

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

**December 16, 2009
WORCESTER CITY HALL – ESTHER HOWLAND CHAMBERS**

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
Jody Kennedy-Valade, Department of Inspectional Services
K. Russell Adams, Department of Public Works & Parks
Michael Traynor, Law Department
Jennifer Beaton, Law Department

REGULAR MEETING (5:30 PM)

CALL TO ORDER

Chair O’Connor called the meeting to order at 5:35 PM.

APPROVAL OF MINUTES

Upon a motion by Scott Cashman and seconded by Andrew Truman, the Board voted 5-0 to approve the minutes from of the November 18, 2009 Planning Board meeting.

UNFINISHED BUSINESS

Public Meeting

1. **158 Belmont Street - Parking Plan (PB-2009-066):** Dean Ismail, representative for Mariam Ismail, applicant, stated that the applicant is seeking to construct an accessory parking lot for residential and commercial uses on the property. Mr. Ismail stated that staff had determined only 10 spaces are required for the proposed uses. Ms. Bold confirmed that 6 spaces were required for the residential uses and 4 spaces for commercial use. She added that the applicant submitted revised plans showing landscaping. She added that staff supports approval of the proposed project with a condition that annotation comments stated in the memo are incorporated in the revised plans, and that the parking space #6 is removed from the plan thus reducing the total number of proposed parking space to eleven, thus providing dimensionally conforming access aisle width from Belmont Street. Mr. Cashman stated that he was not pleased with the fact that the applicant had left out such a large number of required annotations.

Upon a motion by Mr. Cashman and seconded by Mr. Truman, the Board voted 5-0 to approve the Parking Plan with the following conditions of approval:

- Six copies of revised plans are submitted reflecting the following changes:
 - Remove parking space #6.
 - Label minimum yard dimensions.
 - Label distances from adjacent buildings.
 - Label the percentage of the lot covered by the principal and accessory buildings, proposed and existing.
 - Label the elevations and contours of the existing and finished site.
 - Label existing rights of way, entrances and exits, circulation.
 - Label capacity and drainage (including detention/retention ponds).
 - Label location, size and arrangement of any lighting and/or signs.
 - Label any berms.
 - Label fences, their height and materials (existing and proposed), including around dumpster.
 - Provide a locus plan and legend.
 - Label methods and location of erosion and sedimentation control devices for controlling erosion and sedimentation during the construction process as well as after.
 - Add a parking summary indicating the total number of required and proposed parking spaces, the number of standard, compact and handicap accessible (if any) parking spaces.
 - Label the plan “Parking Plan”.

Standard Conditions of Approval

- All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.
- Subject to the Zoning Enforcement Officer’s determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.
- The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.
- All work shall be done in accordance with the final approved Parking Plan on file with the Division of Planning and Regulatory Services.

Ms. Bold informed the applicant that staff will need to approve final revised plans prior to releasing the decision.

2. **48 (a.k.a. 50) Dellwood Road – Definitive Site Plan (PB-2009-073):** Hossein Haghanizadeh of HS&T Group, representative for Chris Henchey, the applicant, stated that the applicant is seeking to construct a single-family dwelling on a property with 15% or more slope. Also present was Crystal Carr of HS&T Group. Mr. Haghanizadeh stated that the revised plans were

submitted incorporating staff comments and added that after a survey the applicant realized that the driveway leading up to the existing dwelling on the property would be located on the property belonging to the proposed single-family detached dwelling after the lot is split into two. Therefore, the applicant will execute an easement that would allow 48 Dellwood Road owners to continue using the driveway. He further stated that the easement will be recorded in the courthouse and it was his understanding that the easement does not need the Board's approval. Ms. Bold stated that the proposed retaining wall will require a fence if it is higher than four (4) feet. Mr. Adams indicated that comments in a previous DPW&P memo had been addressed.

Chair O'Connor had concerns about the area shown on the plan perpendicular to the sidewalk next to the proposed retaining wall and whether or not the applicant has jurisdiction, owns, or has rights to that area. Mr. Adams stated that the area between the driveway and the Dellwood Road is unclaimed area and is no different from other driveways coming out to a street.

Ms. Lauri Starkweather, daughter of current owners and a trustee of 53 Dellwood Road which is located directly across from the applicant's property, listed three concerns she had related to the proposed development:

- 1) Long-lasting snow removal issues due to the fact that both properties are located at the end of the dead-end Dellwood Road. Because currently most of the snow is pushed to the end of the street where the proposed driveway would be, her concern was that after the development, even more snow will be pushed into the 58 Dellwood Road property driveway. Ms. Starkweather stated that her mother is handicapped and that the snow pile is sometimes 8-9 feet tall requiring her parents to hire private snow plowers at times to clear the driveway.
- 2) Potential water runoff and ice issue associated with the construction. Ms. Starkweather suggested that haybales are placed along the property's frontage in addition to the proposed haybales along the northern side of the property.
- 3) Storage and parking of the construction equipment and how it might affect access to 53 Dellwood Road during the construction phase.

Mr. Adams encouraged Ms. Starkweather to call DPW&P customer service if snow is not being removed. With respect to Ms. Starkweather's first concern, Mr. Adams pointed out that Dellwood Road does not have unique snow removal circumstances as there are multiple locations in the City that are dead-end streets. He stated that the City's responsibility is to keep roadways clear, while it is the responsibility of property owners to keep their driveways clear. He added that there is no petition in front of the Board to consider extending the Dellwood Road to allow more snow to be stored at the end of the road. With respect to the second concern, Mr. Adams stated that surface runoff flow patterns or the street contour do not change post-development as compared to the pre-development. Chair O'Connor asked whether the run-off will increase as a result of the development. Mr. Adams responded that while the impervious surface on site will increase, single-family dwelling developments are not within a purview of the DEP impervious surface mitigation regulations. With respect to the third concern, Mr. Adams stated that typically construction equipment is brought to sites on a trailer and is used on site. Mr. Starkweather asked whether the equipment is allowed to be left on public streets. Mr. Adams was not sure. Mr. Kennedy-Valade stated that there are regulations regarding hours of operation of construction equipment. Mr. Haghanizadeh stated that a backhoe will be used to excavate the foundation and he expects it to take one day, but if it will last more than a day – the backhoe will stay on site, and not on the street. He further stated that the truck will haul away the excavated

earth and will not be parked on the public street. With respect to the second concern, Mr. Haghanizadeh responded that he is amenable to placing haybales along the frontage of the 48 Dellwood Road.

Mr. Truman asked what material the proposed retaining wall would be constructed of. Mr. Haghanizadeh responded that it would be made of concrete. Chair O'Connor asked about the landscaping in front of the retaining wall facing the street. Mr. Haghanizadeh responded that there will be some shrubs in front of the retaining wall and indicated that some landscaping would be placed on top of the wall as well. Mr. Truman asked how should the Board act with regards to the driveway access. Mr. Traynor responded that it could be a condition of approval that prior to issuance of a decision, the applicant should submit an executed easement to the City.

Mr. Mitra asked Ms. Starkweather whether she had raised the abovementioned concerns to the City about the snow removal issues. Ms. Starkweather responded that she has complained every year for many years. She stated that inspectors came out but told her that there appears no physical space where the snow can be put because the road is so narrow and because it is a dead-end street. She also noted that there is a fence at the end of Dellwood Road that is old and is in bad state of disrepair and that she believes it needs to be maintained by the City. Mr. Mitra stated that he hopes the City has done the best it could to respond to these concerns. Mr. Cashwell stated that the snow removal issue on the street is not within a Planning Board purview and suggested that she contact her councilor if she feels she is not satisfied with the City's response.

Upon a motion by Mr. Truman and seconded by Mr. Cashman, the Board voted 5-0 to approve the Definitive Site Plan with the following conditions of approval:

- Six copies of revised plans are submitted reflecting the following changes:
 - Retaining walls four (4) feet and higher shall have a decorative fence.
 - The portion of the retaining wall visible from Dellwood Road shall have landscaping.
- During construction, haybales are placed along Dellwood Road next to the 48 (a.k.a. 50) Dellwood Road.
- Within reason, construction equipment shall be stored on the property at 48 (a.k.a. 50) Dellwood Road and not on the public road, as agreed by the applicant.
- A legally executive easement granting driveway access to the existing dwelling at 48 Dellwood Street be submitted to the Division of Planning and Regulatory Services.

Standard Conditions of Approval

- All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.
- Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.
- The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.

- All work shall be done in accordance with the final approved Definitive Site Plan on file with the Division of Planning and Regulatory Services.

3. **281 Clark Street (5,7,9,11 & 13 Fatima Lane) – Amendment to Definitive Site Plan (PB-2009-074):** Hossein Haghanizadeh of HS&T Group, representative for Ansari Builders, the applicant, stated that the applicant is seeking to 1) eliminate previously proposed retaining walls and subsequently eliminate proposed chain link fences on top of proposed retaining walls, and 2) modify proposed grading. Also present was Crystal Carr of HS&T Group. Mr. Haghanizadeh stated that revised plans addressed staff comments and asked for a waiver of submitting original plans by original engineer. He stated that the only change is on one page of the plan set, and he asked to submit just that sheet. He added that the previous plan set had been created by a different engineer firm and that updating each page would require new land surveying and would be quite expensive for such a minor change. Mr. Bold stated that it is Board’s policy for record-keeping purposes to have a complete new set of plans. She further added that while the proposed change is small, if the Board considers approving the requested waiver, the revised plan set should reflect the change and reference to the original plan such as with the revised title sheet. She also added that the applicant voluntarily agreed to replace the Asian Longhorned Beetle susceptible species with resistant ones. She then asked if the applicant is planning to modify the previously approved drainage swale. Mr. Haghanizadeh responded no.

Upon a motion by Mr. Rolle and seconded by Mr. Mitra, the Board voted 5-0 to approve the Amendment to Definitive Site Plan with the following conditions of approval:

- Six copies of full plan set be submitted including the revised sheet and a revised title sheet reflecting the changes.
- Label location of updated erosion and sedimentation control devices, if any, as a result of changes to proposed grading / retaining wall.

Standard Conditions of Approval

- All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.
- Subject to the Zoning Enforcement Officer’s determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.
- The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.
- All work shall be done in accordance with the final approved Amendment to Definitive Site Plan on file with the Division of Planning and Regulatory Services.

NEW BUSINESS

Public Meeting

Mr. Truman recused himself due to a potential conflict of interest.

4. **200 East Mountain Street - Parking Plan (PB-2009-076):** Joe Boynton, representative of Mountain Village Company LP, the applicant, stated that the applicant seeks to construct a 5,567 square foot club house to include a management office, lounge, fitness center and a toddler and teen room and to add 13 parking spaces as accessory to the current residential use on the property. Also present were Ted Doucette, P.E. of Samiotes Consultants, Inc and Douglas Yaggi of Mountain Village Company. Mr. Boynton stated that the applicant is amenable to most staff comments except the one requesting that the applicant remove excess snow from the site as there is plenty of space on site to keep snow. He stated that DPW&P comments has been addressed, that Conservation Commission's order of condition has been issued and recorded, and that Zoning Board of Appeals approved a Special Permit on November 23, 2009 with conditions. Mr. Doucette explained the water drainage system to the Board. He stated that post-development water runoff will not increase due to the water infiltration system. In response to staff's comments, Mr. Doucette stated that the property is approximately 600,000 SF in size and, therefore, that it provides sufficient area to store excess snow. Lastly, he asked for a waiver from the application filing requirement that requires that plans are submitted to a scale of 1" = 40' and to submit instead a 1" = 50' scale plan in order to fit it on one sheet of paper.

Mr. Adams stated that DPW&P comments requesting drainage information in particular were not addressed. Mr. Boynton stated that a Conservation Commission's order of conditions was recorded a couple of months ago. Mr. Adams stated that the requirements per DPW&P letter need to be submitted in order to verify that the applicant's plan meet City's requirements.

Ms. Kennedy-Valade stated that the new proposed sign needs to be at least 5 feet from the property line. Mr. Boynton stated that it is an acceptable condition of approval.

Ms. Bold stated that most items in staff's memo had been addressed and that staff recommends approval of the project with proposed conditions of approval as stated in the memo but omitting proposed condition of approval #1 with respect to the plan scale requirement, #9 with respect to snow storage, and #8, since the existing signs do not need to comply with the Zoning Ordinance requirements as a result of this application. She also requested 4 copies of the drainage report.

Mr. Rolle asked about the proposed handicapped parking spaces. Mr. Doucette responded than all handicapped parking requirements are met.

Mr. Traynor stated that the Board does not need to vote separately on the application requirement waiver for plan scale if it was in favor of the request because the vote would subsume the waiver.

Upon a motion by Mr. Cashman and seconded by Mr. Rolle, the Board voted 4-0 to approve the Parking Plan with the following conditions of approval:

- Six copies of revised plans are submitted with the following changes:
 - Label Mountain Street East as Public.
 - Label the percentage of the lot covered by the principal and accessory buildings, proposed and existing.
 - Label any berms.
 - Label curbing.
 - Label fences, their height and materials (existing and proposed).

- Label walkways and sidewalks, their dimensions and materials.

DPW&P Comments

- Provide drainage information.
 - Provide City of Worcester Standard details.
 - Catchbasin to manhole connections must be 8” DR18 PVC pipe.
- Proposed sign shall meet Zoning Ordinance setback requirements.

Standard Conditions of Approval

- All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.
- Subject to the Zoning Enforcement Officer’s determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.
- The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.
- All work shall be done in accordance with the final approved Parking Plan on file with the Division of Planning and Regulatory Services.

Mr. Cashman asked what happens if the submitted drainage calculations do not meet DPW&P standards. Mr. Adams stated that in that case the applicant would need to re-apply for another order of conditions through Conservation Commission.

5. **26 Harvard Street – Amendment to Definitive Site Plan (PB-2009-079):** Stephen Madaus, representative for Lutheran Home of Worcester, the applicant, stated that the applicant is seeking to amend the previously approved Definitive Site Plan for the rehabilitation of the existing nursing home and construction of a smaller 5,381 SF addition northerly of the original proposed location and provide 71 off-street parking spaces on a National Register historic property with 15% slope or more. Ms. Bold stated that staff maintains its previous recommendation and the Board’s previous condition of approval to provide densely planted shrubs (i.e. arborvitae, forsythia, rhododendron) along the eastern driveway into the site that abuts a residential structure on George Street and labeling height of the retaining wall. Mr. Cashman stated he liked the rendering of the proposed structure.

Upon a motion by Mr. Cashman and seconded by Mr. Rolle, the Board voted 4-0 to approve the Amendment to Definitive Site Plan with the following conditions of approval:

- Provide densely planted shrubs (i.e. arborvitae, forsythia, rhododendron) along the eastern driveway into the site that abuts a residential structure on George Street.
- Any existing or proposed retaining walls four (4) feet or higher shall have a fence.

Standard Conditions of Approval

- All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.
- Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.
- The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.
- All work shall be done in accordance with the final approved Amendment to Definitive Site Plan on file with the Division of Planning and Regulatory Services.

Mr. Truman rejoined the Board.

6. **651 – 667 West Boylston Street - Definitive Site Plan (PB-2009-080):** Stephen Madaus, representative for Fidelis Corporation, the applicant, stated that the applicant is seeking to 1) re-locate a 1,695 SF building on site closer to the front of the lot; 2) re-locate four parking spaces currently located in the front of the lot to the side; 3) add landscaping to the front and rear buffer areas of the lot; 4) increase the drive-through lane length from 175' to 196'; 5) provide an escape lane to reuse the building as a different drive through food service use; 6) relocate the bus stop with approval from the WRTA. The property also contains an existing 9,905 SF building occupied by an auto parts store, barber shop, book store and office space. The site contains 35 on site parking spaces and 16 additional spaces for which an easement agreement exists which are located partially on the abutting property. Also present were Jeffrey Howland, P.E. and Christopher Tully, representatives for the applicant. Mr. Madaus stated that the property is currently leased by a Dunkin Donuts which relocated its operations further down West Boylston Street starting January 2008. He stated that a strip of land was purchased by Mr. Batista in the rear of the applicant's property along the railroad tracks which contains portion of the drive-through driveway which triggered lengthy negotiation between the parties that were not yet resolved. He stated that the Special Permit Hearing was continued by the Zoning Board of Appeals on November 23rd to December 21st.

Mr. Howland stated that most of the staff comments were incorporated in the revised plans such as changing the dumpster screening type to stockade fence with slats, adding "employee parking only" and "left turn only" parking signs. He stated that the applicant is proposing bollards and chains for the four curb cuts that were approved in a 2005 parking plan. He further stated that in response to a ZBA concern, the applicant will paint a crosswalk leading from the handicapped parking spaces to the building. The applicant will also retrofit storm water capturing unit where Eames Street used to be.

Mr. Adams stated that DPW&P would need time to review the revised plans showing drainage for the reconstructed portion of the parking area southerly of the proposed building. He added that DPW&P strongly believes that the four curb cuts should be closed off, as opposed to blocked using bollards and chains, but was not sure if it is more appropriate for a PB or ZBA to condition their approval on that. Mr. Traynor stated that it does not matter which Board conditions its approval, and if the Planning Board does not vote on the item tonight, then ZBA at its next meeting can consider accepting this DPW&P recommendation as a condition of approval.

Ms. Bold referred to her memo to the Board. She stated that item 1 was addressed; item 2 – provide a rendering of the building – was not addressed; items 3 & 4 related to the DPW comments mentioned earlier; item 5 – with respect to signs – was addressed and acceptable to staff; item 6 – with respect to landscaping – was not addressed; item 7 was partially addressed, except for the parking spaces easement. She added that the applicant did not get a waiver for the interior landscaping.

Robert Branca, representative for Batista Family LP, owner of the abutting parcel and a current lessee of the 651 – 667 West Boylston Street, stated that he believes the applicant does not have standing when trying to change the configuration and placement of the drive-through going through his client’s property and that the Planning Board would set a dangerous precedent if it approved the Site Plan. He further stated that in his opinion demolishing and rebuilding a structure should not be considered an expansion or change of a pre-existing non-conforming use/structure. Mr. Traynor responded that this is the first time that this issue has been raised, that the Law Department needs to deliberate on it, and requested that the Board continue the item to the next meeting.

Mr. Rolle asked about the status of the lease for the 16 parking spaces that are only partially located on the applicant’s lot. Mr. Madaus responded that negotiations are ongoing, and that the 16 parking spaces in question are not counted currently toward the total count on site. Mr. Cashman stated that it appears that continuing the item to the next meeting seems appropriate given the number of unresolved issues with the application. Mr. Madaus stated that Mr. Branca represents the owner of the strip of land in the back of his property. He added that the issue is not with the lease as his client is not proposing to violate the lease. Mr. Traynor suggested that the applicant submit a copy of the lease to the Law Department so that it can provide recommendations as to the validity of the application to the Board.

Upon a motion by Mr. Cashman and seconded by Mr. Truman, the Board voted 5-0 to continue the item to January 13, 2010 meeting.

7. **49 Canterbury Street - Definitive Site Plan (PB-2009-081):** PharmaSphere, LLC, the applicant, was represented by Stephen O’Connell of Andrews Survey and Engineering. Also present were David Darlington of PharmaSphere, Inc. and Jim Coull of J.M. Coull, Inc. Mr. O’Connell described the project to the Board. He stated that the project is the first redeveloped parcel in the City’s South Worcester Industrial Park (SWIP), and that it is a priority development site making it eligible for a guaranteed expedited permitting process. He added that it will be the first priority development site to break ground in the City, and, possibly, the state. He added that the building is not rectangular in shape because per Request for Proposals it required more gross floor area than was necessary for the project, thus necessitating an addition to the building. A 50,000 SF building with 30 parking spaces is proposed. To break up the façade that has no windows due to controlled environment inside the building, the applicant is proposing different materials, colors, and textures, faux aluminum windows, and landscaping. The project is estimated to provide approximately 50 new jobs.

Mr. Adams stated that the applicant should utilize an 8” DR18 PVC pipe for all catchbasin connections.

Ms. Bold stated that the City is excited to permit its first expedited permitting project. This project is a gateway to the SWIP corridor and provides jobs to the community. She distributed copies of a revised landscaping plan to the Board and stated that it is acceptable to staff. Ms. Bold explained the remaining comments from her memo dealing mostly with annotations to the plan. Lastly, she stated that Zoning Ordinance requires a fence to be installed if a retaining wall exceeds 4 feet in height. Mr. O'Connell responded that the retaining wall runs along the eastern property boundary and varies in height, at times higher than four feet. He stated that a fence will be provided on inside of the retaining wall. He added that he will add Activity and Use Limitation deed reference to the final revised plans as suggested. Ms. Bold stated that staff recommends approval of the project with six final revised plans addressing her comments and with landscape plan as submitted.

Ms. Haller, City District Councilor, stated her full support for the project and underscored the importance of the project to the neighborhood. She added that the applicant met with the neighborhood's representatives, such as SWIP Task Force and South Worcester Task Force, on several occasions and that the project has neighborhood's support.

Mr. Cashman asked whether the activities will be manufacturing in nature. Mr. O'Connell stated that byproducts of the plans grown in the building will be used in pharmaceutical products and that there will be laboratory space. Mr. Cashman asked if the applicant will provide skilled jobs. Mr. O'Connell said that some jobs will be skilled such as botanist jobs. Mr. Cashman asked where the City is in its required 180 day approval period for the expedited permitting project. Ms. Bold responded that technically the City is 6 days into the process since the 180 day period begins once the application is officially deemed complete which was on December 10, 2009. She also indicated that the permitting would also include any Special Permits, wetland permits, sewer and water hookups, as applicable. While the City has until June by stated law to make all necessary approvals, she stated that she feels confident the approvals will take place much sooner. Mr. Cashman asked to explain what an Activity and Use Limitation is. Ms. Bold explained that this is a Department of Environmental Protection's limitation on contaminated sites that require remediation and similar measures prior to redevelopment and that some uses, such as residential, are not allowed to be built on site. Mr. Fontane stated that most of the City of Worcester approvals are often reached within a 180 day period. The difference now with the City adopting Chapter 43D is that the developers benefit from being guaranteed such approvals within 180 days.

Mr. Mitra stated support for the project and asked about a small projecting structure on the side of the building. Mr. O'Connell responded that it is a front entryway.

Mr. O'Connell stated that it has been pleasure doing business in Worcester. He added that only 25-30 municipalities in the state have adopted Chapter 43D and that state-level permits are more time-consuming and complicated than municipal permits, though this is not the case for this project in particular. Mr. Cashman asked if the project will break ground soon. Mr. O'Connell responded yes.

Upon a motion by Mr. Truman and seconded by Mr. Mitra, the Board voted 5-0 to approve the Definitive Site Plan with the following conditions of approval:

- Six copies of revised plans are submitted with the following changes:

- Include a note in the zoning summary that the required exterior side yard setback in an MG-2.0 zoning district is 7.5 feet.
- Label the height of any proposed retaining walls. Retaining walls four (4) feet or higher shall have a fence.
- Provide a note with total area of impervious and pervious surfaces.
- Label streets on sheet C-04 as public and provide width of streets.
- Provide alternative tree species for proposed purple ash trees which are moderately susceptible to Asian Longhorned Beetle infestation.
- Provide alternative tree species for white fir trees as they are not a recommended species in close proximity to roadways given their susceptibility to salt pollution.
- Provide updated deed references including Activity and Use Limitation on site – Book 41940, Page 51.
- Provide a note that excess snow will be removed from site.

Standard Conditions of Approval

- All work must conform to the standards contained in the City of Worcester, Department of Public Works & Parks, Engineering Division, Construction Management Section, STANDARD SPECIFICATIONS & DETAILS, most recent edition.
- Subject to the Zoning Enforcement Officer's determination that the parcel complies with all the relevant provisions of the Zoning Ordinance.
- The appropriate soil erosion and sediment control measures, including hay bales and silt fences, shall be installed and maintained throughout construction by the applicant to the satisfaction of the Commissioner of Inspectional Services.
- All work shall be done in accordance with the final approved Definitive Site Plan on file with the Division of Planning and Regulatory Services.

Public Hearing

8. **Zoning Ordinance Amendments – Wind Energy Conversion Facilities (WECF), Alternative & Renewable Energy Manufacturing and R&D Facilities:** Mr. Fontane presented the following proposed zoning ordinance amendment to the Board:

- (1) Amend Article IV, Section 2, Table 4.1. and notes to Table 4.1 (Permitted Uses) by inserting new and amended uses related to wind energy conversion facilities and alternative and renewable energy research and development facilities with manufacturing abilities;
- (2) Amend Article I, Section 2 (Definitions) by inserting new definitions related to alternative and renewable energy;
- (3) Amend Article IV, Section 13 (Wind Energy Conversion Facilities).

He indicated that the proposed amendments seek to:

- a.) Provide regulation for small wind energy conversion facilities (WECFs) and further refines several subsections of our current WECF ordinance.

- Introduce Small WECF (small wind turbine) uses and revises Meteorological tower regulation and substantively changes WECF use regulation.
 - Propose new provisions and waivers related to sound, setbacks, rotor diameter and turbine height, which, among other things, will allow the consideration of large utility-scale wind turbines through a waiver as part of a Special Permit process.
 - Propose revisions to the requirements for design and installation, and decommissioning; and clarifies the authority of the Building Commissioner and the responsibilities of owners regarding WECF repair.
 - Reduce application requirements for Small WECFs through exemptions as appropriate.
- b.) Modify the uses permitted to include Small WECF and Meteorological Tower uses, and maintains a distinct line for Large WECF uses.
 - c.) Introduce new definitions for alternative energy, biomass, renewable energy, and research and development with manufacturing.
 - d.) Modify the uses permitted to include manufacturing of renewable and alternative energy systems and introduces research and development with manufacturing.
 - e.) Provides an expedited permitted process for all of the above stated uses.

Mr. Cashman asked why there is no proposal to require small WECF to provide sound studies. Mr. Fontane responded that after reviewing multiple specifications of multiple small WECF, he determined that the existing absolute and relative noise regulations appear to be sufficient in reducing potential negative sound effects. Mr. Cashman referred back to the graph shown by Mr. Fontane acknowledged that Worcester has only a marginal wind resource but indicated that the purpose of the ordinance is to remove regulatory barriers to small WECF and to let the market decide whether or not any particular small WECF is economically feasible. Additionally, he noted that there are financial incentives for such renewable systems and that energy prices might change over time thus making renewable energy systems like WECF more economically feasible. Lastly, he noted that some individuals might install a small WECF for personal and/or environmental reasons. Mr. Cashman asked about net metering. Mr. Fontane stated that net metering legislation went into effect after the first WECF ordinance, thus making many projects more feasible going forward because this legislation enables WECF producers to be paid for their excess energy returned to the grid with retail rates, and not wholesale rates. Mr. Cashman asked about potential impact on birds from large WECF operation. Mr. Fontane responded his research had shown that impact on birds is inconsequential, except when entire wind farms are located in the migratory bird corridors, which is not the case in the City. Mr. Mitra asked about potential impacts of weather, such as ice flying off the turbines, on the surrounding buildings. Mr. Fontane responded that this issue has been addressed by the operators and that the turbines can sense the ice buildup automatically. Mr. Cashman asked about interconnections. Mr. Fontane responded that battery storage could be cumbersome, and that it is anticipated that most of the small WECF owners will use interconnections with utilities. The applicant would be required to inform a utility of their plan prior to installation of any WECF. Mr. Fontane pointed to the Board Section N of the ordinance: Abandonment, Discontinuation of Use or Repair that requires WECF owners to submit a report to the Director of Code Enforcement on a yearly basis indicating the

total electricity generated by each wind turbine by month of service. He had indicated that the Division of Inspectional Services would determine whether or not a WECF needs to be decommissioned. Mr. Fontane stated that he believes there will be more opportunities for small wind turbines in the City than for the large wind turbines, because there are not many sites for large wind turbines. Mr. Cashman asked what the average lifespan for WECF is. Mr. Fontane responded that depending on the model and maintenance, WECF last 20-30 years, and, therefore, the ordinance requires owners to renew their Special Permits every 20 years. He stated that requiring a decommission bond would be onerous for small WECF and, therefore, this requirements is not in the proposed amendment.

Mr. Fontane suggested a few more amendments to the proposed ordinance amendment. He distributed to the Board proposed language for Subsection S: Additional Requirements for By-Right WECFs. He also recommended to change the title of subsection P to read "Special Permit Approval Criteria" and to change subsection R(2)(g)(iii) to include the following at the end of the proposed amendment language [...] "and Airport Environs Overlay District or both." Chair O'Connor suggested that the subsection E(2)(a)(i) be reworked. Mr. Fontane, consequently, suggested that the subsection E(2)(a)(i) read "Turbine height shall not exceed the height recommended by the manufacturer of the wind turbine and tower, or both, or ninety-five (95) feet, whichever is less."

Joan Hart of Worcester, MA asked if wind turbines will be proposed in Green Hill Park and whether a wind farm will be proposed for the airport land. Mr. Fontane responded that Green Hill Park has a conservation restriction that prevents wind turbines from being placed there, and stated that Federal Aviation Association considerations will be very important in determining feasibility of locating WECF in Worcester Airport, but that he doubts that feasibility will be high.

Barbara G. Haller, City Councilor, asked if limiting WECFs use within adaptive reuse overlay districts was considered. Mr. Fontane responded that for consistency reasons, if small WECFs are allowed in residential districts, they should be allowed in overlay districts as well. He added that sound expectations are different in the urban environment.

Mr. Truman asked if shadow flicker might present a problem, especially in residential districts. Mr. Fontane responded that studies have shown that this problem might occur in winter in northern climates when the sun is lower in the sky, but because of the short day lengths, the amount of time that shadow flicker can truly present a problem is small.

Upon a motion by Mr. Cashman and seconded by Mr. Truman, the Board voted 5-0 to close the public hearing.

Upon a motion by Mr. Cashman and seconded by Mr. Mitra, the Board voted 5-0 recommend the proposed ordinance amendment to the City Council with the following further amendments:

- 1) Correct Subsection E(2)(a)(i) to read "Turbine height shall not exceed the height recommended by the manufacturer of the wind turbine and tower, or both, or ninety-five (95) feet, whichever is less.
- 2) Change the title of subsection P to read "Special Permit Approval Criteria."

- 3) Change subsection R(2)(g)(iii) to include the following at the end of the proposed amendment language [...] “and Airport Environs Overlay District or both.”
- 4) Add a subsection “S. Additional Requirements for By-Right WECFs” after the proposed Section 13, subsection R.

Mr. Fontane thanked Ms. Zhaurova for her assistance with the background research for the ordinance and for the visuals, and thanked Mr. Traynor with his legal advice on the proposed ordinance.

OTHER BUSINESS

9. **Jasmeen Place Subdivision:** Per DPW&P recommendation and upon a motion by Mr. Cashman and seconded by Mr. Rolle, the Board voted 5-0 to extend work completion date to April 1, 2010.

10. **ANR Plans:**

- **AN-2009-069, Massasoit Road:** Upon a motion by Scott Cashman and seconded by Steven Rolle, the Board voted 5-0 to endorse ANR Plan AN-2009-069.
- **AN-2009-070, Bancroft Tower Road:** Upon a motion by Scott Cashman and seconded by Steven Rolle, the Board voted 5-0 to endorse ANR Plan AN-2009-070.
- **AN-2009-071, Drexel Street:** Upon a motion by Scott Cashman and seconded by Steven Rolle, the Board voted 5-0 to endorse ANR Plan AN-2009-071.
- **AN-2009-072, Argyle Street:** Upon a motion by Andrew Truman and seconded by Satya Mitra, the Board voted 5-0 to endorse ANR Plan AN-2009-072.
- **AN-2009-073, Weldon Avenue:** Upon a motion by Satya Mitra and seconded by Scott Cashman, the Board voted 5-0 to endorse ANR Plan AN-2009-073.
- **AN-2009-074, Renfrew Street:** Upon a motion by Scott Cashman and seconded by Andrew Truman, the Board voted 5-0 to endorse ANR Plan AN-2009-074.
- **AN-2009-075, Glezen Street/Angelo Street:** Upon a motion by Scott Cashman and seconded by Anne O’Connor, the Board voted 5-0 to endorse ANR Plan AN-2009-077.
- **AN-2009-076, Moreland Street:** Upon a motion by Scott Cashman and seconded by Andrew Truman, the Board voted 5-0 to endorse ANR Plan AN-2009-076.

ADJOURNMENT:

Upon a motion by Mr. Cashman and seconded by Mr. Truman, the Board voted to adjourn the meeting at 9:25pm.