

# March 8, 2004 - Regular Planning Board Meeting

## CITY OF EAST PROVIDENCE

### PLANNING BOARD

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#### MINUTES OF MARCH 8, 2004

Present were: Messrs. Cunha, Gerstein, O'Brien, Sullivan, Jeanne Boyle (staff), Diane Feather (staff), James Moran (staff), Patrick Hanner (staff), and Timothy Chapman, Assistant City Solicitor.

The meeting commenced at 7:32 p.m.

It was noted that Mr. Sullivan would chair the meeting in place of Chairman Robinson who was absent.

#### **I. Seating of the Alternate Member**

Mr. Cunha and Mr. Gerstein were seated as voting members since Mr. Robinson and Mr. Batty were not present.

#### **II. Approval of Planning Board Minutes**

It was noted that the minutes below would be forthcoming.

- A. Minutes of October 14, 2003
- B. Minutes of November 12, 2003
- C. Minutes of February 19, 2004

#### **III. Approval of Planning Board Correspondence**

On a motion by Mr. Cunha, seconded by Mr. Gerstein, the correspondence below were approved unanimously by the Board and made part of the official record.

- A. Memo dated 2/25/04 to the City Council Re: "Providence & Worcester Property, Warren Avenue Extension";
- B. Memo dated 3/2/04 "Alterations to Proposed Waterfront Related Amendments to Chapter 19, Zoning".

#### **IV. New Business**

- A. Minor Subdivision – Appl. #2004-01 Minor, Applicant: Cary L. White, Woodbine Street and Willett Avenue Subdivision

At this time, Mr. Cary White of 27 Main Street, Riverside is sworn in by Assistant City Solicitor Tim Chapman.

Mr. Milton Slepchow, attorney for the applicant, explains that this is a minor subdivision and they want to split one lot into two lots and create one new lot for a single-family residence. The lot with new construction will be done and will fully conform to zoning. It is in conformance with the Comprehensive Plan. The only zoning requirement will be a dimensional variance that has to do with the commercial property. Mr. Slepchow said the loading area has existed for many years and is grand fathered in. We are seeking a zoning variance from the Zoning Board for those two lots as well as the fact that after this lot is split off, that lot would have insufficient impervious lot coverage. We are seeking a zoning variance for the three items that are referred to in the Planning Department memorandum. The lot with the construction would have no variances sought.

Mr. Slepchow stated his client agrees to put in a drywell for zero runoff. He also explained that there is an encroachment of a neighbor's shed onto the property. But the applicant has entered into an agreement with the neighbor, Mr. Joseph Renaud, that will allow that shed to remain just with an easement so that he will not have to demolish it.

#### Motion

On a motion by Mr. Gerstein, seconded by Mr. Cunha, the Board unanimously voted to accept the staff recommendation and place it in the Board's official record.

#### Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Acting Chair Sullivan	Aye

Ms. Feather gave the staff presentation and stated that this is a two-lot minor subdivision on existing frontage and the only notice requirements for this subdivision were to the immediate abutters. Those notices were sent certified mail on March 1, 2004. She stated she did not receive any phone calls or questions from anyone that we sent the notice to.

Ms. Feather said the lot is an existing lot on which the convenience store at 548 Willett Avenue is located. The purpose of this subdivision is to subdivide off the rear of the property that has frontage coming out on Woodbine Street in order to construct a single-family dwelling. There are no changes to the proposed commercial use. The property is zoned Residential 3. The minimum lot size is 7,500 square feet. Both parcels being created are well over the minimum. The single-family lot would consist of 16,424 square feet and the commercial lot fronting on Willett Avenue will consist of 20,387 square feet. The plan shows a footprint for a single-family house and a driveway. The off-street parking needs to be located (at least for one space) out of the zoning front yard. The area

and dimensions of the property are ample for the creation of a single-family dwelling without needing any variances. It is important that staff point out that there is a note on the subdivision plan that the proposed house and driveway location are illustrative and the developer may modify the location of the house and driveway. They would have to be located in a way that met the minimum zoning setbacks.

Ms. Feather stated that the commercial use is an existing condition. The applicant was required to document the location of the off street parking and off street loading on the plan. The property does contain at least 11 spaces which is the minimum required. She said that Mr. Sleprow has noted the variances that are required with the reduction and square footage of the lot, the lot becomes non-conforming as to the total impervious lot coverage and therefore it is required that the applicant get a zoning variance on that. The location of the off street parking and part of the front yard and location of the off street loading, again, in the portion of the front yard are existing conditions. They are not magnifying the dimensional variance in any way. They would need to go before Zoning to obtain all those variances. All those variances must be obtained prior to Final Plan Approval. You could grant conditional approval depending upon the applicant obtaining the variances.

Ms. Feather also stated that a neighbor's shed is located partially over the property line dividing the properties. Mr. White and the property owner have entered into an agreement. This is attached to the staff recommendation and was referred to Solicitor Chapman. Mr. Chapman's memorandum was included in the Board's packet. Essentially it is an agreement by two private parties. Staff is recommending that the agreement be recorded along with the Final Subdivision Plan. Mr. Chapman has indicated that the document looks acceptable.

Ms. Feather noted there exists granite curbing and sidewalks in the area. The applicant is proposing to extend that for the frontage of the new lot on Woodbine Street, which would be approximately 118 feet. She said staff noted in its recommendation that the applicant must post an improvement guarantee for the sidewalks and curbing in any related public improvements. Staff received a memorandum from City Engineer, Alan Corvi and he has estimated the cost of public improvements for the sidewalk and curbing and repair of the trenching for the utilities in the street for the new single-family house to be \$9,000. Mr. Sleprow has been provided a copy of the e-mail. She distributed them. This will be entered into the subdivision file.

Ms. Feather states that there are a number of pages in the recommendation where staff talked about the Required Findings for the General Purposes of Zoning and Section 5-4 of the Subdivision Regulations, and pointed out how the proposal is consistent with that.

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 Parcel 6.1 be restricted to a single-family use and accessory uses in perpetuity, and that a note stating this be placed on the Final Plan;

2. That the Agreement between White & White Real Estate Rentals Inc. and the Renaud's be recorded in the City Clerk's Land Evidence records at the time of the recording of the endorsed Final subdivision Plan, and that a note be placed on the Final Plan referencing the Agreement.
3. That all necessary variances be obtained from the Zoning Board of Review prior to Final Plan approval, and that the date of the granting of these variances be placed in a note on the Final Plan;
4. That a granite bound be set at the southeast corner of Parcel 6.1 (as shown on Plan);
5. That the title block of the 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;
7. That a performance guarantee to cover all public improvements in the amount of \$9,000 be submitted prior to Final Plan approval; and
8. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements.

Ms. Feather further noted that staff is also recommending that the Board delegate Final Plan Approval to the Administrative Officer (the Director of Planning). This will take place after the Zoning Board has granted the variances on the subdivision.

She noted the owner and the applicant are both here tonight if the Board has any questions.

Mr. Sullivan asked if anyone wished to speak on this matter.

Leonard A. Nardoza, 6 Woodbine Street, Riverside, RI was sworn in and asked what kind of house would be built next to his lot and to clarify how many houses would actually be built? Ms. Feather indicated that on the plans it is one colonial house.

Mr. Joseph Renaud, 1 Rhodes Avenue, Riverside, RI was sworn in and stated that he has grandfather rights on the location of the shed and there is an agreement between the applicant, Mr. White and him.

Mr. Cunha asked if everyone was comfortable with the shed agreement held by Mr. Renaud and Mr. White. They stated yes.

Mr. Gerstein asks Mr. White if a colonial house or raised ranch will be built and if it will have a garage? Mr. White state yes, it will be a colonial and there will be a two-car attached garage. Mr. Gerstein stated his concern about the location of the driveway that is now depicted on the plan. He states there is a blind corner there at Meadowcrest Drive and Woodbine Street and has a concern about safety when backing out of the driveway. Mr. Gerstein suggests a circular driveway which would enhance the property and thereby the owner will get more money for the property.

Mr. Gerstein states that Mr. Nardoza has a problem backing out of his driveway and they are not as close to that blind corner as this new house will be. Mr. White stated that the driveway could be reversed.

Mr. White answered that if he did put in a circular driveway, he would be forced to push the house further back, but that he would take it into consideration or move the driveway to the left side of the house.

#### Motion

Based upon the above discussion and the findings that the proposed subdivision is consistent with the East Providence Comprehensive Plan, and that the General Purposes of Article 1 of the Regulations have been addressed, and further that positive findings are met for the standards contained in Section 5-4 of the Regulations, Mr. O'Brien moved and Mr. Cunha seconded the motion that the Board accept the staff recommendation and grant conditional approval of the subdivision subject to the following eight conditions in the staff memorandum.

#### Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Acting Chair Sullivan	Aye

#### Motion – Delegation of Final Plan Approval to the Administrative Officer

On a motion by Mr. Cunha, seconded by Mr. O'Brien, the Board voted to delegate Final Plan Approval of this subdivision to the Administrative Officer.

#### Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Acting Chair Sullivan	Aye

B. Appl. #2004-03 Minor, Applicant: Scott E. Smith, 120 – 128 River Street

Mr. David T. Bray, 1066 Pike Avenue, Attleboro, MA is sworn in. He states he is a professional land surveyor from Caputo & Wick Limited and is representing the applicant, Scott Smith.

Mr. Bray briefly described the subdivision and noted that the parcel of land is located on the northerly side of River Street in Riverside. There is an existing two dwellings on the two parcels on Map 412, Block 29, Parcels 3 and 3.1. The lots contain 20,000 feet of land. There is an existing illegal two-family house on one of the lots at 120 River Street and an existing single-family house. The proposal is to make three residential lots. Lot 1 containing 6,253 square feet, Lot 2 – 6,315 square feet, and Lot 3 – 6,376 square feet. He notes that the lots are 120 feet deep and they can accommodate 3 dwellings each with one car in the driveway; an attached garage which can accommodate a second car.

Mr. Bray stated that Mr. Smith has requested a waiver to sidewalks and curbing and that the applicant has addressed all the concerns of the Planning Department and other City Departments and Divisions. The applicant also proposes granite bounds along the property to be set at the southwest corners of proposed Lot 2 and at Lot 3 (River Street) as recommended by the Engineering Division.

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

He stated that this application is for a minor subdivision. The applicant is proposing to create three lots. Currently there are two lots that are present at the site. The application was determined to be complete and a Certificate of Completeness was issued on March 3. The applicant submitted a waiver for the requirement for the installation of curbing and sidewalks. Few sidewalks are present in this neighborhood, but curbing is scattered throughout the neighborhood. Curbing is present directly across from this subdivision and on the corner lot closest to the bike path.

Mr. Hanner noted that the application has been reviewed by City staff and most of the comments that were received were from the Engineering Division. All the comments were addressed. The Engineering Division also recommends the installation of granite curbing. Planning staff recommends the installation of granite curbing and asks the Board to grant the applicant's request for a waiver for sidewalks. Mr. Hanner noted that the subdivision fully complies with the zoning requirements for a Residential-3 and is consistent with the Comprehensive Plan. All of the General Purposes of Section 1-2 were addressed and positive findings were made of all the Required Findings of Section 5-4.

The recommendation by staff is as follows:

- That the Board delegate final plan approval to the Administrative Officer
- That the board approve the applicant's request for a waiver for the installation of sidewalks along River Street,
- That the Board deny the applicant's request for a waiver for the installation of curbing along River Street

- That the Board grant Conditional Approval of the subdivision as proposed subject to the following conditions:
  1. That the residential use of the property is restricted to single-family use and accessory uses in perpetuity;
  2. 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;
  3. That the Title Block of the Final Plan be revised to indicate Final Plan status;
  4. 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;
  5. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements; and
  6. 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.

Mr. Bray stated that the applicant expressed to him that if curbing was desired, he would install it.

Acting Chair Sullivan stated he rode by there and saw curbing on the southeast side of this property across the street on Worcester Avenue, but also noted that a lot of the neighbors have railroad ties and granite blocks to try to get a curb in. He said the curbing aesthetically looks nice for the neighborhood and curbing will keep the cars off the front yard. He noted he will deny the request for the waiver of curbing.

Motion to enter the staff report into the Board's official record.

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

#### Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye

Mr. O'Brien noted a mistake in the staff report where it states under "Applicant's Request for a waiver for installation of curbing. That the Board deny the applicant's

request for a waiver for the installation of curbing along White Avenue and Clark Avenues. It should read: “River Street” not White and Clark Avenues.

Motion on the correction.

On a motion by Mr. Cunha, seconded by Mr. O’Brien the Board unanimously voted to make that correction for the Board’s official record.

Motion – Preliminary Approval of the Subdivision

On a motion by Mr. Cunha, seconded by Mr. Gerstein, the Board voted to approve this subdivision based upon the submitted application and six conditions that were presented to the Board. The proposed subdivision is consistent with Section 1-2, “General Purposes” and that the General Purposes were addressed as part of the Staff’s review. Positive findings were stated to all of the standards of Section 5-4, “Required Findings” of the East Providence Land Development and Subdivision Review Regulations. The subdivision, as proposed, is fully consistent with the East Providence Comprehensive Plan.

Roll Call Vote

Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O’Brien	Aye
Mr. Sullivan	Aye

Motion – Delegation of Final Plan Approval to the Administrative Officer

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

Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O’Brien	Aye
Mr. Sullivan	Aye

Motion – Waiver of Installation of Sidewalks

On a motion by Mr. Cunha, seconded by Mr. O’Brien, the Board voted to approve the applicant’s request for a waiver of sidewalks along River Street.

Motion – Waiver of Curbing Along River Street

On a motion by Mr. O'Brien, seconded by Mr. Cunha, the Board voted to deny the applicant's request for a waiver of the installation of curbing along River Street.

#### Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye

#### C. Comprehensive Plan Update

Ms. Boyle stated that the Board received the staff recommendation and also the Comprehensive Plan updates. The original Comprehensive Plan was adopted by the City Council in June of 1994. State Enabling Law requires that we update the Comprehensive Plan at five-year intervals. We have sought and received extensions of that deadline. Our Plan is still valid legally, however, the final extension expires on March 31 of this year. If we do not submit the update by that date, it may affect the legal status of the City's Comprehensive Plan. We have undertaken a major revamping of the Plan already primarily through the Waterfront Plan. We were waiting for completion of that in order for us to move forward with the update.

Ms. Boyle noted that Waterfront Plan was adopted by the City Council as an element of the Comprehensive Plan on December 2, 2003. In reviewing the package that staff sent to the Board, I am sure that the Board noted that other elements of the Plan, particularly Circulation, Housing and Economic Development Elements reference the provisions of the newly adopted Waterfront Plan. She said this draft update does not represent a complete revision to the Comprehensive Plan. The original drafting of the Comprehensive Plan was a process that took approximately two years to complete and this is not something that we had the opportunity to undertake nor were we required to do so by the State. Staff went through each existing element of the Plan and noted the areas that were no longer valid and also the areas that have been supplemented with additionally studies that have taken place since 1994 in other areas that have been revisited as necessary. We have referenced those pertinent studies through the draft document. One of the key components of the Comprehensive Plan are the implementation tables, which are contained at the end of each element. Those basically tell us what needs to be done and broken down into tasks, assigns who should initiate it, and who should be used as a resource to undertake this, and under what time frame should take place; short, medium or long-term.

Ms. Boyle noted that staff has gone through each table and indicated the status of the tasks and the majority of those tasks have been accomplished or in the process of being done on an on-going basis. We are recommending to the Board that they recommend approval of this draft document to the City Council scheduled for consideration at the

Council's public hearing on March 16th. Once City Council approval has been attained, staff will put it in a consistent format.

Ms. Boyle also noted that the Plan will be referred to Statewide Planning and they will send it out to a number of State agencies. If there are any changes, then we will bring those changes back to the Planning Board and City Council before we get certification from the State.

At this time, Mr. Sullivan commented that for the length of time staff has spent on these documents, I am sure you have done everything to accomplish what the State and everyone's expectations are. He also said he does not have any problem with the plan elements as presented by the Planning Department tonight.

#### Motion

On a motion by Mr. Cunha, seconded by Mr. O'Brien, the Board voted to accept the staff report for the draft update of the Comprehensive Plan and make it part of the Board's official record.

#### Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye

#### Motion

On a motion by Mr. Cunha, seconded by Mr. O'Brien, the Board voted to make a recommendation to the City Council that they approve the updates of the Comprehensive Plan submitted by the Planning Department.

#### Roll Call Vote

Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye

### **V. Continued Business**

#### A. Staff Report

##### 1. Waterfront Mixed Use Zoning

Ms. Boyle explained that the Waterfront Mixed Use Zoning was adopted by the City Council last Tuesday night. Subsequent to the Planning Board's hearing, staff did receive a couple of comments from interested parties of the Coastal Resources Management Council and potential developers. There were a couple of adjustments and the Board was given a copy of the staff memorandum to the City Council reflecting those changes. CRMC wanted to be in the process early on so that there would be consistency and coordination among the different permitting agencies when a waterfront development went forward. The other items were more in that realm of clarification. Ms. Boyle also stated that it is now law and that the document will be governing all development along the waterfront.

Mr. Sullivan asked if the Waterfront Development Commission has been selected? Ms. Boyle answered that four members were selected. The Governor's office has been urged to move quickly in making his selections. Once those are in place, the commission will be ready to go into business.

Mr. Sullivan asked if businesses will be displaced because of the zoning changes? Ms. Boyle answered they would not be displaced because of zoning, but there are a number of businesses that are now nonconforming uses and over time those uses will end. Some businesses will continue until it becomes no longer economic feasible then they will sell to someone else. Ms. Boyle also said there is some concern expressed by existing property owners about the nonconforming use provisions and how stringent those would be, but that staff reassured them that they were not going to be particularly burdensome. For instance, there may be a situation where a developer starts approaching particular property owners sooner rather than later. Some of the property owners were concerned about the Commission's power of eminent domain. She noted that we reassured them that that is a pretty stringent process that needs to be followed before any eminent domain action can be taken. She said that there were only two people who had concerns at the public hearing.

Ms. Boyle thanked the Board for their kind comments and Mr. Sullivan on behalf of the Planning Board thanked the Planning Department.

## COMMUNICATIONS

A. Memo dated February 20, 2004 to the Zoning Board of Review from the Department of Planning, Re: "Requests for Variance or Special Use Permit to be held on February 25, 2004 (copies previously submitted).

## ANNOUNCEMENT

The next meeting will be held on Monday, **April 12, 2004**, 7:30 p.m., Room 306

## VIII. ADJOURNMENT

Post: City Hall Lobby

submitted,

Respectfully

Michael Robinson  
Chairman

MR/JMB/sac