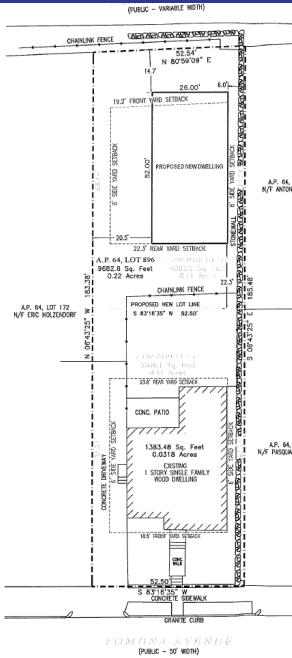


Providence City Plan Commission

November 14, 2023



AGENDA ITEM 9 ■ 53 POMONA AVE



View from Pomona Ave



Aerial view of the site

Proposed subdivision

OWNER/APPLICANT: Michael Kelly

PROJECT DESCRIPTION: The applicant is proposing to subdivide the lot which measures approximately 9,682 SF into two lots of 5,000 SF and 4,682 SF. Pursuant to unified development review, the applicant is seeking relief from section 402 for minimum lot size.

CASE NO./PROJECT TYPE: 22-054 UDR—Minor Subdivision with Unified Development Review

PROJECT LOCATION: 53 Pomona
AP 64 Lot 896
R-2 zoning district

RECOMMENDATION: Approval of preliminary plan and dimensional variances

NEIGHBORHOOD: Mt Pleasant

PROJECT PLANNER: Choyon Manjrekar

DISCUSSION—Dimensional Relief

The subject lot measures approximately 9,682 SF and is occupied by a one family dwelling. The applicant is proposing to subdivide the lot into two lots of 5,000 SF and 4,682 SF. The applicant had applied for an administrative modification for the proposed lot sizes, one of which is within 10% of the 5,000 SF minimum, but an objection was received from an abutter. Therefore, the applicant is seeking relief from the minimum lot size requirement to subdivide the lots as proposed pursuant to Unified Development Review (UDR).

Findings—Dimensional Variance

Section 1902 of the zoning ordinance requires that the CPC find evidence of the following standards in order to grant a variance:

1. *That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in Rhode Island General Laws §45-24-30 (16).*

The subject property is unique as the lot's area is within 10% of the 5,000 SF minimum required for subdivision by right, and may be subdivided through an administrative modification which does not require the level of findings for a variance. The applicant is seeking relief as the modification was objected to, not due to a physical or economic disability.

2. *That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.*

Denial of the request would result in a hardship as it would prevent subdivision of the lot, which as discussed, is eligible for subdivision through an administrative modification due to its unique character. The subdivision does not appear to be intended for financial gain as the two proposed lots would not exceed the density permitted by the ordinance.

3. *That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan.*

The future land use map of the comprehensive plan identifies this area as one intended for low density residential development, characterized by one to two family dwellings on lots that measure between 3,200 to 5,000 SF. The subdivision would result in two lots that conform to this description, and the intent of the comprehensive plan. Lots of a similar size and width as those proposed can be observed in the vicinity, therefore, a negative effect on neighborhood character is not expected.

4. *That the relief to be granted is the least relief necessary.*

The relief to be granted is the least necessary as the lot with the existing house will meet the 5,000 SF minimum, with relief only required for the smaller lot. Given the unique characteristics of the property, compliance of the larger lot, and the applicant's hardship, the relief requested would be the least necessary to allow for subdivision into two lots.

5. *In addition, the City Plan Commission, as part of unified development review, requires that evidence be entered into the record of the proceedings showing that In granting a dimensional variance, the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted will amount to more than a mere inconvenience.*

Denial of the requested relief would prevent subdivision of the lot, which would amount to more than a mere inconvenience.

RECOMMENDATION—Dimensional Variance

Based on the foregoing discussion, the DPD recommends that the CPC approve the requested relief from the minimum lot size requirement.

FINDINGS—Minor Subdivision

Section 806 of the Commission's *Development Review Regulations* requires that the City Plan Commission make the following findings a part of their approval of all land development project applications. Based on the analysis contained herein and subject to the conditions contained in this report, staff has prepared the following findings regarding the request for approval of the Preliminary Plan stage:

1. *Consistency—The proposed development is consistent with the Comprehensive Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.*

The subject property is located in an area that the future land use map of Providence Tomorrow has designated for low density residential development. These areas are intended for residential uses characterized by one to two family dwellings in detached structures on separate lots ranging between 3,200 to 5,000 SF. The lots created through the subdivision would conform to the type of development envisioned by the plan and would be in character with the surrounding neighborhood and the land use pattern envisioned by the plan.

2. *Compliance with Zoning Ordinance—The proposed development is in compliance with the standards and provisions of the Zoning Ordinance.*

The subdivision will conform to the ordinance subject to the CPC granting relief from the minimum lot size requirement as no other dimensional relief is required.

3. *Environmental Impact—There will be no significant environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.*

It does not appear that the subdivision will pose a significant negative environmental impact as the applicant is required to comply with applicable environmental regulations.

4. *Buildable Lot—The subdivision or development project, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.*

A significant tree is located close to the center of the proposed new lot fronting on Amity Street and could affect its development. Per section 1503.B of the ordinance, the applicant requires the City Forester's permission to remove the tree. The Forester must find that one of three conditions exist in order to approve the removal of a significant tree:

- The tree is in poor health or diseased with an expected life span less than two years.
- The removal of the tree is unavoidable because the tree poses a danger to property or human health, safety, and welfare.
- The tree prevents the property owner from developing the property in conformance with this ordinance, and there are no alternatives to removal of the tree. In this case, the City Forester shall not approve removal of the tree until a permit for new construction has been approved.

If the Forester denies the tree removal, the applicant will need to seek other alternatives to development of the site.

5. *Street Access—All proposed development projects and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.*

Adequate street access is provided from Pomona and Amity streets.

RECOMMENDATION—Minor Subdivision

Based on the analysis and findings contained in this report, the CPC should vote to approve the preliminary plan pursuant to dimensional relief being granted through unified development review. The plan should be approved subject to the following conditions:

1. The applicant shall secure City Forester approval prior to removal of the significant tree.
2. The validity of the preliminary plan should be extended by one year in response to a written request submitted by the applicant because the statutory timeframe of 90 days is too short to fulfill the conditions of approval.
3. Final plan approval should be delegated to DPD staff.