

# Worcester South District Registry of Deeds Electronically Recorded Document

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## Recording Information

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Worcester South District Registry of Deeds  
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Worcester, MA 01608  
(508) 368-7000



Albert LaValley, Chair  
Edward Moynihan, Vice Chair  
Brandon King  
Conor McCormack  
Adrian Angus

Notice of Voluntary Withdrawal recorded in Book 68127, Page 52  
See Deed registered as Document No. 114165

### **SPECIAL PERMIT - FINDINGS OF FACT AND DECISION**

#### **105 & 115 Northeast Cutoff (aka proposed Lots 115 & 125) (MBL 52-006-01+02) (PB-2024-018)**

The Planning Board scheduled a public hearing on March 20, 2024, at 6:30 PM in the Worcester City Hall, 455 Main Street, Levi Lincoln Chamber, on the petition of 115 Northeast Cutoff Realty Trust, Meletios D. Chacharone, & Zachary Curzon seeking a Special Permit for property located at 105 & 115 Northeast Cutoff (aka proposed Lots 115 & 125), Worcester, Massachusetts.

Due notice of a public hearing to be held on March 20, 2024, was sent to the individuals listed on the City of Worcester Certified Abutter's list for the subject property.

On March 6, 2024 & March 13, 2024, notice of the hearing was duly advertised in the Worcester Telegram & Gazette.

On March 20, 2024, the hearing was called to order by Albert LaValley, Chair. Board members present for the hearing at Worcester City Hall, 455 Main Street, Levi Lincoln Chamber were Albert LaValley, Edward Moynihan, and Conor McCormack. Board member Brandon King participated remotely. Board member Adrian Angus was absent. Remote participation was facilitated for attendees via phone at call-in number, 844-621-3956, access code: 2633 685 5101 and via WebEx link (<https://cityofworcester.webex.com/meet/planningboardwebex>).

#### **FINDINGS**

The Worcester Planning Board, having conducted a public hearing and reviewed the submitted evidence, finds that:

1. 115 Northeast Cutoff Realty Trust, Meletios D. Chacharone, & Zachary Curzon, whose address is 1 West Boylston Street, Suite LL05, Worcester MA, 01605 are the owners of certain land situated at 105 & 115 Northeast Cutoff in the City of Worcester and more particularly described in a deed recorded with the Worcester District Registry of Deeds Book 91, Page 181.
2. The property is located in a BG-2.0 (Business, General) zoning district, the Water Resource Protection Overlay District (WR(GP-2) & WR(GP-3)), and partially within the Floodplain Overlay District.
3. Presently on the premises is a multi-tenant office and manufacturing complex with 7 buildings, associated school bus parking & repair, including nonconforming storage of hazardous materials in containers greater than 5 gallons, previously specially permitted as part of a WPS fleet-storage and WPS bus/van repair facility.
4. The petitioner seeks to divide the property into two lots and modify the nonconforming storage of hazardous materials in containers greater than 5 gallons on both lots to allow more than household storage in less than 5 gallon containers on the new lot.
5. The following zoning relief is required and is being sought by the petitioner:

**Special Permit Amendment:** To expand, alter, and/or change a preexisting nonconforming use within the Water Resource Protection Overlay District (WR(GP-2)) (Article XII, Section 6) on proposed Lot 115 to update the list of hazardous materials and limit storage in excess of 5-gallon containers to Lot 115.

Office of the City of Worcester Planning Board c/o Planning & Regulatory Services Division

City Hall, 455 Main Street, Room 404 (4<sup>th</sup> floor), Worcester, MA 01608

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**Special Permit:** To render more than 20% of lot area impervious within the Water Resource Protection Overlay District (WR(GP-2)) (Article XII, Section 4, Table 12.1, use # 11) within the Water Resource Protection Overlay District GP-2 on proposed Lot 125.

### **General Findings of Fact – Special Permit**

6. Per Article II, Section 6 (A)(2), the adverse effects of the proposed use will not outweigh its beneficial impacts to the City with respect to each of the following considerations:

a. Social, economic or community needs that are served by the proposal:

*The proposed redevelopment of the property will provide Worcester Public Schools with a singular campus to house all its student transportation operations, employees, and equipment.*

*Creation of Lot 125 will allow a manufacturing use on a separate and distinct lot from the present school department educational use, so that its use regulatory status are independent. A significant industry to Worcester's heritage and a major employer will remain in Worcester along with its highly skilled workforce.*

b. Traffic flow and safety, including access, parking and loading areas;

*The property will provide safe, adequate parking for all student transportation vehicles and for staff, employees, and visitors. The existing and proposed parking areas are adequately set back from the street, such that vehicles will not be backing up into the public way.*

c. Adequacy of utilities and other public services;

*The buildings on the property are currently served by adequate utilities for the proposed use. The improvements to be made (additional parking lots and new stormwater management infrastructure) will be adequate for the proposed use.*

*Cross easements will allow shared utility and public services between Lot 115 and Lot 125.*

d. Neighborhood character and social structure;

*The property is located in the BG-2.0 Zoning District and currently consists of a manufacturing complex and parking lots. The proposed use is consistent with Zoning and with the prior use of the property.*

e. Impacts on the natural environment;

*New stormwater management facilities for the collection, treatment and recharge of stormwater runoff will be installed and maintained on the site to protect the natural environment. (See responses to questions 8-10, herein). Also, it is anticipated that the fleet of buses for the Worcester Public Schools will include buses fueled by natural gas, in the near future, which will be more protective of the natural environment.*

*No additional site changes are planned for the subject property that would adversely affect the natural environment.*

f. Potential fiscal impact, including city services needed, tax base, and employment.

*Although the Worcester Public School Department will be the lessee, the property will remain subject to local property taxes. By relocating and consolidating its student transportation operations to the property, hundreds of employment positions (jobs) will remain in the City of Worcester.*

*The manufacturer of specialized life safety equipment will relocate to the new facility, allow it to modernize and improve efficiency, both to maintain its existing workforce and to attract top tier employees from area educational institutions. Not only will the City realize direct real estate and personal property tax revenue, but the company and its highly skilled workforce contribute greatly to Worcester community.*

### **Supplemental Findings of Fact – Water Protection Overlay District Special Permit**

Per Article XII, Section 1(A), the purposes of the Water Resources Protection Overlay District (WRPOD) are: 1. To promote the health, safety and general welfare of the community; 2. To preserve and maintain the existing and potential groundwater supplies, aquifers and groundwater recharge areas of affected municipalities and to protect them from adverse development or land use practices; 3. To preserve and protect present potential sources of drinking water supply for the public health and safety; 4. To prevent blight and the pollution of the environment.

1. Explain how the proposed use will not degrade the groundwater quality at the boundaries of the premises below existing levels:

*The proposed parking lot construction entails surface improvements to allow for parking of vehicles for the Worcester Public Schools transportation division. By employing sound and proven best management practices (BMPs) to collect, treat, and recharge runoff from the impervious surfaces, the quality of the groundwater can be assured. These BMPs will provide a level of treatment to prevent degradation of groundwater quality at the boundaries of the premises below existing levels.*

*Previous work at the site was undertaken to provide for improved stormwater quality and quantity control, and significantly increased the recharge of rainfall to increase and sustain groundwater resources in the long term. To the extent possible, stormwater runoff is being treated, and roof runoff is being recharged to the ground where it was discharged directly to surface waters in the past. The roof runoff from Building 1, the main building on Lot 125, has been connected to pond 26, the large subsurface infiltration structure on the southwest side of Lot 115.*

2. Explain how this proposed use is in harmony with the purpose and intent of this Ordinance and does not denigrate from the purposes of the Water Resources Protection Overlay District;

*Providing parking for the Worcester Public School transportation division is a municipal function and because the proposed use will not include fuel stations for the transportation fleet, the use is in harmony with the purpose and Intent of the Ordinance. Since the proposed improvements are nonresidential, non-commercial, non-industrial uses that do not involve hazardous uses or processes, they are not prohibited. The proposed use does not pose a threat to the drinking water supply and therefore does not denigrate from the purposes of the Water Resources Protection Overlay District.*

*No changes are proposed to the site affecting the intent of the Ordinance or to denigrate from the purposes of the Water Resources Protection Overlay District. The uses in in harmony with the BG-2 Zoning District.*

3. Explain how the proposed use will not, during construction or thereafter, have an adverse environmental impact on the Zone of Contribution (GP-2) or Secondary Recharge Area (GP-3);

*Construction period erosion and sedimentation controls will be employed to protect the surface water runoff, and thereby protect the wetland resource areas which contribute to water quality and aquifer recharge. The contractor will comply with the US EPA NPDBS program, and will seek coverage under the Construction General Permit. In order to do so, a Stormwater Pollution Prevention Plan (SWPPP) will be prepared and followed. Among other details, the SWPPP will describe the construction period physical practices and management practices to prevent adverse environmental effect during the construction period. With the sandy soils and deep groundwater that is present, the runoff during earth moving operations and construction of the parking lots will not have an adverse environmental effect upon the GP-2 or GP-3. Upon completion of the improvements, the site will have a collection, treatment, and recharge system in place. Coupled with good housekeeping practices and adherence to the operation and maintenance program, the site will not have an adverse environmental effect upon the GP-2 or GP-3.*

4. Explain how the proposed use will not adversely affect an existing or identified potential public water supply within the Water Resources Protection Overlay District:

*No existing or identified potential public supply wells are within the, WRPOD. The nearest public water supply well in the Poor Farm Brook Zone (Shrewsbury 2271000-12G) is approximately 2,600/ feet from the site, and the nearest backup well (Worcester 2348000-02G) is approximately 4,100 feet from the site, both located in Shrewsbury. Given the BMPs that are proposed and the net increase in recharge volume, the proposed site improvements will not adversely affect the existing or potential public water supply within the WRPOD.*

*Previous work at the site was undertaken to provide for improved stormwater quality and quantity control, and significantly increased the recharge of rainfall to increase and sustain groundwater resources in the long term. To the extent possible, stormwater runoff is being treated, and roof runoff is being recharged to the ground where it was discharged directly to surface waters in the past*

5. Explain how the proposed use meets the following standards:

- a. Any earth removal or land disturbing activity within the GP-2 zone of the overlay district may not be closer than four (4) feet above the historic high-water elevation. Such earth removal must employ appropriate measures to control erosion and siltation.

*Based upon the test pits that were conducted at the site, the seasonal high groundwater was found to be approximately 6-10 feet below the ground surface. The site improvements have been designed to avoid earth removal or land disturbance within 4feet of the seasonal high groundwater. An extensive erosion and sedimentation control plan will be implemented and a construction period SWPPP will be prepared and followed by the site contractor during the construction period to protect the water resources.*

- b. All fill material must be clean and free from hazardous materials, construction debris and other material whose leaching would be a potential contamination hazard to ground or surface waters.

*Other than processed material, such as washed crushed stone, no fill is expected to be imported onto the site. Earth material that is excavated in one area will be moved, placed, and appropriately compacted in a fill area on the site. No building demolition is proposed or anticipated at this time. Accordingly, the earth moving operation and leaching/ram hazardous materials or debris will not pose a potential contamination hazard to ground or surface waters.*

- c. Hazardous materials stored above-ground must be located on an impervious surface. The storage area must be equipped with a secondary containment system to prevent the material from reaching ground or surface water in the event of a leak or spill. The containment system must be able to contain one hundred and ten (110) percent of the tank's contents.

*Hazardous materials will be used in the manufacturing process, and will be stored in containers up to five gallons. Please see the supplemental information provided describing the storage, spill containment, and cleanup protocol.*

*With the discontinuation of semiconductor manufacturing on the site, the storage of hazardous materials has been greatly diminished. Storage tanks for various raw and waste chemicals have been removed from the site. In fact, with the new use the owner will also remove two 10,000-gallon fuel storage tanks and three 500-gallon tanks. Other than normal site and building maintenance materials that will be stored indoors, the Worcester Public School transportation department use will entail only a small quantity of motor oil and diesel fuel within Building 4. The limited number of 55-gallon tanks (8, 55-gallon tanks) will be stored on a containment pad within the building, providing a minimum 110% capacity. The improvements to the property will result in a reduction of on-site fuel storage from the current capacity of 21, 500-gallons to 220-gallons (2, 55-gallon tanks for new oil*

*and 2, 55-gallon tanks for waste oil; there will also be 2, 55-gallon tanks for washer fluid and 2, 55-gallon tanks for coolant).*

- d. Appropriate measures must be taken to ensure that any increase in storm water runoff is artificially recharged into the ground. This may be done through such methods and dry wells, infiltration trenches, retention basins, etc.

*In addition to mitigating the peak rate of flow and meeting the minimum recharge volume required by the Massachusetts DEP Storm water Policy, the site has been designed to provide extensive subsurface recharge structures to mitigate the volume of runoff and to maximize the volume of runoff recharged to the ground. By also directing runoff from nearly 100,000 s.f of existing roofs to a recharge system, the project will result in a net decrease in the volume of surface and net increase in recharge.*

- e. All storm water management facilities must be designed for the twenty-five (25) year storm and designed to ensure that the rate and amount of runoff leaving the site does not exceed the rate and amount of runoff in the predevelopment state. Facilities for runoff from paved areas shall include structures for trapping oil, gas, and other contaminants before recharge into the ground. These facilities shall be maintained by the owner on a not less than annual basis.

*As described in the stormwater report and shown on the plans, the proposed stormwater management system will collect treat and fully recharge runoff from the proposed impervious areas for the 2-year, 10-year, and 25-year storms (i.e. up to 6.00 inches of rainfall), and will mitigate the runoff from the 100-year storm (7.68"), such that in all studied storms, the peak rate of flow and volume of runoff leaving the site will not increase over the existing predevelopment conditions. The stormwater management system includes structures for trapping oil, gas, and other pollutant, before recharging to the ground. The operation and maintenance program describes periodic inspection and annual maintenance tasks (or more often as inspections warrant)*

**DECISION**

At the meeting of the Board on March 20, 2024, and on a duly made and seconded motion, it was voted 4-0 by Board members Albert LaValley, Edward Moynihan, Conor McCormack, and Brandon King (Adrian Angus absent) to **approve** the following requested relief:

**Special Permit Amendment:** To expand, alter, and/or change a preexisting nonconforming use within the Water Resource Protection Overlay District (WR(GP-2)) (Article XII, Section 6) on proposed Lot 115 to update the list of hazardous materials and limit storage in excess of 5-gallon containers to Lot 115.

**Special Permit:** To render more than 20% of lot area impervious within the Water Resource Protection Overlay District (WR(GP-2)) (Article XII, Section 4, Table 12.1, use # 11) within the Water Resource Protection Overlay District GP-2 on proposed Lot 125.

With the following **conditions of approval**:

Prior to Construction and Before April 30, 2024:

1. Provide the recording reference for Special Permit Amendment from 2022.
2. Provide one (1) complete original set of properly stamped/sealed revised site plans, and an electronic copy of the same (.pdf), to the Division of Planning & Regulatory Services reflecting the following changes:
  - a. Quantify the SF of impervious surface in each area proposed for removal on Lot 125 and reflect proposed vegetated surfaces, with a wildlife conservation seed mix to be used on the northeastern corner of the lot.
  - b. Reflect installation of at least thirty five (35) minimum 2.5" caliper shade trees of a native, non-ALB or EAB species on Lot 125. Said trees shall be located adjacent to remaining impervious surfaces to the maximum extent practical including a minimum of every 25' on center between the parking lot and NE Cutoff and along the main the driveway adjacent to the pond.
  - c. Reflect installation of a cement concrete walkway from the main entrance of building #1 to the sidewalk on NE Cutoff on Lot 125.
  - d. Reflect removal of all outdoor storage of sand/salt, etc. presently located in the northwestern corner of Lot 125.

Prior to the Transfer of Title on Lot 125:

3. Removal of impervious surfaces and re-stabilization with vegetation, installation of walkways, removal of outdoor storage, and new tree plantings required by condition 1 shall be complete.
4. A copy of a recorded long term pollution prevention plan/program and systems operation & maintenance plan/program - including any stormwater facilities - shall be provided to the Division of Planning & Regulatory Services and Department of Public Works and Parks clearly establishing the responsible property owner for each infrastructure component and maintenance activity.
5. A recorded, reciprocal deed restriction, in a form acceptable to the City of Worcester Law Department, shall be provided to the Division of Planning & Regulatory Services. Said restriction shall prevent the construction/placement of additional impervious surfaces on either Lot 115 or Lot 125 causing the total impervious surface of both sites to exceed 18.9% impervious surface (or 331,446 SF net impervious surface) as proposed and depicted on the approved plans. Said restriction shall ensure that there is no further increase in impervious surface on either site, as defined by Article XII of the City of Worcester Zoning Ordinance, in perpetuity unless there is a subsequent grant of a Special Permit from the Planning Board altering this requirement.

**During Construction:**

6. Any existing underground storage tanks located on the entire site shall be removed and may be replaced with above ground storage facilities that meet the approved criteria set forth in Section-7(C)(5)(c) of the Ordinance.

**On or Before December 31, 2024:**

7. Provide the recording reference for the executed Conservation Restriction permanently protecting the remaining undeveloped areas of the site consistent with that shown on the site plans.

**Perpetual Conditions:**

8. Use of the Lot 115 for truck/trailer/bus storage or servicing shall be limited to transportation services provided for the Worcester Public Schools system. This Special Permit does not permit nor establish any privilege for such operations, storage or servicing other than those for Worcester Public Schools transportation.
9. Bus storage shall be confined to the areas on Lot 115 on the approved plan identified for such storage, consisting of +/- 143 large buses, 102 medium busses, and 443 vans, light trucks and/or passenger vehicles.
10. All vehicle parking and storage shall occur on paved surfaces.
11. Emergency spill-kits shall be maintained on site at all times. A minimum of one spill-kit shall be located within Building 4 and one additional spill-kit shall be located within each distinct parking area.
12. Storage of any hazardous materials must be above ground, on an impervious surface, and within a container located within a building that includes a secondary containment system with the minimum storage capacity of 110% of all containers' contents.
13. All vehicle servicing and storage of hazardous materials in excess of 5-gallons shall be conducted indoors and be confined to Building 4 on Lot 115.
14. There shall be no fueling or refueling, car-washing, or use of fertilizers permitted on-site.
15. There shall be no fill, including temporary stockpiling (including snow), within the 100-year floodplain (FEMA A Zone).
16. The City of Worcester and Town of Shrewsbury shall be parties added to any emergency response plan notification lists.
17. Impervious surfaces, including but not be limited to all buildings, parking areas, driveways, roads, sidewalks, and areas of concrete or asphalt, except where runoff from impervious surfaces is recharged on-site and diverted to areas allowing for surface infiltration to the maximum extent possible, shall not exceed 18.9% (331,446 SF) of the combined site (i.e., both Lots 115 and 125).
18. Stormwater infrastructure will be maintained in compliance with the operation and maintenance plans and schedules on file with the City of Worcester. Such plans and schedules shall incorporate best practices and shall include provisions for regular visual inspections of vehicles for signs of leaking fluids. The O&M plan shall be updated on an as needed basis. Copies of current maintenance plans and schedules shall be furnished to the City of Worcester DPW&P and the Town of Shrewsbury Engineering Department.
19. Copies of all operation and maintenance inspection forms and maintenance logs shall be provided the City of Worcester DPW&P and the Town of Shrewsbury Engineering Department in order to confirm that the stormwater management system is being cleaned and inspected in accordance with maintenance plans and schedules. Such materials shall be provided in an annual report, provided that the city and town shall be additionally notified immediately of



inspection results and subsequent maintenance actions when a threat to groundwater or surface water quality is identified.

20. Landscaped setback/buffer areas shall not be used for snow storage; once designated snow storage areas reach capacity or interfere with visibility, snow shall be trucked off-site.
21. Provided that the project is constructed and operated in substantial accordance with the approved final revised Site Plans, Special Permit Findings of Fact, calculations, all operation and maintenance plans and schedules, including pollution prevention and emergency response plans on file with the City of Worcester and in compliance with all governmental codes.

The Special Permit shall not take effect until the petitioner records, at their own expense, a certified copy thereof with the Worcester District Registry of Deeds, pursuant to Massachusetts General Laws, Chapter 40A, Section 11, as amended.

Appeals of this decision shall be made pursuant to M.G.L. c. 40A §17 and shall be filed within twenty days after the filing of this decision in the office of the City Clerk. If litigated, all time periods for recording and commencement shall toll and not commence until a final, favorable decision of the Honorable Court is rendered.

It was **ORDERED** by the Board that persons notified of the hearing be notified of the foregoing decision.

The name(s) typed below represent the intent to sign the foregoing document in accordance with MGL Chapter 110G §9. Duly authorized by Ch. 110G and recorded at Worcester Registry of Deeds in Book 62537, Page 328.

**ADJOURNED:**

DocuSigned by:  
*Albert LaValley*  
SC1463FABL1548L

**ALBERT LAVALLEY**

**DATE** 04/12/2024

\_\_\_\_\_  
**EDWARD MOYNIHAN**

**DATE** \_\_\_\_\_

\_\_\_\_\_  
**CONOR MCCORMACK**

**DATE** \_\_\_\_\_

\_\_\_\_\_  
**BRANDON KING**

**DATE** \_\_\_\_\_

\_\_\_\_\_  
**ADRIAN ANGUS**

**DATE** \_\_\_\_\_

**REMINDERS**

**Special Permit Time Limitations:** If the activity authorized by a Special Permit is not initiated within one (1) year of the date of grant (one year from date Special Permit is received by the City Clerk) and/or the activity is not completed within two (2) years, then the Special Permit shall lapse unless the Director of Code Enforcement makes a determination that the failure to complete was for good cause. City of Worcester Zoning Ordinance, Article II, Section 9.D.5.

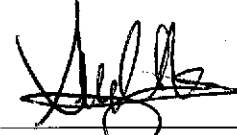
**Landscaping Requirements:** Required landscaping shall be maintained in a healthy growing condition, free of refuse and debris, and any plantings that do not survive shall be replaced in kind by the applicant or the property owner within a reasonable period of time. All plant materials and fencing shall be arranged and maintained so as not to obscure the vision of traffic. There shall be no parking of vehicles or snow storage in areas used for screening and buffering. Per Article V, Section 5, C. iv of the City of Worcester Zoning Ordinance.

**Construction Noise:** No person shall operate any powered construction equipment or build, erect construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project, except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and d Saturday, and between the hours of 9:00 a.m. and 7:00 p.m. on Sundays ... Per Chapter 9 Section 1A (e) (9) of the City of Worcester's Ordinance Relative to Excessive and Unreasonable Noise.

City of Worcester, MA

May 7, 2024

I certify that twenty days have elapsed after the attached Decision for **105 & 115 Northeast Cutoff (aka proposed Lots 115 & 125)** has been filed with the City Clerk Department as of **April 12, 2024** and that no appeal has been filed.



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Stephen AJ Pottle  
Deputy City Clerk I