

**City of Warwick Planning Board  
Meeting Minutes**

**Wednesday,  
August 8, 2007**

**Members Present:** John J. Mulhearn Jr., Chairman  
Carter Thomas Vice-chairman  
Attilio Iacobucci  
Rick Robinson  
Philip Slocum  
Michael Constantine  
Vincent Gambardella

**Members Absent:** George Arnold  
Jeanne Foster

**Also in attendance:** Peter Ruggiero, Solicitor  
John DeLucia, City Engineer  
Eric Hindinger, Assistant City Engineer

Chairman Mulhearn called the meeting to order at 6:05 P.M.

On the motion of Mr. Constantine, seconded by Mr. Robinson, the Planning Board voted unanimously to accept the June 2007 meeting minutes.

**Public Hearing**

**Major Subdivision**

**Lorden Plat**

Applicant: Daniel & Anne Lorden and Frank Miale  
Location: 80 Balsam Street  
Assessor's Plat: 307  
Lot(s): 76 & 77  
Zoning District: Residential A-10  
Land Area: 10,000 square feet  
Number of lots: 2  
Engineer: Ocean State Planners, Inc.  
Ward: 1

Attorney John Harrington represented the applicants and was requesting preliminary approval to subdivide two merged lots to create two non-conforming lots with less than the required frontage, lot width and area, one lot having an

existing dwelling with less than the required front and side yard setback and one new lot for development in a Residential A-10 zoning district.

Attorney Harrington introduced Mr. Michael Miale, son of the owner of lot 77 and his attorney John Martinelli, Esquire.

Mr. Harrington then presented a detailed history of the property. He informed the Planning Board that the two lots have existed as separate properties and have not been comingled since 1990.

Mr. Harrington introduced Exhibit 1, a copy of the 1931 recorded "Spring Green Acres" plat card depicting the subject property as two 5,000 square foot lots, Exhibit 2, and copy of the 1930 Zoning Ordinance referring the Planning Board to zoning district "C" which allowed 5,000 square foot lots.

Mr. Harrington then introduced Exhibit 3, a copy of the 1945 Zoning Ordinance and Exhibit 4, a copy of the 1945 zone change, which changed the subject property from zoning district "C" to zoning district "B" which required a 7,000 square foot minimum lot size.

Attorney Harrington informed the Planning Board that the property was not zoned for 10,000 square foot lots until 1957 with the adoption of a new zoning ordinance.

Harrington then introduced Exhibit 5 a copy of the "Chain of Title" card which shows that the current owners purchased the lots separately in 1990. Mr. Harrington informed the Board that the applicants were unaware that the individual purchases constituted a zoning violation.

Attorney Harrington explained that Mr. Miale, the owner of lot 77, was denied a zoning variance to build on an undersized nonconforming lot. Mr. Harrington then introduced Exhibit 6, a copy of a RI Superior Court decision supporting the denial based on the fact that the property was illegally subdivided and remanding the matter back to the Zoning Board with direction to dismiss the petition without prejudice so the applicant could first attempt to obtain subdivision approval from the Planning Board.

Attorney Harrington then reminded the Planning Board that it had granted a Master Plan approval for the proposed subdivision in December 2006 and informed the Board that the Zoning Board of Review had granted the appropriate dimensional relief in March 2007. Harrington also informed the Board that the zoning decision did not grant setback relief for construction on lot 77, the vacant lot. He told the Board that Mr. Miale would have to re-petition the Zoning Board for setback relief in order to build on lot 77.

Harrington then introduced Mr. Wilbert Luetschwager, Real Estate Expert and introduced his resume as Exhibit 7.

Mr. Luetschwager testified that he was the City of Warwick Building Official and Zoning Officer from 1977 to 1986.

Mr. Luetschwager testified that in excess of 50 percent of the lots within the immediate area are undersized lots.

Attorney Harrington then introduced Exhibit 8 a color coded map depicting undersized lots located in the general area.

Chairman Mulhearn asked the witness how many 5,000 square foot lots are located in the radius area.

Mr. Harrington responded eight lots.

The Chairman responded that he did not believe that eight lots represented a general characteristic of the Governor Francis neighborhood.

Attorney Harrington responded that he was referring to the immediate area and not the Governor Francis neighborhood.

Mr. Luetschwager concluded that the subdivision would not alter the general characteristics of the surrounding area and would have no adverse impact to real estate values.

The Board Chairman asked if Mr. Luetschwager reviewed the ownership of abutting undersized lots in the area and determine if the possibility of a replication of facts.

Mr. Luetschwager stated that he did not believe that lots would be separated in this manner today and that individuals selling homes would not sell abutting vacant lots separate from the house lot.

Attorney Harrington then introduced Exhibit 9, a copy of Mr. Luetschwager's real estate report dated June 8, 2007.

Chairman Mulhearn asked if a copy of the report was in the Planning Department file. The Planning Staff responded to the affirmative.

Attorney Harrington then introduced Mr. Richard Bzdyra, PLS, of Ocean State Planners, Inc. Mr. Bzdyra described the survey plan and informed the Planning Board that there was public water available but no public sewer.

Bzdyra further testified that vacant lot 77 would require setback relief from the Zoning Board to build a house. He stated that without setback relief the lot could only support a ten foot wide house.

The Planning Board Chairman asked if there was any other possible resolution to the illegal subdivision other than authorizing the creation of undersized nonconforming lots after the fact. Mulhearn stated that the property owners have remained constant since the illegal subdivision in 1990 and suggested that the two parties get together and resolve the issue between them.

Attorney Harrington responded that the property owners did attempt to resolve the matter and they decided to request the subdivision as a last resort.

Harrington stated that in 1990 Mr. Miale thought that he had purchased a buildable lot that the Lorden's purchased the home and they believe that the additional land is not valuable. Harrington informed the Board that the two parties had made a good faith to resolve the matter away from the Planning Board.

Board member Robinson asked if the vacant lot was being taxed as a buildable lot.

Luetschwager responded that it was assessed as buildable. *(Editors note: The Planning Department subsequently checked the Tax Assessor's Record and determined that the lot is not assessed as a buildable lot.)*

Attorney Harrington informed the Planning Board that the applicants had no objection the planning staff report.

Attorney John Martinelli then introduced Mr. Michael Miale of 7 Hillcrest Avenue Johnston Rhode Island. Mr. Miale testified that his father was not aware that the property was illegally subdivided when he purchased it in 1990. He stated that his father applied to the Zoning Board to build on an undersized lot and that is when he was informed that the property had been illegally subdivided.

Mr. Maile testified that his father has no current plan to build on the lot, that there is no design for a septic system and that there are no sewers available. Mr. Miale suggested that the Planning Board include a stipulation that the lot can not be built on until sewers become available.

With no public comment, the Planning Board then closed the public hearing.

Chairman Mulhearn expressed his concern about approving this illegal subdivision. The chairman stated there was no way of knowing if the previous owner's actions were intentional or a mistake. He further stated that there were probably several thousand examples of merged nonconforming lots that could potentially be illegally divided. He believes that the Planning Board should enforce the City's regulations in order to prevent future applications to authorize the creation of undersized lots and/or illegal subdivisions.

The Planning Board then heard the Planning Department's findings and recommendation.

The Planning Department founds this proposal to be generally consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations; and:

- 1) Generally consistent with the Comprehensive Community Plan.

- 2) In compliance with the standards and provisions of the City's Zoning Ordinance; having received Zoning Board of Review approval (Petition #9493) to create two non-conforming lots with less than the required frontage, lot width and area.
- 3) That there will be no significant negative environmental impacts from the proposed development.
- 4) That the development 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.
- 5) That the proposed development possesses adequate access to a public street.

Planning Department recommendation was to grant preliminary with final approval to be through the Administrative Officer upon compliance with the following stipulations.

- 1) That the final plan shall include the following notations:
  - Show the location of existing utilities (gas, water, electric, etc.) on Balsam Street and Shippen Avenue.
  - Notation regarding wetlands within 200' of the parcel.
  - Note base flood elevation on plan.
  - Topography must be depicted on plan.
  - Location of adjacent houses must be depicted on plan.
  - Show granite bounds to be set.
- 2) That the properties shall be connected to the Warwick Sewer System when it becomes available.

Board member Constantine made the motion, seconded by Mr. Gambardella, to formally adopt the Planning Department's findings and to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the Planning Department's recommended stipulations.

The motion failed four votes in favor with Robinson, Slocum and Mulhearn opposed. Five affirmative votes are required for a subdivision approval.

Solicitor Ruggiero asked the dissenting voters to express their opposition for the record.

Mr. Robinson stated that the application was requesting the Planning Board to approve an illegal subdivision after the fact and that he was opposed to approving illegal actions.

Mr. Slocum stated that he is opposed to creating undersized nonconforming lots. Slocum further stated that the application did not conform to the requirements contained in the City's Zoning Ordinance and Development Regulations for creating new lots.

Mr. Mulhearn was concerned that the Planning Board was being asked to approve an illegal activity thereby allowing the individual who violated the City's regulations to benefit from an illegal act. Mulhearn stated that the current owners should get together and reach an amicable agreement to return the property to its original condition. He further stated that he is concerned that there may be several other properties with similar circumstances and should the Planning Board approve this application it may cause others to apply to do the same.

**Public Meeting**

**Minor Subdivision**

**Carlucci 184 Bend Street**

Applicant:	Richard Carlucci
Location:	184 Bend Street
Assessor's Plat:	337
Lot:	479
Zoning District:	Residential A-7
Land Area:	14,770 square feet
Number of lots:	2
Surveyor:	MJF Engineering Associates
Ward:	5

Attorney John Shekarchi represented the applicant was requesting preliminary approval to raze an existing dwelling and subdivide one 14,770 square foot lot to create two new conforming lots for development in a Residential A-7 Zoning District.

Attorney Shekarchi told the Board that the existing single family home was in dilapidated condition and that the applicant intends to raze the existing structure in order to create two new conforming house lots. The attorney also informed the Planning Board that public sewer, water and gas are available to the site.

Being no public comment, the Planning Board then heard the Planning Department's findings and recommendation.

The Planning Department found the proposal to be generally consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations, and:

- 1) Generally consistent with the Comprehensive Community Plan.
- 2) In compliance with the standards and provisions of the City's Zoning Ordinance.
- 3) That there will be no significant negative environmental impacts from the proposed development.

- 4) That the development 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, and:
- 5) That the proposed subdivision possesses adequate and permanent access to a public street.

### **Planning Department Recommendation**

Planning Department recommendation was to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the following stipulations:

- 1) That the final plan shall include the following notations:
  - Reference source of north arrow.
  - Add a reference bearing note to one line.
  - Show topography on City of Warwick datum (MSL).
  - Show existing building to be removed on lot 479.
  - Add a note that the lowest floor elevation shall be 3' above the maximum seasonal high water table.
  - Add "Final Plan" to the title block.
  - Note purpose of the subdivision.
- 2) Provide a final development plan which shall include proposed new dwellings, all utilities including but not limited to sanitary sewer, water and gas connections and drywells for roof runoff prior to final approval.
- 3) That the applicant shall provide a landscape plan to be approved by the City's Landscape Project Coordinator which shall include a tree protection detail and depict those trees that are to be preserved and protected during construction prior to final approval.

On the motion of Mr. Robinson, seconded by Mr. Slocum, the Planning Board voted six members in favor with Chairman Mulhearn abstaining to formally adopt the Planning Department's findings and to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the Planning Department's recommended stipulations.

**Public Meeting**

**Minor Subdivision**

**Samuelian Plat**

Applicant: Russell Yates  
Location: 39 Loring Road  
Assessor's Plat: 337  
Lots: 479  
Zoning District: Residential A-7  
Land Area: 19,606 square feet  
Number of lots: 2  
Surveyor: David Gardner and Associates, Inc.  
Ward: 4

Attorney K. Joseph Shekarchi represented the applicant and was requesting preliminary approval to subdivide six undersized nonconforming merged lots with an existing dwelling in order to create two conforming lots; one new 9,806 square foot lot with an existing dwelling and one new 9,800 square foot for development in a Residential A-7 Zoning District.

Attorney Joseph Shekarchi explained that the intent of the subdivision was to create two new fully conforming lots. The attorney informed the Board that the applicant was in agreement with the Planning Departments recommended stipulations.

Mr. Carter Thomas asked if the merger would create a problem building on the lots.

Shekarchi informed Mr. Thomas that the proposed new lots would each be in excess of 9,000 square feet one with an existing home and one new lot for development.

Being no further questions or public comment the Planning Board then heard the Planning Department's findings and recommendations.

The Planning Department found the proposal to be generally consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations, and:

- 1) Generally consistent with the Comprehensive Community Plan.
- 2) In compliance with the standards and provisions of the City's Zoning Ordinance.
- 3) That there will be no significant negative environmental impacts from the proposed development.



4) That the development 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, and:

5) That the proposed subdivision possesses adequate and permanent access to a public street.

Planning Department recommendation was to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the following stipulations:

1) That the final plan shall include the following notations:

- Correct Assessor's Plat in title block to reflect AP: 337.
- Depict abutting lots and record information across Loring Road & Mayette Avenue.
- Add a note that the lowest floor elevation shall be 3' above the maximum seasonal high water table.
- Note lot line to be eliminated and proposed new lot lines.
- Correct note #3 on the preliminary subdivision plan to reflect correct lot 410- 412.
- Note purpose of the subdivision.

2) That the developer shall plant one street tree, size, type and location to be approved by the City's Landscape Project Coordinator, on proposed lot #2 along the frontage of Loring Road.

3) That both the existing and proposed dwellings shall be connected to the Warwick Sewer System, prior to the issuance of a Certificate of Occupancy (CO.)

On the motion of Mr. Iacobucci, seconded by Mr. Gambardella, the Planning Board voted six in favor with Mr. Slocum abstaining to formally adopt the Planning Department's findings and to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the Planning Department's recommended stipulations.

**Public Hearing**

**Major Land Development Project**

**Residences at Ives Bluff**

Applicant:	Ives Bluff, LLC.
Location:	Old Forge Road
Assessor's Plat:	209
Lot(s):	1 & 6
Zoning District:	Planned District Residential (PDR) A-10/A-40
Land Area:	15.5 Acres
Number of lots:	2
Engineer:	S.F.M. Engineering Associates
Ward:	9

Attorney John C. Revens represented the applicant and was requesting preliminary approval of a Major Land Development Project to construct eight single-family residential structures on one lot in a Planned District Residential (PDR) A-10/A-40 zoning district and in accordance with PCO-7-06 (as amended).

Attorney Revens explained that the Planning Board granted master plan approval which was appealed to the Zoning Board of Appeals which upheld the Planning Board approval.

Revens also informed the Board that the owners had subdivided the property and sold a portion of to the City to be preserved as open space. The result of this transaction was to reduce the development from ten residential units to eight residential units on the remaining property.

The attorney addressed the Planning Department's stipulations agreeing with all except the elimination of the proposed swimming pool.

Attorney Revens then introduced Mr. Scott Moorhead, Project Engineer, of S.F.M. Engineering. Mr. Moorhead explained that the most recent master plan proposal included a pool with a parking lot and that the applicants have eliminated the parking lot and enhanced the landscaping around the pool in order to screen it from the roadway and abutting properties.

Moorhead also informed the Board that the project had received an updated ISDS approval, updated RIDEM Water Quality Certificate, RIDOT Physical Alteration Permit and that CRMC was finalizing a revised assent for the project.

Board member Slocum asked if the applicants considered removing the swimming pool.

Attorney Revens responded that applicants wanted the pool because it provided an amenity for the development. Revens explained that the project was a high end development and that they needed to provide an amenity for the people who would be living there. Revens continued to

explain that the applicants had already eliminated the parking lot and a pool cabana but needed to keep the pool.

Board member asked if the condominium association would be responsible for maintaining the pool. Revens responded to the affirmative.

Revens further explained that over time the development had been reduced from 42 units to 28 units and finally to eight units. He stated that the pool was necessary to enhance the value of the development.

Revens submitted a new revised landscape plan for the record intended to address the Planning Department's comments.

Being no further testimony or public comment, the Planning Board then heard the Planning Department's findings and recommendation.

The Planning Department found the proposal to be generally consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations, and:

- 1) Generally consistent with the Comprehensive Community Plan.
- 2) In compliance with the standards and provisions of the City's Zoning Ordinance PCO-7-06, as amended.
- 3) That there will be no significant negative environmental impacts from the proposed development.
- 4) That the development 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.
- 5) That the proposed development possesses adequate access to a public street.

Planning Department recommendation was to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the following stipulations:

- 1) That a water connection plan including a meter pit detail, tapping sleeve and valve details, separate curb stops and dual back flow devices for each building shall be approved by the Warwick Water Division, prior to final approval.
- 2) That the proposed in-ground swimming pool, pool cabana maintenance building and associated parking area shall be eliminated from the development in that they were not contained in the original development proposal and are not in character with the surrounding area.

- 3) That the landscape plan shall be amended to include supplemental plantings along the water quality basin located at the northeasterly corner of the development and adjacent to building #8, that the vegetated buffer and screen located along the easterly property line shall be extended from the southerly end of the proposed retaining wall in a southerly direction along the abutting property lines of lots 24 and 23 approximately 35 feet to the three white spruce trees.

On the motion of Mr. Robinson, seconded by Mr. Constantine, the Planning Board voted unanimously to formally adopt the Planning Department's findings and to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the planning Department's recommended stipulations except stipulation 2 which shall be eliminated.

### **Public Hearing**

### **Major Subdivision**

### **Verndale Street**

**Applicant:** North End Realty, LLC  
**Location:** 100 Verndale Street  
**Assessor's Plat:** 339  
**Lot:** 119 & 291  
**Zoning District:** Residential A-7  
**Land Area:** 16,008 square feet  
**Number of lots:** 2  
**Engineer:** Flynn Surveys, Inc.  
**Ward:** 5

Attorney John Shekarchi represented the applicant and was requesting master plan approval to raze an existing dwelling and subdivide two merged lots to create two new nonconforming lots for development with less than the required frontage and lot width in a Residential A-7 Zoning District.

Attorney Shekarchi explained that the Planning Board granted master plan approval for a two-family dwelling on the property in March 2007 but that the neighbors opposed the two family dwelling and would prefer to have two single family dwellings on the property. Shekarchi informed the Board that the owner met with the neighbors and agreed to apply for a major subdivision in an effort to please the neighbors.

Attorney Shekarchi introduced Mr. Edward Pimental, Certified Planner, who presented a written report which was submitted as Exhibit 1 for the record.

The Planning Board then opened the meeting to public comment.

Mr. and Mrs. Frye of 101 Verndale Street stated that they live directly across the street from the property and preferred to have single family homes.

Mr. Jason Buchanan of 92 Verndale Street was concerned about a proposed deck being located within five feet from his property line. Mr. Buchanan asked that the deck be moved to the opposite side of the house and that there be no windows located on the northeasterly side of the house abutting his property.

Mr. Jeff Goviere of 87 Kenwood Avenue asked if the homes would be owner occupied.

The applicant responded that he intended to sell the homes as owner occupied but that there was no guarantee that new owners would not rent the homes.

Mr. Chofay the applicant stated that he had no objection to moving the deck, eliminating windows and installing a fence around the parameter of the property.

Being no further questions or public comment the Planning Board closed the public meeting and heard the Planning Department's findings and recommendation.

The Planning Department found the proposal to be generally consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations, and:

- 1) Consistent with the Comprehensive Community Plan.
- 2) **Not** in compliance with the standards and provisions of the City's Zoning Ordinance. The proposed lots exceed the required minimum area but do not conform to the minimum frontage and lot width. The City's Zoning Ordinance requires 70' frontage and lot width and the proposed subdivision consists of 40' frontage and lot width.
- 3) That there will be no significant negative environmental impacts from the proposed development.
- 4) That the development 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.
- 5) That the proposed development possesses adequate access to a public street.

Therefore the Planning Department recommendation was to grant master plan approval with the following stipulations:

- 1) That the developer shall receive Zoning Board of Review approval to have two lots with less than the required frontage and lot width.

- 2) That the oak tree located on “Parcel A” should be preserved and protected with drip-line tree protection during construction. Should preservation of the tree not be feasible the developer shall plant two, 2 1/2” caliper street trees within the Verndale Street right-of-way; type of tree and location to be approved by the City’s Landscape Project Coordinator.
- 3) That a six foot (6’) stockade fence shall be erected along the abutting side property lines of lots 116, 120 and 124 in a southerly direction from approximately the rear of the proposed new dwellings to the rear property line and then along the rear property lines of the proposed new lots.
- 4) That both dwellings shall be connected to the Warwick Sewer System.
- 5) That the proposed new dwelling on parcel “A” shall have no windows along the northeasterly side facing 92 Verndale Street.
- 6) That the proposed deck on Parcel “A” shall be relocated to the westerly side of the new dwelling, away from 92 Verndale Street.

On the motion of Mr. Constantine, seconded by Mr. Gambardella, the Planning Board voted six in favor with Mr. Mulhearn abstaining to formally adopt the Planning Department’s findings and to grant master plan approval with the Planning Department’s recommended stipulations.

**Public Hearing**

**Major Land Development Project**

Texas Roadhouse Restaurant

Applicant:	Texas Roadhouse Holdings, LLC
Location:	1200 Quaker Lane
Assessor’s Plat:	215
Lot(s):	002, 023
Zoning District:	GB-R (General Business, with Restrictions)
Land Area:	27 +/- acres
Number of lots:	2
Engineer:	WD Partners
Ward:	9

Attorney Daniel Flaherty represented the applicant and was requesting preliminary approval of a Major Land Development Project for the construction a new 7,135 square foot restaurant within the existing parking facilities at the Showcase Cinema.

Attorney Flaherty explained that the proposed land use is in conformance with the surrounding area and that there are three restaurants located in the plaza directly across Division Street. He further explained that the subject parcel consists of more than 27 acres and there is sufficient parking, 1300 existing spaces, while 1025 spaces are required. Flaherty also informed the Board that the applicant had performed a traffic analysis which determined no adverse effect on the existing roadways and traffic pattern in the surrounding area. Flaherty concluded his presentation by telling the Planning Board that Showcase Cinema would continue to maintain a police detail and manual traffic control at the request of the Town of East Greenwich.

Being no questions or public comment the Planning Board closed the public hearing and heard the Planning Department's findings and recommendation.

The Planning Department found the proposal to be generally consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations and,

- 1) Generally consistent with the Comprehensive Community Plan.
- 2) In compliance with the standards and provisions of City Council Zone Change, PCO-1-97 (as amended).
- 3) That there will be no significant negative environmental impacts from the proposed development.
- 4) That the development 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.
- 5) That the proposed development possesses adequate access to a public street.

Planning Department recommendation was to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the following stipulations:

- 1) That the applicant shall receive approval from the Kent County Water Authority and the West Warwick Sewer Authority which shall include a recorded easement and use agreement from National Amusements to allow the sewer connection prior to obtaining a building permit.
- 2) The applicant shall provide an adequate number of hydrants, spaced 300 feet apart and providing a minimum of 1000 gallons per minute (GPM). All sprinkled buildings shall have a hydrant within 100 feet of the Fire Department Connection (FDC).
- 3) That the existing manual traffic control be maintained as requested in a February 22, 2007 letter from the East Greenwich Town Manager.

On the motion of Mr. Slocum, seconded by Mr. Iacobucci, the Planning Board voted unanimously to formally adopt the Planning Department's findings and to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the Planning Department's recommended stipulations.

**Public Hearing**

**Major Subdivision**

**472 Warwick Avenue**

Applicant:	Mike DiDomenico & Denis DiMassion
Location:	472 Warwick Avenue & Vickery Avenue
Assessor's Plat:	290
Lot(s):	159
Zoning District:	General Business and Residential A-7
Land Area:	31,248 square feet
Number of lots:	3
Engineer:	Joe Casali Engineering, Inc.
Ward:	1

The applicant was requesting preliminary approval of a major subdivision to subdivide one lot to create three new lots, two conforming lots with a single-family dwelling on each lot and one nonconforming lot with less than the required frontage and lot width having two existing structures with less than the required setbacks.

The applicant's representative stated that the project received master plan approval and Zoning Board of Review approval. They further stated that the applicant was in agreement with the Planning Department's recommendation.

Mr. Joseph Lombardo, Certified Planner, submitted a report concluding that the proposed development was in conformance with the City's Comprehensive Plan, Development Review Regulations and Zoning Ordinance.

Ms. Andrews P.E. of Casali Engineering informed the Planning Board that the proposal had received Zoning Board approval and that the development would be connected to public sewer and water. Ms. Andrews further stated the development would consist of two single family homes, does not require State of Rhode Island permits and would result in a decrease in drainage.

Being no questions or public comment, the Planning Board closed the public hearing and heard the Planning Department's findings and recommendation.

The Planning Department found the proposal to be generally consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations; and:



- 1) Generally consistent with the Comprehensive Community Plan.
- 2) In compliance with the standards and provisions of the City's Zoning Ordinance; having received Zoning Board of Review approval Petition #9539 to create one nonconforming lot with less than the required frontage and lot width said lot having two existing structures with less than the required setbacks.
- 3) That there will be no significant negative environmental impacts from the proposed development.
- 4) That the development 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.
- 5) That the proposed development possesses adequate access to a public street.

Planning Department recommendation was to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the following stipulations:

- 1) That any use other than a single-family dwelling for proposed "Lot A" shall require Zoning Board of Review approval.
- 2) That Note 2 on plan sheet 6 must be revised to remove the reference to duplex units and reflect the current proposal.
- 3) That the applicant shall plant one new street tree 2 ½ inches in caliper to be approved by the City's Landscape Project Coordinator along the front of new lot "B" and lot "C" within the City right-of-way, prior to the issuance of a Certificate of Occupancy (CO).
- 4) That the existing building and proposed new dwellings shall be connected to the Warwick Sewer System, prior to the issuance of a Certificate of Occupancy (CO)

On the motion of Mr. Gambardella, seconded by Mr. Iacobucci, the Planning Board voted unanimously to formally adopt the Planning Department's findings and to grant preliminary approval with final approval to be through the Administrative Officer upon compliance with the Planning Department's recommended stipulations.

## Public Meeting

### Request for an Extension

#### **Pontiac Mill Phase II**

**Applicant:** Gillespie and Company Inc.  
**Location:** 334 Knight Street  
**Assessor's Plat:** 274  
**Lot(s):** 180, 182 and 204  
**Zoning District:** Office Planned Unit Development (PUD)  
**Land Area:** 17.35 Acres  
**Number of lots:** NA  
**Engineer:** Crossman Engineering, Inc.  
**Ward:** 8

Mr. Doug Allam P.E. of Crossman Engineering represented the applicant and was requesting a second extension of a preliminary approval of Pontiac Mills Phase II to establish a mixed use development which includes the rehabilitation of existing mill buildings for residential use, retail shops, restaurants and hospitality. The approval was originally granted on August 3, 2005 and extended by the Planning Board to August 3, 2007.

The Planning Department found the following:

- 1) The project is consistent with the Comprehensive Plan, and the Comprehensive Plan has not changed substantially since the time of the original application as it would apply to this project.
- 2) The Development Review Regulations, the Zoning Ordinance, and all applicable state and federal regulations are substantially the same as they were at the time of the original application, as they would apply to this project.
- 3) The Zoning Map designation for the subdivision has not changed since the time of the original application.
- 4) No substantial change to the physical conditions of the subdivision or the neighboring property has occurred since the time of the original application.

The Planning Department recommendation was to grant the requested extension to expire on August 3, 2008.

On the motion of Mr. Slocum, seconded by Mr. Iacobucci, the Planning Board voted unanimously to formally adopt the Planning Department's findings and to grant the requested extension to expire on August 3, 2008.

**Public Hearing**

**Major Subdivision**

**Pickett Plat**

**Applicant:** Russell Yates  
**Location:** 142 Church Avenue  
**Assessor's Plat:** 337  
**Lot(s):** 84, 85, 86 & 87  
**Zoning District:** Residential A-7  
**Land Area:** 12,507 square feet  
**Number of lots:** 2  
**Engineer:** David Gardner and Associates  
**Ward:** 5

Attorney K. Joseph Shekarchi represented the applicant and was requesting master plan approval to subdivide four merged lots with an existing dwelling to create two lots, one undersized nonconforming lot with an existing dwelling, and one undersized nonconforming lot for development in a residential A-7 Zoning District.

Attorney Shekarchi explained that Ms. Jennie Frost Pickett is the property owner and that the property has been owned by the Pickett family since the 1920's. He explained that Ms. Pickett wanted to subdivide the property and sell a vacant lot for construction of a new home. He explained that Ms. Pickett's expenses exceed her income and that her property is currently scheduled for tax sale. He further explained that she has a line of credit on the home that increased from 200/month to 500/month and this burden is too much for her to afford.

Attorney Shekarchi presented Exhibit 1, a Tax Collector's letter agreeing to postpone the sale until the subdivision is approved.

Shekarchi presented Exhibit's 2 and 3, a neighborhood petition of no objection to creating a 6,400 square foot lot for development.

Shekarchi explained that the property once consisted of more land but that the State of Rhode Island took 500 square feet to widen Church Avenue. He stated that the property is now only 600 square feet short of the minimum requirement for the proposed new lot for development.

The attorney informed the Planning Board that there was formally a house on the proposed new lot approximately 87 years ago.

The attorney then presented Exhibit 4, a letter from a former resident attesting to the existence of a house on the lot and Exhibit 5, a page 61 from a pictorial history book showing a picture of the former house on the lot.

Attorney Shekarchi concluded his presentation by providing Exhibit 6, a copy of the 1934 tax record for the property showing the existence of a home on the rear of the property.

The Planning Board then opened public comment.

Mr. Richard Pelletier of 150 Church Avenue asked if the lot would require Zoning Board approval prior to construction.

Chairman Mulhearn explained the approval process. That the property requires master plan approval by the Planning Board, Zoning Board of Review approval followed by Planning Board preliminary approval and final approval.

Being no further questions or public comment the Planning Board then closed the public meeting and heard the Planning Department's findings and recommendation.

The Planning Department found the proposal to **not to be generally** consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations, and:

- 1) **Not** consistent with the Comprehensive Community Plan. The Comprehensive Plan Land Use Element does not support the creation of undersized lots.
- 2) **Not** in compliance with the standards and provisions of the City's Zoning Ordinance. Zoning Section 405.3 (B) "Subdivision of merged lots" requires that resulting lots shall conform to the minimum area requirement.
- 3) That there will be no significant negative environmental impacts from the proposed development.
- 4) That the development 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, and:
- 5) That the proposed development possesses adequate and permanent access to a public street.

Planning Department recommendation was to deny the master plan.

Prior to entertaining a motion the Planning Board asked the City Solicitor for his opinion regarding a merger of the lots and if the proposed subdivision was in compliance with Section 405.3 of the City's Zoning Ordinance.

The Solicitor informed the Board that the lots were considered merged and that the proposal to create undersized lots was not in conformance with Zoning Section 405.3 otherwise the applicant would not be required to apply for a variance from Zoning Board of Review.

On the motion of Mr. Constantine, seconded by Mr. Robinson, the Planning Board voted four in favor with Mr. Thomas and Mr. Iacobucci opposed and Mr. Slocum abstaining to formally adopt the Planning Department's findings and to deny master plan approval.

### **Administrative Subdivisions**

The Planning Staff presented the following Administrative Subdivisions for informational purposes.

Carlton Avenue	Plat: 378	Lots: 25 & 26
Heights Avenue	Plat: 335	Lots: 22 & 23
Lambert Lind Highway	Plat: 271	Lots: 167 & 169
Beachwood Drive	Plat: 203	Lots: 186, 187 & 322

Being no further business the meeting was adjourned at 8:20 PM.