

# December 8, 2003 - Regular Planning Board Meeting

## CITY OF EAST PROVIDENCE

### PLANNING BOARD

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#### MINUTES OF DECEMBER 8, 2003

The meeting commenced at 7:31 p.m.

Present: Messrs. Almeida, Batty, Gerstein, O'Brien, Robinson, Sullivan, Jeanne Boyle (staff), Zac Gordon (staff), and Tim Chapman, Assistant City Solicitor.

#### I. SEATING OF ALTERNATE MEMBER

#### II. APPROVAL OF PLANNING BOARD MINUTES

It was noted that the minutes of October 14 and November 12 would be forthcoming.

#### III. APPROVAL OF PLANNING BOARD CORRESPONDENCE

On a motion by Mr. Sullivan, seconded by Mr. Batty, the Board voted unanimously to accept the correspondence below and make it part of the Board's official record.

A. Memo dated 11/26/03 to the City Council, Re: Recommendation on Adoption of the "2003 East Providence Waterfront Special Development District Plan"

#### IV. NEW BUSINESS

A. *Appl. #2003-28 Bentley Street & Follett Street Minor Subdivision*  
*Applicant: City of East Providence*

Ms. Boyle stated she would like the engineer who is representing East Providence to make the presentation to the Board.

Mr. Larry Smith, Waterman Engineering, 450 North Broadway, stated that the property is the old torn down public works garage, which goes from Bentley to Follett Streets. On Follett Street there is a retaining wall that swings into a driveway that is known as Lot A. It is proposed that the retaining wall will stay and the chain link fence will be removed. The fence on the north side of the property will remain, but the neighbors have attached pickets to it, and the barbed wire will be removed from the top.

Mr. Smith noted that the land will be subdivided into four lots, which all meet zoning regulations. The utility connection and driveways will be from the Bentley Street side, the backyards will be on Follett Street. Mr. Smith said there is granite curbing on Follett

Street with a grassed sidewalk, and given the inaccessibility from most of these lots, that will be made into a concrete sidewalk. There is an existing concrete walkway along Bentley Street which will be removed and granite curbing will be installed and new concrete sidewalks put in place. The proposed lots will have sewer and water connections. The City is not asking for any waivers. Stormwater runoff will definitely decrease as the existing asphalt pavement will be removed. The City requests that the final plan approval be delegated to the Administrative Officer.

Acting Chairman Robinson asked if the City would bear the cost of all the installation of curbing and sidewalks? Mr. Smith answered yes. Ms. Boyle stated that the City did for the Fire Station in Rumford, which was also a City subdivision.

Zac Gordon states that the proceeds from the sale will pay for the sidewalks and required public improvements.

Mr. Robinson asked how long would it be before the lots go on the market? Ms. Boyle stated that final subdivision approval would be required first. There is also a Phase II environmental, which is being performed on the property. Depending on what the result of the assessment is, any contamination would also have to be cleaned up before it was marketed. Ms. Boyle stated it will take about two to three months until the properties are sold because there are the appeal periods that have to be followed.

Mr. Sullivan asked Chair Robinson who owns the property and where the deed is. Ms. Boyle said she would defer to the City Solicitor on the location of the deed, but it is her understanding that the City of East Providence owns the property, which is why we are selling it. Mr. Chapman stated the City is in the process of doing a title examination. Mr. Sullivan asks what happens if someone claims that that is their property? Mr. Chapman answers that if that happened it would be referred to an appeal system in the courts. Mr. Chapman asked Mr. Sullivan if he anticipated something? Mr. Sullivan stated no.

In answer to Mr. Sullivan's questions, Mr. Smith stated that the deeds were found for some of the recorded lots. Historically the City garage has been there since before WWII. If it was someone else's property, it has been used and occupied by the City. There may be a need for title action. When it was surveyed, Waterman Engineering found deeds for the lots abutting the adjoining properties and what was left corresponded to the lots of record that matched what the City had. Mr. Robinson asked if there were any legal problems associated with the Board approving that subdivision without having title or deed? Mr. Chapman answered that you could make it subject to finding the deed to the property, but was not aware of a dispute as to title. Ms. Boyle stated that staff made the provision of a deed as one of the approvals. She indicated that all of those issues will be addressed prior to final approval being granted.

At this time, Zac Gordon went through the staff recommendation. He states that the proposal is a four-lot subdivision on existing street frontage and it is expected that the access would be off of Bentley Street because of the slope issue, although lot A could

have access off of Follett Street. Bentley Street will be the address for the four lots. The total acreage is 32,000 square feet, with 8,000 square foot lots. They are proposed for single-family dwellings. This site has been used historically for a City Highway garage. The building was built in the early 1920's and used most recently for storage by the Recreation Department. Mr. Gordon stated that public improvements, sidewalks and curbing will be installed as part of the development of these lots because if we sold lots individually, it would be difficult for people at different times of development to put a sidewalk in front of their home and have the various lines match. It makes sense to do the work all at once.

Mr. Gordon reported that the general topography, the elevation, is fairly level. The only slope is to the northeast where the grade drops down to Follett. It is fairly level in terms of topography and at this point the site is a vacant urban lot with some asphalt, fill, and some shrubs around the perimeter. The City has a phase 1 environmental assessment of the site which is to identify any known sources or history of environmental conditions on the site specifically tanks or any sort of hazardous materials. That was completed this summer. As part of that phase assessment, during the summer there were several tanks removed from the site. In addition to that, the phase 1 assessment showed that there was some trace elements of hazardous materials; consistency of hydro-carbon or other type of materials. The phase 1 study also revealed that there was a discrepancy between the record of tanks that was discovered on file either at DEM or elsewhere and the number of tanks that were removed. Because it did not add up, the phase 2 study was needed to do further investigation to find out what kind of leakage there might have been from the containers that were stored on the site or where these other tanks could possibly be. The phase 2 study contract has been awarded and that work is underway. Mr. Gordon said that we expect that by January or early February this Phase II will be finished. As part of the phase 2 study there will be a remediation plan which will address how we deal with the presence of these materials so the lots can be conveyed. This is likely to occur sometime in the spring. There will also be some test borings and some subsurface investigation so that we will be able to determine whether there are any other tanks located on the site and come up with a plan to remediate the site. Mr. Gordon reiterated that the remediation must take place before the City can convey any lots.

Mr. Almeida asked that the barbed wire be removed as soon as possible since it is dangerous and because of a possible lawsuit. Mr. Gordon stated that in terms of the barbed wire being removed, this can be done, but the fence will remain in place until the lots are sold.

#### Drainage

Mr. Gordon stated that when the proposed lots are developed, there will be a reduction in runoff from the site. There are street catch basins that will accommodate the drainage from this subdivision whether it is roof drainage, parking lot, or other overflow from the grassed areas.

#### Traffic

Mr. Gordon stated that the traffic is not a concern. There will actually be a reduction in the traffic from this site, as well as the change from truck to passenger vehicles.

#### Zoning

Mr. Gordon stated that the lots have been created to conform with all the Zoning requirements. The lots are 60 percent larger than required under Zoning in the R-6 Residential District – 5000 feet is required, while these lots are approximately 8,000 feet.

Mr. Robinson asked if there were any comments from the Board. There were none.

#### *Public Comments*

Dale Plante, 105 Howland Road, East Greenwich, RI testified that he owns property at 20-22 Follett Street opposite this minor subdivision. He asked if the City was going to see this land to be developed by someone and what the housing would be used for? Mr. Robinson answers that it will be single family housing, it is not on the market yet, and there are no developers as yet. Ms. Boyle states it is the City Council's intention to subdivide into smaller parcels and sell it to individual property owners rather than sell it as one parcel. This gives an opportunity for residents of the City primarily, not just developers to actually buy one of the lots and build on it. Mr. Plante asked if this was a City housing project? Ms. Boyle answered no.

Mr. Plante stated his concerns about the traffic safety issues on Follett Street; the traffic that cuts through up to the social club on the corner. He states he would have curbing all the way to that persons property and have a sidewalk all the way to that property plus put the wall all the way across the back of the property. Mr. Plante said that what happens now is that there is a parking lot where everyone goes to the Portuguese American Club. For you to say this is going to be a secondary parking, the social club is not going to be happy with that at all. He recommended that the City block the whole property off, tear down the wall and rebuild it all the way across the back of the property. Other concern that Mr. Plante also stated that the site drainage goes all the way down to Bentley to Follett Street. This is an abundance of water coming across there and there needs to be a subdrain or other system to address this water and not just have it run across the grass and hit the wall. Mr. Plante said the drainage coming from the pipe in the wall is causing a problem since it is next to my property and there should be a landscape buffer across the back where the wall is. If this was private property the owner would be required to put a fence across there to meet the safety code. He suggests a staggered row of Pine trees and other kinds of shrubs.

Mr. Plante explained that he is on the Planning Board in East Greenwich and suggests the property should be subdivided for three houses instead of four. He expressed concern about the effect this development will have on his property. He asked if this was a preliminary hearing or information hearing? It was answered that the hearing is a preliminary.

Mr. Plante asked who will do the research and analysis of the soil if contaminants are found? Mr. Gordon stated the City is having it analyzed and bearing the cost of it. Mr. Plante also said he opposed to the density on the subdivision and said it is not fair to the people that live near it because many people will be parking there.

Ms. Boyle responded that all of these lots not only meet the minimum zoning requirements, they exceed them significantly. The City Council wants this to be subdivided into four lots. With some creative layout we actually could have done five lots and we thought that would have been shoehorning houses onto these properties. The lots exceed the 5,000 square feet required in an R-6 district where you are also allowed to build two-family homes and with some of these lots you could do that as-of-right. It is not an inappropriate density in that the City is restricting it to single-family. There may be a number of houses that exceed the 8,000 square feet, but that it is fairly good size lot by East Providence standards. Ms. Boyle also added that there are some lots that are larger immediately surrounding this lot, but there are also a number of lots that are smaller.

Mr. Smith said that once the gates are removed, there should not be a problem with parking. Mr. Almeida asked if this was a driveway for the Highway Department? Mr. Smith answered, yes. Mr. Smith suggested a garage facing outward, and the owner would be the only one with access to the street and if it was an issue to the homeowner, they could move the gates and put them back there at Follett Street. There are a lot of options that are open for this particular lot that are not open to the other three lots. Mr. Almeida said you could also extend the wall and drop it down a little.

Ms. Boyle stated that the site has been used for commercial and industrial uses since the 1920's. The Council felt very strongly about returning it to a residential use which is consistent with the character of that neighborhood. Continuing to use it as a garage is an inappropriate land use for a residential area and that it will be an asset to the community when it is developed.

Mr. Sullivan asked Mr. Plante which address of the property he is concerned about? Mr. Plante stated 20-22 Follett Street. Mr. Sullivan asked if he lived there? He said no, but still owns the property. Mr. Plante said there is a problem with people parking there at certain times of the year.

A resident of 13-15 Follett Street testified that there is a parking problem. She lives on the opposite side and cars park in front of her house all the time especially when the Portuguese Club parking lot is filled up. She states there is a no parking sign in front of her house, but that people going into the club still park on top of the sidewalk in front of her house.

Mr. Robinson stated he appreciates the neighbors' concerns. The resident at 13-15 Follett also stated that if you give the owners the option of entering into their property through Follett Street, it will create even more traffic on their end of the street. Mr. Almeida suggested to extend the wall. Mr. Plante had also stated this.

Mr. Joseph DiRobbio, 340 Mauran Avenue stated his concerns. He states he has no objections to the four lots, but has concerns about the drainage. He said there is slimy water coming through the hole in the wall that the Highway Division had made. This water runs down Follett Street and other properties and makes a mess. He asked about the plan to install a new split rail fence and who will be installing it? Ms. Boyle stated that one of the clarifications that staff had made was that in certain sections the chain link fence should remain; that it may be that the property owners don't want split rail, they may prefer a stockade fence. Mr. DiRobbio said he doesn't like the idea of the split rail because there is a six-foot drop onto his property. There is a picket fence attached to the chain link fence on the southern part of the property. He noted he has been maintaining it ever since the City moved out of there and said the City never did anything about the fence all around the property. The 6 foot stockade fence along Follett Street was never maintained. In the event that the fence is taken down he asked to be notified? Ms. Boyle stated that the Board would make a note of that.

Mr. DiRobbio also stated he is concerned about the hazardous soil. There is a mound there that is wrapped up in plastic and he asks how long it is going to be there. He said when it is windy, it blows on his property. Ms. Boyle stated that the City is having the materials tested and that she will bring it to the attention of the Public Works Department. Mr. DiRobbio states that when the contractor initially went in to tear down the garage, he tore down about 60 square feet of his parking area. He said this is still destroyed. Ms. Boyle told him to bring it to the attention of the Public Works Department. Ms. Boyle also stated that an effective way of getting enforcement of the "no parking sign to appear along Follett Street is to go before the Council with your complaint. Solicitor, Tim Chapman stated that the neighbor should contact the City Clerk, Valerie Perry, to put it on the Council docket. Mr. Gordon stated there is no parking permitted on the west side, only on the east side.

Mr. Batty asked the neighbor if the home is built on Bentley Street and there is a wall up, do you think they will park on that property and do they park in the neighbor's driveways. They said yes. Acting Chairman Robinson states that is a police matter and they should contact the police. Mr. Batty states that he finds it hard to believe that extending that wall will alleviate the neighbors' problem anyway and that this Board is not law enforcement. The Board's function is to review the subdivision, and that the neighbors should call the Police Department or bring this problem to the attention of the City Council at their meeting.

Mr. Gordon reiterated the fact that the City is going to leave the chain link fence in place and remove the barbed wire. He said whoever purchases those lots will have the option of putting in whatever they deemed appropriate. He noted that a split rail fence is not good if you have a drop off, and that the City will not dictate what the developer puts in.

First Motion

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted to accept the Planning Department recommendation as follows:

The General Purposes of these Regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, be consistent with the provisions of the East Providence Comprehensive Plan and the East Providence Zoning Ordinance, accomplish the following:

- (a) Protect the public health, safety and welfare of the community;
- (b) Provide for the orderly, thorough and expeditious review and approval of land developments and subdivisions;
- (c) Promote high quality and appropriate design and construction of subdivisions and land development projects;
- (d) Protect existing natural and built environments and mitigate all significant negative impacts of any proposed development on the existing environment;
- (e) Promote design of land developments and subdivisions which are well-integrated with the surrounding neighborhoods with regard to natural and built features, and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure;
- (f) Encourage design and improvement standards to reflect the intent of the East Providence Comprehensive Plan with regard to the physical character of the various neighborhoods, districts, and special and critical areas of the City;
- (g) Promote thorough technical review of all proposed developments and subdivisions by appropriate officials;
- (h) Encourage dedications of public land and impact mitigation to be based on clear documentation of needs and to be fairly applied and administered, and;
- (i) Provide for the establishment and consistent application of procedures for local record keeping on all matters of land development and subdivision review, approval and construction.

Based upon its review, Planning staff has found that the proposed subdivision is consistent with these General Purposes and Section 5-4 Required Findings as follows.

- a) Subdivision and land development project proposals shall be consistent with the East Providence Comprehensive Plan, including its goals, objectives, policy statements and Land Use 2010 Plan, and/or shall satisfactorily address the issues where there may be inconsistencies;

***Based upon the plans presented to the Planning Board, Planning staff finds that the proposed subdivision is consistent with the East Providence Comprehensive Plan, including its goals, objectives, policy statements and Land use 2010 Plan.***

- b) All lots in a subdivision and all land development projects shall conform to the standards and provisions of the East Providence Zoning Ordinance, Chapter 19, provided however, that lots not being created for the purpose of present or future development need not meet the area and other dimensional requirements of Section 19-145 of the Zoning Ordinance provided that:

- (1) A notation is shown on the recorded plat that the lot being created is not a buildable lot; and/or;

- (2) A conservation or preservation restriction pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, is granted to the City of East Providence prohibiting any such present or future development.

***All proposed lots conform to the minimum dimensional and use requirements for the R-6 Zoning District.***

- c) There will be no significant environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;

***Based upon the plans submitted, Planning staff has determined that it does not appear there will be any significant environmental impacts arising from the proposed subdivision.***

- d) Subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved and recorded plans;

*Planning staff has determined that, as designed, the proposed subdivision appears that it will permit building in accordance with applicable City regulations and building standards.*

- e) All subdivisions shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement. Lots cannot be isolated by topographic, natural or other features which prevent adequate physical access from the street.

*All four (4) lots to be created will have access to Bentley Street & Follett Street, with the primary access to be on Bentley Street.*

- f) Each subdivision and land development project shall provide for safe circulation of pedestrian and vehicular traffic, for adequate surface water runoff, for suitable building sites, and shall provide for preservation of natural, historical or cultural features that contribute to the attractiveness of the community to the extent feasible, and;

*Based upon its review of the proposed subdivision, Planning staff has determined that this subdivision shall provide for the safe circulation of pedestrian and vehicular, traffic, adequate surface-water runoff, suitable building sites and the preservation of natural, historical, and cultural features.*

- g) The design and location of streets, building lots, utilities, drainage improvements and other improvements in each subdivision and land development shall minimize flooding and soil erosion.

*While the proposed subdivision will result in a minor increase in storm water runoff from existing conditions, there will be a significant reduction in runoff from the historic usage of this site as a Highway Garage. Based on the proposed subdivision layout, Planning Department staff has determined that flooding and/or soil erosion arising from this development shall be minimal.*

## **RECOMMENDATION**

### **SUBDIVISION**

Based upon the analysis provided above, Planning Department staff has concluded that the proposed subdivision is consistent with the General Purposes found in Article 1 and the applicable standards of Section 5-4 of the Land Development and Subdivision Review Regulations. **Therefore, staff recommends Preliminary Approval of the proposed Minor Subdivision application, subject to the following conditions:**

1. that the Final Plans be stamped and signed by the professional land surveyor and engineer.

2. that the title block be revised to indicate Final Plan status;
3. that the Final Plans be based upon the approved Preliminary Plans, and further that the Final Plan and supporting documentation meet the requirements of the East Providence Land Development and Subdivision Review Regulations;
4. that a valid deed be provided, which details the boundaries of this parcel; and
5. that upon project completion, final “as-built” plans be submitted on mylar, and disk 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 permanent structures.

Before the second motion is entertained, Mr. Almeida asked if the Board could consider subdividing the property into 3 lots instead of four to make each lot larger and also, if there was a possibility that whoever buys that property at that time could come in, get a variance for an addition? Ms. Boyle answered that they might be able to put additions on as-of-right because of the large lots. In terms of building it a two-family dwelling, I would think that by placing this deed restriction on the plan that additional construction would be impossible. That was the intention. There are a number of properties in this area that are two-family properties. Not only is the lot size relatively small, but the density is less because it is restricted to single-family rather than two-family. Mr. Almeida noted that he will vote for four lots because if it is restricted to three, there is that possibility that someone will come in and subdivide the lot.\

#### Second Motion – Preliminary Approval

On a motion by Mr. Almeida, seconded by Sullivan, the Board granted preliminary approval to the minor subdivision subject to the Staff recommendations and conditions including the addition of #6 (Restriction to single-family use into perpetuity).

#### Roll Call Vote

|                          |     |
|--------------------------|-----|
| Mr. Almeida              | Aye |
| Mr. Batty                | Aye |
| Mr. O’Brien              | Aye |
| Mr. Sullivan             | Aye |
| Acting Chairman Robinson | Aye |

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

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted to grant final plan approval to the Administrative Officer, Jeanne Boyle.

***B. Appl. #2003-06 Minor Subdivision request for extension (letter dated 11/20/03 to the Planning Director from Joseph D. and Stephen Ptaszek***

Ms. Boyle explained that the final plans have not yet been submitted for this subdivision. The Planning Board decision was upheld by the Zoning Board that allows the applicant the ability to proceed with the final subdivision. The 60 day time period for recording between preliminary and final was stayed during those proceedings. She said the Zoning Board has taken action and the clock has resumed. The applicants are seeking an extension that does not state exactly for how long. She stated she presumes they are looking for an extension of another 60 days, but it is not clear in the application. Someone from the Board asked if they are having trouble with a certain neighbor regarding this subdivision? Ms. Boyle said that she does not know exactly what the status is on that; whether or not they are having decisions with them. She said she expects that an appeal may be filed in Superior Court. Even if the Board grants this extension, it may become academic at this point. Acting Chairman Robinson noted he does not think a 60-day extension is unreasonable. They will have to come back to the Board if they want to extend it beyond that. Ms. Boyle stated yes.

Motion

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted to grant the 60 day extension subject to the applicant coming back to the Board for any further requests.

Roll Call Vote

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|--------------------------|-----|
| Mr. Almeida              | Aye |
| Mr. Batty                | Aye |
| Mr. O'Brien              | Aye |
| Mr. Sullivan             | Aye |
| Acting Chairman Robinson | Aye |

***C. Abandonment and Relocation of Easement at Jordan Street***

Ms. Boyle stated that Marshall Land, LLC owns the property on Jordan Street. She said that currently there is an easement that runs through the property which constrains the ability of the owner to develop it for any purpose. The applicant is suggesting that they relocate the drainage easement to the edge of the property which will enhance the buildability of the property. This is a very desirable area for commercial development and anything that we can do to assist the property owner in developing that property is beneficial to the City. Ms. Boyle said that staff recommends approval of the abandonment of the existing easement and the relocation of the new easement as proposed. Ms. Boyle noted that this is subject to City Council approval as well because it is a conveyance of an interest in City property. They will be posting a performance bond in the amount of \$65,000 to assure that the work is done to the City's satisfaction.

Mr. Sullivan asked about the cost. Ms. Boyle stated the owner would absorb the total costs.

Mr. Robinson asked if there were any questions of the Board. There were none.

Motion

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board recommends approval of the abandonment of the existing easement and relocation of the easement to the City Council subject to the terms described in the November 21 memorandum from Stephen Coutu, Director of Public Works.

Roll Call Vote

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|--------------------------|-----|
| Mr. Almeida              | Aye |
| Mr. Batty                | Aye |
| Mr. O'Brien              | Aye |
| Mr. Sullivan             | Aye |
| Acting Chairman Robinson | Aye |

***D. Lease of City-Owned Land – Metacomet Office Park Association;***

Ms. Boyle stated staff has not received a copy of the draft and that it was deferred to Assistant City Solicitor, Tim Chapman. She said it was under discussion and review between the Law Department and the Metacomet Office Park. Mr. Chapman states that he recalls that the City did have a lease and it was submitted to them, but that he would check on it. Mr. Robinson states that from their letter of December 30, they are making specific requested changes in the language of the lease. Mr. Chapman states that he is certain that the City has an actual lease and we submitted to them. The applicant came back with these requests for changes which were quite substantial compared to what we had proposed based on the discussion that the Planning Board had previously had. Mr. Chapman stated he would find it and the changes they have asked are quite substantial compared to what the Board had looked at previously. He said he put in his memorandum that these changes are in contrast to what the Board discussed on this issue.

Ms. Boyle gave some background to this and said the City did not put out a request for proposals to get people to lease this property. We were in discussions with the owners of Metacomet Office Park and they had a parking problem. There were different ways that they were going to address it. They were going to add some additional parking. There had been a problem with people parking on Fifth Street and it was actually in the spirit of helping them that we suggested that they might want to lease this piece of City property which could alleviate the problem. It was a gesture on the part of the City to help out and we were not trying to receive significant compensation for the City.

Mr. Chapman noted that another issue was that the City wanted to make sure that they could get out of the lease at any time in case they needed that property. There was some

talk about using that property for a recreation facility or something to that effect. That was a key part and if you look under No. 3 proposed by Metacomet Office Park, they basically say that there would have to be costs incurred by the City, there would be a certain time requirement. There are issues that are being brought up that were never contemplated by this Board previously.

Ms. Boyle stated there was not any benefit accruing to the City through this arrangement. It was more of a good neighbor gesture by the City. The concern that the Recreation Director has is that it is going to impair his ability to use this property in the future or even currently. The City could pave it if we need additional parking for Pierce Field. The City is perfectly content with the condition of the property as it is now. It does not harm us or cost us. Mr. Chapman stated the tradeoff for paving it is quite substantial.

Mr. Almeida stated it would be nice if they would clean up that area. Mr. Chapman stated that is we tried to make it beneficial to them, but at the same time keep the City with the opportunity to use it if necessary.

Ms. Boyle stated that in terms of rent or fees the City was not looking for anything, but we do have to be very careful about limiting the use of City property when we know there is a potential need for it. She said it comes close to being a disposition of City-owned property and we did go through that process initially before the Board and City Council. It was very clear that the City wanted to retain our flexibility and rights to use it for recreation purposes. She noted that Director Crook's memorandum is clear and strong that this is property that will be of use and need to the Recreation Department. Whether or not there is some kind of compromise in-between, I think that the biggest issue on the amendments to the lease is the term. The ten-year term is significant and also the termination clauses.

Motion

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board voted to recommend to the City Council that they deny the request by the applicant for a revision of the lease terms based on the September 30, 2003 letter from Mr. Wininsky to the City.

Roll Call Vote

|                          |     |
|--------------------------|-----|
| Mr. Almeida              | Aye |
| Mr. Batty                | Aye |
| Mr. O'Brien              | Aye |
| Mr. Sullivan             | Aye |
| Acting Chairman Robinson | Aye |

***E. Advisory Opinion to the Energy Facility Siting Board concerning High-Voltage Power lines in India Point Park, Corliss Landing Park, and Bold Point Park***

Ms. Boyle explained that the Planning Board received the order from the Energy Facilities Siting Board in last month's package stating that the East Providence Planning Board had been designated as an agency that needed to render position on this particular matter. The Board did receive substantial documentation in this regard. There is a 115 volt transmission line being proposed that goes next to Rt. 195. It will have to be relocated because of the relocation of Rt. 195. The original proposal from the RI Department of Transportation was to simply move those transmission lines over to replace the number of towers from twelve with eight and essentially would be a \$1.5 million dollar project. As it has gone through that process, comments came from neighbors in the Fox Point community and Ease Side community who objected to this proposal. They saw this as something that was unsightly, that it caused possible health issues in India Point Park, and that since the state was in the process of removing those towers anyway, that they should look at alternatives, particularly the alternative of going underground. Ms. Boyle stated that we had not paid particularly close attention to this process because it seemed like it was all taking place on the Providence side of the river and we did not see how it affected East Providence. However, as we paid closer attention to it we realized that the tower where it crosses the Seekonk River between India Point and Bold Point Parks would also be affected through that crossing and that it also presented opportunities to the City in terms of the waterfront development.

Ms. Boyle stated that there have been a number of public hearings and testimony provided. We have received some excerpts from the testimony that had been given. The City's concern is that what they are proposing particularly by lowering the height of those towers is actually a greater impediment to development of the waterfront that exists today. In the Planning Board's packages was the rendering that was actually prepared by an architect who is working for the potential purchaser of the Colfax property. It shows that there are currently two transmission lines going through the Colfax property which is about a 12 acre parcel and one of the critical parcels in the Bold Point Harbor section of the waterfront. There is a 100 foot easement that goes from where the transmission towers come across the Seekonk River and head up to Fort Hill on the Parkway.

She stated that there is an additional 70-foot easement which is an additional transmission line that comes from the waterfront and goes along and up to the Parkway; that is called a Phillipsdale tap line. Those two easements combined essentially rendered that property unbuildable and raise a lot of issues in terms of the City's hopes for redevelopment of this section of the waterfront. Ms. Boyle stated that we feel this offers an opportunity for relocation of those power lines either above-ground or below-ground; preferably below-ground. In that magnum opus that is the special Waterfront District Plan, we do have a discussion on how we see this issue being best treated. In the Waterfront Plan which was adopted by the City Council last week, it is recommended that the lines be placed underground if possible and that to the extent possible, that they be moved further north thereby reducing the effect of the power lines on these properties. Also, staff recommends to the Board that they look into the feasibility of including a conduit for the transmission lines underneath the Washington Bridge. Whether or not that is going to be financially or technically feasible remains to be seen, but I believe that would be our preferred alternative if it is at all possible. The biggest negative associated with this is

that the cost increases and a lot of that cost is not going to be associated with the East Providence side, but the Providence side where they would put in through at India Point Park.

Ms. Boyle stated that the proposal that Narragansett Electric has now, and the proposal that RIDOT is also endorsing to simply replace these in place to a lower level will have serious negative impacts on East Providence's efforts to redevelop the waterfront.

Mr. Robinson asked what happens if they say they will do it anyway? Ms. Boyle stated that the decision will be made by the Energy Facilities Siting Board. It is not just the City of East Providence, but a number of intervenors. If they disregard the opinions of all of these people, then we will unfortunately have to live with this. That means that this particular property on the waterfront is going to be very limited.

Mr. Robinson asks if the City of East Providence has the right to litigate against the Facilities Siting Board. Mr. Chapman stated he would not be surprised if East Providence had that option.

Ms. Boyle stated that the Attorney General has also entered into this by some of the correspondence and that Statewide Planning has also recommended the underground option. She said that Providence is very much in favor of the underground option and said we must be very careful as to where that underground option goes. If this were to be undergrounded through India Point Park and continue in its current location, it improves the situation, but does not improve it to the extent that we need. There are transition stations required where it switches from underground to above ground. There are two different types of technologies; if they are using these fluid filled conductors for the underground cable, they require a large amount of real estate; about 100 x 100 square foot area would have to be dedicated to these transition stations. Ms. Boyle said she has been told that there is another type of technology called the solid dielectric cable which requires much less in terms of transition stations because they don't have to have the pumping stations associated with the fluid.

Ms. Boyle noted that the other consideration is we must take a look at how wide the easement is going to be. Presumably the easement associated with an underground line is going to be less than the 100 feet that is associated with this aboveground line. It would be preferable, but we must be careful that the transition stations are not going to affect where we will look for development, that the location does not continue to essentially chop this property in half and make it unbuildable. It would be best to have the location of it further north so that we can consolidate some of these transmission lines and reduce the impact on the developable land. The very best would be to have it at the Washington Bridge itself. Ms. Boyle states she feels that East Providence has a stronger case than Providence themselves in that Providence's concerns are the aesthetics and the economic development impacts associated with those negative aesthetics. Also some of the safety issues with having these lines go through a public park. With what we are trying to do with waterfront development and that a major parcel could be unbuildable with this location, as well as all of those same negative economic impacts associated with it, the

City of East Providence has a very strong case. Ms. Boyle stated that another issue that came up during the Public Workshop was the Captain of the Sloop Providence also pointed out that if these lines are lowered where they cross the Seekonk River, that that can also be an impediment to navigation of tall ships. We are calling for a lot of marine activity in this particular section of the waterfront just south of Rt. 195.

Mr. Robinson asked if it was cheaper to do it underground as opposed to underneath the Washington Bridge? Ms. Boyle answered that it is not a cost issue but an engineering issue. She said she was told it may be cost prohibitive to do it underneath the bridge because of the weight of the cable. It might be such that the conduits or anything else that they would install there would be difficult to put in there. It also depends on whether it is the solid die-electric vs. the fluid filled cable. With the fluid filled you have hydraulic issues and pump station issues that don't work well when going under the Bridge. There will be more engineering and analysis that needs to be done, but with the City intervening and with what the Attorney General is trying to do may slow down that process so that these alternatives are more closely examined than they were.

Mr. Robinson asked if the only people that are opposed to doing it underground are RIDOT and Narragansett Electric? Ms. Boyle answered yes, and said as Mr. Batty mentioned, it is five times the difference. Ms Boyle also said the Friends of India Point Park who have been spearheading this have come up with different ideas on who it could be financed. You cannot use the transportation dollars to do it because it is not considered part of the project per se. Narragansett Electric could pay for it or other state funding associated with it. Providence has received money from the Greenways Council. There has been a suggestion that the City of East Providence might want to contribute tax increment financing.

Mr. Batty asked if they are undertaking the feasibility study of the underside of the bridge? Ms. Boyle stated that they have done an analysis. The analysis of alternatives was done on behalf of Narragansett by the Vanasse, Hangen, and Brustlin. It is a fairly cursory study of these alternatives and that it was not a real exploration of it. Ms. Boyle states that if you look at the discussion of land use impacts, it was pretty minimal. It does not go along with our Comprehensive Plan. Mr. Batty said if there was to be an extra beam across the bridge and it cost 5 million dollars, that is half way in between.

Ms. Boyle states that in fairness to RIDOT there are two huge public works projects they are trying to start. You cannot finish the 195 project until you finish the bridge project. They are reluctant to go with an alternative that is going to significantly affect their schedule. She said that the alternative of putting something in a conduit in a bridge is more expeditious than trying to do directional drilling under the Bay. By making it clear to DOT that this is the City's alternative, will force them to do further examination of those alternatives.

Mr. Batty asked about the lowering of the towers. Ms. Boyle states that she was told it has something to do with the wind effects, that by having them lower it makes them safer from the Narragansett Electric standpoint, but that the problems with lowering them is

that it is not just the impact on navigation, but also the visual impact in that it drops them down to your sight line. Take for instance the Colfax property where there may be some very tall buildings. She said that this particular section of the plan on a case by case basis, the City could consider eight to ten story buildings. You cannot do that if you have a 100 foot tower going above the structure. Having to stay 100 feet out of that line and trying to situate buildings so that you are not looking at these high tension lines, becomes very challenging for any architect or designer.

Mr. Almeida stated they won't have to worry about the wind effects if the lines are underground. Ms. Boyle agreed.

Mr. Robinson asked what will happen procedurally? Ms Boyle stated she is not sure of the timeline, but that it is also being considered by the State Planning Council on Thursday of this week for an advisory opinion. She stated she is also a member of that Council and that underground is favorable to them and she is not sure what the format is as far as East Providence having an opportunity to express their concerns before the Energy Facilities Siting Board? Ms. Boyle states she is not sure what the format will be. With these tower issues, it can very well affect the development of the Bold Point Harbor area. She said it is important that the Planning Board state its advisory opinion on this to the Energy Facility Siting Board.

Ms. Boyle stated the City's preferred option is placing the wires underground and to the north using the Washington Bridge as the conduit. It would go underground through India Point Park and then whether it would immediately go above-ground at that point I am not sure. If it goes further north, it won't go through the Colfax property and having that impact. One alternative is that it goes underground and continues in the route that it is in, but then we have to deal with the transition stations and whatever easement effect there may be at its current location. That is not as desirable, but is better than what is in there. The other alternative that could be considered would be that they continue to go above ground and instead of having north of Bold Point Park, you have it routed closer to the Washington Bridge and you try to consolidate some of the wires where the Phillipsdale tap line comes in. This way you clear a lot of the development potential for the Colfax Property. The down side of that is that you still have these ugly transmission wires as part of your waterfront development. We cannot eliminate all the towers along Waterfront Drive going down the Veterans Memorial Parkway. The City is asking that it go across the Washington Bridge and at the very least we do not want what they are proposing at this time.

Regarding the motion, Ms Boyle suggests that the Board put in their recommendation to use very strong language because of the waterfront impacts. She said this will render a significant waterfront property undevelopable and will hinder redevelopment of the other portions of this redevelopment area.

Mr. Batty stated that this would affect the salability to a developer for this piece of land? Ms. Boyle stated yes.

## Motion

On a motion by Mr. Batty, seconded by Sullivan, the Board voted to deny the proposal by Narragansett Electric that is before the Board tonight regarding the location of the cable crossings because it is inconsistency with the City's Comprehensive Plan and will render a significant waterfront property undevelopable, plus hinder redevelopment of the other portions of this redevelopment area.

## Roll Call Vote

|                          |     |
|--------------------------|-----|
| Mr. Almeida              | Aye |
| Mr. Batty                | Aye |
| Mr. O'Brien              | Aye |
| Mr. Sullivan             | Aye |
| Acting Chairman Robinson | Aye |

Ms. Boyle told the Board she would keep them informed of this matter as it evolves.

## V. CONTINUED BUSINESS

### A. Staff Report

#### 1. Waterfront District Plan

Ms. Boyle stated that the Council adopted the Special Waterfront Development District last Tuesday as recommended by the Planning Board. That is the official policy now of the City. Staff is working with the consultant firm and preparing the zoning changes that will accompany it. It should be before the Planning Board in January.

Ms. Boyle stated she appeared before the State Growth Planning Council today and one of the recommendations of the Waterfront Plan was that we have the whole waterfront district designated as a growth center. There was some discussion about that in the public workshop and the Council did vote to designate the East Providence Waterfront as a growth center. This means we will have a lot of opportunities for expedited permitting and perhaps for additional points when we are applying for grants. It also gives us an opportunity to coordinate some of the permitting with state agencies.

#### 2. East Pointe Groundbreaking

Ms. Boyle noted that invitations were sent out to the Board and others and that the groundbreaking will be held on December 19, 2003 at 9:00 a.m. at the GeoNova site. She noted there will be dignitaries there from the state and welcomed the Board to join us.

#### 3. Carousel Foundation and Rose Larisa Memorial Park

Mr. Gordon reported that the Carousel foundation project is going quite well. The concrete work is finished, and there is a full foundation wall underneath it. They are putting in all the wood beams and posts, trusses and everything they need to do to create that new foundation substructure. They will be finished by mid-January. There will be a grand opening next spring for the Carousel and for the Rose Larisa Memorial Park. Mr. Gordon also reported that the Rose Larisa Memorial Park is essentially completed.

Mr. Almeida asked about the concession stand? Ms. Boyle stated the bids came in too high and we are working on another solution.

#### 4. Riverside Square Enhancement Project

Ms. Boyle reported that the monument will be moved to Riverside Square tomorrow.

Acting Chairman Robinson stated that Solicitor Chapman received forms from the Ethics Commission requiring the Board to fill them out if they needed to recuse themselves from a particular case.

### **VI. COMMUNICATIONS**

On a motion by Mr. Almeida, seconded by O'Brien, the Board voted to accept the following communication and make it part of the Board's official record.

A. Memo dated November 13, 2003 to the Zoning Board of Review from the Department of Planning, Re: Requests for Variance or Special Use Permit to be heard on November 19, 2003.

Mr. Almeida asked if the Board could receive their packages on Thursday instead of Friday. Ms. Boyle stated probably not because of the workload of the Planning Department and with the scheduling of other departments to get their comments into our department. She noted because the Board switched their meetings from Tuesday to Mondays it gives them one less day to review the packages and suggested that the Board might like to go back to Tuesday evenings. The Board decided they would stay with the Monday schedule.

### **VII. ANNOUNCEMENT**

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

### **VIII. ADJOURNMENT**

The meeting adjourned at 9:25 p.m.

Respectfully submitted,

Michael Robinson  
Acting Chairman

MR/JMB/sac