

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

May 14, 2014

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Planning Board Members Present: Andrew Truman, Chair
John Vigliotti
Andrew Freilich

Planning Board Members Absent: Satya Mitra, Vice Chair
Robert Ochoa, Clerk

Staff Present: Steve Rolle, Division of Planning & Regulatory Services
Luba Zhaurova, Division of Planning & Regulatory Services
Michelle Smith, Division of Planning & Regulatory Services
Domenica Tatasciore, Division of Planning & Regulatory Services
Jon Gervais, Department of Public Works
Katie Donovan, Department of Inspectional Services
Alexandra Haralambous, Law Department

BOARD SITE VISITS

CALL TO ORDER

Chair Andrew Truman called the meeting to order at 5:30 P.M. Mr. Truman introduced and welcomed the new Planning Board member, Andrew Freilich.

REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS, WITHDRAWALS

1. **Continuing Care Retirement Community development off of Salisbury St (fka 727 & 757 Salisbury St) & 0 Salisbury St – Amendment to Special Permit (PB-2014-007A)**
2. **Continuing Care Retirement Community development off of Salisbury St (fka 727 & 757 Salisbury St) & 0 Salisbury St – Amendment to Definitive Site Plan Approval (PB-2014-007B)**

Items 1-2 were taken up contemporaneously.

Ms. Zhaurova stated that on April 30, 2014 staff received a request to postpone these items to June 4, 2014 with a constructive grant deadline extension to June 20, 2014 to allow the applicant more time to notify abutters of the proposed work and upcoming hearing.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to postpone the items to June 4, 2014 and extend the constructive grant deadline to June 20, 2014.

3. **Approval Not Required (ANR) Plans:**

a. **342 Franklin Street (public street) (AN-2014-020)**

Ms. Zhaurova stated that staff also received a request to postpone the Approval Not required plan for 342 Franklin to June 4, 2014 and a constructive grant deadline extension to June 26, 2014 to allow applicant time to revise the plans per staff's comments.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to postpone the item to June 4, 2014 and extend the constructive grant deadline to June 26, 2014.

4. **Goldthwaite Road (aka Burncoat Gardens) Phase 1 - Amendment to Special Permit (PB-2013-041)**

5. **Goldthwaite Road (aka Burncoat Gardens) Phase 5 - Special Permit (PB-2013-043)**

6. **Goldthwaite Road (aka Burncoat Gardens) Phase 5 - More than One Building on a Lot (PB-2013-045)**

7. **Goldthwaite Road (aka Burncoat Gardens) Phase 1 - Amendment to Definitive Site Plan (PB-2013-042) (a public meeting)**

8. **Goldthwaite Road (aka Burncoat Gardens) Phase 5 - Definitive Site Plan Approval (PB-2013-044) (a public meeting)**

Items 4-8 were taken up contemporaneously.

Ms. Zhaurova stated that a minimum of four members are needed to hear a special permit therefore she recommended that the items be continued to June 25, 2014 as the Board anticipated a lack of one of the required voting Board members, Vice-Chair Mitra, at its June 4, 2014 meeting.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to continued items 4-8 to June 25, 2014.

List of Exhibits:

Exhibit A: Burncoat Gardens Phase 1 Application; received 11/8/2013; revised 5/12/14; prepared by CFS Engineering.

Exhibit B: Burncoat Gardens Phase 5 Application; received 11/8/2013; prepared by CFS Engineering.

Exhibit C: Burncoat Gardens Phase 5 Plan; dated 10/23/2013; prepared by CFS Engineering.

Exhibit D: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Planning Board; re: Goldthwaite Road (aka Burncoat Gardens); dated January 21, 2014; revised February 11, 2014; revised February 26, 2014; revised March 24, 2014; revised April 7, 2014, revised May 13, 2014.

Exhibit E: Memorandum from the City of Worcester Department of Public Works & Parks to the Planning Board; re: Goldthwaite Road (Burncoat Gardens); dated January 16, 2014

Exhibit F: Request for Continuation/Postponement from Chuck Scott, CFS Engineering to the Planning Board; dated 12/06/2013 and 12/31/2013.

Exhibit G: Notes from Fire Department; re: Burncoat Gardens.

Exhibit H: Request for Continuation/Postponement from Chuck Scott, CFS Engineering to the Planning Board; dated 2/25/2014.

9. **38 Toronita Avenue (Lots 1, 2 & 3) – Definitive Site Plan Approval (PB-2014-008)**

Carl Hultgren, Quinn Engineering, on behalf of ADT Realty Trust, stated that the applicant proposes to construct three single-family detached dwellings with six accessory off-street parking spaces with associated grading and site work on 15% or more slope at 38 Toronita Avenue (Lots 1, 2 and 3, MBL: 33-018-00107). He stated that the single-family residence located near the southeasterly property line (Lot 3) was demolished in March 2014.

Mr. Hultgren stated that the houses are each 30' x 40' structures with a 2 car garage under and that the homes will not be constructed until DPW&P has installed new utilities for sewer and water in Toronita Avenue. He stated that the plans have been revised since the filing of the application because Inspectional Services had concerns regarding lot configurations and subsequently the ANR plan was re-submitted to reflect said changes.

Mr. Hultgren stated that they have filed a Notice of Intent with the Conservation Commission because of the wetlands on site but that the hearing was continued because the culvert that is in place for drainage appears to be blocked. He stated that they asked DPW&P to clear it but until it is cleared, they cannot schedule a site walk with the Conservation Commission. He requested that both the ANR and the Definitive Site Plan be continued as he is unsure if the Conservation Commission will ask for revisions.

Jon Gervais stated that the City does not own the culvert and therefore DPW&P would not be maintaining it.

Walter Burns, 10 Knapp Ave, stated that he and his brother-in-law are direct abutters. He expressed concerns that homes are being built close to the wetlands. He stated that in the past a developer paved the road on the other side of the wetland and now it causes water and sediment to go onto his property and the two adjoining ones. He stated that he believes adding another two houses so close to the wetlands will make the drainage problems worse. He expressed concerns that his property values will decrease. Mr. Burns stated that no erosion controls were in place when the existing home was demolished and submitted photographs of the wetlands.

Mr. Truman stated that the wetlands are under the purview of the Conservation Commission as is the storm water management plan.

Mr. Hultgren stated that only two of the houses are within the 100' buffer and the house closest to the wetlands will be built three feet above the street level in case the wetlands flood. He stated that he understood that the drainage and sewer is already under contract and will be built this construction season. He stated that if the culvert is not under the city's jurisdiction then his client will hire someone to clear it.

Mr. Gervais stated that the city has an open bid presently to construct drainage and sewer on this street and some of the surrounding streets and that it should be built this construction season, although the infrastructure will not be functional until the street is converted to public.

Ms. Zhaurova stated that on April 30, 2014, the Planning Board voted to postpone the meeting for 38 Toronita Avenue to May 14, 2014 per the applicant's request. On May 7, 2014, the applicant submitted revised site plans addressing staff comments and showing changes to the

proposed structure locations as well as property line reconfiguration addressing previous nonconformities with respect to rear-yard setbacks. He stated that the applicant submitted a new ANR plan reflecting property line adjustments for the three proposed lots. Ms. Zhaurova stated that a private street conversion requires that the abutters are in agreement and are assessed the cost of conversion over time. She stated that the only time she recalls that the City has cleared a culvert on a private street has been because there was runoff from a Conservation Commission (city-owned) parcel that was blocking the culvert. Ms. Zhaurova stated that staff recommends approval of the project.

Mr. Burns stated that his brother-in-law's property is lower than this one and he is concerned that the runoff will end up on his brother-in-law's property.

Mr. Hultgren asked that both the ANR and the Definitive Site Plan be continued to June 4, 2014.

Mr. Freilich stated that Code Enforcement and the Conservation Commission should be made aware that a demolition occurred onsite without the proper erosion controls in place. Ms. Zhaurova stated that the structure that was demolished was outside the 100' buffer.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to continue the ANR and the Definitive Site Plan to June 4, 2013 and extend the constructive grand deadline to June 26, 2014.

List of Exhibits

- Exhibit A: Definitive Site Plan Application; prepared by AET Realty Trust; received March 12, 2014
- Exhibit B: Definitive Site Plan; prepared by Quinn Engineering, Inc.; dated March 11, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Planning Board; re: 38 Toronita Avenue (Lots 1, 2 and 3); dated April 23, 2014
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Planning Board; re: 38 Toronita Avenue, Site Plan Application – PB-2014-008; dated April 17, 2014.
- Exhibit E: Email from Carl Hultgren of Quinn Engineering, representative for AET Realty Trust re: 38 Toronita Avenue (postpone meeting to May 15, 2014); dated and received April 30, 2014.
- Exhibit F: Definitive Site Plan; prepared by Quinn Engineering, Inc.; dated March 11, 2014; revised May 1, 2014; received May 7, 2014.
- Exhibit G: Photographs of wetlands; prepared by Walter Burns; received May 14, 2014.

NEW BUSINESS

10. 200 Front St (aka 0, 110 & 120 Front St) – Amendment to Definitive Site Plan Approval with respect to underground garage (Priority Development Site) (PB-2014-013)

Mike Gerhart, Development Manager for City Square II Development Co., introduced Don Birch, Managing member of City Square II Development Co., and David Boyse, Arrowstreet Architects, and Attorney Katie Thomason. Mr. Gerhart stated that they are seeking an Amendment to the City Square project, previously approved in August 2005. He stated that they

are seeking to alter the configuration of the underground parking garage and because the changes only affect underground components of the project, they are seeking an insubstantial amendment under the provisions for priority site developments. He stated that they submitted an Amendment filing for the above ground changes and will be before the Board in June to present those.

Mr. Gerhart stated that the epicenter of this development is a triangular site located between front Street, Mercantile Street and the soon to be constructed Eaton Place and that other components of the City Square project have already been completed such as the Unum building and the St. Vincent's Cancer Care Center. He stated that most of the old Mall has been demolished and the next phase of the project is construction of the underground garage. He reviewed the changes and explained that they are seeking to amend the Definitive Site Plan to modify and reduce the underground parking garage size and layout, reducing parking from 1025 to 586 spaces; and to provide two "headhouses" (enclosed access to elevators and stairs) in the plaza above it.

Ms. Zhaurova stated that the applicant submitted the item under the Ordinance provisions of Article XVIII, Priority Site Development, which allows minor amendments to be reviewed by the Planning Board in an expedited manner (without advertising or noticing as normally required). She stated that the Board may hear and vote on items only if it determines the changes to be insubstantial. She emphasized that, prior to the vote on the application, the Board should make a determination as to whether or not the proposed changes are substantial or insubstantial. She stated that if the Board finds the proposed changes to be substantial, the item cannot be heard at the May 14th meeting and would have to be advertised and noticed to be heard at a later date.

Ms. Zhaurova stated that the application indicates that there are 586 spaces but staff counted only 580 spaces. She stated that the applicant should clarify the discrepancy or correct it. Ms. Zhaurova stated that she respectfully recommended approval of the Amendment to Definitive Site Plan for 200 Front St (aka 0, 110 & 120 Front St) with a condition that 6 copies of final revised plans be submitted to the Division of Planning & Regulatory Services prior to the release of the decision with the addition of said missing information.

Mr. Truman asked if there was a substantial change to the footprint, height, or size of the structure. Mr. Gerhart stated that the Ordinance states that all underground changes are insubstantial and reiterated that they will return to discuss the above ground changes at a later date.

Mr. Rolle stated that staff feels the proposed changes are insubstantial as the changes are underground; however, if the changes weren't underground, the changes do not enlarge the footprint, size, or volume of the project and would meet the criteria for an insubstantial change.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to approve the Amendment to Definitive Site Plan for 200 Front Street with a condition that 6 copies of final revised plans be submitted to the Division of Planning & Regulatory Services prior to the release of the decision with the addition of missing information; and that the Board found the proposed changes to be considered insubstantial in accordance with Article XVIII Priority Site Development.

List of Exhibits:

Exhibit A: Amendment to Definitive Site Plan Application; received 4/7/2014; prepared by CitySquare II Development Co. LLC acting by and through LM Administrative LLC.

- Exhibit B: Amendment to Definitive Site Plan; dated April 10, 2010 prepared by Arrowstreet Inc. and Nitsch Engineering.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Planning Board; re: 200 Front St (aka 0, 110 & 120 Front St) – Amendment to Definitive Site Plan Approval with respect to underground garage (Priority Development Site) (PB-2014-013); dated May 8, 2014

11. **5 Pickwick’s Circle (Lot 2) – Definitive Site Plan Approval (PB-2014-014)**

James Soffan stated that he received the memo from Nancy Tran and is amenable to the comments and conditions noted in it.

Mr. Gervais stated that DPW&P wants to see utilities shown on the plan.

Ms. Zhaurova stated that the applicant proposes to construct a ~3,400 SF single-family dwelling with three off-street parking spaces on a property with 15% or more slope. She stated that the property is one of three lots in the Holden Street Subdivision along Indian Lake and located within the RS-10 (Residence, Single-Family) zone. She stated that staff recommended the following conditions of approval:

1. Show available utilities;
2. Provide a plan note indicating the proposed structure’s size, including height in stories and feet, floor area ratio, total floor area, total square feet of ground area coverage and exterior materials;
3. Label construction material and height of existing and proposed retaining walls; and
4. Notate proposed and existing (indicating whether it will be removed or retained) landscaping including the type, location and quantity of all plant materials, location and height of fences or screen plantings and the type or kind of building materials or plantings to be used for fencing and screening;
 - a. Staff recommends that one 3” caliper Asian Longhorn Beetle-resistant shade tree is provided on the lot fronting Pickwick’s Circle.

Mr. Freilich stated that it was clear during the site visit that work had been completed within the 100’ buffer and there were no erosion controls in place. Ms. Donovan stated that the applicant received Conservation Commission approval but if work has been done then the applicant must install the erosion and sediment controls immediately. Mr. Soffan stated that he has not begun clearing the site. Mr. Truman stated that the applicant must adhere to the Order of Conditions once work commences.

Ms. Donovan stated that while this location was part of a subdivision, and a Definitive Site Plan was not on file so that triggered coming before the board.

Mr. Truman asked DPW&P if the rip-rap detail was adequate. Mr. Gervais stated that it was.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to approve the Definitive Site Plan for 5 Pickwick’s Circle with the following conditions of approval:

1. That six (6) copies of final revised Definitive Site Plan are submitted to the Division of Planning & Regulatory Services prior to the release of the decision reflecting the above condition of approval and with the following items included:

- a. Label available utilities;
 - b. Indicate the proposed structure's size, including height in stories and feet, floor area ratio, total floor area, total square feet of ground area coverage and exterior materials;
 - c. Label construction material and height of existing and proposed retaining walls;
 - d. Notate proposed and existing landscaping (indicating whether it will be removed or retained) including the type, location and quantity of all plant materials, location and height of fences or screen plantings and the type or kind of building materials or plantings to be used for fencing and screening;
2. That one 3" caliper Asian Longhorn Beetle-resistant shade tree is provided on the lot fronting Pickwick's Circle; and
 3. That the applicant comply with the Conservation Commission's Order of Conditions dated October 7, 2013.

List of Exhibits:

- Exhibit A: Definitive Site Plan Application; prepared by James Soffan, Trustee; received April 17, 2014.
- Exhibit B: Site Plan of Lot 2 Pickwick's Circle; prepared by Andrews Survey & Engineering, Inc.; dated April 16, 2014; received April 17, 2014.
- Exhibit C: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Planning Board; re: 5 Pickwick's Circle – Definitive Site Plan Approval; dated April 8, 2014.

OTHER BUSINESS

12. **Lachapelle Street (aka Kelleher Street) Subdivision (PB-2008-031)** - Gold Star Builders, Inc.'s request to set a bond and set a new work completion date to 9/30/2014

Mr. Gervais stated that DPW&P recommended the amount of the bond to be set at \$65,000 and that the work completion be set for August 1, 2014.

Mr. Vigliotti stated that he wanted to disclose that he has previously represented the owner and wondered if it was necessary that he recuse himself since this was just the setting of the bond amount and completion date.

Ms. Haralambous stated that there was no conflict in this case.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to approve the request for a Bond of \$65,000 with a work completion date of August 1, 2014.

13. **Knapp Avenue – Street Petition Convert to Public (ST-2014-004)**

Mr. Gervais stated that DPW&P recommends that the Board recommend a Priority #1 Designation to City Council.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to recommend approval of the private street conversion for Knapp Avenue and to designate it as Priority #1.

14. **Approval Not Required (ANR) Plans:**

a. **145 Harrington Way (public street) (AN-2014-021)**

Ms. Zhaurova stated that this parcel is owned by the Ecotarium, which is across the street. She stated that the applicant is proposing to subdivide the lot into two parcels: one will serve as overflow parking for the Ecotarium, and the second parcel will be conveyed to the City of Worcester, who has applied for a LAND grant to purchase it. She stated that the new parcel will be part of the Crow Hill Conservation Land. She stated that the minimum frontage requirement is being met, with 65' required, and over 600' provided for each lot.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to endorse the ANR plan for 145 Harrington Way.

b. **38 Toronita Avenue (private street) (AN-2014-022)**

Taken up contemporaneously with Item #9. (see above)

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to continue the ANR and the Definitive Site Plan to June 4, 2013 and extend the constructive grant deadline to June 26, 2014.

15. **Draft Open Space & Recreation 7 year Plan – Request for Letter of Review**

Ms. Zhaurova stated that the state requires that a new Open Space & Recreation Plan is provided every 7 years for a city of our size and that a draft was submitted May 31, 2013 for which the Planning Board and the Conservation Commission were asked for comment over a year ago. She stated that a final version needs to be submitted to the state and the submittal requires a letter of support from the Planning Board.

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted 3-0 to continue the item to June 4, 2014 to allow all members to comment on it.

16. **Signing of Decisions from prior meetings**

The decisions for 93 Grand St (PB-2014-012); 0 Pullman (PB-2014-010); 90 Park Ave. / 190 Salisbury St. (PB-2014-011) & Village at Burncoat Heights Subdivision Covenant Request were signed.

ADJOURNMENT

Upon a motion by Mr. Vigliotti and seconded by Mr. Freilich, the Board voted to adjourn at 6:40 p.m.