

CITY OF GLOUCESTER
GLOUCESTER, MASSACHUSETTS 01930



CITY OF GLOUCESTER
Special Council Permit - Application

(Public hearing to be held no later than
above date)

In conformance with the requirements of the Zoning Ordinance of the City of Gloucester, the undersigned hereby applies for a Special Council Permit (CC or CCS) in accordance with Section 1.8.3 of the Ordinance and other Sections as listed below:

Type of Permit (Give specific section of Zoning Ordinance)

(1) Conversion to 8-unit residential use (Sec. 2.3.1, #8 & 1.8), (2) Distance between principal buildings (Sec. 3.2.2, fn e.),

Minimum lot area per dwelling unit (Sec. 3.2.2, fn a.) and (4) minimum open space per dwelling unit (Sec. 3.2.2, fn a.)

Applicant's Name: The Bevilacqua Company, Inc.

Owner's

Name: Son, LLC

(if different from applicant)

Location: 116 East Main Street Map # 59 Lot # 53
(Street Address)

Zoning Classification: NB - Neighborhood Business

- Attached is a list of owners (with complete addresses) of land directly opposite on any public or private street or way, direct abutters, and abutters to the abutters of land within three hundred (300) feet of the property line, as they appear on the most recent City of Gloucester Assessor's Maps and Tax list.
- Attached is a listing of criteria set forth in Section 1.8.3 of the Zoning Ordinance, including any supportive material or comments the applicant may wish to include (i.e. ZBA decisions, Order of Conditions, etc.) if necessary.
- Attached are the necessary plans as set forth in Section 1.5.3, of the Zoning Ordinance, which at a minimum consist of an accurate plot plan (to scale) showing existing and/or proposed building or structures.

City of Gloucester - Action	
Fee:	_____
City Clerk (received):	_____
City Council (received):	_____
Public Hearing (ordered)	_____
Public Hearing (opened):	_____
Public Hearing (closed):	_____
Final Decision:	_____
Disposition	_____
(Approved, Denied, Approved w/conditions)	

APPLICANT:

Paul Bevilacqua, Inc. 
Name (Signature)

By Paul Bevilacqua, President

Address

24 Sturbridge Rd, Wellesley, MA 02481

Telephone (781) 237-0009

Certified for completeness:

Building Inspector: _____ Date: _____

Planning Director: _____ Date: _____

Section 1.8.3 (Use additional sheets, if necessary)

1. Social, Economic, or community need served by the proposal:

See Attachment A (pp. 9 – 10)

2. Traffic flow and safety:

See Attachment A (p. 10)

3. Adequacy of utilities and other public services:

See Attachment A (p. 11)

4. Neighborhood character and social structure:

See Attachment A (p. 11)

5. Qualities of the natural environment:

See Attachment A (p. 11 – 12)

6. Potential fiscal impact:

See Attachment A (p. 12)

The applicant is advised that City staff is available to assist the applicant in preparing the Application, including the Inspector of Buildings and City Planner

Application for Special Permit

The undersigned applicant hereby applies for a special permit under M.G.L., Ch. 40A, § 9 as follows.

1. Applicant (includes equitable owner or purchaser on a purchase and sales agreement):

Name: The Bevilacqua Company, Inc.

Address: 24 Sturbridge Rd, Wellesley, MA 02481

Tel.# Days (781) 237-0009 Evenings same

Check here if you are the purchaser on a purchase and sales agreement.

2. Owner, if other than applicant:

Name: Son, LLC

Address: 7 Eastern Avenue, Beverly, MA 01915

Tel.# Days (978) 627-4500 Evenings Same

3. Property:

Street address: 116 East Main Street

Assessor's Map: 59 Lot: 53

Registry of Deeds where deed, plan, or both records:

Land Court Dept. of Essex Southern District Registry of Deeds

Deed recording: Book Doc 576930 Page 89927 Cert of title No. 89927

Plan recording: Plan # Land Court Plan No. 15534B

Property is located in the Neighborhood Business (governed by R-10 Zoning) zoning district.

4. Nature of relief requested: Special permits for 8 unit use, distance between buildings, minimum lot area and Open space per dwelling unit of the Zoning Ordinance/By-Law

which authorizes The City Council, in accordance with secs. 2.3.1,#8 & sec 3.2.2 footnotes a. & e., to permit An 8-unit use, lesser than required distance between principal buildings and lesser than the minimum lot area per dwelling unit and open space per dwelling unit.

Detailed explanation of request:

Applicant, the buyer under a purchase and sale agreement, desires to tear down the restaurant building on site and replace it with an eight unit use housed in two detached eight unit buildings located toward the rear of the lot with units containing two-bay, drive-under garages and two floors of living space above. Remainder of the site will be dedicated to open space/landscaping and additional parking.

5. Evidence to support grant of special permit:

Because of reasons set forth below, the special permit requested will be in harmony with the intent and purpose of the Zoning Ordinance/By-Law:

See Attachment A: (1) Special permit for spacing between buildings (pp. 12 - 13), (2) Special permit to reduce required lot area per dwelling unit (pp. 13 - 15) and (Special Permit to reduce open space per dwelling unit (pp. 15-16).

Because of reasons set forth below, the special permit requested will meet the additional requirements of the Zoning Ordinance/By-Law as follows:

See Attachment A. (See Section 5, above)

If someone other than owner or equitable owner (purchaser on a purchase and sales agreement) is the Applicant or will represent the Applicant, owner or equitable owner, must designate such representative below.

Name of Representative: Salvatore J. Frontiero, Esq.

Address of Representative: Frontiero Law Office, P.C., 46 Middle Street, Gloucester, MA 01930

Tel. # Days (978) 283-2850 Evenings Same

Relationship of representative to owner or equitable owner:

Attorney for equitable owner/applicant

I hereby authorize Salvatore J. Frontiero, Esq. to represent my interests before the
Special Permit Granting Authority with respect to this Special Permit Application.

(Signed by owner/equitable owner) Paul Bevilacqua, Pres

I hereby certify under the pains and penalties of perjury that the information contained in this
Application is true and complete.

Paul Bevilacqua, Pres 7/15/19
Signature of Applicant Date

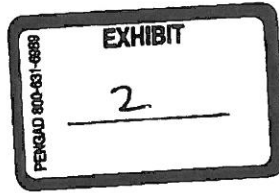
Paul Bevilacqua, President

Joel Favazza 7/15/19
Signature of Owner, if other than Applicant Date

Joel Favazza, duly authorized attorney for Son, LLC

Paul Bevilacqua, Pres 7/15/19
Signature of Equitable Owner who is filing application to satisfy condition of Purchase and Sales agreement Date

Paul Bevilacqua, President



ATTACHMENT A

PETITIONER: BEVELICQUA COMPANY, INC.

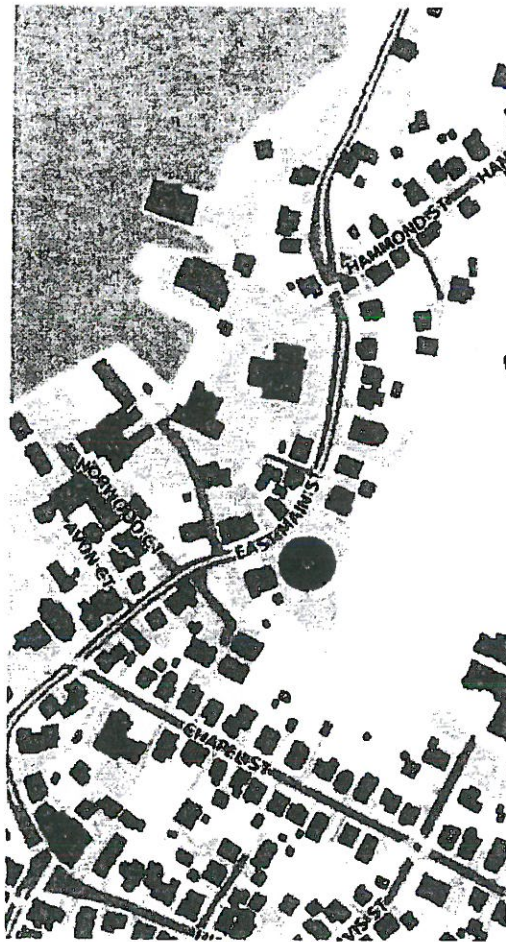
PROPERTY: 116 EAST MAIN ST

ASSESSOR'S MAP 59, LOT 53

I. Background

A. PROPERTY HISTORY

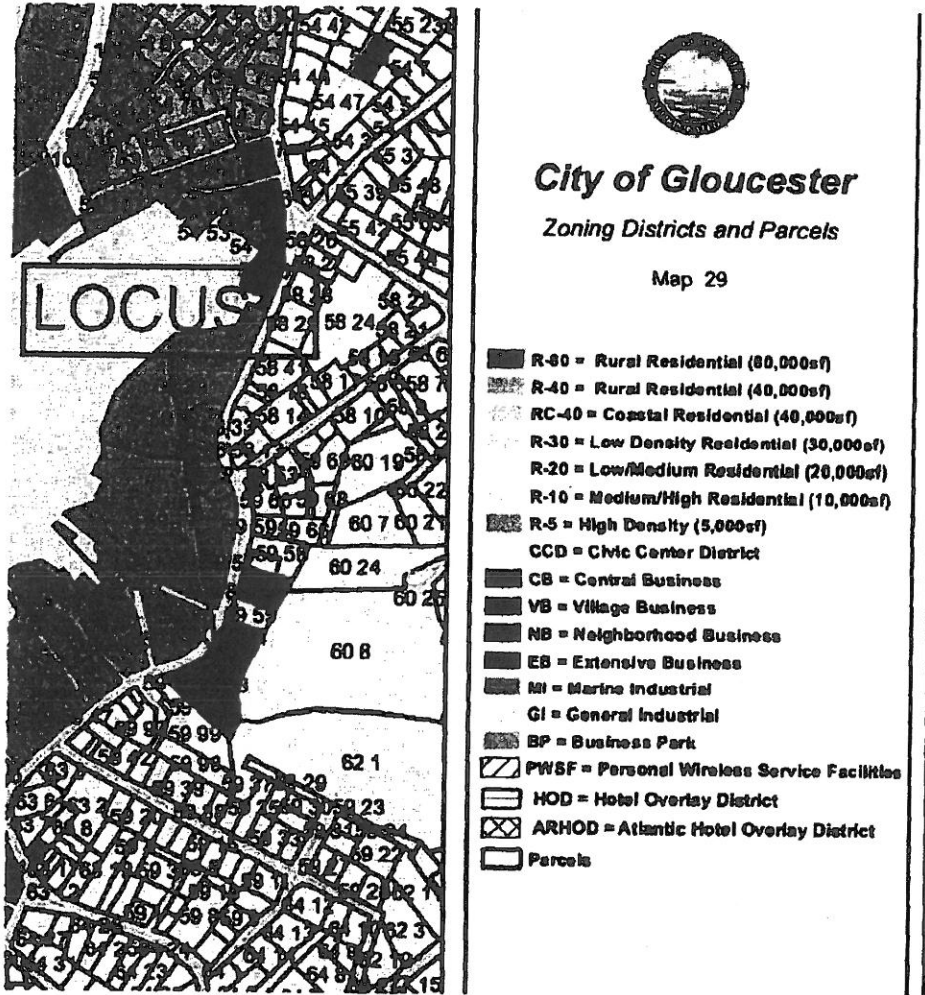
The property at 116-118 East Main Street is the site of a currently abandoned restaurant. Over the last 25 or so years it has been owned and operated by a number of different parties under a number of different names, none of which were sustainable as restaurants for a long duration. The applicant, the Bevilacqua Company, Inc., is a buyer under a purchase and sale agreement to purchase the parcel from the current owner, Son, LLC, subject to obtaining necessary permits.



B. ZONING AND EXISTING CONDITIONS

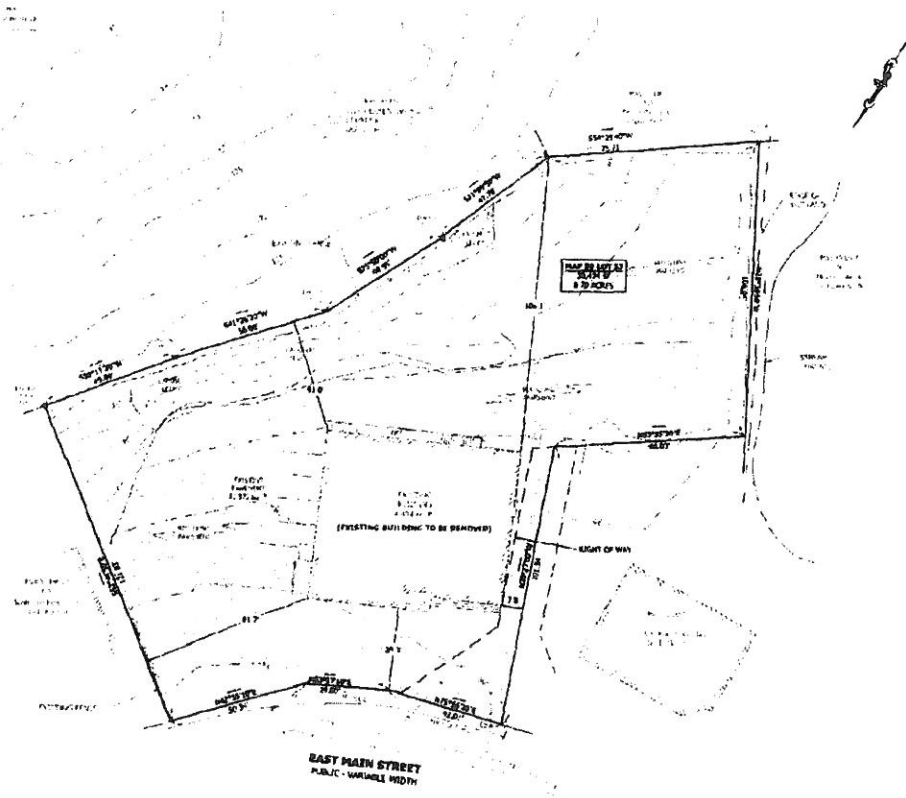
The property is zoned for neighborhood business (which allows residential usage) and three other parcels in the immediate area are also zoned similarly. The lot is generally surrounded by residential zoning (R-10, Medium to High Density Residential Zone) on the same side of the street and Marine Industrial zoning across the street.

Neighborhood Zoning:



The parcel is 30,474 sq. ft. in size, which greatly exceeds the 20,000 sq. ft. minimum required by the zoning ordinance for multi-family use. Much of the parcel is currently either paved or occupied by a large ledge outcropping in the rear. The parcel has a unique shape with a panhandle-like appendage to the southwest and has a wetlands resource area along its western border. The land generally slopes from the rear to the front, with some exposed bedrock in the rear of the parcel. The parcel abuts a gas station/convenience store to the west and a four-family residence to the east. To the rear/south is a residence and Easter Gloucester School. The buildings on both parcels to the rear are hundreds of feet from the Site and located at a much higher elevation. Existing conditions are shown on the map below.

Existing Conditions:



C. PROBLEMS WITH CURRENT USAGE

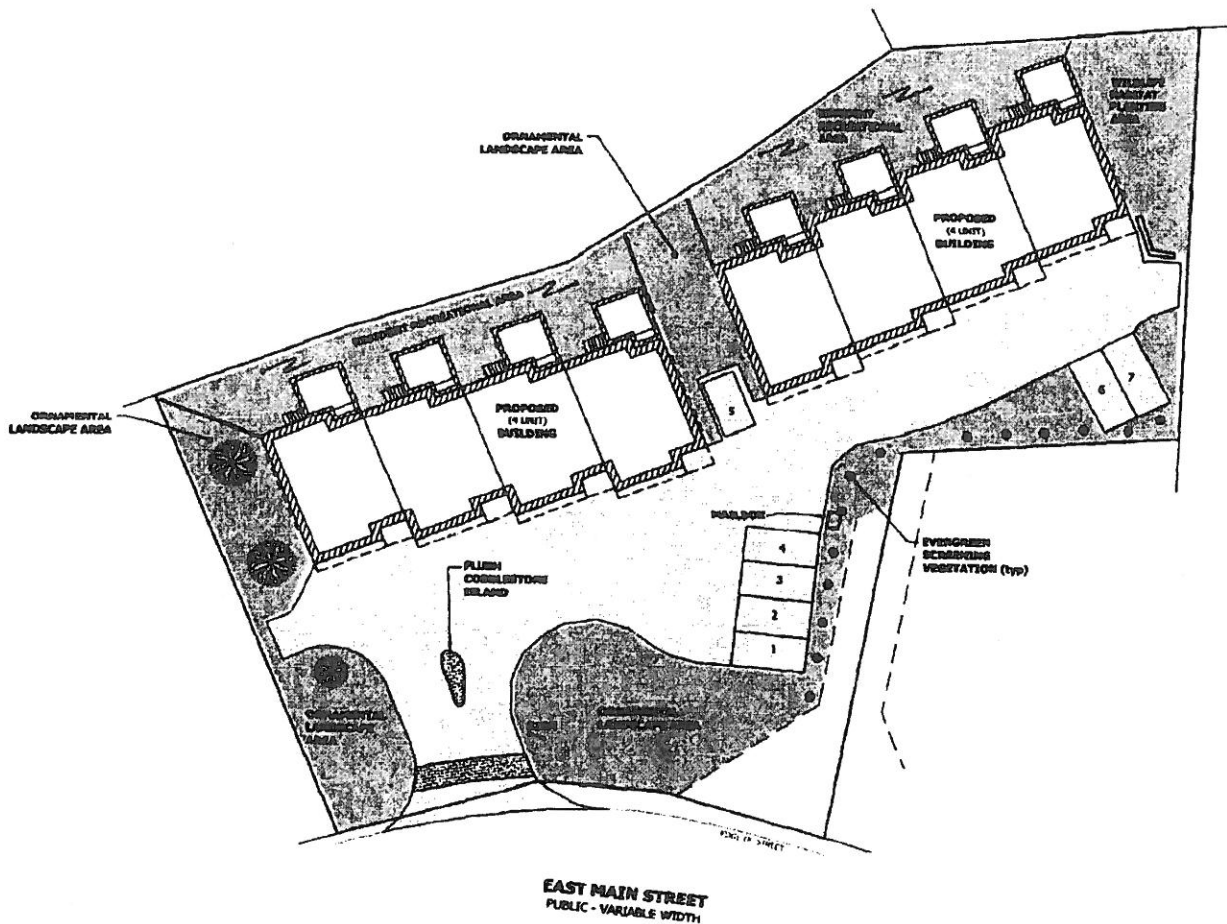
The property currently suffers from the following negative impacts on the neighborhood:

- Building is vacant, which can provide habitat for rodents and generally detracts from the neighborhood appearance. Lot has been used for dumping and for transient vehicle storage.
- Provides uncontrolled stormwater runoff onto East Main Street. In the winter, this leads to an icing problem on the street in front of this property and associated pavement deterioration
- Has no curb or distinct entrance to control vehicles traversing onto and off of East Main Street. The property shares an uninterrupted, large curb cut with the adjacent convenience store/gas station, thereby causing a confusing and dangerous criss-cross type entry and exit with the convenience store property.
- Has no formal plantings, except one or two ornamental trees and some opportunistic vegetation growth.

D. SUMMARY OF PROPOSED PROJECT

The proposed usage of 116 East Main Street would provide for eight two or three-bedroom residences located in two detached structures, each containing four units. Up to four of the units will be provided with the third bedroom option and the total number of bedrooms in the project will not exceed twenty. One of these residences would be subject to the inclusionary zoning requirements and be subject to a deed restriction insuring affordability in perpetuity. The units would have amenities such as a two-bay garage, a deck, and an outdoor recreational area to the rear. The buildings have been designed to provide for an architecturally unique character on the front and side facades. The exterior will feature screening, formal planting areas, wildlife habitat planting areas, guest parking spaces and an electric vehicle parking space. The total number of parking spaces, inclusive of the garages, would be 23. The structures would be located approximately 68 feet distant from East Main Street at their closest point. The proposed site plan and elevations are shown below, as well as rendering showing what the site would look like from East Main Street.

Proposed Site Plan:



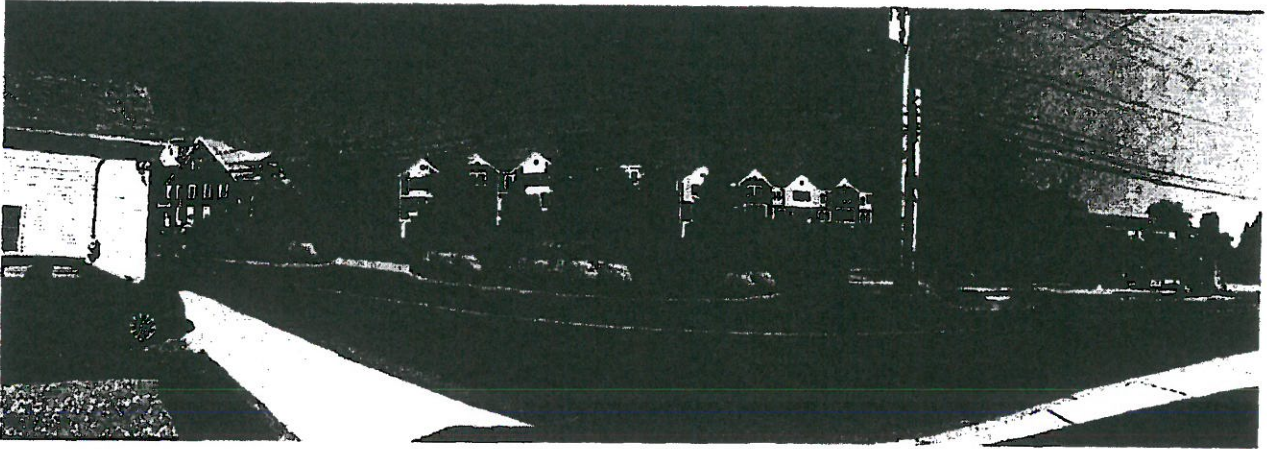
Building Façade Detail:



Four-unit building façade:



Representative Street View:



E. PROJECT BENEFITS

Approval of this project will provide the following benefits to the neighborhood and city:

- Providing needed housing in the City as identified in the City's Housing Production Plan. As stated in the draft plan "Gloucester will need 434 new multifamily units....between 2010 and 2020". These two and three-bedroom units in a multifamily configuration would provide nearly 2 % of the multi-family housing need anticipated by the city;
- Eliminating an abandoned restaurant that has been a recent eyesore and nuisance to productive use;
- Removing possibility of a noisy restaurant being re-established;
- Providing one deed-restricted affordable housing unit would;
- The proposed buildings would fit in with the street façade, would be set back from the street and in conformance with the height requirements (note the buildings at their closest point are 68' from the front property line);
- Plantings will be placed alongside the nearby wetlands area to enhance wildlife habitat;
- The existing rusted fence around much of the property will be removed and replaced;
- In addition to each unit being provided with two garage parking spaces, guest parking for seven cars will be provided to assure that ample visitor parking can occur without burdening neighborhood streets;
- A dedicated electric vehicle parking space with charger will be provided;
- Snow management, trash/recycling collection, fire department ambulance access, water supply, sewage disposal and stormwater management have all been considered and factored into the design;
- The four proposed driveway lights will be designed to not provide glare upwards;
- Extensive landscaping will be provided along the street façade and adjacent to the guest parking areas. The green space will be increased significantly from current conditions;

- Short-term construction job creation;
- Eliminating water sheet flow onto East Main Street;
- Eliminating uncontrolled vehicle access to and from East Main;
- Eliminating parking which is easily visible by others on East Main Street and directing that to indoor or otherwise screened parking;
- At the request of neighbors, there will not be blasting any bedrock. This condition is a special condition of the Zoning Board of Appeals decision in this matter;
- Providing an extensive increase in property tax revenue;
- Eliminating the presence of large delivery trucks and late-night noise which used to occur and could occur again if a restaurant were to open again at this location;
- Reducing vehicle travel from a restaurant use to an 8 unit residential use as the residential use requires far less vehicle trips per day on busy East Main Street;
- Limiting neighborhood impact as no residences exist for hundreds of feet behind this proposed project, with the nearest one being some 75' higher in grade than the elevation of the proposed project; and
- Positioning sun room and living area, as well as recreational areas to the rear of each unit where they cannot be seen from the street.

F. COMPLIANCE WITH REGULATORY REQUIREMENTS

Although setback relief was required and obtained from the Zoning Board of Appeals, the project fully complies with the following dimensional/use requirements the Gloucester Zoning Ordinance: (1) lot area, (2) lot frontage, (3) lot width, (4) front yard setback, (5) maximum lot coverage, (6) building height, (7) minimum front yard vegetative cover and (8) minimum required parking spaces and other related parking requirements. As to parking spaces, the Zoning Ordinance requires a minimum of twelve parking spaces for eight unit use. Here, 23 spaces are being provided. Moreover, the property will become more conforming as front yard setback and front yard vegetative cover.

Nonetheless, three variances were needed and have been obtained from the Gloucester Zoning Board of Appeals, as follows:

1. To reduce the required left side yard setback from 34.0' to 7.6'
2. To reduce the required right side yard setback from 34.0' to 15.2'
3. To reduce the required rear yard setback from 34.0' to 4.3'

II. Special Permits

Four special permits are being requested from the Gloucester City Council. Described below are the requests and an explanation of how the standards for issuance of such permits have been met:

A. SPECIAL PERMIT TO ALLOW EIGHT-FAMILY USE

The Gloucester Zoning Ordinance Section 2.3.1 (8) requires a Special Permit from the City Council for a multi-family project of eight units. The Gloucester Zoning Ordinance Section 1.8.3 provides the standards of review to be applied by the City Council for this Special Permit, as follows:

that the proposed use will be in harmony with the general purpose and intent of this ordinance, and that it will not adversely affect the neighborhood, the zoning district or the city to such an extent as to outweigh the beneficial effects of said use. In reviewing special permit applications, SPGA shall consider, but not be limited to, the following six factors:

- (a) The social, economic and community needs that will be served by the proposed use;
- (b) Traffic flow and safety;
- (c) Adequacy of utilities and other public services;
- (d) Neighborhood character and social structure;
- (e) Qualities of the natural environment;
- (f) Potential fiscal impact.

Compliance with the general purpose and intent of the zoning ordinance:

The purpose and intent of the Zoning Ordinance is described as follows:

“To lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the city”

As stated above, this project will: (1) reduce traffic burden in the street; (2) reduce fire risk; (3) allow adequate light and air; (4) provide for needed housing, including one affordable unit; (4) have adequate public utilities; (5) enhance the value of the land, and (6) will conserve nearby natural resources.

Compliance with the 6 specific items identified in section 1.8.3 of the zoning ordinance:

a) Social, economic and community needs

The City of Gloucester, through its Housing Production Plan, has identified a pressing need for multi-family housing in the city. This project will provide about two percent of

the stated need for multi-family housing in Gloucester. The City of Gloucester, through the Zoning Ordinance, also identifies the need for affordable housing. This project will provide one unit that is deed restricted in perpetuity. As evidenced by the recent history of the property, the restaurant use did not serve community needs here as shown by the fact that such restaurant use has been problematic, subject to high turnover and arguably not economically viable.

b) Traffic flow and safety

According to the Institute of Transportation Engineers data, it would be expected that, based on the square footage of the restaurant on the Assessor's database (5,127 sq. ft.) and the standard expectation of 4.5 trips per 1,000 square feet, the restaurant use would have generated 23 vehicle trips during the peak P.M. hour. Based on the Institute of Transportation Engineers data for proposed residential townhouses (8 units proposed) and their expectation that each unit would generate 0.52 trips during the peak P.M. hour, it is expected that there would be 4.2 trips during the peak P.M. hour for an eight-unit residential use. Moreover, an analysis performed by applicant's engineer confirms that ambulance access to this property can be achieved from vehicles approaching from either direction on East Main Street. Accordingly, there is adequate emergency vehicle access.

Most important, the current traffic configuration is detrimental to traffic flow and safety. Part of the restaurant parking involves the use of spaces in front of the building and located perpendicular to the street. These spaces are the most attractive to patrons as they are close to the front entrance. However, exiting these spaces requires backing out on to East Main Street, which is one of the city's busiest thoroughfares. In addition, there is one, large open and undefined lot/open curb cut between this property and the convenience store/gas station adjacent to it. This results in a sometimes dangerous criss-crossing, whereby vehicles exiting the gas pumps can come into potential conflict with vehicles exiting the restaurant and backing onto East Main Street.

The above detrimental parking and traffic conditions would be completely eliminated if this project is approved. Here the applicant proposes to eliminate the large and undefined curb cut that exists between the property and the convenience store/gas station. The property would be served by one curb cut toward the middle of the lot and away from the convenience store gas station. Moreover, any backing out of vehicles onto Main Street would be completely eliminated. The change in use would also eliminate the frequent visits of large trucks that would otherwise be necessary for the delivery of restaurant supplies. Lastly, the project would provide nearly three times the required number of parking spaces required under the Zoning Ordinance, thereby assuring that all parking for both residents and visitors will be accommodated on site.

c) Adequacy of utilities and other public services

The restaurant at this site was served by water and sewer services from the City of Gloucester, and served with gas and electricity from National Grid. It is presumed that these were all adequate for the former restaurant usage and thus will be adequate for the proposed residential uses. In fact, the residential use may result in less water consumption than a restaurant use, which tends to be very water use intensive. Moreover, any potential for problems caused by inadequate grease traps and the like often associated with restaurant use would be eliminated entirely.

The parcel was not previously served by any type of stormwater management system and run-off would collect on East Main Street, causing potential icing problems. The proposed project would create a storm water collection system on the parcel which will then tie into the City of Gloucester drainage network located beneath East Main Street. The applicant is aware of no other known utility or public service related issues that would arise as a result of conversion to eight-family residential use.

d) Neighborhood character and social structure

The neighborhood at issue contains an eclectic mixture of uses from retail, function rooms, marinas, single family homes and multi-family homes. Unlike other parts of Gloucester that are distinctly one type of usage (i.e. single family house on Eastern Point or industrial usage in Blackburn Park), this neighborhood is characterized by its diversity of uses and variety of structure sizes and types. As such, this project would fit into this broad array of uses and would be a visually attractive addition to the area.

Also, as explained above, the loss of the restaurant use will have not have a detrimental effect on the social structure of the neighborhood. The recent troubled history of the restaurant use speaks for itself as to whether having a neighborhood eatery enhances this neighborhood's social structure or detracts from it. The recent vacant and dilapidated condition of this property indicates that the present use is no longer economically viable and in fact has a negative effect on neighborhood character and social structure. It is important to note that any potential for late night noise as patrons exit at closing time and the emanating of odors from cooking or storage of restaurant waste will be completely eliminated, thereby having a positive effect on neighborhood character.

e) Qualities of the natural environment

Much of the existing parcel is comprised of asphalt or compacted soil. The vegetated resource area located to the west of the site will be enhanced by a native species planting area on this site that will provide for wildlife habitat. Several areas of planting and green space are also to be located on the site. At the conclusion of the project there will be approximately 4,000 less square feet of pavement on this site than currently exists. The

project will also be subject to the jurisdiction of the Conservation Commission, thereby ensuring that the adjacent wetland resource area is protected.

Most importantly, the property will have a dramatic and positive impact with regard to much needed green space as compared to current conditions. As stated, the property would become compliant with the front yard vegetative cover requirements of the Zoning Ordinance. Presently, there is one tree located within a small “island” of green space within what appears to be a sea of pavement. The proposed use would provide for a greater number of trees and much more permeable surface for absorption of run-off and the like.

f) Potential fiscal impact

In the short-term, construction jobs will be provided, permit fees generated, and materials purchased, thereby benefitting the city. In the long-term, there will be an expanded tax base associated with eight residences as compared to the current single, abandoned restaurant. The current facility is assessed by the City of Gloucester at a value of \$551,200. A comparable project to the proposed 8-unit Multi-family at 116 East Main Street is located at 3 Pirmi Lane. The ten units on Pirmi Lane have an average assessed value of \$409,200. If these assessed values are a similar value to the finished project at 116 East Main Street then the total assessed value of the proposed 8 units would be \$3,273,520. Accordingly, there will be a positive fiscal impact.

B. SPECIAL PERMIT FOR SPACING BETWEEN PRINCIPAL BUILDINGS

The Section 3.2.2, Footnote “e “ of the Zoning Ordinance requires that principal use buildings are to be spaced apart in an amount equal to their combined respective heights. In this instance, the buildings would need to be 57.2’ apart to fully comply with this requirement. Here, the buildings are proposed to be spaced 16.9’ apart. However, reductions in this spacing requirement are authorized by Special Permit issued by the City Council provided that the City Council finds that such lesser space is not be detrimental as to view obstruction, overshadowing, service access or visual crowding.

Petitioner submits that it has satisfied these requirements as follows:

- View Obstruction – Immediately behind this parcel is a large parcel that is mostly wooded that contains one single family house wherein the dwelling is located about 450’ away and approximately 75’ higher in elevation than the subject property. To the right rear of the parcel is East Gloucester Elementary School, which is about 270’ away and the land around it is approximately 30’ higher in elevation than the land at the subject parcel. Views towards the water from the convenience store, the existing multi-family dwelling located at 114 East Main Street, or the houses across the street will not be impacted by this project.

- Overshadowing – The project would comply with the thirty-foot height limitation set forth in the Zoning Ordinance. The closest point of the proposed structure to the convenience store located at 122 East Main Street is 77' away, while the closest point to the multi-family structure at 114 East Main Street is 27.8' away. It is worth noting that the four-family building at 114 East Main Street is about 42' above the ground surface and would be taller than the structures which are proposed to be built as part of this project. Moreover, based on the juxtaposition of the buildings on the site, any shadows would be cast largely toward the vast open space behind the buildings in the mornings and largely upon the open areas within property in the afternoons.
- Service Access – Each unit will have pedestrian entry and garage doors facing towards the inner part of the parcel, making for easy access by service equipment and personnel. No equipment or other components will be located in an area which will need to be accessed via the area between the two buildings. Additionally, the driveway is wide enough to allow large vehicles to enter and exit the site and all related services can be provided from the front of the buildings. It will be unnecessary to provide any service access between the buildings. In summary, the lesser than required spacing between principal buildings will have no impact at all on service access.
- Visual Crowding – As explained above in the sections covering view obstruction, the buildings will not be overcrowded in relation to buildings located on adjacent properties. Similarly the buildings on site will not look visually overcrowded as to each other due to the lesser requested space between principal buildings. Although the buildings would be closer together than required by the Zoning Ordinance, they would be setback significantly from the street and will be laid out slightly staggered as to each other and will not have a parallel look. Moreover, the westerly of the two buildings will be somewhat tucked away from view from the street as it will be located in a pan-handle shaped area of the lot somewhat behind the convenience store. Overall, this project is thoughtfully designed with the building closest to the street greater than 68' from the front property line. In addition, there will be ample areas of green space and open space between the street and the buildings. The visual rendering shown above also indicates that visual crowding will not be an issue.

While not a standard of review in the Zoning Ordinance, it is worth noting that each building will be constructed in full compliance with state building and fire safety regulations, including being served by a sprinkler system and/or built with appropriate fire-rated materials, as might be required. Therefore, the less than required spacing will not present fire hazard issues.

C. SPECIAL PERMIT TO REDUCE REQUIRED LOT AREA PER DWELLING UNIT.
The Zoning Ordinance, Section 3.2.2, specifies a required lot area per dwelling unit of 5,000 square feet per dwelling unit. However, Footnote "a." of that section provides that the lot area

per dwelling unit may be reduced by Special Permit issued by the City Council upon a determination that such reduction is “in keeping with neighborhood character and structural density.” In this instance, the applicant proposes to provide a lot area per dwelling unit of 3,809 square feet.

For the following reasons, the applicant submits that a special permit should issue to allow 3,809 per dwelling unit:

- Consistent with neighborhood character – As explained above, the East Gloucester neighborhood along this portion of East Main Street consists of a diverse and eclectic mix uses, many of which are located on undersized lots. The lot at issue here is one and one-half times the minimum size required for multi-family dwelling and is much larger than many of the surrounding lots. Immediately the East at 114 East Main Street is a four-family structure and a convenience is located immediately to the west at 122 East Main Street. Across the street at 135 East Main Street is a garage-type building listed by the city as being a retail use, and there is a multi-building residential complex at 125 East Main Street. There is also a two-family unit at 110 East Main Street. The neighborhood character is mixed, is not consistent, and contains other multi-family units. Also, as indicated below, many of the properties in the immediate area do not provide for 5,000 square feet per dwelling unit and the average number of square feet per dwelling in the area is far less than that being provided here.
- Consistent with structural density - Almost every nearby parcel is more densely configured than the neighborhood zoning would allow. Undersized and occupied parcels exist across the street at 125, 131 and 135 East Main Street, and on the same side of the street at 110, 114 and 122 East Main Street. Much of this historic neighborhood is more densely developed than contemporary current zoning standards warrant.

The applicant analyzed all residential properties on East Main Street between Chapel Street and Hammond Street, such properties being identified on the map below:



Based on this analysis, the average lot area per dwelling unit in this neighborhood is 1,308 square feet, which is 2,501 square feet less than the 3,809 square feet requested by the applicant. This analysis was conducted using data obtained from the Assessor's Office. A spreadsheet detailing this analysis is attached hereto as Exhibit A.

D. SPECIAL PERMIT TO REDUCE OPEN SPACE PER DWELLING

Gloucester Zoning Ordinance, Section 3.2.2, specifies a required open space area per dwelling unit of 3,500 square feet. However, Footnote "a." of that section provides that the lot area per dwelling unit may be reduced by Special Permit issued by the City Council upon a determination that such reduction is "in keeping with neighborhood character and structural density." In this instance, the applicant proposes to provide 1,479.50 square feet per dwelling unit. Open space is defined in the Zoning Ordinance as remaining lot area after excluding buildings, driveways and parking areas. The current configuration of the parcel provides for 9,996 sq. ft of open space, while the proposed condition will provide for 11,836 sq. ft. of open space. This results in a significant improvement over current conditions.

Exhibit A referenced above also contains a less scientific analysis of the open space per dwelling unit as compared to the lot area per dwelling unit. Due to the difficulty in determining what portions of the various neighborhood parcels are dedicated to driveways and the like, which are excluded from the definition of open space, the analysis undertaken considered only the first floor footprint of each structure, essentially the lot coverage. Accordingly, the resulting open space per dwelling unit calculated from this lot coverage amount in fact includes driveways. So, the average for the neighborhood as provided is actually less than the average that would be ascertained if driveway areas were excluded. Using this method, the neighborhood average was 1,101 square feet. For the sake of consistency, using this same method for this site, the resulting number was 2,785 square feet per dwelling unit. The actual open space per dwelling for this site as calculated using the definition in the Zoning Ordinance is 1,479.50 square feet (11,836 sq ft/8), which is *still* larger than the overly inclusive 1,101 square feet for the neighborhood as calculated using the method described above.

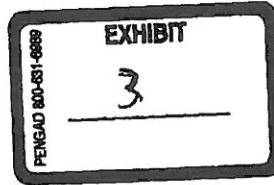
Reductions to the open space area requirement may be issued by the City Council if it is determined that it is keeping with neighborhood character and structural density. These matters will not be a concern for the following reasons:

- Consistent with neighborhood character – The East Gloucester neighborhood along East Main Street is a mixture of single family, multi-family, businesses, a fish processing facility, a writing center and a theater stage company. Many of these parcels are extensively occupied with buildings and driveways. For example, immediate to the property at 114 East Main Street is a 4 unit multi-family structure which is about 80%

covered in buildings and driveway and there is a convenience store at 122 East Main Street which appears to be almost 100% devoid of open space.

Across the street at 135 East Main Street is a garage-type building listed by the city as being a retail use which has about 95% building and driveway, a multi-building residential complex at 125 East Main Street which appears to be about 85% buildings and driveway. There is a two-family unit at 110 East Main Street which contains about 65% coverage by buildings and driveways. As can be seen, the neighborhood is characterized by parcels with very little open space.

- Consistent with structural density - Almost every nearby parcel is more densely configured than the neighborhood zoning would allow. Undersized and occupied parcels exist across the street at 125, 131 and 135 East Main Street, and on the same side of the street as the proposed project at 110, 114 and 122 East Main Street. Immediately across the street, all three structures are located within 5' of the sidewalk. These parcels generally have a lower percentage of open space on the lot than proposed for this project. It is also significant to note in addition to the open space on this parcel, there is a nearby park at Solomon Jacobs and several easy walking routes to the water from this parcel. The individual units will have a recreational area located behind the structures for passive, open space-related activities. In any event, as shown above, the open space per dwelling unit being provided here is far greater than the neighborhood average, thereby making the requested lesser amount of open space here easily consistent with and in fact greater than the open space per dwelling unit on average in the immediate area.



CITY CLERK
GLOUCESTER, MA

2019 OCT 10 AM 9:14

In Re:

Application of The Bevilacqua Company, Inc.)
 for a Special Council Permit)
 for 116 East Main Street)
 Pursuant to the) **DECISION OF THE CITY**
 City of Gloucester Zoning Ordinance) **COUNCIL OF THE CITY**
) **OF GLOUCESTER**
 Section 1.8.3)
 Section 2.3.1(8))
 Section 3.2.2(a)(e))
 SCP 2019-06)

The City Council of the City of Gloucester, constituting the Special Permit granting authority under the laws of the Commonwealth of Massachusetts and the Zoning Ordinance of the City of Gloucester, hereby adopts the following findings and decision ("Decision") with regard to the application of The Bevilacqua Company, Inc. for a Special Council Permit ("Special Permit") for 116 East Main Street pursuant to Sections 1.8.3, 2.3.1(8) and 3.2.2(a) and (e) of the City of Gloucester Zoning Ordinance ("GZO").

On July 17, 2019, The Bevilacqua Company, Inc. filed an Application for a Special Permit for conversion to an eight unit residential dwelling with exceptions for the minimum distance between buildings, minimum lot area per dwelling unit and minimum open space per dwelling unit. The application is incorporated herein by reference. The Applicant seeks to build residential housing on the property, which is currently occupied by an abandoned restaurant.

The property is located at 116 East Main Street, Gloucester and is shown on Assessor's Map 59, as Lot 53 ("Site"). The Site is located in a Neighborhood Business (NB) zoning district. The Bevilacqua Company Inc. seeks a Special Permit as required by Sections 1.8.3, 2.3.1(8), 3.2.2 fn (a), and 3.2.2 fn (e) of the GZO. Section 1.8.3 lays out the standard for issuing a Special Permit; Section 2.3.1(8) allows the City Council to grant a special permit to convert property to multi-family dwellings of seven units or more; and Section 3.2.2 lays out the dimensional requirements for multi-family dwellings, specifically minimum lot area per dwelling unit (3.2.2 fn (a)), minimum open space per dwelling unit (3.2.2 fn (a)) and distance between dwellings (3.2.2 fn (e)).

PLANNING AND DEVELOPMENT COMMITTEE

On August 7, 2019, the Planning and Development Committee ("P&D") held a properly noticed meeting. Attorney Salvatore Frontiero represented The Bevilacqua Company, Inc. ("the Applicant"). Attorney Frontiero explained that the Applicant proposes to raze the existing restaurant and construct eight two or three bedroom residential units in two detached structures. The project would require a Special Permit

to reduce the space between the buildings from 57 feet to 16.9 feet, reduce the lot area for dwelling from 5,000 feet to 3,809 feet and reduce the open space per dwelling from 3,500 feet to 1,479.5 feet. Attorney Frontiero reviewed the six criteria for a Special Council Permit under 1.8.3. Attorney Frontiero explained that the project would provide affordable housing which the City needs. He also explained that with regard to traffic flow, the project would result in less traffic than a restaurant. There are adequate utility systems on the site. The neighborhood has a mix of diverse uses so this use fits. The project will add more green space to the parcel. The taxable value of the property will increase.

Attorney Frontiero further stated that, pursuant to 3.2.2 fn (e), the Council may grant a Special Permit for reduced space between buildings if it is not detrimental to view obstruction, overshadowing, service access or visual crowding. Attorney Frontiero explained that immediately behind the property is a large cliff so there will be no obstruction of views. Each unit will have access for service and turnaround. The buildings will not appear visually overcrowded.

With respect to 3.3.3 fn (a), reduction in required lot area for a dwelling, he stated that the lot area per dwelling unit for the project is higher than the average for the neighborhood.

With respect to 3.2.2 fn (a), open space per dwelling unit, he stated that the project will provide more open space than currently exists and will provide more open space per dwelling unit than the neighborhood average.

A site visit was scheduled for August 15, 2019.

On August 21, 2019, the Planning and Development Committee ("P&D") held a second properly noticed meeting. Attorney Frontiero reviewed the benefits of the project.

After discussion, P&D voted 3 in favor, 0 opposed to recommend that the City Council grant a Special Council Permit (SPC 2019-006) to The Bevilacqua Company, Inc. for a property owned by Son, LLC at East Main Street #116, Map 59, Lot 53, zoned NB (Neighborhood Business) to build two buildings on the property consisting of four dwelling units each for a total of eight dwelling units, under GZO Sections 1.8.3; conversion to or new multi-family or apartment dwelling, seven or more dwelling units for an eight unit residential use, Sec. 2.3.1(8); distance between principal buildings, Sec. 3.2.2 fn (e); for two buildings to be spaced at 16.7 square feet apart; Sec. 3.2.2 fn (a) minimum lot area per dwelling unit, from 5,000 sq. ft. to 3,809 sq. ft.; and Sec. 3.2.2 fn (a) minimum open space per dwelling unit to be reduced from 3,500 sq. ft. to 1,479.5 sq. ft. pursuant to a plan submitted with the application rendered by Mill River Consulting, Gloucester MA signed by Raymond L. Willis, P.E. entitled, "Development Plan for 116 East Main Street, Gloucester, MA, Map 59, Lot 53 dated April 4, 2018. This Special Council Permit is in harmony with the intent and purpose of the Zoning Ordinance.

CITY COUNCIL

On August 27, 2019, the City Council opened the public hearing on the Application at 8:25 p.m. Council President Lundberg explained the requirements for a Special Permit and the requirements for reduced distance between buildings, reduction of minimum lot area and open space per dwelling unit. Attorney Salvatore Frontiero, representing Applicant The Bevilacqua Company Inc., explained the project. Attorney Frontiero explained that the property is a 34,700 sq. feet panhandle shaped property. It was used for a restaurant for several decades. The property is NB, which allows residential uses. Setback relief was granted by the ZBA. The project has been scaled down from three buildings containing ten units to two buildings containing eight units due to neighborhood feedback.

Attorney Frontiero explained that GZO Section 2.3.1(8) requires a Special Permit to allow an eight residential unit project. He further stated that the project meets the criteria of Section 1.8.3 for a Special Permit. Specifically, the project will provide housing in the City, the Institute for Transportation Engineers data shows that there will be less traffic for this project than the restaurant, there are adequate utilities, the project will fit into the neighborhood, will have greater green space and will have a positive fiscal impact.

Attorney Frontiero also explained that relief should be provided pursuant to Section 3.2.2 fn (e) as less space between the buildings will not obstruct views, there is no need for service access between the buildings and the buildings will be staggered so as not to create visual crowding. With respect to Section 3.2.2 fn (a) reduction of minimum lot area, and reduction of minimum open space per dwelling unit, the Site is in character with other buildings in the area and better in terms of lot area and open space.

Three residents spoke in favor of the application. Twenty-seven residents spoke in opposition to the proposal. The neighbors stated that the proposed structures would negatively affect traffic and density. A poll of the audience indicated 9 in favor and 49 opposed.

Attorney Frontiero stated in rebuttal that the building is less dense than the average property in the neighborhood.

The Council discussed the need for increased housing in the City. They also discussed that the purpose of exceptions to the zoning ordinance and whether this is a situation where exceptions are needed to develop the property. Councilors also discussed whether this proposal is a good fit for the neighborhood and the site.

FINDINGS OF THE CITY COUNCIL

MOTION: The City Council voted by ROLL CALL 3 in favor, 5 opposed, 1 absent, to grant a Special Council Permit (SCP2019-006) to The Bevilacqua Company, Inc., for a

property owned by Son, LLC at 116 East Main Street, Map 59, Lot 53, zoned NB (Neighborhood Business) to build two buildings on the property consisting of four dwelling units each, for a total of eight dwelling units, under GZO Sections 1.8.3; conversion to or new multi-family or apartment dwelling, seven or more dwelling units for an eight unit residential use, Sec. 2.3.1(8); distance between principal buildings, Sec. 3.2.2 fn (e) for two buildings to be spaced at 16.7 square feet apart; Sec. 3.2.2 fn (a) minimum lot area per dwelling unit, from 5,000 square feet to 3,809 square feet; and Sec. 3.2.2 fn (a) minimum open space per dwelling unit, to be reduced from 3,500 square feet to 1,479.5 square feet pursuant to a plan submitted with the application, rendered by Mill River Consulting, Gloucester, MA signed by Raymond L. Willis, P.E. entitled, "Development Plan for 116 East Main Street, Gloucester, Massachusetts, Map 59, Lot 53 dated April 4, 2018. This Special Council Permit is in harmony with the intent and purpose of the Zoning Ordinance.

The Special Permit is denied.

In denying this Special Permit, the City Council has relied upon the oral and written representations made by the Applicant in documents submitted in support of his application and in his appearances at the Committee and Council meetings on the application.

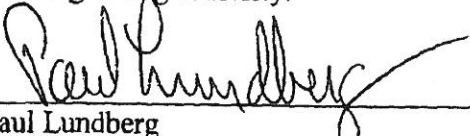
Each finding and term of this Decision is intended to be severable. Any invalidity in any finding or term of this Decision shall not be held to invalidate any other finding or term of this Decision.

The minutes of the Planning & Development Committee meetings and the City Council public hearings and all documents and testimony received during the meetings and the hearings are incorporated into this Decision.


Accordingly, by said City Council Vote of August 27, 2019, the Special Council Permit application is hereby **DENIED**.

On October 8, 2019, the City Council adopted this Decision.

Pursuant to Rule 25 of the City Council Rules of Procedure, the President of the City Council and the City Clerk have signed this decision demonstrating that it is a true and accurate reflection of the August 27, 2019 vote of the City Council sitting as the special permit granting authority.



Paul Lundberg
President, Gloucester City Council



Joanne M. Senos
City Clerk

Dated: October 8, 2019

RIGHT OF APPEAL

This Decision may be appealed pursuant to General laws, Chapter 40A, Section 17, to the Superior Court of Essex County or the District Court of Eastern Essex by bringing an action within twenty days after this Decision has been filed in the Office of the City Clerk.

CERTIFICATE OF NOTICE

I hereby certify that notice of this Decision was mailed forthwith to the applicant, to the parties in interest designated in G.L. Ch. 40A, Section 11, and to every person present at the hearing who requested that notice be sent to him and stated the address to which notice should be sent on this date.

Date: 10/10/19

Joanne M. Senos
Joanne M. Senos, City Clerk

CERTIFICATE OF LAPSE OF APPEAL

I hereby certify that twenty (20) days have elapsed from the date of the filing of this Decision with the Office of the City and that no appeal has been filed with said office.

Date: _____

Joanne M. Senos, City Clerk

APPEALED FILED

Date of Filing: _____

Joanne M. Senos, City Clerk

APPEAL DISMISSED

I hereby certify that an appeal of this Decision was filed in Essex Superior Court, Civil Action # _____.
The Appeal was dismissed with prejudice by agreement of the parties on _____.

Joanne M. Senos, City Clerk