



East Providence Waterfront Special Development District Commission

Minutes of Monday, January 22, 2007 Meeting and Public Hearing

Present were members: Chairman Patrick Rogers, Bruce Chick, William Fazioli, John Gregory, John Lynch, Steven Hardcastle, John Pesce, Luis Torrado; ex-officio members: Stephen Coutu; consultants: Glen Fontecchio, Samuel Shamoon, Maureen Chlebek, and Sara Bradford; counsel: Attorney Robin Main; and staff: Jeanne Boyle and Roberta Groch.

The meeting began at 6:40PM.

1. Chairman's Opening Remarks

- A. Mr. Rogers thanked the members of the Design Review Committee and the Hearing Panel for the hard work and countless hours spent reviewing the East Pointe project during the previous month and a half.
- B. Mr. Rogers discussed the possibility of rotating members of the committees over the next few weeks, for continuity.
- C. Mr. Rogers discussed possibly revisiting the length of major project review in light of the previous months' meetings. Time-saving methods will be explored: pre-qualifying expert witnesses and submitting written evidence. Re-examine process and timeline for efficiency at an upcoming meeting. Ms. Main may participate in future DRC meetings.
- D. Mr. Rogers discussed his recent presentation on the Waterfront Commission to the City Council. He looks forward to a close working relationship with the Mayor and the legislative agenda.

2. Approval of Minutes

A. Minutes of December 18, 2006

Motion to approve was made and seconded; unanimous vote to approve the minutes with no changes.

3. New Business

A. 51 Dexter Road LLC

Ms. Boyle introduced an application for 51 Dexter Road, which is a vacant lot that is also a remediated brownfield. The Applicant is proposing to use it as a "flex-tech" space for contractors to store outside, a permitted use in the Dexter Road sub-district. It is a small- to mid-sized project, but that as new construction it will have design issues. There was no discussion about Ms. Boyle's recommendation and a motion was made and seconded for the application to be forwarded to the DRC for review. The motion was approved unanimously.

4. Continued Business

A. Public Hearing

1. Kay Studios, 62-78 Valley Street, Applicant: Narragansett Realty Corporation

The application for Narragansett Realty at 78 Valley Street was recommended by the DRC for approval by the Waterfront Commission. Greg Gormley, the Applicant, described the project: the project was a conversion of an existing warehouse into a film studio “cyclorama” for special effects. A motion was made to accept the recommendation from the DRC and was seconded. A resident asked if was being used as a photography studio: the Applicant replied that it was a film studio, for motion pictures and commercials. Hearing no more public comment, a motion was made to accept the recommendation from the DRC: the motion was seconded and passed unanimously with a roll call vote. An additional motion was made to approve the application for Kay Studios by the full Waterfront Commission, amended by additional comments from Mr. Gregory: the motion was seconded and passed unanimously with a roll call vote.

2. GeoNova East Pointe Project

Mr. Rogers turned the chair over to Mr. Gregory as Mr. Rogers’ law firm has performed business for the Applicant. Mr. Rogers stated that he has not been involved in any of the deliberations on the project. The Applicant, GeoNova, gave a brief presentation on the project.

Ms. Christine Engustian, counsel for the Applicant, introduced the rest of the project team: Mr. Richard Sherman, Ms. Mary Voce, Mr. Matthew Viana, Mr. Eric Offenburg, Mr. George Gifford and Mr. William Donahoe. She stated that, after the presentation, members of the project team would be available to answer questions from the Commission and from the public.

Ms. Engustian stated that she had the updated fiscal impact analysis from Mr. Offenburg that the DRC requested to reflect the change in affordable housing units from 5% to 10% of the total number; she passed out the analysis as a piece of evidence, exhibit number 26. Mr. Offenburg summarized the memorandum for the public: after full build-out, the net positive tax impact for the City goes from \$3.34 million to \$3.18 million, a net reduction of approximately \$161,000 per year.

Mr. Gregory said that he would entertain a motion to accept the Hearing Panel’s recommendations to the Commission: a motion was made and seconded. Seeing that there was no discussion, a roll-call vote was taken on the motion, with Mr. Hardcastle’s amendment. The motion passed unanimously, with Mr. Rogers abstaining. A motion was then made to enter the DRC’s Advisory Recommendation memorandum of January 17, 2007 into the record: the motion was seconded. Ms. Boyle stated that several of the attachments to the memorandum were omitted in the packets to the Commission: Ms. Boyle then read the list of attachments. Neither the Commission nor the public had comment on the motion; a roll-call vote was taken on the motion. The motion passed unanimously, with Mr. Rogers abstaining.

Mr. Gregory stated that nearly all of the Commissioners had participated in all or parts of the project review and have had almost all of their questions answered. He then opened the floor to questions from the public, one question per member of the public, with an answer from the project team and a follow-up comment from the person asking the question. Ms. Norma Lodeira asked what the construction equipment was doing on the site right now: Mr. Offenburg answered that the City is currently installing a new sewer line through the site. She asked if there would be a public marine for boats: Ms. Voce stated that a marina is not part of the plan now. There is a small kayak launch on Omega Pond. Ms. Lodeira asked what would happen if the condos did not sell: Ms. Voce stated that it is a phased development, starting with the Uplands and moving

to the Waterfront. She said that if nothing is selling or renting then the phases would be slowed down. Ms. Lodeira asked when the project would start: Ms. Voce answered that it would probably start this summer.

Mr. John Fenton or Essex River Ventures, owner of the Phillipsdale Landing property to the north of East Pointe congratulated the GeoNova team on their project. He said that, at a prior DRC meeting, he had stated his objection to the use of an easement through the Phillipsdale site for access to the East Pointe site. He is concerned about potential disruption and hardship if it is used as a primary access. They have come to an agreement with GeoNova to allow construction equipment across the Phillipsdale site along the western portion of the site; the easement will be used for emergency access only. They will work together on other access issues. Ms. Voce stated that the agreement between the two parties is that, instead of entering the site through the easement, access would not disrupt Phillipsdale construction and marketing; however, GeoNova has a legal easement that is not limited to emergency access. Mr. Gregory asked Ms. Main if the Commission needed to offer its recommendation on this issue: Ms. Main replied that the recommendation from the DRC under "Site Access" be modified to state that "the Applicant has represented to the Commission that a 20-foot wide private easement exists"; Ms. Main said that the change states a fact without issues with the language. Ms. Boyle agreed with this change. Mr. Gregory said that they would amend the motion at the time that the motion is made.

Mr. McConnelly stated that he was at the meeting for his father, an abutter, who could not attend; he said that at his attendance at the January 4 DRC meeting, there was discussion of rip-rap construction to raise some of the land behind it out of the floodplain. He asked if GeoNova was paying for this construction and how; he also asked if the finances of the City of East Providence would be put in jeopardy though the construction of such expensive items. Ms. Voce stated that the rip-rap is the responsibility of the developer; Mr. McConnelly asked if it would be with their own money or using the good faith and credit of the City. Ms. Voce stated that there have been discussions with the City about using bond money for the construction of Waterfront Drive and other public infrastructure, but they have been just that: discussions. Mr. McConnelly asked about sewer lines: Ms. Voce stated that the new sewer line going through the site was started before GeoNova's project and is a City project.

Ms. Crowshaw asked what the plan was for rentals: Ms. Voce stated that they are planning for all condominiums. She said that all of the developers they have spoken with want to build condos. Ms. Crowshaw asked about the widening of Bourne and Roger Williams Avenues: Ms. Voce replied that they have pulled their buildings away from the roads to provide a third lane on each road, dedicated for turns. Ms. Crowshaw said she noticed that Mr. Rogers recused himself from the proceedings because his firm had performed work for the Applicant: she asked if other members of the Commission anticipated having future dealings with the development through their businesses. Mr. Lynch said that he is on the Commission strictly on a volunteer basis. Mr. Pesce said that he does not deal with residential real estate; he added that the make-up of the Commission was dictated by the Legislature to ensure that people with experience with real estate and construction were represented and that is why one sees the people with their backgrounds on the Commission. Mr. Gregory said that he did not know if his firm will have dealings with the project in the future; he said that he could not say that the Applicant would not be welcome to do business with his business. Ms. Crowshaw asked if it would be a conflict of interest for people who would do business with the Applicant to be on the Commission. Mr.

Gregory asked Ms. Main for her opinion on the subject. Ms. Main said that Mr. Rogers abstained because his firm currently has business with GeoNova: what will happen in the future cannot be told. If there is a conflict in the future with a member of the Board than that person has several options: he can recuse himself; he can get an advisory opinion on the matter from the State Ethics Board; or he could resign from the Board. It is up to the individual to decide which avenue he will take. There are no other conflicts other than what has been disclosed. Ms. Crowshaw asked if it is a conflict if someone on a current board does business with an applicant: Ms. Main replied that an answer cannot be given to a hypothetical question: the question needs to be an actual situation with this project and this Commission. Any hypothetical questions must be asked to the State Ethics Commission for that purpose: Ms. Main stated that the question cannot be entertained here and now. Ms. Main also stated that she was a member of the State Ethics Commission for five years: conflict of interest statements are filed every year by any official in Rhode Island and are available to the public at the Ethics Commission on Fountain Street and are filed approximately the third week in April. Ms. Main also stated that the Commission was recently the subject of a successful audit that also addressed this issue: the audit can be provided.

Mr. Ormond of Omega Way stated that he is concerned that his view of trees now will be changed once the trees are torn down; he also asked about the amount of time it will take to construct the Uplands portion of the site. He is concerned that he will be looking at a four-storey building. Mr. Gifford, the project landscape architect, answered that the existing trees along the Pond will remain as part of a request from the RIDEM. Mr. Ormond's view will not change. Ms. Voce added that it will take approximately 2-3 years for the Uplands parcel to be built and occupied. Mr. Ormond said that he had just gone through two years of construction of three single-family houses on his street: he found it hard to believe that it will take only 2 years to complete. Ms. Voce answered that the developers will build it with an eye on the market: they want to finish in such time as the condo market is still healthy. Mr. Ormond asked the Board what kind of consideration has been given to the residents who will be impacted for the next 2-10 years such as himself, who will be looking at a four-storey building. Ms. Voce said that the wooded area is not being changed: disregard the rendering. At the boat launch area, the NBC had already knocked the trees down and RIDEM said that GeoNova could use that area for public access. Mr. Gregory said that DRC looked at the impact on the residents very carefully, such as traffic impacts, fiscal impacts, impacts on the schools, etc. Ms. Boyle pointed that the DRC recommendation included that required construction impact and scheduling plan for the project.

Mr. McConnelly asked if the City's bond rating could be affected by any bond-raising that the Commission undertakes: Ms. Boyle answered that, at this point, the Commission has not entertained any bond-raising. The only thing the Commission has discussed has been Tax Increment Financing, or TIF, which is borrowing against future tax revenues where the taxes are very low, pre-development. A city looks at the taxes that will be generated after the development and finance borrowing against a portion of that future development. The Commission has looked at it but there is no commitment to do it. Any TIF would require City Council approval and would be reviewed for those impacts: there is currently no TIF proposal before them. Mr. McConnelly asked if TIF would affect all citizens of the City; Ms. Main said that it has been discussed but that they are not in the position to answer that question at this time. The matter is not before the Commission. Mr. McConnelly stated that he thought that this

meeting would be an opportunity for the public to give input on the project before a final decision; due to a lack of financial transparency, a final vote on this project should be postponed until there has been a workshop on how these projects will be financed and what their impacts will be. Ms. Boyle said that the property was originally acquired in partnership with GeoNova; the City was eligible to receive a \$2 million grant from the Department of Housing and Urban Development through the Brownfields Economic Development Initiative, which was combine with \$3 million in Section 108 financing which is also a HUD program in which the City can borrow money at a lower rate through HUD. Under the development agreement with GeoNova, GeoNova is paying the City back in full for that Section 108 loan. The City is not obligated to pay the grant back to HUD and GeoNova is not obligated to pay it back to the City. That is the extent of City-controlled public money that has been spent on the project. There have been no local dollars that have gone into it. The developer has committed to constructing the entire infrastructure associated with this project with their own dollars: it is a private development being done by a private developer, just as every other project that comes before the Commission. There is the opportunity to discuss Tax Increment Financing but at this point no such request has been submitted to the Commission. At this time, we do not know how the City Council would react to such a proposal. The developer also submitted an extensive fiscal impact analysis which was a requirement of the Commission; it identified impacts upon the City at every phase, in terms of school-age population as well as other City services. It is available for review. After the first phase alone, the City will get a net tax impact of \$330,000. At full build the net impact will be \$3.1 million, after the costs of City services are accounted for. To Ms. Boyle's knowledge, the highest single tax payer in the City is Mobil-Exxon, which pays about \$1 million in taxes to the City but occupies 1/10 of the acreage of the City of East Providence. This represents three times the net taxes of that one single largest development: it is a huge boon to the City. The Commission has asked for as much information as is possible as to what the impact on the City will be: how they choose to finance that is beyond the purview of this Commission. She stated that what is being voted on tonight will involve absolutely no City tax dollars.

Seeing no more questions, Mr. Lynch made a motion to amend the motion that was approved on the DRC recommendation to address the issue on the easement language on Page 4; the motion was seconded. Hearing no comments, the motion was approved in a roll-call vote, with Mr. Rogers abstaining. A motion was made to approve the requested deviations based upon the submitted application, the testimony that was presented to the hearing Panel and the Commission and that the Commission finds that the deviations are consistent with the goals and objectives of the East Providence Waterfront District Plan and that the requested are in accordance with the rules established in Article 9, section 6 of the Waterfront District Plan. The motion was seconded and approved through a roll-call vote with Mr. Rogers abstaining. A motion was made to approve the East Pointe project; hearing no comments, the motion was seconded and approved in a roll-call vote with Mr. Rogers abstaining.

5. Reports of Subcommittee's

A. Design Review Committee

1. Providence Overlook

Ms. Boyle stated that the project is only four units: the DRC requested a land use plan and some information on the abutting uses. The DRC voted to give it a conditional certificate of completeness subject to receipt of said information. One of the issues that came up at the last

meeting was whether the three alternatives for I-195 would impact his development: it will probably give him better access.

2. Phillipsdale Landing

There have been approximately three meetings with the developers; the DRC requested a phasing plan for the infrastructure and a narrative for the Bourne Avenue issue. The road is a throughway to connect to another road under a new building. The DRC was very concerned about turning radii. The P&W has no intention of abandoning the track. With the receipt of those items, the DRC will be ready to issue a Certificate of Completeness.

B. Hearing Panel

The Hearing Panel had nothing to report.

6. Miscellaneous Other Business

Ms. Groch explained that a date needed to be scheduled for a stakeholder meeting, as the final task of the "Does It Make Sense?" stormwater study by Fuss and O'Neil, possibly for the second week of February. The meeting will be an opportunity to gain feedback on the draft study. A contract with Fuss & O'Neill is almost ready to be signed for the approximately \$250,000 EPA Stormwater Study grant for the entire district. A scope of work will be distributed at the next meeting.

7. Staff Reports

A. General Counsel's Report

Ms. Main said that she has been looking at process within the Committees themselves to see how the procedure can move along more quickly within the meeting. She said that pre-qualification of experts could be done ahead of time; any questions can then be asked at the hearing. Many agencies do this; she did not think any applicant will object. Ms. Main said that she would be attending some future Committee meetings, having had so many questions during the GeoNova process. Mr. Gregory asked about the 45-day time limit: perhaps pre-negotiation with the developer can be done for an extended review period as it is difficult to absorb so much new information in so short a time. Ms. Boyle said that meeting advertising and notice requirements is challenging. The intention of the regulations was that big projects like GeoNova would be 90 days; the regulations provide it for: 1)with a mutual agreement of the Commission and the developer or 2)if the developer does not agree, the Commission can make a finding of fact that circumstances require additional period of study. At what point does the Commission have to put the applicant on notice that they will be seeking 90 days and what findings of fact would be needed? Ms. Main answered that creating an application and seeking a mutual agreement with a developer is always the safest way to go; the concern is that the Commission will not be consistent with why they are seeking an extension, especially if the membership changes. The time to seek it is when a developer is giving the Commission so many things so late in the process that one cannot absorb it and distribute it within 24-48 hours. It can be during the process itself; one must be careful and use an application. Mr. Gregory asked if submitted plans became part of the testimony; Ms. Main stated that it did, but that a developer would also want the plans to be brought to a meeting to become part of the transcript.

Ms. Boyle added that the large number of meetings has created a situation where the Commission's consultants are now running over their initial fee estimate, which was based on

estimated hours. Mr. Rogers stated that on-going monitoring of projects will necessitate asking for additional funding from the developer in order to give a project due process.

B. Director's Report- TIF Consultant – RFP Issuance

Staff will come back with a draft RFP for review and approval at the next meeting.

8. Communications

Ms. Boyle had nothing to highlight regarding communications.

9. February 19th meeting date change to February 26, 2007, 6:30 p.m., Room 306

10. Adjournment

The meeting was adjourned at 8:35PM.

Respectfully submitted,

Jeanne M. Boyle
Executive Director

JMB/RG