

November 8, 2004 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF NOVEMBER 8, 2004

Present were Messrs. Almeida, Batty, Cunha, Gerstein, O'Brien, Robinson, Sullivan, Jeanne Boyle (staff), and Patrick Hanner (staff).

I. SEATING OF ALTERNATE MEMBER

II. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of September 13, 2004

On a motion by Mr. Sullivan, seconded by Mr. Cunha, the Board voted unanimously to accept the September 13, 2004 minutes.

B. It was noted that the minutes of October 4, 2004 would be forthcoming.

III. APPROVAL OF PLANNING BOARD CORRESPONDENCE

IV. NEW BUSINESS

A. Street Abandonment – Portion of Sumac Avenue, Applicants: Manual, Maria, and Steven Cabral, and Marilyn Hofer (Memo dated 10/18/04 from the Planning Department enclosed)

Christine Engustian, attorney for the petitioner was sworn in. She explained that the petitioners own property located on Summach Avenue, Map 309, Block 9, Parcel 5. It is an 8,250 square foot vacant lot. It is in a residential neighborhood and is acceptable only through the portion of Summach Avenue south of Ivan Avenue. The petitioner wishes to build a single-family home. The easiest method to an access to parcel 5 is to abandon that portion of Summach Avenue that is delineated in gray on the site plan before the board. Ms. Engustian said that instead of seeking an abandonment of the entire street, the petitioners propose only that portion which they need to access through the original parcel 5 and will still satisfy the City's requirements. Other than the parcel 5 there are two parcels that abut the portion of Summach Avenue proposed for abandonment. These parcels are 55 Ivan Avenue and 57 Ivan Avenue, which are shown on the site plan submitted to the Board with the cross-hatched residential structures.

Ms. Engustian noted that if the East Providence City Council grants this petition for abandonment, the owners of 55 and 57 Ivan Avenues would own their respective portions of the abandoned street. If the petitioners are to establish the goal of the abandonment, then that is to provide adequate means of ingress to and egress from parcel 5 then the owners of 55 and 57 Ivan Avenue would have to transfer to the petitioners the title to the abandoned road. The abutting property owners have signed a document entitled: "Memorandum of Understanding" where a consent to transfer to petitioners their title to the abandoned street. Ms. Engustian noted that as part of this transfer of title to petitioners, there will still be a need for an administrative subdivision to move the lot lines and merge parcel 5 with the abandoned portion of Summach Avenue.

Ms. Engustian noted that in the Public Works Department have requested a 20 foot line easement line and a minimum of two granite bounds be placed on the old abandonment lot corners. The petitioners will contact the RI Departmental Management for an application for a Freshwater Alteration Permit. This is discussed in the Narrative presented. There will be vehicular access including access by City emergency vehicles.

Ms. Engustian, at this time, respectfully requests that the Planning Board recommend to the City Council that the Council grant this petition for highway abandonment. At this time she thanked the petitioners the Planning Board and the Planning Department for the guidance they have given over the past several months.

Mr. Robinson asks if there are any comments from the Board?

Mr. Batty asked if the property would become taxable after it is abandoned? Ms. Engustian stated yes. Mr. Batty asked where the location of the easement will be? Ms. Engustian states that she assumes that is part of the alteration permit application. Ms. Boyle states that this is the type of item that needs to be worked out with in conjunction with both the applicants and engineers and RIDEM. The wetlands issue is what has predicated this whole approach to this development.

Mr. Batty asked if they are creating non-access to the other lots back there on Parcel 4 and 6? Ms. Engustian answered it is her understanding that those lots are not developable because of the wetlands and stream that are in the back. Ms. Boyle comments that there is access from other streets and should they be developable in the future, that there is access to other streets so that they won't be curtailed from being developed. Ms. Boyle recommends that it be the engineer's responsibility.

Mr. Sullivan asked which street the lots were on? Ms. Boyle responds that they are fronting Summach Avenue which is a paper street and that

that portion of Summach is not proposed for abandonment, but that those two lots also front on Dover Avenue. The lots are not landlocked, but because of the wetlands issue, development will be problematic at best. Summach is on Dover and 80 Summach fronts on another street in the rear. If at some point the wetlands regulations change and the lots become developable, they will still have frontage on Dover Avenue and a portion of Summach that is not being proposed for abandonment.

Mr. Sullivan asked if the people on 55 and 57 Ivan will be giving up their rights to this property? Ms. Engustian said the owners of these properties have already signed a document stating that they will transfer the title that they received in the abandonment to the petitioners, the owners of Parcel 5. Mr. Sullivan asks if the existing stream will be open or will it have a culvert? He states the reason he asks this is that there is one in a location that has been diverted and they had put in a nice grass culvert, which goes to nothing. No water can get into it. Ms. Boyle states there is an existing stream and it is a protected wetland. She said that staff did look into the possibility of improving a street there and the response that the applicant received from the Department of Environmental Management was that this was something that they would not find acceptable. It would have too much of an impact on the wetland. How they intend to treat the remainder of the existing stream, it is my understanding that it will essentially stay in its current form. There is a drainage easement that also leads into there and in all likelihood stay away from that to the extent possible. How it is going to be engineered is another issue that I will defer to the engineers when they develop a drainage easement and when they actually go through the DEM wetlands approval process. That stream and the wetlands associated with it must remain undisturbed. That is what has generated the need for this abandonment.

Mr. Batty asks if the Board decides to approve it, only with the stipulation that it meets the regulations? Ms. Boyle stated yes. It is important that the stipulation be placed there because we must be sure that whatever drainage easement is in place or whatever structure is in place is acceptable to the Department of Public Works because we do not want to create any drainage issues in the future

Staff Recommendation

Mr. Patrick Hanner gave a brief overview and requested that the staff memorandum be made part of the Board's official record. He noted City staff including the Fire Department, Department of Public Works, City Engineer and Zoning Officer and they concurred that this portion of Summach Avenue does not serve any current or future use to the City except for the fact that there is a drain in there and that we establish a 20

foot wide drainage easement. It is the opinion of Planning staff that this portion of Sumach Avenue does not currently or in the future serve a useful purpose to the City.

Mr. Hanner noted that there are three conditions in the staff memorandum which are as follows.

1. Establish a 20 foot wide existing drainage line; and
2. That a minimum of two granite bounds be placed for the proposed new property corners;
3. Approval of the RI DEM; and
4. That the Department of Public Works review whatever is being proposed and that it be acceptable for drainage control

Motion

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to make the staff memorandum and conditions part of the Board's official record.

Motion – Recommendation to the Council

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board recommended unanimous approval of this street abandonment subject to the staff recommendation.

Roll Call Vote

Mr. Almeida Aye
Mr. Batty Aye
Mr. O'Brien Aye
Mr. Sullivan Aye
Mr. RobinsonAye

B. Appl. #2004-21 Minor Subdivision, Map 16, Block 19, Parcels 1, 2, and 3 – 93 First Street, Applicant: Cristiano L. Medeiros and Maria R. Medeiros

Attorney Martin P. Sleprow, attorney for the applicant was present. He stated that the applicant, Mr. and Mrs. Medeiros, own the three recorded lots that are on First Street which are parcels 1, 2 and 3. They want to divide this into two lots. One lot will contain 10,000 square feet. This lot presently has a five unit apartment building and 10 off street parking

spaces for the tenants. The other lot that we want to create will contain 5,000 square feet on the corner of First and Quarry Streets. We are not asking for an abandonment of the street, but are asking for the creation of a 5,000 square foot lot which would be suitable for the structure of a single-family dwelling. If the Board approves this, the applicant wishes to construct a home on the lot. Mr. Sleprow states the house itself will be on a 5,000 square foot lot which in this district is acceptable. The problem is that the existing five unit apartment building violates the current zoning law because it is in an R-6 District which is not permitted and because it does not have the 15,000 square feet that it would require if it was in a C-1 for a five unit. Mr. Sleprow stated the applicant is not asking for any waivers of sidewalks or curbing, street trees or anything, but do recognize that variances need to be gotten involving the existing five unit from the Zoning Board if the Planning Board approves this request.

Mr. Sleprow noted that in the staff recommendation there were a number of meetings with the staff and it was suggested that since it is a five unit and we are asking for one more unit, being a single-family, that the staff would look more favorably on this petition if the applicant would agree to make the existing five unit into a four unit and more the basement apartment. Then under the theory that four plus one would be five which is the same five that was originally there. He states his clients did not want to do that because they felt that the three lots that they own which are recorded lots were created in 1869 and one of the first plats to be recorded and the lot has existed as a separate lot since 1869. Mr. Sleprow states that there is no real use at that 5,000 square feet can have or does have with the five unit building because of the slope, parking and the building already exists. The 5,000 square feet of land exists almost totally independently of the five unit. It is not something where they would be creating additional parking.

Mr. Sleprow states that the applicant is not making any changes to the apartment house or parking. We are just asking to build a single-family home in an R-4 District which requires 5,000 sq. feet. Mr. Sleprow states that he does not often have a disagreement with the staff and that usually we try to find a way to make the Planning staff happy, but in this case we could not and asks that the Board see this as a reasonable use of the property. Mr. Sleprow states that the applicants and he are here tonight to answer any questions.

Mr. Robinson asks the Board if they have any questions?

Mr. Hanner gave a brief overview of the proposal

Mr. Hanner states there are three prior recorded lots on record. These are three individual 5,000 square foot lots. Those parcels have been merged

under Section 19-133 "Contiguous Lots under Common Ownership". These lots were merged because of the non-conformity. The dimension and use are not in conformity of that existing five unit apartment. In fact there are no three individual 5,000 square foot lots, just one single 15,000 square foot lot. The applicant is proposing the creation of two parcels; 10,000 sq. ft. parcel and a 5,000 sq.ft. parcel. Parcel 1 is a corner lot and has two frontages, one on the paper street Cory Street and First Street. A single-family dwelling is proposed for parcel 1, along with driveway. Drywells are proposed for the proposed single-family and the existing multi-family as well as a culvert for a catch basin. Curbing and sidewalks are proposed along the front edge of First Street. Steep slopes are present for both these parcels. On parcel 1 they range from 102 to around 92 above sea level and for parcel 2 they range from 102 to 89.

Mr. Hanner states that only one variance from Zoning is required for parcel 1. Since parcel 1 has two frontages, where they are proposing there are two parking spaces to the rear of the proposed single-family. They extend into the front yard setback of about three to four feet. The requirement is either 9 x 20 or 10 x 18. These have a 20 foot depth to them. If you take the 20 feet it will extend into the front yard setback to three or four feet. Two variances from Zoning are required for parcel 2. The first one exceeds the maximum pervious lot coverage for an R-6 district. For an R-6 district 45 percent is the maximum. The applicant is proposing a 53 percent coverage. The Zoning Officer calculated that the coverage currently is around 50 percent.

Mr. Hanner states that it is a multi family dwelling located in an R-6 District. It is only an allowed use in a C-1 and C-3 districts. There are no multi-families unless they are legally non-conforming. Mr. Hanner stated that one of the requirements is a useable lot area. Useable lot areas are the footprint of the dwelling or is the actual total lot area and then we subtract the footprint of the building which is called "useable lot area". If the parcel is located in a C-1 district – a minimum lot area of 10,000 sq. ft. if we calculated it is based upon the number of stories per unit and if there are two bedrooms per unit, if this parcel is located in a C-1 district, it would mean a minimum useable lot area of 15,000 square feet. When the calculations were done, it is actually an 8,650 feet. Even if this was in a C-1 district, it would be far below the required lot area requirement for a multi-family dwelling.

Mr. Hanner explained about the use variance issue in that if the Board were to approve this subdivision, they would have to go to Zoning for the three variances; one of those variances would be a use variance. The applicant would have to demonstrate to the Zoning Board that a beneficial use of this property could not be obtained unless that variance were granted. There is currently a beneficial use at this site. In fact there was a

two-family dwelling located on the same property if beneficial use were to be obtained or even a single-family. Staff does not think that this can be justified to the Zoning Board that if the variance were to be granted, they would have to demonstrate that a beneficial use cannot be obtained.

Mr. Hanner noted that staff did have a discussion with the applicants in a meeting with them. At that meeting, staff suggested they decrease from five units proposed to four units with the multi family. Staff also suggested that the applicant obtain this portion of Quarry Street as a paper street which would give them additional 4,000 square feet that they could add to either lot.

The Land Use 2010 Plan designates the area of the proposed subdivision as "Medium Density Residential". This designation allows residential development at a maximum density of 15 dwelling units per acre or less. The applicant is proposing six dwelling units per 15,000 sq. ft., equivalent to 17.4 units per acre, which exceeds the maximum allowed density of the Land Use 2010 Plan. Further, the proposed subdivision is inconsistent with the Comprehensive Plan since it increases the intensity of an existing non-conforming structure by use, multi-family dwellings are a prohibited use in an R-6 District, and further, exceeds the dimensional requirements for off-street parking for Parcel 1 and increases the maximum allowed impervious coverage for Parcel 2.

Mr. Hanner noted that all the General Purposes of Section 1-2 have been addressed. Positive findings were not found on all of them especially on promoting high quality and appropriate design and construction of the proposed subdivisions and land development projects. Promoting design and land developments in subdivisions which are well integrated with the surrounding neighborhood with regard to the natural and built environments which concentrate development areas which can best support an intensive use and also encourage design and improvement status throughout the intent of the East Providence Comprehensive Plan with regard to the physical character of the neighborhood.

RECOMMENDATION

Recommendation Subdivision

Based upon the above discussion, staff recommends that the Planning Board deny the proposed subdivision for the following reasons:

1. that the proposed subdivision is not consistent with Section 1-2, "General Purposes" and that the General Purposes were addressed as part of Staff's review;

2. That positive findings were not found for the standard of Section 5-4, "Required Findings" of the East Providence Land Development and Subdivision Review Regulations;

3. That the proposed subdivision is not consistent with the East Providence "Land Use 2010 Plan";

4. The application has made no attempt to conform to the zoning standards of an R-6 District regarding impervious coverage, location of parking, and number of dwellings. If approved, this subdivision would increase the intensity and impervious coverage of an existing non-conforming parcel.

Ms. Boyle states that she would like to emphasize in terms of the consistency with the Comprehensive Plan, the 15 units per acre in medium density category is the maximum allowed density. What we would expect to see within a medium density designation is something less than that. This is a very high density development and what they are proposing is significantly above that. There are a number of aspects within the Comprehensive plan which we did not enumerate here in terms of the goals and policies of making sure that you have development that is consistent with the abutting development that we also do not think are being met in this particular development.

Ms. Boyle also said and would like to emphasize the fact that this lot is merged and is considered one lot for zoning and for subdivision purposes.

Mr. Robinson asked if the Board had any comments or questions?

Mr. Batty asked if the 15,000 feet is one lot? Ms. Boyle states yes. Mr. Hanner noted it does not meet the front yard or side yard setbacks. A portion of the five unit dwelling is located on one of those of those prior recorded parcels. Mr. Batty also said he looked at it and did not see 10 parking places, but that they are noted on the plan. He asked if the proposed drain and drywell will be installed? Mr. Slepko answered yes.

Mr. Slepko stated he would argue at the Zoning Board hearing that the applicant does not have any beneficial use of the 5,000 square foot lot for that unit and there is no "beneficial" use. The applicant has owned it over 25 years themselves and without the Planning Board and the Zoning Board, we would argue that there is no beneficial use of that 5,000 square feet. Ms. Boyle to Mr. Slepko's statements is that the beneficial use is two-fold; one is that I question whether the parking spaces are actually going to meet City requirements in terms of the size and location of them. She said the abutting lot could also be used to satisfy that parking

requirement in a better and safer access. Also, treated as a whole, this lot also is already in excess of the requirements for coverage. By combining those two lots and by leaving that other 5,000 sq. ft. portion of this lot in an undeveloped state, you are also addressing some of the issues with impervious surface requirements. This is a very congested neighborhood. We have had some issues before with parking on the streets and concerns about congestion associated with emergency vehicles. If you have a multi-family in an area where multi-families are not allowed, then there is a tendency to see spill over onto the street. She said the density has implications above and beyond whether or not it meets the letter of the Regulations.

Mr. Cunha asks if the applicant is using that 5,000 sq. ft. now? They answered no. He asks if it takes away from the parking? Ms. Boyle states that if it has potential to be built on, then it has potential to be parked on. Mr. Hanner added that First Street does have a right-of-way of 40 feet, but only has about 25 feet of pavement width. Mr. Slepko comments that this request is a good situation for stabilization of the neighborhood.

Mr. Sullivan states he does not like the idea of splitting this lot. The parking on that 5,000 square feet is not impossible. He also states the house being proposed is too big for the property line with the porch. The applicant's states that the house he will put up will conform to regulation and said if the deck extends into the boundaries, then he will not put the deck on. Mr. Sullivan states it is too congested and he notes the applicant did not want to deal with the paper street. Mr. Sullivan states he would like to look into this plan further. Mr. Slepko states that the Board should know that the other side on Quarry Street is owned by the RI DOT and it is not so simple to get to the State Properties Committee and inform them about this small abandonment.

Mr. Sullivan stated that the applicant did not take Quarry Street into consideration by not speaking with the RIDOT.

The applicant states that if the abandonment would be beneficial, then he would be glad to look into it with RIDOT.

Mr. Cunha noted that the applicant had not been sworn in yet regarding all the prior statements he just made.

Chairman Robinson swore in Christiano Medeiros, 202 Wheeler Street.

Mr. Cunha asked if the opportunity arose, would he, the applicant, take the opportunity in getting RI DOT to abandon the street and sign the petition? Mr. Medeiros answered yes, if the Planning Board requires it.

Mr. Almeida asked if the 50 x 100 foot lot was owned by a different owner and they wanted to construct a building, would they have to go before the Zoning Board and get a variance? The Chair answered yes.

Mr. Sleprow states that if that were the case we would not go before the Zoning Board for all these other issues, and would advise my client to redesign the driveway in a different location to avoid going before the Board. This is the design that they would like to see.

Mr. Batty said because this is a City street which is a paper street they would have to go to the Council first and because it is a state lot, they would be gaining land. He said you could add the 2,000 sq ft. in the middle so that the five unit could be 12,000 square feet. Under the current rules, Mr. Sleprow states that you have to go before the Council before getting the State to sign the petition. The increase will help the density, parking situation, and impervious land. Mr. Batty says it should have been looked into. Mr. Sleprow states it would have been a time consuming process, but if that is the only way to move this forward, then he would be willing to do it.

Mr. Batty said he would like to see some more information before he proceeds with a recommendation.

Ms. Boyle states that from a planning perspective, she sees no public purpose being served by this stretch of Quarry Street. The Planning Department would have no objection.

At this time, the Board takes a five minute recess to allow the applicant and the attorney to discuss the case.

At this time, Mr. Sleprow asks his client if he would like to withdraw the petition at this time.

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted unanimously to accept the withdrawal of this petition by Attorney Sleprow.

C. Appl. #2004-12 Minor Subdivision – 55 Colwell Street, applicants: Joseph Cabral, Jr., Map 307, Block 34, Parcels 6 and 7

Attorney Martin Sleprow was sworn in. He states he is also representing Mr. Cabral, the applicant. He explained that the owners are Joseph and Joyce-Ann Cabral who own Parcel 6 and 7 on Block 34, but that they live at 55 Colwell Street. This is a single-family shown as an existing dwelling on Parcel #6. Both parcels contain over 5,000 square feet which is the requirement in an R-4 zone. Mr. Sleprow states the applicant wants to

subdivide so they can construct a new house for themselves on one lot and have their son move into the existing dwelling on the other lot. The two proposed parcels are both corner lots with two frontages. Parcel 6 has frontage along Bliss Street and Colwell Street and Parcel 7 has frontage along Lena and Colwell Streets. Mr. Sleprow states that the house on Parcel 6 does not meet the current zoning setbacks and asks that they unmerge the lots so that they can build on the 5,300 square feet. He notes the Planning staff is in support of this petition with certain conditions regarding sidewalks and curbing. Mr. Sleprow asks for a complete waiver on the grounds that there are no existing sidewalks connecting anywhere since these are corner lots. He asks for some kind of compromise.

At this time, Mr. Batty states that that this Board is always included to favor sidewalks and curbing. He said Bliss and Lena Streets go through to Brightridge to South Broadway and all are very much used; more so than Colwell Street. If we put sidewalks and curbing on Both Lima Street and Bliss Street than why not Colwell Street.

Mr. Sleprow states he told his client that he would present this case to the Board hoping for a compromise where the sidewalks would go on Bliss Street instead of Colwell and Lena Streets.

Patrick Hanner gave the staff recommendation and said that these are two prior recorded parcels, both have 5,300 square feet. One parcel has 10,600 square feet and the applicant is proposing to create two parcels of 5,300 square feet. A COC was issued on this petition on October 7, 2004. It was reviewed by all City staff including Public Works, City Engineer and Planning. Both lots are corner lots with frontage on Colwell, Lena, and Bliss Streets. The existing single-family dwelling is non-conforming by its rear yard setback. It has an existing garage and a driveway. The proposal for Lot 7 is a two car garage and driveway.

Topography

It is a very flat site. The elevation is from 53 to 50 feet.

Zoning

Regarding the Zoning of the site, Mr. Hanner explained that the Zoning Officer reviewed this petition and determined that three variances would be needed for Parcel 6; the first being that it would exceed the rear yard setback (20 feet is required and 7 feet is proposed). The second variance for parcel 6 is the building lot coverage requirement and for an R-4 district 25 percent is required. This subdivision would result in a 36 percent of building lot coverage. The third variance would be for the parking. The applicant, for a single-family dwelling, the ordinance requires two parking

spaces and only one which may be located in the front yard. The applicant is proposing the garage to accommodate a single parking space and the driveway to contain the second required parking space. But the distance of dimensions of the driveway is below the minimum depth requirement for a parking stall. It is either 9' x 20' or 10' x 18'. There is only 15' being proposed. From the property line to the garage.

Mr. Hanner noted the proposed parcel 7 also requires a variance for exceeding the building lot coverage by 2 percent.

Mr. Hanner noted the applicant is requesting a waiver for sidewalks and curbing and it is staff's opinion that this subdivision is in very close proximity to the Martin Jr. High School, the Rose Garden Playground, and also the Holy Ghost Brotherhood Hall on Brightridge Avenue. Staff strongly recommends since there are a lot of pedestrians and children who walk through these streets that the Board require sidewalks and curbing.

Regarding the General Purposes and Required Findings, Section 1-2, all the general purposes were addressed and regarding the Required Findings of Section 5-4 positive findings were made.

Regarding the variances, Mr. Hanner noted that it is staff's opinion that these are either pre-existing or minor deviations from the requirements.

Recommendation

Below is a list of the staff's recommendation:

- A. That the Board delegate final plan approval to the Administrative Officer;
- B. That the Board deny the applicants requests for a waiver from the requirement of the installation of sidewalks and curbing;
- C. That the Planning Board grant Conditional Approval of the subdivision, as proposed, subject to the following conditions:
 1. That the residential use of the proposed single-family dwelling be restricted to single-family use and accessory uses in perpetuity;
 2. That notation is placed on the plan indicating the height of the antenna and its purpose (such as ham radio);
 3. That the applicant submits an estimate for all improvements within the City's right-of-way. The amount will be verified by the Department of Public Works and posted by the applicant as an improvement guarantee before a final plan approval is granted.

4. That the title block of the Final Plan be revised to indicate Final Plan status;
5. 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;
6. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements;
7. 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.

At this time, Mr. Hanner requests that the staff memorandum and attachments be entered in the Board's official records.

Chairman Robinson states that this Board has probably legitimately subject to criticism for being inconsistent regarding sidewalks and curbing waiver requests., but in an effort to address that inconsistency and also given the fact that I live very close to this area, I will not support any waivers of sidewalks or curbing on any of the three streets.

He asks the Board if they have any questions. Mr. Sullivan asked about the antenna. Mr. Cabral stated that he is the owner of the property and that is a tower that he put up. It is a CB tower and said he cannot fold it into the lot. Mr. Sullivan asked if it was used for business. Mr. Cabral stated no.

Motion – Staff Memorandum with Attachments

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted unanimously to enter the staff memorandum with all the attachments into the Board's official records.

Motion – Waivers of Sidewalks and Curbing

On a motion by Mr. Batty, seconded by Mr. Almeida the Board voted to require the installation of curbing and sidewalks on Lena and Bliss Streets, and curbing installation on Colwell Street, but no sidewalks.

Roll Call Vote

Mr. Almeida	Aye	
Mr. Batty	Aye	
Mr. O'Brien	Nay	
Mr. Sullivan	Nay	
Chairman Robinson	Nay	Motion is defeated.

Alternative Motion – Waiver of Sidewalks and Curbing

On a motion by Mr. Sullivan, seconded by the Board agrees with the staff recommendation and denies the request for waivers on all three streets.

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

Motion – Conditional Approval of the Subdivision as proposed, but as modified with respect to the waiver issue.

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to approve the subdivision based upon the submitted testimony presented to the Planning Board through the staff report memorandum and memoranda from various City departments. All the General Purposes of Section 1-2 of the East Providence Land Development and Subdivision Regulations have been addressed and Positive Findings were found for all 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. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Chairman Robinson	Aye

Motion – Delegation of Final Plan Approval to the Administrative Officer

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

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye

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

D. Request for Easement by Dunellen, LLC – Pier Road and Water Street

Ms. Boyle stated the petitioners for this easement request are present and they are sworn in by Chairman Robinson.

Mr. Ronald Chrzanowski, Capital Properties Inc. and Dunellen, LLC, 100 Dexter Road, East Providence is sworn in.

Mr. Avery Noe, 100 Dexter Road, East Providence is sworn in.

The applicants went briefly through the application. They presented the plan to the Board at this time.

Motion

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board unanimously voted to have the plan submitted into the Board's official records.

Mr. Chrzanowski states he is here tonight to request an easement. He states he submitted a letter regarding Pier Road and Water Street easement to the City concerning this. At this time he reads the letter to the Board. He explained about the diesel oil and home heating oil that is transported from the pier through the underground pipelines where the product is loaded into trucks. This product is then distributed throughout the southern New England Area. He noted he supplies approximately 34 percent of the heating oil for the Rhode Island residents. Regarding the regulations to be implemented in 2006, Mr. Chrzanowski explained that Dunnellen LLC will need an additional petroleum pipeline running from the Pier to the terminal. He said he had originally intended to install this pipeline in the existing easement which carries the two present pipelines. This easement falls within the area of the proposed Warren Avenue Connector and the pipeline would have to be built as part of the overall project scheduled for construction in the spring of 2005. Mr. Chrzanowski states that in order to meet that schedule, we would not have our approvals in time to be included in the bids which will go out in the summer of January of 2005 for the connector.

Mr. Chrzanowski states he has spoken with the Planning Department and they informed us that under the Waterfront Commission Plan, Pier Road and Water Street which are designated as utility corridors. Since we do not want to cause any delay in the commencement of the project, we hereby request an easement over Pier Road and Water Street for the future installation of the proposed

pipeline. If this meets with the Board's approval, we would submit a grant of pipeline easement for the Board's review.

At this time, Ms. Boyle reiterates a couple of the points made above by Mr. Chrzanowski. She said staff has been talking extensively with the representatives of Dunnellen LLC. It is essential that the Warren Avenue Connector proceed as quickly as possible. The Warren Avenue Connector is an extension of Warren Avenue that continues along the right-of-way where the railroad tracks are and will continue all the way to essentially the edge of the Providence and Worcester facility. Ms. Boyle stated that that is the first piece of Waterfront Drive, which is intended to be a roadway which will continue all the way along the waterfront. She said they expect to go out to bid in January of 2005, with construction starting in the spring of 2005 and completion by 2006. Because of all the development that is dependent upon that roadway going forward, we did not want anything that would delay that and miss the construction season. There have been many discussion with RIDOT, the design engineers and the City's Public Works Department about trying to incorporate this pipeline easement within Waterfront Drive. Because of the complexity of some of the permitting issues and other design issues, we are really concerned that to try to do that would delay the project which would have severe consequences for the overall waterfront development.

Mr. Boyle explained that as the Board may recall, in the Waterfront Plan, we did discuss what happens to Pier Road and Water Street after Waterfront Drive is constructed. To a certain extent, Pier Road especially becomes redundant, but we felt that it should not be something that the City abandons; that we should keep it for a combination of the utility corridor and also public access way. The proposal that Dunnellen LLC has submitted to actually place that pipeline within the Pier Road and Water Street right-of-way is completely consistent with the plans for the waterfront and waterfront redevelopment. It will also ensure that the Waterfront Drive construction (the Warren Avenue connector portion of it) proceeds on schedule.

Ms. Boyle states that all of the design details have not been worked out at this point. That will be done jointly with the City Engineers and permitting authority such as the CRMC. As within any construction with the Waterfront District it will also have to ultimately go before the Waterfront Commission for approval. Before that can happen the recommendation of disposition has to take place. Staff is supportive of this request.

Chairman Robinson asked if there were any questions?

Mr. Sullivan asked the applicant if the Federal Government is mandating that you have an extra line and if it is an emergency line? It was answered that the EPA regulations mandated in 2006 that the sulfur content that it is falcon diesel

be reduced from 15 parts per billion. For us to bring in that product it would have to be in an isolated line because it would get contaminated in the home heating oil line. For us to remain in the diesel business we would have to put that line in. This would be a phase-in from 2006 to 2010. The only other option we would have without this easement would be to go back to the present easement and tear up the road.

There were no other questions or comments.

Motion

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted to recommend to the City Council that they approve the proposed easement.

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

At this time, Mr. Robinson states that he has another commitment down at the Council Chamber and relinquishes the chair to Vice Chair Batty. Mr. Cunha will step in at this time and deliberate in the Chairs place.

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board moved to relinquish the Chair to Mr. Batty.

V. CONTINUED BUSINESS

A. A. Staff Report

Ms. Boyle states we are reviewing a number of projects that will be becoming before the Board.

Ms. Boyle informed the Board that Bank of America will be coming into the Trafari Building on Pawtucket Avenue. That property is already zoned Industrial which does allow for the call center use that is being proposed. Whether or not that triggers the land development project requirements and whether it will have to go before the Planning Board has not been determined. There will be some traffic issues and those will be addressed during the development review process. There will be a creation of 900 jobs.

Ms. Boyle also informed the Board that staff attended a groundbreaking that Patrick also worked on which is the Riverside

Village redevelopment on Willett Avenue. This is a new shopping center in the middle of the plaza near Haxtons building.

Crossway Credit Union on Pawtucket Avenue and the new Pawtucket Credit Union next to Brooks Shopping Center on Pawtucket Avenue.

Ms. Boyle also informed the Board that she and Chief Planner, Diane Feather will also be doing a presentation next week at the Boston Conference which is an architect and developer conference to talk about the Waterfront Plan and Waterfront Zoning. Mr. Colin Cane, the developer of the RossCommons project will also be on the panel

VI. COMMUNICATIONS

On a motion by Mr. Almeida, seconded

A. Copy of memorandum dated 1022/04 to the Zoning Board of Review from the Department of Planning Re: "Requests for Variance or Special Use Permit to be heard on 10/27/04" (copies previously submitted);

B. Copy of letter from Joao P. Sousa, 78 Heath Street regarding property on 33-35 Vine Street. Request is for a driveway (enclosed).

Ms. Boyle explains that this was part of an approved subdivision that the Board placed a stipulation that a portion of the property remain in an undeveloped and vegetated. Subsequently, that area was paved which resulted in a notice of violation being sent to Mr. Sousa. He is coming before the Board with a request to modify the original approval and to primarily correct that violation.

Mr. Sousa was sworn in. He states he is there for his father who does not speak English. He enlarged the driveway for additional parking and states he did receive a letter from the City notifying him of the violation and states he will rectify the situation and put the grass back.

Ms. Boyle states that staff is recommending approval of this modification. It is a reasonable use of the property. Staff recommends to the Board that it accept this modification as proposed.

Mr. Sullivan questioned Mr. Sousa as to why the area has asphalt all over it? Mr. Sousa states that originally his dad wanted to do one big driveway so that he could have plenty of parking. A larger driveway would accommodate his family members around the holidays and there would be zero maintenance, and he also wanted to address the needs of his tenants. He does not want to build a garage or any addition. He said

it was an honest mistake. Mr. Cunha said it is not asphalt, but crushed stone.

Mr. Sullivan asked how many people have automobiles that live at that address now. Mr. Sousa answered the third floor has three. Five in total. Mr. Sullivan asks if he has enough room in the backyard for 15 and that he has more than enough room for the tenants in the backyard without making this a driveway over here. Mr. Sousa states it is a very tight squeeze to get by those cars with this narrow driveway. he proposed width is 12 feet up to the back of the house. The applicant states he will take the stone out on the new driveway side and put the vegetation and grass back in.

With the additional parking spaces, Mr. Sullivan asks the applicant if he intends to sell parking spaces on the lot. Mr. Sousa stated no, the spaces are for tenants only and assures the Board that it will only be a driveway into the backyard.

Motion

On a motion by Mr. Almeida, seconded by Cunha, the Board approved the application and make it part of the Board's official record.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Chairman Robinson	Aye

VII. ANNOUNCEMENT

A. Next Meeting – Monday, December 13, 2004 7:30 p.m., Room 306

VIII. ADJOURNMENT

JMB/sac