

# November 12, 2003 - Regular Planning Board Meeting

## CITY OF EAST PROVIDENCE

### PLANNING BOARD

---

#### MINUTES OF NOVEMBER 12, 2003

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

#### I. SEATING OF ALTERNATE MEMBER

#### II. APPROVAL OF PLANNING BOARD MINUTES

##### A. Minutes of July 14, 2003

On a motion by Mr. Batty, seconded by Mr. Sullivan, the minutes of July 14, 2003 were approved by the Board and made part of the official record.

##### B. Minutes of September 8, 2003

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the minutes of September 8 were approved unanimously by the Board.

##### C. Minutes of October 14, 2003

It was noted by staff that the minutes of October 14 will be forthcoming.

#### III. APPROVAL OF PLANNING BOARD CORRESPONDENCE

Acting Chairman Robinson states that there has been a request to move Item A under "Continued Business" to A under New Business. This is a requested waiver by Bruce and Martha Soderlund asking the Board to waive the sidewalks on their subdivision.

On a motion Mr. Batty, seconded by Mr. Sullivan, the Board voted to approve this request. .

#### IV. NEW BUSINESS

*A. Waiver Request by Bruce and Martha Soderlund asks that the Board waive the sidewalks at 60 Ramsay Street, Riverside, RI.*

Assistant City Solicitor Tim Chapman swears in Martha Soderlund.

Ms. Soderlund states that on Ramsay Street there are two houses that have curbing and the rest do not have curbing and no sidewalks other than on Metropolitan. She is asking that the Board waive the sidewalks since it will impede on the new lawn she is planning on putting in. There are no sidewalks on the rest of Ramsay Street.

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

Mr. Sullivan asks who owns the property. She states she and her husband, Bruce do.

Tape A024 Ms. of Ramsay Street States it is her property now. She is subdividing the lots so she can let her daughter-in-law build a house. Mr. Sullivan asks why she does not what to put in sidewalks? She states no one else has them. She states she will put in curbing, but doesn't feel it is necessary. She states she went before the Zoning Board and they did not see any need for them. Mr. Sullivan stated he remember Ms. Soderlund from the meeting before and that he commented her on the fact that they were going to put sidewalks in and that he commended her that it was a nice gesture on your part. She answered that it was only for curbing, not sidewalks.

Mr. Robinson asked Ms. Soderlund if she made any representations to the Board at the October 14 meeting with respect to the installation of sidewalks? Ms. Soderlund answered no, because the plans submitted to Planning was just for curbing. Sidewalks were never on the plans and she mentioned that no one else on the street had them. Mr. Robinson asked if she made any representations, here at the meeting with respect to the installation of sidewalks? Ms. Soderlund answered no. TapeA035.

There were no additional questions of the Board.

Ms. Boyle stated that there was a discrepancy between the application and the plans that were submitted. The application did not describe a request for a waiver of the curbing and the sidewalk. That does need to be specifically requested in order for it to be incorporated into the plans. The plans do not appear to indicate that sidewalks would be installed. Staff looked at the area where this is being proposed and it is not a heavily traveled area, there are no sidewalks in the abutting neighborhood and staff does not object to the granting of the waiver for sidewalks in this case.

Acting Chairman Robinson asked if there were any questions or concerns from the Board. There were none.

Motion

On a motion by Mr. Almeida, seconded by Mr. Batty, the Board voted to waive the sidewalk requirement.

Roll Call Vote

Mr. Sullivan	Aye
Mr. O'Brien	Aye
Mr. Almeida	Aye
Mr. Batty	Aye
Acting Chair Robinson	Aye

*A. Public Hearing – Proposed Amendments to the Land Development Subdivision Regulations*

Ms. Boyle asked Chief Planner, Diane Feather to present the staff recommendation regarding these proposed amendments.

Ms. Feather stated there are several changes amendments to the Subdivision and Land Development Regulations and one proposed change to the Zoning Ordinance. She notes that if anyone is interested, copies are available here tonight.

Ms. Feather explained that this is a public hearing and whenever the Subdivision Regulations are open or amended it is an action before the Planning Board, the Planning Board holds a public hearing, and the Board votes on the amendments. The ultimate authority is the Planning Board as opposed to the one Zoning Ordinance amendment that staff is recommending. On that particular zoning ordinance amendment, the Board's authority there is advisory to the City Council. If the Council chose to adopt the particular amendment that we are proposing we would have to hold a public hearing.

Ms. Feather noted that In accordance with State Law we have had three display advertisements in the Journal. They ran on October 29, November 3 and November 10. We included a photocopy of the first public hearing display ad that was in the Journal in the Board's packet. All but one amendment for the Subdivision Regulations relate to the finding fees. We have not modified the filing fees since the adoption of these current Land Development and Subdivision Regulations. We are going into our seventh year under these regulations. By RI State Law every community in Rhode Island can set filing fees for subdivisions.

Ms. Feather noted there are different types and scales of subdivisions going from an Administrative subdivision up to a minor on existing frontage, a minor with street creation or extension, a major subdivisions and land development projects which are the larger scale development plan. Each community can look at the actual costs that we incur to review and process the applications and to report decisions thereon. We looked at other communities when we drafted these regulations several years ago and looked at our own filing fees at that point and proposed the current filing fees to the Board. Those were accepted and they have been in place for several years. We have had several years under these regulations. We are looking to see where we are getting reimbursement from the costs and where we are not getting the costs back. The City may have been absorbing some of the costs associated with them. We are able to pass these costs along to the developer per State law.

Ms. Feather said that Planner, Patrick Hanner contacted a number of RI communities and put together a comparison sheet that is attached to the recommendation showing what East Providence charges and what other communities charge. In some cases, East Providence is a little bit more, and some cases a little less. We also looked for services that we are currently providing for which we were not charging and we felt that the pre-application conference that is required for a minor subdivision with street creations, major subdivisions and land development projects needed to have some sort of application fee associated with it. The pre-application conference entails having Planning Staff, Public Works staff there. What that does is provide the applicant with the opportunity to look at what the subdivision requirements are so that they can come in with a plan that meets the content and format of what we are looking for in our regulations. It also gives the developer an opportunity to be advised of any issues that staff thinks might arise and need to be addressed.

Ms. Feather asks that the Board enter this staff memorandum dated 11/5/03 into the Board's official record. In that recommendation we identified all the current finding fees for all the applications that the Board had passed. Tape A057

She noted we currently have pre-application conferences that are mandated by State law for anything above a minor subdivision with a street creation. What staff is proposing is that for minor subdivision on existing frontage that we all have a pre-application phase. We are proposing that the minor subdivision pre-application conference be \$50.00 and that a major subdivision conference be \$100.00.

On page 4 of the staff memorandum under "Recommendations" there is a discussion of the public notification. The display ads are published in the Journal. They are 3"x5" ads. There is a certain content that we have to include in that public notice that makes it a certain size. It also has to be the same size as the newsprint font. You cannot put a small newsprint ad in. We put those in for public hearings. Anything above a minor subdivision with street creation needs to be advertised. The cost for the ads are \$275.00 and higher for a public hearing display ad notice.

Ms. Feather stated that we have also done research into the stenographer that is required for all public hearings. Steno services between the hours of 7:00 and 10:00 are billed at \$200 per hour and after 10:00 an addition \$50.00 per hour. With the steno fees and costs of the display advertisements those in and of themselves can eat up much of the base filing fee for the applications. Staff wants to recoup the costs of the display ad and we are proposing that the applicant in addition to the base filing fee give us a separate check for the actual costs of the display ad. We will provide them with an invoice that we get from the Providence Journal that would show them how much we paid for the display ad. In turn they would reimburse the city of East Providence for that cost.

Ms. Feather noted that the Board is the decision-making authority on the improvement guarantees that are posted on the public improvements and subdivision. If we have sidewalks, curbing and sanitary sewer and water for any other public improvements that are associated with the subdivision, the Department of Public Works calculates an

improvement guarantee. The developer is required to post that guarantee before the final plans are recorded. As the improvements are constructed, the developer comes back to the staff, puts in a request for either a partial release or a complete release if all the improvements have been completed, staff goes out and does an inspection of the improvements to determine whether they are in accordance with the plan that the Board approved, and whether they were quality construction.

Ms. Fether stated that what we found was that the staff that goes into review the partial releases and the complete releases can be very extensive. We are looking for a 2 percent of the total amount of the Improvement Guarantee, but for only those subdivisions where the Improvement Guarantee is 20,000 or greater. The smaller scale subdivisions that just have curbing or sidewalks installed on one or two lots would not have to submit this two percent fee for the inspection for required public improvements. It will be just for those subdivisions that had an improvement Guarantee of \$20,000 or greater.

State Law in our regulations has time limits on their approval depending on what scale of subdivision it is. For a minor all the way up to a major from the time this Board grants an approval, there is a period of time which goes by in which a developer comes in with a mylar plan; a plastic type of sheet that the department endorses its approval on. This gets archived into the Land Evidence Records in the City Clerk's office. The developers do come in within that time limit; that vested approval period that they have, but in some cases they may wish not to record their plans within that time period. Under state law and our regulations they are able to come in and request in extension on that approval. It must be in writing and they must show good cause for the extension. We are asking for a filing fee for the extension on the time limit of approval of about \$50.00.

Ms. Feather explained that one other filing fee amendment that staff is proposing is something that is included in the Zoning Ordinance. The Planning Board would be an advisory position on that to the city Council. Currently, we do not have a filing fee established for when a telecommunications company comes in for an application to put a tower on City property and staff is recommending a fee of \$1,000 on that type of application.

Acting Chair Robinson asks Ms. Feather if it is the staff opinion that the pre-application conferences are necessary in all cases across the board other than administrative? Ms. Feather states that they are absolutely required by enabling for a minor subdivision that has a street creation for major subdivision and land development project. The application conferences are required for each phase of development in the master and preliminary plan. Someone can request a pre-application conference for an administrative subdivision. In that case, there would be no filing fees associated with that.

Mr. Robinson asked if this would render it mandatory in all minor subdivisions on existing frontage? Ms. Feather answered yes. Ms. Boyle stated that there are some minor subdivisions that have been submitted without the benefit of the pre-application conference. Often times these minor ones have some fairly complicated issues and we have not had the opportunity to go over them. I think it is to the benefit of the applicant,

staff and the Board to have these meetings ahead of time. It can help to understand what the issues are and possibly avoid some problems as part of the review process.

Mr. Robinson asked if there was any way to turn the stenographer cost besides the advertisement fee over to the applicant as well? Ms. Boyle states that that is the Board's prerogative, but that my only concern might be if we had more than one public hearing on the same night, we would have to be sure that the costs were attributed to two different applicants. Mr. Chapman states that could be done by separating it by pages for each individual applicant.

### **Tape A 168**

Mr. Robinson asked that with respect to the fee of two percent regarding improvement guarantees, is there anyway to build in a procedure to that so that in cases where that would work a hardship, there could be a request for a waiver?

It may defeat the point when you're talking about 20 thousand or above anyway. It seems that obviously that there are always those cases that are out there that justice requires something that rigid a rule. Ms. Boyle stated that the Board does set the Performance Bond amount. They rely upon the Department of Public Works to calculate that amount, but I would think that it is already within the Board's purview to adjust that amount if they see some basis for it. Mr. Robinson stated that except they are going to get that money back providing the work is complete; the only question now is that we are talking about two percent part of that coming back to the City. Ms. Boyle answered that I would expect that at the time of preliminary subdivision approval when we set the performance bond fee, if there was a concern as to that two percent requirement, I would think that the Board could say at that time we would like to see it waived or to adjust the fee. We are not going to be asking for that two percent at the time that they file for their master Plan; it will be for the preliminary. Mr. Robinson asks if the Board has the right at that time. Ms. Boyle states that her reading of the regulations as they stand is that the Board sets the fee based upon the recommendation of the Public Works. Solicitor Chapman concurred with this that the Board does have the authority to make the adjustment of the fees at the time the applicant comes in for preliminary.

Ms. Boyle states that staff deliberately set the threshold at \$20,000 so that it would not be a hardship for the smaller property owners that are just putting in sidewalks and curbing.

Ms. Feather noted that this was advertised in the Journal for three weeks. She said she did not personally have any phone calls or requests for the proposed amendments. I did offer them to one of the attorney's that deals with the Planning Department quite frequently. He was aware of them on his own, but I believe the Planning Director may have handed out another set.

### **Public Comments**

Mr. Robinson asked if there was anyone in the audience that wished to be heard? There were no comments from the public.

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board voted to accept the staff report and make it part of the Board's official records.

#### Roll Call Vote

Mr. Almeida	Aye
Mr. O'Brien	Aye
Mr. Batty	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

#### **Tape A197**

Mr. Robinson states that after conferring with the City Solicitor Chapman, it would be appropriate that the Board vote on each specific recommended change in the regulations.

#### **Tape A 201**

Mr. Robinson feels it would be appropriate for the applicant to pay for any stenographer costs and that a motion is made in that regard.

#### Motion

(c) Pre-Application Conference - Changing the Fee Structure on the Pre-application conference

Ms. Feather noted the first change is pg 16 and going over to page 17 relating to the pre-application conference for a minor subdivision of \$50.00 and a major subdivision \$100.00.

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to change the pre-application fee structure.

#### Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

(d) Publication of display items for public notice.

Mr. Robinson suggests that the stenographer costs be paid by the applicant as well as the advertising costs. The stenographer will charge the applicant by the page or by their time. It could possibly be done on a prorated basis.

Table this? Ms. Boyle states that if we table this portion, than we may have to readvertise again.

Ms. Boyle suggests that the language read the same as the advertisement fees in (d) with the exception that the costs of steno fees will be on a pro-rated basis and passed on to the applicant. To make it clearer, Ms. Boyle suggests that the Board make it a separate item (g).

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board voted to make the stenographer fees payable by the applicant under new item (g) and the fee will be prorated amongst the applicants.

#### Roll Call Vote

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

#### **Tape A255**

Mr. Robinson states this also leaves us with the current change which is relating to the advertising costs.

#### Motion

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to accept paragraph d regarding the applicant paying the display advertising costs.

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

#### (e) Inspection Fee for Improvement Guarantee (Bond) Releases

Mr. Robinson stated this is for the fee that is \$20,000 or higher charging a fee of 2 percent.

#### Motion

On a motion by Mr. Sullivan, seconded by Mr. O'Brien the Board voted to accept paragraph (e) Inspection Fees as amended.

Roll Call Vote

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

(f) Request of Extension of Time Limit of Vesting Approval

On a motion by Mr. Sullivan, seconded by Mr. Batty, the Board voted to accept paragraph (f) Request of Extension of Time Limit of Vesting Approval

Roll Call Vote

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

Pg. 22

Land Development and Subdivision Review Regulations  
Sec. 5-7 (a) Pre-application conference

Vice Chairman Robinson reads subsection (a) below into the record

One or more pre-application conferences shall be held for all major subdivisions and land development projects. Pre-application conferences may be held for administrative ~~and~~ ~~minor~~ subdivision applications upon the request of the City or the applicant. A pre-application conference is required for minor subdivisions ~~involving the creation or extension of a street.~~

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted to accept paragraph (a) where the terminology has been changed.

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

Section 5-7 (d) of the Land Development and Subdivision Regulations.

Vice Chairman Robinson reads subsection (d) below into the record

The applicant shall submit to the Administrative Officer a minimum of three (3) blue line prints of the plan(s) and three (3) copies of a narrative explaining the existing physical environment and existing use(s) of the property along with a general description of the uses and type of development proposed by the applicant and a check payable to the City of East Providence as follows: for Minor Subdivisions—fifty dollars (\$50), or for Major Subdivisions or Land Development Projects—one hundred dollars (\$100). The scale of the plans shall be sufficient to clearly show all of the information required.

On a motion by Mr. O'Brien, seconded by Mr. Sullivan, the Board voted to accept (d) in Section 5-7 Pre-application conference where the terminology has been changed.

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

**Tape A316**

Land Development and Subdivision Review Regulations  
Sec. 8-3 Review Stages  
(a)

Minor plan review shall consist of two stages, preliminary and final. A public hearing is required where street creation or extension is proposed. A pre-application conference is required for all minor subdivisions involving the creation or extension of a street.

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted to accept the amended terminology above.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Pg. 49 Land Development and Subdivision Review Regulations  
Section 8-4 Re-Assignment to Major Review  
(d) Vesting

Approval of a minor subdivision plan shall expire ninety (90) days from the date of approval unless within such period a plat or plan, in conformity with such approval, and as defined in these Regulations, is submitted for signature and recording as specified in these Regulations. Validity may be extended for a longer period, for cause shown, if requested by the applicant in writing, and approved by the Planning Board. Requests for extension of time limit of approval for Minor Subdivision with street creation or extension shall be accompanied by a check payable to the City of East Providence in the amount of fifty-dollars (\$50).

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted to amend subsection (d) Vesting with the new terminology noted above.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Subsection 8-9 Required Contact and Format for Preliminary Plans and Submission

Subsection (h) Master Plan Vesting

The approved master plan shall be vested for a period of one (1) year, with a one (1) year extension upon written request by the applicant, who must appear before the Planning Board for the annual review. Vesting may be extended for a longer period for good cause shown in requested by the applicant in writing prior to expiration of the time allowed, and approved by the Planning Board. Requests for extension shall be submitted to the Administrative Officer. Requests for extension of time limit of approval for Major Subdivision or Land Development Project shall be accompanied by a check payable to the City of East Providence in the amount of fifty-dollars (\$50).

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted to accept the changes in terminology above.

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Section 9-6 Land Development and Subdivision Review Regulations  
Required contact and format for Master Plan and Submission.

(k) Vesting

The approved preliminary plan shall be vested for a period of one (1) year from the date of approval. Vesting may be extended for a longer period, for good cause shown, if requested in writing by the applicant prior to the expiration of the one-year period, and approved by the Planning Board. Requests for extension of time limit of approval for Major Subdivision or Land Development Project shall be made to the Administrative Officer and accompanied by a check payable to the City of East Providence in the amount of fifty-dollars (\$50). The vesting for preliminary plan approval shall include all general and specific conditions as shown on the approved preliminary plan drawings and supporting material.

On a motion by Mr. Almeida, seconded by Mr. Sullivan the Board approved the amended changes above.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Sec. 9-8 Effect of Preliminary Plan

(e) Vesting

The final approval of a major subdivision or land development project shall expire one year from the date of approval unless, within that period, the plat or plan shall have been submitted for signature and recording as required by these Regulations. Requests for extension of time limit of approval for Major Subdivision or Land Development Project shall be made to the Administrative Officer and accompanied by a check payable to the City of East Providence in the amount of fifty-dollars (\$50). The Planning Board may, for good cause shown, extend the period for recording for an additional period.

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted to accept the noted amendments to subparagraph (e).

Roll Call Vote

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

Acting Chair Robinson      Aye

At this time, Ms. Feather states that the next set of changes are on page 72. The actual section number leading into that is not in the Board's packet because nothing changed on the previous page. It is in Section 10-5 and simply renumbering the sections.

Mr. Robinson went through the renumbering of Section 10-5 as follows:

- Section 10-5 (a) Requests for partial release is renumber as subparagraph b.
- Section 10-5 (b) Requests for complete release is renumbered as subparagraph c.
- Section 10-5 (c) Following inspection and approval is renumbered as subparagraph d.

Sec. 10-5 Releases. Ms. Feather noted there is a new subsection added below, but that it was out of order in the memorandum.

(a) Inspection Fee for Improvement Guarantee (Bond) Releases – For those developments where the total improvement guarantee amount is \$20,000 or greater, there shall be a fee of two percent (2%) of the total amount of the improvement guarantee for the required public improvements, payable by check to the City of East Providence at the time of the request for improvement guarantee release.

Motion - Subparagraph A and the renumbering of b, c and d under Section 10-5 Releases.

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to approve the addition of subsection A under Section 10-5 and the renumbering of subsections b, c and d.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Ms. Boyle stated that under (g) Stenographic Fees, for those applications requiring a public informational meeting or public hearing, the applicant shall submit a check payable to the City of East Providence for reimbursement of the average cost Tape A413 of the stenographic services per application or petition at the time of application. In the case of multiple applications heard during the same meeting, each applicant shall bear a pro-rated share of the stenographic fees. The applicant will be provided with the state of the cost of the stenographic services. It is basically the same language that was in the display advertisement.

Mr. Robinson asked if they would be responsible for paying the cost upfront which would be equalized out after the fact? Ms. Boyle answered yes. Mr. Robinson states

they would get a check back from the City of East Providence if they had paid too much. Mr. Robinson asked if it would be better to have the stenographer come and submit them a bill at the end. Ms. Boyle answered that that was in the original draft, but the Solicitor pointed out that there may be some cases where we wind up trying to get money from the applicant for that fee. In the event of an approval, we could make it a condition for final approval, if however, the applicant was denied after a very lengthy hearing, I think the City's likelihood of getting our costs recouped is not that good.

### **Tape A427**

Mr. Robinson asked if there were any comments pertaining to this proposed addition to the Land Development and Subdivision Review Regulations? There were none.

Mr. Batty asked if this was going under paragraph g. Mr. Robinson stated yes, under Section 4-5, which is the new "g".

Mr. Robinson reads the new "g" as follows: Stenographic Fees – For those applications receiving a public information meeting or public hearing, the applicant shall submit a check payable to the City of East Providence for reimbursement of the average costs of stenographic services per application or petition at the time of application. In the case of multiple applications heard during the same meeting, each applicant shall bear a pro-rate share of the stenographic fees. The applicant will be provided with a statement of the cost of the stenographic services.

### Motion

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board unanimously voted to add that new language of subsection "g" of Section 4-5 into the East Providence Land Development and Subdivision Review Regulations.

### Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

### **Tape A462**

### Cellular Towers

The Planning Department recommends a review fee of \$1,000 for applications regarding erection of cellular communication towers on City-owned property for purposes of recommending approval of that to the city Council.

## Motion

On a motion by Mr. Sullivan, seconded by Mr. Batty the Board voted to recommend to the City Council to charge the applicant a \$1,000 review fee for applications regarding erection of cellular communication towers on City-owned property.

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

## **Tape A 476**

*B. Appl. #2003-22 Minor Subdivision – 165 Lyon Avenue, Applicant: Michael West Builders*

Mr. Slepchow at this time signed the waivers.

At this time Martin Slepchow, Attorney for the applicant, Michael West Builders Inc. was sworn in. He stated the lot is on the corner of Juniper Street and Lyon Avenue. It is occupied by a commercial structure. The existing building will be torn down. He said he has a sales agreement to purchase that property with the Post and are proposing a minor subdivision of four single-family dwellings. All lots will have frontage on Juniper Street. The parcel is zoned R-6. The four lots to be created will be the requirement of an R-6 district which is 5,000 square feet, with single-family houses.

## **Tape B00**

Mr. Slepchow stated there is sewer and water on Juniper Street. He noted that City staff has indicated that this four-lot subdivision is in conformance with the City of East Providence Comprehensive Plan, and there is a list of items in the staff report in “d” stating that the Planning Board suggests to grant conditional approval subject to the following seven conditions. He notes that he and his client agree to all seven conditions without any reservations. Also, Mr. Slepchow states for the Board’s information that on the submission, the notes indicate that the driveways and house print locations show the house size and driveway locations. We are committed to be within all dimensional requirements, but the exact house and sizes and elevations of the house may change. We will not seek any variances. Beyond that we do ask that the Board approve this subdivision and ask that the final approval be delegated to the Administrative Officer, Boyle. Mr. Slepchow further states that he has put a waiver request regarding sidewalks and states he knows that the Planning Department is opposed to it, but would prefer not to put in sidewalks, even though he realizes this neighborhood has them.

Mr. Robinson comments that he is very familiar with that neighborhood and states that sidewalks are critical. There are children throughout the neighborhood and it makes for a safer neighborhood.

Mr. Robinson asks if there are any comments for counsel or his applicant?

Mr. Cunha asks if raised ranches will be built on this property? Mr. Sleprow states that we will see what actually fits there, but with a 50 foot wide lot a raised ranch is sometimes the only successful type of house that would actually fit, something that would also have a garage underneath. Also, since it slopes upward, it won't have any neighborhood impact in the rear.

Mr. Batty states reviewed the area and did see sidewalks in the neighborhood. Mr. Sleprow agreed. Mr. Robinson states that that neighborhood will be greatly improved with the building houses on those lots.

### **Tape B036**

At this time, Ms. Boyle stated that she would like Patrick Hanner to go through the staff recommendation.

Mr. Hanner noted that the applicant is proposing a four (4) lot subdivision which is classified as a Minor Subdivision on Existing Frontage. There are two stages of plan review -Preliminary and Final. The Planning Board may vote to delegate Final Plan approval to the Administrative Officer. The Board must approve, deny, or approve with conditions within sixty-five (65) days of the issuance of the Certificate of Completeness (COC), which was issued on October 30, 2003. There are no newspaper advertising or public hearing requirements for a minor subdivision on existing frontage. Notice was mailed to immediate abutters via certified mail.

Mr. Hanner noted that the applicant is proposing to subdivide an existing 21,247 square foot parcel into four parcels, parcels A, B, C, & D as shown on the plan. Parcels A, B, & C consist of 5,050 sq. ft. and parcel D consist of 6,097 square feet. Single-family dwellings are proposed to be constructed on each of the four parcels with garages located below designated living space. The four parcels have frontage along Juniper Street (with driveways connecting to Juniper Street) and parcel D is a corner lot with frontage along Juniper Street and Lyon Avenue. The applicant has requested a waiver for the installation of sidewalks along Juniper Street and Lyon Avenue. Granite curbing is proposed to be installed along the frontage of parcel D on Lyon Avenue. The Subdivision regulations require that the Planning Board address each of the general purposes and also make positive findings on section 5-4.

### **General Purposes and & Required Findings**

Mr. Hanner briefly read the General Purposes (a) through (i) at this time.

Section 1-2. General Purposes. The general purposes of these Regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, 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;

*The proposed subdivision does not negatively impact the health, safety and welfare of East Providence.*

(b) Provide for orderly, thorough and expeditious review and approval of land developments and subdivisions;

*The regulations provide for an orderly, thorough and expeditious review of subdivisions and this application is following that process.*

(c) Promote high quality and appropriate design and construction of subdivisions and land development projects;

*The proposed subdivision is for an in-fill development of four (4) single-family dwellings, which are appropriate and in-keeping with the existing single-family neighborhood.*

(d) Protect existing natural and built environments and mitigate all significant negative impacts of any proposed development on the existing environment;

*The four (4) proposed dwellings will be connected to City sanitary sewer and water. There are no expected negative impacts to the natural or built 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;

*The proposed subdivision is for an in-fill development of an existing 21,247 square foot parcel where four (4) single-family dwellings will be constructed. The dwellings are proposed to be connected to existing City infrastructure – roads, sanitary sewer and water. There are no expected negative impacts to the natural or built environment.*

(f) Encourage design and improvements 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;

*The Regulations have been adopted with design and improvement standards in accordance with the Comprehensive Plan and with regard to the various neighborhoods, districts, special and critical areas of the City. It is the opinion of this Department that*

*the proposed subdivision is consistent with the Comprehensive Plan and Zoning Regulations.*

(g) Promote thorough technical review of all proposed land developments and subdivisions by appropriate officials;

*The proposed subdivision has been reviewed by appropriate officials, including: Planning, Public Works, Zoning, Law, Assessment, and the Fire Department.*

(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;

*There is no known need for any dedication of land for public purposes and no known impacts requiring mitigation regarding this proposed subdivision.*

(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.

*The proposed subdivision is being reviewed under the Regulations adopted by the East Providence Planning Board and pertinent records are being kept.*

#### Section 5-4. Required Findings

Mr. Hanner noted that Section 5-4 of the Regulations requires that, prior to the approval of any application for a subdivision, the Planning Board shall address each of the general purposes in Article 1 of the Regulations and shall make positive findings on all of the applicable standards, as listed below:

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 submitted plan and required materials, 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 Chapter 19, Zoning.

*The two proposed parcels conform to the minimum dimensional and use requirements for an R-6 District.*

C) There will be no significant environmental impacts from the proposed development as shown on the plan.

*Sewer, water, and gas utilities are proposed to be connected to the four proposed parcels. No significant environmental impacts appear present.*

- D) The 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 buildings standards would be impracticable.

*No physical constraints to development appear present.*

- E) All proposed land developments and all subdivisions shall have adequate and permanent physical access to a public street. Lots cannot be isolated by topographic, natural, or other features which prevent physical access from the street

*The four proposed parcels have physical access to Juniper 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 the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community to the extent feasible.

It is recommended by the Planning Department and Public Works Department to require the installation of concrete sidewalks along Juniper Street and Lyon Avenue.

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

*Surface water runoff will be through over-land flow and some infiltration on-site.*

## RECOMMENDATION

### SUBDIVISION

Based upon the analysis provided above, the proposed subdivision is consistent with Section 1-2, "General Purposes" and that the General Purposes were addressed as part of Staff's review. Positive findings were stated to all of the standards of Section 5-4, "Required Findings" of the East Providence Land Development and Subdivision Review Regulations. In addition, it is the opinion of staff that the subdivision, as proposed, is fully consistent with the East Providence Comprehensive Plan and East Providence Zoning Ordinance. Therefore, staff recommends:

- A. That the Board delegate final plan approval to the Administrative Officer; and

- B. That the Board deny the request of the applicant for a waiver regarding the installation of sidewalks along Juniper Street and Lyon Avenue; and
- C. That the Board require the installation of concrete sidewalks along the frontage of the proposed parcels on Juniper Street and Lyon Avenue; and
- D. That the Planning Board grant *Conditional Approval* of the subdivision, *as proposed*, subject to the following conditions:
  - 1. That a Municipal Lien Certificate is submitted by the applicant which is a basic requirement for all subdivisions;
  - 2. That the applicant post an improvement guarantee in an amount determined by the Public Works Department for any required improvements to the City's Right-of-way;
  - 3. That the residential use of the property be restricted to single-family use and accessory uses in perpetuity;
  - 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; and
  - 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.

Tape B112

Mr. Robinson asks if there are any questions of the Board.

Mr. Almeida asks about if Mauran Avenue heading south to Tenth Street is a paper street that goes through to Juniper Street? Ms. Boyle stated that there is a paper street that extends on Tenth Street, but I do not believe it is mapped all the way through to Juniper Street.

Mr. Robinson asks if there are any comments or questions by the public? There are none.

Motion to accept the staff recommendation and attached memoranda below: Mr. Robinson reads the attachments into the Board's official record.

Planning Department's Staff Recommendation dated 11/03/03  
Letter from Martin P. Sleprow to Jeanne M. Boyle, dated 9/30/03  
Memorandum from Chief Castro to Jeanne M. Boyle, dated 9/10/03  
Memorandum from Alberto Ereio to Jeanne M. Boyle, dated 9/10/03  
Memorandum from Law Department to Jeanne M. Boyle, dated 9/16/03  
Memorandum from Alan Corvi to Stephen Coutu, dated 9/17/2003  
Memorandum from Edward Pimentel to Stephen Coutu, dated 10/17/03  
Memorandum from Kenneth B. Booth to Stephen Coutu, dated 9/16/03  
Memorandum from Stephen Coutu to Jeanne M. Boyle, dated 10/24/03

First Motion

On a motion by Mr. O'Brien, seconded by Mr. Almeida, the Board voted unanimously to accept the staff recommendation and memoranda noted above.

Second Motion – Consistency with Section 5-4 and 1-2 of the Land Development and Subdivision Review Regulations as delineated by the staff in their report.

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to find the applicant consistent with Section 5-4 and Section 1-2 of the Regulations.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Aye

Third Motion – Merits of this application

Mr. Robinson states he would like to take the merits of this application separately from the requested waiver and the delegation of final plan approval.

On a motion by Mr. Sullivan, seconded by Mr. Almeida, the Board voted to approve the proposed subdivision based upon the submitted application and testimony presented to the Board, the Planning Staff report and memoranda from various departments. All of the general purposes of Section 1-2 of the East Providence Land Development Review Regulations, have been addressed in a positive findings 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. Also to include that the Board grant conditional approval of the subdivision as proposed subject to the following seven conditions presented in the staff memorandum.

Roll Call Vote

Mr. Almeida	Aye
-------------	-----

Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Tape B155

Mr. Robinson states he will be voting to require the installation of sidewalks on both Lyon Avenue and Juniper Street.

Fourth Motion – Waiver of Sidewalks

On a motion by Mr. Batty, seconded by Mr. Almeida the Board voted to recommend that the applicant provide sidewalks on both Lyon Avenue and Juniper Street.

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Fifth Motion – Delegation of Administrative Officer for Final Plan Approval

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

*C. Appl. #2003-26 Minor – 61 Vanderland Avenue Subdivision, Map 305, Block 23, Parcel 1*

The applicants, Mr. Antimo Mastrostefano, 321 Newman Avenue, Rumford, RI and Mr. Ralph Mastrostefano were sworn in.

He stated they are proposing a three lot subdivision, there is an existing single-family house on the property, it is zoned R-4 and R-6 which requires lots of no less than 5,000 square feet, the width is 50 feet, and minimum depth is 100 feet.

Inaudible

He noted he needs a variance for lot depth and a waiver of sidewalks. There are no concrete sidewalks in the general area.

Tape B203

Mr. Robinson asks the applicant if he is aware that there are deteriorated sections of the sidewalk that are already there and that the Department of Public Works wants them repaired and extended along the entire frontage. Mr. Mastrostefano states he is not aware of this. Mr. Mastrostefano states there is about 50 feet of concrete sidewalk that is not in

good condition on the Vanderland side and that on Irving Avenue there are no sidewalks, only across the street Tape B220

Mr. Robinson asks if anyone on the Board has any questions of the applicant? Mr. Sullivan states he looked at the proposal and did not see much sidewalk involved anywhere. He asked about the granite curbing on Vanderland Avenue along the front of the property. Will there be some curb cuts for driveways? There is one curb cut existing. Inaudible here

Mr. Robinson asked who Frank Marso is on the application? Mr. Mastrostefano said he was the owner who passed away. Daniel Marso is the executor of the property, and it is an estate property. Mr. Robinson asked the Mastrostefanos if they own the property? They said not at this time.

Mr. Robinson points out to the Board and questions if Mr. Daniel G. Marso has the authority to have signed the application. One of the stipulations that the Board needs to put in the record tonight is a requirement that we get some verification of the fact that Mr. Daniel G. Marso is in fact the executor of the Frank Marso Estate. Daniel Marso has signed the application and you are here under the Purchase and Sales agreement, but we need some verification that Mr. Daniel Marso has the authority to be making that authorization. Mr. Robinson said that Probate court could give them a certificate. This needs to be done before the Administrative Officer can sign off for Final Plan approval.

Tape B257

At this time Mr. Moran went through the staff recommendation. He states it is a two-lot subdivision on the corner of Irving and Vanderland Avenue. It is in an R-4 and R-6 split zone. Dimensionally R1-4 and r-6, they carry the same dimensional requirements.

A COC was issued on this application on October 27, 2003. Notice to abutters via certified registered was mailed on October 27, 2003.

At this time Mr. Moran asks that the following items below be entered into the record.

1. Subdivision application dated October 7, 2003
2. Letter from Antimo Mastrostefano dated October 7, 2003;
3. Memorandum dated October 14, 2003 from Fire Chief Joseph Castro to Jeanne Boyle;
4. Memorandum dated October 24, 2003 from Public Works Director Stephen Coutu with attachments to Jeanne Boyle
5. November 4, 2003 e-mail from Alan Corvi to James Moran re: bond amount;
6. Notice of Application to abutters with reduced map and abutters list;

7. October 24, 2003 Certificate of Completeness;
8. Tax Certificate dated September 22, 2003 and
9. Title Report prepared by Raymond A. Tomasso
10. November 6, 2003 Planning Department memorandum to the Board

Additional item that the Planning Department staff also be included as part of the record.

#### Motion

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted to accept all the items listed one through nine and add as number 10 the staff recommendation .

Mr. Moran states the parcel is 12,600 square feet. Proposed lots will be 6,300 square feet All dimensional requirements will be met with the exception of lot depth which will require a variance. They are proposing 90 feet; the requirement is for 100 feet. The lots will meet all the dimensional requirements of zoning. The applicant is requesting a waiver as addressed in a letter to the Planning department. The request of waiver is for sidewalks. In the Public Works response to the Planning department, Alan Corvi, City Engineer indicated that they would like to see sidewalks installed along the entire frontage of the development. One was to repair the existing sidewalk and to install sidewalks along the remaining frontage along Irving Avenue and Vanderland Avenue. The e-mail that was provided by City Engineer, Alan Corvi indicated the bond amount would be \$1,000 to cover the sidewalk installation.

Mr. Moran states that the Planning Department concurred with the engineer's recommendation. In light of the fact that this particular development is on a corner and sidewalks on the corner would serve this neighborhood would serve this location on Irving and Vanderland .

Other issues were identified in the Department of Public Works memorandum of October 24, 2003 and we request that all those elements that are identified in that memorandum with attachments be entered as requirements for Final Plan approval.

Mr. Moran read verbatim from the November 6, 2003 memorandum from the Department of Planning to the Board into the record:

#### Tape B299

##### A. Consistency with Comprehensive Plan

The "Land Use 2010 Map" of the East Providence Comprehensive Plan designates the area of this proposed subdivision as "Medium Density Residential". The plan defines the dominant character of this land use as single family and two family development at

densities of no more than fifteen (15) dwelling units per acre. A goal of the Comprehensive Plan is for all existing residential areas to be maintained at existing densities.

- 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.

*The proposed configuration contains lots containing 6,300 square feet of land. The proposed lots significantly exceed the minimum requirement established for medium density residential development. The proposed configuration then, is found to comply with the goals, objectives, policy statements and the Land Use 2010 Plan.*

- b) All lots in a subdivision, and all land development projects shall conform to the standards and provisions of Chapter 19, Zoning.

*The proposed subdivision requires relief from lot depth, but in light of the fact that this is a prior recorded parcel an argument for relief from the requirements of zoning in this case appears to be justified.*

- c) There will be no significant environmental impacts from the proposed development as shown on the plan.

*There do not appear to be any significant environmental impacts from the proposed subdivision since both of the lots would be connected to the City's sanitary sewer system.*

- d) Subdivision as proposed would 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.

*The proposed lots will not create lots with physical constraints that will require future relief from pertinent regulations and building standards in the City.*

- e) All proposed land development and all subdivisions shall have adequate and permanent physical access to a public street. Lots cannot be isolated by topographic, natural or other features which prevent adequate physical access from the street.

*Both lots have physical access to a public street and are not isolated from the street by any topographic or natural features.*

- f) Each subdivision and land development project shall provide for safe circulation of pedestrian and vehicular traffic, for adequate surface 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.

*The proposed subdivision provides for safe circulation of pedestrian and vehicular traffic, and provides parcels which are suitable for building development within the allowable limits in the R-4/R-6 district. The location does not exhibit any natural, cultural or historical features and as such would not be an issue in this case.*

- 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.

*City sanitary sewer and water exist on Vanderland and Irving Avenue. The layout and features of the property do not appear to create conditions that would promote flooding and soil erosion.*

B. Consistency with The General Purposes of the East Providence Land Development and Subdivision Review Regulations

The General Purposes of Article 1, Sec. 1 – 2 of the “*East Providence Land Development and Subdivision Review Regulations*” (Regulations) apply generally to the content and process of the Regulations and generally to standards of development, as follows:

- (a) protect the public health, safety and welfare;

*The proposed subdivision does not negatively impact the health, safety and welfare of East Providence.*

- (b) provide for orderly, thorough and expeditious review and approval of land developments and subdivisions;

*The regulations provide for an orderly, thorough and expeditious review of subdivisions and this application is following that process.*

- (c) promote high quality and appropriate design and construction of subdivisions and land development projects;

*The proposed subdivision is for an in-fill development of a single-family lot and dwelling, which would be appropriate and in-keeping with the existing single-family neighborhood.*

- (d) protect existing natural and built environments and mitigate all significant negative impacts of any proposed development on the existing environment;

*The proposed subdivision is for an additional 6,300 square foot lot on which a single-family dwelling will be constructed, and connected to City sanitary sewer and water. There are no expected negative impacts to the natural or built 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;

*The proposed subdivision is for an in-fill development lot on which a single-family dwelling will be constructed. There appears to be ample space on the lot to construct a single-family dwelling. The dwelling can connect to existing City infrastructure – roads, sanitary sewer and water. There are no expected negative impacts to the natural or built environment.*

(f) encourage design and improvements 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;

*The Regulations have been adopted with design and improvement standards in accordance with the Comprehensive Plan and with regard to the various neighborhoods, districts, special and critical areas of the City. The proposed lots (6,300 square feet each) contain more area than required by the R-4/R-6 zoning of the area (minimum lot 5,000 square feet).*

(g) promote thorough technical review of all proposed land developments and subdivisions by appropriate officials;

*The proposed subdivision has been reviewed by appropriate officials, including: Planning, Public Works (sewer, water), Zoning, and the Fire Department.*

(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;

*There are no known needs for any dedication of land for public purposes and no known impacts requiring mitigation.*

(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.

*The proposed subdivision is being reviewed under the Regulations adopted by the East Providence Planning Board and pertinent records are being kept.*

#### IV. RECOMMENDATION

##### A. Waivers

The applicant is requesting a waiver from one requirement of the Regulations. The staff recommendation on the requested waiver is summarized below for a separate vote of the Board:

<u>Requested Waiver</u>	<u>Required</u>	<u>Proposed</u>	<u>Recommendation</u>
1. Section 13-6 (a) Sidewalks	yes	no new sidewalk	deny

Subdivision

Based on the finding that the proposed subdivision is consistent with the East Providence Comprehensive Plan, that it meets the General Purposes of Article 1 of the Regulations and that the required positive findings of Section 5-4 can be met, Planning recommends Conditional Approval of the requested Preliminary Plan submission subject to the following:

1. That all comments in the technical staff memoranda to the Planning Department (as attached) and all other requested modifications identified in this recommendation memoranda be incorporated into the plans as submitted; and that any and all conditions of the Planning Board approval be reflected in the Final Plan submission;
2. That the Final Plans and supporting documentation be based upon this Preliminary Plan approval, and that the Final Plans meet all City regulations and ordinances, and all applicable State and or/Federal Regulations;
3. That the petitioner obtain the necessary zoning variance for lot depth prior to the submission of Final Plans for this subdivision;
4. That upon project completion final “as-built” plans be submitted on mylar, and electronic format in AutoCAD version 14. The as-built drawings shall include all roadway and utility information, including final inverts, rims, sewer lateral depths and locations (swing ties) to all permanent structures.
5. That the applicant provide proof from Daniel Marso to confirm that he is the legal executor of the Frank Marso Estate.

B. Final Plan Review

The Planning Department recommends that Final Plan review be delegated to the Administrative Officer as covered under Section 9-10 of the Land Development and Subdivision Review Regulations. Several key issues have been identified by staff under the application’s substantive review process that can be reviewed under a ministerial Final Plan Review.

Mr. Robinson asks if there are any questions of the Board? There are none.  
Mr. Robinson asks if the public wishes to be heard on this subdivision. There did not.

#### Motion

On a motion by Mr. Sullivan, seconded by Mr. Batty, the Board voted to find this application consistent with Section 5-4 and Section 1-2 of the Land Development and Subdivision Review Regulations.

#### Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

#### Recommendation

#### Motion – Merits of this application

On a motion by Mr. Sullivan, seconded by Mr. the Board voted to grant conditional approval of the proposed subdivision based on the submitted application and testimony presented to the Board, and conditions set for in the Planning Department staff report conditions 1 through 5 dated November 6, 2003 and various memoranda from the City Departments

All of the General Purposes of Section 1-2 of the East Providence Land Development and Subdivision Review Regulations have been addressed and positive findings were found for all the standards of Section 5-4 Required Findings. It is also apparent that the proposed subdivision is consistent with the East Providence Comprehensive Plan.

The Planning Department recommends approval of the requested preliminary plan submitted subject to the 4 items listed in the staff memorandum and to add a fifth that the applicant provide proof from Daniel Marso to confirm that he is the legal executor of the Frank Marso Estate.

#### Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Motion – Waiver of Sidewalks

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to deny the applicant’s request for waiver of sidewalks and to require the installation of sidewalks.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O’Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Motion – Delegation of Final Plan Approval to the Administrative Officer

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

Mr. Sleprow said he wants to withdraw one waiver for granite curbing and asks that the Board strike it out in his letter.

Tape B486

Chairman Robinson noted that for the record the application has been amended to reflect signature by the applicant and striking the requested waiver for the installation of granite curbing. The only waiver that is present before the Board will be with respect to the installation of sidewalks.

Tape B491

*D. Appl. #2003-17 Minor – Intersection of Omega Way and Roger Williams Avenue, Applicant: Gianlorenzo & Sons Construction Co.,*

At this time, City Solicitor Chapman swore in Brian Thalmann, Thalmann Engineering Co., Inc., 19 Industrial Drive, Smithfield RI, the engineer for the project, and the applicant, Steven Gianlorenzo, President of Gianlorenzo and Sons Construction Corp, 25 Tripps Lane, East Providence, RI.

Martin P. Sleprow, attorney for the applicant, Steven Gianlorenzo informed the Board that Mr. Gianlorenzo is proposing a three-lot subdivision on Lot 12, Block 12, Map 303. The location of this subdivision is on the corner of Roger Williams Avenue and Omega Way. We are proposing three single-family dwellings. All zoning requirements will be met, and it is in an R-3 district which requires 7,500 square feet; the proposed lots are well in excess of that. They range from 12,480 square feet which is a lot closer to the pond, 8, 239 square feet for the middle lot, and 7, 709 square feet which is the lot on the

corner. All the lots more than meet the area requirement. They meet all the dimensional requirements and they will be single-family homes. We are not seeking any variances from the dimensional requirements. The proposal will meet the Comprehensive Plan requirements. Mr. Sleprow states the applicant is not seeking a waiver from the granite curbing. He agrees to install granite curbing, however, we are asking for waiver of sidewalks along Omega Way. Some of the issues of the neighbors are about the roadway size and whether it has any impact on their land. Since we are not creating sidewalks there will be no impact on their land. Mr. Sleprow states that he wants to make it clear that although we had the staff and their conditional approval, they said they recommend conditional approval subject to eight conditions. The first two are the most important; number 1 that the existing 2 inch water main located on Omega Way be upgraded by the applicant to the diameter determined by the Department of Public Works. Mr. Sleprow stated that he had objected to that, but based upon testing, we have concluded that the Department was correct and the main will be upgraded. Secondly, that Omega Way will be widened to a minimum of 24 feet and the entire length and width of the right-of-way be resurfaced.

Tape C013 Mr. Sleprow said have come to conclude based upon the fact since we are putting in a new water line anyway that we would agree with that and we do not object to that. We can upgrade this to the 24 foot width without having any impact on grass or anything else that the neighbors have there. Mr. Sleprow states they do agree with the staff report that sidewalks be waived and agree to the eight conditions.

Tape C023

Mr. Thalmann, states that he and Mr. Gianlorenzo visited the site recently in regard to a couple of comments that were brought to his attention. One was with the size of the water main. He noted that the Fire Department did a flow test on the hydrant that is above mid-point of the property on Roger Williams Avenue. From the results of that test he said they did a hydraulic analysis of the capacity of the existing 2-inch water main. The two new houses that would be off that main and the existing house are running at maximum daily flows. The analysis indicates that the pressure drop across this main will be insufficient to adequately supply flow and pressure to the dwellings. Given that we concur with the Planning Department's report that that main be upgraded based on the test results. Given that the main needs to be reconstructed our position with the respect to the widening of Omega Way is credible at this point. We looked the limits of the 40 foot right-of-way are and limits of the pavement within that right-of-way. It is our opinion that we can accommodate that 24 feet along the southern side of Omega along Mr. Gianlorenzo's property so that we can widen it without impacting any of the grass or landscaping that is occurring on the northern side of Omega Way.

Tape C035

Mr. Robinson asks if the sidewalk along Roger Williams Avenue will be replaced? Mr. DiPalma answered yes. He said there will be a new sidewalk with a handicap ramp as proposed.

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

Mr. Batty asked if there is curbing on both sides of Omega Way? Mr. DiPalma answered there is no curbing out there at all. It is proposed along the southerly side, and that the widening of the street is not as wide as it first appeared.

Tape C044

At this time, Mr. Hanner presented the staff report to the Board.

He noted that the applicant is proposing a three (3) lot subdivision, which is classified as a Minor Subdivision on Existing Frontage. There are two stages of plan review - Preliminary and Final. The Planning Board may vote to delegate Final Plan approval to the Administrative Officer. The Board must approve, deny, or approve with conditions within sixty-five (65) days of the issuance of the Certificate of Completeness (COC), which was issued on October 30, 2003. There are no newspaper advertising or public hearing requirements for a minor subdivision on existing frontage. Notice was mailed to immediate abutters via certified mail.

Mr. Hanner requests that the items listed below be entered into the Board's official record as follows:

Planning Department's Staff Recommendation dated 11/04/03

Letter from Martin P. Sleprow to Jeanne M. Boyle, dated 9/30/03

Memorandum from Alan Corvi to Stephen Coutu, dated 9/17/03

Memorandum from Kenneth Booth to Stephen Coutu, dated 9/22/03

Memorandum from Stephen Coutu to Jeanne M. Boyle, dated 10/28/03

Memorandum from Edward Pimentel to Stephen Coutu, dated 10/17/03

Memorandum from Law Department to Jeanne M. Boyle, dated 9/16/03

Memorandum from Joseph Castro to Jeanne M. Boyle, dated 9/10/03

Memorandum from Alberto Ereio to Jeanne M. Boyle, dated 9/10/03

A written request from and signed by the applicant dated 11/12/03 which requests striking the waiver for the installation of curbing.

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board unanimously approved the memoranda above.

Mr. Hanner stated that the applicant is proposing to subdivide an existing 28,428 square foot parcel into three parcels, parcels 1, 2, and 3 as shown on the plan. Parcels range from 7,709 square feet to 12,480 square feet. Single-family dwellings are proposed to be constructed on each of the three parcels with garages located below designated living space. The three parcels have frontage along Omega Way (with driveways connecting to Omega Way) and parcel 1 is a corner lot with frontage along Omega Way and Roger Williams Avenue.

Mr. Hanner said that the applicant is proposing to reset the existing curbing and replace the existing sidewalks along Roger Williams Avenue. A written request has been

submitted by the applicant requesting a waiver for the installation of sidewalks and curbing along the frontage of the parcels on Omega Way (See attached letter from Martin P. Sleprow to Jeanne M. Boyle, dated 9/30/03).

It has been determined by the Department of Public Works that the width of the existing roadway, approximately 17 feet, is below the minimum standard of 24 feet. The Department of Public Works has recommended that the applicant widened the roadway to the minimum standard of 24 feet and resurface the entire length of Omega Way (See memorandum from Stephen Coutu to Jeanne Boyle, dated 10/28/03).

It has been noted by the Kenneth Booth, Distribution & Collection Superintendent that the existing 2-inch water main located on Omega Way (currently only serving the dwelling located at 15 Omega Way) is inadequate to serve the two proposed single-family dwellings located on parcels 2 and 3 (See memorandum from Kenneth Booth to Stephen Coutu, dated 9/22/03). It is recommended by the Department of Public Works that the existing 2-inch water main be upgraded in order to serve the two additional dwellings (See memorandum from Stephen Coutu to Jeanne Boyle, dated 10/28/03)

#### EXISTING CONDITIONS & SITE FEATURES

The subject property is located at the intersection of Omega Way and Roger Williams Avenue (Map 303, Block 12, Parcel 12). The existing dwelling, cement slab, and asphalt driveway (in poor condition) are proposed to be removed.

A slight slope is present from the center of the proposed parcel 2 to the center of proposed parcel 3, (a change of slope of 2 feet). Severe slopes are present on the western edge of proposed parcel 3 along Omega Pond.

Concrete sidewalks and granite curbing are present along the frontage of parcels on Roger Williams Avenue. The existing concrete sidewalk is in poor to moderate condition with several patches of asphalt present. The existing granite curbing is below the standard grade of 6 inches ranging from the level of the street to two to three inches.

#### DRAINAGE

Underground storm water injection control systems are proposed for all three (3) dwellings.

#### TRAFFIC

The narrative of the application prepared by Thalmann Engineering Co., Inc. states that traffic increases are expected to be minor yielding approximately ten (10) vehicle trip generations per dwelling per day for a total of 30 vehicle trip generations.

#### ZONING

The property is located in a Residential-3 district. The minimum dimensional requirements for the R-3 District are: Area – 7,500 square feet; Lot Width - 75 feet; Lot Depth - 100 feet. Minimum building setback requirements are: Front yard - 20 Feet; Side yard - 15 feet; Rear yard - 25 feet. The Zoning Officer has reviewed the plan and has stated that the proposed subdivision fully complies with all Zoning requirements (See memorandum from Zoning Officer to Stephen Coutu, dated 10/17/03)

There will only be granite curbing on Omega Way on the one side along the frontage of the three proposed parcels. This is on the southern side. Nothing is being proposed on the northern side.

Tape C061

Mr. Hanner stated the only waiver tonight that the applicant is making is the waiver for sidewalks only Omega Way.

#### CITY DEPARTMENT STAFF REVIEW

The Planning Department, Public Works Department, Zoning Officer, Fire Department, Law Department, and Assessor's Office reviewed the proposed plan and required material for conformance with the City's "Land Development and Subdivision Regulations", the Zoning Ordinance and other applicable City codes and regulations. The comments of each department are attached.

#### COMPLETENESS REVIEW

Following a completeness review by City staff, a "Certificate of Completeness" was issued by the Administrative Officer on October 30, 2003.

#### WAIVERS

Section 5-13, "Waiver and/or Modification of Requirements" of the "Land Development and Subdivision Review Regulations", sets forth the criteria for granting waivers from these regulations. According to Section 5-13:

- (a) "The Planning Board shall have the power to grant waivers and/or modifications from the requirements of these Regulations as may be reasonable and within the general purposes and intents of these and other applicable City plans and regulations. The only grounds for such waivers and/or modifications shall be where the literal enforcement of one or more provisions of these Regulations is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question or where such waiver and/or modification is in the best interest of good planning and or/design as evidenced by consistency with the City's comprehensive plan and zoning ordinance.
- (b) Requests for waivers and/or modifications shall be made in writing and shall provide

justification for the requested action. Applicants shall submit such request to the administrative officer for referral to the Planning Board.

(c) The Planning Board shall 1) approve, 2) approve with conditions or 3) deny the request for either a waiver or modification as described in subsection (a) above, according to the requirements of the board for meetings, votes and decisions and records.”

The applicant has submitted a written request to waive the requirement for the installation of sidewalks and curbing along the frontage of the three proposed parcels on Omega Way (See attached letter from Martin P. Sleprow to Jeanne M. Boyle, dated 9/30/03). Considering Omega Way is a dead-end street that serves the two (2) existing dwellings and three (3) proposed dwellings, this Department does not object to the granting of the request to waive the installation of sidewalks along Omega Way.

The Public Works Department and Planning Department are requesting the installation of granite curbing along Omega Way (See memorandum from Stephen Coutu to Jeanne M. Boyle, dated 10/28/03). The installation of granite curbing along Omega Way will aid in drainage of the roadway and increase the safety to pedestrians and vehicles by delineating the roadway.

As mentioned earlier, the applicant is proposing to replace the existing sidewalk and reset the curbing along Roger Williams Avenue. Considering Roger Williams Avenue is a collector roadway that serves pedestrian and vehicle traffic for the residential neighborhoods between Pawtucket Avenue and North Broadway, it is recommended by the Planning Department that the applicant install a pedestrian handicap ramp at the intersection of Roger Williams Avenue and Omega Way.

#### CONSISTENCY WITH COMPREHENSIVE PLAN

The East Providence Comprehensive Plan “Land Use 2010 Plan” designates the area of the proposed subdivision as “Low Density Residential”. This designation allows residential development at a density of 5.8 dwelling units per acre or less. The land use associated with the subdivision is consistent with the Land Use 2010 designation.

#### GENERAL PURPOSES & REQUIRED FINDINGS

In accordance with Section 5-4 of the Regulations: “Prior to approval of any application for subdivision and/or land development project, the Administrative Officer or Planning Board, as applicable, shall address each of the general purposes stated in Article 1 and shall make positive findings of fact on all of the applicable standards listed below, as part of the proposed project’s record. If a positive finding for any of these standards cannot be made, the Administrative Officer and/or Planning Board shall have grounds for denial of the project”.

Mr. Hanner read from the staff report and noted that under Section 1-2. General Purposes. The general purposes of these Regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, 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;

*The proposed subdivision does not negatively impact the health, safety and welfare of East Providence.*

(b) Provide for orderly, thorough and expeditious review and approval of land developments and subdivisions;

*The regulations provide for an orderly, thorough and expeditious review of subdivisions and this application is following that process.*

(c) Promote high quality and appropriate design and construction of subdivisions and land development projects;

*The proposed subdivision is for an in-fill development of three (3) single-family dwellings, which are appropriate and in-keeping with the existing single-family neighborhood.*

(d) Protect existing natural and built environments and mitigate all significant negative impacts of any proposed development on the existing environment;

*The three (3) proposed dwellings will be connected to City sanitary sewer and water and the subdivision proposes the installation of underground storm water injection systems for the three (3) dwellings. There are no expected negative impacts to the natural or built 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;

*The proposed subdivision is for an in-fill development of an existing 28,428 square foot parcel where three (3) single-family dwellings will be constructed. The dwellings are proposed to be connected to existing City infrastructure – roads, sanitary sewer and water. There are no expected negative impacts to the natural or built environment.*

(f) Encourage design and improvements 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;

*The Regulations have been adopted with design and improvement standards in accordance with the Comprehensive Plan and with regard to the various neighborhoods, districts, special and critical areas of the City. It is the opinion of this Department that the proposed subdivision is consistent with the Comprehensive Plan and Zoning Regulations.*

(g) Promote thorough technical review of all proposed land developments and subdivisions by appropriate officials;

*The proposed subdivision has been reviewed by appropriate officials, including: Planning, Public Works, Zoning, Law, Assessment, and the Fire Department.*

(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;

*There is no known need for any dedication of land for public purposes and no known impacts requiring mitigation regarding this proposed subdivision.*

Tape C088

(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.

*The proposed subdivision is being reviewed under the Regulations adopted by the East Providence Planning Board and pertinent records are being kept.*

Mr. Hanner read from the staff report of Section 5-4. Required Findings

Section 5-4 of the Regulations requires that, prior to the approval of any application for subdivision, the Planning Board shall address each of the general purposes in Article 1 of the Regulations and shall make positive findings on all of the applicable standards, as listed below:

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 submitted plan and required materials, 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 Chapter 19, Zoning.

*The three (3) proposed parcels conform to the minimum dimensional and use requirements for an R-3 District.*

C) There will be no significant environmental impacts from the proposed development as shown on the plan.

*Sewer, water, and gas utilities are proposed to be connected to the three (3) proposed parcels. No significant environmental impacts appear present.*

D) The 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 buildings standards would be impracticable.

*No physical constraints to development appear present.*

E) All proposed land developments and all subdivisions shall have adequate and permanent physical access to a public street. Lots cannot be isolated by topographic, natural, or other features which prevent physical access from the street

*The three (3) proposed parcels have physical access to Omega Way.*

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 the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community to the extent feasible.

In order to provide for the safe circulation of pedestrian and vehicle traffic, it is recommended to require of curbing along the frontage of the property on Omega Way, as well as a pedestrian handicap ramp at the intersection of Omega Way and Roger Williams Avenue

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

*Surface water runoff would be through over-land flow and some infiltration on-site.*

## STAFF RECOMMENDATION

### SUBDIVISION

Tape C103

Based upon the analysis provided above, the proposed subdivision is consistent with Section 1-2, "General Purposes" and that the General Purposes were addressed as part of

Staff's review. Positive findings were stated to all of the standards of Section 5-4, "Required Findings" of the East Providence Land Development and Subdivision Review Regulations. In addition, it is the opinion of staff that the subdivision, as proposed, is fully consistent with the East Providence Comprehensive Plan and East Providence Zoning Ordinance. Therefore, staff recommends:

- A. That the Board delegate final plan approval to the Administrative Officer;
- B. That the Board waive the requirement for the installation of sidewalks along Omega Way;
- C. That the Board require the installation of granite curbing along the frontage of the proposed parcels on Omega Way;
- D. That the Board require the installation of a pedestrian handicap ramp at the intersection of Omega Way and Roger Williams Avenue;
- E. That the Planning Board grant *Conditional Approval* of the subdivision, *as proposed*, subject to the following conditions:
  - 1. That the existing 2-inch water main located on Omega Way is upgraded by the applicant to a diameter determined by the Department of Public Works;
  - 2. That Omega Way is widened to the minimum standard of 24 feet and the entire length and width of the right-of-way resurfaced;
  - 3. That the applicant post an improvement guarantee in an amount determined by the Public Works Department for any required improvements to the City's Right-of-way;
  - 4. That the residential use of the property be restricted to single-family use and accessory uses in perpetuity;
  - 5. That the title block of the Final Plan be revised to indicate Final Plan status;
  - 6. That the Final Plans be based upon the approved Preliminary Plans, and further that the Final Plan and supporting documentation meet the requirements of the East Providence Land Development and Subdivision Review Regulations; and
  - 7. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements.
  - 8. That upon project completion, final "as-built" plans be submitted on Mylar, and electronic format in AutoCAD version 14. The as-built drawings shall include all roadway and utility information, including final inverts, rims, sewer lateral depths, and locations (swing ties) to all permanent structures.

Tape C119

Ms. Boyle stated that Item 7 which states that the proposal meet all applicable city, state or federal regulations and also said that in the City Engineer's memorandum he suggested that CRMC or RIDOT approval may be required, She noted she received a phone call from a resident today asking if CRMC also had jurisdiction. It was noted that CRMC is not required but RIDOT is.

Mr. Robinson asks if there are any questions or comments from the Board? There were none. Mr. Robinson asks if the public has any comments.

*Public Comments*

Tape C133

Mr. Antonio Ormand, 15 Omega Way, East Providence, was sworn in.

Mr. Ormand stated that in regard to the width of the road he measured it and photographed it today. He states he is the immediate abutter directly across from the middle lot. He measured it at 16' 4" from pavement to pavement. And said that widening the road would significant affect the nature of that road. Curbing and widening of the road it helps our problem, but the road is too narrow to accommodate additional units. He notes his prior residence was 9 short street in East Providence which was the shortest street and narrowest. He is concerned about emergency vehicles getting down there, also weekend parking; there is a church on Roger Williams Avenue where people park on the side street and park on Omega Way which already poses a problem for the resident on the corner, Mr. McConnell who lives at 120 Roger Williams Avenue side as well as myself. If curbing is to be installed it should be on both sides of the street, otherwise people will park on my front lawn and front walk.

Mr. Ormand also mentioned he is concerned about the style of the proposed homes. He said Roger Williams Avenue is of a historic nature, being that it is one of the oldest streets in the state and he is concerned as like his neighbors that if you put in three of the same style home, it will change the look of the street aesthetically.

As far as the setback to the pond, Mr. Ormand stated that the issue with CRMC and DEM he is unclear as to what the regulations are. He states he made several calls to the City, CRMC and RIDEM and have not gotten any clarification as to whose jurisdiction that pond is under. He notes he has head that permits may be required from both CRMC and DEM. If that is the case, then the setbacks tend to vary. The plan clearly shows a 50 foot setback. Was the 50 feet measured from the bottom of the embankment or the edge of the pond going up? He said that from what he has read on the RIDEM website, it clearly shows it would have to be measured from the top of an embankment. Also the third home has an 80 foot buffer on the front right hand corner which does not seem to meet the City ? (inaudible) Tape C 164

He states that 7500 sq feet minimum seems to be something that works for two lots, but for the third with the wetlands is quite questionable with that type of setback. He noted that Pond View is a big issue for our neighbors, and by clearing any further land we will be seeing that facility and hearing it more. We hear trucks in and out of there at all times. They are not adhering to the schedule.

Mr. Ormand states also that he did some market research. He paid \$285,000 for his property at 15 Omega Way back in April. The home only has two bedrooms and these new homes are probably going to sell in that area for more. The area calls for higher quality of building on everyone's part to preserve the integrity of the community.

Tape C180

Mr. Arnold G. McConnell, 254 Jacob Street, Seekonk, MA was sworn in. He states he is speaking on behalf of Russell McConnell who is at 128 Roger Williams Avenue. He noted that he agrees with everything Mr. Ormand said particularly in regard to the 50 foot setback for the lot closest to the water. A visual inspection will tell you that it is entirely open to question as to whether that 50 foot requirement can be met on any level, whether in fact it is measurable as 50 feet. As far as the north side of Omega Way is concerned, we would like that area to be curbed and would also like the Board to make note of the fact that as Mr. Sleprow said, he does not intend to impede upon the present landscape because.

Mr. McConnell stated that the landscaping on my father's side would be kept and that there will be curbing as well on his property as well to be paid for by Mr. Gianlorenzo. Mr. McConnell states his father has been at 128 Roger Williams Avenue since 1957, has always kept up his property, has paid taxes for many years, and has never made any trouble for the City. He is an established resident, worked here all his life and is worthy of consideration as any developer who has walked in this door today. The issue of parking and vehicular is of concern. Mr. McConnell noted that Grace Church on RW Avenue has no parking so they park on Roger Williams Avenue. The overflow goes onto Omega Way. This is why my father applied for years ago a "no parking" status on one side of Omega Way. We would like to keep that "no parking" status on the North side. Tony who just moved in has improved his property greatly. He should count, he should be a player also. You should develop East Providence as a livable City. Given the density of this project, parking will be a huge problem. Without curbs people will be parking on other people's lawns, especially the elderly. Please consider the people that have continued to be stable and that have been here contributing for a long time.

Ms. Nancy Brant, 125 Roger Williams Avenue was sworn in. She commented that she is directly across the new subdivision and is opposed to three homes on that parcel. She stated that Roger Williams Avenue is very historic road in this state and noted that the City has made some great strides in improving that area. The street has many shingled homes and states that Mr. Gianlorenzo is proposing three raised

ranches which will probably be vinyl sided. She is opposed to vinyl siding. Ms. Brant states that that parcel of land is more suited to two nice homes that fit the kind of neighborhood that Roger Williams Avenue is historically.

#### Tape C234

Ms. Connie Crawshaw, 4 Miriam Street, East Providence. Is sworn in and voiced her concerns about the width of the street for emergency vehicles not having enough access for getting in and out of there. She is also concerned about the parking. She asked what the average width of s street is? Most of the streets in that area are narrow and my street is also very narrow. She stated if there are people parked on both sides of the street, you can just about get through. She asked what the going width of a street in this particular area would be?

Ms Boyle answered that the standard under the Subdivision Regulations is 30 feet. However, the Board does have the authority to allow streets of less than that width They have in recent subdivisions approved subdivisions with 24 feet of width and 26 feet of width. Also, we did not have an opportunity to put into the record, but the Fire Department is also recommending a 24 foot width also. Ms. Crawshaw said with the building of these three new homes, there will be a congestion problem with more cars being parked there. Also the curbing should be on both sides to protect the properties from people parking on their front lawns. She asked if they could widen the street more from the new lots and also asked if they could cut out a section of the street for a turn-around on the property? Ms. Crawshaw stated she is very concerned also about the historical integrity of the neighborhood

Mr. Robinson states that is not what is before the Board tonight. In answer to Ms. Crawshaw's questions, Ms. Boyle stated that additional widening would also start to affect some of the property owners on the other side of the street also. Ms. Boyle states that if a turn round is put in, there would not be enough room for a cul-de-sac. You are also near Omega Pond and the more payment you put in and the larger you make it, would have a great effect on some of the buffered area.

Mr. Ormand asked what happens to existing situations that are already in place? For example the "no parking" status that exists at the present time? Ms. Boyle answered that if the existing no parking was passed by City ordinance of the Council, than it should remain valid and continue even after this subdivision and these improvements are made.

#### Tape C287

Mr. Bansal, 135 Roger Williams Avenue was sworn in. He said he is concerned that there is no room to turn around in that street – you have to back out and Roger Williams Avenue is a heavily traveled street that is also traveled by trucks. There are many accidents already because of people backing on to that street. Having this development will increase accidents and cause future problems.

A prior resident who spoke previously states that if those signs remain in effect, and all the residents work at home on a particular evening and someone inadvertently turned onto the street then wanted to turn around, they would not be able to since the neighbors cars would already be in their driveway – there would be no room to turn around.

Tape C304

Mr. Gerstein of the Board asked why the people on that street did not do something before this happened. If you saw that street was so narrow and unsafe, you should have spoken to your councilman, Patrick Rogers. You could have asked him to get parking on one side of the street.

In answer to Mr. Gerstein's comments, Mr. McConnell, 128 Roger Williams Avenue stated that he had already applied for no parking on the north side of Omega Way. This was done when James Beeley was City Manager.

Ms. Crawshaw states she agrees with what Mr. Gerstein stated and told him that she is co-chair of the Phillipsdale Neighborhood Initiative. We have been working since 1993 on a RIDOT plan to widen Roger Williams Avenue because of the blind curves and with people having to park on sidewalks, it can be very treacherous since if you were to back up you would be backing up to a blind curve. She said she has not gotten a response from her councilman even though the Initiative has sent letters and called him. She said at the last meeting they had Representative Dennigen, Senator DaPonte and Representative Rose attended who isn't even in our district.

Tape C330

Mr. Robinson asked if there were any other comments.

Mr. Sleprow states he is there to address the comment about the CRMC and who takes jurisdiction. Mr. Thalmann, the engineer states that CRMC has jurisdiction up to the rail line and west of it. RIDOT has jurisdiction from the rail line east to Omega Pond. As part of our application, DEM will verify that edge and make their determination of the permit request based on that. Wetlands are delineated by two features; by biologic and hydrant conditions in the soil. This is used to fill out the application by the biologist. It is a 50-foot horizontal distance from the flagged edge, not the distance of the slope.

In closing, Mr. Sleprow states that the concerns of the neighbors are legitimate, but their concerns should be directed to the city Council if they want to change the zoning higher than 7500 square feet. It is a legitimate concern, but certainly not one that the Planning Board addresses. He states that the plan meets all the Comprehensive Plan standards and all the staff requirements and that the applicant is entitled to this subdivision. He said there is a need to widen the street for various reasons and we are doing that without impacting any of the neighbors' property. He also states that from a subdivision issue, we are improving the situation such as Omega Way with installation of curbing and sidewalks, and that the houses will be attractive. Mr.

Slepkow asks that the Board consider this as a subdivision matter since we have met all the requirements.

TapeC379

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

Mr. Robinson asked if there were any comments or questions by the public.

In response to Mr. Slepkow's remarks above, Mr. Arnold G. McConnell states that as far as the applicant's proposals are, sidewalks were waived and he did talk about putting up a curb on the south side that was part of his proposal part of his arrangement that he wanted to make with the Planning Board, so we are well within our jurisdiction to ask for curbing on the north side and holding Mr. Slepkow to his promise that the land for the 24 foot widening will come as he said and as he proposes by the beginning of his remarks from the south side of the road. Those are germane as to why we are here tonight. Mr. Slepkow states that can be added to the conditions – the fact that there will be 24 feet wide. As far as the curbing issue on the other side, the neighbors would have to address the City Council since the applicant is not subdividing on that side of the street. Mr. Robinson states it is his understanding that the Board does have the jurisdiction to do that.

Tape C402

Mr. Sullivan asked Anthony Ormand if he was the only person living on Omega Way at this time. Mr. Ormand answered that Mr. McConnell lives on Roger Williams Avenue, but his driveway is also on Omega Way. The new driveway is proposed for Omega Way. Mr. Sullivan asked him how much land he got for a \$300,000 house. He answered 12,000 square feet and when he bought it, he bought it for the location.

Motion – Consistent with Section 5-4 of the Land Development and Subdivision Review Regulations and Section 1-2 General Purposes.

On a motion by Mr. Sullivan, seconded by Mr. Batty, the Board voted to find that the application is consistent with the Regulations in Sections 5-4 of the Regulations and Section 1-2 of General Purposes

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Aye

Tape C428

At this time, Mr. Robinson asks that the Board admit to the record the memorandum submitted by Mr. Ormand and a memorandum from Fire Chief, Joseph Castro to Director of Planning, Jeanne Boyle also submitted at tonight's meeting.

Motion

On a motion by Mr. Sullivan, seconded Mr. Batty, the Board unanimously voted to enter these two memoranda into the Board's official record.

Motion – Condition Approval

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board unanimously voted to accept conditional approval of this subdivision based upon the testimony submitted to the Planning Board in the Planning Department staff report and memoranda attached from various City departments subject to the conditions listed in that report. All the General Purposes of Section 1-2 the East Providence Land Development and Subdivision Review Regulations have been addressed and positive findings were found for all the standards of Section 5-4 Required Findings. 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
Acting Chair Robinson	Aye

Motion – Waiver Request for Installation of Sidewalks on Omega Way

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board voted 3-2 to require curbing on the north side of Omega Way.

Roll Call Vote

Mr. Almeida	Nay
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair Robinson	Nay

Motion – Requested Waiver of Sidewalks on Omega Way

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to approve the applicant's request for waiver of sidewalks on Omega.

Roll Call Vote

Mr. Almeida                    Aye  
Mr. Batty                        Aye  
Mr. O'Brien                    Aye  
Mr. Sullivan                    Aye  
Acting Chair Robinson    Aye

Motion – Delegation of Final Plan Approval

On a motion by Mr. Sullivan, seconded by Mr. Batty, the Board voted 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  
Acting Chair Robinson    Aye

Motion – Installation of a Pedestrian Handicap Ramp at the Intersection of Omega Way and Roger Williams Avenue on both sides

On a motion by Mr. Batty, seconded by Mr. Sullivan, the Board voted to require a handicap accessible ramp north and south of Omega Way.

Roll Call Vote

Mr. Almeida                    Aye  
Mr. Batty                        Aye  
Mr. O'Brien                    Aye  
Mr. Sullivan                    Aye  
Acting Chair Robinson    Aye

Mr. Robinson explains that he votes aye because of curbing being required on the north side.

*E. Appl. #2003-14 Minor – Intersection of Dover and Cushman Avenues,  
Applicant/Owner: Gianlorenzo & Sons Construction Co.*

For the clarity of the record the application has been amended so that the waiver request has been changed so the applicant has in fact signed.

*Tape C514*

*At this time Steven Gianlorenzo , Gianlorenzo & Sons Construction Corporation, 25 Tripps Lane, East Providence and Mr. Brian P. Thalmann, President, Thalmann Engineering, 19 Industrial Drive, Smithfield RI are sworn in.*

Mr. Sleprow presented his report to the Board and stated that this property is located on Map 408, at the corner of Dover and Cushman Avenue. It is a 15,000 square foot parcel of land, the zoning is R-3 that requires 7500 square feet. Each lot is 7500 square feet and each will have single-family house constructed on them. The houses will be colonial type. They do not require any variances. All dimensional requirements are met. They will be connected to sewer and water lines that are there. We ask for waiver of sidewalks since there are none in the area. The applicant will put in granite curbing. Mr. Sleprow states that the staff report reflects that this subdivision is in keeping with the Comprehensive Plan. Staff has agreed with the waiver request with the six stipulations. He noted he agrees with every stipulation. The engineer is present if there are any questions.

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

At this time, Patrick Hanner of the Planning Department presented the staff recommendation. He stated the applicant is proposing a two (2) lot subdivision which is classified as a Minor Subdivision on Existing Frontage. There are two stages of plan review -Preliminary and Final. The Planning Board may vote to delegate Final Plan approval to the Administrative Officer. The Board must approve, deny, or approve with conditions within sixty-five (65) days of the issuance of the Certificate of Completeness (COC), which was issued on October 28, 2003. There are no newspaper advertising or public hearing requirements for a minor subdivision on existing frontage. Notice was mailed to immediate abutters via certified mail.

At this time Mr. Hanner asked that the memoranda below be entered into the Board's official record:

Planning Department Staff Recommendation dated 11/03/03  
Letter from Attorney Martin P. Sleprow to Jeanne M. Boyle, dated 9/30/03  
Memorandum from Fire Chief, Joseph G. Castro to Jeanne M. Boyle, dated 9/10/03  
Memorandum from Assessor Alberto Ereio to Jeanne M. Boyle, dated 9/10/03  
Memorandum from Law Department to Jeanne M. Boyle, dated 9/16/03  
Memorandum from Alan Corvi to Stephen Coutu, dated 9/17/03  
Memorandum from Edward Pimentel to Stephen Coutu, dated 10/17/03  
Memorandum from Kenneth B. Booth to Stephen Coutu, dated 9/16/03  
Memorandum from Stephen Coutu to Jeanne M. Boyle, dated 10/24/03  
Document signed by the applicant and attorney for waiver of sidewalks dated 11/12/03

Motion

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted unanimously to include the documents noted above and amended request for waiver signed by the applicant and attorney into the Board's official records.

Mr. Hanner states that the applicant has submitted a written waiver for the installation of sidewalks along the two frontages of this proposed development. The opinion of the staff in considering sidewalks not present in the vicinity of this subdivision to grant the applicant's to not require the installation of sidewalks. Tape C575

Mr. Hanner went through the General Purposes and Required Findings at this time:

### GENERAL PURPOSES & REQUIRED FINDINGS

In accordance with Section 5-4 of the Regulations: "Prior to approval of any application for subdivision and/or land development project, the Administrative Officer or Planning Board, as applicable, shall address each of the general purposes stated in Article 1 and shall make positive findings of fact on all of the applicable standards listed below, as part of the proposed project's record. If a positive finding for any of these standards cannot be made, the Administrative Officer and/or Planning Board shall have grounds for denial of the project".

Section 1-2. General Purposes. The general purposes of these Regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, 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;

*The proposed subdivision does not negatively impact the health, safety and welfare of East Providence.*

- (b) Provide for orderly, thorough and expeditious review and approval of land developments and subdivisions;

*The regulations provide for an orderly, thorough and expeditious review of subdivisions and this application is following that process.*

- (c) Promote high quality and appropriate design and construction of subdivisions and land development projects;

*The proposed subdivision is for an in-fill development of two (2) single-family dwellings, which are appropriate and in-keeping with the existing single-family neighborhood.*

- (d) Protect existing natural and built environments and mitigate all significant negative impacts of any proposed development on the existing environment;

*The two (2) proposed dwellings will be connected to City sanitary sewer and water. There are no expected negative impacts to the natural or built 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;

*The proposed subdivision is for an in-fill development of an existing 15,000 square foot parcel where two (2) single-family dwellings will be constructed. The dwellings are proposed to be connected to existing City infrastructure – roads, sanitary sewer and water. There are no expected negative impacts to the natural or built environment.*

(f) Encourage design and improvements 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;

*The Regulations have been adopted with design and improvement standards in accordance with the Comprehensive Plan and with regard to the various neighborhoods, districts, special and critical areas of the City. It is the opinion of this Department that the proposed subdivision is consistent with the Comprehensive Plan and Zoning Regulations.*

(g) Promote thorough technical review of all proposed land developments and subdivisions by appropriate officials;

*The proposed subdivision has been reviewed by appropriate officials, including: Planning, Public Works, Zoning, Law, Assessment, and the Fire Department.*

(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;

*There is no known need for any dedication of land for public purposes and no known impacts requiring mitigation regarding this proposed subdivision.*

(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.

*The proposed subdivision is being reviewed under the Regulations adopted by the East Providence Planning Board and pertinent records are being kept.*

Mr. Hanner read the Required Findings of Section 5-4.

Section 5-4 of the Regulations requires that, prior to the approval of any application for a subdivision, the Planning Board shall address each of the general purposes in Article 1 of the Regulations and shall make positive findings on all of the applicable standards, as listed below:

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 submitted plan and required materials, 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 Chapter 19, Zoning.

*The two proposed parcels conform to the minimum dimensional and use requirements for an R-3 District.*

C) There will be no significant environmental impacts from the proposed development as shown on the plan.

*Sewer, water, and gas utilities are proposed to be connected to the two proposed parcels. No significant environmental impacts appear present.*

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 buildings standards would be impracticable.

*No physical constraints to development appear present.*

E) All proposed land developments and all subdivisions shall have adequate and permanent physical access to a public street. Lots cannot be isolated by topographic, natural, or other features which prevent physical access from the street

*The proposed parcel 2 has physical access from Cushman Avenue and the proposed parcel 1 is a corner lot with physical access from Cushman and Dover Avenue.*

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 the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community to the extent feasible.

The proposed subdivision does not impede circulation of pedestrian or vehicle traffic.

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

*Surface water runoff would be through over-land flow and some infiltration on-site.*

## RECOMMENDATION

Mr. Hanner noted that staff addressed each of the General Purposes of Section 1-2 and made positive findings of Section 5-4. He read the recommendation into the report.

Based upon the analysis provided above, the proposed subdivision is consistent with Section 1-2, "General Purposes" and that the General Purposes were addressed as part of Staff's review. Positive findings were stated to all of the standards of Section 5-4, "Required Findings" of the East Providence Land Development and Subdivision Review Regulations. In addition, it is the opinion of staff that the subdivision, as proposed, is fully consistent with the East Providence Comprehensive Plan and East Providence Zoning Ordinance. Therefore, staff recommends:

- A. That the Board delegate final plan approval to the Administrative Officer, and;
- B. That the Board waive the requirement for the installation of sidewalks along the frontage of the two parcels, and;
- 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 property be restricted to single-family use and accessory uses in perpetuity;
  2. That the applicant post an improvement guarantee in an amount determined by the Public Works Department for any required improvements to the City's Right-of-way;
  3. That the title block of the Final Plan be revised to indicate Final Plan status;
  4. That the Final Plans be based upon the approved Preliminary Plans, and further that the Final Plan and supporting documentation meet the requirements of the East Providence Land Development and Subdivision Review Regulations;

5. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements, and
6. That upon project completion, final “as-built” plans be submitted on Mylar, and 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.

TapeC 645

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

Mr. Robinson asked if there were any comments or questions from the public.

### *Public Comments*

Ms. Carol 37 Cushman Avenue, East Providence and Michael J. Solomon, 39 Bullocks Point Avenue, Riverside was sworn in. He states he is here on behalf of his father, Solomon A. Solomon, 60 Cushman Avenue who is also sworn in.

Ms. Carol states she has been at her residence for 27 years and has seen the area grow with buildings, houses, etc. Her concern is with the traffic that two more houses will generate and would like to see just one house built. There is already a lot of cars that park there around the holidays and sometimes she cannot get out of her own driveway. There are a lot of children in that area and they play in the streets. Said people do not respect the stop signs as it is. If only one dwelling is built, it will limit the number of cars coming in and out of the dwelling.

Mr. Solomon states he grew up at 60 Cushman Avenue and would like entered into the record the fact that the deed that Ms. Bowen, the deceased owner, originally had for that lot had a deed restriction on it that only one house was to be built on that 15,000 sq. foot lot. He states he wants to correct some inconsistencies coming out of the Planning Department in that they indicated that two 7,500 sq ft. lots are consistent with the area. He said the plan that I am looking at has over 80 percent of the house lots 10,000 sq. ft. or above. I do not see how that is consistent with breaking that 15,000 sq. ft into two 7500 sq. ft lots especially since most of the houses were developed 30 or 35 years ago on larger lots. The other thing that I must disagree with is that I do not believe it is a developer's entitlement to get an administrative subdivision for an existing lot that has been on the books as a 15,000 sq. ft. lot for all those years and now to go before the Board and get a rubber stamp on something because Mr. Slepko thinks it meets the zoning of the City for two 7,500 sq. ft. lots is not fair. Mr. Solomon asks the Board to consider his comments.

A copy of the deed will be entered into the Board's record. He reads the deed Tape C732

Mr. Solomon A. Solomon states he purchased his lot in 1959. Mrs. Bowen was my neighbor and he said he can remember her telling him that she put it in her deed that if that lot was sold, it would be only for a single-family home.

Tape E 002

Mr. Sleprow states he is aware of that restriction and noted it was no longer applicable. If they disagree they can bring it to superior court. It was the opinion of title counsel and because of zoning issues, it was no longer applicable with this property.

Mr. Robinson asked if this runs with the land? Mr. Sleprow answered yes. The deed restrictions do run with the land, but there are questions on how it is interpreted when it was so long ago and called for two-families to be built – how that is interpreted if two families could be in separate houses or not. Mr. Robinson states that it is clear to him and reads *“there shall not be a record of said land more than one house and such dwelling shall be designed to accommodate not more than two families”*. Mr. Sleprow states he sought a title company opinion on this which he wrote and did not bring it to the Board because the Board does not deal with restrictions on land.

Mr. Robinson states he has a real problem with that deed restriction and asks for Mr. Chapman, the Solicitor’s opinion. Mr. Chapman asks that Mr. Sleprow get an opinion from his title company. to have a clearer understanding. Mr. Chapman said from James J. Belliveau, Senior Title Counsel for Pilgrim Title Insurance Company Report of Title for this deed restriction has written “subject to restrictions of record”. I would like to get his opinion as well what that means. This way the Planning Board can be free to determine if one house with no more than a two-family or whether or not it would be two houses meaning no more than two families. Mr. Chapman said we can also give an opinion as well.

Mr. Robinson reiterates the fact that he is very uncomfortable with approving a subdivision when there are these issues. It is clear that no more than one house be put there. He asks for an opinion by the City Solicitor’s office. It is asked that each opinion will be submitted to the Solicitor’s office for an opinion.

Mr. Sullivan states that as a non-legal mind looking at this sentence *“there shall not be erected on said land more than one house”*, that tells me I cannot build more than one house there. Mr. Sleprow stated that restrictions are subject to change over time and interpretation over time depending on zoning enactments and other issues. Mr. Sullivan asked Mr. Sleprow if he thought this was the first time it was tried to be changed on this particular development? He answered this is the first application for a building permit for this land.

On a motion by Mr. Almeida, seconded by Mr. Sullivan the Board voted to continue this matter for sixty (60) days until such time as the two legal opinions have been submitted to the Solicitor’s office and the Solicitor has a chance to respond to this question about the deed. Opinions must get to the Solicitor’s office within 30 days and 30 days to give the Planning Board an opinion.

## V. CONTINUED BUSINESS

### A. Staff Report

1. Ms. Boyle states we had discussed with some of these subdivisions that we need to come up with more distinct findings for the decisions on the sidewalk waivers. It has been staff feeling that we have some uncertainty ourselves in making the recommendation to the Board. We would like to do a study because there are no sidewalks in the area I don't think it is a good reason to waive it. Although that seems to be our basis at this point and using that rationale, we will never have a network of sidewalks anywhere in the City. She noted that this last particular subdivision that we did not vote on we had some discussion in-house as to whether or not we should be looking at the sidewalk issue because of the proximity to a school. Since there were no sidewalks in the area, we wound up going in the direction of our recommendation. We need to come up with some more defined criteria and better rationale by which we make a recommendation to the Board on whether or not the sidewalk waivers should be granted. The other issue that tonight's meeting illustrates is that on this post Linden Avenue decision-making framework, our recommendations have a necessity to become very long and we have been forced to go item by item for each findings.

Ms. Boyle states that one consideration is that we try to put as many of these subdivisions on the agenda as possible to try to move it along for the applicants. What I might suggest to the Board and with the Board's permission we would like to start limiting no more than three subdivision in any given evening. People might have to wait two months rather than one and we would still be within the requirements of the Subdivision Regulations.

It was asked if staff needs to read every opinion? Ms. Boyle answered that the direction we received from the Zoning Board under that Linden Avenue Subdivision Remand was that they were looking for specifically addressing each and every one of the findings of the General Purposes which we had not done in the past. We had just addressed them generally. We came close to having a decision overturned because of that.

In an effort to avoid winding up at the Zoning Board and going through a lot of the aggravation that we had at that last subdivision, out of an abundance of caution, we are going through these in tedious detail. Mr. Chapman will be discussing this with City Solicitor, William Conley

Mr. Batty asked if we could condense it into just one paragraph? Ms. Boyle said that is what we use to do, but that was what was question. Ms. Boyle states she would argue that the Required Findings and General Purposes are two different

things. In other communities in the state, is that that is being used as a way of overturning Planning Board's decisions. Mr. Cunha asked why it is not sufficient that the whole staff report and attachments is admitted into the record and we make the motion based on all the facts in the staff report.

Mr. Chapman answered that part of the problem we got from the Zoning Board was that they specifically stated that they wanted all of the reasons why the Board voted to approve it. There is a possibility of another appeal if you don't read them all. Mr. Sullivan suggests, if you have no neighbors present at the hearing, then don't read it, but if you do then read it. Ms. Feather noted that that would not work in that they might not say anything at the meeting. For example, Mr. Solomon did not say anything to the Board tonight, but came up to staff before the meeting and wanted a copy of the complete file tomorrow.

Ms. Boyle stated she didn't think the Omega Way subdivision was going to be so controversial as it was since we never received any phone calls. She stated we might limit the subdivisions because of the length of this agenda. It is not fair to the Board, the public, or the applicants to endure these lengthy hours.

Ms. Feather stated that we have colleagues in other communities and as Ms. Boyle indicated they have a maximum number of applications and a deadline that is much more severe than our deadlines. There is a lot of staff time that goes into each of these subdivisions.

## 2. Public Workshop and Special Meeting of the Board

Ms Boyle reminded the Board that there is a public workshop for the Waterfront Plan on November 17<sup>th</sup> in the Council Chambers. In addition, there is also a special meeting of the Planning Board on November 24 regarding the Waterfront Plan. Because this is going to be adopted as an Element of the Comprehensive Plan, the Board must make a formal recommendation on that Plan to the City Council before they can take any action on it.

Tape E 127

Mr. Batty stated sometime he wants to converse with Board members or legal counsel. Mr. Chapman states that you can ask the Chairman for a recess to speak with other Board members privately.

Mr. Batty also stated that he knew about the deed restriction, but thought that it had been taken care of already through the court because when Mr. Gianlorenzo first bought the property. He said if the Board had continued with that subdivision tonight, I would of either had to excuse myself from voting because I felt uncomfortable because I already knew there was a restriction. Mr. Batty asked if it was his place to bring up that restriction? Mr. Chapman said yes, and that it would have been perfectly legitimate to bring up to counsel tonight.



## VI. COMMUNICATIONS

The Board approved the following communications and made them part of the official record.

A. Memo dated 10/25/03 to the Zoning Board of Review from the Planning Department  
Re: Requests for Variance and Special Use Permit to be heard on 10/29/03

B. Copy of State of RI Energy Facility Siting Board notice Re: Application of  
Narragansett Electric Transmission Relocation project in Providence and East Providence

Ms. Boyle states that it does designate the Planning Board as the body, but that she presumes that the Board will want her to act on the Board's behalf. The Board stated yes. She said she will be in communication with the City's attorney on this also and it will be discussed at the special meeting of November 24<sup>th</sup>, 7:00 p.m., Room 306.

## VII. ANNOUNCEMENT

Special Meeting – November 24, 2003, 7:00 p.m., Room 306, Re: Recommendation to Council on the Waterfront Plan

December Meeting - Monday, December 8, 2003, 7:30 p.m., Room 306

## VIII. ADJOURNMENT

The meeting adjourned at 11:50 p.m..

Respectfully submitted,

Michael Robinson  
Acting Chairman

MR/JMB/sac