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

September 1, 2010 – Special Meeting
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
John Kelly, Department of Inspectional Services
Michael Traynor, Law Department
Jennifer Beaton, Law Department

REGULAR MEETING (5:30 PM)

CALL TO ORDER:
Chair Anne O’Connor called the meeting to order at 5:52 PM.

APPROVAL OF THE MINUTES:
Approval of the August 2, 2010 and August 18, 2010 minutes was held.

UNFINISHED BUSINESS:

Public Hearing
1. 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, Summer and Shrewsbury Streets.

• 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.

Mr. Fontane stated that he would like to present modifications to the dimensional requirements of the window signs, temporary signs, operational standards of digital displays, and signs on vehicles. He stated that staff also will present proposed modifications discussed at the 8/18/2010 meeting with regards to noncommercial messages, maintenance and enforcement, grandfathering, projecting signs, overlay districts with respect to purpose and delineation, awning and canopy signs, and roof, marquees, and wall signs. He stated that staff developed modifications to the temporary and permanent window signs in conjunction with feedback from the Chamber of Commerce which had expressed concerns on behalf of small businesses. He stated that staff hopes it adequately addressed the Chamber of Commerce concerns as it withdrew its letter opposing proposed regulations and then submitted a letter of support (Exhibit C).

Mr. Fontane stated that temporary window signs are currently exempt from ordinance requirements and that most other temporary signs are limited to one sign per business not to exceed 6 SF. He stated that the current ordinance has special provisions addressing temporary real estate, construction, political, and special event signs. He stated that currently, all temporary signs with the exception of window signs have a time limit of 3 consecutive days or 10 days in a year under the current ordinance. He stated that the proposed temporary sign regulations are less restrictive than the current ordinance with the notable exception of temporary window signs where the proposal allows greater area, number and no time limits.

Mr. Fontane proposed a new modification to the proposed window sign regulations: that the total sign area combined shall not exceed 50% of total window area, as opposed to the previously proposed 25% and 33%. Mr. Fontane stated that staff considered the Board’s proposal at the previous hearing of setting a limit of 25% window area for permanent window signs, and 25% window area for temporary window signs. He stated that he believes this might be difficult to implement and to enforce. Therefore, instead he proposed maximum 50% window area coverage by either permanent or temporary window signs. He stated that the proposed window regulations are based on the best practices aimed at balancing the needs for advertising with those of street vibrancy, active façade, increased safety, and greater visibility. Mr. Fontane referred the Board to the Modified Visual Comparison: Currently Allowed v. Proposed Temporary Signage (Exhibit B) that showed what 50% window area coverage would look like on different buildings, as compared to the current regulations.

With respect to temporary signs regulations, Mr. Fontane stated that staff proposes to limit temporary banner/wall signs to two per building unit length with a combined maximum area of 40 SF or 2% of the building unit length whichever is more. He stated that staff proposes to limit temporary freestanding signs to one per lot, maximum 24 SF each. He stated that the proposed ordinance allows the same area for construction signs as permanent signage for proposed building. Mr. Fontane stated that the proposed ordinance prohibits temporary signs to be placed on: permanent signs, natural features (such as trees), dumpsters, fences, utility poles, and external side of windows and doors. Mr. Fontane stated that window sign area includes all windows visible from one public way including glass doors not above the second story and that window signs cannot be placed above the second story. He stated that staff maintains its
recommendation that temporary signs not be grandfathered and that property owners come into compliance within six (6) months of ordination by City Council which would allow time for outreach to business community. With respect to permanent window signs, Mr. Fontane stated that all legal pre-existing permanent window signs are proposed to be grandfathered. He stated that currently, permanent window signs are permitted area allowances as set forth in Table 4.3 (i.e. 100 SF in the BL, 150 in the BG zoning districts) and that the modified proposal would limit the combined area of permanent and temporary window signs to 50% of the total window area.

With respect to operational standards of digital signs, Mr. Fontane stated that the original proposal was to grandfather all legally, pre-existing signs with digital display. He stated that the modified proposal calls for all pre-existing digital signs to conform with the proposed operational standards within six months of ordaining the amendment to allow sufficient time to conduct outreach to the community. The modified proposed ordinance also calls to exempt signs with digital display areas less than or equal to 12 SF.

With respect to signs on vehicles, Mr. Fontane stated that neither the current nor proposed zoning ordinance regulates signs on vehicles operating on public streets and that the originally proposed amendment proposed that all legally, pre-existing signs on vehicles were to be grandfathered. He stated that staff is proposing a modified regulation for signs on vehicle which would state: “Signs attached to or painted on a parked motor vehicle or other parked wheeled conveyance, where such vehicle or wheeled conveyance is not used in the regular transport operations of the business owner and is used merely, mainly or primarily as a support structure for the sign shall be subject to the dimensional requirements for freestanding signs.” Mr. Cashman asked how the vehicles with signs painted on them would be regulated. Mr. Fontane responded that it is a matter of interpretation by the Building Commissioner, but that the vehicles used for “regular transport operations of the business owner” would not be regulated as sign structures.

Michael Lanava presented the letter from Richard B. Kennedy, President and CEO of the Worcester Regional Chamber of Commerce, stating the organization’s support for the proposed ordinance (Exhibit C). He stated that he appreciated the process and the length of time the Board took to deliberate on the matter. He stated that the Chamber had a productive meeting with the City’s administration and stated that he believed the business community feedback was heard.

Laurie Ross, representing the HOPE Coalition, presented David Marcano and Pricilla Billinger. Pricilla Billinger stated her support of the proposed sign ordinance. She stated that currently temporary signs are confusing, they seem to overcrowd the lots, and many are abandoned as they no longer advertise goods sold on the property. David Marcano stated his support for the proposed ordinance and stated that the current signs covering the windows create an unsafe environment. He stated that he believed the proposed ordinance would make business fronts more aesthetically pleasing and would make them safer. Ms. Billinger stated that some businesses do not seem to have control of what signs are placed on their property as tobacco industry representative put up competing and repetitive temporarily signs without business owners’ permissions.

Nancy Saal, on behalf of Pioneer Healthier Communities, stated her support for the proposed sign ordinance, specifically relating to temporary signage.

Sheliah Morgan, on behalf of HOPE coalition, spoke in opposition of multiple signs advertising the same product on premises.

Mr. Truman asked whether currently business owners need to pull a building permit for window signs. Mr. Fontane stated that he does not believe so. Mr. Truman stated that it would be worthwhile to consider that for window signs, thus allowing the City more control on what signs are on the property at any one time. Mr. Fontane stated that staff will take it under the advisement, and that it seems that requiring permits for
temporary signs might be too onerous on business owners due to impromptu nature of temporary signs. Mr. Truman stated that he meant this for permanent window signs.

Mr. Mitra asked why staff changed its position from proposing allowance of not more a third of the window area, to now 50%. Mr. Fontane stated that the previous research showed that the range of allowed window sign coverage generally ranged usually between 25% and 50% for other municipalities. He stated that deciding on where in that range to be is a matter of balance between business and residents’ needs. He stated that staff modified its proposal after speaking with the Chamber which represents its business constituents. Mr. Mitra wondered if anyone was in the audience who was not representing a business. Mr. Fontane stated that people’s lives are busy, and that it is no surprise that there might not be residents in the audience. He stated that based on his staff’s research (and shown in the background research information packet given to the Board), a number of the visual preference surveys of citizens have shown that sign clutter is perceived to be a problem. Mr. Mitra stated that he is in favor of the compromise.

Jo Hart stated that she wished the business owners realized that products are what sells and that an attractive window displays of El Panados is a good example of that. She stated that she believes 50% window coverage is too high. Mr. Fontane clarified that the Board is deliberating on sign regulation only, and not product displays.

Chair O’Connor asked if the proposed regulations would allow one window to be covered 100% and another 0%, thus allowing for 50% of the total window area, and not each individual area. Mr. Fontane said yes. Mr. Rolle stated that he felt 50% window area coverage is too high, but acknowledged that it might be difficult to regulate and enforce window coverage percentage area that is between 25% and 50%. He asked if staff’s research revealed other measures that might assist with preserving visibility, such as keeping windows visible from the street clear of any signs. Mr. Truman asked if the window area in a back of a building would be counted. Ms. Bold clarified that only windows on the 1st and 2nd floors visible from the street would be used to calculate total allowable area. She stated that some municipalities regulate placement of signs in addition to percent coverage. She stated that the placement regulations regarding signs might complicate the enforcement. Ms. Bold stated that staff is proposing sign allowances that are proportional to the buildings on which signs are to be placed, in addition to taking into the account zoning districts and property use.

Mr. Fontane pointed out to the Board that an unintended consequence of the modified proposal was that an owner could cover 100% of all windows on the first floor, and 0% on the second floor, thus complying with the regulations, but not achieving the intent for more active facades, better visibility and improved safety. Mr. Mitra asked to confirm that no businesses would be allowed to have window signs on the third and fourth floor of the building. Mr. Fontane said yes.

Andrew Serrato of Serrato Signs and a Worcester resident stated that he is concerned with raising the maximum window sign coverage to 50% because in his opinion it would contradict the intent of the proposed ordinance to “clean up the look of the buildings and street”. He stated that the City needs to increase its enforcement of non-compliant signs. He gave an example of Hadley Building with large windows and stated that 50% coverage of those windows at the Main Street level would not look good. He then suggested setting a maximum allowed square footage for the window signs.

Mr. Cashman asked how many members are in his business association. Mr. Serrato said about half-dozen. Mr. Cashman stated that he talked to several small business owners in the past three weeks and that he appreciated that Mr. Serrato came out to speak to provide a different business point of view.

Mr. Lanava stated that while the current temporary window sign regulations allow up to 100% coverage of windows, very few businesses actually reach that percentage. Therefore, he believed that not all businesses would use 50% of all their windows for signage if the proposed amendment is ordained. He stated that
businesses are the best judge of the types of signs they need and that less than 50% window coverage might be onerous for some of them. He stated that 50% is a compromise for the Chamber and strikes a good balance. He stated that while the City’s façade program benefited certain areas of the City, the program is too small to benefit many businesses who cannot replicate those results with their own funds. Mr. Cashman stated that other neighborhoods have had façade programs as well, such as Webster Square and Grafton Hill.

Mr. Cashman asked if regulations can specifically restrict tobacco signs. Mr. Traynor responded that the proposed ordinance can only regulate signs’ time, placement and manner, is content neutral, and, therefore, cannot specifically prohibit tobacco signs.

Ms. Bold clarified that signs hung inside the building within 3 feet of the window and visible from the outside are considered window signs, and that window signs cannot be attached to the exterior of the windows.

Jerald Powers, chairman of the Columbus Hill Park Neighborhood Association stated that he believed 50% window coverage is a lot more than originally proposed 25% and that therefore sign placement also needs to be regulated to avoid 100% window coverage of some windows on the first floor which would not be aligned with the regulations’ intent.

Mr. Cashman stated his support for the proposed modifications and stated that the intent is not to over-regulate businesses.

Mr. Mitra suggested that amendment is modified to say than each window will not have more than 50% of its area covered with signs. Mr. Fontane stated that his staff needs to think about this proposal. Mr. Mitra stated his support for 50% window coverage, but stated that he disagrees with Mr. Lanava with regards to thinking that not all businesses will use this percentage. Mr. Rolle proposed that the regulations state that no more than 50% of the total window area per each floor could be used for signage. Mr. Fontane stated that staff can develop the regulatory language for the next meeting. Chair O’Connor expressed her support for Mr. Rolle’s suggestions. She stated that while Santiago’s Market covers its windows 100%, it is tastefully done, but that since the Board can not regulate aesthetics, she is in favor of more modest maximum 50% window coverage per floor which would maintain some visual access on the 1st floor level. Mr. Lanava was in favor of 50% window coverage per floor.

With respect to non-accessory signs, Mr. Fontane stated that staff is proposing to modify the area of the Downtown/Blackstone Canal Sign Overlay District based on the feedback from Murray Outdoor Communications. He stated that the amended area expands the Downtown/Blackstone Canal Sign Overlay District but removes certain areas along the highway which were included in the original proposal which would have prohibited new freestanding and roof non-accessory billboard signs in the BG-6.0 zoning district (Exhibit E). He stated that staff is proposing a modified language for the purpose of Downtown/Blackstone Canal Sign Overlay District to read: “To protect the sense of place and character of the Downtown / Blackstone Canal District, including its dense network of urban streets and high concentration of historically and architecturally significant sites.”

Mr. Finkelstein, attorney representing Murray Outdoor Communications, stated that the proposal would make many existing billboards non-conforming and would leave only a very small area in the City for the new non-accessory billboards, thus effectively prohibiting and not regulating them. Mr. Fontane stated that it is inevitable that the area along I-290, I-190 and route 146 would eventually fill up. He stated that the Outdoor Advertising Board also has spacing and other requirements. Mr. Fontane stated that there is a finite amount of messages a person can absorb while driving and that safety is of utmost importance while driving. He stated that staff sought to strike a balance between allowing for advertisement yet promoting safety on the road in a responsible way. Mr. Fontane stated that the proposed three sign overlays would take up about 4.4 miles or one third of total available highway length in the City along I-190, I-290, and route
Mr. Finkelstein disagreed, saying that the OAB does not allow billboards in residential zones and close to parks, which translates into prohibiting about three quarters of the highway area from installing new billboards. He stated that he believes there will be no suitable sites available for new billboards outside of proposed sign overlays. He stated that digital billboards represent a new wave of technological advancements, and that Worcester will not be part of it if proposed regulations are ordained. Mr. Fontane stated that his staff will conduct an analysis of the areas where installation of new billboards would be allowed under the proposed ordinance. He stated that the proposed ordinance is not proposing to ban, but to regulate digital signs, and that the intent of the ordinance is not to prohibit conversion of non-accessory signs to digital outside of overlay districts.

Mr. Finkelstein stated that MassHighway selected two Worcester pilot sites for digital billboards and approved them as safe and that the City’s DPW&P did not provide feedback on traffic safety. He stated that the Zoning Board of Appeals denied both proposed digital sign sites through the Special Permit process based, in part, on traffic safety. Mr. Fontane pointed out that the information provided by MassHighway was used by staff for the analysis and by Zoning Board of Appeals for deliberation. He stated that to the contrary of Mr. Finkelstein’s statement, MassHighway engineers expressed concerns with the Worcester’s interstate lane drops and that the pilot program’s goal was to test whether or not digital billboards on a highway would be safe.

Mr. Finkelstein asked what the staff is proposing to protect in Blackstone River Parkway Sign Overlay District as he believed that Route 146 is dominated by auto-body shops and a Wal-Mart. He stated that businesses are looking for advertising locations along highways and that the proposed overlay district limits potential areas. Mr. Finkelstein asked for clarification on how the proposed amendment would regulate spacing of digital display signs. Mr. Fontane responded that currently the non-accessory signs are permitted to be spaced out no less than 300 feet apart if facing the same side of the traveled way. He stated that staff is proposing to introduce a spacing of 1,000 feet in addition and not in lieu of previous regulation, but pertaining specifically to digital non-accessory signs. Additionally, the regulations propose a 10-second delay interval between images, thus minimizing distraction to the drivers who would see no more than two images per billboard when driving by at an average speed. He stated that the spacing would be between the billboards that are visible when traveling in the same direction, whether or not the billboards are on the same side of the traveled way.

Mr. Finkelstein stated that the proposed Special Permit criteria relating to traffic safety for digital display signs is too subjective and asked that it be removed. He stated that it seemed unfair to require a Special Permit for non-accessory signs, but not for accessory signs, especially with respect to traffic safety. Mr. Fontane stated that the ordinance already has similar standards and Special Permit criteria related to traffic and therefore is an appropriate requirement for non-accessory signs. He stated that many Zoning Board of Appeals decisions rationale were based on evidence found based on traffic safety criteria. He stated that MassHighway also had concerns with lane drops. He stated that on highways the stakes are higher because high speed collisions often result in fatalities. Mr. Fontane stated that staff will consider whether or not Special Permit criteria of traffic safety are appropriate for smaller signs.

Mr. Finkelstein asked that dimensional requirements of the non-accessory wall signs not be the same as dimensional requirements for accessory sign but bigger. Mr. Fontane stated that he will take the suggestion on whether or not accessory and non-accessory wall signs should be regulated the same under advisement.

Mr. Finkelstein asked that the subsection on Special Permit for alterations and modifications does not seem to be necessary. Mr. Traynor stated that section 6 L of the proposed ordinance – pre-existing non conforming signs – proposes that if a change needs to be made to a sign, the sign needs to comply with the current regulations and in addition to Article XVI Section 4 – general applications of non-conforming uses and buildings.
Damien Jacob commended the City for regulating commercial and non-commercial speech equally. He asked if the amendment proposes to regulate a commercial mural the same as a commercial wall sign. Mr. Fontane stated yes. Ms. Bold read out the proposed definition of the mural: “Generally, a noncommercial picture or decoration, usually large, applied directly to a wall, which is primarily for aesthetic and/or cultural purposes. A mural is considered a sign only if it is related by language, logo or pictorial depiction to the advertisement of any product or service or the identification of any business.” She stated that the proposed ordinance would treat commercial and noncommercial signs the same, and that a mural would not need a Special Permit, unless an applicant proposes a larger size mural than the by-right allowance.

Mr. Jacob asked if what a sign on the wooden pressed board next to the Hanover Theater would be considered a billboard or a mural. Mr. Kelly stated that Hanover Theater temporary suspended construction due to financial constraints and boarded up the site temporarily. He stated that Hanover Theater might have hired someone to paint the boards to make it look more aesthetically pleasing. Mr. Jacob stated that he likes the painting but that he considers it a billboard because when the paint fades, people start painting posters on it effectively converting it to an original billboard. He asked if it would be considered a mural or a billboard. Mr. Kelly stated that because it is on the temporary structure, he would consider it a temporary sign.

He asked if murals can be on vinyl surface or be self-adhesive to the wall. Ms. Bold stated that murals are defined in the proposed ordinance as “… a noncommercial picture or decoration, usually large, applied directly to a wall.” She stated that the Department of Inspectional Services would make a determination on whether “applied” would pertain to vinyl surfaces and self-adhesives.

Mr. Jacob spoke against digital signs because in his opinion they use energy from the electrical grid and he suggested Worcester prohibit digital signs. Mr. Jacob asked if the proposal is to regulate accessory and non-accessory signs the same. Mr. Fontane responded that the amendment proposes to regulate all signs the same except for free-standing non-accessory sign (i.e. billboards) because they are considered to be their own use. Mr. Jacob stated that billboards have been given a lot of constitutional protection and that they often take advantage of that. Mr. Jacob stated that he is in favor of hiring a sign enforcement officer and that this position can be paid through inspection tax, and not sign permit fee. Mr. Fontane responded that the Department of Inspectional Services is charged with enforcing the ordinance, and therefore the particular matter of funding the sign enforcement agent position is not before the Board. Mr. Cashman stated that the energy usage of digital billboards and the enforcement proposal are interesting ideas, but that these matters are outside of the purview of the Planning Board.

Ms. Bold asked if Mr. Jacob was specifically suggesting changes to the dimensional regulations of the non-accessory signs. Mr. Jacob proposed to regulate non-accessory freestanding signs the same as accessory freestanding signs, which in itself, he stated, would make the need for overlay districts obsolete.

Jo Hart asked if regulating heritage signage and strip mall signage would be addressed by the proposed ordinance amendment. Mr. Fontane stated that the ordinance amendment includes provisions for comprehensive sign regulations for commercial developments that exceed 50,000 SF. He stated that landmark or historical signage issue is a policy issue. He stated that staff did some preliminary research on landmark signage preservation and chose not to pursue it at this time, because it appears there would be a need for a design review or preservation committee to consider such signs. Ms. Hart urged the Board to consider it now and presented an example of accidental but good historic sign preservation of Honda sign on Salem Street (Exhibit D). Ms. Hart also suggested that very small signs are prohibited as they contribute to visual blight and distraction on the road.

Mr. Fontane recommended that the Board not vote on the modified sign ordinance amendment because staff would like to propose and present a number of final amendments. He suggested that the Board vote on the
Downtown/Blackstone Canal Sign Overlay District petition to send to the City Council to allow that petition to catch up with the rest of the sign ordinance amendment packet to the City Council. Mr. Fontane distributed the maps completed by Ms. Gentile, Senior Planner (Exhibit E), and suggested petition language. He stated that per Board’s suggestions at the last meeting, the map was amended to include the area along Harvard Street, and parcels behind the Memorial Auditorium.

Upon a motion by Mr. Truman and seconded by Mr. Cashman, the Board voted 5-0 to amend the City of Worcester Zoning Ordinance to create sign overlay districts and to amend the City of Worcester Zoning Map to establish a sign overlay district more specifically as follows:

1) 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

2) 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, Frances J. McGrath Blvd, Southbridge, Chandler, Linden, Harvard, and Lancaster Streets and Rural Drive, more specifically depicted on the attached map (Exhibit D).

Upon a motion by Mr. Rolle and seconded by Mr. Truman, the Board voted 5-0 to continue the meeting to September 15, 2010.

OTHER BUSINESS:

2. ANR Plans:
   - **AN-2010-047, Grove Street & Prescott Street:** Upon a motion by Mr. Truman and seconded by Mr. Rolle, the Board voted 4-0 to endorse ANR Plan AN-2010-047 (Ms. O’Connor recused herself).

3. Endorsements:
   - The Board endorsed the 0 Clover St (aka 16 Dixon Ave) Definitive Frontage Subdivision (PB-2010-046).
   - The Board endorsed the 81-G Pierce Avenue plan for Burncoat Gardens Phase IV (PB-2010-022).

ADJOURNMENT: Upon a motion by Mr. Cashman and seconded by Mr. Truman, the Board voted 5-0 to adjourn the meeting at 8:11 pm.
Exhibits:


Exhibit C:

i. Letter from Richard B. Kennedy of Worcester Regional Chamber of Commerce to the Planning Board; re: Written testimony submitted to the planning board regarding their August 18, 2010 meeting. Dated August 16, 2010; received August 18, 2010.


Exhibit D: Photographs of a building’s historic signage on Salem Street. From Jo Hart to the Planning Board. Received September 1, 2010.

Exhibit E: The Maps of:

i. Proposed Downtown/Blackstone Canal Sign Overlay District
ii. Proposed Downtown/Blackstone Canal Sign Overlay District with zoning layer
iii. Proposed Blackstone River Parkway Sign Overlay District
iv. Proposed Union Station View Corridor Sign Overlay District
v. Proposed Sign Overlay Districts as Amended by Planning Board with Historic (MACRIS) Listed Properties