

**MINUTES OF THE PROCEEDINGS OF THE
PLANNING BOARD OF THE CITY OF WORCESTER**

October 27, 2010

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Planning Board Members Present: Anne O’Connor, Chair
Scott Cashman, Vice Chair
Stephen Rolle, Clerk
Andrew Truman
Satya Mitra

Staff Present: Joel Fontane, Division of Planning & Regulatory Services
Lara Bold, Division of Planning & Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services
K. Russell Adams, Department of Public Works & Parks
Jennifer Beaton, Law Department
Michael Traynor, Law Department
Jody Kennedy-Valade, Department of Inspectional Services

BOARD SITE VISITS

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair Anne O’Connor called the meeting to order at 5:40 PM.

APPROVAL OF THE MINUTES

Approval of the October 6, 2010 minutes was held.

**REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS,
WITHDRAWALS**

- 1. 98 Wigwam Hill Drive - Definitive Site Plan (PB-2010-058):** Attorney Jonathan Finkelstein requested a continuation to November 17, 2010 in order to have sufficient time to investigate the issues raised and conclusions drawn by the Law Department in its September 9, 2010 memo (Exhibit A). Upon a motion by Mr. Cashman and seconded by Mr. Rolle, the Board voted 5-0 to continue the item to November 17, 2010.

Exhibit A: Letter from the Law Department to Joel J. Fontane, Division of Planning & Regulatory Services; re: ANR Plan – 98 Wigwam Hill Drive, Worcester, Massachusetts; dated September 9, 2010.

Exhibit B: Letter re: Request for Continuance [Postponement] to November 17, 2010 for 98 Wigwam Hill Drive. From Jonathan Finkelstein, Attorney At Law.

2. **Arboretum Phase V on property located at Keach Ave, Marlana Drive, Camellia Court, Forsythia Trail, and Elderberry Circle – Definitive Subdivision Plan Approval (PB-2010-061):** Hossein Haghazadeh of HS&T Group, representative for Robert Gallo, the petitioner, requested a continuance to November 17, 2010. Upon a motion by Mr. Truman and seconded by Mr. Cashman, the Board voted 5-0 to continue the hearing to November 17, 2010.

Exhibit A: Letter re: Request for Continuation [Postponement] of the Public Hearing to November 17, 2010. From Crystal Carr of HS&T. Received October 26, 2010.

3. **805 West Boylston Street – Definitive Site Plan (PB-2010-062):** Attn. Todd Brodeur, on behalf of Gas Development, LLC, applicant, stated that the applicant is requesting a continuation to November 17, 2010 in order to allow the Zoning Board of Appeals to hear this item at its November 8, 2010 meeting and for the applicant to make any necessary changes to the plan. Upon a motion by Mr. Truman and seconded by Mr. Rolle, the Board voted 5-0 to postpone the item to November 17, 2010.

Exhibit A: Letter re: Gas Development, LLC/805 West Boylston Street; Request for Continuance [Postponement] to November 17, 2010 for 805 West Boylston Street. From Attorney Todd Brodeur. Dated October 21, 2010.

4. **Pocasset Street – 81-G Street Opening (PB-2010-066):** Items #5 and #6 were taken contemporaneously. Ms. Bold read out a letter (Exhibit A) from Kevin J. Quinn, representative of the applicant, requesting a continuance to November 17, 2010. Upon a motion by Mr. Rolle and seconded by Mr. Cashman, the Board voted 5-0 to continue items # 4 and #5 to November 17, 2010.

Exhibit A: Letter re: Lot 2, Pocasset Street – Applications for Definitive Site Plan & Opening of the Way, Request for Continuance. From Kevin J. Quinn of Quinn Engineering, Inc. Dated October 25, 2010.

5. **Pocasset Street, Lot 2 (MBL: 38-033-31-04) – Definitive Site Plan (PB-2010-067):** See item # 4 above.

6. **266 Chandler Street – Parking Plan (PB-2010-070):** Attorney John Shea requested a continuance to November 17, 2010 in order to allow the Zoning Board of Appeals hearing for the site to take place first. He stated that the Zoning Board of Appeals has requested that DPW&P review and respond to the traffic study submitted by the applicant. Upon a motion by Mr. Cashman and seconded by Mr. Mitra, the Board voted 5-0 to continue the item to November 17, 2010.

Exhibit A: Letter re: 266 Chandler Street; Request for Continuance [Postponement] to November 17, 2010. From Attorney John Shea. Dated October 27, 2010.

OTHER BUSINESS

Chair O'Connor and the Board bid farewell to Ms. Kennedy-Valade. They thanked her for her work and wished her good luck.

NEW BUSINESS:

Public Hearing

7. **89 & 91 Malden Street – Definitive Subdivision (Frontage) (PB-2010-071):** Minella Xhaho, the applicant, stated that he built a duplex dwelling on the lot about 5 years ago, and that he is now seeking to convert the duplex into a two-family house by splitting the lot for the purpose of separating the mortgage. Ms. Bold stated that the Zoning Board of Appeals has granted a variance for frontage and that staff recommends approval of the petition. Upon a motion by Mr. Rolle and seconded by Mr. Mitra, the Board voted 5-0 to approve the Definitive Subdivision Plan for 89 & 91 Malden Street, to waive the

minimum frontage requirements for each lot otherwise mandated by the Worcester Zoning Ordinance, and to waive Sections IX and X of the Subdivision Regulations because no new street is being constructed and no improvements to the existing way is required.

Exhibit A: Definitive “Frontage” Subdivision Plan Application – submitted September 27, 2010, prepared by Minella Xhaho and Vasil Spiro.

Exhibit B: Definitive “Frontage” Subdivision Plan, dated May 25, 2010, Sadowski Engineering, Inc. Received September 27, 2010.

Exhibit C: Memorandum to the Planning Board from the Division of Planning and Regulatory Services staff, re: 89 & 91 Malden Street - Definitive Subdivision (Frontage); dated October 19, 2010.

Exhibit E: Memorandum to the Planning Board from the Department of Public Works & Parks staff, re: 89 Malden Street Frontage Subdivision – 2010- 071; dated October 20, 2010.

Public Meeting

- 8. Mower Street / Benjamin Road – Definitive Site Plan (PB-2010-068):** Patrick Healey, representative for Raymond Sansoucy, applicant, stated that the applicant is seeking to construct a single-family detached dwelling on a property with 15% slope or more. He stated that the slope will be stabilized during the construction. He stated that the Conservation Commission hearing took place last Monday and that it did not yet issue conditions of approval. He stated that the applicant will stabilize the slopes during construction. Mr. Adams stated that it appears that radius rounding is not shown on one of the sidelines of lot 12. Mr. Healey stated that the parcel consists of portions of lots 12 and 13 and that the applicant’s intent is to obtain Site Plan and Conservation Commission approvals prior to filing an ANR showing the delineation of the parcel. He stated that he has received a phone call from Ruth Gentile of Division of Planning and Regulatory Services asking to provide proof of ownership of the land petitioned by the applicant and which used to be a portion of Benjamin Road. Mr. Healey distributed plans and deeds that he claimed demonstrated the ownership of the land in question by the applicant. Ms. Beaton stated that this issue was brought to her attention this afternoon and that she would like more time to review the information provided by the applicant to see if a key interest in the property is held. Mr. Healey stated that the Planning Board signed an Approval Not Required (ANR) plan in 2005 that carved the land, formerly Benjamin Road, into 2 parcels, and if there was an issue with that, it should have been brought up then. Mr. Truman questioned whether the Board can approve a Site Plan for a parcel that was not yet approved through an ANR process. Mr. Healey stated that the proposed dwelling could be built on the lot in its present form, but that the applicant seeks to build it on the smaller lot to maximize its development potential. Mr. Traynor stated that the Law Department’s position is that Site Plan Approval should not be allowed prior to the ANR because Site Plan Approval is a prerequisite to obtaining a building permit. He requested additional time to review the issue as the submitted document did not sufficiently demonstrate who owns the land. Mr. Healey stated that he was amenable to submitting an ANR plan for the next meeting. Upon a motion by Mr. Rolle and seconded by Mr. Cashman, the Board voted 5-0 to continue the item to November 17, 2010.

Chair O’Connor recused herself due to a conflict of interest. Mr. Cashman assumed the chair.

- 9. Providence / Millbury Street – Definitive Site Plan (PB-2010-069):** Alexander Trakimas of SITEC Environmental, Inc., representative for Gateway M., LLC, stated that the applicant is seeking to construct a 2,560 square foot bank/credit union (a two-story brick building), 16 off-street parking spaces, two drive-through lanes, and 16 off-street parking spaces on property with 15% or more slope. Also present was Robert Morton of Millbury Savings Bank. Mr. Trakimas stated that the applicant will be adding 2 trees to the landscaping, to comply with the landscaping ordinance. He stated that the applicant has met with the City’s Interdepartmental Review Team and thanked staff for being prompt

and courteous during the permitting process. Mr. Adams stated that DPW&P identified several issues with the plan (Exhibit D), and asked that those be included as conditions of approval to be addressed. Ms. Bold recommended approval of the plan and suggested that as condition of approval the applicant submit six copies of final revised plans incorporating missing annotations (per Exhibit C) and incorporating Zoning Board of Appeals' conditions of approval with respect to landscaping, signage and semi-annual maintenance program for landscaping and fencing. Acting Chair Cashman asked whether the proposed sign conforms to the existing and currently proposed sign ordinance. Mr. Trakimas stated that the sign conforms to the existing sign ordinance. Ms. Bold stated that the free-standing sign is a 22-foot high, double faced illuminated monument sign that is 96 SF per side, and that the wall sign is 180" x 43" with raised channel lettering. She stated that the proposal includes a directory sign at the entrance to the driveway on the north side of the parcel. Ms. Bold added that under the current zoning ordinance the signs are in compliance. The proposed sign ordinance, if approved, would allow for a larger wall sign but the free-standing sign would be permitted 64 ft. area per side for a pole sign and 80 SF for a monument sign with a height of 20 feet, which is somewhat smaller than the proposed size. Mr. Rolle asked the applicant to show the location of the drive-through lane and its access to the road. Mr. Trakimas showed the driveway on the plan the location and stated the site will be accessed from what is still part of the Providence Street right-of-way. Acting Chair Cashman commended the applicant for proposing to transform the underutilized site. Upon a motion by Mr. Truman and seconded by Mr. Rolle, the Board voted 4-0 to approve the Definitive Site Plan with the following conditions of approval:

- That six copies of final revised plans are submitted with the following:
 - Provide information for the necessity of two independent sanitary connections.
 - Remove the manhole as it is not required for a sanitary connection.
 - Provide cleanout for any sanitary connection length longer than 100 feet.
 - Replace the 52 feet of 12 inch HDPE pipe with RCP.
 - Identify the terminal connection for the 36 inch RCP drain line.
 - Provide City of Worcester standard details for manholes and catch basins.
 - Label zoning lines
 - Correct zoning summary for drive-through lanes for a length of 110' provided.
 - Label exterior materials of the structure on the plan.
 - Provide height of the structure in stories and feet.
 - "Exit" signs along the entire escape lane are to be provided, directing the traffic off-site and not into a drive-through lane.
 - Provide one (1) additional tree in the landscape buffer along Providence Street and one (1) additional tree in the landscape buffer along Millbury Street.
 - Provide a note on the plan stating Zoning Board of Appeals relief granted and indicating conditions of approval.

Exhibit A: Definitive Site Plan Application – submitted September 23, 2010, prepared by SITEC Environmental.

Exhibit B: Millbury Savings Bank – Site Plan, dated September 22, 2010, SITEC Environmental, Received September 23, 2010.

Exhibit C: Memorandum to the Planning Board from the Division of Planning and Regulatory Services staff, re: Providence and Millbury Street; dated October 19, 2010.

Exhibit D: Memorandum to the Planning Board from the Department of Public Works & Parks staff, re: Millbury Street / Providence Street Definitive Site Plan Amendment – PB-2010-069; dated October 20, 2010.

Chair O'Connor resumed chair.

OTHER BUSINESS

10. Rustic Drive – Request to Extend Work Completion Date: Mr. Adams stated that the petitioner requested a work extension date of September 1, 2011, but that DPW&P recommends setting an earlier June 1, 2010 work completion date instead given the scope of work remaining. Ms. Kennedy-Valade stated that the building commissioner met with the developer and that Mr. Green has installed landscaping along the property line of lot 1, that the developer agreed to complete all required landscaping elements, and that the Building Commissioner is amenable to the June 1, 2010 work completion date extension as recommended by the DPW&P. Ms. Bold stated that the request was continued at the last hearing because it appeared that the performance agreement was not yet executed and because there was a question as to whether or not the applicant complied with the conditions of approval of the definitive subdivision amendment approved by the Board on February 3, 2010 related to landscaping, revised work schedule, and other items. She acknowledged that the conditions of approval were related to the subdivision amendment, and not the work extension request. She stated that the applicant did not submit to DPRS the formal work schedule, but that he has been working with the DPW&P to address the remaining issues. Mr. Adams stated that the condition work schedule was intended for the benefit of the abutters. Chair O'Connor asked what work is left to be done. Mr. Adams listed work associated with lights, sidewalk, final grading, lot stabilization, and debris clean up. Ray Green and Harel Kedem, architect, were representing the applicant. Mr. Green stated that he is the father of the applicant and has taken responsibility for the project. Mr. Kedem stated that slope stabilization and planting has been almost completed but that there is no standard format for a work schedule. He stated that only lights installation remains. Mr. Adams stated that it appears there is some discrepancy between what DPW&P and the applicant believe remains to be done, specifically with respect to erosion control and slope stabilization methods, and stated that he will meet further with the applicant to discuss that. Ms. Beaton stated that the subdivision has a \$50,000 cash deposit related to subdivision work. Chair O'Connor told Mr. Green that if he does not complete the work by the work completion date, DPW&P can use the deposit to complete it itself. Mr. Cashman expressed frustration with the fact that the subdivision has not been completed in six years. He stated his inclination to vote against approving a work extension request.

Attorney Howard Stempler, an abutter, stated that since the last meeting at which he spoke (on October 6, 2010) a lot of work has been completed on site. He agreed that the remaining work list is comparatively short and that he has established a good line of communication with the developer. He stated that he has not reviewed the list of remaining tasks.

Upon a motion by Mr. Truman and seconded by Mr. Mitra, the Board voted 5-0 to extend the work completion date to June 1, 2011.

Exhibit A: Letter from Joan C. Green to Division of Planning & Regulatory Services; re: Rustic Drive Extension Subdivision Plan; dated September 15, 2010.

Exhibit B: Memorandum to the Planning Board from John R. Kelly, Building Commissioner, re: Rustic Drive Extension – Work Completion Date Extension; dated September 29, 2010.

11. Rustic Drive Extension Subdivision Plan Amendment - Scrivener's Error Decision: Upon a motion by Mr. Truman and seconded by Mr. Rolle, the Board voted 5-0 to approved the Scrivener's Error Decision for Rustic Drive Extension Definitive Subdivision Plan Amendment, originally voted on February 3, 2010.

12. ANR Plans:

- **AN-2010-055, Tobias Boland Way:** Upon a motion by Mr. Cashman and seconded by Mr. Truman, the Board voted 5-0 to endorse ANR Plan AN-2010-055.
- **AN-2010-056, Tainter St. & Kilby St.:** Upon a motion by Mr. Cashman and seconded by Mr. Mitra, the Board voted 4-0 (Mr. Truman recused himself due to a potential conflict of interest) to endorse ANR Plan AN-2010-056.
- **AN-2010-057, Modred Court:** Upon a motion by Mr. Truman and seconded by Mr. Rolle, the Board voted 5-0 to endorse ANR Plan AN-2010-057.

UNFINISHED BUSINESS

13. Amend the Zoning Ordinance of the City of Worcester relative to sign regulations, create sign overlay districts and amend the Zoning Map of the City of Worcester to establish sign overlay districts. Summarily, the proposed amendment would

- Delete Article IV, Section 6 - Signs in its entirety and insert a new Article IV, Section 6 - Signs.
- Amend Section 2 of Article I - Definitions of the Worcester Zoning Ordinance by deleting all definitions relating to signs and incorporating new and/or revised definitions into Article IV, Section 6. - Signs.
- Amend Section 1 of Article III - Districts by inserting the following designations at the end of the list:
 - Union Station View Corridor Sign Overlay District
 - Blackstone River Parkway Sign Overlay District
 - Blackstone Canal Sign Overlay District
- Amend Section 2 of Article III - Zoning Map by designating the area within the boundaries therein described as the Union Station View Corridor Sign Overlay District in the area of I-290, Grafton St., Summer St. and Shrewsbury St.
- Amend Section 2 of Article III - Zoning Map by designating the area within the boundaries therein described as the Blackstone River Parkway Sign Overlay District in the area of Blackstone River Road and I-146.
- Amend Section 2 of Article III - Zoning Map by designating the area within the boundaries therein described as the Blackstone Canal Sign Overlay District in the area of Millbury, Grafton, Water and Washington Streets.

Items #13 and #14 were taken contemporaneously.

14. Amend the Zoning Ordinance of the City of Worcester relative to sign regulations, create sign overlay districts and amend the Zoning Map of the City of Worcester to establish sign overlay districts. Summarily, the proposed amendment would:

- Amend Section 1 of Article III – Districts by inserting the following designations:
 - Downtown/Blackstone Canal Sign Overlay District (DSOD)
 - Blackstone River Parkway Sign Overlay District (BSOD)
 - Union Station View Corridor Sign Overlay District (USOD)
- Amend Section 2 of Article III - Zoning Map by designating the area within the boundaries herein described as the Downtown/Blackstone Canal Sign Overlay District generally bordered by the area of Prescott, Goldsberry, Summer, Prospect, I-290, Grafton, Harding Washington, Francis J. McGrath Blvd., Southbridge, Chandler, Linden, Harvard and Lancaster Streets and Rural Drive.

Items #14 and #13 were taken contemporaneously.

Mr. Fontane distributed written testimony by Jo Hart received by his office the same day (Exhibit A). Mr. Fontane listed six remaining key policy considerations that emerged over the course of the public hearings (Exhibit B):

1. Regulating signs that are currently exempt – signs with no commercial speech and temporary window signs
2. Increasing the area and number and limiting the location of temporary signs allowed
3. Setting Operational Standards for all Signs w/ Digital Display
4. Further restricting non-accessory billboards within three sign overlay districts
5. Reducing maximum area allowances based on hwy type
6. Regulation of Existing Signs

1. Regulating signs that are currently exempt (such as signs with noncommercial speech and temporary window signs) and 2. Increasing the area and number and limiting the location of temporary signs allowed: Mr. Cashman stated that he believed the document has improved a lot as a result of the hearings and that it is unreasonable to claim that signs should not be regulated. With respect to “regulating signs that are currently exempt” policy consideration, Mr. Fontane stated that staff maintains its recommendation, based on testimony, to regulate noncommercial and commercial speech the same. He stated that the proposed regulations would regulate form and not the content.

Mr. Mitra asked what the reasoning was behind proposing to regulate commercial and non-commercial signs in the same manner. Mr. Fontane responded that this decision is based on the first amendment and court decisions. Chair O’Connor stated that the proposed regulations are content-neutral. Mr. Cashman asked if the proposed regulations would impact political signs. Mr. Fontane said yes and stated that they

would be regulated as temporary signs. Mr. Rolle stated his support for the content neutral regulations. Mr. Cashman stated that he is generally in agreement with this policy proposal and that it is reasonable. Mr. Mitra concurred.

Michael Lanava of the Worcester Regional Chamber of Commerce spoke against regulating political signs as temporary signs that count towards total temporary signage allowed and stated that he believed the proposed regulations would make business owners choose between advertising merchandise and political advertising. He stated that he currently has 8 signs on his property for 8 different candidates, and that the proposed ordinance would limit it to 2. Mr. Lanava stated that voter participation and education should be encouraged. Ms. Bold stated that research has shown that it is a difficult issue for any community because the legal framework does not allow for exemptions for one type of temporary sign. She stated that allowing multiple political signs means allowing multiple real estate signs or any type of speech. She stated that the proposed regulations were approved by the Law Department and also are based on best practices.

Mr. Cashman asked of the City can regulate political signs separately. Ms. Beaton stated that the case law varies and that there is no standard for set number. She stated that regulations that regulate time, place and manner of sign regulations were upheld by courts because they are concerned with aesthetics and public safety. She stated that she also consulted the Attorney General guidance document on the matter. She stated that case studies demonstrate what would not be allowed, as opposed to showing what would be allowed.

Chair O'Connor asked what would be allowed under temporary signage proposed regulations. Ms. Bold stated that in a residential zone, one temporary wall sign, one temporary freestanding sign, and up to 50% of window area coverage would be allowed. She stated that in all other zones, 1 temporary roof sign, 2 temporary wall signs per building unit length, up to 50% of window area coverage, and 1 temporary freestanding sign per each side of a lot visible from a different public street would be allowed. Mr. Fontane stated that the proposed regulations do not have time restrictions. He stated that political speech is revered and important, and that the proposed regulations do not prohibit political signs, but would necessitate one to make a choice on the total number of temporary signs displayed at any one time. He stated that he believes the proposed regulations provide more freedom and opportunity for political expression, because more display time would be allowed, but that the total number would be regulated. Ms. Beaton reminded the Board that political signs are not always tied to an election and therefore reasonable time limits are important.

Mr. Lanava suggested removing "political signs" from the subcategory of temporary signs and stated that the proposed regulations are putting the Board in a difficult position. Mr. Traynor stated that this would not solve the problem, as a determination would have to be made as to how to regulate political signs, and most likely they would need to be categorized as temporary signs anyway. He stated that the issue appears not to be what category political signs belong to, but the number allowed. He stated that segmented sections of the Zoning Ordinance have not been upheld, and that he did not recommend creating a separate category for the political signs. He stated that many ordinances that have created a separate category for political signs have not been challenged, but that does not mean they would withstand a court challenge. Mr. Cashman thanked the counsel of the Law Department and stated that the Board should not decide on constitutional issues, but on policy issues.

Mr. Finkelstein expressed concern with the proposed ordinance that stated that Building Commissioner can go on private property and remove a non-compliant sign and stated that there is an application problem. He asked how a Commissioner will choose which signs to remove. Mr. Finkelstein asked why the sign ordinance has its own separate enforcement section. Ms. Bold stated that the enforcement section of the proposed ordinance did not undergo substantial changes as compared to the existing one.

She stated that the Commissioner usually sends a written notice followed up by additional contact prior to physical enforcement.

Mr. Rolle asked what the current time limit on displaying political signs is. Mr. Fontane stated that political signs need to be removed within 10 days following the election. Mr. Rolle asked if the current ordinance regulates time limit on displaying political signs before the elections. Ms. Bold said no and stated that the current ordinance has specific regulations for political signs in connection to an election, and that any other political signs would be limited to 3 days of display. She stated that current ordinance allows only temporary wall signs in residential zones. Mr. Truman asked if the current ordinance regulates the number of political signs. Ms. Bold responded that the ordinance states that political signs must conform to any other applicable regulations, which is a matter of interpretation. Mr. Cashman stated that enforcement is collateral to the policy decision. Mr. Fontane stated that the current ordinance exempts noncommercial speech, but regulates political signs, which was also a policy decision made in the past. Mr. Lanava urged that political signs regulations remains in the “grey area” and asked that the Board does not reaffirm the decision to restrict political signs. Mr. Rolle stated that he generally agrees with the proposed framework to regulate commercial and noncommercial speech the same.

Mr. Lanava expressed concern that the proposed ordinance prohibits window signage above the second story of a building which would impact the ability of residents or businesses in multi-story buildings from displaying political signs. Chair O’Connor asked if other communities also regulate temporary signs similarly. Ms. Bold said yes and stated that there are numerous examples of setting a limiter of 1-3 temporary signs per lot. Mr. Lanava stated that many communities have separate political signs regulations. Ms. Hart stated that too many political signs create blight and that computers allow for placing more than one message on one sign structure. Mr. Truman asked how signs placed on the right-of-way are regulated. Ms. Bold stated that these regulations are in the City’s General Revised Ordinance, and not in the Zoning Ordinance. Mr. Cashman stated that the Zoning Ordinance is an evolving document that can be revised in the future. Mr. Lanava stated that there is a lack of enforcement now, and that if the Planning Board recommends stringent enforcement, it will create outrage from unions, politicians, citizens, and business owners. Mr. Cashman stated that he believes it is reasonable to regulate non-commercial speech in a content-neutral way, but that he would be against not making an exception for political signs. He stated that while some political signs might not be in good taste, it is the people’s right. Mr. Rolle agreed with Mr. Cashman. Mr. Mitra asked if it was possible to keep the current political signs regulations. Chair O’Connor said that she did not believe it was possible. Mr. Fontane stated that the default situation would be to leave the political regulations as is, as political signs are categorized differently. Ms. Beaton stated that political sign exemptions are typically not upheld in courts. She stated that most cases where political sign regulations were upheld were when they were tied to aesthetic concerns in residential neighborhoods. Mr. Traynor stated that the proposed ordinance brings the 1963 ordinance, amended in 1991, in line with the contemporary jurisprudence and today’s law climate. He stated that his department can do targeted research on recent cases for the next meeting which would include overview of cases and what is allowed.

Mr. Truman suggested increasing the number of allowed temporary signs in residential zones. Mr. Fontane recommended considering increasing total allowed area, and not number of signs. He stated that increasing the number of signs allowed per lot might begin to conflict with the underpinning of the sign ordinance goals one of which is to reduce visual clutter.

Ms. Hart stated that she does not see the distinction between a political and any other commercial sign, because political signs are effectively job applications. She stated that residents could choose to rotate political signs on their yard.

Mr. Truman stated that he would be in favor of allowing multiple signs on a lot up to a particular area. Ms. Bold stated that the proposed regulations would allow one 12SF free-standing temporary sign in residential zones, which is an increase from currently allowed 6 SF sign. Mr. Mitra stated that the newly proposed dimensional regulation appears like a good compromise to him. Chair O'Connor asked how big 12 SF is. Mr. Fontane stated that 12 SF is somewhat bigger than the size of each individual table the Board was sitting at.

Mr. Lanava stated that he believes there is no support in the community to limit the size of signs to either 6 SF or 12 SF. He stated that he believes there will be no support for this regulation by the City Council. Mr. Lanava stated that the proposed alternative would put the mixed-use buildings with residential component at a disadvantage in comparison to residential use buildings. Chair O'Connor stated that the Board is doing its best to consider the issue at hand and cannot control the future of the ordinance once it is passed on to the City Council. Mr. Lanava stated that the sign ordinance proposal has become a bigger issue than it was intended to be, but that the Chamber of Commerce has publicized the fact that the Planning Board has not tried to push anything through without public feedback. Mr. Mitra told Mr. Lanava that the Board is listening to him, but that he needs to appreciate that the Board is thinking about how to resolve the issues as well as considering the legal advice. Mr. Lanava stated that the towns of Webster and Auburn have provisions specific to political signage. Chair O'Connor stated that the Board does not want to expose the City to a potential lawsuit. She asked if political speech is already regulated in the current ordinance. Mr. Fontane said yes. Mr. Traynor stated that his department will provide case law summary and recommendations to the Board.

3. Setting Operational Standards for all Signs w/ Digital Display - Exemption for signs with digital displays 12 SF or less.

Mr. Fontane stated that there would be exemption for signs with digital displays 12 SF or less from operational standards. Mr. Rolle stated that the Seattle ordinance has other standards as well, such as the height and whether or not the sign can be seen from the car. He stated that generally he is in agreement with proposed language, but that he is not convinced that 12 SF sign is always a pedestrian-oriented sign, because he believes it could still be seen from the vehicle on the road.

4. Further restricting non-accessory billboards within three sign overlay districts - Prohibiting new non-accessory freestanding and roof billboards within three sign overlay districts; Conversion of existing billboards to digital.

Mr. Fontane stated that the Board has two issues to consider in the overlays – whether to prohibit any new billboard installations in those overlays and whether to allow the existing billboards to convert to signs with digital display. Mr. Rolle stated that he believes it is reasonable to prohibit new billboards in the proposed Union Station and Blackstone Canal Overlay Districts. He was not sure about Blackstone River Parkway Overlay District. Mr. Cashman also stated that Blackstone River Parkway is a commercial corridor.

Mr. Finkelstein stated that “the devil is in the details” and a lot will depend on how the proposed ordinance will be applied. He was against the proposed overlay district regulations and stated that he believes they are overreaching, and would negatively affect existing signs. He also stated that the proposed regulations are not relevant, because the Zoning Board of Appeals has not allowed a new billboard in six years in the area. Mr. Finkelstein stated that if a static billboard is to be converted into a digital display sign in the proposed overlay districts, the pole would have to be replaced, and that the way the ordinance is written, an existing billboard cannot be moved even 5 feet. Therefore, the new technology cannot be used in the proposed overlay districts.

Mr. Finkelstein stated that the proposed ordinance should have been discussed in a round-table with industry representatives, and that public hearings are not a proper venue for that type of dialogue. Ms. Bold stated that an existing billboard can be replaced if it is in conformance with current regulations. With respect to non-conforming signs, their faces, base, etc. can be changed by-right. She stated that the intent of the proposed ordinance is to bring non-conforming signs into conformance over time.

Mr. Finkelstein expressed opposition to the Blackstone River Parkway Overlay District and stated that he did not know what was worth protecting.

Mr. Mitra stated that he is not opposed to conversion of static billboards to digital in proposed overlay districts as they provide better opportunities for advertising for businesses, but stated that some regulation on the number of billboards should be in place to prevent overcrowding. He was opposed to prohibiting digital billboards. He stated that he was not convinced how much the billboards impact the viewshed of the Union Station. Mr. Rolle spoke in support of the overlays and stated that the Downtown and Union Station districts have a lot of activity with many buildings whose architecture is worth preserving. He stated that digital signs are not in keeping with classic architecture and therefore are not appropriate for these two overlays. He agreed with other members that the Blackstone River Parkway Overlay District is not the same as the other two proposed overlays. Mr. Truman stated that most billboard signs are located within I-290 corridor. Mr. Fontane stated that there are still areas along I-290 available to billboards if the amendment passes.

#5. Reducing maximum area allowances based on highway type: Along Limited Access Principal Arterial Roads (I-190, I-290 and Rt. 146) and Other Local Highway Locations (i.e. Rt.-9, 12 & 20).

Chair O'Connor stated that she has not seen many very large 1,200 SF signs in the City, and, therefore, was not sure if she was in favor of reducing the maximum area allowance. Mr. Truman concurred. Mr. Rolle raised a question of determining whether the sign is intended to be viewed from the highway or the local street. He asked if the proposed ordinance defines the size of arterial roads. Mr. Fontane stated that staff proposes limiting billboards to 300 SF for local highways. Mr. Finkelstein stated that from the perspective of the billboard industry, reducing the maximum allowed area from 1,200 SF to 850 SF is reasonable, because most billboards in the City are 672 SF (14'x48').

#6. Regulation of Existing Signs:

- *Requiring conformance with within forty-five (45) days for all existing Window and Temporary Signs.*
- *Requiring conformance operational standards (only) for all signs with digital display within six (6) months.*
- *Requiring conformance with dimensional, spacing and setback requirements for all static to digital conversions.*
- *Grandfathering all legally permitted existing signs not mentioned above.*

Mr. Cashman stated that it might appear that downtown area might have enough billboards, the proposed overlay district areas are prime locations for the new billboards. He stated that he respects billboards as an important advertising medium. Mr. Fontane stated that there are a lot of billboards in certain areas and that those areas might be at capacity from land use perspective. He reminded the Board that the billboards might not be just located along highways, but also along arterial roads, and that the map and net impact analysis provided to the Board at the last meeting demonstrated that the proposed overlays would take away one third of the remaining available highway way for new billboards.

Mr. Cashman stated that he finds the policy proposal reasonable. Mr. Rolle stated that he is in support of the proposal because of the density, character and historic integrity of the area. He stated that he is not in

support of conversion of static billboards to digital display sign in the proposed overlay districts, as he believes it would not be in keeping with character of the area. Mr. Truman agreed with Mr. Rolle with respect to the proposed Downtown and Union Station Sign Overlay District, but that he is having second thought with respect to Blackstone River Parkway Sign Overlay District. He stated that he believes the area along I-290 highway is nearly saturated with billboards. Mr. Cashman reminded of the recently permitted uses along Route 146, such as Wal-Mart and a mall in the Town of Millbury, and stated that it is a commercial district that needs advertising.

Mr. Truman asked if the referenced 45 days are calendar or business days. Mr. Fontane stated that the Building Commissioner will clarify that and that it is generally calendar days.

Mr. Lanava asked whether a non-conforming sign structure sold to another entity will retain its grandfathered status. Mr. Fontane said yes.

Mr. Finkelstein stated that the proposed regulations are overreaching, and that the current regulations have not allowed a new billboard in six years. He stated that the proposed regulations are not clear on whether or not one can repair an existing sign. He stated that the architecture in the proposed overlay district is mixed. Mr. Finkelstein stated that if the intent of the proposed regulations is to protect some buildings, most of the new billboards would have no impact on the viewshed of Union Station. He stated that the proposed ordinance would take away some prime spots from new billboard developments.

Chair O'Connor summarized that the Board would like to see information from the Law Department regarding political signs and that with respect to proposal to prohibit conversion of static billboards to digital, 4 members appear to be in favor, and 1 opposed.

Upon a motion by Mr. Truman and seconded by Mr. Cashman, the Board voted 5-0 to continue the hearing to December 15, 2010.

Exhibit A: Letter, from Jo Hart to Joel Fontane, DPRS; re: Sign Ordinance; dated October 27, 2010.

Exhibit B: Presentation "Proposed Sign Ordinance Amendment Key Policy Considerations from Planning Board Hearings October 27, 2010."

ADJOURNMENT: Upon a motion by Mr. Truman and seconded by Mr. Rolle, the Board voted 5-0 to adjourn the meeting at 8:57 pm.