

October 5, 2005 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF OCTOBER 5, 2005

Present: Anthony Almeida, Burton Batty, Harold Gerstein, John O'Brien, Michael Robinson, Theodore Sullivan, and staff members, Erik Skadberg, Jeanne Boyle, Diane Feather, and Patrick Hanner.

1. SEATING OF ALTERNATE MEMBER

Mr. Gerstein was seated until Mr. Almeida arrives.

2. APPROVAL OF PLANNING BOARD MINUTES

It was noted that the minutes below would be forthcoming.

A. Minutes of August 22, 2005

B. Minutes of September 12, 2005

3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

None

4. NEW BUSINESS

A. 1. Public Informational Meeting – Walgreens Master Plan LDP, Warren Avenue at South Blossom Street Map 404, Block 1, Parcels 1,2,3,4 and 5, and Map 407, Block 2, Parcels 1 and 2

Attorney Martin Slepko introduced his witnesses. The applicant is Mark Investments represented by Robert Croft, Robert Vanasse, Vanasse Associates, transportation engineers. Michael Cassavoy from Edwards and Kelsey, architect, Joseph DelSesto, Fuss and O'Neill, project manager. These witnesses were all sworn in by Chairman Robinson.

Mr. Slepko noted that the owner, Chris Gasbarro is also present tonight and will answer any questions. He explained that this is a master plan for Walgreens. He states they have read the Staff report by the Planning Department and do concur with it. He states this is a Commercial 3 and Commercial 4 zone. We have combined a group of lots so that we can create a site for Walgreens. It will operate 24 hours and have a drive-through which is a permitted use. Some of the buildings where the Walgreens is erected will be torn down. Gasbarro's Liquor Store will remain. There is a cross easement agreement between Walgreens and Gasbarros providing for the use in common of parking spaces. We will present the cross easement agreement. There will

be some spaces assigned on the Walgreens site for Gasbarro's. The Zoning Officer has reported that we do have adequate parking. There will be some minor waivers regarding landscape issues that will be submitted which have been discussed with staff and will be going into the preliminary development. The property is zoned appropriately. The Comprehensive Plan does designate this area as retail which we are intending to do. There has been a peer review done by Maguire Group in accordance with the practices of the City.

At this time, Joseph DelSesto, Project Manager with Fuss and O'Neill gave a review of the site. The proposal is for an 11,600 square foot building footprint with a 5,160 square foot mezzanine. There are several access points; a right turn in and a right turn out on Pawtucket Avenue, a full access on Warren Avenue, and three access points on South Rose Street. Isle widths are 24 feet throughout the site and we are working with the Fire Chief to show that there is adequate egress and ingress for fire apparatus to traverse the site. He states they will get all the permits necessary from the state and local agencies for the Physical Alterations Permit for the access on to Warren Avenue.

At this time, Mr. Michael Cassavoy, Architect with Edwards and Kelsey testified about the site itself. He described the entrances and traffic flow. He also described to the Board the receiving area where you will pick up and drop off prescription drugs. With the aid of the map he showed the Board the dumpster area at the outside of the building. There is a side entrance where you have the sales area where customers shop. On the back side is the pharmacy area where the drive-through is. He described the loading area and said that Walgreens only receives one vehicle a week for deliveries.

Mr. Almeida arrived part-way through the presentation. At this time Mr. Robinson asked Mr. Almeida if he intends to vote on this proposal. Mr. Almeida states no, not at this time.

Mr. Cassavoy described what the building will look like. He said that there are glass windows on the street side and the parking lot sides and showed the Board with a drawing. The windows will have awnings and the building will be brick with limestone panels in the front. He described the drive-through and the landscaping where the trees will go along a wall. Regarding the lights outside there is a zero light bleed-off from the outside. He went through the loading procedures at the site which is once a week. There is a dumpster there which meets City codes.

Robert Vanasse, Vanasse and Associates, engineer for the project testified that they are professional engineers specializing in transportation, engineering, and planning who are registered in the State of Rhode Island. He discussed the egress and ingress and traffic signaling. He noted that the project will have five access drives; three on South Rose Street, one right-in, right-out only on Pawtucket Avenue, and the full access drive onto Warren Avenue. We are closing two drives onto Warren Avenue. He said that Warren Avenue has a little fewer than 21,000 vehicles a day on the weekday, a little over 17,000 on a Saturday and Pawtucket Avenue has about 28,000 cars on a weekday. The peaks are about 8 percent a piece which is about 1500 to 1700 cubic inches. The traffic signal has five bays and they are working with RIDOT on this. The big turning movements are from north to west and from east to north and west to north. Daily there are about 1,200 daily trips which is 600 cars in and 600 cars out. Weekday is 1138 and a little fewer than 575 and for Saturday about 625 trips which is based on IPE and over 75 other drugstores in the area. He said they have analyzed for the higher numbers as RIDOT

requires. There will be no left turns in or out. He said they are in the process of getting the police data which will be forthcoming within 2 to 4 weeks.

A peer review from McGuire indicated nine points; three or four required no response and they were in agreement with what we said.

Mr. Batty asked about the traffic flow right turn in and right turn out and if there would be a traffic island. Mr. Cassavoy said there will be signs and it will be easier to get in from Warren Avenue. He asked about the off street loading dock. He asked if the products being unloaded by the trucks would then be brought into the building? It was stated yes. Mr. Batty also asked if they have taken into consideration the traffic going in and out of the adjacent property, Gasbarros Liquors? Are the 600 cars in and out just for Walgreens. Mr. Cassavoy stated yes that is just for the Walgreens plus the existing cars for Gasbarros which is all added in Figure 7 of the report.

At this time, Mr. Robinson asked to hear from the Planning Staff.

Ms. Feather noted there is one other element of the proposal that perhaps Mr. Sleprow could summarize which entails the street abandonment at South Rose Street. Mr. Sleprow states that a portion of South Blossom will be abandoned and that they have already filed with the staff and the City the necessary documents. It will be heard by the East Providence City Council and they are asking the Board tonight for an advisory opinion to the City Council by the Planning Board at the November Council meeting. Mr. Sleprow noted that they will also be filing a proposal for a subdivision which will create the two separate lots which will be recorded with the easements and the abandonment.

Ms. Feather states that staff did have an outside peer review of the traffic done. An independent traffic engineer was hired to look at the submitted report submitted by the applicant. A number of proposals were sent out to qualified traffic engineering firms and the Maguire Group was selected to do that report. Mr. Jim Coogan from Maguire Group is here tonight and will answer any questions. She noted that the Maguire Group letter of September 8, 2005 plus the Staff recommendation should be entered into the record. Mr. Robinson said this will all be done at the end.

Ms. Feather explained to the public the process of a Land Development Project (LDP) that has 50 or greater parking spaces. It is a three stage process which includes a Master Plan, Preliminary Plan, and a Final Plan. They need approval by the Planning Board for the proposal. Before the Board this evening is the first phase of the process which is a Master Plan. It is a general conceptual idea of the development. The Preliminary Plan would be a completely engineered plan. It will have every single piece of drainage details calculated and depicted on the plan and also the supporting documentation plus all their permits would have to be in place.

Ms. Feather noted there are two actions before the Board; the Master Plan and the other action is an advisory recommendation to the Council on the street abandonment which is South Blossom Street north of Warren Avenue. This is a paper street and was never physically constructed as a street. She noted that the Department of Public Works has reviewed this to see if there are any utilities within that right-of-way that would make it prudent for us not to abandon it. We also look at whether the road has any linkages or connections to anywhere else in the transportation network. There is no opportunity for any future transportation connection.

Ms. Feather went through the square footage, the loading, the drive-through, access points, storm water, and traffic. Staff has summarized the Vanasse Traffic Report to the Board and provided the peer review and letter in response to that. This will be read into the record by Mr. Vanasse at a later time in the evening.

Ms. Feather also explained that the Comprehensive Plan designates uses of properties throughout the City. This is designated as a retail use. We also make a number of findings as to whether this development is consistent with a number of findings in Zoning and in the Subdivision Regulations. We will be getting additional data on the traffic and additional peer review by Maguire of some of the comments that came into towards the end of last week.

It is a developed site and there are structures and it is paved. The proposed development would put in a new storm water management system with an underground infiltration. There are no environmental impacts that we anticipate from this development. The parcels all have access to existing City streets. The Walgreens parcel is providing in access of the minimum number of off street parking spaces required. The parcel will be shared with Gasbarros Liquor Store.

At this time the Staff memorandum is entered into the record. Staff is recommending conditional approval of the Master Plan as proposed subject to the following conditions:

1. That all of the comments of staff identified in the technical staff review be satisfactorily addressed in the Preliminary Plan;
2. That Maguire Group conduct peer review of the Vanasse and Associates' memorandum of September 27, 2005 as well as the applicable accident data for the project area when obtained by Vanasse and Associates and that the applicant off-set the costs of this additional traffic impact peer review.
3. That the applicant obtain approval for the abandonment of the paper portion of South Blossom Street north of Warren Avenue;
4. That any necessary waivers are identified in the preliminary plan submission;
5. That the extent and basis for these waivers be identified in the Narrative;
6. That the applicant identify all necessary zoning variances in the preliminary plan. At this point the only zoning variance acknowledged is the sign variance;
7. That the applicant obtain all necessary variances prior to the Final Plan Approval;

8. That they submit an improvement guarantee estimate for the required public improvements, additional granite curbing and concrete sidewalks and that that be subject to review and approval by the technical staff;
9. That the Title Block in the plan be modified to indicate Preliminary Plan status;
10. That the preliminary plans be based upon the Master Plan as approved;
11. That the proposal meet all applicable City, State and all Federal regulations and requirements.

At this time the staff memorandum is entered into the record.

Motion

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board unanimously voted to enter the staff memorandum into the Board's official record.

Mr. Coogan, Traffic Engineer for Maguire Group Inc., was sworn in and read the peer review letter dated September 8, 2005 from James Coogan, Maguire Group Inc. into the record as follows:

"As you requested, this office has reviewed the traffic report prepared by Vanasse & Associates dated July, 2005 for the proposed Walgreens Pharmacy and offer the following comments:

Based on the information presented on this traffic report, MGI concurs with Vanasse's findings, conclusions and recommendations. The project-related traffic increases can be accommodated with an only with proponent sponsored mitigation measures in place. However, further discussions are desirable to address the following:

Existing Conditions

What are the actual existing settings and cycle length(s) for the intersection of Warren Avenue and Pawtucket Avenue? This is important as it sets the basis for future unmitigated Levels of Service.

The study does not specify if there are any accident data or trends at the analyzed intersections.

Future Conditions – Site-generated Traffic

We concur with the adjustments for pass-by trips (not independently generated or "new" trips) and diverted-linked (pulled from through routes not adjacent to the site). A net adjustment of 35% (combined) is not unreasonable for developments of this type, based on the industry standard reference cited by the author.

Mitigation

Pawtucket Avenue at Warren Avenue

The proposed timing changes seem to indeed offset the additional traffic impact here. It should be noted that implementing timing changes today would also result in improved existing conditions, against which other mitigations would be measured. Nonetheless, we support this improvement, with the following notes.

The City should secure a formal commitment from proponent to cover the cost for the efforts to implement the traffic signal enhancements at the intersection of Warren Avenue and Pawtucket Avenue. This would include receiving R.I.D.O.T. permission to change the signal operations.

As noted above, timing changes could be implemented today which could result in similar intersection improvements. Perhaps an interim retiming could be implemented to ease traffic through the area during the project's development.

We also caution that timing changes involving overall cycle length increases may lead to noticeable queue increases, as demonstrated in the author's capacity analyses.

South Rose Street at Site Drive

This discussion is a little confusing. There are three site driveways on South Rose Street. The need for a northbound exclusive left-turn lane is not evident (did we mean westbound?). Regardless, none of the approaches seems to be of adequate width to support three total lanes. Please clarify. Perhaps showing the proposed striping on the Site Plan would help.

Pawtucket Avenue at Site Drive

Recommend a "No Left Turn" Sign for exiting traffic here. Again, these improvements will require R.I.D.O.T. concurrence. We concur with the proposed 15' widths for the entering and exiting lanes, in light of the driveway geometry and the and likely demands.

Recommendations

We believe that the project-related traffic increases are correctly identified and evaluated. While we recommend that the City satisfy itself on the above-referenced issues, we see no deficiencies in the traffic analyses that would preclude the ultimate acceptance of the contents of the Traffic Impact and Access Study.

As always, Maguire Group Inc. is pleased with the opportunity to meet your engineering needs, and we look forward to working with you on this and future projects. Should you have any further questions on these findings and related matters, please do not hesitate to call me at (401) 272-6000, ext. 355.

Sincerely,

James W. Coogan, P.E.
Maguire Group INC."

Mr. Robinson states that he never received a copy of this letter and asks if the Board is comfortable proceeding with this application without receiving the letter prior to the meeting and asks Ms. Feather if he can obtain copies of the letter. Ms. Feather answers yes.

At this time, Chairman Robinson states he has some remarks regarding the Walgreens Development as follows:

"I do not believe that the Walgreen's proposal meets the purposes and objective of Chapter 19 Zoning and I do not believe that positive findings can be made for the standards set forth in Section 5-4 of the Land Subdivision Review Regulations. I do not feel that this proposal is consistent with the City's Comprehensive Plan. I live on South Blossom Street directly across the street. I am intimately familiar with the traffic conditions surrounding the intersection of Pawtucket Avenue and Warren Avenue. Traffic levels are extraordinarily high even now and that is before Dunkin Donuts will have embarked on their expansion which has already been approved. There are residential neighborhoods across the street from the proposed development. South Blossom Street is a dead end. The only access out is directly into the traffic pattern black hole that this proposal would create. It is not uncommon for me to take three to five minutes to get out of my street on my way to work in the morning. Ask anyone who has sat at a traffic light for that long. It is not an ideal situation. This afternoon it took me ten minutes to get from Rumford Pet Center to my house on South Blossom Street. It should have been a 30 second drive at the most, but unfortunately it is not in large part to the existence of Brooks and CVS. Walgreens will simply compound that problem.

I am also familiar with the entrance to 195-West on Pawtucket Avenue and it is my opinion that additional traffic entering or leaving this development directly adjacent to the highway access will cripple what is already an overburdened section of road. I frankly do not believe that the mitigation measures that the applicant proposes will have any significant impact on the congestion in this area. I do not accept the rationale presented. I believe it defies common sense. I do not believe that the Planning Board should find; and I cannot find that this project provides for safe circulation of vehicular and pedestrian traffic or that it adequately provides for preservation of the cultural features that contribute to the attractiveness of this community. Directly across the street ladies and gentlemen is a neighborhood with children, bicycles, pedestrians, people living their lives. It is already too congested and with the Dunkin Donuts expansion and now this, it will significantly diminish the quality of life for people in the neighborhoods across the street from this proposal. I believe this proposal does not meet the General Purposes of Article 1, Section 1.2 of the Land Development and Subdivision Review Regulations. This does not protect the public, safety, and welfare. It does not mitigate the significant negative impacts of the proposed development, particularly traffic. This does not reflect the intent of the Comprehensive Plan with regard to the physical character of the surrounding neighborhoods. Walgreens is in fact a destination, regardless of the proponent's suggestions this evening. I believe that it is a destination. There is no Walgreens in Rumford, there is no Walgreens in Kent Heights. People will be coming from those areas to go to Walgreens. They will be coming from those areas to go to Walgreens. They come from those areas to go to Brooks Pharmacy and come from those areas to go to CVS. It will increase the congestion in our neighborhood. I have nothing personal against Walgreens. I do not believe it will be suitable in that section of town.

I will not support this development and urge my colleagues on the Board to refuse to support this development as well.

If there are any other questions of the Board, I will open it up.

Attorney Sleprow said that if someone has a personal interest in the matter, they need to recuse themselves. Chairman Robinson answered that he is not aware of any law to that effect Mr. Sleprow. Mr. Sleprow states that every time we have gone to the Zoning Board and if that person is within 200 feet, they always recuse themselves. Although I cannot remember any recent Planning Board one, I do in the past remember them recusing themselves. Obviously they are free to testify as a person of public, but cannot remember ever anyone becoming personally involved in the voting part. Chairman Robinson said that without a specific citation or a legal requirement that would require me to recuse myself, I do not intend to and the reason being Mr. Sleprow is I don't see that that is any different than a member of Congress voting to appropriate funds or to send troops to war or to do something else that impacts all the citizens of the Country.

Mr. Sleprow replied that on a local level, there is absolute precedents that in my 30 years that I've been doing this I cannot remember anyone not recusing themselves when they make a personal statement like that. That is creating an appeal issue. There is no reason in the world for us to create that. Chairman Robinson replied that he is one member on this Board and in all due respect again, without some citation to law requiring me to recuse myself, I would not intend to do it. If someone were able to introduce something to me that would require me to do that. Mr. Sleprow again states that in the 30 something years that he has been involved with the City of East Providence has never ever seen anyone do this.

Chairman Robinson states he will go so far as to entertain any motions from the Planning Board to give Mr. Sleprow time to give that argument. I do not have any interest in prejudicing this applicant, I do not have any interest in slowing the administration of justice in this case. I have obviously strong feelings on it. I suggest Mr. Sleprow, that if you feel that is an appealable issue, I would respect that and I would certainly be open to entertaining a motion to continue this to give you an opportunity to research that issue and be prepared to make the appropriate argument. I am not aware, as I indicated, of any legal provision that would require me to do that under these facts. At this time, Mr. Sleprow asks the Chair for permission to discuss this statement with his client.

Chairman Robinson said to Mr. Sleprow that he again is entertaining motions regarding that continuance to give you every opportunity to confront that issue ahead of time in order to save yourself the trouble if you are correct and it is in fact an appealable issue we would prevail on appeal on it. Mr. Sleprow states he would rather do it that way. Chairman Robinson states that the other issue is that the Board has indicated that they have not received copies of the peer review study. I know if I am going to be a voting member on the Board for this proceeding, I want a copy of that. Mr. Sleprow states that the staff will take care of that and also requests a copy from the staff. I have no problem with the staff report, but a problem on your voting on it. He states that there is nothing in the subdivision regulations or zoning that we have not done that in the past. Mr. Robinson states again he is more than willing to give Mr. Sleprow the opportunity to make that argument. Mr. Sleprow states he cannot make the argument tonight.

Mr. Robinson said that is fine and asks if the Board have any comments or if they want to make any motions at this point.

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Mr. Gerstein questions the report's daily roadway traffic volume. Mr. Gerstein states he believes the numbers in the report are wrong. The busiest time at that location he feels is New Year's and Christmas. The snow causes a lot of traffic. Mr. Vanasse explained that he has used the correct method. The numbers were taken in the summer of 2005 and then corrected up to the average design condition. Why the Saturday number is lower than the weekday number is because of the absence of commuters. The highest number of cars is during the weekday. He noted that RIDOT knows this and requires that you select the appropriate design conditions. We have followed every rule and regulation of RIDOT and the City.

Attorney Sleprow states that Walgreens is before the Board because this area is zoned for commercial zoning and retail development. We will meet the City standards.

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Mr. Sleprow states we should have the opportunity to put on record what we are seeking here. This is not a residential zone being changed to commercial. Walgreens is well within the Comprehensive Plan requirements. This is retail. We are not here asking for anything more than a Land Development Project. We are going to meet the City standards for traffic, drainage, etc. etc. , all of which we are prepared to meet.. Under RI State Law we are entitled to develop land that is zoned properly and that is within the Comprehensive Plan. The City fathers voted it at the time. I do believe they have the responsibility to agree that the Comprehensive Plan is what it is. The zoning is what it is.

Chairman Robinson said to Mr. Sleprow that he will have all the time to make the arguments of this case, but at this point you have raised the argument that I should step down on this. I disagree with you and will give you the opportunity at another time to make that argument. I encourage everyone here tonight to come back again.

In answer to one of Mr. Gerstein's questions, Mr. Vanasse replied that he will bring photos of other similar developments that are surviving and noted that the Brooks and CVS will divide up the business. It is our responsibility to make sure that the corner is done safely. Mr. Robinson states that these arguments we be made at another meeting of the Board.

Mr. Batty states that he also lives in Kent Heights and uses Pawtucket and Warren Avenues daily. He states he is interested in the project, but will be out of town and will not be attending the next meeting. Ms. Boyle states that November 14 is the Board's next meeting, but they could do a special meeting and will poll the Board members. Also it will be readvertised. Attorney Sleprow requests a copy of the transcript of Chairman Robinson's statement above. Chairman Robinson agreed. Also, Chairman Robinson requests an opinion from the City's City Solicitor Conley on whether or not there is any legal impropriety with a member of the Board voting on this issue and who lives within a quarter to a half mile of the proposed development. Mr. Robinson states the only potential issue would be that if Mr. Almeida or some other alternate would be filling my seat.

Motion – To defer this proposal to a new date in November.

On a motion by Mr. Batty, seconded by Mr. O'Brien the Board voted to defer this matter to a new date in November.

Roll Call Vote

Mr. Batty	Aye
Mr. Sullivan	Aye
Mr. O'Brien	Aye
Mr. Gerstein	Aye
Chairman Robinson	Aye

At this time, Chairman Robinson thanked the Board and the public for any inconvenience and welcomes them back to the next meeting.

At this time, Chairman Robinson states that Alternate Member, Gerstein will no longer be voting. Mr. Almeida will be voting as a regular voting member.

A. 2. Street Abandonment – South Blossom Street

On a motion by Mr. O'Brien, seconded by Mr. Sullivan, the Board unanimously voted to defer this street abandonment until the next November meeting.

B. Remand - Appl. #2003-14 – Minor Subdivision – Dover and Cushman Avenues, Applicant: Steven Gianlorenzo, Map 408, Block 7, Parcel 10

Mr. Slepko gave a brief history of this subdivision and said it was originally denied by the Planning Board, but was appealed by the applicant. The restrictions are no longer in force. The Superior Court of Rhode Island has upheld the decision of the East Providence Board of Review which reversed and remanded a decision of the East Providence Planning Board. This subdivision is again before the Board tonight for approval. The Zoning Board had overturned the Planning Board's decision

Mr. Slepko explains that the plaintiff, the abutter said that he wants the court to rule on what happens 2011. The court did not do that. Mr. Slepko had argued that marketable title act would end it. They said no way you are wrong, but the judge said "that the Honorable Court declares the restricted covenant is currently full force in effect and that Steven Gianlorenzo and Sons Construction must abide by the restriction that only one house shall be built even if subdivided, but as long as the restrictive covenant is in full force in effect. The judge said that would be decided in 2011. Mr. Slepko states that he understands the restriction that it is in full force right now and agrees with it.

Mr. Slepko asks that the Board approve the subdivision.

Mr. DeSisto states that he will record the Court's decision and believes it will satisfy the neighbor's concerns. He said he spoke with the Solicitor today and told him that he would record the decision and that will take care of all the concerns that we may have and then you can proceed with what you have to do.

Mr. Robinson asks if there are any questions of Mr. DeSisto. There were none.

Staff Recommendation

At this time, Patrick Hanner went through the staff recommendation.

Ms. Boyle said it has been two years since we considered this and since that time there has been a lot of discussion by this Board on the whole topic of sidewalks and providing continuity of a sidewalk system. It is our sense that perhaps we had been a little too lenient in the past with some of our other subdivisions. We are hearing what the Board is saying to us as far as wanting to see a more pro-active approach towards provisions of sidewalks.

Mr. Hanner noted that the two proposed parcels meet all the requirements for an R-3 District. All the General Purposes of Section 1-2 have been addressed and staff has made Positive Findings for all the Required Findings of Section 5-4. Staff recommends that the Board delegate Final Approval to the Administrative Officer. Staff also recommends that the Board deny the applicant's request to relieve the requirement to install the sidewalk. Staff recommends that the Planning Board grant conditional approval of the subdivision as proposed subject to the following conditions:

1. That the residential use of the two proposed parcels be restricted to single-family use and accessory uses in perpetuity;
2. That any excavated material and/or mounds of dirt must be removed from the property to the satisfaction of the Director of Planning and Director of Public Works before a final plan approval is granted;
3. That notation on the plan referring to a total lot coverage and total lot area for proposed parcel 2 is removed from the plan;
4. That the applicant post an improvement guarantee in an amount determined by the Public Works Department for any required improvements to the City's Right-of-way;
5. That the Title Block of the Final Plan be revised to indicate Final Plan status;
6. 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
7. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements;
8. That upon project completion, final "as-built" plans be submitted on Mylar, and electron 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.

Motion

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board unanimously voted to enter the Planning Department's memorandum into the record.

On a motion made by Mr. Batty, seconded by Mr. O'Brien, the Board voted 5-0, to delegate final plan approval to the Administrative Officer.

Mr. Robinson states he has made no secret of his position regarding sidewalks and supports denying the requested waiver. He asks if there is any discussion on this subdivision. There is none.

On a motion made by Mr. Batty, seconded by Mr. O'Brien, the Board voted 5-0, to deny the applicant's request for a waiver from the requirement of installing sidewalks along the frontage of the two (2) proposed parcels.

Motion - Subdivision

On a motion made by Mr. Batty, seconded by Mr. Sullivan, the Board voted 5-0, to conditionally approve the subdivision, as proposed, based upon the submitted application, testimony presented to the Board, Planning Staff report, and memorandum from various City Departments, all of the General Purposes of Section 1-2 of the East Providence Land Development and Subdivision Review Regulations have been addressed and positive findings were found for all of the standards of Section 5-4 "Required Findings". It is also apparent that the proposed subdivision is consistent with the East Providence Comprehensive Plan.

Roll Call Vote

Mr. Batty	Aye
Mr. Sullivan	Aye
Mr. O'Brien	Aye
Mr. Gerstein	Aye
Chairman Robinson	Aye

Motion – Waiver of Sidewalks

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board unanimously voted to deny the applicant's request for a waiver of sidewalks.

Roll Call Vote

Mr. Batty	Aye
Mr. Sullivan	Aye
Mr. O'Brien	Aye
Mr. Gerstein	Aye
Chairman Robinson	Aye

Motion – Delegation to Administrative Officer for Final Plan Approval

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

Roll Call Vote

Mr. Batty	Aye
Mr. Sullivan	Aye
Mr. O'Brien	Aye
Mr. Gerstein	Aye
Chairman Robinson	Aye

5. CONTINUED BUSINESS

A. Request to reconsider Board's Decision re: installation of sidewalks - Appl. #2005-03 Minor, Applicant: Mario G. Carreiro, 112 Leonard Avenue, Map 306, Block 16, Parcels 1 and 2.

Attorney William Maaia, represents the applicant. He said the Board is familiar with this application because his client was before the Board on August 22. The Planning Board had denied the waiver request of sidewalks by the applicant at that time. It is now filed for reconsideration of the Planning Board. There was a discussion at the time regarding a sidewalk that was on North Hull and sidewalk on Leonard Avenue. There was a plea on the applicant's part to grant the waiver, but the Board at that time, appeared to be not interested in granting any portion thereof or reconsideration. Mr. Maaia said that part of the area does have sidewalks, but the immediate area, mainly the 3 corners have grass, but no sidewalks.

Regarding the cost factor, Attorney Maaia said it would cost around \$6,000 which is a substantial amount of money for this individual. This is an individual person who would not be building a house on this lot because of cost, but because of the foresight of his father who bought the lot and left it to him, the lot has much more value than what the father bought it for. Attorney Maaia asks the Board to reconsider their denial of the waiver. He also asks that the Board grant the applicant 24 months to put the concrete sidewalk in if the Board does not waive the sidewalk requirement. It would give my client some time with the cost of construction and compliance to meet the new regulation.

Ms. Boyle states there is no time limitation to the preliminary approval. If this was to be granted preliminary approval, there is no time limitation between granting the preliminary and the recording of the final. The Board can make it a condition of final approval without necessarily attaching a time limitation. The lot cannot be recorded and conveyed until everything was complete.

Ms. Boyle said that the Board would require an Improvement Guarantee by the applicant that would cover those costs which would be posted prior to the recording of the final subdivision which would either be a bond or cash.

Ms. Boyle asks that the Board give its approval to revisit the cost if say they wait five years to put in the sidewalks. The cost of the sidewalk could increase so we may want to structure it so that the improvement guarantee is recalculated at the time that the applicant is ready to proceed, if you choose to go with the Guarantee.

Mr. Batty asked if that has anything to do for the occupancy permit for the new house?
Ms. Boyle states that they would not be able to obtain an occupancy until it was

recorded as a separate lot. If there are any zoning variances necessary, they will have to obtain those between preliminary and final. They cannot get a building permit until the subdivision is recorded. The occupancy will be based on just meeting whatever code requirements there are with the building itself; the recording of the subdivision, the ability to have a lot that they can sell or give to the family member would be dependent upon having that sidewalk either completed or a Performance Guarantee in place to cover that cost.

Ms. Boyle states that it is the recommendation of this Department that we are satisfied with the asphalt sidewalk. We do not see a need to replace that with a concrete sidewalk, but suggest that we stick to the past practice of requiring a Performance Guarantee prior to the final subdivision being recorded.

Mr. Robinson maintains his position that the waiver request should be denied. He said the regulations call for concrete six inch gravel base, four inches of concrete six inches of concrete with wire mesh at driveway openings. The gentlemen has done a good job maintaining that asphalt, but the person that comes in next year or 10 years from now may not do such a good job. Concrete is better quality.

Mr. Batty states he is favor of putting the sidewalk on Hull Street, and leaving the asphalt in the front. The issue is the \$6,000 and how and when it gets paid. Attorney Maaia believes that his client should be allowed to record the final on the condition that they have 24 months beyond that. Mr. Batty states that the precedent has been set for years to record the final the money needs to be up front.

Motion

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted 4-1 to retain the asphalt sidewalks currently present on Leonard Street.

Roll Call Vote

Mr. Batty	Aye
Mr. Sullivan	Aye
Mr. O'Brien	Aye
Mr. Gerstein	Aye
Chairman Robinson	Nay

B. Draft Outline – City Pedestrian Plan

Patrick Hanner went through the outline and explained the process and methodology of a City Pedestrian Plan which will identify the City's needs.

Mr. Hanner noted the purpose of the plan is to provide a safe pedestrian environment throughout the City. It will start with an examination of the existing conditions of the City which will begin with an inventory of where are the existing sidewalks in the City which will be done by denoting the areas on a map. Public and private schools, libraries, parks, recreation facilities and the RIPTA bus line will also noted. Police data regarding accidents etc. will also be looked at. We will be identifying hazardous intersections for pedestrians such as the North Broadway, Centre Street, and Roger Williams Avenue intersection. Also identified will be groups of people. We will have a pedestrian network

in the City which include school children, senior citizens; people that rely on public transportation. The third part of the plan will be identifying pedestrian corridors. We will be able to identify connections of residential areas, recreation facilities and commercial areas. Traffic calming measures will also be reviewed. Signage, striping and lighting will be taken into consideration for review. An ordinance is attached for the Board's review.

Also a plan such as this will create a point system for different subdivisions. The pedestrian potential index would be a number. A number would be given for the location of different sidewalks and their locations within a high concentration of seniors or school age children. There will also be a deficiency index to look at what is not there.

Mr. Robinson states that what he did not like about the Tampa ordinance was that it suggests that the person that makes the decision as to whether or not it is practical or not to put the sidewalks in is the transportation manager or his designee. I believe that should be the Planning Board that would make that decision. If the Board tonight voted that it was not practical for this person to put concrete sidewalks around the whole thing and they are going to give him a waiver on one section of it, he would then be required as all applicants are if they technically fall within an area that would require sidewalks under normal circumstances, he would nevertheless be required to make a deposit into one of these sidewalk trust funds. How much money would he be assessed? Does he pay the full \$6,000 or a smaller portion of that, or percentage of that? Mr. Hanner states that we determine sidewalks now by dollar per linear foot.

Mr. Robinson states that what the Board is saying to this applicant that comes before them is by voting 4 to 1 tonight to say it is not practical to replace the asphalt. By saying that I think they are saying it is not fair for this guy to pay to money to replace that asphalt. In order to preserve the Board's ability to say to someone it is not fair for you to have to pay full price or whatever, but because technically it is required under the City's Regulations, we want you to pay something to help beautify the City. I think they should all be required to put them in.

Ms. Boyle states that in most circumstances the reason they do not what to do the sidewalks is purely financial. If you give them the option of giving them dollar for dollar making a contribution to a fund or building it themselves, they will give you the dollar for dollar contribution. Ms. Boyle states that when we finish drafting up the regulation, a lot of these issues will have to be reviewed the City Solicitor.

Mr. Batty agrees that maybe it would be 50 percent of the cost of the sidewalk if the subdivision is not close to a school.

Mr. O'Brien prefers a percentage contribution if we decide to go with an in lieu contribution. 100 percent would be a disincentive to anyone asking for a waiver.

Mr. Robinson states he likes the idea of an in lieu fund contribution in general and is not sure that 100 percent would make sense.

Ms. Boyle states that more research will be done on this to see how it is done and will be coming back to the Board with more drafts on this.

C. Staff Report

1. There was not staff report.

6. COMMUNICATIONS

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board unanimously voted to accept the communications below and make them part of the official record:

A. Copy of letter dated 9/15/05 to S. Gianlorenzo from Stephen Coutu, Re: Omega Way and the pace of construction

B. Copy of memo to the Zoning Board of Review from the Department of Planning, Re: Request for Special Use Permit or Variance to be held on September 28, 2005

7. ANNOUNCEMENT

A. Next Meeting – Monday, November 14, 2005, 7:30 p.m., Room 306

8. ADJOURNMENT

The meeting adjourned at 9:32 p.m.

Respectfully submitted,

Jeanne M. Boyle
Director

JMB/sac