

MINUTES

August 21, 2007

Chairman Petit called the Planning Commission to order at 7:05 p.m. in the City Council Chamber. The following Commission members were in attendance.

Paul M. Petit, Chairman
Councilwoman Paula McFarland, Vice Chair
Corsino Delgado, Finance Director
Charles Rossi
Steven Devine

Also present were:

Peter Lapolla, Planning Director
Jason M. Pezzullo, AICP, Principal Planner
Lynn Furney, AICP, Senior Planner
Aubrey Lombardo, Assistant City Solicitor
J. Resnick, Senior Clerk

The following members of the public attended.

Dora Koch
Janet & James Foley
Bob & Joyce Petrarca
Lori Charlter
Olga Hurd
David & Diane Santurri
John DiBona

Jean Allard
John Larney
John & Robert Mitchell
Richard Brown
Antonio Paolella
John & Paul Langevin

Renee St. John
Eugene Bifulco
Rachel McNally
Elizabeth Paolella
Marie Sweet
Robert Murray

MINUTES

Mr. Devine asked for correction of one small error (RIDOT to RIDEM) on page 3 of the Draft Minutes. Upon motion made by Mr. Delgado and seconded by Mr. Devine, the Commission unanimously voted to *approve* the minutes of the July 10, 2007, Planning Commission Meeting.

ORDINANCES

Ordinance #6-07-3 Ordinance in amendment of Title 17 of the Code of the City of Cranston, 2005, entitled "Zoning" – Large scale retail development.

Mr. Lapolla began by stating that this proposed ordinance was tabled by the Ordinance Committee on August 16, 2007. He stated that, under State Law, projects of this nature require an economic cost/benefit evaluation. He cited potential problems with the five-mile radius proposed by the ordinance and the requisite public notice that would create a presumption of

standing, conferring the right to appeal. Mr. Lapolla pointed out that parties in Barrington, Pawtucket and East Providence would be granted standing and the right to challenge a Cranston land use decision. He further raised concern with the time and cost involved in such an analysis, and he pointed out that presently there is requirement for large scale proposals that exist in the Subdivision and Land Use Regulations.

Councilman Lupino then addressed the Commission, stating that City Council Representatives were not notified of the proposed 'Centre at Garden Hills' application to Mr. Lapolla suggested that, in the future, a copy of the first page of the application may be sent to City Council Representatives.

Ms. Rachel McNally, 113 Hilltop Drive, spoke on behalf of 'Save Cranston Open Space' and expressed that organizations support for Councilman Lupino's proposed ordinance; stating that the Informed Growth Ordinance will benefit the citizens of Cranston. She submitted written statements made by that organization at the August 16, 2007, Ordinance Committee Meeting to the Commission.

Ms. Marie Sweet, Chairman of the Cranston Conservation Commission, stated that while she has respect for Mr. Lapolla's comments, she is in favor of Councilman Lupino's proposed ordinance as well, in particular the Open Space segment of the proposed ordinance.

Attorney Robert Murray, Taft and McSally Law Office, representing the Garden City Shopping Center, expressed his client's concern with the ordinance and further stating that "the ordinance needs work".

Following these comments, Councilman Lupino again addressed the Commission; requesting that the Commission recommend that the ordinance proposal be tabled in view of the fact that 75% of what the ordinance proposed already exists. He expressed concern that comments expressed did not reference the impact to the resident's quality of life and suggested the possibility of forming an ad hoc committee to work on revising the ordinance proposal. He stated that it is his intention to present a revised ordinance proposal in the future.

Mr. Richard Brown, 171 Hilltop Drive, stated that he spoke in favor of the proposed ordinance at the August 16, 2007, Ordinance Committee Meeting and volunteered to serve on an ad hoc committee should such a committee be formed.

In closing, Chairman Petit stated that, clearly, the ordinance proposal is a work in progress. Mr. Lapolla suggested modifying and strengthening the requirement of provision of an impact study that exists in the City's Subdivision Regulations. Councilwoman McFarland praised Mr. Lapolla's presentation at the Ordinance Committee Meeting and volunteered to serve on an ad hoc committee should such a committee be formed.

Ms. Rachel McNally volunteered to serve on an ad hoc committee should such a committee be formed.

There being no further testimony, the Commission moved to a vote. Upon motion made by Chairman Petit and seconded by Councilwoman McFarland, the Commission unanimously voted to *table* their recommendation on this proposed ordinance and form an ad hoc committee to work on its revision.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

Ordinance #6-07-4 Ordinance in amendment of the Comprehensive Plan of 1992 (40 Sockanosset Cross Road) - Future Land Use Map Amendment from *Industrial* to *Commercial and Services*

Ordinance #6-07-5 Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled “Zoning” (Change of Zone-40 Sockanosset Cross Road).

Attorney John Bolton, on behalf of his client, 40 Sockanosset LLC, briefly explained the proposal to amend the existing Comprehensive Plan Land Use Plan for the subject site, AP 10/4, Lot 40, from *Industrial* to *Commercial and Services* and subsequently to change the zoning designation from M-2 to C-4.

Mr. Joseph Lombardo, AICP, submitted a written report to the Commission and briefly summarized the report, stating that the parcel is “an island” of industrially zoned land surrounded by commercial use; further stating that the proposal is consistent with the Comprehensive Plan.

Attorney Robert Murray, Taft & McSally Law Office, spoke in favor of the proposal.

Mr. Jason Pezzullo, Principal Planner, reiterated Mr. Lombardo’s comments. He presented the Planning Department staff memo including the findings of fact for proposed **Ordinance #6-07-4**, as documented below.

Upon motion made by Mr. Delgado and seconded by Mr. Devine, the Commission unanimously voted to adopt the Findings of Fact documented below and forward them with a recommendation of *approval* for the Ordinance Committee’s consideration.

Comprehensive Plan Amendment (Ordinance 6-07-4)

Findings of Fact

1. The subject land is bound by Sockanosset Cross Road to the North and Wholesale Way to the East. The subject parcel is AP 10/4, Lot 40. The Comprehensive Plan – *Future Land Use Map* currently designates this entire lot as well as the land to the east and south as *Industrial*.
2. Under the current Comprehensive Plan, commercial and retail land uses are largely prohibited in the M-2 zone. The Comprehensive Plan amendment from *Industrial* to *Commercial and Services* will allow a range of uses not currently allowed and this new designation would reflect the commercial/retail nature of Sockanosset Cross Road as well as Pontiac Avenue.
3. If the Comprehensive Plan were to be changed as proposed by this ordinance and its companion zone change ordinance number 6-07-5, commercial/retail uses would be allowed by right.
4. Within the subject area, there are 13 commercial/retail establishments, and only 2 manufacturing establishments while the majority of the land is currently zoned **M-2** (Heavy Industrial).
5. 9 out of the 13 land uses located within this subject area are considered nonconforming due to the fact that commercial/retail establishments are not allowed within the **M-2** zone.
6. The change to “*Commercial and Services*” for this parcel will not have an adverse impact on the surrounding area nor is this change inconsistent with the dominant existing commercial/retail land use of the area.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

Mr. Pezzullo then presented the Planning Department staff memo and Findings of Fact for proposed **Ordinance #6-07-5**, as documented below.

Upon motion made by Mr. Delgado and seconded by Councilwoman McFarland, the Commission unanimously voted to adopt the Findings of Fact documented below and forward them with a recommendation of *approval* for the Ordinance Committee’s consideration.

Change of Zone (Ordinance 6-07-5).

Findings of Fact

1. The proposed change of zone for portions of Zoning Plat 10/4, Lots 39, 698 and all of 10/4, Lot 40 from M-2 (Heavy Industrial) to C-4 (Highway Commercial) is consistent with the City of Cranston's 1992 Comprehensive Plan Future Land Use Map as amended.
2. The proposed amendment is consistent with each of the applicable purposes of zoning as presented in section 45-24-30 of the Rhode Island General Laws and 17.04.010 of the City of Cranston Zoning Code.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

SUBDIVISION AND LAND DEVELOPMENT PLANS

The Centre at Garden Hills – Master Plan

Major Land Development with no street extension
New London Avenue
AP 15/1, Lot 8

Attorney Elizabeth Noonan, representing the applicant, Golfing Partners LLC, requested the 'Centre at Garden Hills' application be continued to a mutually agreed upon date and time. Mr. Lapolla suggested the matter be heard on a separate night rather than at the regular September 11, 2007 Planning Commission Meeting. He requested that the matter be re-advertised and property abutters be re-notified, at the applicant's expense. Ms. Noonan was amenable to this suggestion.

After brief discussion, and upon motion made by Mr. Rossi and seconded by Mr. Devine, the Commission unanimously voted to *continue* 'The Centre at Garden Hills' Master Plan proposal to a special meeting to be held at the Cranston High School East Auditorium at 6:30 p.m. on Tuesday, September 18, 2007.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

Pellegrino Plat – Preliminary Plan

Minor Subdivision without street extension
80 Old Spring Road
AP 15/2, Lot 11

Mr. Jason Pezzullo, Principal Planner, stated that the applicant has requested the matter be continued until such time that a new, revised plan is submitted.

Upon motion made by Mr. Rossi and seconded by Mr. Devine, the Commission unanimously voted to *table* this Preliminary Plan.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

ZONING BOARD OF REVIEW ITEMS

JANET AND FRANK SPINELLI 110 ALLEN AVENUE CRANSTON, RI 02910 (OWN/APP)

have filed an application for permission to convert an existing single-family dwelling into a 2-family dwelling with restricted front and corner side yard setback at **110 Allen Avenue**. AP 5/3 Lot 957, area 8544 +/- SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.20.030 Schedule of Uses.

Upon motion made by Mr. Devine and seconded by Mr. Rossi, the Commission unanimously voted to recommend that this application be *continued*, at the applicant's request.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

PORSCHE PROPERTIES LLC 550 ATWOOD AVENUE CRANSTON RI 02920 (OWN) AND FRANK ZINCONI 173 NIAN TIC AVENUE CRANSTON RI 02907 (APP) have filed an application for permission to install a double sided electronic message board sign at an existing building at **550 Atwood Avenue**. AP 12 Lots 2279, 2280 and 2281, area 24,693 +/- SF, zoned C-5.

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 original building on the property was built in 1977.
2. The property (same three lots) received a zoning variance for auto sales and body shop in November 1997. No sign variance was given. The owner was SASA Enterprises.
3. The City's Building Inspections Department has no record of a sign permit for the existing sign on this property (the sign exceeds zoning requirements.)
4. Section 17.72.010 N. of the Cranston Zoning Code states "any non-conforming sign shall either be eliminated or made to conform with the requirements of this section when any proposed change, repair or maintenance would constitute an expense greater than twenty-five (25) percent of the original value or replacement value of the sign, whichever is less. This section of the Sign Ordinance would appear to apply to this application.
5. In a C-5 zone, the City's Sign Ordinance permits a maximum of 50 square feet for a freestanding sign, out of 300 square feet permitted for an entire site. The existing sign is 124 sq. ft. total (62 sq. ft. each side x 2)
6. The existing sign area is already over two times larger than the maximum area allowed for a freestanding sign.
7. The proposed signage will have 137.4 sq. ft.(68.7 sq. ft. each side x 2), which is a 10 % increase in area, over the existing illegal, non-conforming sign area.
8. The posts for the existing and proposed sign are 20'-4" tall. The maximum height allowed by the Zoning Ordinance for a freestanding sign is 15'. The existing sign therefore, does not conform to the height limitations in the Zoning Code's Sign Ordinance.
9. The GIS aerial also shows that part of the existing sign, as well as several vehicles for display, are located within the state right-of-way for Atwood Avenue.
10. The city's 2001 GIS aerial map showed 54 cars parked on the site, where 19 parking spaces are illustrated on the current site plan submitted for the application. The site plan submitted for the November 1997 Zoning Variance showed 6 employee parking spaces, 12 vehicle display spaces, 2 customer spaces and 1 handicap parking space, for a total of 19 spaces. The business appears to be operating beyond the parameters of the Zoning Board's 1997 approval.

11. A site visit on 8/2/07 confirmed 52 vehicles on site.
12. It is not known whether a Physical Alteration Permit was received from RIDOT for the additional curb cut on lot #2277, which is the abutting property being used by the existing car dealership(to the right of the subject lots). Assessor's records show that prior to 11/17/06, the 3 lots which are the subject of this application, were owned by SASA, who still owns the abutting lot 2277 to the right.

Recommendation:

A Zoning Board Variance would have been required for the existing oversized sign which was installed without a building permit. The Planning Commission recommends that the existing sign be brought into conformance with the Sign Ordinance requirements. Upon motion made by Councilwoman McFarland and seconded by Mr. Rossi, the Commission unanimously voted to recommend *denial* of this application to install a double sided electronic message board that will increase the area of the existing oversized sign; in accordance with R.I.G.L. 45-24-41, in that the proposal alters the general character of the neighborhood and will impair the intent and purpose of the Zoning Ordinance.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

WESTERN INDUSTRIAL REALTY LLC 90 BAY STATE ROAD WAKEFIELD MA 01880 (OWN) AND NEW ENGLAND DETROIT DIESEL-ALLISON INC BAY STATE ROAD WAKEFIELD MA 01880 (APP) have filed an application for permission to sell trucks at **1 Southern Industrial Drive**. AP 36 Lots 127, 128, and 129, area 7.813 +/- acres, zoned M-2.

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 use of the site (a warrantee service center for manufacturers of trucks, buses and construction equipment) is consistent with the City of Cranston Comprehensive Plan which calls for industrial uses to be made of the property and therefore it does not impair its intent or purpose.
2. In December 2006, the applicant received a zoning variance for additional signage (on the building) that was in excess of the zoning requirements.
3. Salesrooms for the display of motor vehicles, trailers, boats and machinery are not allowed in M-2 zones, however, the proposal is for the installation of 3 concrete circular pads in the front yard for truck display; no salesroom is proposed.
4. The proposed pad locations in the front lawn of the site do not displace any trees or other landscaping previously approved by the Site Plan Review Committee,
5. The proposed use is an accessory use to the primary business.

Recommendation:

Upon motion made by Mr. Devine and seconded by Mr. Delgado, the Commission unanimously voted to recommend *approval* of this application with the following conditions:

1. That the applicant enters into the Zoning Board of Review's record of proceedings, sufficient evidence satisfying the remaining standards for the granting of variances relating to hardship,

least relief necessary, mere inconvenience and reasonable use, as put forth in R.I.G.L. 45-24-41

2. Limit the outdoor display of trucks for sale to a maximum of three.
3. Submit the application to the Site Plan Review Committee for an amendment to the formerly approved site plan.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

PERFORMANCE GUARANTEES

Emerald Estates

Request for Bond Reduction

Mr. Pezzullo explained that written correspondence was received from the property owner/developer, Mr. Frank Gaglione, requesting a reduction of the existing \$44,000 performance guarantee.

Upon motion made by Councilwoman McFarland and seconded by Mr. Rossi, the Commission unanimously voted to *reduce* the amount of the existing \$44,000 performance guarantee by \$14,000, leaving a balance of \$30,000, in accordance with the Engineering Division's recommendation.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

Glenham Park Phase 3

Expiration of Bond

Mr. Pezzullo explained that the property owner/s have been notified that existing KeyBank Standby Letter of Credit #S306179, in the amount of \$25,000, is set to expire on September 4, 2007.

Upon motion made by Mr. Devine and seconded by Mr. Rossi, the Commission unanimously voted to *extend* for one additional year Standby Letter of Credit #S306179, in the amount of \$25,000, if received prior to August 31, 2007 and to authorize the City Finance Department to withdraw the applicable funds should an extension not be received by August 31, 2007; in accordance with the Engineering Division's recommendation.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

MISCELLANEOUS

Submission Fee Schedule

Planning Director Peter Lapolla presented a Comprehensive Fee Schedule proposal which reflects a 75-90% increase in fees. The proposal provides for a 5% increase each year on July 1. He also proposed an increased fee for Final Plan submittal received after one year of Preliminary Plan approval. He explained that the proposed fee schedule change to the Subdivision and Land Development Regulations would require a public hearing for adoption by the Planning Commission.

Attorney Robert Murray asked that the City Solicitor be consulted. He cited RI General Law 45-23-58, which limits fees to the cost of review. He argued that employee salaries generally are not increased 5% each year.

Councilwoman McFarland recommended that the Commission move forward with this proposal. Mr. Lapolla noted that the public hearing will have to be advertised for three weeks prior to the Planning Commission Meeting. He stated that current projects would be "grandfathered", and he will consult the City Solicitor regarding the proposed percentage increases prior to scheduling a public hearing.

Upon motion made by Mr. Devine and seconded by Mr. Rossi, the Commission unanimously voted to *approve* moving forward with this proposal.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Devine, Mr. Delgado and Councilwoman McFarland. There were no nay votes.

Western Cranston Water District

Mr. Lapolla stated that a build-out analysis has been done. Based on the Providence Water Supply Board's calculation, he estimated that it will cost approximately \$12-\$13 million dollars to provide the infrastructure for service to the farthest west area of the City (Laten Knight Road, that section of Pippin Orchard Road and the furthest section of Hope Road). He expressed doubt that many homeowners would be amenable to such service in view of the high cost of providing it.

Mr. Lapolla noted that the City of Cranston is the only community that pays impact fees to the Providence Water Supply Board, stating that infrastructure in other communities is provided by bonding. He stated that he will consult the incoming Public Works Director before proceeding further with this initiative.

Comprehensive Plan Update

Mr. Lapolla informed the Commission that the Planning Department staff has edited the first section of the draft Comprehensive Plan, namely the 'Housing Element'. The commissioners will be provided with a copy of this section, and it will be made available on the City's website as well. He informed the Commission that the staff is currently working on the 'Conservation Element'.

ADJOURNMENT

Upon motion made by Mr. Devine and seconded by Mr. Delgado, the Commission unanimously voted to adjourn at 8:40 p.m.

NEXT MEETING

Due to City Council Committee Meetings, the next Planning Commission meeting will be held on Tuesday, September 11, 2007, at 7 p.m. in the Cranston High School East Auditorium.

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary