, TTE 02/14/22.

**DISCUSSION:**

**Councilor LeBlanc** highlighted that Mr. Gossom works on the Sand Dollar for Tony Gross, is a commercial lobsterman and clammer. Council President Lundberg endorsed Mr. Gossom’s appointment.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 8 in favor, 0 opposed, 1 (Hecht) absent, to appoint Andrew Gossom to the Shellfish Advisory Commission, TTE 02/14/22.**

**Consent Agenda:**

- **CONFIRMATION OF REAPPOINTMENTS**

**Management Reappointments:**

General Counsel	Charles Payson	TTE 02/14/21
Human Resources Director	Donna Leete	TTE 02/14/21
Inspector of Buildings	William Sanborn	TTE 02/14/21
Information Services Director	James Pope	TTE 02/14/21
Public Works Director	Michael Hale	TTE 02/14/21
Director of Veteran Services	Adam Curcuro	TTE 02/14/21
Principal Assessor	Nancy Papows	TTE 02/14/22

**Board, Committee, Councils & Commissions Reappointments:**

Affordable Housing Trust	Rick Doucette, Ruth Pino, Mike Luster	TTE 02/14/21
Board of Commissioners of Trust Funds	Rick Ciolino, Barry Weiner	TTE 02/14/22
Board of Health	Joseph Rosa	TTE 02/14/22
Board of Registrars	Judith Peterson	TTE 02/14/22
City Hall Restoration Commission	Maggie Rosa, Steve Dexter, David C. Bell, Janis Bell, Richard Luecke, Mark Cole, Bill Sanborn	TTE 02/14/22
City-Owned Cemeteries Advisory Comm.	Sandy Barry, Patti Amaral, Beverly McKean	TTE 02/14/22
Clean City Commission	Ainsley Smith	TTE 02/14/22
Clean Energy Commission	Linda Brayton, John Moskal	TTE 02/14/21
Community Preservation Committee	Ellen Preston, Heidi Wakeman	TTE 02/14/22
Conservation Commission	William Cook, Ann Jo Jackson	TTE 02/14/22
Council on Aging	Robert Quinn	TTE 02/14/22
Fisheries Commission	Scott Swicker	TTE 02/14/22
Historical Commission	Sandy Barry (Alternate)	TTE 02/14/22
Planning Board	Douglas Cook, Shawn Henry	TTE 02/14/24
Planting Committee	Bonnie Angus, William Taylor	TTE 02/14/22
Shellfish Advisory Committee	Ann Jo Jackson (ConCom Rep.), Dan Molloy	TTE 02/14/22
Stage Fort Park Advisory Committee	William Fonvielle	TTE 02/14/22
Tourism Commission	Doug Silva	TTE 02/14/22
Traffic Commission	Anthony Bertolino, Robert Ryan	TTE 02/14/22

- **MAYOR'S REPORT**

## 1. New Appointments:

Capital Improvements Advisory Board	Paul Romary	TTE 02/14/22	(Refer O&A)
Clean City Commission	Emily Richey-Smith	TTE 02/14/22	(Refer O&A)
Waterways Board	Jekabs "Jake" Vittands (At Large Member)	TTE 02/14/22	(Refer O&A)

## Reappointments:

Magnolia Woods Oversight & Advisory Committee	Jack Palazola	TTE 02/14/22	(Refer O&A)
Traffic Commission	Michael Mulcahey	TTE 02/14/22	(Refer O&A)
Tourism Commission	Elizabeth Favazza Osier	TTE 02/14/22	(Refer O&A)
Waterways Board	Phil Cusumano	TTE 02/14/22	(Refer O&A)

2. Memorandum from the Director of Public Health re: request acceptance of a bridge-funding grant in the amount of \$6,000 to sustain the Transportation to Detox Voucher Program (Refer B&F)
3. Memorandum from Assistant Director of Public Works re: request acceptance of a Mass. Dept. of Environmental Protection grant in the amount of \$28,000 (Refer B&F)
4. Memorandum from Director of Veterans' Services re: request acceptance of donations in the amount of \$8,466.50 to support Cape Ann Veterans' Services (Refer B&F)
5. Memorandum from Community Development Director re: request acceptance of a Mass. Cultural Council grant in the \$5,000 for the Gloucester Downtown "Harbortown" Cultural District (Refer B&F)
6. Supplemental Appropriation-Budgetary Request 2019-SA-20 from the CFO (Refer B&F)
7. Supplemental Appropriation-Budgetary Request 2019-SA-21 from the CFO (Refer B&F)
8. Supplemental Appropriation-Budgetary Request 2019-SA-22 from the CFO (Refer B&F)
9. Supplemental Appropriation-Budgetary Request 2019-SA-23 & 24 from the CFO (Refer B&F)
10. Supplemental Appropriation-Budgetary Request 2019-SA-25 from the CFO (Refer B&F)
11. Memorandum from CFO re: request amendment to Loan Order 2018-005 to include \$600,000 for additional funding for the Babson Water Treatment Plant (Refer B&F)
12. Supplemental Appropriation-Budgetary Request 2019-SA-26 from the Harbormaster (Refer B&F)
13. Supplemental Appropriation-Budgetary Request 2019-SA-27 from the Harbormaster (Refer B&F)
14. Supplemental Appropriation-Budgetary Request 2019-SA-28 from the Harbormaster (Refer B&F)
15. Letter from the Cannabis Control Commission to formally request Legislature amend law on contracts/host community agreements (Info Only)
16. News article re: Cannabis Control Commission to formally request Legislature amend law on contracts/host community agreements (Info Only)
17. Notes and presentation from the January Climate Mayors Monthly Coordination Call (Info Only)

- **COMMUNICATIONS/INVITATIONS**

1. Memorandum from City Clerk re: request City Council set September 17, 2019 as the date for the municipal preliminary election (FCV 2/12/19)

- **INFORMATION ONLY**

1. Appointment of Valerie H. Gilman to serve as Gloucester's representative to the Essex North Shore Agriculture & Technical School Committee for a three year term effective January 2019 (Info Only)

- **APPLICATIONS/PETITIONS**

1. Special Events Application: Request to hold the Back Shore 5K Road Race on May 16, 2019 (Refer P&D)
2. Special Events Application: Request to hold the Fiesta 5K Road Race on June 27, 2019 (Refer P&D)
3. Special Events Application: Request to hold the Lone Gull 10K Road Race on September 22, 2019 (Refer P&D)
4. SCP2019-003: Washington Street #742, Map 116, Lot 33, GZO Sec. 5.5.2 Lowland Requirement in the NB District (Refer P&D)

- **COUNCILORS ORDERS**

1. CC2019-002 (Cox): request certain sections of GCO Ch. 11, "Hawkers, Peddlers, Transient Vendors and Special Events" be amended (Refer O&A, Police, Health & Building Departments)
2. CC2019-003 (Gilman): refer MGL Ch. 40, §8J to the P&D and O&A Committees to consider the establishment of a

- Disabilities Rights Commission and members to be appointed by the Mayor (Refer P&D & O&A)
3. CC2019-004 (Cox/Gilman): request City Council sign a resolution to request that the Legislature and Governor of the Commonwealth amend MGL c. 94 to extend the law to include “nip” bottles (Refer O&A & B&F)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 1/8/2019 (Approve/File)
2. Standing Committee Meetings: B&F 1/17/2019 (under separate cover), O&A 1/14/19, P&D 01/16/19 (Approve/File)

**Items to be added/deleted from the Consent Agenda:**

**Councilor LeBlanc** advised he, too, would ask to pull Item #1 “Reappointments” under the Mayor’s Report, specifically the reappointment of Adam Curcuru, Veteran’s Services Director and to pull under “Information Only” the appointment of Councilor Gilman to serve as Gloucester’s representative to the Essex North Shore Agriculture & Technical School Committee for a three year term effective January 2019.

He pointed out that Mr. Curcuru (Director of Veterans’ Services) wasn’t present at the O&A meeting (of Jan. 14) for his reappointment although the Committee put him forward. He conveyed he’d reached out to Mr. Curcuru saying he should have appeared at the O&A meeting and asked that he come before the Committee to confirm his reappointment. **The reappointment of Adam Curcuru as Veterans’ Services Director was voted unanimously by the Council to be referred back to the O&A Committee.** He then recognized Councilor Gilman for her appointment as the city’s representative to the Essex North Shore Technical School, School Committee for a three-year term saying that there wasn’t anyone he’d rather see representing the city and thanked her for her service.

**Councilor Cox** asked to remove Item #3 under Council Orders, CC2019-004 (Cox/Gilman): request City Council sign a resolution to request that the Legislature and Governor of the Commonwealth amend MGL c. 94 to extend the law to include “nip” bottles saying that this matter should be under the heading, “For Council Vote”, as it is not a referral item to amend the Code of Ordinances. -- it is simply a letter from the Council to the state that should be on the Council’s next agenda. **By unanimous vote of the Council this matter is to appear on the next Council Agenda under the heading “For Council Vote”.** She asked that the title of the agenda heading be amended as the Council Order was for redemption of “nip” bottles as well as “single use water bottles”, language of which is found in the Council Order.

**Council President Lundberg** under Item #1 “Reappointments” in general commended and thanked the management reappointees mentioning General Counsel, Chip Payson; Director of Human Resources, Donna Leete; Building Inspector, Bill Sanborn; Principle Assessor, Nancy Papows; Public Works Director, Mike Hale, and Director of Information Technology, James Pope. He made mention of the many members of the Boards, Committees and Commissions reappointed this evening by the Council’s vote to accept the Consent Agenda advising that he and the Mayor agreed to co-host a meeting of the city’s Boards, Committees and Commissions to be able to hear from those volunteers about their work on behalf of the city.

**By unanimous consent the Consent Agenda was accepted as amended.**

**Committee Reports:**

**Budget & Finance: January 17**

**Councilor Cox** thanked Councilor O’Hara for sitting as Alternate for Councilor Hecht who was unable to be at the B&F Committee meeting of January 17.

COMMITTEE RECOMMENDATION: On motion by Councilor O’Hara, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, a donation from the Cape Ann Chapter of the Daughters of the American Revolution in the amount of \$500.00 for the Archives Department for the purpose of funding the Archives Department Vault Construction Fund in Fund 3318.

**DISCUSSION:**

**Councilor Cox** noted that this is an annual donation from the Cape Ann Chapter of the DAR to support the work of the Archives Department.

**MOTION: On motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 8 in favor, 0 opposed, 1 (Hecht) absent, to accept under MGL c. 44, §53A, a donation from the Cape Ann Chapter**

**of the Daughters of the American Revolution in the amount of \$500.00 for the Archives Department for the purpose of funding the Archives Department Vault Construction Fund in Fund 3318.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council in accordance with MGL c. 44, §64 approve payment of a prior year invoice for a Gloucester Police Detail for DPW road work, Invoice #18-267-DV dated 6/26/2018 for a total of \$528.00 from FY2018 to be paid with FY2019 General Fund, DPW-Public Services, Police Details Account budgeted funds.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 8 in favor, 0 opposed, 1 (Hecht) absent, in accordance with MGL c. 44, §64 to approve payment of a prior year invoice for a Gloucester Police Detail for DPW road work, Invoice #18-267-DV dated 6/26/2018 for a total of \$528.00 from FY2018 to be paid with FY2019 General Fund, DPW-Public Services, Police Details Account budgeted funds.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, 53A a Mass. Executive Office of Energy and Environmental Affairs FY19 & 20 Planning Assistance Grant in the amount of \$28,790.00. Funds are to be used for the purpose of updating the City of Gloucester's 2010 Open Space and Recreation Plan. The grant period expires June 30, 2020 and there is a 40% in-kind match and cash match for this grant.

**DISCUSSION:**

**Councilor Cox** explained that this is a technical grant to update the city's Open Space Plan.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 8 in favor, 0 opposed, 1 (Hecht) absent, to accept under MGL c. 44, 53A a Mass. Executive Office of Energy and Environmental Affairs FY19 & 20 Planning Assistance Grant in the amount of \$28,790.00. Funds are to be used for the purpose of updating the City of Gloucester's 2010 Open Space and Recreation Plan. The grant period expires June 30, 2020 and there is a 40% in-kind match and cash match for this grant.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, from the Massachusetts Division of Marine Fisheries (MA DMF), a FY2019 Great Marsh Green Crab Trapping Program Grant in the amount of \$12,500 for the purpose of funding a program to capture and remove European green crabs from coastal marine and estuarine waters within the Great Marsh ecosystem to improve shellfish, eelgrass, and other fishery resources within the City's jurisdiction. The grant period expires June 30, 2019 and there is no required local match.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 8 in favor, 0 opposed, 1 (Hecht) absent, to accept under MGL c. 44, §53A, from the Massachusetts Division of Marine Fisheries (MA DMF), a FY2019 Great Marsh Green Crab Trapping Program Grant in the amount of \$12,500 for the purpose of funding a program to capture and remove European green crabs from coastal marine and estuarine waters within the Great Marsh ecosystem to improve shellfish, eelgrass, and other fishery resources within the City's jurisdiction. The grant period expires June 30, 2019 and there is no required local match.**

**Ordinances & Administration: January 14**

There are no matters for Council action under this heading.

**Planning & Development: January 16**

There are no matters for Council action under this heading.

**Scheduled Public Hearings:**

Without objection the Council allowed for the opening of all three public hearings, PH2018-066, -067 and -068 simultaneously with Public Hearing 2018-068 taken up first with a presentation by the Applicant.

3. **PH2018-068: SCP2018-007: Gloucester Crossing Road #1 & #7, Map 262, Lots 13 & 37, for the modifications and reconfigurations of Building C and Building E, the replacement of the proposed hotel with additional retail, a reconfiguration of the parking fields to eliminate underground parking and to comply with the requirements of two proposed drive-through facilities pursuant to GZO Secs. 1.5.3(c) "CCS" Special Permits and (d) "Major Projects" and 5.7 "Major Project" (Cont'd from 1/8/19)**
1. **PH2018-066: SCP2018-005: Gloucester Crossing Road #1 & #7, Map 262, Lots 13 & 37, for a retail drive-through pursuant to GZO Secs. 1.5.3(g) "Drive-Through Facilities" and 5.17 "Special Regulations; Drive-Through Facilities" in the EB District (Cont'd from 1/8/19)**
2. **PH2018-067: SCP2018-006: Gloucester Crossing Road #1 & #7, Map 262, Lots 13 & 37, for a coffee shop drive-through pursuant to GZO Secs. 1.5.3(g) "Drive-Through Facilities" and 5.17 "Special Regulations; Drive-Through Facilities" in the EB District (Cont'd from 1/8/19)**

**Those speaking in favor:**

**Michele Harrison**, Special Permit Project Manager, was present to represent Sam Park & Company, LLC, Samuel Park Manager; Gloucester Crossing and Gloucester Commons, LLC, Samuel Park owner, ("Applicant"). Accompanying Ms. Harrison was Sam Park and Tim Powers, Civil Engineer with Land Strategies, LLC. **Ms. Harrison** reviewed the following information: Before the Council is the plan for the completion of Phase 2 for the Gloucester Crossing Shopping Center to tenant the few remaining spaces in existing retail buildings and to take advantage of the upcoming Fuller School property development. The first Application (SCP2018-007) is the modification of the Special Council Permit that created Gloucester Crossing. The building to house "Home Goods" was pointed out on a colored map of Gloucester Crossing (on file) adjacent to the Petco Store and additional buildings. The area where a building is being erected to house "Aspen Dental" was noted. This modification is a downsizing; a reduction of gross square feet and changing to a less intense use. This modification proposes the elimination of the hotel (original footprint shown) because with the opening of the Beauport Hotel, a 100 room hotel was no longer needed. It is proposed to change the footprint of Building E (hotel) and convert it all to retail. Building C2 will be separated from the main part of Building C and is proposed to accommodate a drive-through facility with a 40 ft. driveway. Also proposed is the reconfiguration of the parking field. Some of the parking islands are moved around to facilitate the new parking plan and new uses. Also proposed are changes to the "roundabout" by amending it to make it smaller in the size -- from 40 ft. in diameter to 20 ft. in diameter with the landscaping remaining in its center. The newly created extra area will be grooved pavement with a highly visible bright red color so vehicles will know to go around it a certain way giving more maneuverability for large trucks. The Applicant is also seeking Special Permits for two drive-through facilities -- one dedicated as retail (proposed also for the area of the eliminated hotel) and one dedicated for a coffee shop off of Building C (C2).

The Planning Board gave these three Special Permits an extensive review which stressed accessibility and availability for safe and adequate pedestrian access with anticipated foot traffic from the Fuller development ("Fuller"). The original Special Permit had language regarding certain parcels of land that Mr. Park owned that were to be conveyed by him near the Fuller site, also known as "the hockey stick" parcel, to the FMUV LLC through a process. Over the years there have been some modifications to Gloucester Crossing (on file). This modification submittal was determined according to the process laid out in the original Special Permit that the Building Inspector and the Planning Director were to make a determination whether modifications were substantial or insubstantial, and they determined that with the elimination of the hotel, reconfiguring two buildings and the possible construction of two drive-through facilities were substantial and should go through the Special Council Permit review process.

With no hotel this modification is a matter of downsizing: Traffic decreases with the removal of a hotel that would have been a four-story building and now will be a one-story 10,000 sq. ft. retail building in keeping with the

rest of Gloucester Crossing. In eliminating the hotel, also eliminated is the hotel's proposed underground parking which eliminates major topographical changes to the site. Retail traffic is less than a 100-room hotel and will not make the same demands and impacts to infrastructure. The gross square footage of the hotel was to be 52,000 sq. ft. and with the new proposed building in the same location it is about 11,000 sq. ft. The utilities are all in place, master designed in 2008, and stormwater management is already in place working well. The impervious area with this change stays about the same, at 31.5 to 32%. Parking requirements are met and remain in compliance. The parking islands are still landscaped although slightly reconfigured in the parking field and the cut-off lighting with no spillage remains in compliance.

The Traffic Impact Study (on file) outlines that the traffic demand with the hotel's elimination is less than it would be with retail. The proposed modifications don't significantly affect traffic flow, and the changes are all internal to the site with no impact to Route 128 and the surrounding neighborhood.

The Planning Board, made a positive recommendation giving special attention to pedestrian access as did the P&D Committee. The entry to Gloucester Crossing was pointed out with an existing sidewalk, and two crosswalks. It is proposed to add another crosswalk to the proposed access walkway that starts with a paved area of an existing sidewalk to stairs which ascends the steep embankment to the area of the Phase 2 development. At the top pedestrians have a choice to continue on to the coffee shop or move into the retail area. There is also a new crosswalk between the buildings. Pedestrian crossing signs will be posted prominently to help assure safe pedestrian access. Schematics of the pathways and stairs were shown (on file). It will be landscaped and is good pedestrian access. The Major Project modifications have been both recommended by the Planning Board and the P&D Committee. Those two bodies found that the proposal is in harmony with the intent and purpose of the Zoning Ordinance and will not have adverse effects which overbalance the beneficial effects either on the neighborhood or on the city.

The standards under GZO Sec. 1.8.3 for a Special Council Permit were then reviewed:

1. **Social, economic or community needs** are served by the construction and tenancing of Phase 1-- the stores are busy -- consistent tenants that provide service, convenience, retail, employment and an increased tax base to the city. With the Phase 2 build-out it will be more of the same. There is no demonstrated need for a second large hotel in the city.
2. **Traffic flow and safety** are adequately addressed with a lot of attention paid to ensuring that traffic flow, especially for pedestrians, works on site and to the center itself. Traffic is reduced with this plan as opposed to when there was a hotel to be built.
3. **Municipal utilities** were discussed with the original Special Council Permit and significant improvements to the utilities were made and were master planned to anticipate Phase 1, 2 and other development which are adequate. The DPW Director has reviewed the plan and found in a memo (on file) to the Planning Board and to the Council that he had no issues with the proposed modifications.
4. **Neighborhood character and social structure** are appropriate for this proposed modification as the removal of the hotel has less impact on the neighborhood and its social structure. The buildings are consistent in size and scale.
5. **The natural environment** impact was vetted extensively with the original Special Council Permit with an Order of Conditions with some protection of the wetlands and mitigation at that time. With this modification in a memo from the Conservation Agent (on file), he expressed certain concerns, and the P&D Committee recommended a condition to address those concerns (Condition 33A., B. and C.). The suggestions of the Health Department were satisfactorily addressed at the Planning Board review. In the back of the area by Marshall's, there is a grassy landscaped area, a "plaza" named in honor of Councilor John "Gus" Foote, who was an advocate of the creation of Gloucester Crossing.

The guidelines for a shopping center under GZO Sec. 5.7.5 were outlined in the application and have been met and satisfactorily addressed in the Planning Board memo (on file). The Special Permit modification doesn't revoke any conditions of the first (Special Council) Permit and the Council's Decision which still stand. There was a restatement of many of the original conditions within this modification (conditions).

**Ms. Harrison** asked that when the Decision is written that it is noted that many of the conditions are restatements, and then list the new conditions and those that were revised (new: 1; 2; 14D., E.; 18; 26; 33A., B. & C; 38, 38A. and 39). When the Council deliberates the conditions, she asked to be allowed to comment on Condition 38A.).

**Council President Lundberg** then asked for an overview presentation on the two proposed drive-through facilities.

RETAIL DRIVE-THROUGH FACILITY -- SCP2018-005:

**Ms. Harrison** reviewed the following: Ten years ago when the original permitting was done there was an allowance for a drive-through facility for a bank. At some point it was determined by the Applicant it wasn't

needed, but this has now come back as it could be a bank or a pharmacy. It is at the corner where the hotel would have been positioned (noted as Building E). Under GZO Sec. 5.17.5, there are standards to be met for a drive through:

**Consideration for traffic:** The stairway was noted with a crossover area to access the retail area. With a retail drive-through there is a minimum of three spaces for the queuing lane, and it is proposed for a queuing lane of five spaces. With retail there is no need for an order board, but to proceed to the drive-through window and if a bank, to make a deposit. A pass-by lane 17 ft. wide was noted for the facility. When there is a pass-by lane, the standard is that it is marked to separate it from the queuing lane. In this case cross-hatching will be used in addition to striping. At the Planning Board and at P&D it was noted there are four parallel parking places on the left side of the building which are difficult to get in and out of. A condition was suggested that those four parallel spaces be limited to employee parking so there is less frequency of movement for those spaces lessening interference with the drive-through lanes. There is no need for service equipment or flood lighting; the lighting will be the same as the parking lot.

**Operation and security:** There is a full-time security company at Gloucester Crossing that uses various methods to monitor it. Anticipated hours of operation are 8:00 a.m. to 10:00 p.m. This drive-through facility, as with the second Application for a drive-through facility, are internal to the site and don't open up onto a main thoroughfare. Drive-throughs are particularly attractive to people who are disabled, a vehicle with children, or under adverse weather conditions as well as many others, and is essential to some retail establishments.

#### COFFEE SHOP DRIVE-THROUGH FACILITY -- SCP2018-006:

**Ms. Harrison** reviewed the following: With a drive-through facility that dispenses food, there is a need for five spaces in the queuing lane. It is proposed there be 10 queuing spaces. This gives customers ample time and space if they don't wish to continue queuing to leave the line. At the start of the queuing line there would be a menu board; several spaces beyond that there would be a station to place an order and then move up to the pick-up window. Because of the long length of the queuing line, there is a pass-by lane delineated with a line and some crosshatching and a median closer up to the pick-up window. There will be some outdoor seating for customers. A crosswalk goes in front of the pick-up window and lane, with adequate pedestrian signage.

**Council President Lundberg** asked Ms. Harrison to highlight the Condition which contains language about a crosswalk and the walkway and then would open the proceedings up for Councilor inquiries.

**Ms. Harrison** advised that Condition 38A as proposed states that the pedestrian walkways leading up to the Gloucester Crossing site at the main entrance shall be completed prior to the issuance of the certificate of occupancy for either of the C2 or E buildings. She advised that at the time of the P&D Committee's last meeting she wasn't clear on the construction sequencing when this Condition was proposed. She pointed out that the staging for both buildings is at the same location which is difficult because of excavation involved with Building C2 which will take longer to build. She requested that Condition 38A read that this entrance will be completed before the occupancy permit before Building E and strike "C2" from the condition.

#### COUNCILOR INQUIRIES ON PRESENTATION:

**Councilor Cox** noted that with the stair access from the other property to the existing property that bicycles will be traversing it as well and with only a proposal for stairs, she asked if it was a possibility of fewer stairs. **Ms. Harrison** advised there is a sidewalk and one would have to go all the way around. Because of the steep grade, switchbacks weren't possible; it would be long and ineffective as indicated by the Applicant's Civil Engineer. **Councilor Cox** noted this area wasn't ADA accessible. **Ms. Harrison** advised the embankment is too steep, and it can't be done. The switchbacks necessary equate to a pedestrian taking the sidewalk to the buildings of Phase 2. At **Councilor Cox's** request, **Ms. Harrison** laser pointed the route for able pedestrians on foot and those pedestrians in wheelchairs. It was pointed out that a bright color red would be the new choice to highlight the crosswalks. There is a crosswalk at the roundabout, but are colored gray and so are not easily differentiated from the street. **Councilor Cox** noted that trucks were intended to come through the roadway behind Market Basket and not taking the entrance to Gloucester Crossing. **Ms. Harrison** recounted at first there was a "three-legged" intersection but then it was felt traffic would flow better with a roundabout, but it was sized incorrectly. **Councilor Cox**, speaking about Condition 38A, asked if the completion of the roundabout will happen prior to the Fuller development for safety sake. **Ms. Harrison** advised that can be done sooner and the Applicant can give it preference.

**Councilor LeBlanc** asked for clarification noting that in the Jan. 16 P&D minutes, Condition #5 was about the Road Maintenance Agreement and read from the minutes and related original Special Council Permit conditioning. He pointed out that Gloucester Crossing Road and School House Roads are noted as municipal roads, and that the city has no legal responsibility for the layout of Gloucester Crossing Road. He asked what the status of the roadways is. **Ms. Harrison** advised that the Gloucester Crossing Road and School House Road are municipally-owned roads. She pointed out there was a Road Maintenance Agreement that was part of the Community Host



Agreement tied to the Tax Incentive Financing (TIF) Agreement, and it was five years for the lighting, for a total overall of 15 years. Earlier triggering was if Fuller was no longer used for a municipal use. She noted that Mr. Park has paid for the snow removal on the entire road. **Councilor LeBlanc** asked about the part which provided for the repaving to be placed in escrow. **Ms. Harrison** confirmed that is in the Road Maintenance Agreement and not in the Special Permit. **Councilor LeBlanc** pointed out that Condition #5 talks about the Road Agreement and asked who would provide maintenance for these roads if there is no Roadway Agreement. **Ms. Harrison** advised there is a 15-year agreement which can get triggered earlier if the Fuller School was no longer used for municipal use, and the roadway agreement talks about what happens after that. She clarified the term “triggering” to mean that it is not the responsibility of Gloucester Commons LLC anymore. **Councilor LeBlanc** added that it says that if the Fuller School property is used for commercial or residential use during that 15-year obligation, isn't that what they're changing to. **Ms. Harrison** confirmed Fuller is a commercial use. She advised that the Roadway Maintenance Agreement is not part of the Application that is before the Council. What is before the Council is the modification of the Special Permit for three reasons - 1) to reconfigure Building E, 2) to reconfigure Building C and, 3) to change the parking field.

**Council President Lundberg** advised that the original Special Permit, the original Community Host Agreement, and Road Maintenance Agreement are still in effect and aren't impacted by the three Applications -- they exist and are present. **Councilor Gilman** added that when P&D was discussing Condition #5 of the 2007 Special Permit, the factors that were listed are what was exactly presented at the P&D meeting. There was some confusion, she recounted, saying she had pulled out the old Condition 5 and read it and was exactly what was being presented, and the conversation didn't need to be had. The “real” conversation was about Condition #39 which was prematurely discussed at that meeting and got folded into the discussion about Condition #5, which was unchanged.

**Councilor O'Hara** confirmed with **Ms. Harrison** about the pedestrian walkway to be built on the embankment would be maintained by Gloucester Crossing as it's on Gloucester Crossing property. **Councilor O'Hara** asked if street lighting would be improved, offering that in his estimation that the lighting was “poor.” **Ms. Harrison** pointed out that it is a municipal street the Councilor is referring to, pointing out lighting that is on the driveway into the Phase 2 areas is Gloucester Crossing's responsibility, which she highlighted was part of the document Councilor LeBlanc was referencing which speaks to lighting; who is paying for it. **Councilor O'Hara** asked if lighting will be improved for pedestrians in anticipation of increased foot traffic particularly in evening hours. **Ms. Harrison** advised she anticipated no changes to the lighting unless the DPW looks at it and wants some help with it.

**Councilor Cox**, highlighted that none of the sitting Councilors were a part of the Council that permitted Gloucester Crossing in 2007 which has precipitated these questions on certain outstanding issues. With the addition of the “walkway” there needs to be additional lighting for it as it didn't exist previously. **Ms. Harrison** pointed out that the sidewalk they are putting in will have lighting. **Council President Lundberg** clarified that the street lighting that Councilor O'Hara was referring to was on the municipal roadway and that for the to-be-constructed walkway, it will have its own lighting. **Ms. Harrison**, noting that the Assisted Living Facility is not part of this permitting, pointed to the empty space on the on-screen graphic (on file) and conveyed that over the last 10 years Mr. Park put all the infrastructure and utilities in, marketed it, but no one is interested at this point. It is “land banked” for that use, she added, noting that Council President Lundberg did speak to the Mayor about it.

**Councilor Gilman** reviewed that it took four meetings of the Planning Board to come to a compromise of their recommendation to the Council on the north sidewalk. She asked for a description why it was cost-prohibitive to do it now at the onset, and asked that the DPW Director speak to the cost. **Council President Lundberg** offered that this was getting into what kind of conditions the Council wants. He expressed a preference for Councilor inquiries on the presentation, those who want to speak in favor, in opposition, etc. He asked Ms. Harrison to point out where the north sidewalk would go and what the resolution of that issue was before the Board and P&D.

**Ms. Harrison** reviewed that this sidewalk was proposed for access and the stairway. There was question at the Planning Board who looked at it and questioned if it was possible to add a sidewalk “along here.” (Note: Ms. Harrison was referring to the south sidewalk on Gloucester Crossing Road which currently exists, and the sidewalk that was requested to be added would be erected on the north side of Gloucester Crossing Road). The Applicant's Engineer prepared a conceptual plan for it; it is expensive, but there needed to be a determination if there was a need for it or not, because they don't know how much foot traffic there will be coming from the Fuller site, she conveyed. She added that the Board voted unanimously to recommend there be a study done after 12 months to determine necessity for another sidewalk, even though city staff wanted the sidewalk installation now.

**Those speaking in opposition: None.**

**Those speaking in neutrality: Sunny Robinson**, 20 Harvard St., highlighted the absence of an Assisted Living Facility at Gloucester Crossing. She suggested that a city-wide advocacy committee comprised of citizens and public officials to get such a proposal moving forward. She reminded the Council that Condition 38 of the original

application had as a condition that an Assisted Living developer be identified within 18 months of the beginning of construction of the retail portion. She advised it is doable task although not an easy one. She recounted that a friend had to move to Ipswich to an Assisted Living Facility and that a large percentage of those residents are former Gloucester residents. Such a facility, she offered, needs to be at affordable rates so that Gloucester residents can go there. It is \$8,000 a month for the Ipswich facility, she noted. She urged an Assisted Living Facility (ALF) be available and affordable to the average Gloucester resident (written statement placed on file).

**Council President Lundberg** advised that when Ms. Robinson first talked to him about the ALF issue, he spoke to the Mayor about it; it was part of the original Gloucester Crossing Special Permit. He reported that he suggested to the Mayor there be a formation of an Ad Hoc Assisted Living Facility Committee to which the Mayor agreed and Mr. Park would participate. That Ad Hoc Committee is in the process of being set up, he added.

**Councilor Cox** noted that there had to be movement within 18 months on this matter as part of the original Special Permit, and asked that documentation be forwarded from the developer to the Ad Hoc Committee to aid their efforts.

**Council President Lundberg** advised that the Ad Hoc Committee would make that request upon formation.

**Communications: None.**

**Councilor Questions:**

**Councilor Cox** asked to address Councilor Gilman's concern about the north sidewalk, saying that a crosswalk at a roundabout isn't as safe of an idea as an opposing sidewalk. She expressed she was not amenable to a study being done 12 months after the fact. She urged the Council to move forward with the safest route and the safest possibility. She expressed the opinion that people don't use crosswalks even if it is very nearby, and that they have to put in those safety parameters for people and would want to hear more about the north sidewalk and the (Applicant's) objections to not doing it and the costs involved. **Councilor Gilman** asked if the Applicant's Civil Engineer, Tim Powers had the plan that was presented for the northern sidewalk that can be shown, and could they ask the Public Works Director if he has an idea in terms of the cost for a sidewalk. Being advised by the Council President that the Public Works Director doesn't speak for the Applicant, **Councilor Gilman** reframed her request asking if the Applicant had a cost breakdown for the northern sidewalk.

**Sam Park**, owner of Gloucester Crossing, advised they can get their cost breakdown on the sidewalk to the Public Works Director for his review. Speaking to the original permitting, there had been a lot of discussion about pedestrian pathways. The idea of traffic calming led to the roundabout but that trucks roll over it. The sidewalk that was built was built with lighting, a guardrail and an overlook to the wetlands on the south side of the roadway at the recommendation of the city, the Planners and their architects. Anything they build will be lighted to the standards for retail or commercial development, he highlighted. He advised that the hidden costs for a second sidewalk is that it needs to be lit, maintained and needs a retaining wall as the area it is being built needs a retaining wall because the area is very narrow. He pointed out that when they started the Phase 2 development plans it was thought they'd be unable to build a pedestrian walkway because of the steep grade that is building on the side of an embankment. He noted he's used this type of design before successfully which is attractive. He recounted that when they were asked to build the walkway/stairs combination they added in some amenities to make it feel shorter by breaking down the stair to more of a ramp-like situation because of the grade. The goal, he noted, is to get people to the center of shopping area. There is some interest to have sidewalks on both sides of the roadway, he acknowledged, saying they don't think it is a bad idea if it is needed but it means lights, a retaining wall, and running electrical conduit down a tight corridor on the back side of the new retail building. He advised that for them to place a financial burden for a downsizing creating 10,000 sq. ft. pharmacy or bank building, and a coffee shop that is relatively small, it is not economically feasible. If they see that there is foot traffic, they'll come up with the cash to do it with operating costs. It is difficult now to be financed on two small buildings, he added.

**Councilor O'Hara** noted the roundabout is now 40 ft. with trailer trucks driving over it. He pointed out there will be increased traffic -- vehicles travel quite fast. He also noted that they are reducing its size to 20 ft. to deter trucks going over the roundabout. **Mr. Park** noted the trucks are actually running over the mulch bed of the roundabout saying that they will change the curbing to a rumble strip that would be decorative such as red brick along with a matching red brick sidewalk around that intersection so that the occasional truck is sweeping over a rumble strip and not over a mulched curbed area. He noted he had made a poor color choice for curbing and once the construction traffic is done, they will be striping and changing the color to ensure it is highly visible. The additional 10 ft. rumble strip will allow the occasional truck to turn, and there will be an inset curb so that there is the perception one shouldn't drive over it. The greenscape in the center of the roundabout will remain, he noted. **Councilor O'Hara** expressed concern for the reduction of the roundabout size and possible higher rates of speed of vehicles even with the rumble strip. **Mr. Park** advised that they shared the Councilor's concern. He advised that a project in Littleton has rotaries that have different marking lines, known as "shark teeth," which delineate a yield/stop condition. The overall dimensions are constrained with the cliff going down to the wetlands as well as the

curb line. Saying that they want their customers to be safe, that if it turns out it continues to be an issue after these changes they may have to come back to the Council asking to change it back to its original stop sign configuration. They will improve the signage in that area as well. He assured they would solve that problem regardless of the permit, and that they need to fix it.

**Councilor Cox** asked whose idea was it for the staircase versus the sidewalk. **Mr. Park** noted there was a request to get from the lower level to the upper level. In looking at the length of a normal ramp, it is the same length as their sidewalk system. He advised that their first position was that they didn't think they could fit the stairwell on the embankment but were able to do it. **Ms. Harrison** explained that the Planning Board made a recommendation to create more of a statement entrance. Now when entering Gloucester Crossing from the Route 128 extension that area will be more of a "statement;" landscaped with some signage; one will know they've entered the shopping center. **Councilor Cox** noted that this is one entrance that isn't handicapped accessible, and another that could be -- sidewalk versus stairs. She suggested it seemed it was more of a cost burden to make the stairs than to do the sidewalk. She expressed she would be more amenable to the Applicant doing away with the stairs and installing the sidewalk, for safety reasons. She and Mr. Park touched on the need for an embankment retaining wall briefly by Aspen Dental. **Mr. Park** noted his hope is that once everything was leased out they will build the sidewalk because everyone will want it. Anytime there's been a need identified they've done it, he pointed out, offering that the difficulty is that they can't load more infrastructure costs onto these two new small buildings. He advised that once the rent streams are flowing in it is a different mechanism. He suggested that 90% of the patrons would be able to navigate the stair system. **Councilor Cox** continued to express concern about pedestrian traffic near the roundabout. There is less traffic going through the roundabout with the elimination of the hotel, **Mr. Park** pointed out. **Councilor Cox** suggested that the roundabout is already problematic, and that with the drive through facilities, Home Goods and Aspen Dental that would create more vehicular traffic than what is there now, and expressing her appreciation for the cooperation of the Applicant.

**Councilor Gilman**, noting the Applicant's mention they wouldn't have a problem if someone from the Public Works Department might know the cost of the northern sidewalk. **Mr. Park** advised that they can give them an estimate and have the Public Works Director review it. **Councilor Gilman** conveyed that they're trying to move forward with the conditions for this permit, and if they're missing certain data they may not be prepared to do that. **Council President Lundberg** reiterated that the Public Works Director wasn't qualified to give a comment on the cost of construction of the sidewalk as he's not the Applicant; he can comment on what the Applicant gives to them but he can't be the Applicant. **Councilor Gilman** noted that someone in the Planning Board mentioned that the Applicant thought it would cost about \$100,000. **Mr. Park** advised he thought that to be "about right." He clarified that it is not just the five foot asphalt pavement they could extend down there, but that once they do the five foot asphalt pavement they have to maintain the two-on-one slopes. He mentioned the grade of the slope and the potential for an eight-foot wall in certain locations along the walkway and the need to light it. He pointed that the area is darker right now because the Phase 2 area is under construction. Once completed, the area will be more visible from the installed Phase 2 lighting, lit with the same LED light poles as in the rest of Gloucester Crossing. He suggested it may be cheaper to build the sidewalk than the new gateway. He expressed his belief that the southern sidewalk will meet pedestrian demand, but if it turns out his assumption is incorrect, he will fix it. He noted that their engineer had already estimated the sidewalk cost at \$155,000 when adding in the lighting and ramps. **Councilor Gilman** asked if in any of Mr. Park's developments he had installed and used successfully a raised crosswalk as an alternative to get people safely across a road as a deterrent to people speeding coming out of a rotary. **Mr. Park** noted that they have a similar configuration in Middleton, with a flush crosswalk of painted red bricks pressed in and is designed so that it doesn't disturb snow plows or create maintenance issues. What is working well is when adding in the shark teeth and white delineation marks, which is a new standard that MassHighway is using on rotaries. The white delineations work very well along with decorative pedestrian crosswalks, but that the gray crosswalks they installed don't work as well, he added.

**This public hearing is closed at 8:58 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant a Modification of a Special Council Permit (SCP2018-007) to Sam Park & Company, LLC, owned by Gloucester Commons, LLC for a property located at #1 and #7 Gloucester Crossing Road, Map 262, Lots 13 and 37 pursuant to GZO Sections 1.5.3(c), "CCS" Special Permits and (d) "Major Projects", 1.8.3, and 5.7 "Major Projects" in the Extensive Business District to modify the permitted shopping center on the Site with conditions herewith attached. This Application for a Special Council Permit is found to be in harmony with the purpose and intent of the Gloucester Zoning Ordinance.

New or Amended Conditions for the Special Council Permit were read in toto as follows: Condition #1; Condition #2; Condition 13A, B, C; Condition #17F; Condition #18; Condition #32; Condition #38A, B; Condition #39. By reference all unread Conditions are made a part of the Special Council Permit.

#### **GENERAL DISCUSSION:**

**Councilor Gilman** offered the following on the SCP2018-007: The P&D Committee met on January 3. At that point the Planning Board had four meetings taking up this Special Council Permit, and requested that the City Council should conduct a review of the original Special Council Permit shopping center conditions and Community Host Agreement. A review was presented from the Applicant, and at the meeting P&D asked the Administration to do the same, a review of the original conditions. Realizing the emphasis and safe connectivity of pedestrian passage between the FMUV LLC development on the Fuller property and Gloucester Crossing, the P&D Committee conducted a site visit on January 10 attended by a total of six Councilors, Ms. Harrison and Civil Engineer, Tim Powers. On Jan. 16 P&D reviewed and agreed on the conditions presented by the Administration with some conditions amended, highlighting what the Committee viewed during the site visit. The Committee voted unanimously on the conditions before the Council for SCP2018-007. The Applicant is seeking relief from the Council which is what the Council is being asked to decide.

She put forward that in her role as P&D Committee Chair, she viewed interconnectivity important to the future of this project, at the same time appreciating the concerns brought forward by her fellow Councilors for pedestrian safety. She offered that the Council wants to do this permitting with safety in mind, and make a good decision for the people they represent as well as visitors to the city, and for economic reasons.

**Council President Lundberg** noted that there is a motion to amend the existing Special Council Permit to eliminate the hotel with conditions attached; and with the exception of Condition #38 and #39 as everything else appears to be acceptable to the Council. He asked the Council to focus their attention on those two conditions.

#### **DISCUSSION ON CONDITION #38 and #39:**

**Councilor Cox** asked for more discussion of a sidewalk versus stairs. She highlighted the developer was asked to make a statement entrance with no thought on the process of handicap accessibility and safety with no offer of alternate routes. The sidewalk offers handicap accessibility and an alternate route and advised she was willing to ask this matter be returned to P&D for further discussion on that singular fact.

**Councilor Holmgren** pointed out she had asked about the stairs and why there wasn't a north sidewalk at the January 3 P&D meeting and discussed a switchback ramp and the sidewalk on the north side. She offered that the concept of asking the Applicant to do away with the stairs in favor of the sidewalk wasn't raised. She conveyed that she works with people who have disabilities some of whom use wheelchairs advising she would be appreciative if the developer re-looked at the (north) sidewalk, thanking Councilor Cox for her idea. **Councilor Cox** added she wanted the sidewalk done first and the staircase done through a study.

**Councilor Gilman** expressed her approval of the suggestion. She described her observation of standing at the place where a person, be they in a wheelchair, pushing a carriage or on a bicycle, would cross from the southern sidewalk over a crosswalk. She noted the benefit of having the different crosswalks where the two roads intersect for safe crossing passage. She added that the idea of having a crosswalk 50 feet from the roundabout was concerning and waiting for the study problematic. She highlighted that it is important to make this linkage to the Fuller property. She expressed appreciation that the Council wants to send this matter back to P&D for further conversation about the northern sidewalk.

**Councilor Nolan moved and Councilor LeBlanc seconded that the City Council return the matters of SCP2018-005, -006, and -007 to the Planning & Development Committee at its next meeting of February 6, 2019.**

#### **DISCUSSION ON THE MOTION TO RETURN SCP2018-005, -006 & -007 to the P&D COMMITTEE:**

**Councilor Nolan** expressed his concern about a "nonexistent" Road Maintenance Agreement (see Condition #39) saying that he wanted to know what that agreement would be, what it would cost, and would it constitute a new Special Council Permit. They don't need the staircase, he pointed out, but they're telling people they can make it easier if they can walk, but that they'd have to traverse a maze to get to their destination in the shopping center. He

advised he wants a Road Maintenance Agreement through the Administration presented to the Council before they take a vote.

**Councilor Holmgren** noted that the Road Maintenance Agreement is between the Administration and the Applicant and was not signed by Mayor Kirk and should have been taken up by the Administration. **Council President Lundberg** advised that the Road Maintenance issue hasn't been presented to the Council by anybody, by the Administration or the Applicant. The Council doesn't know what that agreement consists of; whether there's an agreement that's necessary or not. He advised that the Administration needs to tell the Council what its position is, suggesting there could be some undone business that the Administration hasn't been able to complete, and that there may be a different narrative -- but the Council hasn't been able to consider that. As to the sidewalk issue, he expressed agreement with Councilor Cox's initial observation, the Council's only concern is the safety of the development and its infrastructure; and the idea of a gateway entrance is the developer's concern. If that gateway is of interest to the developer, their new neighbors may wish to work that out with them. The Council is concerned about access to the site that is safe. They don't have an engineering design on a (northern) sidewalk which they should have before they make a further recommendation. He expressed agreement with Councilor Nolan that there were two things that the Council needs from the Administration and the Applicant before they can consider the Council's final vote.

**Ms. Harrison** advised that if it is the will of the Council that they want the sidewalk rather than the stairs, the Applicant agrees to that, and suggested working with their neighbors to enhance the main entrance at a later date. If more people prefer the sidewalk they'll do it rather than the stairs. **Council President Lundberg** the Council would want a proposal on this matter. He suggested that the Administration and the Applicant, before the Council makes a condition that says they enter into a Road Maintenance Agreement, they need to know what the issues are. Councilors are correct, he added, that if there are loose ends from the original Special Permit they need to understand what they are. **Ms. Harrison** pointed out that the Roadway Maintenance Agreement was signed by Mr. Park who has been performing under it. The Community Host Agreement was signed by all parties and talks about the Roadway Maintenance Agreement in the form that is attached as the exhibit and is what they've been following. She offered that they'd be pleased if the city signed that also if necessary. The Council needs more definition about that issue from both the Applicant and Administration and what are the outstanding matters, **Council President Lundberg** conveyed.

**Councilor Gilman** suggested that they see a plan of what the northern sidewalk would look like and the elimination of the stairs and the "grand entrance" as well as a conversation between the Administration and the Applicant would be helpful for review of Condition of #39. **Council President Lundberg** offered that he saw no reason that these two issues couldn't be returned for discussion to the P&D Committee to be taken up at their Feb. 6 meeting. He clarified for the Applicant that they will expect the Applicant to present a plan for the removal of the proposed stairway and the installation of the north sidewalk under Condition 38. He advised the Council will also need an understanding about the Road Maintenance Agreement -- what the issues are between the city and the Applicant on the road maintenance obligations and what the resolution is. He assured that the Council won't agree to a condition that says they'll hold up building permits until there is an agreement, referring to Condition #39 by the time of the Wednesday, Feb. 6 P&D meeting.

**Councilor Cox**, recognizing how many meetings the Applicant has had to attend regarding their applications, she pointed out that the Council has "one shot" at this Special Council Permit reiterating that these are important questions.

**MOTION: On a motion by Councilor Nolan, seconded by Councilor LeBlanc, the City Council voted 8 in favor, 0 opposed, 1 (Hecht) absent, to refer the matter of SCP2018-005, -006, and -007 to the Planning & Development Committee at its next meeting of February 6, 2019.**

**For Council Vote: None.**

**Unfinished Business: None.**

**Individual Councilor's Discussion including Reports by Appointed Councilors to Committees:**

**Update on the Animal Advisory Committee (AAC) by City Council Representative, Councilor Jen Holmgren.** Councilor Holmgren highlighted the upcoming Piping Plover season about which city department heads have met to develop plans to help the city protect this threatened species that's made its home on Good Harbor Beach over the past several years. She reported that Jim Destino, CAO, has led several meetings with almost every city head of departments to address this issue via a "multi-pronged" approach naming Public Works Director, Mike Hale; Interim Police Chief, John McCarthy; Community Development Director, Jill Cahill; Conservation Agent, Ken Whittaker and Planning Director, Gregg Cademartori. Mr. Destino invited her and Alicia

Pensarosa, Chair, to several of those meetings. She highlighted that Ms. Pensarosa has an extensive background on North Shore wildlife, whose opinion she trusts as well as those of the AAC to address the best way to protect the Piping Plovers that nest on Good Harbor Beach. There has been discussion on best practices keeping these endangered birds safe and what city staff and volunteers will need to do in the future. A plan will be unveiled by city administration in February or March; strategies being implemented were based on concerns raised and recommendations of the AAC and constituents, she advised. The next AAC meeting will be on Thursday, Jan. 24 at 6:30 p.m. in the 1<sup>st</sup> Fl. Council Conference Room.

**Councilors' Requests to the Mayor:**

**Councilor Gilman** commended the DPW for their work during the recent winter storm.

**Councilor O'Hara** added his thanks to the DPW; and asked the Administration to find funds for the DPW to for the purchase of additional DPW equipment dealing with storm events.

**Councilor Holmgren** thanked Councilor Gilman for her work on Gloucester Crossing which has been difficult.

**Councilor Memhard**, highlighting the recent icy winter storm. He noted that the DPW has been out clearing out drains. He noted that East Gloucester hills were glazed over as they were all over the city. Thursday, Jan. 24, he announced he will be the celebrity bartender at the Cape Ann Brewery raising funds in support of Maritime Gloucester. There will be live music, he added, saying it's a great way to warm up on a cold night.

**Councilor Nolan** added his voice to those Councilors thanking the DPW for their responsive storm clearing efforts as well as lauded the work of that department's mechanics that do what they can with what they have. He pointed out that trying to contain the icing was "next to impossible" saying that this will be the most expensive five inches of snow the city has ever had.

**Councilor Cox** added her approbation for the DPW's storm efforts, as well as dealing with water main issues. She noted their rapid response to those afflicted neighborhoods. She advised that the Gloucester Housing Authority Lot is supposed to have multiple handicap parking spots saying that there used to be signage for those spaces. She asked that those signs be made permanent fixtures as it is part of the city's lease agreement with the GHA.

**Council President Lundberg** added his voice to the Councilors lauding the work of the DPW's recent storm clearing efforts.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 9:34 p.m.**

**Respectfully submitted,**

*Dana C. Jorgensson*

**Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Recommendations by Piping Plover Volunteers from Kimberly Smith under Oral Communications**
- **Memo to Planning Board Chair dated Dec. 2018 by Sunny Robinson, RN, 20 Harvard St., under public hearing for Special Council Permits**
- **Conditions as Approved by the Planning & Development Committee for SCP2018-007 (See next page)**

**SCP2018-007: Gloucester Crossing Road #1 & #7, Map 262 Lots 13 & 37, GZO  
Secs. 1.5.3 (c) “CCS” Special Permits” & (d) “Major Projects” and 5.7 “Major  
Projects” in the EB district**

**Recommendation by the Planning & Development Standing Committee of the City  
Council Dated January 16, 2019**

**CONDITIONS**

The Special Permit(s) is/are subject to the following conditions:

1. The Project shall be constructed in accordance with the following Record Plans, or as subsequently approved by the City Council through minor modification or amendment, which are on file with the Planning Board and City Clerk’s Office:

“Proposed Development – MA Route 128, Gloucester, MA – Issued for Permit Review: 2018.10.01, Revised 2018.12.17 – Prepared for: Gloucester Commons, LLC – Prepared by: Land Strategies, 333 School Street Suite 200, Mansfield, MA 02048 – 24 sheets – Stamped by Timothy J. Power, P.E. (hereinafter referred to as the “Record Plans”)”.

2. The Project shall be limited to the buildings and improvements shown on the Record Plans: a Shopping Center (composed of Buildings A, B, C1, C2, D, E and F), an Assisted Living Facility (Building H), and Two Drive-Through Facilities (Buildings C2 and E). Due to the concerns regarding storm water generation, any proposed changes which would result in an increase in the “footprint” of the Project should be reviewed following the procedures outlined further in these conditions.

3. If the Applicant wishes to modify the approved Record Plans, it shall submit proposed modifications in accordance with the provisions of this paragraph. Where such modification is deemed substantial, the same standards and procedures applicable to an original application for a special permit approval shall apply to such modification and review and recommendation by the Planning Board and public hearing by the City Council; provided, however, that the Planning Director may determine that a proposed modification is insubstantial and approve the same.

4. The Planning Director in consultation with the Community Development Director, Building Inspector, City Engineer, Conservation Agent and Director of Public Works shall determine whether any modifications to the Project are substantial or insubstantial. In making such determination, the following shall be presumed to constitute substantial modifications, subject to confirmation by the City Council by majority vote at a public meeting:

- Any change in the composition or number of uses on the Site specified in Condition No. 2 that results in an increase in traffic generation above the vehicle trips identified in the record documents;

- Changes in the location of buildings, roadways, parking areas and other accessory structures that decrease the setbacks as defined in the GZO from adjoining residential areas indicated in the record documents;
- Changes that result in a net reduction of open space or lot coverage indicated in the record documents;
- Changes to the buildings or grading that increase a building's height beyond that shown on the record documents and beyond that shown on the final approved plans;
- Changes to the buildings that increase the total floor area of the Project beyond that shown on the record plans;
- Changes to the architectural character of the buildings shown in the record documents; and
- Authorization to modify the Record Plans shall be obtained prior to any substantial modification in the field.

5. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the following to the extent such features are located on the Site:

- All roadways and parking areas within the Project;
- Storm water management facilities, including detention basins;
- Snow plowing of internal roads and parking areas, and cost of plowing Gloucester Crossing Road and School House Road as determined in the City's acceptance of the layout of Gloucester Crossing Road and related documents;
- Landscaping within the Project except for landscaping in the layout of Gloucester Crossing Road and School House Road after the expiration of the Applicant's maintenance responsibilities as determined in the City's acceptance of the layout of Gloucester Crossing Road and related documents;
- Trash removal;
- Street lighting within the Project, except for lighting in the layout of Gloucester Crossing Road and School House Road after the expiration of the Applicant's maintenance responsibilities as determined in the City's acceptance of the layout of Gloucester Crossing Road and related documents;
- Building repair and maintenance; and
- Water and sewer services within the Project.

6. The internal driveways within the Project shall remain private in perpetuity and shall not be proposed by the Applicant for acceptance by the City.

7. In the event of any emergency, the Applicant shall allow the City of Gloucester Department of Public Works (DPW) access to the sewer and water lines on the Site for repair purposes.

8. The Conservation Commission's Order of Conditions issued May 24, 2007 pursuant to 310 CMR 10.00 and an Order of Conditions issued May 24, 2007 under the Gloucester Wetlands Ordinance regarding this property are a part of this Special Permit. If there is any inconsistency between the Record Plans, and the plans as may be approved



by the Conservation Commission or the Department of Environmental Protection (DEP), the Applicant shall submit an amended plan to City Council and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.

9. Following construction of the Project, the Applicant shall provide an “as-built” site plan to the City Council, the Planning Board, the Engineering Department, and the Building Department prior to the issuance of the final Certificate of Occupancy for buildings in the Project in accordance with applicable regulations. Partial Certificates of Occupancy may be issued upon completion of various phases of the Project. The Applicant shall provide a separate “as-built” plan depicting the water mains and services and sewer mains and facilities to the Engineering Department demonstrating compliance with the Record Plans and installation specifications. These plans shall also be submitted in electronic format.

***Conditions Pertaining to the Construction Phase of the Project***

10. A preconstruction conference with City departments shall be held prior to the commencement of construction of the Project. For the purposes of this Decision, “commencement of construction” shall occur when the clearing and grubbing (removal of stumps and topsoil) has been initiated. The contractor shall request such conference at least thirty (30) days prior to commencing construction by contacting the Planning Director, Inspector of Buildings, Chief of Police, Chief of Fire Department, Conservation Commission agent, and Engineering Department in writing. At the conference, the Applicant and municipal officials shall agree upon a schedule of inspections. The Applicant shall provide the City with emergency contact numbers as well as the name and telephone number of a designated owner’s representative for all Project related communication.

11. During construction of the Project, the Applicant shall conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m. except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department as a city ordinance violation.

12. Construction monitoring shall occur as required under the Conservation Commission’s Orders of Conditions GWO-07-2 and DEP No. 28-1857, both issued May 24, 2007.

13. The City Council's agents shall be allowed to enter and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

14. Prior to the commencement of construction of the Project, the Applicant shall submit to the Engineering Department, Inspector of Buildings, and the Planning Director a Construction Management Plan for the Project, which includes the following elements and requirements:

- A. Material deliveries, contractor equipment, and material removal shall be routed off of Route 128 once the access is established.
- B. Construction access/egress gates shall be located at the intersections in the vicinity of the proposed ALR.
- C. Construction fencing shall be erected for the duration of construction within the buffer zone along abutting parcels to the south and along the boundary of the Fuller School, as shown on the Record Plans. Fencing shall be six (6) foot wire fencing with fabric screen.
- D. Staging of equipment and material shall be located within the Project. Good faith efforts shall be made to schedule material deliveries to avoid peak traffic hours. This condition is subject to stricter time constraints if in the opinion of the permit granting authority said good faith efforts have become relaxed.
- E. Blasting and excavation shall be conducted according to all city and state regulations including 527 CMR 13.00 and the Gloucester Code of Ordinances Section 13 Noise, and shall be conducted within the hours set forth in Condition #11. No rock crushing operations will be set up within one hundred (100) feet of residential dwellings. No stump grinding or tree chipping apparatus shall be permanently installed or operated within such one hundred (100) foot buffer; provided, however, that this condition shall not be construed to prevent tree removal, tree chipping, or tree stump grinding in place within such buffer.
- F. Sedimentation and erosion controls, as shown on the Record Plans, shall be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent or Engineering Department and said inspections shall be reported in writing to Conservation and Engineering Departments.
- G. Dust from outside activities shall be controlled. The Applicant and its contractors shall effectuate the following practices to minimize levels dust:
  - o Wetting soils that are excavated from unsaturated zones;

- Wetting equipment during excavation/loading activities;
- Minimizing dust generation from areas that have been excavated through the wetting of soils, or by other means of stabilizing dust particles;
- Stockpiles left more than thirty (30) days shall be stabilized;
- Restricting vehicle speeds and travel routes on the Site;
- Covering truck beds transporting soils off-site/on-site to prevent dust generation; and
- Sweeping paved areas if a nuisance is created by blowing soil, dust, or debris.

15. The Applicant shall be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.

***Conditions Pertaining to Traffic***

16. Prior to the issuance of the final Certificate of Occupancy, the Applicant shall make (either itself or through payment to third parties) roadway and infrastructure improvements for the Project as follows:

A. Adjustments, including reconstruction of the hardware and phasing modifications at the intersection of Eastern Avenue and Route 128. This shall be initiated after Massachusetts Highway Department (Mass Highway) approval and upon issuance of a building permit.

B. The installation of a traffic signal at the intersection of Route 128 and Gloucester Crossing Road shown on plan entitled: Figure 8 - Signalized Intersection included in the TIAS, if the traffic signal is approved by Mass Highway.

C. Striping and lane improvements at Grant Circle, Blackburn Circle and Route 128 Extension subject to the approval of Mass Highway.

D. If the traffic signal is approved by Mass Highway, the Applicant shall purchase and install the following transponders free of charge to the Municipalities: six (6) transponders to the Gloucester Police Department (one for each cruiser on the road), twelve (12) transponders to the Gloucester Fire Department, and two (2) transponders to the Town of Rockport for their emergency ambulance use.

17. Within one hundred and twenty (120) days of the issuance of an occupancy permit for the Shopping Center, the Applicant shall implement the outlined Transportation Demand Management (TDM) Strategies, identified in the Traffic Impact and Access Study including:

- A. Ridesharing Programs. Ridesharing refers to encouraging commuters to ride in vehicles with other commuters rather than drive alone to work. Given the number of people employed in the area, a coordinated rideshare program could be very successful. The most common forms of ridesharing are carpool and vanpools. The benefits of such programs include less congestion, reduced fuel consumption, and better air quality.
  - B. Preferential parking, within designated employee parking, for employee carpoolers to the Project detailing the location of reserved parking spaces as proximate as possible to the various building entrances.
  - C. Establish Gloucester Crossing as a part of CATA's Yellow Line bus route and coordinate accommodations for permanent bus stops on-site, subject to approval by CATA.
  - D. Sell CATA and MBTA passes at the Shopping Center if permitted by CATA and MBTA.
  - E. Establish a shuttle service from the proposed ALR to the retail center.
  - F. Establish Bicycle Facilities, including exterior bicycle racks and bicycle storage in a reasonably accessible location.
  - G. Establish pedestrian links to the existing residential neighborhood to the south of the Site.
18. A Transportation Coordinator shall be appointed and responsible for managing the TDM program for three (3) years after the full buildout. Newly hired Transportation Coordinators must be introduced to the Planning Director and Building Inspector within 30 days of their appointment. The Transportation Coordinator's duties will include ensuring that the shuttle bus service will run from the Site on a schedule that coincides with employee schedules for arriving and departing the Site according to their scheduled shift changes, so that this service can provide employees with a useful alternative to automobile access. The Transportation Coordinator shall report annually for three (3) years to the City Council on February 1<sup>st</sup> summarizing the effectiveness of the TDM program. The City Council may suggest adjustments to the TDM program based on such report.
19. Once signalized, all deliveries and truck traffic must enter and leave the Site via Gloucester Crossing Road in the built condition.

***Conditions Pertaining to Water and Sewer***

20. The Project shall be connected to the City of Gloucester sanitary sewer lines and a copy of the permit shall be provided to the City Council. The Applicant shall pay all applicable sewer fees, including connection and inspection, to the City of Gloucester.

21. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.

***Conditions Pertaining to Storm Water Management***

22. Although further soil evaluations are not mandated at this time, City Staff from the Health Department and Engineering Department shall be present during installation of infiltration components to ensure the drainage system will function as proposed. Should soil conditions be observed during construction that do not match design assumptions, revised plans which address such issues shall be submitted to the Engineering Department for review and approval.

23. The Applicant shall follow the Operation and Maintenance Plan dated November 21, 2006, revised April 18, 2007, for the Project's storm water management system. In the event that the Applicant fails to maintain the on-site storm water management system in accordance with such Plan, the City shall give written notice of such failure and the Applicant shall have twenty (20) days to repair the cited failure. In the event of an emergency and an inability to contact the Applicant or its successor in interest, the City may conduct such emergency repair and the Applicant shall permit entry onto the Site to make such emergency repair. In the event the City conducts such emergency repair, the Applicant shall promptly reimburse the City for all reasonable expenses associated therewith; if the Applicant fails to so reimburse the City, the City shall place a lien on the Project or any improvement therein to secure such payment. No entry by the City shall be made without prior written notice to the Applicant and without affording the Applicant a reasonable opportunity of not less than twenty (20) days as aforesaid to cure the maintenance or repair problem.

***Conditions Pertaining to Site Safety and Security***

24. Following issuance of a Certificate of Occupancy for the Project, the Applicant shall provide and maintain private security service as needed.

25. Prior to the issuance of a Certificate of Occupancy, the Applicant shall prepare and submit detailed fire suppression and detection plans for review by the Fire Department and the Building Department.

26. Each building within the Project shall contain a fire alarm system with central station monitoring. The operation of the alarm and the method of connection shall be approved by the Fire Department and the Building Department.

27. All fire hydrants shall be located where indicated by the City of Gloucester Fire Chief, including any additional fire hydrants requested by the Fire Chief, said hydrants shall be protected by bollards and shall not be blocked or hidden from view by any vegetation or dumpsters or anything obstructive in nature.

28. Dumpsters shall be screened from view by vegetation and/or fencing and shall be locked when not being accessed by the owner of record.
29. Prior to implementation, the Applicant shall provide a Security Plan for review and comment by the Gloucester Chief of Police and Chief of the Fire Department. To the extent permissible under law, for security reasons, such plan shall not be considered a public document.
30. The applicant shall be responsible for Site security during and following construction. The Applicant shall pay for public safety details when required during the construction period when site equipment and material deliveries affect public roadways adjacent to the Site, as directed by the Gloucester Police Department.
31. The Applicant shall cooperate with the Gloucester Police and Fire Departments and periodically conduct scheduled mock exercises to address mutual concerns, such as searches for missing persons, intruders and potential evacuation.
32. The Applicant shall annually request that the Gloucester Police and Fire Departments provide to the City Council on February 1<sup>st</sup> the actual number of emergency 911 calls to the Gloucester Police and Fire Departments during the prior calendar year.

***Conditions Pertaining to Open Space and Conservation***

33. In accordance with the Order of Conditions issued by the Gloucester Conservation Commission, the Applicant shall be responsible for monitoring the vernal pools for water quality mid habitat impacts for a period of five (5) years. Any required mitigation for wetland impacts shall be initiated or constructed prior to the issuance of a Certificate of Occupancy.
  - A. Applicant agrees to plant sufficient trees at the agreed upon locations as noted in the record plans to mitigate the littering and blowing trash from the two drive through locations.
  - B. All landscaping for each building shall be installed not less than one year from date of issuance of any of the building occupancy permits in Phase 2. All planting material shall be maintained and replaced due to mortality or damage by snow storms or snow removal, droughts or lack of maintenance.
  - C. Any project major modification shall be constructed in compliance with the order of conditions issued by the Gloucester Conservation Commission. A certificate of compliance shall be issued prior to the final occupancy permit for Phase 2.

***Conditions Relating to Community Benefit***

34. The Applicant shall actively recruit in Gloucester for all open staff positions, including making such efforts as advertising jobs in the local Gloucester newspapers and having a job fair in Gloucester for Gloucester residents.

35. The Applicant has agreed to make a voluntary contribution toward the enhancement of downtown economic development by providing the opportunity for interested downtown merchants to be included in Gloucester Crossing advertising material, by providing a kiosk or information stand with information about interested Gloucester retail, restaurants, and attractions, and agrees to work with the Downtown Development Commission and the retail section of the Chamber of Commerce, contributing professional resources toward the improvement of downtown Gloucester.

36. Understanding the importance of sustaining and encouraging a vibrant downtown, the Applicant has voluntarily agreed to match twenty-five (25%) percent of the City's annual contribution to the Downtown Development Fund, a fund collected from parking meter revenue whose proceeds are distributed by a designated group of downtown merchants. This contribution shall not exceed five thousand (\$5,000.00) dollars per year, shall begin one (1) year after the issuance of a Certificate of Occupancy for the Shopping Center, and shall continue for five (5) consecutive years.

***Conditions Relating to Traffic and Safety***

37. The Applicant shall provide at the Applicant's cost and expense a special detail for traffic management during peak holiday events if, in the opinion of the Police Department, vehicular congestion warrants such additional police detail, acknowledging that any detail on the state highway requires prior Mass Highway approval.

***Conditions Relating to Pedestrian Circulation and Road Maintenance***

38. Within twelve months of the full buildout and first issued occupancy permits for Gloucester Crossing, the YMCA, and housing units located within the adjacent Fuller Site, Sam Park and Company shall fund a study by an independent traffic engineer to evaluate the need for a second sidewalk on the north side of Gloucester Crossing's access road as noted above. At a minimum, said study shall evaluate pedestrian utilization during both winter and summer conditions. If the findings reveal a documented need for the second sidewalk, Sam Park and Company will finalize the completion of the sidewalk within six months from said determination.

be or A. The pedestrian accommodations described in Condition #2 of this Special Permit, including the accessible ramps and crosswalks across Gloucester Crossing Road and Gloucester Crossing access drive, and the pedestrian walkways leading up to the Gloucester crossing site at the main entrance shall be installed prior to the issuance of a certificate of occupancy for either of the C2 E buildings.

B. All crosswalks will be painted in a highly visible color prior to the issuance of a certificate of occupancy. All crosswalks will have adequate signage for pedestrian passage.

39. The City will enter into a Road Maintenance Agreement with the Applicant for School House Road and Gloucester Crossing Road.

***General Conditions***

40. In granting this Special Permit, the City Council has relied upon the oral and written representations made by the Applicant in documents submitted in support of its application and in its appearances at the Committee meetings and before the City Council for this application. Any failure by the Applicant to honor any material representation made to the City Council shall constitute just cause for revocation of this Special Permit.

41. Each finding, term and condition of this Decision is intended to be severable. Any invalidity in any finding, term or condition of this Decision shall not be held to invalidate any other finding, term or condition of this Decision.

42. This Permit shall not take effect until notice is filed with the Registry of Deeds for Essex County by the recording of a copy of the Decision. The fee for such notice shall be paid by the owner. Prior to the filing of the Decision with the Registry of Deeds, the Petitioner shall have the seal of the City affixed to same.

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