

# **December 10, 2002 - Regular Planning Board Meeting**

## **CITY OF EAST PROVIDENCE**

### **PLANNING BOARD**

---

#### **MINUTES OF DECEMBER 10, 2002**

Present were: Messrs. Almeida, Cunha, Gerstein, Poland, Robinson, Sullivan, Ms. Boyle (staff), Ms. Feather (staff), Patrick Hanner (staff), and City Solicitor Conley.

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

It was noted that member John O'Brien was not in attendance and that the Alternate Member Mr. Cunha would be seated.

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

It was noted that the minutes of December 12, 2001, February 12, 2002 and November 12, 2002, would be forthcoming.

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

None

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

A. Appl. #2002-22 Administrative, 92 Shore Rd., Applicant: Donald D. Ziobrowski, Map 312, Block 39, Parcels 1 and 2;

Patrick Hanner gave the staff presentation. He stated that the applicant is proposing an adjustment of an existing boundary which will yield no additional lots. This is an administrative subdivision and the subdivision does not meet the minimum lot depth requirement of Chapter 19 Zoning so it is subject to the review and approval of the Planning Board.

Mr. Hanner explained that the applicant must first seek preliminary approval from the Planning Board. If it grants preliminary approval, the applicant may proceed to the Zoning Board. If the Zoning Board grants the required variances, the applicant may then seek final plan approval and the Planning Board may vote to delegate Final Plan approval to the Administrative Officer. The Board must make a decision within 65 days of the issuance of the Certificate of Completeness which was issued on November 15, 2002. There is no newspaper advertising, public hearings, or notification to abutters for an administrative subdivision.

Mr. Hanner said the subdivision proposes to relocate an existing property line and proposes the construction of a single-family structure for the proposed Lot 2. There will be an increase in the square footage of Parcel 1 from 5,896 feet to 7,507 feet and a decrease in the square footage of Parcel 2 from 9,211 square feet to 6,784 square feet. The property is zoned R-4 which requires a minimum lot area of 5,000 square feet, minimum lot width of 50 feet, a lot depth of 100 feet, front setback at 15 feet and a rear setback of 20 feet.

The Zoning Officer has noted that the proposed Lot 2 does not meet the minimum lot requirements for the lot depth of 100 feet. The exact linear feet of the lot depth is not stated on the plan, however, it is obvious that the lot depth is required considering the one property line is at 99.8 feet and the second property line going from the front to the rear of the property is 57 feet. As a condition of approval, staff would like the exact linear feet of the lot depth stated on the plan.

The East Providence Comprehensive Plan Land Use 2010 designates the area of the proposed subdivision as a medium density residential. This density allows a development at 15 dwelling units per acre and the land use associated with this subdivision is consistent with the Land Use 2010 designation. Mr. Hanner listed the findings required for the subdivision and the proposal's compliance with the findings as follows:

- a) Section 5-4 of the Regulations requires that prior to any approval for a subdivision, the Planning Board must address each of the general purposes in Article 1 of the Regulations; the first being that all subdivisions and land development projects shall be consistent with the East Providence Comprehensive Plan including its goals, objectives, policies and Land Use 2010 designation.
- b) that all the lots in the subdivision and all land development projects shall conform with the standards and provisions of Chapter 19 Zoning. The proposed Lot 2 does require relief from the minimum lot depth and for an R-4 District a minimum lot depth of 100 feet is required. Since the dwelling is located in the setback area for an R-4 district and dwellings approximately 35 feet from the rear property, this Department feels it does not adversely impact any abutting neighbors or the neighbors to the rear of the property.
- c) there will be any significant environmental impacts from the proposed development.

The lots are served by sewer water and gas and there appears to be no environmental impacts regarding that

- d) the subdivision as proposed will not result in the creation of individual lots for such physical constraints and development. The building on those lots according to pertinent regulations of building standards would be impractical.

The proposed lot is a relatively flat area and appears no constraints to development

e) that all the proposed land development and subdivision shall have adequate, permanent physical access to a public street, both of the lots have access to shore Road;

f) that each subdivision and Land Development Project shall provide for safe circulation and pedestrian vehicle traffic.

The subdivision does not impede circulation or pedestrian traffic;

g) that the design and location of any streets buildings lots, utilities and drainage improvements and other improvements shall minimum flooding and soil erosion. Surface runoff would be through over land flow to some infiltration on site.

Mr. Hanner stated the staff recommends that the Planning Board grant final plan approval to the Administrative Officer and that the Board not require the installation of sidewalks or curbing. Staff recommended that the Planning Board grant conditional approval of the subdivision as proposed with the following six conditions:

1. That the exact linear feet of the lot depth be stated on the plan and calculated using the methods stated in Section 19-140(B) for lots where the front and rear property lines are not parallel.

2. 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 that states the variances granted, the date of the Zoning Board approval, and the recorded book and page.

3. That the residential use of the property be restricted to single family uses and accessory uses in perpetuity;

4. That the title block on the final plan be revised to indicate final plan status;

5. That the final plans be based upon the improved preliminary plans; and further that the final plan and supporting documentation meet the requirements of the East Providence Land Development Subdivision Review Regulations; and

6 That the proposal shall meet all applicable City, State and Federal Regulations and Requirements.

Mr. Poland asked if the Board had any questions.

Mr. Cunha asked why staff was not recommending sidewalks at this time? Ms. Boyle stated that we usually do, but this is an administrative subdivision rather than a minor subdivision and given the condition of the land we are not recommending sidewalks and curbing. She states normally this would just be an administrative approval, but because of the necessity for Zoning variances, it is being brought before the Board. She noted it would be excessive for an administrative. Mr. Almeida asked if there were any curbing or sidewalks there? Mr. Hanner answered there is none in that neighborhood that he

could see. Mr. Sullivan stated there is a concrete sidewalk on Shore Road, but does not go to the end of the property line of Block 39, Parcel 3.

At this time, Mr. Luis Mateus, 582 Warren Avenue, East Providence, RI is sworn in by City Solicitor Conley.

Mr. Mateus states he is here tonight representing the petitioner because he is ill.

Mr. Poland asked if he and the owner read the conditions of the staff. Mr. Mateus stated yes and he and the owner agree to the stipulations.

#### First Motion

On a motion by Mr. Sullivan, seconded by Mr. Almeida, the Board recommends to grant conditional approval as proposed subject to the six stipulations in the staff memorandum.

#### Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

#### Second Motion – Sidewalks and Curbing

On a motion by Mr. Sullivan, seconded by Mr. Almeida, the Board voted to accept the staff recommendation and not require sidewalks or curbing.

#### Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

#### Third Motion – Delegation of Administrative Officer

ON a motion by Mr. Cunha, seconded by Mr. Sullivan the Board voted to delegate final plan approval to the Administrative Officer.

#### Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye

Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

B. Appl. #2002-19 Minor Subdivision – 55 and 59 Viola Avenue, Applicant: Barbara Wilson, Map 513, Block 12, Parcel 10

Mr. Hanner presented the staff recommendation. He noted the applicant is proposing a two-lot subdivision on existing City streets. It is a minor subdivision on existing frontage with two stages of plan review, preliminary and final. The Board may vote to delegate final plan approval to the administrative officer. The Board must make a decision within 65 days of the issuance of the Certificate of Completeness which was issued on November 12<sup>th</sup>. There is no newspaper advertising or public hearings for a minor subdivision on existing frontage. Notice was mailed to the immediate abutters. The proposed subdivision does not meet requirements of Chapter 19 Zoning and therefore the applicant must seek variances from the Zoning Board. Section 5-11 of the Regulations require that the applicant must first seek preliminary approval from the Planning Board before seeking the required variances from the Zoning Board. If the variances are granted, the applicant may then seek final plan approval and the Board may vote to delegate final plan approval to the administrative officer.

Mr. Hanner explained there are two one-family structures located on a single parcel which is Map 513, Block 12, Parcel 10 which consists of 6,400 square feet. The applicant is proposing the creation of two lots which will consist of 3,200 square feet. The result will be a single residential dwelling on the proposed Lot 1 and a single-family residential dwelling on the proposed Lot 2. The property is zoned R-4 which requires a minimum lot area of 5,000 square feet and a minimum lot width of 50 feet, minimum lot depth of 100 feet, a front setback of 15 feet, and a rear setback of 20 feet. A number of variances will be required for this subdivision. Both lots will require a lot area, lot width, lot depth, side yard setback, and the maximum of impervious lot coverage. In addition, Lot 1 will relief from the maximum building lot coverage and Lot 2 will require relief for encouraging more than one parked vehicle in the front yard.

Sewer, water and gas utilities are available to the existing dwelling and are currently connected. It has been noted by the Department of Public Works that 55 and 59 Viola Avenue share the same water service. It is recommended by the Department of Public Works that the water service connection between 55 and 59 Viola Avenue be disconnected and a separate water service and meter be established for 59 Viola Avenue. Mr. Hanner listed findings for the subdivision and the proposal's compliance with the findings as follows:

a) The East Providence Comprehensive Plan 2010 designates the area as a low density residential. Considering the two proposed lots are only proposed at 3,200 square feet, the land use associated with this subdivision is not consistent with the Land Use 2010 designation. No new construction is being proposed or alteration of any of the structures.

b) That all the lots in the subdivision and all land development projects shall conform to the standards and provisions of Chapter 19 Zoning. There are more than several variances required for this development Mr. Hanner then referred to the Table 1 in the memorandum which lists six variances that are required for this subdivision. He noted:

R-4 District 5,000 minimum lot area

Both lots do not meet the 5,000 square feet, the proposed Lot is 3,200

R-4 District requires a minimum lot width of 50 feet, but both the lots proposed have 40 feet

100 feet is required for a minimum lot depth. Both of the lots proposed are 80 feet

8 feet is required for a side yard setback. Lot one is being proposed at 4.9 feet and Lot 2 at 4.5 feet.

Maximum lot coverage, 25 percent is required. The proposed Lot 1 exceeds that at 31 percent and 45 percent is the required impervious lot coverage. Lot 1 exceeds this by 77 percent and Lot 2 by 48 percent.

Mr. Hanner stated that approval of the subdivision will allow these two existing single-family dwellings to be located on individual lots and allow for a separate water service.

It is the opinion of staff that the approval of the required variances and the subdivision will not result in an increase of a lack of privacy to the abutting neighbors.

c) There will be no significant environmental impacts from the proposed development. The lots are serviced by sewer, water, and gas. There appears to be no negative environmental impacts from the proposed subdivision.

d) That the subdivision as proposed will not results 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 lot is a relatively flat area and 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 from the street.

The proposed Lot 1 has access to Anson Drive and the proposed Lot 2 has access to Viola Avenue.

f) that 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) that 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.

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

Mr. Hanner stated the staff recommendation is that the Planning Board delegate final plan approval to the Administrative Officer and that the Board not require the installation of sidewalks and curbing. Based upon the above discussion, staff recommends that the Planning Board grant Conditional Approval of the subdivision subject to the following conditions:

1. That a note be placed on the plan that states: "The water service connection between 55 and 59 Viola Avenue will be removed and that a separate water service and meter will be established for 59 Viola Avenue;
2. That a note be placed on the plan that states: "No further development or expansion of any dwelling or accessory dwelling will occur on these two lots in perpetuity;
3. 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 that states the variances granted, date of the Zoning Board approval, and the recorded book and page;
4. That the residential use of the property be restricted to single-family uses 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 proposed shall meet all applicable City, State, and/or Federal regulations and requirements.

At this time, Mr. Barbara Wilson, 59 Viola Avenue, Riverside was sworn in by City Solicitor Conley.

Ms. Wilson explained that she is dividing the two lots. They were two lots when she bought it in 1965 with two separate houses. They both have separate water meters and she intends on selling one piece of property because she is older and going to retire and wants to eliminate the mortgage on the houses.

Mr. Almeida asked if there were sidewalks and curbing. Ms. Boyle noted there are none that we observed in the neighborhood since there was just a snowfall.

Mr. Poland asked that there be a requirement that water service connection be installed before final approval pending everything else, but the petitioner states this has been done already. Ms. Boyle stated that if it has already been in place, then that condition would be fine anyway, but that it will be added on the plan.

Mr. Poland asked the audience if they would like to comment.

There were none.

Mr. Poland said if this was one lot with nothing on it and someone was coming in to divide these lots into 3200 square feet a piece I would vote against it. Also, If there was one house and there was a piece of property next to it and they wanted to subdivide it and build one house, he would be voting against it, but since there is one piece of property that has two houses on it, we have a zone now that we can allow only one structure on each piece of property and you could not do today what has been done at the present. Whatever happened in 1965 or before had nothing to do with the Board now. He noted to Ms. Wilson that the Board is trying to straighten this out as to the way it should be. The problem is that these lots are very small, but the houses do exist and have been there some time. He states he will not object to the request because in the end it will make these two pieces of property conform to the regulations of the Zoning in that area and that each house will be on a separate lot. Mr. Poland states that we cannot grant subdivisions based on monetary need.

Ms. Wilson states that one of the variances she got is because her driveway is one that holds two cars side by side. She asks how do people get away with that when they build new houses and they have a driveway in their front yard and have two cars. Do they apply for a variance before they build a new house? Mr. Poland answered that the law allows you to have one parking place in the required front yard. The other parking place has to be out of the required front yard and that parking place can only be partially. You have two parking places in the required front yard. Usually the new driveways are deeper on the new homes and are out of that first 15 feet which is the required front yard. She asked about the driveways on Anson Drive. Mr. Poland referred her to the Zoning Officer on that matter.

There were no further comments at this time.

First Motion

On a motion by Mr. Robinson, seconded by Mr. Cunha, the Board voted to grant conditional approval of the subdivision as proposed subject to the seven conditions indicated by the Planning Department staff report.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Mr. Poland	Aye

Second Motion – Sidewalks and Curbing

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted not to require the installation of sidewalks and curbing.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Mr. Poland	Aye

Third Motion – Delegation of Final Plan Approval

On a motion by Mr. Robinson, seconded by Mr. Sullivan, the Board voted to grant Final Plan approval to the Administrative Officer.

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Mr. Poland	Aye

C. Appl. 2002-23 DPR, Medeira Restaurant Rezoning

Mr. Albertino Milho, 130 Bightridge Avenue, East Providence, RI was sworn in at this time.

Mr. William C. Maaia, Attorney representing the petitioner was present and sworn in.

Attorney Maaia stated that the change in this modification was brought to the attention of Jeanne Boyle who indicated that this was not an administrative action since there is a substantial change in the rezoning. He noted that the Planning Department report succinctly describes what the applicant intends to do and also the removal of a building on Warren Avenue over to the side street which is closer to a residential property. He noted that Mr. Milho was motivated by the inspiration to build next to his restaurant amenities that would enhance the property. To accomplish this in terms of location, it had to be adjoining or abutting the current Madeira Restaurant. This was not foreseeable

in the prior approval by the City, but thought about later by the applicant. He notes his client has invested a lot of energy in this property on Warren Avenue and with the approval tonight, would only enhance the development.

At this time, Ms. Boyle gave the staff presentation. She noted this is a rather complex approval process. The original proposal was subject to the Development Plan Review Regulations at the time when it was first submitted in December of 2001. The applicant was also proposing a change in the Zoning from a Residential to a Commercial designation. The DPR Committee provided a review of those plans, came up with certain conditions associated with the plans themselves. In addition to that, the Planning Board also heard this application in January of 2002 because the Board needed to provide an advisory opinion to the City Council on the zone change aspect. What the Planning Board recommended at that time and what the City Council ultimately approved was an approval of the rezoning tied to the specific site plan that was approved by Development Plan Review. Ms. Boyle explained that this meant that if there were any major modifications to the site plan, than it would require that it go back before the City Council for approval again. It is the rezoning action that makes this come before the Planning Board and then again before the City Council and the fact that it was integrated with the Development Plan Review approval. This is exactly the situation as described by the Council. She notes that what is before the Planning Board is not approval necessarily of the Development Plan Review, it is approval of the rezoning. It is looking at this rezoning again and deciding whether or not that under these conditions this is still an appropriate zoning for this particular property. She notes that the Board needs to provide a recommendation to the City Council on whether or not that rezoning is appropriate.

Ms. Boyle described the order of approvals is that it goes to the Administrative staff, Development Plan Review, Planning Board, City Council; and if the Council approves the rezoning, then subsequently they will go before the Zoning Board of Review. She notes it is a very complicated and procedural situation. She notes that as Attorney Maaia mentioned the applicant has submitted a modification to the previously approved plan review and those modifications being proposed are the demolition of an existing building that was used for a barber shop, relocating the office building which is presently on Parcel 7 to Parcel 4 and converting that to a residential use. That is the most significant change because that is being relocated to an area that was previously to be improved for parking. There is also a proposal to convert an existing residence, which is located on Parcel 5 to a mixture of commercial and residential use.

Ms. Boyle noted that in terms of the staff recommendation we needed to go through this to decide not only whether this is appropriate from a site planning standpoint and the Development Plan Review Committee has made that determination, but from a Comprehensive Planning and a more general sense, this is something that makes sense.

Ms. Boyle stated that staff did have some concerns about the previous site plan, which we had approved, and that the frontage along Warren Avenue next to Medeira Restaurant was very crowded and we had some concerns even though we approved it regarding the

circulation. By proposing to relocate that building, the petitioner is opening up the circulation in that area and providing an opportunity to provide some additional landscaping and also the amenity in the form of the fountain. That was an improvement to the site plan overall. The other change that was being made to convert the existing building to a combination of residential and commercial we see as something that is consistent with the characteristics of development along Warren Avenue and not necessarily something that is a detriment.

In terms of moving the house to the parking area, Ms. Boyle explained that this was the item that staff had the most concern about. One of the assurances that we needed was that there was still going to be sufficient parking to accommodate the primary business which is the restaurant. We were very concerned that there not be overflow parking that would be carried out on to the neighborhood. This development as proposed still does not have enough parking spaces for the restaurant itself, but the degree of variances are lessened by this proposal. In that respect, it is an improvement over the previous plan. She said as we mentioned in the staff recommendation, since there is residential on South Sharon Street, we thought that by providing a residence on that location where the parking lot was, that this is more consistent with the residential character of the area and does provide a buffer between the commercial and more intensive use of the parking lot for the restaurant. Staff was able to make a finding that this was consistent with the goals of the Comprehensive Plan, which are that this area be predominantly retail. The other general finding of the Comprehensive Plan is that we look to protect the existing residential neighborhoods and we believe that this particular development proposal does provide that buffering and does provide some better protection for the impacts of the commercial on the residential. We are not addressing that as part of this recommendation, but we are recommending that the Board recommend approval of this modified rezoning petition to the City Council.

Mr. Poland wanted to clarify that the applicant already has the zone change and have the permission to build the parking lot the way it was designed originally and they can do that anyway. Ms. Boyle stated yes, they could have done that, but not under this particular proposal only if they go back to the original plan. Mr. Poland wanted to clarify the fact that by taking this office building and moving it to S. Sharon it will create a buffer for the residences already there and that it will open up more access and improve the situation rather than be a detriment. Ms. Boyle stated yes. She said by moving that office building, it will be used for residential purposes which is more consistent with the use of the parcels across the street. That will provide a less intensive land use and a buffer between the residences and the parking lot. Ms. Boyle stated the current approval is for a parking lot.

Mr. Poland asks the Board if they have any questions? Mr. Cunha asked how many parking spaces are there for the Madeira Restaurant on the approved plan? It was answered 119 and with this new proposal Ms. Boyle stated under the first proposal it is 99 and under this proposal there is only to be 116 parking spaces provided for the restaurant. It still does not meet the requirements of Zoning, but the degree of variance has been reduced.

Mr. Sullivan asks what the zoning is currently? It was answered C-3, but previously R-6 a year ago, but then they were granted a change to C-3, but that some of the other properties were already C-3. They are requesting a C-3 with one lot being conforming for residential and one lot being non-conforming for commercial and residential. Ms. Boyle clarified the fact that the zoning district that is currently on the map is not going to change. It is coming through again because of the conditions that were associated with that particular rezoning granted a year ago. She noted they have changed it substantially, the recommendation rendered by the Planning Board and the decision that was rendered by the City Council was predicated on a specific site plan which has changed significantly. This is why the rezoning is being revisited by the Planning Board and by the City Council to make sure that that is still an appropriate zoning district. It did not revert to a residential district; it stayed a commercial district.

Mr. Sullivan states that his concern is with the C-3 zone in that the applicant might put another building in there. Mr. Maaia stated no and that his client's intent is only to improve the area and not have any adverse impacts on the area.

Mr. Poland asked if there were any other questions from the audience.

Mr. Luis DeSousa, 10 South Sharon Street was sworn in. He states he is speaking on behalf on his mother and the neighbors. He states they do not want to see that house moved across the street because it will just enhance more traffic and the neighbors already have a tough time getting out or into their driveways especially on weekends. At the present time, he states that the parking lot is big enough to put a lot of cars, but if you add a house on that lot, you lose parking spaces and more cars will end up on the street. Also he states that the neighbors do not trust what is going on because initially it all started out with the house being redone inside and out, but now he hears that all this work is being done without a permit, which is illegal.

Mr. Poland states that this Board does not get into the permit part of it; that is the Building Division, but noted that the applicant will be increasing the number of parking spaces from 99 to 116 spaces which is more than what was approved one year ago. The extra parking spaces will be created when the building is moved to another area. Mr. Milho stated that the market will be reduced from 100 percent to 75 percent use only, which will require less and you will gain on the other lot by moving the building. Ms. Boyle stated that with the changes being proposed, both internally in some of the buildings as well as by changing the configuration, the applicant was able to pick up a few more spaces in terms of the layout. It is a combination of the reconfiguration of the parking lot layout itself and the reconfiguration of the uses. Ms. Boyle noted that staff had the same concern and noted we would not be recommending approval if we saw a lessening in the amount of parking. She said if you look at the overall allocation of parking spaces to the restaurant use which is the use of the greatest concern, it is an increase in the number of spots.

Mr. Sullivan asks for clarification of the parking spaces being provided. Ms. Boyle stated there are additional spots where there are five different buildings on this site and the allocation of spaces has changed, but the overall plan increases the amount of parking that is being dedicated to the restaurant which is our biggest concern.

Mr. Sullivan asked about the barbershop. Mr. Milho stated the shop will be moved to the corner of the building. The barbershop is only operated from 8:00 a. m to 5:00 p.m. He notes his business only operates at night and weekends. He states his business creates less traffic than the buildings across the street. Mr. Poland notes that the barbershop business will be located on the corner and the building will be knocked down.

Attorney Maaia states that this restaurant prior to having 116 parking spaces was functioning within their business hours. He notes there is going to be a removal of a commercial building which will lessen the intensity of the use. Moving that building reduces its use and only so many people can go into a residential property. With that the increase of the 116 spaces is the most this restaurant has ever seen even prior to the rezoning. Mr. Maaia noted that the area where Mr. Sullivan indicated is zoned C-3. He states that the parking spaces are never going to reach the heights of what the formula calls for, but no one on Warren Avenue will reach the formula even if you went from house to house and business to business. What it did was improve the area and makes the development better than what it was previously with more parking and less intensity.

Mr. Almeida asks where the driveway will be on Lot 4? Ms. Boyle answered it will be fronting South Sharon Street adjacent to the commercial property. She stated there will not be access to the restaurant parking lot on South Sharon; it will only be for the residents.

Ms. Boyle stated the entrance of the building will be on South Sharon Street and behind the building.

Mr. Poland, with the aid of a map explained the measurements of the building. A person from the audience states that if he takes this building out of here he doesn't see how there could be more spaces, but fewer spaces. Mr. Poland explained that with the new reconfiguration of parking, Mr. Milho has come up with more parking spaces than was on his original approval of the plan back in January.

Mr. Maaia states that the lot that does not have the house on it at present and would have more than four parking places on it if we did not amend this petition. By moving the building from Warren Avenue to that lot, you are guaranteed that the impact will be diminished to the neighborhood.

At this time a Portuguese-speaking women spoke and Mr. Cunha translated for her. She said she is very concerned because at this time last year, around Christmas her husband became very ill and she called the rescue squad. They could not pull in to the driveway or her house because they could not get through because of the parking situation. This happened on a Saturday night and it was packed. She is not a young woman, her husband

is elderly and feels this could happen again. Mr. Cunha explained to her that she would be gaining parking spaces and she agrees, but fears that people do not want to park that far and they will park on the street anyway to be closer to the restaurant. Mr. Poland explains this has nothing to do with Mr. Milho and suggests that “no parking” signs be put up or 1 hr. parking signs be put up on the westerly side of Sharon Street as a staff stipulation for this problem. Ms. Boyle notes that we could put up signs on both sides of the street. Mr. Poland states this would improve the traffic flow and give them emergency access to their houses.

A neighbor from 16 South Sharon Street, was sworn in and speaks for the neighbors who are against this house being placed on South Sharon. He states that you cannot park there and you have to be real careful backing out of your driveway. The place gets very busy and even their relatives who try to visit will be hurt if there are no parking signs in place.

Mr. Santos states he is against the house being put up because people using that house will be parking and this will spill over to where the neighbors already park.

Ms. Boyle added that the staff recommendation is based on the plan that was submitted to staff at this point and feels that there should not be any further modifications that cause any intensification of this property. Ms. Boyle suggests that the Board state that there be no further intensification of this property beyond what is there now.

One of the Board members asks Mr. Almeida why he would just have no parking on the east side of South Sharon and not both sides of South Sharon? Mr. Almeida answers that it is a narrow street and the people may need to park on the street who live in those houses; some have more than one car. Mr. Almeida states also that if he were on the City Council he would also make that street a one-way.

Mr. Poland stated there will be two more public meetings about this; one with the City Council and one with the Zoning Board of Review.

#### Motion

Mr. Poland steps down as chairman to make the motion and Vice Chair, Robinson takes his place. On a motion by Mr. Poland, seconded by, Mr. Sullivan, the Board voted to recommend to the City Council that the Board endorse the requested modification of the previously granted rezoning of Map 206, Block 25, Parcels 2, 3 and 4 from Commercial 6 to Residential 3 with the following stipulations:

1. that there be no further intensification of use on this site;
2. that there be no parking signs imposed on east side of South Sharon Street.

#### Roll Call Vote

Mr. Almeida                      Aye

Mr. Cunha	Aye
Chair. Robinson	Aye
Mr. Sullivan	Aye
Mr. Poland	Aye

At this time, Mr. Robinson relinquished the chair.

Ms. Boyle noted that the public hearing with the City Council is on December 17, 2002.

D. Request to Purchase City-owned Land at Ledge Road in Seekonk, MA.

Ms. Boyle gave a brief presentation. She said the City Council received a request to purchase a 50 x 100 foot portion of a City-owned parcel on Ledge Road in Seekonk. The City owns a lot of land in Seekonk and also in the City of Pawtucket, which was originally acquired for the Turner Reservoir to provide protection to the City's reservoir at that time. Under the terms of the City's Ordinance, any request to dispose of City property requires an advisory opinion from the Planning Board to the City Council. This was referred to the Public Works Director, the City Assessor, City Solicitor, and also the Conservation Commission for their comments. One of the comments received was whether or not this parcel was a buildable lot. When staff did some research with the Town of Seekonk and their regulations, it became clear that it is more than just a 50 x 100 foot portion. It is an L-shaped piece and would be considered buildable under the Seekonk Regulations. The comment that was received from the Conservation Commission was that they were opposed to the sale because they were concerned of the precedent that would be set by selling any of the lands that are abutting the Turner Reservoir. It had been a long-standing City policy to hang on to these lands to protect the water quality. It doesn't appear in looking at this property that it is necessary to retain the property in its entirety to provide any benefits to the Turner Reservoir.

Ms. Boyle also stated that looking at the issue of building and looking at the concerns of the buffer strip, it is the recommendation of this Department that the Planning Board recommend denial of this request to purchase this particular piece, and that we place the entire parcel on the open market in its entirety with a buffer and easement along the Turner Reservoir and see what the market would bear for this particular parcel. It would not preclude the petitioner from submitting a bid on the parcel. Staff thinks it is very important that we maximize the return to the City's taxpayers.

Mr. Sullivan stated he tried to find the property, but could not and questions the pictures that have been submitted. Ms. Boyle noted that in one of the pictures, there is a paper road that intercedes. The applicant has not provided that and the platted street does factor into as to whether or not this is a buildable lot or not. Mr. Sullivan questioned the numbering on the map of the lot. Ms. Boyle clarified the fact that those numbers are the old plat numbers, not the address numbers. Those four parcels combined on the map represent the first parcel that the applicant has depicted on his map.

Chairman Poland stated that he agrees with staff recommendation, but it should be researched more. Ms. Boyle stated that the Public Works Director was aware that it was a larger parcel and his comments are based on researching the whole parcel. He asks that it be researched further before the parcel is declared surplus. Ms. Boyle noted that there are a couple of issues before it goes on the market. The City Solicitor's office has already looked at it for clear title which is one of the considerations. Ms. Boyle noted that staff has not researched it in terms of ground water and ledge and other issues, so it might not be worth as much as it could be.

Ms. Boyle asked the City Solicitor if we need a formal motion by the Planning Board regardless of whether it sold to this particular applicant that the land is surplus. Mr. Conley answered yes.

Mr. Almeida asked if we own all of the 572. Ms. Boyle stated some it we own because it does abut up against the Turner Reservoir. We are recommending that the City retain the easement that runs along the reservoir to keep a continuous passage. Ms. Boyle said the paper street gives you frontage if someone chose to improve that paper street.

Mr. Sullivan asked what happens now with the applicant interested in the property. Mr. Conley answered that the request will go before the Council.

#### Motion

On a motion by Mr. Robinson, seconded by Mr. Cunha, the Board votes to recommend the authorization of the City Council to put the entire piece of property with a 50-foot easement along the reservoir on the open market and to declare it surplus property for sale to the highest bidder.

#### Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

E. Rezoning - 149 Cordona Street, Map 305, Block 1, Parcel 3, Applicant: David J. Enos

Mr. David J. Enos was sworn in by City Solicitor Conley. Attorney for the petitioner, Mr. William C. Maaia was sworn in at this time.

A request was filed for this property zoned C-5 on Orlo Avenue. Mr. Enos purchased the property. He has been refurbishing cars for 17 years and would like to have a small business of his own. The property has been turned from a decrepit and dilapidated building to a very acceptable piece of property. The inside is immaculate. Mr. Enos

goes to an auction and brings the cars in and sells them. It is a 1400 square foot building. The first time the applicant came before the Board there were two trailers unkempt in a C-5. We spoke to the Planning Department at that time and disagreed to the amount of restrictions that the Department was imposing. We would be improving the property we would recommend that the Board approve the C-5 District to allow and go back to the Planning Board. Mr. Maaia stated that in October we looked at the permitted and non-permitted uses in the schedule provided. We reviewed the comments and we came up with a permitted use list. He noted that there were stipulations at that time. Mr. Maaia stated he reviewed the conditions with Ms. Boyle and only one of the conditions was an issue.

Mr. Maaia states the property has the potential to be merged or sold to one of the abutters or the C-5 property down the road. The use is very simple. It is refurbishing the car and building. Although three sides are Commercial and down the street is C-5 auto body repair shops, there is immediately on one side some residential houses. He notes the neighbor next door is delighted with the improvements that Mr. Enos has made to the property and noted she may be attending the Council meeting. Mr. Maaia states that one of the recommendations of the Board is to do some landscaping and notes the applicant may do a landscaping plan versus the restriction of a fence. The plan would be submitted to the Zoning Officer and be based on some input from that one residential person. He notes that the prior owners should have straightened out the zoning at the time or done something to rectify the situation. No one will build a residential house on this lot in the future. He notes that what his client intends to use the property for would not adversely affect the neighborhood or surrounding area.

Mr. Maaia states that the granting of this would provide an 8,000 square foot area lot in a C-5 zone and the building is only 1400 square feet. There would not be any encroachment. Mr. Enos does not plan to expand this beyond what would be allowable and if he were to, because of the size of the lot and remaining uses that are permitted, in most instances each of those would have to go through the scrutiny of state approval licensing, zoning approval, or City Council approval. Any fear that there would be an expansion of this 8,000 square foot lot should be alleviated by the fact that any of those items that are on the list would require so much more.

Mr. Poland noted that all the Board members present tonight were here the last time this applicant came before us and continued it.

Mr. Poland states Mr. Pimental's letter to the Board refers to permitted uses and the non-permitted uses. It was noted in Mr. Pimental's letter the uses which he had typed himself. Mr. Poland commented that in the permitted column, one of the asterisks has no explanation. Ms. Feather noted that it is probably something that is defined in Section 19-1 Definitions. She said that some of them noted with an asterisk means there are other conditions or requirements that the applicant would have to do. Mr. Poland stated he just wanted to clarify this.

Motion

On a motion by Mr. Sullivan, seconded by Mr. Cunha, the Board voted to accept the memorandum dated December 5, 2002 submitted to the Board and Planning Department from the Zoning Officer concerning the requested rezoning map amendment for 149 Cadorna Street part of the Board's official records.

Motion

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Mr. Poland	Aye

Chairman Poland commented that when this came up in August, Mr. Sullivan was the one that made the recommendation that this go back to the Planning Staff and ask Mr. Maaia and the owner of the property to negotiate a settlement. Since they did that, it was easier to work out at this time. He congratulated everyone on the effort that went into this development and feels it is a fair solution to the zoning request that has been recommended. He notes that if petition is approved, number 3 of the five stipulations is the most important one regarding the rezoning which will be restricted to only those uses listed as permitted in the memorandum from the Zoning Officer to the Planning Director. He asks that this all be made part of the record in case the applicant decides to sell the property. This way the new owner will be aware of what has taken place. Ms. Boyle states that it should be part of the ordinances if the Council accepts the conditions and defers to the City Solicitor for any other additions to the Land Evidence Records. It was asked if something could be attached to the Ordinance. Mr. Conley suggests that rather than do an attachment, it would be clearer to take the Zoning Officer's memo and make the substance of it in the body of the ordinance as part of the stipulation. He notes this will be done.

Mr. Sullivan asked about stipulation number 4. There will be no on-street parking on this use on adjoining City streets. Does it restrict a person who is going to the business from parking on the street? Ms. Boyle answers yes, but the intention is that the cars under repair are not to be left on the street which is often the case with auto repair facilities.

Attorney Maaia states his understanding is that there are two aspects to that condition; one is that a C-5 does not allow on-street parking. He states it restricts only the applicant from placing his cars on the street. He must park them on his property.

Motion

On a motion by Mr. Sullivan, seconded by Mr. Cunha, the Board voted to recommend to the City Council that they conditionally approve the petition subject to the five conditions stated in the staff memorandum listed below:

1. That there be no curb cuts or driveway access from the Clemenceau Street;
2. That the petitioner be required to submit a screening and buffering plan to the Zoning Officer for review and approval;
3. That the rezoning shall be restricted to only those uses listed as “permitted” in the memorandum of October 28, 2002 from Zoning Officer Pimentel to the Director of Planning;
4. That there be no on-street parking from this use on adjoining City streets; and
5. That the property shall revert to the Residential-4 zoning shall any of the above conditions fail to be met.

Roll Call Vote

Mr. Almeida	Aye
Mr. Cunha	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

Continued Business

A. Staff Report

1. Ocean State Steel (East Pointe Development)

Ms. Boyle stated staff has been working with the City Solicitor and City Manager on the Section 108 Loan for the GeoNova proposal at Ocean State Steel (East Pointe). She noted we received a \$2 million grant through the Brownfields Economic Development Initiative to redevelop the site. Also the City will be providing a low interest through HUD through the Section 108 Program. We will be having the public hearing before the City Council on that application on Tuesday evening. The development is moving forward and they are hoping to close on the property within the next few months. There will be meetings with them and we will be putting together the rezoning request, Comprehensive Plan Amendment request and other approvals that will be going before the Planning Board.

2. Waterfront Redevelopment

Ms. Boyle informed the Board that there will be another public workshop after the first of the year and a presentation to the City Council. If everything is still accepted as to what we have proposed for transportation improvements we will be able to proceed to get a redevelopment plan before the Planning Board and City Council.

Ms. Boyle also noted that the City has submitted an application to the Economic Development Administration requesting \$2 million dollars in funding for those improvements and have received a positive reaction.

Mr. Poland asked if there were any questions. There were none.

#### **V. Communications**

On a motion by Mr. Almeida, seconded by Mr. Robinson, the Board accepted the following communications:

A. Memo dated November 12, 2002 to the Zoning Board of Review from the Department of Planning Re: Requests for Variance or Special Exception to be heard on November 20, 2002;

B. Enlarged copy of the Zoning "Use Schedule" for Board's information.

#### **VII. Announcement -**

The next meeting will be held on Monday, January 13, 2003, 7:00 p.m., Room 306. Mr. Almeida noted he will be away for this meeting.

#### **VIII. Adjournment -**

The meeting adjourned at 9:35 p.m.

Respectfully submitted,

Peter Poland, Chairman

PP/JMB/sac