

MINUTES

April 2, 2019

Chairman Smith called the City Plan Commission Meeting to order at 6:40 p.m. in the City Council Chamber.

The following Commission members were in attendance:

Michael Smith, Chairman	Kathleen Lanphear
Fred Vincent	Ann Marie Maccarone
Ken Mason, P.E.	Robert DiStefano
Robert Strom	Joseph Morales

Also present were: Jason M. Pezzullo, AICP, Planning Director
Stephen Marsella, Esq., Assistant City Solicitor
Douglas McLean, AICP, Principal Planner
Joshua Berry, AICP, Senior Planner
J. Resnick, Clerk

APPROVAL OF MINUTES

Upon motion made by Mr. DiStefano and seconded by Mr. Mason, the Commission unanimously voted (8/0) to approve the minutes of the March 5, 2019, Plan Commission Meeting.

SUBDIVISION AND LAND DEVELOPMENTS

Whiting Street Minor Subdivision (Continued from 1/8, 2/5, & 3/5)

Preliminary Plan – Minor Subdivision with street extension
Applicant seeks to improve and connect the final segment of Whiting Street
Five (5) additional single-family house lots are proposed
AP 12-4, Lots 1065-1070 & 1105, 110

The property owner, Whiting Development, LLC, is proposing to combine/subdivide eight existing nonconforming lots into 5 conforming lots in an A-6 zoning district and construct roughly 126 linear feet of roadway to connect Whiting Street between Randall Street to the north and Bellevue Drive to the south. The total area of the 8 existing lots is 32,000 ft² or 0.73 acres. The subject properties are currently wooded and undeveloped. The A-6 zoning allows for single-family residential homes on lots that have a minimum of 60' of frontage and 6,000 ft² of land area. All of the proposed lots will meet or exceed these minimum zoning requirements. All of the proposed new lots will be serviced by public water and sewer. The proposed project is allowed by-right per City Zoning Ordinance and is consistent with the Comprehensive Plan Future Land Use Map allocation of [Single Family Residential 7.26 to 3.64 units / acre] with a proposed density of 6.85 units / acre.

Attorney Nick Goodier stated that the applicant has addressed the Department of Public Works concerns regarding water runoff in the area by amending their plan to add greater stormwater drainage storage

than would otherwise be required by the City. Eight additional drainage chambers have been added to the original required 16 for a 50% overall increase in storage capacity onsite. He stated that maintenance of these systems would be the responsibility of the individual homeowners. If these homeowners fail to properly maintain these systems, the City's DPW could perform the necessary work and place a lien on the subject property for the cost of this maintenance.

Mr. Timothy Behan, P.E., Commonwealth Engineers, stated that the original plan has met the City's requirement for stormwater management. He also stated that all retaining walls are less than four ft. tall, in keeping with the RIDOT standard. He also stated that rear retaining walls will be necessary for home construction with sloping land.

Ms. Ann Blackmar, 155 Whiting St., stated that she does not object to the four new homes. Her concern is that the "water problem from Garden Vista Condominiums that has not been addressed". She was also concerned about the possibility that the proposed roadway extension could cause another gas leak in the neighborhood. She also expressed concern about the type of fill that will be used in the construction of the lots as well as with the opening of the dead-end roadway. She stated that she does not feel that the subdivision as proposed is a good plan. He also questioned who would maintain these public improvements post construction.

Public Works Director, Ken Mason, stated that the developer has been in contact with the developer of the Garden Vista Condominiums and the abutting property owners. The problem is that 1) the two catch basins constructed on the western portion of the Garden Vista Condominiums development are not accepting the stormwater flow. He stated that this is likely due to siltation buildup during construction of the project and can be cleaned out to correct the problem. In addition, he stated that the southeast infiltration galley's on the southeast portion this development will be doubled to intercept more stormwater flow.

Mr. Dave Capuano, 163 Whiting St., presented a video of flowing water on his property during a heavy rain event. He stated that nothing has been done to correct this stormwater issue from the Garden Vista Condominiums. Mr. Ken Boch, developer of the Garden Vista Condominiums has communicated through Mr. Mason that he isn't quite sure what is causing this particular problem in Mr. Capuano's backyard. Mr. Capuano stated that there is no guarantee that the proposed stormwater solutions will work. He also expressed concern about the potential for cut-through traffic trips and concluded by stating that he has no faith that the City will take any responsibility.

Mr. Nicholas Goyette, Cornell St., stated that he is in agreement with his neighbors. He stated that he presently gets water in his basement and is also concerned with cut-through vehicle trips on the adjacent roadway to the north of his home.

Mr. Berry then gave the Plan Department's recommendation and conditions of approval. Mr. Vincent asked if a \$72,500 performance bond is sufficient should there be serious erosion issues. Mr. Mason stated that the performance bond has nothing to do with the individual galley systems because they will be owned and maintained on private property. He stated that the performance bond is only for public improvements meaning the Whiting Street roadway connection. Mr. Goodier stated that all of the proposed lots will have a recorded maintenance agreement for the stormwater collection galleys. Mr. Mason stated that as far as stormwater runoff from Whiting Street, everything is surface flow. All the stormwater runs down the shoulder of these roadways to a catch basin in Atwood Avenue discharging into Randall Pond.

Ms. Lanphear asked Mr. Behan if he had been to the site and responded that he had not. He stated that and stormwater runoff from the Garden Vista Condominiums will not cross the roadway and affect the proposed subdivision lots on the south side of Whiting Street. He stated that he has no concern about stormwater runoff affecting the proposed new homes. He further stated that older homes in the neighborhood do not have drywells and are shedding stormwater onto abutting properties. He stated that

better drainage plans are now required to capture this stormwater onsite and that the proposed subdivision reflects the stormwater best management practices. In addition, the DPW had required the applicant to go 50% beyond the standard for stormwater retention onsite as shown on the revised Preliminary Plan set.

Mr. Strom expressed trepidation moving forward with the proposed subdivision and expressed concern about potential blasting for the Whiting Street extension. Mr. Smith stated that although there may not be additional stormwater runoffs issues, the proposed subdivision could still potentially create runoff issues for the surrounding neighborhood.

Upon motion made by Mr. DiStefano and seconded by Mr. Strom, the Commission unanimously voted 8/0 to close public comments.

Mr. Vincent stated that the Findings of Fact presented by planning staff to the commission, denoted below, are insufficient, particularly items 7 and 8. Upon motion made by Mr. Strom and seconded by Mr. DiStefano, the Plan Commission voted (7/1 – Mr. Mason voted nay) to deny the Preliminary Plan as revised.

RIGL § 45-23-60. Procedure – Required findings. (a)(1) states, “The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies.”

1. The proposed subdivision is consistent with the City of Cranston Comprehensive Plan policies and Future Land Use Map (FLUM). The proposed resulting density of approximately 6.85 units per acre is consistent with the FLUM’s designation of the subject parcel as “Residential 7.26 to 3.64 units per acre.”
2. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.

RIGL § 45-23-60. Procedure – Required findings. (a)(2) states, “The proposed development is in compliance with the standards and provisions of the municipality’s zoning ordinance.”

3. Each of the proposed five (5) lots comply with all of the requirements of A6 zoning.
4. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.

*RIGL § 45-23-60. Procedure – Required findings. (a)(3) states, “There will be no significant negative environmental impacts from the proposed development as shown on the **final** plan, with all required conditions for approval.” (emphasis added)*

5. This finding pertains specifically to the final plan. There is proposed clearing and a grading and/or potential blasting. However, the project will be subject to all local, state and federal standards regarding environmental impacts. Further details will be provided if the project moves to the DPR and Preliminary Plan stages of Development.
6. The Rhode Island November 2018 Natural Heritage map shows that there are no known rare species located on the site.

RIGL § 45-23-60. Procedure – Required findings. (a)(4) states, “The subdivision, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.”

7. The proposed subdivision 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. Walter Skorupski of the Engineering Department has confirmed that the topography does **not** render the lots unbuildable.
8. The design and location of streets, building lots, utilities, drainage and other improvements conform to local regulations for mitigation of flooding and soil erosion.

RIGL § 45-23-60. Procedure – Required findings. (a)(5) states, “All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.”

9. Once the road extension is complete, the properties in question will have adequate permanent physical access on Whiting Street, a public roadway located within the City of Cranston.
10. The proposed subdivision provides for safe and adequate local circulation of pedestrian and vehicular through traffic, for adequate surface water run-off and for a suitable building site.

Stoneham Street Annex Plat

Preliminary Plan – Minor Subdivision without street extension

One additional housing unit proposed

Stoneham Street, AP 18/4, Lot 713

Mr. Joshua Berry explained that the property owner, Linda Monello, is proposing to subdivide the 16,874 square foot lot into two (2) lots, one at 9,117 ft² with the existing residence and another at 7,757 ft² to be a new buildable lot in A-6 zoning. The site's A-6 zoning designation allows for single-family residential homes on lots that have a minimum of 60' of width/frontage and 6,000 ft² of land area. Both of the proposed lots will exceed the A-6 zoning requirement for area, but will require variances for lot width/frontage - the applicant requests permission to allow 51' for each proposed lot. Dimensional relief for existing encroachments into the front and side yard setback will also be required. The lots are proposed to be serviced by public water and sewer. The project is consistent with the Comprehensive Plan Future Land Use Map allocation of [Single Family Residential 7.26 to 3.64 units / acre] with a proposed density of 5.26 units / acre. Sidewalk and curbing are proposed.

Attorney John DiBona, on behalf of Ms. Monello, stated that sixty feet of frontage is required, however, the existing home is short on frontage (51 ft. +/-). Therefore, the zoning relief requested is for the newly created lot/home. The 400 ft. radius confirms that there are 13 lots that have less than 50 ft. of frontage. He stated that the proposal conforms to the neighborhood and the Comprehensive Plan Future Land Use Map. He also stated that there is a need for in-fill lots.

Mr. Lewis, 16 Stoneham St., expressed concern with how this proposal will affect his property value. He stated that there is a water line in the rear that drains to the back of the school. He stated his opinion that this proposed lot may be small for a house.

Attorney DiBona stated that both lots will exceed the 6,000 sq. ft. requirement and that his client will mitigate stormwater runoff on site per city and state requirements.

Upon motion made by Mr. Vincent and seconded by Mr. Mason, the Commission unanimously voted (8/0) to close public comment. Mr. Mason stated his disapproval of the creation of lots with substandard frontage. He further stated that the proposed subdivision should not be deemed as an in-fill lot as the commission is being asked to create it.

Upon motion made by Mr. Vincent and seconded by Mr. DiStefano, the Commission voted (7/1 – Mr. Mason voted nay) to adopt the Findings of Fact denoted below and approve this Preliminary Plan subject to the following conditions.

Findings of Fact

RIGL § 45-23-60. Procedure – Required findings. (a)(1) states, “The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies.”

1. The proposed subdivision is consistent with the City of Cranston Comprehensive Plan policies and Future Land Use Map (FLUM). The proposed resulting density of approximately 5.26 units per acre is consistent with the FLUM’s designation of the subject parcel as “Residential 7.26 to 3.64 units per acre.”
2. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.

RIGL § 45-23-60. Procedure – Required findings. (a)(2) states, “The proposed development is in compliance with the standards and provisions of the municipality’s zoning ordinance.”

3. Each of the proposed two (2) lots comply with the area requirements of A-6 zoning, but are substandard of the 60’ width/frontage requirement. Additionally, there is an existing encroachment of the residence into the front and western side yard setback which requires dimensional relief. The applicant is applying for relief from the Zoning Board of Review concurrently with this minor subdivision application.
4. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.

*RIGL § 45-23-60. Procedure – Required findings. (a)(3) states, “There will be no significant negative environmental impacts from the proposed development as shown on the **final** plan, with all required conditions for approval.” (emphasis added)*

5. This finding pertains specifically to the final plan. However, the project will be subject to all local, state and federal standards regarding environmental impacts.
6. The Rhode Island November 2018 Natural Heritage map shows that there are no known rare species located on the site.

RIGL § 45-23-60. Procedure – Required findings. (a)(4) states, “The subdivision, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.”

7. The design of the lots, utilities, and other improvements shall conform to local regulations for mitigation of flooding and soil erosion.
8. The proposed subdivision 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.

RIGL § 45-23-60. Procedure – Required findings. (a)(5) states, “All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.”

9. The proposed lots will have adequate permanent access to Stoneham Street, a public roadway located within the City of Cranston.
10. The proposed subdivision provides for safe and adequate local circulation of pedestrian and vehicular through traffic, for adequate surface water run-off and for a suitable building site.

Conditions of Approval

1. Payment of Western Cranston Capital Facilities Impact Fee in the amount of \$1,389.50 at the time of Final Plan recording.
2. As part of the Final Plan submittal, the applicant will provide a completed Soil Erosion Checklist.
3. As part of the Final Plan submittal, the applicant will provide a letter regarding water availability from Providence Water Supply Board.
4. As part of the Final Plan submittal, the applicant will delineate existing curbing from proposed.
5. As part of the Final Plan submittal, the applicant will remove the “+/-“ from the proposed parcel areas and provide exact proposed areas.
6. As part of the Final Plan submittal, the applicant will provide the right-of-way width of Stoneham Street.
7. Before submitting the Final Plan, the applicant must receive dimensional relief from the Zoning Board of Review.

Replat of Plan of Land Belonging to Arad Wood Lots 156, 157, and 158

Preliminary Plan – Minor Subdivision without street extension

One additional housing unit proposed

Pleasant Street - AP 6/4, Lots 1145, 1148

Mr. McLean stated that the applicant has proposed a minor subdivision that moves an existing lot line between 2 lots (both of which are owned by the applicant) that results in the creation of 1 new by-right developable lot. The site is zoned **A-6** which allows single-family residential homes with at least 60’ of frontage and 6,000 square feet of lot area. The total area of the site is 12,500 sq.ft. (0.29 acres). By definition in Cranston Subdivision and Land Development Regulations, the creation of a new developable lot triggers a Minor Subdivision review process as opposed to an Administrative Subdivision (approved by staff).

AP 6-4	Old Lot Area	New Lot Area
Lot 1145	5,000 ft ²	6,250 ft ²
Lot 1148	7,500 ft ²	6,250 ft ²

The proposed new developable lot on Parcel B will be serviced by public water and sewer. The proposed subdivision will not require dimensional relief from the Zoning Board of Review for either parcel or for the setback with regard to the existing building on Parcel A.

No public comment was offered on this matter.

Upon motion made by Mr. Strom and seconded by Ms. Lanphear, the Commission unanimously voted (8/0) to adopt the Findings of Fact denoted below and *approve* this Preliminary Plan, with waiver for provision of sidewalks, subject to the following conditions:

Findings of Fact

RIGL § 45-23-60. Procedure – Required findings. (a)(1) states, “The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies.”

1. The proposed residential subdivision and its resulting density conform to the Comprehensive Plan – Future Land Use Map.

RIGL § 45-23-60. Procedure – Required findings. (a)(2) states, “The proposed development is in compliance with the standards and provisions of the municipality’s zoning ordinance.”

2. The proposed subdivision does conform regulations of the A-6 zoning district and will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.
3. The design and location of streets, building lots, utilities, drainage and other improvements conform to local regulations for mitigation of flooding and soil erosion.
4. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.

RIGL § 45-23-60. Procedure – Required findings. (a)(3) states, “There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.” (emphasis added)

5. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Preliminary Plan.

RIGL § 45-23-60. Procedure – Required findings. (a)(5) states, “All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.”

6. The lots in question have adequate permanent physical access on Pleasant Street, an improved public roadway located within the City of Cranston.
7. The proposed subdivision 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.
8. The proposed subdivision provides for safe and adequate local circulation of pedestrian and vehicular through traffic, for adequate surface water run-off and for a suitable building site.

Condition of approval

1. Payment of Eastern Cranston Capital Facilities Impact Fee in the amount of \$593.46 at the time of Final Plat recording.

Champlin Heights

Preliminary Plan – Major Land Development without street extension

152-Unit Multi-family apartment complex

Scituate Avenue, AP 20/4, Lots 2113 and 2117

Request for one-year extension of the Preliminary Plan approval granted on 1/3/17

Mr. Pezzullo stated that the applicant has requested an extension of time of their Preliminary Plan approval. Upon motion made by Mr. DiStefano and seconded by Mr. Vincent, the Commission unanimously voted (8/0) to close public comment. Upon motion made by Mr. DiStefano and seconded by Mr. Mason, the Commission unanimously voted (8/0) to approve an extension of the Preliminary Plan to July, 2020.

ORDINANCE RECOMMENDATIONS

Ordinance 02-19-06 – MPD Amendment – 950 Phenix Avenue (CubeSmart) – 50' pylon signage, Clarification / addition of *Commercial Condominium* to the schedule of uses (Continued from the March 5th Agenda)

Upon motion made by Mr. Strom and seconded by Mr. DiStefano, the Commission unanimously voted (8/0) to continue this matter to the May 7, 2019, meeting, at the applicant's request.

ZONING BOARD OF REVIEW RECOMMENDATIONS

ROBERT C. SALMANI (OWN/APP) Has filed an application to add a 4th unit to an existing 3 family dwelling at 187-189 Grand Ave, A.P. 2, Lot 787 area 10,107 s.f. zone B1. Applicant seeks relief per 17.92.010 Variance, Sections 17.20.090(A) Specific Requirements; 17.20.120 Schedule of Intensity Regulations. Application filed 2/14/19. John S. DiBona Esq.

VARIANCE REQUESTS:

1. To allow an existing non-permitted fourth dwelling unit to remain on a legally nonconforming 3-family multi-family structure which is not a permitted use in B-1 zoning (Single and Two-Family ft² structures only). [17.20.030 Schedule of Uses]
2. To allow an existing nonconforming residence to remain that encroaches 12.5' into the required 25' front yard setback and 4.5' into the required side yard setback, as well as an existing detached garage that encroaches 3' into the required 5' accessory structure setback [17.20.120 Schedule of Intensity]
3. To allow the intensification of a nonconforming use on a lot with an area of 10,107 ft² where 18,000 ft² would be required if the use were allowed. [Sections 17.20.090(A) Specific Requirements]
4. To allow the intensification of a nonconforming use on a lot with 54' of frontage where 60' would be required if the use were allowed. [17.20.120 Schedule of Intensity]

PROJECT SUMMARY:

The property owner/applicant, Robert C Salmani, is requesting that relief be granted to allow an existing fourth dwelling unit on and undersized B-1 zoned where multifamily is not a permitted use. The lot has insufficient area and lot width/frontage as well as encroachments into required the front and side yard setbacks. There is no proposed work to the building or the site as part of this application. The applicant acquired the property from his parents S Robert & Antoinette Salmani in 2013 as a four-family, and seeks to bring it into *legal* nonconforming status.

FINDINGS OF FACT:

1. The B-1 zoned property is currently being occupied by an illegal nonconforming four-family residence with two accessory detached garages. The Cranston Tax Assessor's Office property cards show the property was considered a three-family in 1954 but then a four-family in 1984 (there is no data in between the two stated years). The applicant acquired the property from his parents S. Robert & Antoinette Salmani in 2013 as a four-family.
2. Benedetto Salmani and S. Robert Salmani applied for a variance in 1968 which requested permission to add an additional dwelling unit to the first floor of a three-family residence. The Plan Commission recommended denial and the Zoning Board of Review unanimously denied the request. The dwelling unit was constructed irrespective of the City's denial. The current application requests relief for the illegally constructed fourth dwelling unit.
3. The surrounding neighborhood (within a 400' radius of the subject property) is comprised of B-1, B-2, C-1 and C-2 zones, and a mix of uses including single-family, two-family, three-family,

multifamily/apartments, mixed use, residential condo, large business, municipal and school uses (uses determined by tax assessor's office do NOT reflect compliance to zoning or legal status). The properties that are solely within the B-1 zone are single-family, two-family, three-family as well as one four-family and one residential condo.

4. The Cranston City Code has scaled requirements for lot area that increase with the number of dwelling units on a parcel. The Code does not have an area standard for four-family in B-1 (as it is not an allowed use), however, the evaluation of the use variance request should consider that approval would result in a use which would be substandard in area when compared to the requirements of B-2 zoning, a designation which is intended for higher density such as multifamily. Granting the use variance would allow a four-family on a lot with 10,107 ft² where 18,000 ft² is required in B-2 zoning. The subject site is substantially deficient in lot area.
5. The City of Cranston Comprehensive Plan's Future Land Use Map (FLU) designates the subject parcel as "Single/Two Family Less Than 10.89 units / acre." The requested density 17.24 units / acre. Therefore, the request is inconsistent with the Comprehensive Plan Land Use Element.
6. City Code Section 17.92.010 (C).(1) prohibits the consideration of nonconforming land uses and of adjacent districts in granting a use variance. The average density of conforming uses within 400' of the subject parcel within the same zoning district is 4,937 ft² / unit where 2,527 ft² / unit is requested.

ANALYSIS:

This application raises several questions to be considered by the Plan Commission and Zoning Board of Review.

- Does the Use Variance application meet the codified requirements?

The requirements for a Use Variance are far more stringent than for dimensional variances. City Code Section 17.92.010 (C)(1) reads, "*In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance.*" There is no evidence to suggest that a four-family is the only beneficial use of the property.

The applicant provided an analysis which compares the density and area of properties within 400' of the subject site, but the above Code Section would limit the acceptable considerations to *conforming* uses of the neighboring area only within the same zoning district. The provided analysis includes other zones and nonconforming uses, and therefore cannot be used to support the variance request. Staff conducted an analysis of the average density of the conforming uses in B-1 within 400' radius of the site and finds that the average density is 4,937 ft² / unit where 2,527 ft² (or 17.24 units / acre) is requested.

- Regarding land use in the City of Cranston, is it better to ask for permission or forgiveness?

The request to allow a fourth dwelling unit on an existing legal nonconforming three-family residence was unanimously denied by the Zoning Board in 1968. Irrespective of the City's denial, it can be deduced that the dwelling unit was constructed sometime between 1968 and 1984 (the first time that the Tax Assessor's Office classified the building as a four-family residence). The property is now under different ownership, as the owner/applicant acquired the property in 2013. Nonetheless, the City should carefully consider the message it could be sending if it approves an application asking forgiveness for a request for which permission was denied.

- Has anything changed between 1968 and now that could be grounds for reconsideration?

An immeasurable amount has changed in the last 51 years, but staff has not found any change in the request, the property, the surrounding area, or the regulatory framework which trends positively for this application. The request appears to be identical and the lot and building footprint have not changed. Granted that staff does not have access to the application materials submitted in 1968, staff is not opposed to the request on the grounds of the site plan. The site shows more than sufficient parking (2 per unit is required) and the existing encroachments predate zoning. Staff does not attempt to surmise the surrounding conditions in 1968, but it does not find grounds to support the application in 2019. In fact, the main change in the regulatory framework is the Comprehensive Plan. As stated in Findings of Fact #5, the proposal is inconsistent with the Future Land Use Map both in terms of land use and allocation of density. Therefore, at least in terms of policy guidance from the Comprehensive Plan, the changes since 1968 corroborate the City's initial decision to deny the request.

– **Doesn't the City's Comprehensive Plan call for increasing housing stock and reducing the burden of zoning and building regulations on existing housing resources?**

Yes, it does, but with consideration of zoning and other goals and priorities of the city. The Comprehensive Plan Housing Element Housing Action Program HA-5 requests that the City "reduce burden of zoning and building regulations" on existing housing resources. However, this policy is interpreted to apply to existing *legal* nonconforming conditions, not as grounds to justify increased density in all residential areas, for this could undermine one of the primary purposes of zoning – *to protect the character of residential neighborhoods*.

RECOMMENDATION:

Due to inconsistency with the Comprehensive Plan, as well as inconsistency with the B-1 zoned land uses of the surrounding neighborhood, upon motion made by Mr. Vincent and seconded by Ms. Lanphear, the Plan Commission unanimously voted (8/0) to forward a **negative recommendation** on this application to the Zoning Board of Review.

LINDA MONELLO (OWN/APP) Has filed an application to sub-divide an existing lot to create two lots with restricted frontage at 24 Stoneham Street, A.P. 18, lot 713, area 16,874 s.f. zone A6. Parcel one would leave an existing single family dwelling; parcel two would be to construct a new single family dwelling. Applicant seeks relief per 17.92.010 Variance, Section 17.20.120 Schedule of Intensity Regulations. Application filed 2/28/19. John S. DiBona, Esq.

VARIANCE REQUESTS:

1. To allow two proposed lots to have 51' of width/frontage where 60' is required in A-6 zoning. [17.20.120 Schedule of Intensity]
2. To allow an existing nonconforming residence to remain 5'6" from the side lot line where 8' is required in A-6 zoning. [17.20.120 Schedule of Intensity]
3. To allow an existing nonconforming residence to remain 3'6" from the front lot line where 25' is required in A-6 zoning. [17.20.120 Schedule of Intensity]

PROJECT SUMMARY:

The property owner, Linda Monello, is proposing to subdivide the 16,874 SF lot into two (2) lots, one 9,117 SF with the existing residence and another at 7,757 to be a new buildable lot in A-6 zoning. The site's A-6 zoning designation allows for single-family residential homes. Both of the proposed lots will exceed the A-6 zoning requirement for area, but will require variances for lot width/frontage - the applicant requests permission to allow 51' for each proposed lot. Dimensional relief for an existing encroachment into the front and side yard setback will also be required.

FINDINGS OF FACT:

1. Currently, the A-6 zoned property is being occupied by a single-family residence which is an allowed use under zoning. The site plan indicates that the existing slab on proposed Parcel 2 will be removed.
2. The surrounding neighborhood is comprised of A-6, single-family residential lots. With the exception of Oaklawn Elementary School, the only land use on Stoneham Street is single-family residential.
3. The applicant proposes a subdivision that will result in the creation of 2 lots that do not meet the A-6 lot width/frontage requirement of 60'. Both proposed parcels have 51' of width/frontage.
4. The applicant provided an analysis of the surrounding neighborhood which states that there are 53 developed properties within a 400' radius of the property, thirteen (13) of which have less than 50' of width/frontage, and another three (3) lots have less than 55' of width/frontage. The proposal would not be out of character with the surrounding area.
5. The proposed subdivision and its resulting density of approximately 5.26 residential units per acre is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map, which designates the subject parcel as "Single Family Residential 7.26 to 3.64 units / acre."
6. The Comprehensive Plan encourages the development of infill lots in Eastern Cranston in order to improve the City's housing stock and to mitigate the demand for development in Western Cranston.
7. The Comprehensive Plan Housing Element Housing Action Program HA-5 requests that the City "Reduce burden of zoning and building regulations" on existing housing resources. This policy supports the variances for existing nonconforming conditions.
8. The proposed subdivision would not have a negative impact on safe and adequate local circulation of pedestrian and vehicular through traffic. The project proposes to install a sidewalk, which will improve potential pedestrian traffic to the abutting school.

ANALYSIS:

The proposed subdivision is a "by-right" A-6 minor subdivision, with the exception of the proposed variances. The dimensional variances for the existing residence's encroachments into the front and side yard setback are reasonable. The Oaklawn Elementary School parking lot abuts the side yard encroachment which has not been a source of conflict to date as the residence has existed for over 70 years, prior to the enactment of zoning in Cranston. With a floodplain in the rear of the lot, it is preferred that the residence is closer to the front of the lot. The Comprehensive Plan Housing Element Housing Action Program HA-5 requests that the City "Reduce burden of zoning and building regulations" on existing housing resources. This policy supports the variances for existing nonconforming conditions.

The variance request for the substandard lot width/frontage also has merit. The applicant provided an analysis of the surrounding neighborhood which states that there are 53 developed properties within a 400' radius of the property, thirteen (13) of which have less than 50' of width/frontage, and another three (3) lots have less than 55' of width/frontage. Although only 1 of those nonconforming lots are on Stoneham Street, the radius for analysis has always been 400' from the subject property, and the proposed frontage is not inconsistent with those developed lots within 400'. Staff corroborates the applicant's statement that, "The granting of this application will cause no injury to the public health, public safety or welfare. It will not alter the essential character of the neighborhood nor substantially injure the appropriate use of neighboring properties." Furthermore, the Comprehensive Plan encourages the development of infill lots in Eastern Cranston in order to improve the City's housing stock and to mitigate the demand for development in Western Cranston.

RECOMMENDATION:

Due to consistency with the Comprehensive Plan's Land Use and Housing Elements, as well as the density and land use of the surrounding neighborhood, upon motion made by Mr. DiStefano and seconded by Mr.

Strom, the Plan Commission voted (7/1 – Mr. Mason voted nay) to forward a **positive recommendation** to the Zoning Board of Review.

G3 SLATER ROAD, LLC. (OWN) AND TASCA ENTERPRISES, INC. (APP) have filed an application to convert an existing warehouse to be used as automobile repair and service, motor vehicle storage, and automobile body repair/paint establishment at 25 Slater Road, A.P. 13, lot 86, area 83,567 s.f. zone M2. Applicant seeks relief per Section 17.92.020 Special Use Permit. Application filed 3/15/19. Robert D. Murray, Esq.

SPECIAL PERMIT REQUEST:

1. To allow a motor vehicle repair and service establishment in M-2 zoning. [17.20.030 Schedule of Uses]
2. To allow a motor vehicle storage in M-2 zoning. [17.20.030 Schedule of Uses]
3. To allow an automobile body repair/paint shop in M-2 zoning. [17.20.030 Schedule of Uses]

FINDINGS OF FACT:

1. The subject site is a 82,764 +/- ft² lot in M-2 zoning (General Industry). The applicant is proposing 4 new uses at this location: 1) motor vehicle repair and service establishment; 2) motor vehicle storage; 3) automobile body repair/paint shop and business; and 4) business/professional office. Note that 3 of the 4 proposed uses are allowed with a special use permit in M-2 zoning per Sec. 17.20.030 *Schedule of Uses*. Business/professional office is allowed by-right in the M-2 zone.
2. The application narrative states: *“Tasca intends to utilize the building as an extension of its existing internal operation in buildings at 1300 Pontiac Avenue (the main dealership) and 26 Slater Toad (Tasca Truck Center). The 25 Slater Road building will not be used for public use or invitation.”*
3. The applicant is not proposing any major structural additions to the building and is proposing only minor alterations to the site for landscaping and an additional driveway. The uses of motor vehicle repair and body paint shop are intended for minor work only arising in the reconditioning of used cars prior to sale at the main dealership located at 1300 Pontiac Avenue.
4. The City of Cranston Comprehensive Plan’s Future Land Use Map designates the subject parcel as “Industrial.” This designation recommends that land should remain zoned either M-1 or M-2 and that industrial uses are most appropriate to be sited here. It should be noted that 2 of the 3 proposed uses that require a special use permit at this location (motor vehicle storage; and automobile body repair/paint shop and business) are categorized in the “Industrial” section of the Zoning Code - Schedule of Uses. The 3rd proposed use (motor vehicle repair and service establishment light) is categorized in the “Business” section of the Zoning Code - Schedule of Uses, however this use is specifically allowed through a special use permit in both the M-1 and M-2 zones.
5. The Cranston Zoning Code Section 17.92.020 (A).(2). provides the following standards for the review of any Special Use Permit in the City:
 - a. *“It shall be compatible with its surroundings;*
 - b. *It shall not be injurious, obnoxious or offensive to the neighborhood;*
 - c. *It shall not hinder the future development of the city;*
 - d. *It shall promote the general welfare of the city; and*
 - e. *It shall be in conformance with the purposes and intent of the comprehensive plan.”*

6. With regard to Special Use Permit standards “a”, “b”, and “c” above, the subject property is located at the edge of the M-2 zoning district, across the street from a C-5 zoned property (Tasca main dealership). The unique location of the subject property could be viewed as a “transition zone” in which the allowance of a special use permit is more appropriate given the abutting land uses and surrounding conditions. The introduction of auto-oriented uses at this site would not be foreign to this corridor and would be compatible with the general area. Additionally, the allowance of these uses would not be injurious, obnoxious or offensive to the neighborhood and would not hinder the future development of the City.
7. With regard to Special Use Permit standards “d” and “e” above, The City of Cranston Comprehensive Plan Economic Development Element, page 73, provides the following objective: *“Increase the tax base with new private investment in commercial and industrial properties.”* It should be noted that the immediate application, if approved, would result in additional private investment in the property and would activate a business use at this location for increased tax revenue to the City.
8. With regard to Special Use Permit standards “d” and “e” above, the City of Cranston Comprehensive Plan Economic Development Element, page 76, provides the following objective: *“Support for Small, Growth-Oriented, Value-Adding Businesses: Cranston has a healthy, diverse portfolio of businesses in a variety of industries and sectors. It is recommended that the City continue its policy of encouraging growth and expansion of small- and medium sized companies rather than putting valuable resources into attempts to bring in the larger companies.”* It should be noted that the immediate application, if approved, would allow for the expansion of an existing, medium-sized business in the City.
9. The City of Cranston Comprehensive Plan Land Use Element, page 23, provides the following objective: *“Strengthen controls on non-industrial development in industrial areas while still providing for limited commercial services for on-site industries.”* It should be noted that the immediate application, if approved, would introduce land uses to the site the majority of which are categorized as industrial (see finding of fact #3) and would provide support to an “on-site” business across the street.
10. With specific regard to Special Use Permit standard “e” above, based on findings of fact # 4, #7, #8, and #9, the proposed uses are viewed as consistent with the purposes and intent of the City of Cranston Comprehensive Plan.
11. The Cranston Zoning Code Section 17.92.020 (A).(1).(b). provides the following specific standard for the review of any Special Use permit in an industrial zone in the City: *“Within an industrial district, that the factual evidence has demonstrated that the proposed use will predominantly serve the employees and visitors to the existing industrial uses within the district.”* Based on findings of fact #4-9 above, staff is of the view that the proposed uses are harmonious with the surrounding industrial uses, and that the proposal would serve to increase employment opportunities within the district.
12. Cranston’s Development Plan Review Committee held a meeting on March 20, 2019, at which the project was heard and unanimously approved on its technical merits – conditional upon receiving Zoning Board of Review approval.

ANALYSIS:

Staff finds that the proposed use is consistent with the surrounding area and the Comprehensive Plan. The proposal is harmonious with the future development of the City as it would allow for the expansion of an existing medium-sized business in the City. Further, the proposed uses will not be open to the general public as it will only house internal operations in support of the main dealership. Hence, there will not be additional customer traffic to and from the site.

Staff recommends that the Plan Commission apply reasonable discretion when considering the criteria of approval to this application. The criteria of approval for a Special Permit is not as strict as is required for a

Use Variance, Cranston Zoning Code Section 17.92.020 (A).(1).(b). states that applications for a Special Permits in an industrial district are subject to an affirmative finding that the proposed use “...*will predominantly serve the employees and visitors to the existing industrial uses within the district.*” Staff holds that the strict application of this requirement may not be appropriate when considering the location of the site, and the character of the area. The proposed expansion of Tasca to this property would certainly serve the employees of Tasca and would provide site improvements (landscaping) that will be pleasing to visitors to the industrial district, but to limit the business to “predominantly” serve them would put an unnecessary restriction on the business. The Plan Commission and Zoning Board of Review should consider that the strict application of this Special Use Permit criteria has not historically been applied to similar applications over the past several years.

RECOMMENDATION: In consideration of the standards set forth for Special Use Permits in Cranston Zoning Code Section 17.92.020 (A).(2), and due to consistency with the Comprehensive Plan, and due to the consistency with the surrounding character and uses in the neighborhood; upon motion made by Mr. DiStefano and seconded by Mr. Vincent, the Plan Commission unanimously voted (8/0) to forward a **positive recommendation** to the Zoning Board of Review.

SOLAR FARM ORDINANCE – Update

Mr. Pezzullo stated that the department has been working internally on a draft solar ordinance. A workshop for the public and stakeholders will be held on May 13 at 5:30 p.m. He stated that a first draft of the ordinance will be ready in June.

Ms. Lanphear suggested that interested parties submit their written comments on the draft solar ordinance.

PLANNING DIRECTOR'S REPORT

He informed the Commission of proposed legislation that if residentially zoned land is used for solar projects, that housing density needs to be re-located within six months.

He stated that the Natick Avenue Solar project appeal will be heard in May by the Platting Board.

ADJOURNMENT

Upon motion made by Ms. Lanphear and seconded by Mr. Mason, the Commission unanimously voted to adjourn at 8:55 p.m.

NEXT REGULAR MEETING May 7th, 2019, 6:30PM, Cranston City Hall Council Chamber