

# **June 9, 2008 - Planning Board Meeting**

## **CITY OF EAST PROVIDENCE**

### **PLANNING BOARD**

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#### *Minutes of June 9, 2008*

The Board recited the Pledge of Allegiance

Chairman Robinson welcomed the newest member of the Board, Robert Cole who is taking Mr. Carcieri's spot.

Present were: Burton Batty, Robert Cole, Octavio Cunha, Michael Robinson, Matthew Robinson, Jeanne Boyle (staff), James Moran (staff), Erik Skadberg, and Assistant City Solicitor Tim Chapman.

Absent: Ms. Moravec and Mr. Almeida

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

Mr. Cunha was seated in place of Ms. Moravec and Matthew Robinson was seated in place of Mr. Almeida.

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

##### A. Minutes of May 12, 2008

Mr. Robinson noted that on the last page of these minutes under "Next Meeting" it should say June 9, not July 14<sup>th</sup>. This will be corrected.

It was also noted that the motion on these minutes should be deferred to the next month's meeting since there were not enough voting members to have a second on the motion. The Board agreed.

##### B. Minutes of November 14, 2007

These minutes are forthcoming.

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

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

Motion by Mr. Batty, seconded by Mr. Robinson, It was noted that Items B and C would be heard before Item A.

**A. Public Informational Meeting - Appl. #2007-12 Master Subdivision -  
Madeira LDP, 288 Warren Avenue. Applicant: Albertino and Zita Milho,  
Map 206, Block 25, Parcels 2-12**

Attorney William Maaia, Warren Avenue, East Providence, representing the petitioner, Albertino Milho was sworn in. Mr. Maaia introduced the engineer, David D'Amico of Casali & D'Amico Engineering, 300 Post Road, Warwick RI was sworn in.

Mr. D'Amico gave testimony that he has been involved with the project since December 2006. He discussed the drainage elements of the project. The plan proposes to treat drainage runoff through an existing closed drainage system. He said he was asked to come up with a design that meets the zoning regulations. He described the Class 1 survey that included signs, drainage, landscape beds, building stairways etc. The plan is to move the two family home that had a former office and move the building onto an empty lot on Oakley Avenue and convert the vacant lot on Warren Avenue into a parking area for the proposed sports bar. One lot will include the restaurant and the other will be for a sports bar. All the lots are zoned C-3. There will be a combination of on street and off street parking serving the development. The applicant will be going before the Zoning Board for several variances. Islands and landscaping will be added to reduce the amount of run-off. They discussed the safety of having depressions in the parking lot associated with Low Impact Development (LID). Relative to landscaping buffers between uses, they will make sure the right type and size of landscaping plants will be installed and to install varieties that are high enough to create adequate screening.

Mr. Maaia explained the proposed parking plan table and analysis. He said that the Planning Department indicated there were discrepancies. Mr. D'Amico said the plans were correct, but the Narrative that went along with it had clerical corrections. Minor revisions to the table were made.

The Fire Department had expressed concern about the 20 foot clearance and the parking design. They were concerned that the access road at Oakley Street onto Lot 5 is only 12 feet which would not accommodate fire apparatus to the parking area behind the proposed structure. It also does not conform to NFPA 1, Sec. 18.2.2.5.11. Another concern is the access to the rear of the two-story sports bar restaurant on Lot 6. Access to the rear of the building is only 17 feet wide. They prefer to have not less than 20 feet, which will accommodate the placement of the fire apparatus. Based on meetings with the Fire Department, it appears that the issue can be resolved and that the 12 foot driveway width on Lot 5 will not be a problem and that modifications between lot lines between the sports bar lot and the house lot will allow the creation of a 20 foot lane width.

Mr. Robinson asked about the 5 foot buffer of trees. He asked that the trees be moved more towards to the property to provide a five foot buffer. The applicant agreed. Ms. Boyle said that would be easy to do since the owner owns both properties. Mr. Robinson asked about the possibility of putting a space in the front yard and makes the driveway a little longer. Ms. Boyle said that would have to be discussed with the Zoning Officer. There are regulations about stacking parking spaces that may not allow this.

There was a discussion about the dumpsters and their location. It was noted that they would be located between the two buildings instead of being pushed up against one building.

Mr. Maaia explained that parking spaces are needed when there is a big event. Other than that, all the spaces are not used at one time; just for luncheons and dinner events. They discussed seating issues and Mr. Maaia said there was a settlement agreement by the proprietor to come in and count the seats.

At this time, Albertino Milho, 288 Warren Avenue is sworn in. He testified that the State and City Fire Marshalls visited the Madeira Restaurant to make sure the restaurant wasn't overloaded. He said that most the time it is not even filled 50 percent of occupancy. He said that there may be three events a week. Mr. Maaia said that Mr. Milho has done numerous improvements to his property and has probably the nicest landscaping in the City. Mr. Milho said at first it was just a small property but he has made many improvements and it has the nicest landscaping in the City.

#### Staff Recommendation

At this time, Mr. Moran presented the staff memorandum. He indicated that the application is at Master Plan stage and that all property owners within a 200 foot radius were notified by certified registered mail on May 9th. The Board must make a decision within 120 days from the date of issuance of the Certificate of Completeness, which was issued in April. The applicant must go through a Master, Preliminary and Final Plan review process. Mr. Moran indicated that there have been numerous discussions within the past year to get to the point where we are now. The proprietor has completed significant documented and undocumented renovations since the 1990s. The Zoning Variances have been documented by the Planning Department with an attached report completed by the Planning Department. The settlement agreement which is attached to the staff memorandum was approved and signed by parties in the City and the applicant, but the Municipal Court never signed off on the agreement. Please see page 3 of the staff memorandum. However, that does not take away the obligations of the applicant to obtain an approved Land Development Project. He noted they are in violation of a number of ordinances and we are here tonight to rectify a number of these issues and bring the development into compliance.

Mr. Batty asked if the reason the court did not sign off was because they did not complete all the steps and that this Board is one of those steps towards completion of this project. Mr. Maaia said the applicant started this process before that agreement was written. Mr. Moran said the Department wanted to note the discrepancy in the memorandum and wanted it on the record that the recommendation should be modified to state that the municipal court did not sign the agreement. He again noted the City's objective is to make this project compliant with all appropriate regulations.

Mr. Moran said the property is located at 288 Warren Avenue containing approximately 2.1 acres of land. Notice was sent to the abutting property owners through certified mail. It was advertised on May 30, 2008 in the Providence Journal. Access to the site will be provided through Warren Avenue, South Sharon and Oakley Streets. The development is served by City sewer and water.

Regarding drainage and utilities. The development will have an existing closed drainage system. The Department of Public Works has reviewed the utility plan. The Engineering Division suggests using Low Impact Development (LID) technology in the development of traffic islands within the commercial parking areas. The Planning Department recommends that the comments provided by the Public Works Department and City Engineer be incorporated in the Preliminary Plan. We will work with the applicant to see how those depressed islands will affect traffic flow.

Regarding zoning permits, Mr. Moran states there are a number of zoning related issues. The Zoning Officer's memorandum covers a long list of requirements associated with Zoning relief. He did a very good job of breaking them down and Planning does agree with the Zoning Officer's findings and that the applicant will need to have all necessary zoning variances and special use permit approvals approved and in place in order to proceed to the Preliminary Plan submission phase.

Planning asks that no additional structures be proposed and that a stipulation be put in the recommendation. This is critical since there are significant constraints associated with parking within the development. Planning also recommends that a stipulation be approved that requires that the residential units remain in perpetuity as two family dwelling units and that no additional units be added in the future. The Zoning Officer had also commented that some of the buildings incorporate office space.

There is a lack of detailed signage on the plans and Mr. Moran indicated that this is one of the details that will need to be provided in the Preliminary Plan. Architectural plans need to illustrate interior existing and proposed conditions for all complex buildings. Actual seating arrangements should be provided for both restaurants, inclusive of interior and exterior seating. The plans submitted appear to minimize actual seating capacity. He said the Zoning Officer indicated that he was skeptical of the seating as provided by the architect for the restaurant properties. Planning believes it makes sense to have a peer review for the seating plans as submitted in order to have confirmation that the seating, as proposed, is adequate in terms of the use at the restaurants. A seating peer review analysis should be conducted by an independent firm selected by the City at the applicant's expense to definitively determine the seating capacity for the restaurant and sports bar to confirm the numbers to see if the seating proposed is adequate. The review should be completed prior to a Zoning Board of Review hearing for off-street parking to assure the appropriate off street parking count is established since restaurant seating will reflect the amount of parking variance that is requested. Ms. Boyle said the Fire Department looks at different types of occupancy based on the type of event that is occurring. An architect or engineer should verify the numbers and that will drive the parking requirement. Peer review is common practice and we have done it on traffic, and

drainage etc. for different projects. Ms. Boyle reminded the Board that they will see the revised plans when they come in for Preliminary Plan review.

Mr. Cunha said we have already seen the report and why are we imposing upon them for the completion of another report. Ms. Boyle states we have never had an issue where seating capacity has come up. The architect review will look at the numbers provided by the applicant and go from there. She stressed that this would be a peer review of the data provided by the applicant and that a new analysis of the seating plan would not be completed. They would simply be analyzing what has been completed by the applicant.

#### Landscaping Plan

Mr. Moran states that the Zoning Officer is requesting a buffer between the commercial and residential properties Lots 1 and 2; lots 1 and 3; lots 4 and 5; and lots 5 and 6 should contain plant materials that are adequate in height. This should be shown in the preliminary plan.

#### Traffic Assessment/Parking Layout

Mr. Moran noted that a traffic assessment is not required at Master Plan phase. The applicant, however, has provided the traffic analysis at Master Plan stage. The DPR Committee requested the submission of a general traffic impact analysis by the developer at Master Plan phase. He discussed the general findings of the traffic report.

The proposed parking plan provides a layout which includes a combination of off-street and on-street parking spaces. A table of parking calculations was included in the staff memorandum.

#### Proposed Parking Plan and Analysis

Mr. Moran noted that the Planning Department recognizes that the on-street parking is a way of life in that neighborhood. He noted that people do park on Warren Avenue, South Sharon and Oakley Street when visiting this property. It should be noted however, that the parking demand for the property cannot include off-street parking when calculating the parking requirements for the development. The Zoning Board will be looking at off-street parking only when calculating parking, and as such this is the only relevant number that will matter. On street parking will, of course be used but cannot be included in meeting the parking demand for the development.

#### Fire Department Review

The Fire Department identified several design issue problems associated with the parking layout design. Their concerns are mainly with the widths of the driveway lanes behind the proposed sports bar, a driveway located adjacent to the residential dwelling on proposed lot 5, and the angled parking proposed on the southeast corner of the Madeira Restaurant, lot 4. The applicant met with Fire Department personnel and tried to resolve

these issues at a recent meeting. Also noted is that the Fire Department has not yet had the opportunity to review the Sports Bar for fire code compliance. Mr. Moran went through the six items noted in the Fire Department staff recommendation. Based on the Fire Marshalls comments on fire code compliance for the buildings, the Planning Department recommends that the Board seek an advisory opinion from the City Solicitor as to how these issues affect the LDP review and how these issues should be handled under the context of this Land Development Project review. The Planning Department notes that this may affect how the Board will review the Preliminary Plan submission after the City Solicitor reviews the Fire Department's issues.

Waiver of the seat count – Mr. Maaia discussed the seat count. He suggests that this issue go before the Zoning Board and he can make his case before the Board. Our engineer has testified to the seating. He suggests that the Board visits the restaurants to review the seating. He commended the Planning Department for their due diligence and patience.

Chairman Robinson asks Ms. Boyle if the Board can vote on the Master Plan approval tonight subject to a satisfactory response from the Fire Marshal with respect to his concerns in the memo. Do we get an advisory opinion from the City Solicitor first? Ms. Boyle noted that the Madeira Restaurant is currently occupied and functioning, but not the sports bar. If the solicitor is comfortable with it I would suggest getting an opinion from the Solicitor as a condition of Master plan approval saying that we will deal with those two other issues later in the process i.e. at the Preliminary Plan Phase.

Chairman Robinson said he has a letter that was dated five days ago that states that the restaurant is out of compliance with the Fire Code and that he has concerns with this.

The Chairman said he would feel more comfortable getting a memo from the Fire Marshall saying that it is safe and that he thought that the language in the decision of the Board should reflect this.

#### Comprehensive Plan Consistency

Mr. Moran said that this area is designated as "Retail" . This development meshes well with the retail character of the neighborhood.

The Planning Department feels that the development is consistent with the City's Comprehensive Plan. The Plan defines the dominant character of this land as follows:

*"The dominant character of this land use shall be retail business enterprises. The scale of the development shall be compatible with existing or planned surrounding uses. Other commercial uses including services and offices may be allowed, but shall not alter the dominant character of the area. Residential uses may also be allowed but may not alter the character of the retail area and should serve as a buffer between the retail development and adjacent residential areas."*

## Recommendation - Master Plan

Based upon a finding that the proposed development is consistent with the East Providence Comprehensive Plan, meets the general purposes stated in Article 1 of the Regulations and further that the required findings of Section 5-4 of the Regulations are met, staff recommends Conditional Approval of the Land Development Project Master Plan submission as proposed subject to the following conditions of Master Plan approval being incorporated into the Preliminary Plan submission:

The Board's vote was based upon a finding that the proposed development is consistent with the East Providence Comprehensive Plan, meets the general purposes stated in Article 1 of the Regulations and further that the required findings of Section 5-4 of the Regulations are met. Conditional Approval was granted by the Board subject to the following conditions of the Master Plan approval being incorporated into the Preliminary Plan submission:

- (1) That all comments in the technical staff memoranda to the Planning Department and all other requested modifications identified in this recommendation memoranda be incorporated into the Preliminary plans as submitted; and that any and all conditions of the Planning Board approval be reflected in the Preliminary Plan submission;
- (2) That the applicant obtain all necessary Zoning Variances and Special Use Permits prior to the submittal of the Preliminary Plan submission;
- (3) That landscaped screening between lots 1 and 2; lots 1 and 3; lots 4 and 5; and lots 5 and 6 contain plant selections that are of an adequate height to assure proper screening between the uses;
- (4) That the proposed residential dwellings on the site be restricted to that which is currently proposed on the Master Plan and that no additional dwelling units be created within the structures beyond what is currently proposed under this Master Plan;
- (5) That the applicant consider the use of Low Impact Development (LID) technology in the development of traffic islands within the commercial parking areas, as opposed to the development of raised landscaped islands;
- (6) That the Board mandate the completion of an independent peer review of the seating plan analysis submitted by the applicant through a contractor selected by the City, at the applicant's expense, to examine and confirm or refute the findings of the seating capacity analysis for the restaurant and sports bar. The results of the peer review should be completed prior to a Zoning Board of Review hearing for off-street parking relief to assure that an accurate off street parking count is established for the purposes of seeking Zoning relief;

- (7) That the applicant provide official correspondence from the East Providence Fire Department that the applicant has entered into an approved plan with the Fire Department to bring all outstanding Fire Code violations on the property into regulatory compliance;
- (8) That the Preliminary Plans and supporting documentation be based upon this Master Plan approval, and that the Preliminary Plans meet all City regulations and ordinances, and all applicable State and or/Federal Regulations;

Chairman Robinson questioned number 5. Ms. Boyle said sometimes it is better to have the island recessed and sometimes better elevated. The applicant said they agreed. It was indicated that the applicant would work with the City to determine if the depressed landscape island was viable for the development.

Mr. Batty asked about item number 6 and if the recommendation is to have an independent engineer and architect come up with the seating capacity. Ms. Boyle said yes, that an independent engineer paid by the applicant will do a peer review of the Madeira Restaurant and sports bar to determine if what has been submitted is acceptable. Staff will get three quotes and the applicant will have the right to choose the engineer or architect.

#### **Motion**

On a motion by Mr. Batty, seconded by Mr. Robinson the Board voted unanimously to accept the Planning Department report into the record along with all stipulations and documentation attached.

Chairman Robinson states he would like to see as a condition of approval a satisfactory response from the Fire Marshall with respect to the concerns raised in the June 4<sup>th</sup> email received indicating that this application is fully in compliance with the Fire Code. He will only support this application if the Fire Marshall's concerns are addressed.

Mr. Robinson said he disagrees with the Planning Department's recommendation and does not think this application is consistent with the Comprehensive Plan because of the safety concerns plus there is no sprinkler system at the Madeira. He said based on the Fire Department's memo of June 4<sup>th</sup>, it is not consistent with the Comprehensive Plan. Chairman Robinson said we would be approving this only subject to them getting the zoning variances and a satisfactory response from the Fire Marshall. He also noted a zoning variance must be sought. These would be Master Plan stipulations for approval. After discussion Mr. Robinson agreed that with these stipulations in place the issue of Comprehensive Plan consistency was addressed.

#### **Motion – Conditional Approval**

On a motion by Mr. Robinson, seconded by Mr. Batty, the Board voted unanimously to grant conditional approval only of the application subject to all the conditions mentioned in the Planning Department's recommendation in addition to complying with all State and Local Fire Codes and meets all the recommendations of the City's Fire Department.

## Roll Call Vote

Mr. Batty	Aye
Mr. Robinson	Aye
Mr. Cole	Aye
Chairman Robinson	Aye

### **B. Appl. #2007-23 Minor, 210 Taunton Avenue/59 Mary Street Map 206, Block 2, Parcels 14 and 15**

Bruce Cox, attorney for the applicant was sworn in. He noted that Scott Realty Holdings, LLC is no longer the applicant. It is now Gregory A. and Cornelia Scott

Mr. Richard Lipsitz was sworn in. He explained that they are going to take the residential property and create a new lot. The pass-through from Mary to Taunton Avenue is going to be eliminated. He explained the parking Tape 08:14 There will be four parking spaces. He said the City Engineer had suggested having a drywell to help mitigate the runoff, but Mr. Lipsitz said he does not see a need for it.

At this time, Mr. Skadberg, City Engineer is sworn in. He suggests the drywell because this will further reduce the runoff from the site in addition to the reduction of impervious area. Also it is recommended that all four parking spaces be parallel to Mary Avenue. This will provide for a 24-foot wide aisle. A small bump-out (5 feet) may also be required so the southerly parking space will have adequate space to back up.

Mr. Batty asks where the about the drive through connection between Mary Avenue and Taunton Avenue. Mr. Cox indicated that a fairly large portion of the asphalt would be removed and replaced with grass. Mr. Batty asked if Lot 1 will provide the parking at the two family house. Mr. Cox answered yes and also indicated that the garage will be used for storage by the funeral home.

Mr. Batty asks if the number of parking spots will be reduced at the funeral home. Mr. Cox indicated that the number of Parking spaces would be reduced. Mr. Lipsitz said most of the parking spaces do not get used, only in times of funerals or visiting hours. The hearses are not owned anymore by the funeral home but private parties at a private company and are not parked at the funeral home.

## Staff Recommendation

James Moran, Principal Planner, City Hall, 145 Taunton Avenue was sworn in and went through the staff report. He explained the Subdivision Regulation and Preliminary Plan procedure for a minor subdivision submission and noted that the Board's decision must be made within 65 days from the date of the issuance of the Certificate of Completeness.

The property is zoned R-6 on the Mary Avenue side and C-2 on the Taunton Avenue portion of the property. The property at 210 Taunton Avenue contains an existing funeral home. The R-6 portion of the property fronts on Mary Avenue. He explained what the R-6 district allows within the lot minimum and what the C-2 allows on a minimum of 10,000 square feet. Mr. Moran noted the structures have been in place since the earlier 20<sup>th</sup> century.

The application has been reviewed by all appropriate City Departments. Staff recommends that the applicant address items 1 and 3 of City Engineer Erik Skadberg's memorandum in their final plan submitted for review and approval by the Department of Public Works. Comment 1 is very relevant as it is imperative to confirm that the sewer connections for each of the proposed parcels are separate from each other. Also noted, is that the applicant incorporate a drywell as requested by the City Engineer.

Mr. Moran said that staff does not object to the proposed parking layout at 59 Mary Avenue. This will preserve the landscaping on the site even though the parking arrangement is a bit cumbersome. The initial design had the layout a little different, but Planning does not object to the modifications which will work to preserve green space on the residential property.

The Zoning Officer has identified several variances that will be required and further, has identified that the commercial area will need to designate a trash storage area on the site.

The submitted tax lien certificate indicates an unpaid balance. Prior to the recording of the final plans, the applicant should be required to be current on all tax payments to the City. This may have already been completed by the applicant.

### Comprehensive Plan

Regarding the consistency with the Comprehensive Plan, Mr. Moran explained that this subdivision is part of the Taunton Avenue corridor which is a mixed use district. These uses around the neighborhood are consistent with what you see in this particular corridor area.

He went through Comprehensive Plan consistency findings and noted the development is consistent with the Comprehensive Plan and the development is also consistent with the General Purposes of the East Providence Land Development and Subdivision Review Regulations as noted in the required findings.

### Recommendation

#### Subdivision

Based on the finding that the proposed subdivision is consistent with the East Providence Comprehensive Plan, that it meets the General Purposes of Article 1 of the Regulations

and that the required positive findings of Section 5-4 can be met, Planning recommends Conditional Approval of the requested Preliminary Plan submission subject to the following:

1. That all comments in the technical staff memoranda to the Planning Department (as attached) and all other requested modifications identified in this recommendation memoranda be incorporated into the plans as submitted; and that any and all conditions of the Planning Board approval be reflected in the Final Plan submission;
2. That the Final Plans and supporting documentation be based upon this Preliminary Plan approval, and that the Final Plans meet all City regulations and ordinances, and all applicable State and or/Federal Regulations;
3. That the Title Block of the Final Plan be revised to indicate Final Plan status;
4. That a performance guarantee be submitted to the City under Final Plan approval for the costs associated with the installation of granite curbing and a concrete sidewalk patch along a small portion of the frontage of 59 Mary Avenue. The amount shall be calculated by the applicant's engineer and submitted to the Department of Public Works for review and approval;
5. That the applicant obtain the necessary Zoning Variances as identified by the City Zoning Officer in his technical review memorandum;
6. That all unpaid taxes on the property, as identified in the Tax Lien Certificate report submitted with the application, be paid prior to the recording of Final Plans;
7. That the Title Block of the Final Plan be revised to indicate Final Plan status;
8. That upon project completion final "as-built" plans be submitted on Mylar, and electronic format in AutoCAD version 14. The as-built drawings shall include all roadway and utility information, including final inverts, rims, sewer lateral depths and locations (swing ties) to all permanent structures.

Chairman Robinson asks if there are any comments or questions by the Board or public. There are none.

**Motion** – To enter the staff recommendation and supporting documentation into the Board's official records.

On a motion by Mr. Batty, seconded by Mr. Robinson, the Board voted unanimously to accept the staff recommendation and supporting documentation.

After some discussion regarding the applicant not wanting to put in a drywell and instead making a depression in that area near the residential parking area to secure any runoff, the Board makes a motion.

**Motion** – to amend approval stipulation language to state that the applicant install a drainage swale area instead of the drywell.

On a motion by Mr. Batty, seconded by Mr. Robinson not to enforce the drywell installation, but put a slight depression in the ground adjacent to the proposed parking area to accommodate roof drainage.

**Motion** – Grant Conditional Approval of the Subdivision

On a motion by Mr. Batty, seconded by Mr. Robinson the Board voted to approve the subdivision, with the noted modifications, based on the submitted application being consistent with the General Purposes of Section 1-2 of the East Providence Subdivision and Land Development Review Regulations and that positive findings have been met for the standards of Section 5-4, Required Findings. It is also apparent that that the proposed subdivision is consistent with the East Providence Comprehensive Plan.

Roll Call Vote

Mr. Batty	Aye
Mr. Cole	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Chairman Robinson	Aye

**Motion** – Final Plan Approval to the Administrative Officer

On a motion by Mr. Batty, seconded, Mr. Robinson, the Board unanimously voted to give Final Plan approval to the Administrative Officer.

**C. Appl. #2007-28 Minor, 2 Main Street, Map 412, Block 15, Parcel 4**

Ms. Boyle states that the applicants are present tonight and wish to speak.

Attorney John R. Izzo, PC, 25 Blackstone Valley Place, Lincoln, RI for the applicant was sworn in. Mr. Izzo stated that he represents the applicants. He states the applicant is requesting to subdivide the property into 3 residential lots on 30,864 square feet of land located at 2 Main Street. There is an existing single family on one of the proposed lots.

Mr. Norbert Therien of National Land Surveyors Inc., Woonsocket, RI was sworn in. He states his firm performed and prepared the plan that is before the Board tonight. The property is 30,864 square feet and has an existing structure located on it known as 2 Main Street. Three lots will be created. One lot of 11,466 square feet and Lots B and C are

9,964 square feet and 9,424 square feet respectively. Public utilities are available to this area.

Mr. Moran asks at this time that the staff recommendation and attachments be made part of the Board's official record.

Mr. Moran explained that this is a preliminary subdivision for 3 lots on 30,864 square feet located at 2 Main Street. The subdivision has been submitted by Claire J. Aul and Judy M. Bessette. A Certificate of Completeness was issued on May 30, 2008. The notice to abutters was mailed via certified mail on June 2<sup>nd</sup>.

The zoning of the property is R-3 which allows a lot minimum of 7,500 square feet, a minimum width of 75 feet and a minimum depth of 100 feet. There is an existing single family dwelling on proposed parcel A which is 2 Main Street.

Mr. Moran noted that all comments provided by City Department staff should be incorporated into the final plans. He also indicated that Planning does not object to the granting of a waiver from sidewalk requirements but that the applicant should be required to deposit appropriate funds into the City's sidewalk and curbing program in lieu of installation of sidewalks along the frontage of the development. The amount of funds would be negotiated between the applicant and the Department of Public Works.

#### Subdivision

Based on the finding that the proposed subdivision is consistent with the East Providence Comprehensive Plan, that it meets the General Purposes of Article 1 of the Regulations and that the required positive findings of Section 5-4 can be met, Planning recommends Conditional Approval of the requested Preliminary Plan submission subject to the following:

1. That all comments in the technical staff memoranda to the Planning Department and all other requested modifications identified in this recommendation memoranda be incorporated into the plans as submitted; and that any and all conditions of the Planning Board approval be reflected in the Final Plan submission;
2. That the Final Plans and supporting documentation be based upon this Preliminary Plan approval, and that the Final Plans meet all City regulations and ordinances, and all applicable State and/or Federal Regulations;
3. That the applicant, in lieu of installation of sidewalks along the frontage of the development, provide appropriate would be estimated by the applicant and reviewed by the Department of Public Works;
4. That the Title Block of the Final Plan be revised to indicate Final Plan status;

5. That all unpaid taxes on the property, as identified in the Tax Lien Certificate report submitted with the application be paid prior to the recording of Final Plans.

The Zoning Officer has reviewed the application and the development meets all the requirements of Zoning. Also, the Fire Department has reviewed the application.

Regarding the Performance Guarantee, the amount of funds to be allocated have been estimated by the applicant's surveyor. A modified Performance Guarantee will have to be done to accommodate the installation of additional curbing that must be installed to the edge of the property. This additional curbing and the modification of the value of the performance guarantee will be subject to the review and approval of the Public Works Department.

- B. Consistency with the General Purposes of the East Providence Land Development and Subdivision Review Regulations.

It is noted that the development is consistent with the Comprehensive Plan and Subdivision Review Regulations and is well within the limits of the low density residential character.

Regarding the waiver for sidewalks request, the Planning Department is amenable to the waiver request for a sidewalk waiver, however we wish to create a stipulation that in lieu of installation of sidewalks, that the applicant deposit the funds into the City's curbing and sidewalk program through the Public Works Department. The amount of funds will be estimated by the applicant and reviewed by the Public Works Department. The applicant questioned the amount and whether it is negotiable. Mr. Moran said that in the past, the City would have the applicant get a quote from a contractor who has experience in installing sidewalks. Public Works will review the quote for approval.

Tape 49.46

A discussion took place regarding the time period for preparing Final Plans. Ms. Boyle stated there has not typically been a big gap in time between the Notice of Decision and the recording of plans, but between preliminary and final the applicant usually has more than enough time to complete necessary changes. Assistant Solicitor, Timothy Chapman, suggested that the applicant request an extension of the approval, if necessary. There are no penalties, but he suggests that they put the request in writing and that you waive any of your rights to appeal it because it has not been recorded.

#### Public Comments

Christine Gausland of Main Street, Riverside, RI said she has no objections with the subdivision but is concerned that the new owners will not keep up their property as the owner of 2 Main Street has not. She said the site is akin to a dump site. There is trash all over and the owners were cited for having 150 dead birds and too many dogs. Chairman Robinson suggests that she speak to the Zoning Officer or City Manager to complain about the unkempt property or any code violations present on the property. She asked

what kinds of homes would be built. It was noted, single family but the type of design has not been finalized.

Matthew Robinson asks Mr. Chapman if we can make it a condition of approval that the Building Inspector inspect 2 Main Street for any building or zoning violations or minimum housing violations to address this neighborhood problem. Mr. Chapman said no, that is not under the purview of the Board's review. Ms. Boyle said that the Building Division would be the one to address any code violations; it is not under the Planning Board's purview.

Ms. O'Donnell, 75 Francis Street said she has only a side yard and lives next door to the subdivision. She is concerned that the homes will be too large. Mr. Moran said that the Zoning Officer has said that the application has met the requirements. The homes will meet all setback requirements and all other requirements of Zoning. Ms. O'Donnell also expressed her concern about the soil and once they start digging and turning that soil over. Will it be tested. The applicant states they have not done any soil evaluations.

Someone from the public asked about the underground water level and once the lots are built will it elevate the water table. It is already high. The applicant said the single family homes will be built on slabs so they will not be placing any foundations into the ground.

Someone asked about curbing on Main Street and they have a problem with water since they are at a lower water table. There is a concern about the water running into her property because of the new curbing. They said no it would not go down that far, but Mr. Batty suggests that if she wants curbing, that they apply for the curbing program through the Public Works Department.

The owner of 2 Main Street said he is trying to improve the property. He explained that his father used to own it and had collected a lot of junk. He said he would clean up the property. Also, his sister-in-law did have a kennel with lots of dogs, but that the property was already zoned for it so it must have been in compliance at that time but now the dogs and the kennels are gone.

Other neighbors were concerned about them cutting down too many trees and losing their privacy. The applicant said the new owners would probably leave a lot of the trees and preserve an attractive yard area. It was noted, however, that there was no guarantee that they would not clear out the vegetation.

**Motion – Staff Memorandum**

On a motion by Mr. Robinson, seconded by Mr. Batty, the Board unanimously voted to accept the Planning Department memorandum and supporting documentation which includes Items 1 through 12.

**Motion – Sidewalk Waiver**

On a motion by Mr. Robinson, seconded by Mr. Batty, the Board unanimously voted to accept the requested waiver of sidewalks with the stipulation that in lieu of sidewalks, the applicant would deposit funds into the City's sidewalk and curbing fund account. The amount is to be estimated by the applicant's engineer and approved by the Public Works Department after review of the estimate.

Roll Call Vote

Mr. Batty	Aye
Mr. Cole	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Chairman Robinson	Aye

**Motion** – Conditional Approval of the Subdivision

On a motion by Mr. Robinson, seconded by Mr. Batty, the Board unanimously approved the subdivision subject to the six conditions and all appropriate City staff conditions listed in the Planning Department memorandum.

Mr. Batty	Aye
Mr. Cole	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Chairman Robinson	Aye

**Motion** - Final Plan Approval to the Administrative Officer

On a motion by Mr. Robinson, seconded by Mr. Batty, the Board unanimously approved delegating Final Plan Approval to the Administrative Officer.

**D. Proposed Amendments to Chapter 19, Zoning, Riverside Square Mixed Use Overlay District, Section 19-95 Districts Designated and additional miscellaneous sections**

Ms. Boyle said that D. "Proposed Amendments" and E. "Rezoning" are companion items. She described the area and gave a brief background. She explained that there are some blighted properties in Riverside Square. One of the properties was a manufacturing building and there are also two residences that were owned by the same owner. The City approached them to buy those properties in order to create a mixed use development including affordable housing and also ground floor retail and commercial uses. The Council authorized the Planning Department a year ago to proceed with the negotiations with the owners and also securing different types of State and Federal funds. The City is also contemplating partnering with a local non-profit.

The City has executed a Purchase and Sales Agreement with the property owner. One of the items that needs to be addressed is the Zoning issue. Parking, setback requirements make it impossible to build what we first envisioned so we have created a new zoning category; a small downtown zoning district. Ms. Boyle noted that Diane Feather has been working on this downtown zoning district for several months and this will be an opportunity to apply those same concepts associated with a smaller lot. She explained that when the City makes any changes to the Zoning Ordinance it requires an opinion from the Planning Board to the Council. We will need to get this to the Council in July. We ask that the Board act on this tonight. These revisions are consistent with the Comprehensive Plan.

#### Affordable Housing

Ms. Boyle said the City is one of the five communities that meet the mandated 10 percent affordable housing. East Providence is currently at 10.87 percent. Should a community fail to provide the minimum 10 percent, it is subject to a “comprehensive permitting” process that could result in a development circumventing the City’s ordinances and regulations.

#### Economic Development

Ms. Boyle said that Riverside Square has a great deal of vacancies and potential for development. A lot of the businesses are struggling. We hope by targeting this property, it will assist some of the store owners in getting more business. It will facilitate economic development of vacant or underutilized parcels of land with the City and will broaden the tax base and create local and regional job opportunities.

#### General Purpose of Zoning

The development does meet the General Purposes of Zoning contained in Sec. 19-2 of Chapter 19, Zoning.

#### Staff Recommendation

Based upon the above discussion, and based upon a finding that the proposed requested rezoning is consistent with, and furthers implementation of the East Providence Comprehensive Plan, and further is consistent with the General Purposes of Chapter 19, Zoning, staff recommends approval of the requested zone change from Commercial 3 to Riverside Square Mixed Use/Downtown District, subject to the following conditions:

1. That the proposed developments located within the district must follow the DPR process of Article VIII., Chapter 19, Zoning and shall meet the development requirements for the Riverside Square Mixed Use/Downtown District, including permitted land use(s);

2. That any selected developer for the rezoned properties obtain any and all required federal, state and city permits for the proposed use, including building and occupancy permits from the City of East Providence; and
3. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements.

### Amendments to Zoning

Ms. Boyle went through the proposed amendments to Zoning, Chapter 19. She said Diane Feather has drafted up the amendments which will create a Riverside Square Mixed Use/Downtown Overlay District. She noted Diane was unable to attend this meeting. Ms. Boyle said that the proposed application of the Riverside Square Mixed Use Overlay District only involves parcels 20, 21, and 22 on Block 12, Map 312. The new district will be added to the Floating Zones that are already in place.

The underlining zoning is C-2 which allows office space small scale retail etc. There are certain uses that are not allowed such as fast food restaurants and we are recommending that they be excluded from this particular mixed use district. The intent is to give us some flexibility in siting and design patterns and re-enforcement of existing of street wall and façades in the older commercial areas. We are trying to create an old-fashion-downtown district.

One of the big problems is the parking requirements. We don't need that much parking for this development. The review process also allows for some flexibility. We recommend that the DPR Committee actually be charged with reviewing the plans for the adequacy of the design to make sure the parking is behind the development, maximizing the floor area. Minimizing the setback and making sure that two story buildings are built instead of one story.

The facades will be in keeping with the area.

Regarding drainage, we are recommending impervious surfaces in some of the driveways to avoid runoff into the street. Regarding setbacks and ground floor facades, Ms. Boyle said that at least 50% of the ground floor façades must have transparent materials. Buildings should include pedestrian pathways. We also would like to encourage out-door seating etc. More strict standards with the signage regulations. There will be shared parking. When the residents have left for work there is no need to have those empty parking spaces there. It makes sense to share the spaces with the businesses.

In regard to house-keeping changes, Ms. Boyle suggests the elimination of the Port District. It was intended to be applied to the port facility for P&W. It is not a port facility

**Motion** – Proposed Amendments to Chapter 19, Zoning

On a motion by Mr. Robinson, seconded by Mr. Cunha, the Board unanimously approved the Planning Department memorandum and made it part of the Board's official record.

**Motion** – Recommendation to advise the City Council approve the amendments to Chapter 19, Zoning of the staff report.

On a motion by Mr. Robinson, seconded by Mr. Batty the Board unanimously voted to approve the recommendation to advise the City Council to approve the amendments to Chapter 19, Zoning in the Planning Department recommendation.

**Motion** – Rezoning – Riverside Square Project

On a motion by Mr. Robinson, seconded by Batty, the Board unanimously to approve the rezoning of the Riverside Square Project

The proposed requested rezoning is consistent with, and further implementation of the East Providence Comprehensive Plan, and further is consistent with the General Purposes of Chapter 19, Zoning, the Board votes to approve the three items listed below in the Planning Department memorandum

**Motion** – Advisory Recommendation to the City Council

On a motion by Mr. Robinson, seconded by Batty, based on the above discussion and recommendation that approval of the amended zone change from Commercial -3 to Riverside Square Mixed-Use Downtown District subject to the conditions listed in the Planning Department memorandum as follows:

1. That proposed developments located within the district must follow the DPR process of Article VIII., Chapter 19, Zoning and shall meet the development requirements of the Riverside Square Mixed Use/Downtown District, including permitted land use(s);
2. That any selected developer for the rezoned properties obtain any and all required federal, state and city permits for the proposed use, including building and occupancy permits from the City of East Providence; and
3. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements.

## **5. CONTINUED BUSINESS**

### **A. Staff Report**

1. Volunteer Planning Intern

Ms. Boyle informed the Board that we have a volunteer Planning Intern Stephen Roberts who works for us two days a week for the summer. One of the projects he is working on is an inventory of Roger Williams Avenue in anticipation of putting extension on to the Historic District. He will also be looking into the historic district of the Taunton Avenue area. Looking at the age of the properties etc.

## 2. Comprehensive Plan Update

Ms. Boyle reported that it is time to update the City's Comprehensive Plan. We are mandated to do an update every five years. The last update was March of 2004. We are hoping for more public participation and are looking for the public's input to see what their vision is of East Providence and what they would like to see. We have reached out to the City's DICE group, a youth group. The first project will be a community survey that they will design. They will also create a web page or blog. A booth will be set up at the Heritage Days.

Also, We will be looking at sustainable development such as alternative energy, how walkable the City is, how green is the City, and have people think about ways of improving our City.

## 3. Hunts Mills – Old Pump House

Ms. Boyle explained that there used to be a turbine that operated from the river near the old pump house which created enough power for the whole waterworks. We have hired the firm of Durkee Brown Associates to do a feasibility study. They have come up with the idea of an educational technology center for that building. We may be able to get the turbine working again and connect it to the river for the generation of electricity. Also maybe have a greenhouse, walking paths and a whole re-use of the pump house. We have contacted the Master Gardeners at URI and we will be holding a brainstorming charette at Durkee Brown's offices later this month.

## 6. COMMUNICATIONS

On a motion by Mr. Robinson, seconded by Mr. Batty, the Board voted to approve the communications listed A through G below:

- A. Copy of Supplement No. 37, May 2008 of the Revised Ordinances (enclosed)
- B. Copy of memo to the Zoning Board of Review from the Department of Planning, Re: Requests for Variance or Special Use Permit to be heard on May 28, 2008
- C. Copy of Certificate of Completeness dated May 30, 2008, Re: Appl. #2007-28, 2 Main Street, Map 412, Block 15, Parcel 4.
- D. Copy of Certificate of Completeness dated May 30, 2008, Re: Appl. #2007-23, 210 Taunton Avenue/59 Mary Avenue, Map 206, Block 2, Parcels 14 and 15

- E. Copy of Certificate of Completeness dated April 15, 2008, Re: Appl. #2007-12LDP Master, Albertino Milho, 288 Warren Avenue
- F. Copy of Notice of Decision, Appl. #2008-02 Minor, Applicant: Paul Larcher, 15 Nassau Street, Map 201, Block 5, Parcels 1, 2, and 3
- G. Copy of Notice of Decision dated March 12, 2008, Re: Appl. #2007-15 Preliminary, Tockwotton Home, Applicant: Kevin McKay, Map 016, Block 21, Parcel 7

Chairman Robinson asks if the Board would like to change their meetings to an earlier time. Mr. Cunha suggests that it be cut down an hour to 6:30. Chairman Robinson suggests putting it under New Business at the July meeting as to how the Board could shorten up their meetings. Stephanie will put it as an item under New Business at their next meeting in July

## **7. ANNOUNCEMENT**

- A. Next Meeting – Monday, July 14, 2008, 7:30 p.m., Room 306;

## **8. ADJOURNMENT**

On a motion by Mr. Robinson, seconded by Mr. Cunha, the Board adjourned at approximately 12:00 a.m.

Respectfully submitted,

Michael Robinson  
Chairman

JMB/sac