

September 8, 2003 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF SEPTEMBER 8, 2003

The meeting commenced at 7:35 p.m.

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

I. SEATING OF ALTERNATE MEMBER

Acting Chairman Robinson states that Mr. Cunha and Mr. Gerstein will be voting this evening. Mr. Sullivan is absent.

II. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of July 14, 2003

It was noted that the minutes of July 14 would be forthcoming.

B. Minutes of April 14, 2003 (enclosed)

C. Minutes of August 18, 2003 enclosed)

On a motion by Mr. Almeida, seconded by Mr. O'Brien, the minutes of April 14 and August 18, 2003 were approved and made part of the Board's official records.

III. APPROVAL OF PLANNING BOARD CORRESPONDENCE

On a motion by Mr. Almeida, seconded by Mr. O'Brien, the Board approved the correspondence below:

A. Memo dated 8/25/03 to the City Council, Re: "Disposition of City-owned Property – 1169 South Broadway (Tristram Burges School)

B. Memo dated 8/25/03 to the City Council, Re: "Disposition of City-owned Property – 27 Newman Avenue (Rumford Fire Station)

C. Memo dated 8/20/03 to the City Council, Re: "Meeting Street School Relocation"

D. Memo dated 8/20/03 to the City Council, Re: "Caleb Williams Cottage Lease"

IV. NEW BUSINESS

A. Appl. #2003-19 Admin, Dexter Road and King Philip Road, Applicant: Providence & Worcester Railroad

Ms. Boyle states that a representative from Providence & Worcester Railroad is here tonight. Marylou Murphy, Land Surveyor for the Providence & Worcester Railroad is sworn in at this time. She notes that parcel 5.1 in 1998 in the upper left hand corner is a vicinity plan that shows two railroads that are parallel and converged. She stated that at that time they presented a full-blown subdivision. We had a sidetrack coming off what is the East Providence branch and going towards Dexter Road. We propose to do grade with parcel 5.1 that would accommodate the extension of this tract up to the east junction. The two lines converged somewhere around the vicinity of Waterman Avenue and there was a switch. The train had to go all the way down the East Providence branch and then switch and then come up through this junction.

Ms. Murphy states that since then, we received the grade and moved what is the extension of the public King Phillip Road. This is dead-ended as a public way at the railroad track and the portion in between the railroad tracks on the east junction and Dexter Road is a private right of way. In order to build a track all the way around to meet these junctions, we had to move the road over to make room for the tracks. We moved all the utilities and had Power Engineering actually engineered it as close to the safety element as a public road. She noted that P&W also put in a new crossing where the sidetrack initially came across Dexter Road and put a new track in. The track is now sub ended. The red shows what we built to date; there are new signals, gates and all that remains to built over this property is the track. We are almost completed with this project. As a result of building the street in a new location, the parcel that we bought was bisected by the right of way and there were berms up on either side of the right of way to what use to be the parcels up to the plateau. The road is 4,000 square feet onto our property. We are proposing to convey that 4,000 sq.ft. so that the entirety of the right of way of the road will be in one ownership. In using a map she delineated what would show that the right of way possession would be on one side of the road.

Acting Chairman Robinson asks the Board if they have any questions. There were none.

Ms. Murphy distributed some exhibit maps to the Board that show the turnout and the streets, what P&W has built so far, and what is existing and upgrades on the subdivision plan. Also shown was the tope map, which shows the way it was.

Acting Chairman Robinson said for the purposes of clarity of the record the exhibits 1 through 5 are maps indicating the matter at issue.

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

The Board did not have any questions.

At this time, Jeanne Boyle states that Stephanie Davies of the Planning Department will present the staff recommendation to the Board.

Ms. Davies reported that the applicant is proposing an adjustment of an existing boundary, which will yield no additional lots. Since the subdivision does not meet certain requirements of Chapter 19, Zoning, the subdivision is subject to the review and approval of the Planning Board. Ms. Davies states that this is an administrative subdivision and should the Board grant preliminary approval the application will then go before the Zoning Board of Review for the necessary variances. If the variances are granted then final approval can be delegated to the Administrative Officer. Ms. Davies noted that the Board has 65 days from the date of the issuance of the Certificate of Completeness to make a decision. The COC was issued on August 15, 2003. Since this is an administrative subdivision, no notification to abutters was required.

Specifics of the Proposal

Ms. Davies stated the subdivision proposes an adjustment to an existing boundary with no proposed construction or alteration of any structure. The purpose of this subdivision is to convey the private right of way portion of King Philip Road to Arpad Merva. This conveyance would put the entire right of way under single ownership. Approval of the subdivision will increase the area of parcel 5 from 4.129 acres to 4.226 acres and will decrease the area of parcel 5.1 from 5.73 acres to 5.634 acres.

Comprehensive Plan and Required Findings

Ms. Davies went through the required findings listed in Section 54 of the Land Development and Subdivision Review Regulations:

With regard to consistency with the Comprehensive Plan the property is zoned I-3 Industrial and current land use is that designation

The Zoning Officer has noted that the proposed Lot 5.1 requires dimensional variances for the minimum lot width and minimum street frontage requirements. For an I-3 district the minimum lot width is 200 feet and the subdivision proposes 34.9 feet. In addition, an I-3 district requires a minimum street frontage of 40 feet and the subdivision proposes 37.7 feet. Staff feels that neither variance will result in an increase in the intensity of usage of the two properties and will have no negative affect on abutting property owners.

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

There are no buildings on Lot 5.1 and Lot 5 contains only a storage building. No new construction or alterations to any structures are proposed.

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 building standards would be impracticable;

The adjustment to the existing boundary involves only a small portion of land and effectively simplifies the physical constraints of the lots by consolidating the private right of way portion of King Phillip Road under single ownership. No new construction is proposed.

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 to the street.

The proposed lots 5 and 5.1 have physical access to Dexter Road.

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.

Staff Recommendation

a) that the Planning Department recommends that the Board delegate final plan approval to the Administrative Officer and further recommends;

b) That the Board grant Conditional Approval of the subdivision as proposed subject to the following conditions:

1. That any and all of the required variances be obtained from the Zoning Board of Review, and that a note be placed on the Final Plan indicating which variances were granted, the date of the Zoning Board approval, and recorded book and page;
2. That the title block of the Final Plan be revised to indicate Final Plan status;

3. That the Final Plan be based upon the approved Preliminary Plan, and further that the Final Plan and supporting documentation meet the requirements of the East Providence Land Development and Subdivision Review Regulations;
4. That a metes and bounds description for the area to be transferred to Lot 5 and for the easement area be submitted after completion of the transaction;
5. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements; and
6. That all outstanding taxes be paid off in full.

There were no questions of the Board

First Motion

On a motion by Mr. Almeida, seconded by Mr. O'Brien, the Board voted to make the staff recommendation part of the Board's official records.

Second Motion

On a motion by Mr. Almeida, seconded by Mr. O'Brien, seconded the Board voted to grant conditional approval of the subdivision as proposed subject to the conditions set forth in the staff recommendation.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Acting Chairman Robinson	Aye

Third Motion

On a motion by Mr. O'Brien, seconded by Mr. Almeida, the Board voted to accept the staff recommendation with respect to the consistency of this application of Section 5-4 of the Land Development and Subdivision Review Regulations and the General Purposes contained in Article 1 of those regulations.

Roll Call Vote

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

behind this is that the applicant owns both properties; lots 2 as well as this lot that the development is on. We are requesting relief due to the fact that the loading area for the dumpster is on that side and we would like to have the dumpster as far away from the building as possible. Also it will allow us to put in the flowering plantings up against the building as opposed to having some screening on the side of the property. There is an existing fence that divides the two properties.

Acting Chairman Robinson asked if there were any questions?

Mr. Gerstein asked how many people will be employed in this building? Mr. John Pesce of Lehigh Realty is sworn in and answers the question. He states that the second floor of the building will be occupied by our own company and will have approximately eight employees. The first floor has not been leased out yet, could be anywhere from 10 to 12 employees.

Mr. Gerstein asks how many people in total will be entering that building every day. He asks this because he is concerned about enough parking spaces available for anyone entering the building that work there or people coming in for business. Mr. Piampiano answers that zoning requires 60 spaces. The only issue is that six spaces are not counted in the setback on Revere Street. He notes they do meet the total number of spaces required.

No questions from the Board.

At this time, Chief Planner, Diane Feather presents the staff recommendation.

Mr. Piampiano indicated that the Board has already seen this development in exactly the same site plan arrangement back in March for the Master Plan approval. It is two stories office building, a total of 12,000 square feet. They have adequate parking for the office use that is proposed. When the applicant comes in for Master Plan they do not have to have a fully engineered proposal comes in at preliminary plan, which is before the Board tonight. In order for them to come back to the Board with the preliminary plan, they must have all their state approvals in hand. For this development they had to get a physical alternations permit which is explained in the staff recommendation. A review by the Department of Transportation for their proposed closing of curb openings on Waterman Avenue which is state highway. They also needed to get a state permit from the RIDEM for their drainage system for the facility. Some of the drainage will be handled by what is called underground infiltration. They will go to DEM and provide documentation as to the volume of the water and any so-called treatment of the water to improve the quality of the stormwater running off before it is eventually discharged somewhere. The applicant does have the permits in hand and staff has photocopied them which are included as attachments in the staff memo. There were zoning variances that were obtained by the applicant. They went before the Zoning Board in April of this year and did obtain the variances. One related to the amount of off street parking, the location of off street parking and the other was the maximum percent of the so-called impervious

coverage. They went slightly over the amount of impervious coverage that Zoning allows.

In relation to the parking, Ms. Feather noted that six of the spaces are located within the Zoning setback. They are setback sufficient back from the street, but are within the Zoning setback. This is a preliminary plan which was advertised for a public hearing. There was direct certified mail notice to the abutters sent within 200 feet of the parameter of the property.

The applicant had hoped to combine the preliminary and final approval before the Board tonight. The regulations do allow you do that. However, there were a couple of minor engineering type items that staff felt needed the opportunity to review the engineer's responses to our earlier comments. Public Works and Fire were not able to respond in time before the Board's packets were sent out. We are recommending that the Board grant preliminary approval. We do not anticipate any problems with those two minor items.

Ms. Feather noted that the issue of using North Revere Street came up at the master plan. The Public Works Department at that time asked whether it might be appropriate to abandon this street since the property owner is really the only principal user of the street. However, abandonment of that street staff felt would have impacted the abutting property owners in terms of being able to access some electrical boxes and utility engineering items that they have on the side of their building. The abutting property owners do not utilize this for their access; they have another curb cut on Warren Avenue, but may need to get in there with trucks to do some maintenance so abandonment of the street was not appropriate to the property owners given the circumstance.

In the absence of abandoning this street since it is a City right-of-way they did have to submit as Mr. Chapman requested at the master plan an easement to utilize the City right-of-way. Attorney Sleprow, the applicant's attorney presented a draft to the City Solicitor's office. The draft was reviewed and comments were sent back to Mr. Sleprow and he again revised the plan. That draft is also included as an attachment. The issue of the easement has been addressed. There will be an easement document that gets signed by the parties involved and gets recorded at the time of the recorded plan.

Waivers

Ms. Feather explained that in terms of the waivers that were brought up at the master plan meeting, the Board chose to postpone voting on the waivers and the whole issue as to whether they would come in off of North Revere Street was resolved. Public Works did not know that the pavement quality on North Revere Street was very poor and the applicant has agreed to put a pavement overlay on North Revere Street, install concrete sidewalks and granite curbing on the east side of the street. The waiver request only relates to the fact that he doesn't want to install sidewalks and granite curbing on both sides of the street. There is a reason and justification as to why staff think that it is

necessary to put sidewalk and curbing on the west side of the street. The waiver relates to the item that Mr. Piampiano spoke about as well.

Ms. Feather noted that the Zoning Ordinance requires that a five-foot perimeter buffer around a Land Development Project like this with the exception of any curb openings. They do not have that perimeter buffer on the entire eastern side. It is pavement to the property line for part of that eastern property line. Staff believes there is justification for that in terms of access for their boating and maybe even access to the two properties since they are both owned by Mr. Pesce. Staff recommends approval on that waiver as well. We will need to have Public Works calculate a performance bond for the pavement overlay, sidewalks and granite curbing. Public Works will work with the engineer on the quantity of the materials being used and will calculate based on that. If the applicant objects to the amount of the performance bond that is calculated, he has the right to come back to the Board.

Ms. Feather asks that the Board enter the staff recommendation into the official record. Below is a summary of the staff recommendation on this project:

A. Recommendation on North Revere Street Sidewalk and Curbing Waiver Request.

Staff recommends that the waiver on the west side of the street be granted for the North Revere sidewalk and curbing. The applicant is proposing to install concrete curbing and sidewalks on the east side of the street.

B. Perimeter buffer Waiver

Staff recommends that the buffer be waived by the Board

C. Recommendation on the LDP/Preliminary Plan

Staff recommends that the Planning Board grant conditional approval of the Preliminary Plan subject to the following conditions:

1. that any and all unresolved comments of the DPW, Fire Chief or City Solicitor be addressed and incorporated in the final plan submission;
2. that a final easement document for the applicant's use of North Revere street be endorsed upon acceptance of the Solicitor, and recorded in the Land Evidence records along with the approved and endorsed Final Plan;
3. that a performance bond for the proposed public improvements be calculated by the Department of Public Works in consultation with the applicant's engineer regarding material quantities, and that said performance bond be submitted by the applicant for

review and approval by the City Solicitor and the Finance Director prior to the recording of the Final Plans in the City's Land Evidence records;

4. that the title block of the plans be reflected to indicate Final Plan status, and that 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 Chapter 19, Zoning, and;

5. that the proposal shall meet all applicable City, State, and/or Federal regulations and requirements.

D. Delegation of Final Plan Approval

Staff recommends that the Board vote to give final plan approval to the Administrative Officer.

Acting Chairman Robinson asks the Board if they have any questions or comments?

Mr. Piampiano states that there are two outstanding engineering issues by Fire and the Department of Public Works. The Fire Department had requested a canopy over the walkways for snow loading. We propose to keep the concrete walkways and the stone. The other issues that came up were the design of the retaining wall and the proximity of drainage retention area as far as the closeness to the wall. Mr. Piampiano said his structural staff looks at the wall and we believe that infiltration groundwater can have an effect on a wall. In this case the actual bottom of the infiltration system is below the base of the wall.

Public Comments

Mr. Robinson asked the public if they had any question or comments?

There were none.

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

There were none.

On a motion by Mr. O'Brien, seconded by Mr. Almeida, the Board voted to make the staff memorandum part of the Board's official record.

Roll Call Vote

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

Acting Chairman Robinson Aye

Motion – Preliminary Plan Approval

On a motion by Mr. Almeida, seconded by Mr. O’Brien the Board recommends conditional approval of this preliminary plan application subject to the staff conditions as noted above.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O’Brien	Aye
Acting Chairman Robinson	Aye

Motion - Waiver of Granite Curbing and Concrete Sidewalks on the Westerly Side of Property

On a motion by Mr. O’Brien, seconded by Cunha, the Board voted to waive granite curbing and concrete sidewalks on the westerly side of the property.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O’Brien	Aye
Acting Chairman Robinson	Aye

Motion - Waiver of the Perimeter Buffer on the Easterly Side of the Property

On a motion by Mr. O’Brien, seconded by Mr. Almeida, the Board voted to grant the applicant’s request for waiver of the perimeter buffer.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O’Brien	Aye
Acting Chairman Robinson	Aye

Motion – Final Plan Approval

On a motion by Mr. Almeida, seconded by Mr. Cunha, the Board voted to grant Final Plan Approval of this application

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Acting Chairman Robinson	Aye

C. Linden Avenue Subdivision Appeal Remand by Zoning Board of Review

Mr. Robinson stated there was a mistake in the agenda where it noted that this was a public hearing. It is not. With that he reads the remand order issued by the Zoning Board of Review into the record. He notes this is included in the Board's package.

Appeal by Patrick and Christine Lynch of Planning Board Approval of Minor Subdivision for 14 Linden Place.

The Zoning Board is determined that after hearing thereon the Zoning Board of Review hereby remands this appeal to the Planning Board for further delineation of its findings of fact, conclusions of law, and support with respect to the criteria set forth in Section 1-2 under the General Purposes Section and Section 5-4 Required Findings of the East Providence Land Development and Subdivision Review Regulations based upon the record presented to the Planning Board for this matter. These findings of fact, conclusions of law and support shall be made by the Planning Board members voting in favor of this minor subdivision request based upon their understanding and review of the facts presented which may include any material presented and reviewed for this matter and their conclusions based thereon.

Upon receipt of the Planning Board's written response thereto, the Zoning Board of Review shall issue its decision with respect to this matter.

Acting Chairman Robinson stated that after discussing this matter with the City Solicitor, it is my understanding that this is not a public hearing, will not be open for any testimony or argument, nor will any motions be entertained.

Attorney Joseph A. Keough, Jr. states that he appeared to the Board last time for this petition and to be clear asks Mr. Robinson to clarify that there will be no public input, statements or evidence. Mr. Robinson did verify that.

Acting Chairman Robinson states that for clarity of the record the Board members who voted in favor of this subdivision were Mr. Gerstein, Mr. Almeida, and Mr. Cunha.

At this time, Mr. Almeida makes the following statement:

“A. Consistency with Section 1-2, “General Purposes” of the East Providence Land Development and Subdivision Review Regulations

“It is the opinion of the Planning Board and the general purpose of Section 1-2 were addressed through the specific positive findings of fact Section 5-4, which were explicitly made in the staff’s memorandum of June 5, 2003, and reported to the Planning Board at their meeting of June 9, 2003.

Based upon staff’s review of the application, including memoranda from appropriate City departments, as well as the testimony heard from the applicants during the Planning Board meeting of June 9, 2003, staff finds that the General Purposes were addressed in the memorandum and in the course of that meeting as follows:

a) Protect the public health, safety and welfare of the community;

The two-lot subdivision proposed by the applicants and described by their attorney during the Planning Board meeting of June 9, 2003 was found by staff to present no risks to the public health, safety, and the welfare of the community. Namely, the positive findings of Section 5-4 as reported in the staff’s report given to the Planning Board at their June 9th meeting, established that the subdivision does not result in significant environmental impacts, threaten the safety of pedestrian and vehicle traffic, or exceed the capacity of roadways or utilities.

b) Provide for the orderly, thorough and expeditious review and approval of land developments and subdivisions:

An orderly, thorough and expeditious review of this subdivision was conducted. The site plan and supporting documentation was reviewed by the City Solicitor, City Assessor, Public Works Director, Fire Chief, Zoning Officer, City Engineer, and the Distribution & Collection Superintendent. The site plan was revised regarding completeness and substantive comments provide by City staff. Abutters to the proposed subdivision were notified by certified mail and the June 9, 2003 Planning Board meeting was properly posted.

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

I note in the staff report during the June 9th Planning Board meeting, the proposed subdivision is an appropriate design and the proposed density is consistent with the surrounding neighborhood. The Zoning Officer noted that the proposed subdivision fully complied with all dimensional requirements as well as parking, building lot coverage, and impermeable surface coverage.

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

The Planning Board found no significant environmental impacts would result from the proposed subdivision. Sewer, water and gas utilities are available to the proposed dwelling and are currently connected to the existing dwelling. These conclusions were

also noted in the June 9th staff report. In fact, the staff report recommended the waiver of the installation of curbing and sidewalks in order to preserve two existing trees.

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;

As noted in the staff report, the proposed subdivision will be well integrated with the surrounding neighborhood, and will be served by existing roadways and utilities. In addition, the Land Use 2010 Plan designates the area of the proposed subdivision as "Low Density Residential". The land use associated with the subdivision is consistent with the Land Use 2010 designation.

f) Encourage design and improvement standards to reflect the intent of the East Providence Comprehensive Plan with regard to the physical character of the various neighborhoods, districts, and special and critical areas of the City; The design and improvement standards of the East Providence Subdivision Land Development Regulations and Chapter 19, Zoning provide sufficient guidance and restrictions to ensure this subdivision reflects the intent of the East Providence Comprehensive Plan. In addition, the proposed subdivision is consistent with the Land Use 2010 designation. This conclusion was stated by staff in the June 5, 2003 staff report and reiterated by the petitioner's attorney.

g) Promote thorough technical review of all proposed land developments and subdivisions by appropriate officials; As stated above, the site plan and supporting documentation were reviewed by the City Solicitor, City Assessor, Public Works Director, Fire Chief, Zoning Officer, City Engineer, and the Distribution & Collection Superintendent. The site plan was revised regarding completeness and substantive comments provided by City staff.

h) Encourage dedications of public land and impact mitigation to be based on clear documentation of needs and to be fairly applied and administered; No dedication of public land is necessary for this development.

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.

Following Department procedures, Staff has maintained all records of the subdivision. The review and advertisement procedures were described by staff during the June 9, 2003 Planning Board meeting. Staff will record the final plan in the East Providence Land Evidence Record and all written decisions made by the Planning Board and Administrative Officer will be recorded in the East Providence Land Development and Subdivision Review Decision Index.

B. Section 5-4, "Required Findings"

According to Section 5-4 "Required Findings", prior to the approval of any subdivision, the Planning Board must make positive findings on all of the applicable standards listed below. Planning Staff reviewed each of these standards and its basis for concluding compliance during the June 9th Planning Board meeting. The Staff findings are reiterated below:

a. Subdivision and land development projects proposals shall be consistent with the East Providence Comprehensive Plan, including its goals, objectives, policy statements, and Land Use 2010 Plan, and/or shall satisfactory address the issues where there may be inconsistencies:

The Planning Board has found that the proposed subdivision is consistent with the East Providence Comprehensive Plan including its goals, objectives, policy statements, and Land Use 2010 Plan.

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

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

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

The Planning Board found that this proposed subdivision fully complies with the East Providence Zoning Ordinance.

c) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval; The Planning Board found that there were no significant negative environmental impacts from the proposed subdivision to the City, abutting property owners, and neighborhood residents.

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

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

The Planning Board found that the two proposed lots have adequate and permanent physical access to Linden Avenue

f) Each subdivision and land development project shall provide for safe circulation of pedestrian and vehicular, for adequate surface water run-off, 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;

Staff found that the proposed subdivision provides for safe circulation of pedestrian and vehicle traffic, adequate surface water run-off, suitable building site, and does not deteriorate any natural, historical, or cultural features that contribute to the attractiveness of the community.

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.

The Planning Board found that the two proposed lots are located on a relatively flat area. Surface water runoff would be through over-land flow and some infiltration on-site. “

Mr. Almeida states this is what he took the vote on – what he just read into the record.

Mr. Cunha states that based upon the submitted application, Planning staff report, memoranda from City departments, the General Purposes of Section 1-2 of the City of 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 subdivision is consistent with the City of East Providence Comprehensive Plan.

Mr. Gerstein states that he will vote to approve based upon submitted application testimony presented to the Board, the Planning Staff report, and memorandum by the various City Departments. He states all of the General Purposes Section 1-2 of the East Providence Land Development and Subdivision Review Regulations has 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.

Mr. Keough asks that all documents read from tonight be part of the Board’s record this evening.

Acting Chairman Robinson states for all do respect of my colleagues on the Board and although the Zoning board has not asked me to indicate as follows, I would like to point out that I did oppose this application and while I believe that this application may comply with certain technical requirements of the Land Development and Subdivision Review Regulations, I drove down that street again last night and I remain of the belief that formalistic application of the rules in this case were an injustice. I believe that the construction and approval of this subdivision will adversely affect the neighborhood. For the clarity of the record, I am putting my own thoughts out there.

For purposes of compliance with the Zoning Board's remand, Mr. Robinson also stated that certain documents should be made part of the record this evening. Those documents being the memorandum from the Planning Department to the Planning Board dated September 5, 2003, the Notice of Decision recorded on June 11, 2003, the appeal submitted by Patrick C. and Christin Lynch, Form 19-51, the Decision from the Zoning Board of Appeal recorded on August 18, 2003, the Transcript of the Planning Board meeting dated June 9, 2003, and the memorandum from the Planning Department to the Planning Board dated June 5, 2003.

Mr. Keough asked Mr. Robinson if those records he just read include the records that the Board members read from this evening? Mr. Tim Chapman again stated this is not a public hearing. Mr. Robinson states that based on the advice of the City Solicitor in this matter, this is not a public hearing and the Board will not be entertaining any testimony or argument from Counsel or from any interested parties.

Mr. Robinson states that Attorney Keough is out of order and states that this is an Administrative hearing and not a court proceeding. Mr. Keough states that a record is being created. Mr. Robinson states that Mr. Keough is out of order and at this time, returns to the next order of business.

Mr. Robinson states that that next order of business is a motion to make the memo to the Planning Board from the Department of Planning dated 9/5/03 part of the Board's official record

Mr. O'Brien states his concern is that it is not part of the initial record and would vote nay on this particular memorandum to make it part of the Board's record tonight.

Mr. Robinson asks if anyone else wishes to be heard on that issue?

There were none.

At this time Acting Chairman Robinson states he would like to succeed the chairmanship for purposes of making a counter motion to Mr. O'Brien's motion and will succeed the chairmanship to Mr. Cunha based on the fact that Board member, O'Brien has already made his own motion. He would ordinarily be the next person succeeded to.

Mr. Robinson makes a counter motion from Mr. O'Brien's motion to move to accept the memorandum from the Planning Department to the Planning Board dated September 5, 2003 into the Board's official record. The motion was not seconded.

Mr. Robinson resumes the chairmanship at this time.

Motion - Notice of Decision of June 11, 2003 by the Zoning Board of Review

On a motion by Mr. O'Brien, seconded by Mr. Almeida to make the June 11, 2003 Notice of Decision from the Zoning Board of Review part of the Planning Board's official record.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye

Appeal submitted by Patrick and Christin Lynch #19-51

On a motion by Mr. O'Brien, seconded by Mr. Cunha, the Board made this appeal part of the Board's official record.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye

Motion - Decision from the Zoning Board of Appeal recorded on August 18, 2003.

On a motion by Mr. Almeida, seconded by Mr. Cunha, the Board voted to make the decision from the Zoning Board of Appeal part of the Planning Board's official record.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye

Motion – Transcript of Planning Board meeting.

On a motion by Mr. Gerstein, seconded by Mr. O'Brien, the Board voted to make the transcript part of the Board's official record.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye

On a motion by Mr. Almeida, seconded by Mr. Cunha the Board voted to make the memorandum from the Planning Department to the Planning Board dated June 5, 2003 part of the Board's official record.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye

Mr. Robinson states that for the purposes of renewing my original motion I succeed the chairmanship to Mr. Cunha that the memorandum dated September 5, 2003 to the Planning Board from the Planning Department be admitted into the Board's official record tonight. The reason I am doing that is because I believe that based on the remand order of the Zoning Board of Appeal, the September 5 memorandum is critical to a full and complete understanding of the issues present in this case. This has been a difficult case, there are a lot of people here present, and states that he feels it is critical to the appeal to complete the motion process by the entering of this memo to the record.

Motion – September 5, 2003 memorandum

On a motion by Mr. Robinson, seconded by Mr. Almeida, the Board votes to make the September 5, 2003 memorandum part of the official record.

Roll Call Vote

Mr. Almeida	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Nay
Mr. Robinson	Aye
Acting Chair Cunha	Aye

Mr. Robinson repeats the rationale for why this is not a public hearing. He states the public already had the right to speak on June 9, 2003. At this point, this is just a closed proceeding where we are considering the issues that are being brought to us by the Zoning Board of Review. This matter is closed.

Motion is made by the Planning Board for a five-minute recess.

V. CONTINUED BUSINESS

1. Staff Report

A. Traffic Light at 950 Warren Avenue

Ms. Boyle stated that regarding the light at 950 Warren Avenue which includes a hotel and two office buildings by Marshall Properties they have gone through the RIDOT to get permission to get the light that the Planning Board had required as part of its master plan approval. Ms. Boyle states that according to Ralph McGonigle, representative for Marshall Properties, as of today the plan for the traffic light is done, it is all but approved. There still needs to be some easements that need to be drafted, but Mr. McGonigle is confident that the traffic light will be constructed within the next couple of months. He has put the contract out to bid, selected a contractor and the only thing left to be done are the easements.

Ms. Boyle stated there have been a number of subdivisions and Development Plan Reviews submitted. We expect several minor subdivisions coming in to the Board. A subdivision has been filed for the Save a Lot Plaza. There will be a new bank constructed there. A submission came in also for the Plaza down at Willett Avenue where Haxton's Liquors is now. They are proposing a complete reconstruction of that plaza. It is partly in Barrington and partly in East Providence. We are making good progress on the Waterfront Plan and expect to have a draft before the City Council at their October 21 meeting.

Ms. Boyle stated she had a meeting with the City Solicitor today to find out how this new Waterfront Commission is going to dovetail with responsibilities of the Planning Board. There will be some overlap and responsibilities. This new commission does not have any authority on subdivision so those will still come to the Planning Board. It will be similar to the situation with Warwick where both the Planning Board and the Airport Commission actually review and take action on a lot of the developments that come in.

East Pointe/GeoNova Development

Ms. Boyle stated that staff plans on bringing something to the City Council on September 16. We will have the development agreement ironed out, and we are planning on having a closing on the property no later than September 19.

Mr. Hanner stated that the Planning Department gave a presentation to the Seekonk/East Providence Rotary Club to create a loop trail around the Turner Reservoir. We are doing simple trail improvements and a brochure with signage.

VI. COMMUNICATIONS

On motion by Mr. Almeida, seconded by Mr. Cunha, the Board unanimously approved the communication listed below:

A. Memo dated 8/22/03 to the Zoning Board of Review from the Planning Department
Re: Requests for Variance and Special Use Permit to be heard on 8/27/03

VII. ANNOUNCEMENT

Because of the October 13 holiday, the next meeting will be held on Tuesday, October 14, 7:30 p.m., Room 306.

VIII. ADJOURNMENT

The meeting adjourned at 9:30 p.m.

Respectfully submitted,

Michael Robinson,
Acting Chairman

MR/JMB/sac