

March 10, 2008 - Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF MARCH 10, 2008

The Board recited the Pledge of Allegiance.

Present were: Messers, Anthony Almeida, Anthony Carcieri, Octavio Cunha, Krista Moravec, Michael Robinson, Jeanne Boyle (staff), Diane Feather (staff), Wayne Barnes (staff), and William Conley, City Solicitor.

1. SEATING OF ALTERNATE MEMBER

It was noted that Mr. Batty was absent and that Mr. Cunha would be seated.

2. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of November 14, 2007

It was noted the minutes of November 14, 2007 would be forthcoming.

B. Minutes of January 30, 2008

On a motion by Mr. Almeida, seconded by Mr. Moravec, the Board unanimously approved the minutes of January 30, 2008.

C. Minutes of February 11, 2008

On a motion by Mr. Carcieri, seconded by Mr. Moravec, the Board unanimously approved the minutes of January 30, 2008.

3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

There was no correspondence.

4. NEW BUSINESS

A. Appl. #2007-15 Minor Subdivision – Tockwotton Home, Map 016, Block 21, Parcel 7, Applicant/Owner: Tockwotton Home

Ms. Boyle noted that there are representatives of the Tockwotton Home present.

Kevin McKay, Executive Director of Tockwotton and Jan Greenwood, Engineer for the project was both sworn in by City Solicitor.

Mr. McKay explained that they propose to build their building on a parcel of land and that parcel will be subdivided into three parcels with frontage on Waterfront Drive. Lot 7A is 2.401 acres, Lot 7B is 6.102 acres and Lot 7C is 1.858 acres. Lots 7A and 7C are proposed for future commercial development. Tockwotton Home will be built on the center parcel 7A.

The master plan was reviewed and approved on July 17, 2007 by the Waterfront District Commission. The 1.3 waterfront acres that Tockwotton owns will be donated to the City of East Providence for the continuation of Bold Point Park.

Mr. McKay noted that a year ago, Narragansett Electric was going to bury the power lines. Since that did not happen, we are now proposing that the Tockwotton building be changed from its initial location to another location. This is why we want to subdivide the parcel into three instead of the original two parcels.

Chairman Robinson asked if the plans to bury those power lines are unlikely. Ms. Boyle said that it is her understanding that there is legislation pending that might enable the electric company to get the additional permits that would be necessary for the burial of the lines. If the legislation does not go through, it probably won't happen.

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

At this time, Diane Feather gave the staff presentation. She asks that the Board enter the staff recommendation for the record.

Motion

On a motion by Mr. Carcieri, seconded by Ms. Moravec, the Board unanimously voted to accept the staff recommendation dated March 5, 2008 with attachments including the map and the previously memorandum to the Planning Board dated July 5, 2007.

Ms. Feather explained that that reason for including the July 5th memorandum in this the motion was because the Board has actually reviewed this exact subdivision of lots when Tockwotton came before the Board last July. We did not technically go through the formal approval of the subdivision at that time by the Planning Board. The Board has already seen this three lot layout and Mr. McKay indicated that the reason for the change from a two lot to a three lot configuration was because of the shifting of the building more towards the center resulting in having the two smaller parcels on each side. Lot A is 2.401 acres, Lot 7B 6.102 acres, which is the proposed Tockwotton Home, and Lot 7C is approximately 1.858 acres.

The proposed subdivision is consistent with the Comprehensive Plan, and the General Purposes of Article 1 of the Regulations have been addressed. Positive findings are met for Section 5-4 of the Subdivision Regulations. Also, staff is recommending that the

Board delegate Final Plan Approval to the Administrative Officer and Planning is recommending that the Board get conditional approval of the subdivision.

Recommendation:

Staff asks that the Board grant Conditional Approval of the subdivision as proposed subject to the following conditions:

1. That the title block of the plan be revised to indicate Final Plan status; and that a note be added to the Final Plan confirming that the entire subdivision is based on a Class 1 survey. Also we want to confirm a fine note on the plan that there are four conditions that are included in the staff recommendation. We have asked for a plan note;
2. That Plan Note No. 5 be corrected to accurately state the property's location in the Bold Point Harbor Waterfront Sub-district Zone;
3. 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; and
4. That the proposal shall meet all applicable City, state, and/or Federal regulations and requirements.
5. That the applicant obtains a physical alteration permit for the curb cuts on the Waterfront Drive frontage

Ms. Feather asks that the Board approve the addition of a fifth condition that the driveway curb cuts will need a physical alteration permit from the DOT. She explained that Director Boyle received a phone call from Joseph Baker of RIDOT indicating this request.

Ms. Feather noted it is the same lot configuration that the Board reviewed in July of 2007. Letters were sent to the abutting property owners both times; in 2007 and 2008 and staff reviewed it in great detail including the Department of Fire, Public Works, Zoning, Waterfront Commission's Hearing Panel and the Design Review Committee. All positive findings have been made.

Chairman Robinson asks if there are any questions from the Board or the public. There were no questions.

Motion – Delegation of Final Plan Approval to the Administrative Officer

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

Motion – Conditional Approval of the Subdivision

On a motion by Ms. Moravec, seconded by Mr. Carcieri, the Board unanimously voted to approve the Conditional Plan Approval as outlined in the staff memorandum.

B. Request for Disposition of City Property – Sanford and Donnelly Streets

Ms. Boyle reported that the City Council had received a request from a concerned property owner; Mary Furtado Holloway. This is a city owned parcel located at the corner of Sanford and Donnelly Streets. It is about 4,000 square feet and looks like a grassed area. The correspondence received from Ms. Holloway stated that there has been an on-going problem with youths congregating on the site and being loud and boisterous. Ms. Holloway wants the property conveyed to her to control the situation.

It was referred to the Planning Board for recommendation on the disposition. Staff has referred it to the Department of Public Works, the City Solicitor and City Assessor. Public Works indicates that it is not a parcel. It is a portion of the street. The stub configuration is strange, but based upon the research it is the sub-end of what used to be Sanford and Donnelly Streets. She explained the street abandonment process. The process of conveying the property is different from a normal disposition. It does not fulfill any purpose as a street. We don't envision any need to widen that intersection. If it were to be submitted as a street abandonment, the staff recommendation to the Board would be that they advise the Council to move forward with the abandonment, however, there is a whole process with street abandonments. Petition for abandonment has to be submitted. A survey and a title search would need to be done accompanying that abandonment.

Ms. Boyle also explained that State Law also mandates that under the street abandonment process that the property be split 50/50 between the abutting property owners. Staff has no objection to the City abandoning this property. We are recommending that the Board advise the City Council to have the abutting owners file a petition for Highway Abandonment under the East Providence Revised Ordinance, Section 14-22 for the purposes of acquiring the right-of-way.

Ms. Boyle noted that the petitioners were not asked to be present since this is just an advisory matter.

Chairman Robinson asked if the abutting neighbors were notified. Ms. Boyle said they will be if we go through the street abandonment process. It will include a formal notice and public hearing notice notifying the abutters.

Chairman Robinson asks if there would be any neighbors interested in acquiring a portion of it. Ms. Boyle answered that if it were to be acquired, it would have to go through the street abandonment process. By State Law it is just the two immediate abutters that actually get 50 percent each. They do not have to pay for it, but our customary process is that the abutters do pay for the title search and property survey.

Mr. Cunha asks if they would have to pay taxes on it. Ms. Boyle answered yes; it would become part of their lots.

Ms. Boyle states that the initial request from the Council was that they thought it appeared to be a lot. The research that has been submitted to us by the Engineering Division shows that it in fact is a paper street. The Board needs to make a recommendation to the Council on the disposition and staff recommends that the petitioners go through the street abandonment process.

Mr. Almeida said he was on the Council in 1985 when this came before them many years. At that time, he tried to get an abandonment, but could not get three votes from the Council. He said Mr. Furtado and the abutters always took care of the property; cut the grass etc. It is unfortunate that the City never took care of it even though the City owned it. Now the property is in disarray and has a lot of debris on it. Ms. Boyle said that the Board needs to advise the City Council to inform the property owners to file for a street abandonment, then it will come back on the Board's agenda. The Board will then make a decision about whether or not to recommend abandonment.

Chairman Robinson asks if there are any further questions. There are none.

Motion

On a motion by Ms. Moravec, seconded by Mr. Almeida, the Board unanimously votes to recommend to the Council that the petitioner goes through the street abandonment process and files the petition.

5. CONTINUED BUSINESS

A. Staff Report

Wampanoag Ponds Major Subdivision

Regarding Wampanoag Ponds Major Subdivision, Ms. Boyle reported that there are some issues that require additional review and it will be before the Board possibly in April.

The preliminary submission relating to traffic, drainage, and utilities is being reviewed at this time.

Madeira Restaurant

Regarding Madeira Restaurant Master Plan Approval, Ms. Boyle reported that staff received a revised plan submission that addressed the Department's completeness comments and that it may be before the Board in April.

Comprehensive Plan Update

Ms. Boyle said that we will be updating our Comprehensive Plan again. The last five-year update was approved in 2004. We would like to do more outreach – more public participation this time. The original Plan was adopted in 1992 and the certificate of approval was issued by Statewide Planning in 1994. There are some fundamental issues

that are associated with the City's development patterns that we would like to re-examine.

Mr. Carcieri asked what is involved in the Comprehensive Plan Update. Ms. Boyle said the Planning Board is the approving body then it goes to the City Council for final approval. Ms. Boyle said that some municipalities have the money to hire an outside consultant, but that is not the case here. The Departments will be the reviewing body.

Mr. Faria of the Oyster House Restaurant who is in the audience interrupts this meeting and insists upon speaking. He wants to speak about his restaurant, the Oyster House on Water Street and all the money he has put into the improvements. He is having problems with the RICRMC and wants the Planning Board to intervene. Chairman Robinson tries to explain to him that this is not a public forum at this time and that Mr. Faria is not on the agenda, therefore, he cannot speak. Mr. Faria continues to argue. He finally leaves after threatening that he will take this to court.

After Mr. Faria's exit, Ms. Boyle explains that Mr. Faria is the owner of the Oyster House and that the problem that he has is with CRMC and not the City of East Providence. He has been deemed to be in violation of CRMC regulations for doing some alterations of the coastal feature adjacent to the Oyster House Restaurant. This was done many years ago and he has a violation from CRMC, which he never corrected. He has not been able to secure building permits to do work on the Oyster House Restaurant because of the outstanding violation from CRMC. Ms. Boyle said he has met with Representative Rose, herself, Roberta Groch, Waterfront Planner, and the City Manager. Ms. Boyle said she even interceded with the Executive Director of CRMC and was able to persuade him to give Mr. Faria permission to repair the roof because it is a historic building and her concern was that the building would deteriorate. She said she thought he would be very pleased about this, but said she received a call from him last week upset because CRMC had attached conditions to that building permit; mainly that he is still in violation. He got very upset because Ms. Boyle could not do anything else for him. This may be why he attended tonight's meeting.

6. COMMUNICATIONS

A. 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 February 27, 2008 (copies previously submitted);

Ms. Boyle explained to the Board that one of the Zoning Board cases was a proposal of a 90 foot cellular communication antenna on the St. Martha's Church. The Zoning Board did deny this. There were a lot of concerns from staff and it was not consistent with a number of principals of the Comprehensive Plan.

Motion

On a motion by Mr. Carcieri, seconded by Ms. Moravec, the Board approved this communication.

7. ANNOUNCEMENT

- A. Next Meeting – Monday, April 14, 2008, 7:30 p.m., Room 306
- B. 2008 Southern New England Regional Planning Conference, September 4 and 5, Rhode Island Convention Center, Providence;

8. ADJOURNMENT

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

JMB/sac