

February 11, 2008 - Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF FEBRUARY 11, 2008

Present: Anthony Almeida, Burton Batty, Octavio Cunha, Krista Moravec, Michael Robinson, Matthew Robinson, Jeanne Boyle (staff), Wayne Barnes (staff) and James Moran (staff).

The Board recited the Pledge of Allegiance at this time.

1. SEATING OF ALTERNATE MEMBER

Mr. Cunha was seated in place of Mr. Carcieri who was absent.

2. APPROVAL OF PLANNING BOARD MINUTES

- A. Minutes of November 14, 2007
- B. Minutes of January 30, 2008

It was noted the above minutes were in draft form and would be forthcoming.

3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

There was no correspondence.

4. NEW BUSINESS

A. Appl. #2007-22 Minor Subdivision - 800 Waterman Avenue, Applicant: B.A. Ballou and Company, Map 506, Block 1, Parcel 10

The applicant, Alec Ballou, Principal, BA Ballou and Company, 4 Heatherway, Barrington, RI is sworn in by Chairman Robinson.

Mr. Ballou apologized for missing the January 30th meeting of the Board because of a miscommunication between his attorneys.

Mr. Ballou explained that he wants to subdivide 5 acres off the main property at 800 Waterman Avenue for future development. A preliminary plan was submitted to the Board to see if this is feasible. David Gardiner has done all the site work and application work.

At this time, Dave Gardiner, David Gardiner and Associates, 200 Metro Center Blvd., Warwick, RI is sworn in and states there is approximately 17 acres. They propose to separate out the land containing the existing building consisting of about 12 acres, creating a 5-acre five acre lot with frontage on Commercial Way. They ask that the Board waive the requirement for construction of curbing and sidewalks on the Commercial Way frontage. The property is located in an I-1 zone. The wetland areas have been identified and flagged. There may be a need for a second access point for one of the parcels. A 24-foot wide easement is proposed on Lot 2 to provide emergency access off of Waterman Avenue to the proposed Commercial Way parcel. Further development is not planned as part of this subdivision.

Chairman Robinson asked if there were any questions, There were none.

At this time Mr. Barnes of the Planning Department presented the staff memorandum.

Mr. Barnes explained that the applicant is planning to subdivide their 16.9 acre parcel with frontage on both Waterman Avenue and Commercial Way into two parcels for the purpose of selling the one that would contain the existing manufacturing building at 800 Waterman Avenue. He explained the two stages of plan approval, Preliminary and Final and informed the Board they may vote to delegate Final Plan approval to the Administrative Officer. The Board may defer action to a later date, but must approve, deny, or approve with conditions within 65 days of the issuance of the Certificate of Completeness.

Proposed Lot 2 includes the building in the parking area. About 60 percent of the parking is behind the building; a total of around 330 spaces which 200 or so are in the back. There is no further development planned as part of this subdivision. A concept plan for potential future development of Lot 1 has been provided to show that it would be a buildable lot. Any future development would be reviewed by City staff as a separate Land Development Project. The portion of the property that fronts on Commercial Way is undeveloped and includes a mapped wetland in its northeastern corner that drains northward.

The application has been reviewed by the Zoning Officer who has determined that the subdivision as proposed is compliant with the requirements of Chapter 19, Zoning of the Revised Ordinances of the City of East Providence. The Departments of Planning, Public Works, Zoning, Fire, Law and Tax Assessor have reviewed the proposed plan and agree that it is in conformance with the Land Development and Subdivision Regulations, Zoning Ordinance and other applicable City codes and regulations.

A Certificate of Completeness was issued by the Administrative Officer on November 30, 2007. The applicant is requesting waiver of the sidewalk and curbing requirement for the Commercial Way frontage of the proposed Lot 1.

General Purposes.

The general purposes of the Regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, consistent with the provisions of the East Providence Comprehensive Plan and the East Providence Zoning Ordinance, accomplish the following:

- a) Protect the public health, safety and welfare;
- b) Provide for orderly, thorough and expeditious review and approval of land developments and subdivisions;
- c) Promote high quality and appropriate design and construction of subdivisions and land development projects;
- d) Protect existing natural and built environments and mitigate all significant negative impacts of any proposed development on the existing environment;
- 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;
- f) Encourage design and improvements standards to reflect the intent of the East Providence Comprehensive Plan with regard to the physical character of the various neighborhoods, districts, and special and critical areas of the City;
- g) Promote thorough technical review of all proposed land developments and subdivisions by appropriate officials;
- h) Encourage dedications of public land and impact mitigation to be based on clear documentation of needs and to be fairly applied and administered, and;
- i) Provide for the establishment and consistent application of procedures for local record keeping on all matters of land development and subdivision review, approval and construction.

Section 5-5 Required Findings.

Section 5-4 of the Regulations requires that, prior to the approval of any application for a subdivision, the Planning Board shall address each of the general purposes in Article 1 of the Regulations and shall make positive findings on all of the applicable standards listed in the staff memorandum dated January 8, 2008.

Mr. Barnes asks that the Board refer to the Engineering Division memo dated November 1, 2007. He states this memo is geared toward any development that would occur on the property later on. It is not part of this subdivision process.

Required Findings

A. Consistency with the Comprehensive Plan

It has been determined that based upon the submittal and the Required materials the Planning Staff finds that the subdivision of Parcel 10, as proposed, is consistent with the East Providence Comprehensive Plan

B. Zoning

The subdivision as proposed conforms to the guidelines of Chapter 19 Zoning per review of the Planning Department and the City's Zoning Officer.

C. Environmental Impacts

There are no significant environmental impacts. Additional development is not proposed on the subject parcel as part of this application. If this subdivision is approved, the environmental impact of this future development will be considered as part of a separate Land Development review.

D. Physical Constraints to development

The lot plan has been included that depicts a potential development layout which would meet the Zoning requirements.

E. The parcels to be formed will both have adequate frontage on and access to a public street.

F. Safe Circulation for Pedestrian and Vehicular

As noted, future development of the proposed Lot 1 would be subject to several land development review. The regulations require granite curbing and concrete sidewalks as part of the subdivision approval process. It is highly desirable for the City to have these installed as part of any land development project on the proposed Lot 1.

The Planning Department recommends that a bond be posted for the future construction of sidewalks and curbing with the understanding that the improvements need not be performed until development takes place on the parcel.

G. Design and Location of Streets, buildings, Lot Utilities and Drainage improvements and other improvements.

The subdivision as proposed does not include additional development and future development would be subject to a separate review.

RECOMMENDATION

Based upon the analysis provided above, the proposed subdivision is consistent with Section 1-2, "General Purposes" being that the General Purposes were addressed as part of Staff's review. Positive findings were stated to the standards of Section 5-4, "Required Findings" of the East Providence Land Development and Subdivision Review Regulations, with the acknowledgements that variances may be needed in order for any future construction to comply with the standards and provisions of Chapter 19, Zoning. In addition, it is the opinion of staff that the subdivision, as proposed, is fully consistent with the East Providence Comprehensive Plan. Therefore, staff recommends:

- A. That the Board delegate final plan approval to the Administrative Officer, and;
- B. That the Board *deny* the waiver from the requirement for curbing and sidewalks, and require the posting of a performance guarantee in an amount approved by the Public Works Department for the installation of a concrete sidewalk and granite curbing along the Commercial Way frontage of the proposed Lot 1, but with the understanding that installation of the improvements will not be required until the parcel is developed, and;
- C. That the Planning Board grant *Conditional Approval* of the subdivision, *as proposed*, subject to the following conditions:

That the title block of the Preliminary Plan be revised to indicate Final Plan status;

That the Final Plan indicate all existing utilities including pipe material, size and elevations.

That the Final Plan notes be revised to indicate that a portion of the property shown on the plan lies within Zone "A" (100-year or 1% annual chance floodplain) as designated on the Flood Insurance Rate Map, City of East Providence RI Panel # 4453980003C.

That any outstanding taxes including tangible tax be paid, to the satisfaction of the City of East Providence Tax Collector.

That the Final Plans be based upon the approved Preliminary Plans, and further that the Final Plan and supporting documentation meet the requirements of the East Providence Land Development and Subdivision Review Regulations;

That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements; and

That upon project completion, final plans be submitted on Mylar, and electronic format in AutoCAD version 14.

In regard to the waiver recommendation, Ms. Boyle said that the actual construction may not take place until at a later date. Under the Regulations, once preliminary approval is granted, not final approval, there is no limitation on how long it takes for the proponent to

come back for final approval. If you were to grant preliminary approval today, and they didn't choose to actually develop it until two years from now, they could actually come in two years from now and post the performance guarantee. Furthermore, if they chose to proceed immediately with the final subdivision approval, generally speaking, performance guarantees are good for two years. We don't really expect that there will be immediate or even near term construction of those improvements. This is why we are recommending that they do post the performance guarantee at such time that it is appropriate, but with the understanding that it is going to be developed later.

Chairman Robinson asks why we would even need to have an understanding that installation would not be required for the parcels. Ms. Boyle states it is more for the benefit of the applicant. We just want to make it clear that we did not expect the performance guarantee to be posted immediately, because our discussions with them have been very clear that actual development may occur sometime in the future, but on the other hand we are also not recommending an outright waiver of sidewalks.

Mr. Batty asks if they would still have to put in curbing and sidewalks if they decide to develop the lot five years from now. Ms. Boyle said not necessarily.

Mr. Batty asks what would happen if we stipulated it now. Ms. Boyle said that if you did stipulate it now and they came in for final subdivision approval without actually posting a performance guarantee, that lot could be conveyed to a different property owner. The performance guarantee gives us the ability to have that assurance regardless of who does the development. She said the applicant would have to post the performance guarantee before they get actual final approval so the property cannot be conveyed to any other property owner until that guarantee is posted. You would not have a conveyable lot until all of the Planning Board's approvals were in place.

Mr. Batty asked if the construction of Lot 1 is separate and construction takes place on that lot, then why can't sidewalk and curbing be addressed now. Ms. Boyle states at that point it would be outside the purview of the Board. She said under the current regulations there is no limitation on how long your preliminary approval is good for. You can wait two years to come forward with your final approval and if they post a performance guarantee, it's usually good for two years.

Mr. Gardner asks if, at the time, lot 2 is sold the performance guarantee needs to be posted for Lot 1. Ms. Boyle answered prior to that because if it is a conditional final subdivision approval you cannot actually record the final subdivision. Until the final subdivision is recorded in the Land Evidence Records, you don't have a lot to convey. You cannot sell it because it does not exist. If the performance guarantee is in your name as the seller, you can either transfer the performance guarantee responsibility to the buyer. We have had that come before the Board a few times. She said sometimes the buyer posts the performance guarantee in anticipation of the sale.

Chairman Robinson asks if there are any more questions from the Board. There are none.

Motion – Admission of the Staff Recommendation and Supporting Attachments

On a motion by Mr. Batty, seconded by Ms. Moravec, the Board unanimously voted to make the staff recommendation part of the Board’s official record.

Motion – Waiver Request from the Requirement of Curbing and Sidewalks

Tape 24:34

On a motion by Mr. Batty, seconded by Ms. Moravec, the Board voted 5-0 to deny the waiver for the requirement for curbing and sidewalks and require posting of a performance bond guarantee in the amount approved by the Public Works Department for installation of concrete sidewalks and granite curbing along Commercial Way frontage for the proposed Lot 1, but with the understanding that the installation of the improvements will not be required on the parcel until the parcel is constructed.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Cunha	Aye
Chairman Robinson	Aye

Motion – Approval of Subdivision with Conditional Approval

On a motion by Ms. Moravec, seconded by Mr. Cunha, the Board unanimously voted to

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Cunha	Aye
Chairman Robinson	Aye

Motion – Delegation of Final Plan Approval

On a motion by Ms. Moravec, seconded by Mr. Batty, the Board unanimously voted to delegate Final Plan Approval to the Administrative Officer.

B. Request for Release of Performance Guarantee – 197 Sutton Avenue Subdivision, Applicant: Rose Bezigan Map 205, Block 12, Parcel 37 and 38

Ms. Boyle noted this is a request for a full release and has been reviewed by the Department of Public Works for the adequacy for the improvements that were done. Public Works and Planning are both recommending a full release at this time.

There were no other questions at this time.

Motion – Acceptance of Staff Recommendation

On a motion by Mr. Batty, seconded by Ms. Moravec, the Board unanimously voted to accept the staff recommendation into the record.

Motion – Performance Guarantee

On a motion by Mr. Moravec, seconded by Mr. Almeida, the Board unanimously voted to a full release of this performance guarantee.

5. CONTINUED BUSINESS

A. Staff Report

There was no staff report at this time.

6. COMMUNICATIONS

A. copy of memo dated 1/25/08 to the Zoning Board of Review from the Department of Planning, Re: Requests for Variance or Special Use Permit to be heard on January 30, 2008

Motion - On a motion by Mr. Batty, seconded by Ms. Moravec, the Board voted unanimously to accept this communication and make it part of the official record.

B. copy of letter dated 1/28/08 to Jeanne Boyle from Jeffrey Willis, CRMC Re: CRMC Assent requirements of state law

Regarding this letter, Ms. Boyle said she didn't think the uncertainty was present in East Providence. We are aware of what the CRMC procedures are in terms of what stage they wish to comment on with land development projects. We have not had a lot of projects that require CRMC approval, but in those cases, we have made sure to solicit comments from the CRMC at the master plan stage.

Motion - On a motion by Mr. Batty, seconded by Ms. Moravec, the Board voted unanimously to accept this communication and make it part of the official record.

7. ANNOUNCEMENT

A. Next Meeting – Monday, March 10, 2008, 7:30 p.m., Room 306

8. ADJOURNMENT

On a motion by Mr. Batty, seconded by Ms. Moravec, the Board adjourned.

Respectfully Submitted,

Michael Robinson, Chairman

MR/JMB/sac