

# **July 13, 2009 - Planning Board Meeting**

## **CITY OF EAST PROVIDENCE**

### **PLANNING BOARD**

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#### **Minutes of July 13, 2009**

Present: Anthony Almeida, Burton Batty, Robert Cole, Krista Moravec, Chairman Michael Robinson, Matthew Robinson, Jeanne Boyle (staff), Diane Feather (staff), Wayne Barnes (staff), James Briden (City Solicitor).

At this time, the Board recited the Pledge of Allegiance.

#### **1. SEATING OF ALTERNATE MEMBER**

No alternate member was seated at this time.

#### **2. APPROVAL OF PLANNING BOARD MINUTES**

A. Minutes of June 8, 2009

On a motion from Mr. Batty, seconded by Mr. Cole, the Board voted unanimously to approve the minutes of June 8, 2009.

#### **3. APPROVAL OF PLANNING BOARD CORRESPONDENCE**

On a motion by Mr. Almeida, seconded by Ms. Moravec, the Board unanimously approved the correspondence below.

A. Memo dated June 9, 2009 to the City Council from the Planning Board, Re: Armstrong Properties/Monroe Dairy, Zoning Map Amendment Request, North Brow and Cross Streets (enclosed).

On a motion by Mr. Batty, seconded by Ms. Moravec, the Board unanimously approved the correspondence below.

B. Memo dated June 9, 2009 to the City Council from the Planning Board re: Street Abandonment, Portion of North Brow Street. Applicant: Armstrong properties/Monroe Dairy (enclosed).

#### **4. NEW BUSINESS**

**A. Advisory Recommendation to the Waterfront Commission: "Village on the Waterfront"**

Owner: Chevron Land and Development Co.  
Applicant: Chevron U.S.A. Inc. 2  
Location: 431 Veteran's Memorial Parkway;  
Assessors Map 017, Block 1, Parcel 1, Assessors Map 018, Block 1, Parcel 1 and  
Assessors Map 018, Block 2, Parcel

Chairman Robinson introduced this agenda item and asked for this to proceed. Ms. Moravec recused herself from this discussion due to her employer's work for the applicant (Maguire Group). Chairman Michael Robinson noted that Matthew Robinson would then be seated as a voting member for this agenda item.

Ms. Christine Engustian, Esq., 1 Grove Avenue, East Providence, RI, representing both the landowner and the applicant, introduced herself and reviewed each element of the application for the Board. Ms. Engustian stated that the property has a street address of 431 Veteran's Memorial Parkway. She noted that because of its location in the Waterfront District, more specifically, the Veteran's Memorial Parkway Sub-District, the property is subject to Article 9 of the East Providence Zoning Ordinance, "*Waterfront Special Development Districts*". Ms. Engustian stated that it is their contention that the proposed development is consistent with the goals purposes and intent of the City's Comprehensive Plan and Zoning Ordinance and does support the planned land uses as described in the Plan and in Article 9 of Zoning.

Ms. Engustian noted that the planned land uses, which comply with the Comprehensive Plan, include high and medium density residential uses, a mixed use classification that includes some retail and commercial (such as the restaurant). She noted that the development proposes the extension of Waterfront Drive and the extension of a bike path along that, and further noted that the proposed development provides significant open space, both through the creation of a beautiful park at the western side of the property with public amenities and furnishings including benches, planters, lighting, trash receptacles and bicycle racks, and open space throughout the property. Ms. Engustian noted that regulations require a minimum of ten percent (10%) of open space and that the proposed development provides more than that. She noted that the planned uses meet the spirit and intent of the Waterfront Plan and Zoning.

Ms. Engustian noted that the proposed development would take place in five phases, the first starting in 2010 and extending to 2012 and this would include all of the commercial and retail and the public open space and the park and fishing pier. She stated that Phases 2 and 3 should end in 2016 and Phases 4 and 5 should end in 2018. She noted that other issues relevant to the Waterfront Commission were included in the detailed staff memorandum before the Board that shows consistency with the Comprehensive Plan, Waterfront Zoning and the Land Development Project goals and objectives. She stated that in particular she would like to direct the Board's attention to page 5 of the staff memorandum which outlines numerous objectives of the Waterfront Plan that this development proposal is consistent with, and highlighted a few including that the development will foster of mix of commercial, residential and recreational uses along the

waterfront, giving priority to public access and recreational opportunities along the water's edge. She stated for the record that the proposal meets all these objectives. She also noted that they believe they have maintained viewshed corridors through the development to the water and the plan is very detailed in that regard. She noted that much time was spent on maintaining view corridors from the Veterans' Memorial Parkway to the abutting streets to maintain a water view. She noted that they are expanding public access to the water by the bikeway and park. She noted that this property is not now open to the public and they are proposing to open up this access. She stated that this development would allow the public to enter the site, recreate at the site and enjoy all the amenities that residents of the development would enjoy. Ms. Engustian noted that this will be a huge benefit to the City of East Providence and the development encourages people to come to the site as for recreational opportunities. She noted regarding the amenities noted on the top of page six of the staff memorandum, they will make certain that all these public amenities will be featured in the site. She noted that development also offers beautification in the park and throughout the site with significant landscaping.

Ms. Engustian noted that the developer would include the required affordable housing in each phase of the development. Mr. Michael Hennessy, a partner in the development, was also in attendance at the meeting.

In closing, Attorney Engustian respectfully requested that this Planning Board adopt the recommendation of the Planning Department as detailed on their memorandum dated July 8, 2009 and make an advisory recommendation to the East Providence Waterfront Commission that the Village on the Waterfront development proposal is indeed consistent purposes and intent of the City's Comprehensive Plan and the Land Development and Subdivision regulations. She thanked the Board for their time. Chairman Robinson asked the Board if they had any questions. Mr. Batty asked about the public park and whether it would have parking. Mr. Cole also asked about the number of parking spaces. Ms. Engustian noted that there will be on-site parking and parking on Waterfront Drive. She noted that under the regulations they are not in need of a variance. Ms. Boyle noted that there are 1,300 spaces.

City Solicitor James Briden swore in Mr. Michael Hennessy, of the development team for Village on the Waterfront and Chevron Development, who stated that buildings will have parking garages for residents of the buildings and then throughout the site, mostly along Waterfront Drive, there will be on-street parking. The street system in the upper tiers of the development will also have on-street parking. He also noted that there are a few hundred stalls of open parking just inside the main entrance (where the commercial is) opposite Waterfront Drive. There will be an ADA compliant access (American Disability Act), including an elevator down to the waterfront area. He said there would be plenty of public parking there and along the pier and the boardwalk and parks.

Mr. Batty asked what phase this walkway would be in. Mr. Hennessy answered it would be in Phase 1 from the Veteran's Memorial Parkway down to the waterfront and the park will be started then as well. Ms. Cole asked about the parking for the residences and the

type of residences. Mr. Hennessy anticipated that they will be for-sale units, and each will have 1.5 parking spaces, and some studios and one-bedrooms will have one stall.

Ms. Boyle asked Ms. Feather to give the staff recommendation. Ms. Feather asked that in the course of the Planning Board's deliberation that they enter the staff memorandum dated July 8, 2009 into the record of the meeting.

Ms. Feather noted that the City adopted a Waterfront Special Development District Plan on December 2, 2003 and included it in the City's Comprehensive Plan, and waterfront zoning ordinance amendments were adopted in March 2, 2004. She noted that the Planning Board's role in this process is that of offering an advisory recommendation to the Waterfront Commission as to whether the development is consistent with the purposes and intent of the City's Comprehensive Plan.

Ms. Feather noted that the Board's role in this instance is to determine if the development application, as proposed, is consistent with the City's Comprehensive Plan. She noted that two sub-committees of the Waterfront Commission, the Design Review Committee and the Hearing Panel, as well as the full Waterfront Commission are the permitting authorities for this proposal because of its location in the Veteran's Memorial Parkway Waterfront Sub-district.

She noted that the Waterfront Commission's Design Review Committee (DRC) held a public workshop on the proposed development in City Hall on July 7, 2009 at 6:30 PM, and that a joint Public Hearing of the DRC and the Hearing Panel will be held in Room 306 of City Hall on July 27, 2009 at 6:30 PM. The Waterfront Commission will consider the advisory recommendation of the Planning Board at the Public Hearing.

She noted the property is the former Gulf Oil site, which was previously used for many years for petroleum product storage and distribution. The former facility's main gate is located opposite the Lyon Avenue intersection with the Veteran's Memorial Parkway, which is a designated Scenic Roadway, and the site is made up of three assessor's parcels and has 2,000 feet of frontage on the Parkway. She noted that the proposal would require a future Administrative subdivision to merge the parcels into one and to plat the roads, including the extension of Waterfront Drive through this property made possible by a land swap with the Rhode Island Department of Transportation.

Ms. Feather noted that the proposed development would take place in five construction phases with Phases 4 and 5 to end by 2018, and at full build-out the development would contain nineteen buildings and provide 604 residential dwelling units (a mix of condominiums or townhouses), approximately 22,600 square feet of commercial and retail space, a 5,000 square foot restaurant with 100 seats, a 10,000 square foot gym for Village residents, a boathouse, and public open space for residents and visitors. Ms. Feather noted that the development also includes the creation of a public park at the western boundary of the site near the water, which would be accessible from Waterfront Drive, and the park would provide public amenities such as seating, lighting, bicycle

racks, trash receptacles, fishing pier, kayak rental shop, pedestrian walkways and bike path.

Ms. Feather noted that there is a substantial grade difference between the Veteran's Memorial Parkway and the lower elevation of the property towards the waterfront, and the site is arranged in "upper" and "lower" tiers. She noted that the site plans show how the view corridors are preserved by taking advantage of this topography along with building type and location. Ms. Feather stated that the heights appear to be in scale with the Veteran's Memorial Parkway.

Ms. Feather noted that the site is a former petroleum storage and distribution center, and therefore is considered a "Brownfield" and is undergoing site remediation under the jurisdiction of the Rhode Island Department of Environmental Management (RIDEM), which has reviewed and approved a preliminary Remedial Measures Work Plan. She stated that the application notes that most of the associated aboveground structures were decommissioned and removed as of 1999, and most of the product piping was dismantled and removed in 1987. She stated that the application also notes that further remedial measures are scheduled to be implemented at the site from September 2009 through December 2010, and following the remedial measures, an on-going monitoring and maintenance plan will be developed for the site under the jurisdiction of RIDEM.

Ms. Feather noted that the stormwater runoff from the site will be conveyed to and detained in a series of "rain gardens" in order to filter the runoff and remove a minimum of 80% of the Total Suspended Solids (TSS) before conveyance of the stormwater to outfalls along the water where it will be discharged to the Providence River. The application notes that Low Impact Development (LID) stormwater approaches will be utilized where possible to limit any potential impacts to the Providence River.

Ms. Feather noted that a Traffic Impact Study was prepared for the Master Plan by RAB Professional Engineers Inc., Cranston, Rhode Island and a peer analysis of this report is currently underway. She stated that traffic impact mitigation measures for full build-out include: a one-lane roundabout; linking the Village on the Waterfront to the existing terminus of Waterfront Drive and constructing an extension of Waterfront Drive along the waterfront frontage of the property; and improving pedestrian access and road-crossing safety possibly through the construction of a pedestrian tunnel from the property underground to the Metacomet Country Club (conceptual design at this time). Ms. Feather noted that the traffic impact study also took into account projected vehicle trips from other uses and other growth anticipated during the time frame up to full build-out.

Ms. Feather referred the Board to the attachment to the staff memorandum entitled "*Summary of Economic Impacts*" included with the applicant's submission that shows the job creation and positive fiscal impact of the proposed development.

Ms. Feather noted that the proposed facility would meet the ten percent (10%) affordable housing standard contained in the waterfront zoning for residential developments. Ms. Feather noted that the developer is requesting the adoption of Tax Increment Financing

(TIF) to assist in the redevelopment of the site. She stated that this is a \$141 million dollar project and of a very large scale. She stated that given the significant site challenges including the site's past history and environmental condition and associated remediation, depth of buildable area, location adjacent to a state-designated Scenic highway, and the required extension of Waterfront Drive to connect the "upper" and "lower" roadway, and to provide pedestrian access and public access to the Providence River, that the developer has indicated the Village on the Waterfront is not feasible without TIF.

Ms. Feather noted that positive findings with the Comprehensive Plan and Land Development Regulations are detailed on pages five through eight of the Planning Department staff memorandum dated July 8, 2009. She noted that there are more than fifteen positive findings in the Waterfront Plan alone, and that there are many other goals, objectives and policies in other elements of the Plan that are also furthered by the implementation of the Village on the Waterfront. Ms. Feather noted that the development meets the mix of high and medium density residential and commercial/retail uses.

Chairman Robinson stated that the Board has the staff memorandum and a copy of the map. Chairman Robinson stated that they have no information on the architecture, and are taking the staff's word on it. Chairman Robinson stated that he would be seeking more information for the next time. Ms. Feather noted that this was not something that they would normally look at, and the Waterfront Commission has a consulting architect to review conformance of the buildings with the design regulations. Chairman Robinson stated that was alright if the architecture was not something on which the Board is expected to give an advisory recommendation. Ms. Boyle indicated that she would invite the Board as well as the public to the Waterfront Commission's next public meeting on this project, and noted that the DRC workshop meeting was held the week prior on July 7<sup>th</sup> and at that meeting in addition to the presentation boards, a video was also shown which was a fly-through of the development and was very exciting. She invited the Board to the next Public Hearing which would be open to everyone and would be held in Room 306 on July 27<sup>th</sup>. She said this was a very exciting development and the video helped bring that to life. She stated that she asked the developer if the video could be linked to the Waterfront Commission's web site ([www.eastprovidencewaterfront.com](http://www.eastprovidencewaterfront.com)), and noted this should be accomplished in the next week or so. She stated that there have been no votes on this project by the Waterfront Commission or its subcommittees, with the full Waterfront Commission tentatively scheduled for August 11<sup>th</sup>. Ms. Feather noted that the Board's recommendation is the first formal vote in the process because it essentially gives the go-ahead for the project to move forward through the process.

Chairman Robinson state that the Board's vote is based on what Ms. Engustian has said and the staff's document. He said he is not asking for the entire application, but perhaps something more than one document should be provided to the Board. Ms. Feather indicated that the Board is not sitting as a permitting board on the particulars of the development. Ms. Boyle noted that what the Board has received for this development is in keeping to what has been provided to the Board in the past for waterfront proposals and that they are voting on whether it is in keeping with the Comprehensive Plan rather

than a design review related permit project. Ms. Boyle indicated that more could be provided, and the Department will require an executive summary prepared by the applicant for the Board for the next time. Ms. Feather also indicated that more could be provided, and she noted that the application is very large, including 53 plan sheets and a large three-ring binder containing a great deal of information, e.g. the narrative, drainage calculation, and traffic and fiscal impact studies, so it wasn't practicable to provide this to the Board in this instance when it is not sitting as the permitting authority.

Chairman Robinson asked if the Board had any other questions. On a motion made by Mr. Matthew Robinson and seconded by Mr. Batty, the Board voted 5 – 0 to enter the staff memorandum dated July 8, 2009 (including its attachments being the Site Plan (Sheet 13 of 53) and the Fiscal Impact Summary Sheet).

Chairman Robinson asked if there were any public members in attendance who wished to speak on the merits of this application. There were none. Chairman Robinson asked if there would any additional questions or comments by the Board. Chairman Robinson noted that he would like additional information for the next time, but he would certainly support a finding of consistency tonight for this development based on what was provided.

On a motion made by Mr. Robinson, seconded by Mr. Almeida, the Board voted 5 – 0 to recommend to the Waterfront Commission that the Village on the Waterfront, as proposed, is consistent with the City's Comprehensive Plan and that it continue through the local and State permitting process.

The Board then took a five-minute recess.

## **B. Public Information Meeting – Miles Avenue Subdivision - Master Plan Review**

Application No. 2008-07

Applicant: Michael West Builders, Inc.

Owners: Pamela West and Michael West Builders, Inc

Street Address of Property: 0 Miles Avenue

Assessor's Map 405, Block 3, Parcels 11 and 11.1

Ms Moravec resumed her position as a voting member on the Board, in place of Mr. Robinson.

Attorney Eric S. Brainsky of the Law Offices of Michael A. Kelly, representing the applicant, was sworn in by City Solicitor Briden. He noted that this was originally submitted as a minor subdivision and was reclassified to a major subdivision due to extension and creation of a street. He described aspects of the proposed cul-de-sac that would be part of the proposal, including defeasable easements for parts of the cul-de-sac on the applicant's property. He also stated that the size of the cul-de-sac was agreed upon by the Fire Department. He noted that the proposal includes two duplexes, that duplexes

are allowed in an R-4 district, and that the subdivision would comply with zoning requirements.

Atty. Brainsky described necessitated waivers including: A waiver to allow a cul-de-sac with a radius of 33 feet instead of the required 50 feet; a waiver from the sidewalk and granite curbing on the short section of Golf Avenue to be improved from its current improved terminus to its current platted terminus, and the use instead of an asphalt "Cape Cod Berm"; a waiver from the use of granite curbing on one side of this proposed new section of Golf Avenue; a waiver from the 50-foot right-of-way requirement to allow a right-of-way width of 40 feet for the newly created extension; and a waiver from the requirement that post-development drainage off of the subdivision be equal to or less than that of the pre-development condition of the property.

Atty. Brainsky briefly discussed the drainage, stating that the City Engineer and East Providence DPW was not in favor of a detention pond and pumps to take care of stormwater, with the current plan showing a swale that would divert water into the wetland. As a result they are seeking conditional master plan approval pending DEM approval of this concept.

He also said that the Planning Department memo states numerous concerns about drainage and also has concerns about the density of the subdivision. He stated that it is their position that because the project satisfies zoning, it can't be denied based on the Comprehensive Plan, noting that the Board is aware of the pending Lynn Avenue case regarding this issue, which is currently before the State Supreme Court.

Chairman Robinson noted an apparent difference of opinion between the applicant and the Planning Department regarding the density of the proposed subdivision. Atty. Brainsky and the Planning Department concurred that this discrepancy exists. Chairman Robinson asked Atty. Brainsky if they will concede that density is higher than the 5.8 dwelling units per acre (du/ac). Atty. Brainsky replied that what is being proposed here is not 5.8 du/ac, but they feel that it is less than the Planning Department determination of 8.3 du/ac and it probably exceeds 5.8 du/ac.

Richard Lipsitz, President of Waterman Engineering was sworn in by Mr. Briden. He also noted the City staff was not in favor of the use of pumps to deal with the stormwater issue. He stated that the proposed grass drainage swales should slow stormwater down, remove solids and improve the water quality, and that the wetland would rise 3/16 of an inch in a 25-year storm. Mr. Batty asked if water would go onto Agawam Hunt Club property. Mr. Lipsitz responded that it would go into the wetland where it goes now.

Mr. Batty asked if the water would go onto Agawam Hunt Club property. Mr. Lipsitz answered that the swale will drain water into the wetlands complex to the south and east of the property and that it's where the water goes now.

Erik Skadberg, City Engineer, was sworn in. He stated that pumping storm water is not desirable due to costs, maintenance etc., and that approval of the swales is up to DEM as the subdivision will be increasing the rate of run-off. 9

At this point, Chairman Robinson asked Atty. Brainsky to comment about a letter dated May 21, 2009 provided to the Board signed by Michael West and mailed to property owners, that letter indicating that if the Planning Board does not vote favorably in this proposal, the only alternative will be to build two community group homes for developmentally disabled persons. Atty. Brainsky confirmed with Mr. West that he did mail this letter to all on the abutter's list, in order to reach out to owners regarding options for the property. Chairman Robinson said that the letter seemed "more threatening than conciliatory".

Chairman Robinson then requested the Planning Department's recommendation on the proposal.

Planning Director Boyle noted that Wayne Barnes would go over the Planning Staff recommendation to the Board.

Mr. Barnes requested that the planning Staff Recommendation dated July 8, 2009 be entered into the record of the meeting.

Mr. Barnes then introduced the proposal on behalf of the Planning Department and outlined the three stages of major subdivision plan review, noted that public notice and advertising requirements had been fulfilled, and addressed vesting with regard to a Major Subdivision Master Plan. He then went through Planning Department analysis of, and recommendation on, the proposal as follows.

The applicant is proposing to improve the southern end of Golf Avenue to its platted southern terminus and to create an extension of the roadway south-southwestward a distance of approximately 110 feet through Parcels 11 and 11.1 (mostly Parcel 11) in order to provide access to, and street frontage for, both parcels. The parcels currently have frontage on an unimproved "paper street" segment of Miles Avenue. The proposed Golf Avenue extension would end in a cul-de-sac with a radius of 33 feet, part of which would be within the unimproved Miles Avenue right-of-way. The subject properties are located, at their closest point, about 170 feet northeast of the current eastern end of the improved portion of Miles Avenue. Parcel 11, the more easterly of the two, abuts the southern end of the *platted* portion of Golf Avenue, but the improved portion of that street currently ends about 25 feet north of this parcel. As a result, both parcels are effectively land-locked with respect to improved streets. Other properties that immediately abut the subject parcels are residences at 1 Golf Avenue and 1 Benson Avenues to the north, vacant Parcel 11.2 to the west, undeveloped Miles Avenue to the south, and the Agawam Hunt Club Golf Course to the east. The new configuration would result in Parcels 11 and 11.1 having areas of 9,298 and 11,550 square feet, respectively.

Two defeasible easements, totaling 629 square feet, are proposed to resolve portions of the cul-de-sac that clip the southwest and southeast corners, respectively, of Parcels 11 and 11.1 (Sheet C-1 of Plan Set). These easements would expire if the Miles Avenue right-of-way was improved by roadway construction from the current eastern terminus of Miles Avenue eastward through the proposed cul-de-sac at some point in the future.

The applicant further proposes to construct a duplex residential structure on each of the two parcels, both of which would have frontage on the created Golf Avenue extension. Re-grading of the terrain is proposed on both parcels and within the Miles Avenue right-of-way to the west, south, and east of the proposed cul-de-sac. A flagged wetland encroaches onto the southeastern portion of Parcel 11, which necessitates wetlands permitting from the Rhode Island Department of Environmental Management. This permitting must be obtained by the applicant prior to a Preliminary Plan being deemed complete for review by the City.

This proposal was originally submitted as a minor subdivision. The major subdivision process, in this particular case, affords the applicant with the opportunity to get approval of the Master plan before going through the time and expense of wetland permitting with the Rhode Island Department of Environmental Management.

Drainage issues were addressed by Mr. Barnes as follows. The wetland that extends onto the southeastern corner of Parcel 11 consists of several acres. Most of this wetland is on the Agawam Hunt Golf Club property to the east and southeast of the subject property, with a portion of it on other privately-owned property, including parcels identified as Map 305, Block 3, Parcels 22 and 23, to the south of the Miles Avenue right-of-way. Drainage from this wetland is generally eastward through the Agawam Hunt Golf Course, under Pawtucket Avenue just south of Centre Street, then through City property, namely the Agawam-Fynn Playground, to the Ten Mile River. The presence of this wetland necessitates an Application to Alter a Freshwater Wetland with the R.I. Department of Environmental Management in order to proceed with this proposal. That shall take place prior to the preliminary plan stage. Additionally, hydrology calculations stamped by a professional engineer must be submitted to support the design as shown. These shall be submitted during preliminary plan stage.

The applicant is proposing two drainage swales to serve the development. One, labeled "Drainage Swale #1", appears to drain Golf Avenue near the northwest corner of Parcel 11, through the northern portion of this parcel, to a rip-rap structure near its the eastern border. "Drainage Swale #2" extends from the cul-de-sac eastward through the City right of way ending at a rip-rap structure just outside of the flagged wetland, which appears to aid in channeling stormwater off of the subject property. By regulation, post-development run-off rates can't exceed run-off rates for the pre-development vacant condition of the property. The applicant proposed the use of pumps to comply with this regulation. The City Department of Public Works was not in favor of the use of pumps and has advised the applicant to submit the development plans and drainage report to DEM for their review. Pending that outcome, the City may require an alternatives analysis. Accordingly, the applicant is requesting a waiver from the post-development run-off requirement. A

concern of Planning is that the run-off is being channeled off of the applicant's property and into not only the City's right-of-way, but into the wetland and potentially affecting private property.

The Zoning Officer has reviewed this application and has determined that no variances are required for this proposal. Additional City staff have reviewed the proposal and that their comments are attached to the recommendation.

Following a completeness review by City staff, a "Certificate of Completeness" was issued by the Administrative Officer on February 20, 2009.

Mr. Barnes described the necessitated waivers as follows.

1. As noted above, the applicant is requesting a waiver from the requirement that post-development run-off rates from the property are equal to or less than pre-development run-off rates with the provision that all RIDEM regulations can be met upon their review.
2. If the waiver from the post-development run-off rate requirement is not granted, a waiver request from Section 12-17, which states that "Any detention or retention pond required for stormwater management shall be set back at least the required setback amount established by Chapter 19, Zoning", would be required .
3. The classification of Golf Avenue and its proposed extension is "local minor street", which has a required right-of-way width of 50 feet. The proposed right-of-way width is 40 feet. The improved portion of Golf Avenue and abutting unimproved Miles Avenue have right-of-way widths of 40 feet, but these streets were platted prior to current zoning and subdivision regulations. Accordingly, waiver from the right-of-way width requirement will be requested.
4. The regulations require cul-de-sacs to have a radius of 50 feet. The applicant has proposed a 33-foot radius, necessitating a waiver request from the radius requirement.
5. The applicant proposes asphalt curbing on the short unimproved platted portion of Golf Avenue, due to the potential for large puddles resulting from precipitation and the presence of a mature tree that may be affected by granite curb installation. As the regulations permit only the use for granite curbing, the applicant will need to request a waiver from the granite curbing requirement.

Mr. Barnes then detailed consistency with the East Providence Comprehensive Plan. He noted that it is the intent of the Natural, Historical, and Cultural Resources Plan Element of the East Providence Comprehensive Plan to protect the Ten Mile River System from urban runoff and encroachment from urban development, to attain zero-net runoff for both residential and non-residential properties, and to minimize damage from major flooding events. Mr. Barnes stated that flooding is an issue in the area of Centre Street

and Pawtucket Avenue including parts of the Agawam-Fynn Playground and a portion of Pawtucket Avenue itself, with flooding incidents evident in recent years. This project as proposed would appear to increase run-off into the wetland during times of heavy rainfall. This wetland ultimately drains eastward, through both private property the Agawam Hunt Club Golf, and eventually into the playground and to the Ten Mile River. Planning is of the opinion that it is in the best interest of the City not to encourage development that would conduct additional stormwater into this section of the Ten Mile Watershed. It appears as though options exist for development of the applicant's contiguous properties in a way that could contain drainage within these parcels.

Mr. Barnes noted that the East Providence Comprehensive Plan "Land Use 2010 Plan", within the Land Use Plan Element, designates the area of the proposed subdivision as "Low-Density Residential". This designation allows for residential density of 5.8 dwelling units per acre (du/ac) or less. The applicant has submitted a statement that the residential density of the subdivision as proposed is 5.8 du/ac. The subdivision plan proposes four (4) dwelling units on a 20,848 square-foot site, which yields a residential density of 8.3 du/ac, which is 43% higher than the low-density designation. The (Planning Department) calculation was derived by dividing the proposed number of units by the total buildable area of the two parcels in acres. The proposed 8.3 du/ac density also exceeds the existing density of the neighborhood bounded by North Broadway, Centre Street, the Agawam Hunt Golf Course, and Dewey Avenue, which is 5.4 du/ac, by over 50%.

Mr. Barnes also noted that the Land Use Plan Element further states that "While multi-family development and limited neighborhood commercial uses may be allowed, such uses shall not alter the dominant low density residential character of the area." The Housing Plan identifies a goal to "Preserve the quality of existing residential neighborhoods while accommodating growth." The proposed subdivision places two two-family dwellings in a single location within the neighborhood. In the opinion of Planning, this proposal negatively impacts the character of the immediate neighborhood which consists predominantly of single-family homes.

Mr. Barnes went over the General Purposes and Required Finding of the Land Development and Subdivision Review Regulations with respect to the proposal.

He noted that in accordance with Section 5-4 of the Regulations, prior to approval of any application for subdivision and/or land development project, the Administrative Officer or Planning Board, as applicable, shall address each of the general purposes stated in Article 1 and shall make positive findings of fact on all of the applicable standards listed below, as part of the proposed project's record. If a positive finding for any of these standards cannot be made, the Administrative Officer and/or Planning Board shall have grounds for denial of the project.

Mr. Barnes specifically noted Planning Staff comments on the following aspects of the General Purposes.

(a) Protect the public health, safety and welfare of the community;

Planning is concerned with the potential of the proposal to increase the risk of flooding downstream, including the area of the Agawam-Fynn Playground and also the adjacent private property and the portion of Pawtucket Avenue along the Ten Mile River. 13

(c), and (d), Promote high quality and appropriate design and construction of subdivisions and land development projects and, Protect existing natural and built environments and mitigate all significant negative impacts of any proposed development on the existing environment;

The subdivision would be served by extensions to the sewer mains on Golf Avenue.

Planning is concerned with the portion of the development on Parcel 11. Significant re-grading is proposed to enable the construction of a dwelling on this parcel, resulting in the drainage of stormwater close to the edge of, and off of, the parcel. Drainage Swale # 2 uses a City right-of-way, the unimproved Miles Avenue, to conduct and contain stormwater. The proposed drainage and re-grading designs potentially impact the ability of the City to improve the Miles Avenue right-of-way, and may impact access to, and the condition of, privately-owned parcels 22 and 23 to the south of the right-of-way. Additionally, Planning is also concerned about the general impact on the wetland to the south and east of the development on private properties, and on the potential for increased flow during times of heavy rain through both private and public properties to the east.

In the case of the approval of a drainage system, an agreement regarding its maintenance would be necessitated.

(e) Promote design of land developments and subdivisions which are well-integrated with the surrounding neighborhoods with regard to natural and built features, and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure;

A large majority of the existing dwellings in the immediate neighborhood are single-family dwellings, with widely scattered two-family dwellings. A mix of single-and two-family dwellings would therefore integrate more appropriately with the existing neighborhood infrastructure. Drainage considerations noted elsewhere, and in memoranda submitted by the City Engineering Division, and the use of a notable portion of a City right-of-way for re-grading and drainage, indicate that the given the physical constraints of the site, the proposal as submitted may be an overly intensive use of the property, particularly with respect to Parcel 11.

Mr. Barnes called to attention the following required findings.

A) Subdivision and land development project proposals shall be consistent with the East Providence Comprehensive Plan, including its goals, objectives, policy statements and

Land Use 2010 Plan, and/or shall satisfactorily address the issues where there may be inconsistencies;

The subdivision as proposed is inconsistent with the intent of the Natural, Historical, and Cultural Resources Plan Element to protect the Ten Mile River System from urban runoff and encroachment from urban development, and to minimize damage from major flooding events. The proposal as submitted appears to create a condition that would result in the conduction of stormwater from the subject property to an off-property location very close to a flagged wetland, which ultimately drains through public and private property and into an area already prone to flooding.

The proposal is inconsistent with the Land Use 2010 Plan by notably exceeding not only the required density in a neighborhood designated as low-density, but also the existing density of the immediate neighborhood. Concentrating two-family dwellings in single site within a neighborhood dominated by single family dwellings is not consistent with goals and policies of the Land Use and Housing Elements of the Comprehensive Plan.

B) All lots in a subdivision and all land development projects shall conform to the standards and provisions of Chapter 19, Zoning.

While there are no variances required according to the City Zoning Officer, According to Section 19-3, "These regulations are adopted in order to implement the goals of the city comprehensive plan with regard to general land use throughout the city and suitable development. In instances of uncertainty in the construction or application of any section of this chapter, the ordinance shall be construed in a manner that will further the implementation of and not be contrary to, the goals and policies of such comprehensive plan." Being that the proposal is inconsistent with multiple elements of the Comprehensive Plan, it cannot be deemed as being in conformance with Zoning.

C) There will be no significant environmental impacts from the proposed development as shown on the Plan.

As noted above, Planning is concerned about the potential increase in runoff from the property if the subdivision is executed as proposed, given the proximity of the site to wetlands that extend onto abutting private property; and the proposed regrading of, and use of, a City right-of way to resolve stormwater drainage from this development.

D) The Subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and buildings standards would be impracticable.

The proposed development of the subject property, particularly in regard to Parcel 11, appears to be over-intensive given the proximity to wetlands, the relatively flat topography of the adjacent area, and the density of the subdivision that would result.

Mr. Barnes then offered Planning Staff's recommendation based on the analysis provided as follows. Based on the proposed subdivision Master Plan's inconsistency with the Land Use 2010 Plan and the Land Use, Housing, and Natural Resource Elements of the City's Comprehensive plan, the numerous concerns regarding stormwater drainage, and that positive findings could not be made on all of the requirements of Section 5.4 of the Land Development and Subdivision Review Regulations, the Planning Department recommends that the Planning Board deny the Master Plan for this subdivision as proposed.

Following the recommendation, Chairman Robinson asked for clarification regarding whether the applicant would need DEM approval for the drainage plan. Ms. Boyle replied that this was necessary, and prior to preliminary plan. Chairman Robinson also asked if the staff recommendation would be any different if the applicant already had DEM permitting. Mr. Barnes affirmed that the recommendation would be the same.

Chairman Robinson also asked what recommendation the Planning Department has regarding other options that applicant may have to develop the property. Mr. Barnes stated that the property has frontage on unimproved Miles Avenue and that this right-of-way could conceivably be constructed to serve the development. Chairman Robinson also asked if the density issue alone was sufficient for a denial, to which Mr. Barnes answered "yes". Both drainage and density issues independently are grounds for denial.

Mr. Batty asked where the water run-off goes now. Mr. Lipsitz replies that it goes exactly where it will go if this goes forward, to the south and east into the wetland.

Mr. Batty also asks about the difference in density determination. Atty. Brainsky states that the difference is due to whether the area of the street is figure into the calculation. The applicant figured this area into the calculation and came up with 5.8 du/ac. Atty Brainsky disputed the Planning Department calculation of the density across the neighborhood, stating that there were more multi-family dwellings in the neighborhood than what appeared on a Planning Department memo from July of 2006.

Chairman Robinson asked what they thought that density actually was. Atty. Brainsky stated that they thought it was 5.8 du/ac. Atty. Brainsky then presented a map of the neighborhood that shows what the applicant's representatives believe is 70% more multi-family dwellings. Mr. Matthew Robinson asked for clarification regarding this map. Atty. Brainsky deferred to the applicant regarding this question.

The applicant, Michael West, was sworn in by City Solicitor James Briden.

Atty Brainsky then submitted a different map of the same area. He requested that the Planning Department memorandum of July 17, 2006 be admitted as "Applicant's Exhibit A" and the map labeled Planning Department Density Map with Corrections" be admitted as "Applicant's Exhibit B". He confirmed Mr. Robinson's interpretation that Exhibit B shows about 17 more multi-family properties in the neighborhood that Exhibit A.

Ms. Boyle asked what the applicant's density calculation actually is based on the use of the street area. It was noted that the applicant submitted a density of 5.8 du/ac. Mr. Barnes submitted a quick estimate of 6.7 du/ac based on four units on the two existing lots without removing the area of the proposed roadway. Ms. Boyle stated that we do not use public street area in calculating residential density of an area. Mr. Barnes noted that if the applicant includes street area in the subdivision density calculations, then the 16 neighborhood density figure would also need to include street area to make the comparison even. Using all of the city streets as part of the calculations makes the resulting density lower. Mr. Lipsitz said that there a 70% discrepancy in multi-family units in the neighborhood. Mr. Barnes stated that there may be 70% more multi-family houses but that this does not mean there are 70% more total dwelling units in the neighborhood. Ms. Boyle noted that with or without inclusion of street, the development still exceeds the 5.8 du/ac required by the comprehensive plan.

Mr. Robinson asked if there could be 4 dwelling units if the applicant built Miles Avenue instead of building Golf Avenue through the parcels. Mr. Barnes stated no, because the density would be 6.7 du/ac. Mr. Robinson stated that the issue comes down to three bedrooms, while Mr. Barnes stated that it is a matter of dwelling units as opposed to bedrooms. Three dwellings are an option based on use of the entirety of the two parcels without an extension of Golf Avenue being built through them.

Atty. Brainsky suggested configuring Golf Avenue as a private road but is not agreeing to give up two duplexes. He will talk to his client and see if he is amenable to considering one single-family dwelling and one duplex.

Diane Feather of the Planning Department commented on the lengthy process of determining the low-density designation now found in the Comprehensive Plan, based on a request be the City Council that was sitting at the times, and based on resident concerns that overly dense development was impacting neighborhoods negatively. The low-density calculation is felt to be very reasonable and was carefully derived by experienced planning professionals.

Mr. Robinson asked is a sidewalk waiver is granted if the funds from those could be put into an account to build sidewalks in another area of the City. Ms. Boyle states that it would be the recommendation of the Planning Department that funds be placed in such an account. Atty. Brainsky states that his client would be willing do this. This is addressed in the recommendation.

Mr. Robinson asked for clarification on the waiver regarding pre-development vs. post-development run-off and asks why the concept of a drainage pond and pumps was not acceptable to the City. He stated that based on the submitted drainage area map, the subdivision is about 2000 feet from the Ten Mile River, through a large wetland and questions how drainage could affect the river. Ms. Boyle stressed that the drainage affects abutting private properties no matter what happens. Mr. Barnes noted that even if the drainage doesn't make it to the river, but on its way it is getting into the wetland and

could be spreading out over the golf course and other private property. Mr. Robinson asked where the water goes now. Mr. Barnes said it goes in the same direction into the wetland, but there is a great deal more infiltration on site pre-development than the post development with roofs and pavement included. Run-off is direct from these areas with no infiltration.

City Engineer Erik Skadberg noted that the drainage has to be looked at from a watershed perspective and not just as a single parcel. Development of multiple parcels can have a major impact on the river, and that flooding on common already during major downpours, partially due to development that's going on. The apparent culverts on the golf course are also a potential restriction to water flow that can cause water to back up on the property.

Mr. Robinson asked for Mr. Skadberg's opinion on options for this project. Mr. Skadberg stated that there is room for more detention of run-off on the applicant's property.

It was noted that Mr. Barnes is a Certified Floodplain Manager for the City.

Chairman Robinson called a recess after which members of the public would be allowed to speak.

After the recess, the applicant requested that the matter be continued to the August meeting of the Planning Board to allow for an amended proposal to be submitted. He invited the public to return and comment on the amended the proposal at that meeting. Mr. Batty asked if one person could be allowed to speak for the group. Mr. Robinson stated that either public comment is allowed now, or the meeting is continued and public comment is allowed at the August meeting. Mr. Cole asked for an assurance that a different plan will actually be submitted. Atty Brainsky stated that he is prepared to submit a different plan that would include one single-family dwelling and one duplex, and to discuss alternative roadway and drainage concepts.

Mr. Almeida moved to allow the public to speak, without addressing the request for a continuance. The motion was discussed. Mr. Robinson preferred that the public be comment in August on the new plan, and not on the current plan at the current meeting. Mr. Batty suggested that people be allowed to speak, then the meeting should be continued to August.

Mr. Batty seconded the Mr. Almeida's motion.

Roll Call Vote:

Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Almeida	Aye
Mr. Cole	Aye
Chairman Robinson	Nay

The motion passed 4-1.

Mr. Batty moved that the meeting be continued to next month after allowing the public the opportunity to speak at this meeting.

Mr. Cole seconded the motion.

Roll Call Vote

Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Almeida	Nay
Mr. Cole	Aye
Chairman Robinson	Nay

The motion passed 3-2.

Members of the public were sworn in together by City Solicitor Briden. Chairman Robinson imposed a five-minute limit for each speaker.

Ms. Patti Moniz, 14 Golf Avenue stated that her husband was in Afghanistan, that she received the letter from Mr. West, they both viewed it as a threat, and wants it included in the record of the application. She cited property that Mr. West owns on Lynn Avenue and provided pictures of a portion of that property showing trash and photos. She gave the photos to Chairman Robinson.

Mr. Joseph Arruda, 10 Benson Avenue stated that the biggest issue for him is density. He said that some people have been in the neighborhood for over 50 years and that allowing this proposal would open up the possibility of similar projects in the area and continue to increase the density and integrity of the neighborhood. He was also concerned on impact on drainage, stating that most residents have water in their basements now. He asks that that Board think of this proposal not in just terms of one site, but in terms of the potential development of multiple sites.

Ms. Belinda Wilkerson, 1 Golf Avenue noted that her property abuts the Agawam Golf Course and that her yard floods now during periods of heavy rain. She said that the letter sent to neighbors by Mr. West was a veiled threat, and to use housing for the developmentally disabled as a threat was deplorable and un-called for. She felt that the development would have the most impact on her due to her proximity to it.

Mr. David Pruett, 21 Benson Avenue has water in his basement when there is water in the Agawam playground, and that removal of vegetation on the subject property would make this worse. He also noted traffic problems, stating that he couldn't park on his own road with cars parked on both sides, and has to park elsewhere at times and walk home.

Mr. Robert R. D'Aiello, 10 Golf Avenue reinforced the issue of density. He said that the area around the development is currently single-family houses and worries about water in his finished ground floor with more development. All of Golf Avenue has single-family homes and Mr. D'Aiello is concerned about two duplexes overpopulating the area.

Ms. Helia Almeida, 156 Metacomet Avenue told the Board that her driveway routinely floods during heavy rain and that there is way too much development in the area. She said that the applicant doesn't maintain his property, and that he doesn't live in the neighborhood but residents do.

Following public comment, based on the motion above to continue the Miles Avenue Master Subdivision proposal to the August meeting, the July Planning Board meeting is adjourned at 10:15 pm. Chairman Robinson requests that the two previously noted exhibits along with the photographs and the Michael West letter to abutters be included as part of the Planning Board packet for the continuation of this matter in August.