

MINUTES

April 3, 2018

Chairman Smith called the City Plan Commission Meeting to order at 7 p.m.in the Cranston High School East Auditorium.

The following Commission members were in attendance:

Michael Smith, Chairman
Ken Mason, P.E.
Robert Strom
Lynne Harrington
Fred Vincent
Kimberly Bittner
Kathleen Lanphear

Also present were:

Jason M. Pezzullo, AICP, Planning Director
Stephen Marsella, Esq., Assistant City Solicitor
J. Resnick, Clerk

APPROVAL OF MINUTES

Upon motion made by Mr. Mason and seconded by Mr. Vincent, the Commission unanimously voted (7/0) to approve the minutes of the March 6, 2018, Plan Commission Meeting. Upon motion made by Ms. Lanphear and seconded by Ms. Bittner, the Commission unanimously voted (7/0) to amend the minutes of the February 6, 2018, Plan Commission Meeting.

ORDINANCE RECOMMENDATIONS

Ordinance 10-17-03 – *Amending the Comprehensive Plan of 2010 (Cumberland Farms - Intersection Park and Warwick Avenue)* Public comments closed – Continued from the 2/6/18 regular meeting as well as the 3/6/18 regular meeting.

Chairman Smith began by reminding everyone that the public comment portion on this matter was closed at the end of the February 6, 2018, meeting.

Mr. Vincent stated that he researched the cancer risk matter that was raised at the February 6 meeting with the RI Department of Health. He then referred to his memorandum dated March 2, 2018, from Barbara Morin, Principal Environmental Health Toxicologist, regarding the health implications of gasoline stations. This memorandum was not procured or presented during the public comment portion of this public hearing the findings of this memo were not discussed.

Attorney John Bolton, on behalf of the applicant, Cumberland Farms, stated that “Cumberland Farms uses all the latest technology” in regard to the installation of their facilities. He also stated that the project will go through the DPR Committee and will adopt all of the recommendations from that Committee.

Chairman Smith then confirmed with Mr. Pezzullo that service stations would be allowed in a C-2 zone by Special Use Permit. Mr. Pezzullo confirmed that, further stating that service stations usually locate on smaller such lots as former residential lots. He stated that the Future Land Use Map, which was created in 2010 and approved by the State in 2012, indicates that the subject site should be zoned Neighborhood Commercial. He stated that the C-3 zone as crafted is at

the high end of the neighborhood/commercial spectrum and low end of highway/commercial spectrum. Examples of other C-3 zones within the City are Pawtuxet Village, Knightsville and Rolfe Square. He stated that the Planning Department staff is recommending approval of the Comprehensive Plan Amendment; extending the C-3 Zone to the residential lot (Lot 3669) and the additional lot changed by a "text amendment" (Lot 1343) in 2012.

Commissioner Lanphear then commented on Lot 1343, which is currently zoned C-2, and the current comprehensive plan land-use land use designation is single-family. She stated that the Comprehensive Plan Amendment that was introduced by the City Council in 2012 returned that lot to single/two-family residential to prevent further commercial development as the Council was concerned about that happening. She stated that this amendment is not to look at a specific use but to bring this into conformance with the other aspects of the Comprehensive Plan. She stated that this proposal would not further Goal #9 of the Comprehensive Plan, as well as Land Use Policy 9.1 and 9.2. She stated that we should not be changing the zoning because the property is currently blighted. She went on to cite Land Use Plan Element, Part 3, Strategy and Principal 4. Finally she stated that amendments to the Comprehensive Plan should not be done "piece meal".

Chairman Smith stated that "this is a difficult decision to make and Mr. Vincent complimented Ms. Lanphear on her prepared comments.

Mr. Pezzullo then gave his recommendation on consistency with the Comprehensive Plan; stating that a current interpretation of the Comprehensive Plan can be subjective in some ways but noted that as a primary author of this plan, his perspective is quite different. He stated that the proposal is to amend the Comprehensive Plan to unify the corner as Neighborhood Commercial, and then the proposed zoning will comply with this amendment. He stated that the intersection of Park and Warwick Avenues is compatible with a C-3 zoning district. He noted that there is already a gas station 400 ft. away and he reiterated that gas stations are already allowed in a C-2 zoning district by Special Use Permit, the same as C-3. He further stated that the mini-mart is no larger than the existing two-story commercial building. He stated that "we have weighed this proposal extensively"; stating that he feels this discussion has "gone a little far astray". He stated that the Comprehensive Plan Future Land Use Map, and the Comprehensive Plan specifically prescribes zones within its land use categories. This process to amend zoning consistent with the Comprehensive Plan has been followed in this manner year after year. He stated that to say that we are now we are not following the correct process or complying with the Comprehensive Plan is simply not true.

Ms. Lanphear respectfully disagreed with the opinion of Planning Director, Mr. Pezzullo. She stated that her concern was for Lot 1343 and Lot 3669 and disagreed with changing the land use classification to allow for a zone change. She agrees that the subject site is indeed a commercial corner. She stated that "Land Use Policy 9.2 does not say we should change the land use classification. We should look at Code enforcement and revitalization".

There being no further comment on this matter, the Commission moved to a vote. A motion was made by Mr. Mason to forward a *positive* recommendation on this matter to the City Council Ordinance Committee, which was seconded by Mr. Vincent. The motion resulted in a 4/3 vote (Commissioners Lanphear, Harrington and Bittner voted nay). As the City Plan Commission requires a minimum of five votes to carry any motion, the motion failed and the Commission issued no specific recommendation on Ordinance #10-17-03

Ordinance 10-17-04 – *In Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled 'Zoning' (Change of Zone – Warwick Avenue and Park Avenue Intersection)* Public comments closed – Continued from the 2/6/18 regular meeting

Mr. Pezzullo briefly went through his recommendation of approval for this change of zone as it is related to the above referenced Comprehensive Plan Amendment request. Mr. Vincent mentioned Finding of Fact #5 and asked if billboards are allowed in a C-3 Zone. Mr. Pezzullo responded stating, "no, the billboards are more than likely illegal, non-conforming". Mr. Vincent then asked if the billboards can be removed as he feels their elimination would be a positive, referring to them as "visual pollution". Mr. Pezzullo responded, "It depends on when they were installed, but records that far back are spotty or non-existent".

Ms. Lanphear asked that all of her previous statements on the Comprehensive Plan Amendment be considered as they apply to this zone change ordinance request as well.

In closing, Mr. Vincent stated that "zoning is not meant to be static" but that he agreed with Ms. Lanphear's previous comments on the Comprehensive Plan Amendment request. He stated that the Comprehensive Plan is only amended once every ten years.

(Staff note: RI State Law allows a community's Comprehensive Plan to be amended a maximum of four times per calendar year, and a new updated plan must now be adopted once every ten years (up from once every five years) consistent with the current State Guide Plan)

There being no further comment on this matter, the Commission moved to a vote. A motion was made by Mr. Mason to forward a *positive* recommendation on this matter to the City Council Ordinance Committee, which was seconded by Mr. Strom. The motion resulted in a 4/3 vote (Commissioners Lanphear, Harrington and Bittner voted nay). As the City Plan Commission requires a minimum of five votes to carry any motion, the motion failed and the Commission issued no specific recommendation on Ordinance #10-17-04

Ordinance 1-18-02 - *In amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Change of Zone - 350 Park Avenue A-6 to C-3) Former Blockbuster store*

(Continued from the 2/6/18 and 3/6/18 regular meetings)

Commissioner Smith opened the Public Hearing. Attorney John DiBona representing the applicant explained the proposal to re-zone 350 Park Avenue from A-6 (single-family residential) to C-3 (General Business). He noted that the existing commercial building was built in 1987 but the property's commercial use dates back to the early 1970's. The current building (former Blockbuster) has been vacant for the past eight years. The owner is having trouble leasing the property because tenants do not want to go through the zoning variance process. He stated that his client is proposing to specifically use the building as a commercial day-care center, which is allowed in the C-3 zone. He noted that C-2 does not allow for the commercial day-care use. His client may also consider leasing to an urgent care center, which again is not allowed in a C-2 zone. He stated that his client is only interested in renting to a day-care or an urgent care center. He stated that the August 12, 2012, Comprehensive Plan specially called for that area to be rezoned to either C-1, C-2 or C-3. He stated that either of the proposed uses would be subject to review and approval by the Development Plan Review Committee.

A discussion ensued regarding limiting the uses, and Ms. Bittner stated that restricted uses are not denoted in the applicant's ordinance proposal as they asked for C-3 without restrictions. Mr. DiBona reiterated that the aforementioned uses are the only uses his client is interested in. He stated that he will amend the ordinance proposal, indicating the noted uses, prior to the Ordinance Committee meeting.

Ms. Annette Bourne, 51 Community Drive, stated that she is grateful that the owner of the building is looking for a use. However, she expressed concern with "this corridor". She stated there is an "overflow situation" as the site is currently used for overflow parking. She suggested a corridor study and the need for a Comprehensive Plan update. She expressed concern with the Ciba Geigy property and stated that she wants "uses that conform and help the neighborhood".

Ms. Deborah Thibodeau, 34 Sunset Terrace, stated that she is not opposed to a daycare center. She informed the Commission that people attending the Praise Tabernacle Church, as well as other businesses, currently use that lot for parking. She also expressed concern with traffic.

Ms. Ashley Sweet, 207 North Street, Warwick, on behalf of the Edgewood Preservation Society, stated there is concern with a commercial use in a residential zone, she considers this zone change 'spot zoning', suggested a re-zone comprising from the Praise Tabernacle Church to the subject site to C-2 and, further stated that restrictions on zoning is 'spot zoning' and suggested the City consider changing the use table.

Chairman Smith asked Mr. Pezzullo about the opposition groups suggestion about the possibility of changing the district use table of the zoning code to allow commercial daycare as a use allowed by right within C-2. Mr. Pezzullo responded, stating he would not consider entertaining this change at this time. He stated that most C-2 lots within the City are very small as are often former residential lots which were rezoned for limited commercial activity which could be problematic for this land use.

Ms. Joyce Dorsey, a 40 year resident of the City, expressed concern with the Ciba Geigy "superfund" site and the amount of trucks in the area. She expressed concern with traffic and "the lack of concern with what is going on in Mill Street". She expressed concern with a possible "medical facility".

Ms. Jen Miller, 1900 Broad Street, expressed concern with how close "this is to Ciba Geigy" and "putting a daycare there". She asked that the Commission consider "what is going on at the other side of Bellefont Street".

Commissioner Vincent then informed everyone that the City does not have jurisdiction over superfund sites. He stated that "RIDEM remediation is very careful about what they allow".

Mr. Pezzullo stated that the Future Land Use Map and the Comprehensive Plan was adopted by the City Plan Commission, Cranston City Council, and ultimately the State in 2012 and that the Future Land Use Map is a legally binding document. He stated that there were “thousands” of mis-zoned parcels throughout the City. The notion that this rezone is “spot zoning” is false because the plan specially identifies this parcel and prescribes a C-1, C-2, or C-3 as a remedy for this inconsistency. He stated that the Comprehensive Plan - Future Land Use Map calls for this southern stretch of Park Avenue to be zoned C-1, C-2 or C-3 in the general vicinity.

There being no further comment on this matter, the Commission moved to a vote. A motion was made by Mr. Strom to forward a *positive* recommendation on this matter to the City Council Ordinance Committee, which was seconded by Mr. Mason. The motion resulted in a 3/4 vote (Commissioners Lanphear, Harrington, Vincent and Bittner voted nay). As the City Plan Commission requires a minimum of five votes to carry any motion, the motion failed and the Commission issued no specific recommendation on Ordinance #1-18-02.

ZONING BOARD OF REVIEW RECOMMENDATIONS

275 ATWOOD LLC (OWNER) AND 275 ATWOOD LLC C/O MOSES AFONSO RYAN LTD (APP) have filed an application to allow additional wall and a freestanding signage to be installed on the property currently under development at 275 Atwood Avenue A/P 12 lot 2700, 92,603 s.f. area zoned C4. Applicant seeks relief per Sections; 17.92.010 Variance, Section 17.72.010 (P) Table 17.72.010 (5) Signs.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) “*Standards for Variance*” which reads as follows: “*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*”

Findings of Fact:

1. The 2010 Comprehensive Plan Future Land Use Map designates this area of Atwood Avenue as Highway Commercial.
2. One 30’ curb opening is provided for the two commercial buildings on site (one constructed).
3. Per the Zoning Ordinance, one freestanding sign (pylon or monument) is allowed per street frontage.
4. The approved Development Plan Review Site Plan depicts a proposed pylon sign to be located on the Northerly side of the entrance driveway to the site.
5. Per the Zoning Code, 300 sq. ft. of total signage for one zone lot is permitted, a total of 663.27 sq. ft. of signage is proposed. (121.09% increase)
6. The proposal is to install an additional 21’-7” high x 14’-6 wide, freestanding, solid **monument** sign, on the southerly side of the same driveway opening. Per the sign ordinance, the maximum height for a monument sign is 4 ft. The maximum height for a **pylon** sign is 15’.
7. The square footage of sign text on that monument sign equals 153.3 sq. ft. per side, (306.6 sq. ft. total for 2 sides) where 45 sq. ft. is allowed per the zoning code.
8. The building elevations submitted in the application for wall signage, show signs on the front and side. Unless the building is located on a corner, walls signs are permitted on the front façade only.
9. The proposed wall signage on the front alone of the 2-unit commercial building equals 172.2 square ft. which exceeds the allowed 60 sq. ft. allowed. (30 sq. ft. per unit).
10. A 47.53 sq. ft. “**Enterprise**” sign is proposed on the South side elevation for the 2 unit building.
11. The **Dairy Queen** building signs have already been approved by the Building and Zoning Department and installed.
12. The Dairy Queen monument sign located at the northerly corner of the driveway opening, is 4’ high by 5’ wide, equaling 20 sq. ft. per side. Dairy Queen is also listed on the proposed second, 21’-7” high freestanding monument sign proposed for the south corner of the entrance driveway.
13. Total signage for the Dairy queen alone equals 136.24 sq. ft., leaving 163.76 sq. ft. for the remaining 2 unit commercial building, which is sufficient, considering 60 sq. ft. for the wall signage is allowed.
14. The total square footage of wall signage requested for the 2 unit building alone is 219.73 sq. ft. When added to the existing Dairy Queen signage, the total wall signage for the site would be 316.67 sq. ft., an increase of 251.85 % more of wall signage alone than the 90 sq. ft. permitted.

Recommendation: Upon motion made by Mr. Vincent and seconded by Ms. Bittner, the Plan Commission unanimously voted (7/0) to forward a positive recommendation for the increased wall signage and the 21’-7” high monument sign (for 3 businesses) that is not out of character with existing Atwood Avenue signs..

BRIAN & MARINA FLANNERY (OWN/APP) have filed an application to construct an addition to a single family dwelling to be used as a garage and living space with restricted rear yard setbacks at **34 Oak View Drive** A/P 22, Lot 76; 18,739 s.f. area, zoned A8. Applicant seeks relief per 17.92.010 Variance; Section 17.20.120 Schedule of Intensity.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. The existing residential use is consistent with the Comprehensive Plan Future Land Use Map that designated this area of the City as Residential, Single Family.
2. There is an existing foundation for a 20' x 24' garage on the back of the house. The rear yard setback of 8.7' for the garage, conforms to the minimum Zoning 5' rear yard setback for a garage.
3. According to the plan submitted, the proposed 14' x 18' living space is over a portion of the new garage, and will have a 15' rear yard setback, where 20' is the minimum.
4. The neighbor's lot abutting the applicant's rear lot line contains an in ground pool and a shed.

Recommendation: The Plan Commission finds that a 15' rear yard setback will not alter the general character of the surrounding neighborhood, therefore, upon motion made by Mr. Vincent and seconded by Ms. Bittner, the Plan Commission unanimously voted (7/0) to forward a positive recommendation to the Zoning Board on this application.

CARPIONATO PROPERTIES, INC. AND ALFRED CARPIONATO (OWN), AND WEST BAY, LLC (APP) have filed an application to construct and utilize a building as an adult day care and a medical clinic at **320 Scituate Avenue**, A/P 20, lots 2112 & 2116 30,322 s.f. zoned B2. Applicant seeks relief per 17.92.010 Variance; Sections 17.20.120 Schedule of Intensity, 17.20.030 Schedule of Uses.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. The application was incorrectly advertised as a B-2 (Multi-Family zone), when actually, the lots are located in an A-20, single family zone.
2. The commercial project received Master Plan Approval from the Plan Commission on October 3, 2017, with the condition that Zoning approval be granted for an adult day care center and medical clinic only.
3. The application is for a 5,480 square foot, single story building with 47 parking spaces.
4. The Commercial development is inconsistent with the Comprehensive Plan – Future Land Use Map which calls for residential less than 10.39 units per acre.
5. The lots are surrounded on all sides (and across the street) by multi family, high density housing, and a large apartment building for the elderly.

Recommendation: Though not authorized in the Comprehensive Plan, the Commission finds that the proposed adult day care center and medical clinic previously granted Master Plan approval would be an appropriate use, and would serve the general area; given the ages of the residents in the immediate proximity. (Similar to a children's day care center, approved by the Plan Commission, that is located in an industrial zone.) Therefore, upon motion made by Ms. Bittner and seconded by Mr. Strom, the Plan Commission unanimously voted (7/0) to forward a positive recommendation on this application to the Zoning Board.

FORTY SOCKANOSSET, LLC (OWN) AND POYANT SIGNS, INC. (APP) have filed an application to allow increased signage to a site previously granted signage relief at **40 Sockanosset Crossroad**, A/P10, lot 40 142,006 sq.ft. zoned C4. Applicant seeks relief per 17.92.010 Variance; Section 17.72.010(5).

This application was continued to the May 1, 2018, Plan Commission Meeting at the applicant's request.

PLANNING DIRECTORS REPORT – Senior Planner / Principal Planner / Comp Plan Amendment

Mr. Pezzullo stated that the Senior Planner position was offered to the second highest scorer on the Civil Service Examination, and he has accepted the position and will probably start mid-May.

Regarding a Comprehensive Plan Amendment proposal, submitted by Councilman Stycos, Mr. Pezzullo stated that there has been no consultation with him on this matter.

ADJOURNMENT

Chairman Smith reminded the Commissioners to complete their Ethics Commission filings.

Upon motion made by Ms. Bittner and seconded by Mr. Vincent, the Commission unanimously voted to adjourn at 9:40 p.m.

NEXT REGULAR MEETING May 1, 2018 – City Council Chamber, 7 pm

Respectfully submitted,

Jason M. Pezzullo, MCP, MPA, AICP
Planning Director/Administrative Officer