



## EAST PROVIDENCE WATERFRONT DISTRICT COMMISSION

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### Hearing Panel Meeting Minutes February 21, 2019

*Attendees:* Steven Hardcastle, Chair  
William Fazioli  
Paul Moura  
Peter Willey  
Jay Kern

*Staff:* Pamela M. Sherrill, AICP, Executive Director

*Legal Counsel:* Rhiannon Campbell, Hinckley, Allen & Snyder

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The chair called the meeting to order following the adjournment of the Design Review Committee hearing, and confirmed quorum.

#### **A. Old Business**

Unanimous vote to approve the minutes of November 15, 2018, motioned by Mr. Moura and seconded by Mr. Fazioli.

#### **B. New Business**

- i. **Vote:** Public hearing to consider a request for an advisory opinion to the Waterfront Commission regarding requested deviations for The Residences at Bold Point from the requirement that 10% of units on-site be affordable and that deed restrictions for off-site affordable housing be 30 and not 40 years.

Applicant: PKL Ventures LLC  
Owner: East Providence Properties, LLC  
Location: 30 Veterans Memorial Parkway  
Assessor's: Map 016, Block 06, Lot 001  
Zoning: Bold Point Sub-district

Kent Lorenz, PKL Ventures LLC ("PKL"), explained that he understands the need for affordable housing but that escalation of construction cost makes it hard to self-manage a portfolio when it doesn't pencil out. He is willing to work with the city in a collaborative process to purchase two units of housing off site for development of low- to moderate-income rental housing to be secured by deed restriction. He is actively looking to purchase an existing vacant residential structure to provide two off-site affordable housing units and is currently doing due diligence investigations on several properties. Robert Stolzman, attorney for PKL, indicated that his client has undertaken a good faith search for property for off-site affordable "alternate" housing and is prepared to pay the in-lieu fee totaling \$116,000 to the East Providence Waterfront Commission Affordable Housing Fund for 2.2 units in accordance with the 2017 determination by RI Housing of \$53,000 per unit. Thereafter, his client will request that this amount be paid from the Commission to PKL as part of financing for the alternate site as a "subsidy" that, together with monitoring to assure compliance with Housing and Urban Development regulations, and deed restrictions

for 30 years, will qualify two units for the annual tabulation of low and moderate income housing in East Providence.

Commissioners expressed support for this creative strategy.

Ms. Campbell, Waterfront Commission legal counsel, clarified that two deviations are being requested: that 10% affordable housing not be provided on site, and that the deed restriction be reduced from 40 years to 30 years.

No public comment was made.

Ms. Sherrill read the findings and conditions of the draft resolution into the record:

1. The Commission finds that the low- to moderate-income housing (LMIH) Deviation is appropriate under Section 19-485(3) of the Ordinances because the Applicant demonstrated through substantial competent testimony that the Project construction costs, the use of the Project site for development, the Applicant's self-management of the Project, the architectural detail proposed for the Project, and the price differential between affordable units at the Project site and alternative sites are such that affordable units are impractical at the Project site and better suited for an alternate property.

2. Pursuant to the Ordinances, in exchange for the Commission granting the LMIH Deviation, the Applicant is obligated to pay to the Commission a payment-in-lieu fee of an amount equal to \$53,000 per unit for affordable units comprising up to 10% of all the units in the Project. The Applicant also is obligated to pay a fractional in-lieu fee in an amount equal to the balance of the 10% affordable units requirement. The Project would require 2.2 affordable units, requiring a payment-in-lieu of \$116,000. The \$106,000 payment-in-lieu fee plus the \$10,600 fractional in-lieu fee (totaling \$116,600) are collectively referred to as the "Payment In Lieu." Applicant shall pay the Payment In Lieu in accordance with the Ordinances. The Executive Director shall deposit the Payment In Lieu into the East Providence Waterfront District Commission Affordable Housing Fund.

3. The Commission understands that the Applicant seeks to identify, locate, acquire, improve and provide no less than two (2) affordable units at an alternative property located within the City of East Providence (the "Alternate Property").

4. The Commission intends to use the Payment In Lieu to assist in funding the construction of two (2) affordable units to be constructed by the Applicant at the Alternate Property. The Applicant must request this funding from the Commission. Distribution of in-lieu funds shall require the approval of the Commission. Any award of funding from the Commission must meet the following criteria: affordable housing shall meet the definition of affordable as established by the US Department of Housing and Urban Development (HUD); affordable housing units shall be created either through the construction of new affordable units or the renovation of existing housing stock; and annual compliance monitoring shall be conducted by the East Providence Community

Development Division or other agency approved by HUD. In making its determination, the Commission shall consider the location of the proposed development, housing type (rental or for sale units) and other on-site mixed use development, targeted low income market (<80% LMI for rental or <120% LMI for sales) and zoning.

5. Should the Commission decide to award the payment In Lieu to the Applicant for the development of affordable housing at the Alternate Property, any such distribution of the payment In Lieu funds shall not be made before the Applicant pays the payment In Lieu to the East Providence Waterfront District Commission Affordable Housing Fund.

6. If the Applicant does not acquire the Alternate Property and dedicate thereon at least two (2) affordable units by deed restriction within twelve (12) months from the date hereof the Commission will elect to use the Payment In Lieu for other purposes in accordance with the Ordinances.

7. The Commission grants the requested Deed Deviation for the construction of two (2) affordable units at the Alternate Property. Affordable units constructed at the Alternate Property shall be required to maintain affordability for a period of thirty (30) years. The remaining provision of Section 19-485(10) remain applicable to any affordable units constructed at the Alternate Property.

On a motion by Mr. Moura and seconded by Mr. Kern, the Hearing Panel voted to send a positive advisory opinion to the Waterfront Commission as defined in the Resolution of the East Providence Waterfront Special Development District Commission by unanimous vote: Mr. Fazioli – Aye Mr. Moura – Aye Mr. Kern – Aye Mr. Willey – Aye Chair votes - Aye

- ii. **Vote:** Public hearing to consider a request for an advisory opinion to the Waterfront Commission regarding Flex Tech as a conditional use for the entire building at 89 Valley Street, including a proposed wine distribution business.

Applicant:	James and Dorothy Moore
Owner:	Almor Corporation
Location:	89 Valley Street
Assessor's:	Map 106, Block 01, Lot 008
Zoning:	Crook Point Sub-district

James Moore, applicant, currently has the vacant property under contract and intends to lease a minority portion of the 7,800 sf building for wine warehouse and distribution. He anticipates the business will employ three, typically one on site at a time with limited truck trips. Flex Tech use is consistent with industrial use on Valley Street as demonstrated by a narrative of use for Valley Street businesses submitted as an exhibit. He indicated that 99% of Valley Street properties have industrial uses in industrial-style buildings that are difficult to repurpose. He is supportive of the Waterfront Plan for the Crook Point sub-district and looks forward to working with the Commission in future transformation of this area.

Ms. Sherrill read findings presented in her February 12, 2019 Planner's Report indicating consistency with Sec. 19-479(e) of the zoning ordinance and demonstrating how the proposed conditional use addresses Sec. 19-479(g) considerations.

On a motion by Mr. Moura and seconded by Mr. Kern, the Hearing Panel voted unanimously to send a positive advisory opinion to the Waterfront Commission regarding Flex Tech as a conditional use for the entire building at 89 Valley Street, including a proposed wine distribution business, subject to installation of an EAS lock box for emergency access by the Fire Department and that leases for future tenants be consistent with Flex Tech use:  
Mr. Fazioli – Aye Mr. Moura – Aye Mr. Kern – Aye Mr. Willey – Aye Chair votes - Aye

- iii. **VOTE:** On a motion by Mr. Fazioli, seconded by Mr. Moura, the Hearing Panel voted unanimously to adjourn.

Respectfully submitted,

PAMELA M. SHERRILL, AICP  
*Executive Director*