

MINUTES

December 4, 2018

Chairman Smith called the City Plan Commission Meeting to order at 7:05 p.m. in the City Council Chamber.

The following Commission members were in attendance:

Michael Smith, Chairman
Fred Vincent, Vice-Chair
Ken Mason, P.E.
Kimberly Bittner
Robert Strom
Kathleen Lanphear
Steven Spirito
Ann Marie Maccarone

Also present were:

Jason M. Pezzullo, AICP, Planning Director
Stephen Angell, Esq.
Douglas McLean, AICP, Principal Planner
Joshua Berry, AICP, Senior Planner
J. Resnick, Clerk

APPROVAL OF MINUTES

Upon motion made by Mr. Spirito and seconded by Ms. Bittner, the Commission unanimously voted to approve the minutes of the November 7, 2018, City Plan Commission Meeting with a minor correction.

SUBDIVISIONS AND LAND DEVELOPMENTS

Natick Avenue Solar

Master Plan - Major Land Development (30 Acre / 8MW Solar Farm on 64 acre site)
Natick Avenue
AP 22, Lots 108 and 119

Mr. Joshua Berry, Senior Planner, presented the proposal to develop, install and operate an approximate 8.1 megawatt (dc) ground mounted solar energy farm on a 29.7 acre area within a 64 acre site comprised of two lots located within an A-80 zone. There are two areas of the site that will not be utilized by the project (designated as 'Parcel A' and 'Parcel C' on the Site Plan) which are a hayfield/Christmas Tree farm/woodland area (approximately 29.3 acres) and a wetland area, respectively, and are proposed to remain as such. The site is covered with existing vegetation as well as topography sloping toward an existing wetland area in the southeast portion of the property. The proposed project includes the clearing and grading as necessary to install the ground mounted solar arrays, associated electrical equipment (inverters, switchgears and transformers), and the gravel roadway providing access to the solar farm and the portion of the property to the west of the proposed solar farm (currently labeled 'Parcel A' on the Site Plan). The proposal includes a planting plan to buffer the project from adjacent residential communities,

which will be reviewed in further detail at the Preliminary Plan phase. He further stated that the proposal is consistent with the Future Land Use Plan of the Comprehensive Plan. He explained how the developer proposes an access roadway to access the overall array. The closest arrays are proposed approximately 400 ft. from Natick Avenue. A conceptual development plan was also provided by the applicant, Southern Sky Renewable Energy (SSRE) as well as “view shed” conceptual photos of existing conditions and the possible planting screening areas from abutting properties.

Attorney Robert Murray, on behalf of property owner Ronald Rossi and SSRE, reminded everyone that the proposal is at Master Plan, which is the conceptual plan stage, and the proposed use is allowed “by right” under the City’s zoning code. He stated that this is the sixth solar project proposed in the city by developer SSRE. He stated that a neighborhood informational meeting was held by SSRE last week (the week of 11/24), which was attended by many residents. He reassured everyone that the project will be subject to disturbance limitations per the city requirements and will be subject to review by the Conservation Commission as well as the Development Plan Review Committee (DPR). He further stated that the noise will not exceed 40 decibels and that “noise will not leave the property”. He also assured everyone that a performance bond will be provided in order to ensure removal of the project at the end of the 25-year lease period.

Mr. Ralph Palumbo, President, SSRE, stated that he has built and managed 30 solar projects in Rhode Island and Massachusetts. He stated that it is his intent to be respectful of the City’s regulations. The site will be visited once a month for periodic maintenance and be monitored remotely with state-of-the-art equipment.

Mr. Dave Russo, P.E., DiPrete Engineering, explained the physical characteristic of the site, stating that the wetland area is in the southeastern corner (it is a five acre swamp wetland). There is a 50 ft. wide Tennessee Gas Pipeline (TGP) easement to the south and the developer is prepared to work with them regarding site work. No buffer is proposed on the south side due to the pipeline easement. He stated that “there are some cleared areas with access roadways”. A 20 ft. wide gravel access road is proposed through the site with a gate on the north side. A six-foot high chain link fence, 2-3 inches off the ground (for wildlife access) is proposed. Larger trees will be removed where necessary and supplemented with screening plantings. The panels will face south, with meadow grass below, which will be mowed periodically. A soil erosion control plan is required per state law (silt fence and compost “sock”), as well as an operation/maintenance plan. He stated that solar fields “have no real impact on hydrology”, and stormwater runoff will not increase, also consistent with RIDEM requirements. He stated that the property slopes east to west, and the developer will work with a “solar racking company”. He closed by stating that no lighting or sewer/water connections are necessary.

Attorney Murray stated that “Kinder Morgan maintains the TGP and should blasting be required within 100 ft. of the pipeline, a seismologist and other regulatory precautions are required. He stated that at this time “he is not prepared to say whether or not there will be blasting”, however, the State has a specific process for any specific blasting regulatory requirements.

Mr. John Carter, registered landscape architect, stated that there are residences to the north and east and one home to the south. Mr. Rossi’s farm is located to the west. He stated that “a stakeout” would be done whereas any abutters will be able to visualize what trees would be saved or cut, and what screening would be required. The southeast corner of the site will receive “restoration planting”. When clearing is done, the site will be analyzed and receive “in-fill” plantings (as depicted on the powerpoint presentation). Attorney Murray stated that he has written to four abutters committing to provide plantings that are satisfactory to them and acceptable to SSRE. The buffering and planting plan is not finalized and will be further scrutinized by the Cranston Conservation Commission and the Cranston Development Plan Review Committee prior to appearing back before the Plan Commission for consideration of any future approvals.

In planning consultant Edward Pimental’s absence, Attorney Murray presented his report. Mr. Pimental’s report pointed out that the solar project is a form of “land banking”, as referred to in the Comprehensive Plan. Attorney Murray also pointed out that “National Grid has an obligation to connect this project to the grid”. The power generated will travel north on Natick Avenue to Wilbur Avenue, ending at the Laten Knight Road sub-station. Three-phase wiring with new 45-foot tall poles are expected to be required for the interconnection.

Six thousand linear feet of replacement poles are expected to be required (poles 29-73) as well as tree trimming along this route.

Mr. Berry then gave his analysis, stating that in 2017, the City passed Ordinance 01-17-11 "Solar Performance Standards" to amend the Comprehensive Plan to specifically promote solar land uses as a policy stance in support of renewable energy. The following language was added to the end of Land Use Plan 1.3, "Preserve existing farmland and developable land that is currently undeveloped, by temporally removing the development potential through land banking by allowing the land to be used for passive alternative energy generation such as solar power." Additionally, the Economic Development Element and Natural Resources Element were also amended to include encouragement of renewable energy facilities. Ordinance 01-17- 11 establishes clear policy guidance for staff to support the proposed land use, which is a use allowed by right in A-80 zoning. Staff supports this project due to its consistency with the current policies and zoning regulations, but still has concerns with some of the details of the proposal at this early conceptual stage of design detail.

Conditions of Approval

1. The applicants shall submit the Buffer Planting Plan to the Conservation Commission for review and comments as part of the Preliminary Plan approval process. Required changes to the Buffering Planting Plan may result in alterations to the current proposed layout of the solar installations.
2. The applicants shall receive Preliminary Development Plan Review Committee approval **prior** to submission of a Preliminary Application with the Planning Department.
3. The applicant will work with the Tennessee Gas Pipeline to (TGP) to ensure that the project will be consistent with the terms and conditions of the easement.

Ms. Barbara Sherwin, 105 Briarhill Drive, expressed concern with the proximity to her property (50 ft.) and blasting.

Mr. Walter Lawrence, 745 Natick Avenue, expressed concern with blasting and noise from blasting, lightening, drinking well damage and damage to septic systems. He also stressed that no chemicals be used on vegetation.

Mr. Vincent Moses, 826 Natick Avenue, stated that he is opposed to the project. He began by criticized the quality of the Plan Department's PowerPoint presentation and projection quality, expressed concern with blasting and harm to his well seeking "indemnification", water runoff and proper drainage being provided, the height of the new poles and perimeter fencing and its' effect on wildlife. He suggested burying the transmission lines and providing sidewalks for safe pedestrian travel. He also asked how this project benefits the city.

Mr. Douglas Doe, 178 Lippitt Avenue, stated that he is an abutter to the Lippitt Avenue solar development project. He expressed concern with ledge and the removal of topsoil. He stated that "dirt, rocks and tree debris is all that remains on the Lippitt project". He stated that there is glare from the new racks such that it required him "to close his shades in the middle of the day". He stated that solar projects are not "removing the development" potential. He also pointed out that the city's locally amendment relating to solar farms and land banking is a fallacy. He urged the Commission to do a site visit and to continue this matter.

Ms. Rachel Clark, 41 Woodcrest, stated that six years ago a three lot subdivision was approved by the Commission that required blasting. She stated that the project "is yet to be completed and the blasting was extensive". She mentioned actions taken by the Towns of Westerly and Tiverton in regard to solar projects. She also expressed concern with what will eventually happen to the solar panels in 25 years and the possibility that they end up "in the landfill".

Attorney Patrick Dougherty, 887 Boston Neck Road, on behalf of some of the property abutters, stated that he had never been to that area and stated that “it is a beautiful area”. He stated that “there is not sufficient detail to move forward” with a decision. He stated that “one can cherry pick elements of the Comprehensive Plan to make them fit”. Regarding the buffer proposed, he stated that it is “insufficient” and further stated that “5-6 ft. white pines will take years to mature”. He expressed concern with the contours, going from 250 ft. elevation down to 110 ft. He urged the Commission to visit the site. He noted the “beautiful homes” that residents have invested. He referred to the city’s performance standards as “abysmal”. He stated that there will be a “huge environmental impact resulting from the 140 ft. contour reduction. He noted road runoff pooling in a portion Natick road several hundred feet north of the proposed entrance. He referred to Statewide Planning’s determination that solar farms are development and the use table refers to this as an industrial use. He expressed concern with the lack of “safeguards”.

Mr. Ben Ziemond, 591 Natick Avenue, urged the Commission to visit the site. He referred to the Plan Department’s presentation as “unprofessional”. He stated that there will be blasting as “the whole property is ledge”.

Mr. Russell Clark, 41 Woodcrest Ct., expressed concern with blasting and “hammering” (jackhammering) as was done at the adjacent subdivision in his area. He stated that the noise was such that “he could not use his backyard and had to leave his home”. He mentioned that the “hammering” started at 7 a.m. and on weekends as well. He asked that “the rock crushing” not be done on weekends. He stated that it is “neighborhood lore” that “the area is all ledge”. He expressed concern with stormwater control and that the “right engineering” should be conducted.

Ms. Jessica Marino, 799 Natick Avenue, stated that she has lived there for twenty years. She stated that “Mr. Murray is a “zealous advocate” for his client and the Commission is the “firewall”. She asked that the mistakes made regarding the other solar projects not be repeated. She expressed concern that TGP had not been contacted by the applicant, noting that the pipeline is “an intercontinental high pressure gas line”. She also expressed concern with the size and anchoring of the proposed new poles, stating that the street is narrow and “poles have frequently been hit” (by cars). Lastly, she expressed concern with the removal of trees and re-vegetation.

Attorney Murray addressed the concern about the TGP, stating that they have an easement across Mr. Rossi’s property. He reiterated that he does not know yet know if blasting will be required but assured everyone that the proper permits/agencies will be notified. He reminded everyone that Master Plan approval is what is sought at this time. He noted that water “pools” at certain areas on Natick Avenue. Regarding storm water runoff, he stated that “by law we are obligated to have no additional runoff post-development than there is now”. Regarding the new poles design and locations, he stated that they are “designed and engineered by the experts at National Grid”. Regarding possible removal of ledge, he assured everyone that “we are not talking about 7 am – 5 pm hammering”. He stated that “we are not talking about leveling the ground”. The developer will work with the slope. The panels will be “terraced” with the contours. Lastly, he stated that he disagrees with Mr. Doe’s reference to the Lippitt Avenue solar project’s non-conformity with RIDEM. He stated that there had been several heavy rain storms at that time and the issues were taken care of within two weeks. He noted that he takes offense at Mr. Doe’s “disparaging” his client, SSRE, in other venues and communities around the State, the Town of Hopkinton was noted as being one of them.

Commissioner Vincent stated that he “is impressed with the developer’s outreach to the community”. He asked, “What are we losing?” in regard to wildlife access. He stated that that information is available through the RIDEM. He also expressed skepticism that 25 homes could be built on the sloped land. He expressed concern with non-conformity with the Comprehensive Plan regarding “natural, cultural and site suitability”.

Commissioner Bittner agreed with Mr. Vincent, She stated that since the Comprehensive Plan Amendment in 2016 she has consistently asked “to pump the brakes” on solar farm approvals. She stated that she was “offended by the developer’s threat of 25 houses”. She stated that she feels that Mr. Doe is a good source of information and she appreciates his perspective on what can be expected on this site. She stated that a “more comprehensive ordinance is needed” and she doesn’t feel “this should be rushed”.

Commissioner Maccarone stated that she would like to have a site visit and expressed concern with environmental impacts. Commissioner Lanphear stated that this is a conceptual plan (Master Plan) and approval would 'vest' the developer. She stated that more 'evidence' is needed in the Findings of Fact. She also stated that thirty years is not 'temporary' regarding the desire to 'land bank'.

Chairman Smith stated that he would like an opportunity to hear from TGP and is concerned with the topography and how much ledge there may be.

A motion was made by Mr. Vincent and seconded by Mr. Mason to end public comments and continue this matter to the January 8, 2019, Plan Commission Meeting. An amended motion was made by Mr. Vincent and seconded by Mr. Mason to continue the matter and leave the public comment portion open and allow opportunity for the Commission to conduct a site visit. This motion was unanimously passed (8/0).

Attorney Murray stated that he would coordinate a site visit.

PERFORMANCE GUARANTEE

Woods at Orchard Valley

AP 28, Lot 30 and AP 24, Lot 11
Letter of Credit set to expire

Director Pezzullo stated that the property owner, Mohawk Land Investment, LLC, has requested a bond reduction. Public Works Director, Ken Mason, stated that the new bond amount will be \$100,000 and will be extended for two years. Placement of the granite bounds is outstanding and "commissioning" of the detention pond remains to be established. Upon motion made by Ms. Maccarone and seconded by Ms. Bittner, the Commission unanimously voted (8/0) to extend the new bond amount for two years.

ZONING BOARD OF REVIEW RECOMMENDATIONS

TKG CRANSTON DEVELOPMENT, LLC (OWN) and AMERICAN FREIGHT, INC. (APP) have filed an application to install new signage in exceeding the allowable size at **1808 Plainfield Pike**, A.P. 37, Lot 3, area 608,969 sq.ft. zoned C-4. Applicant seeks relief per 17.92.010 Variance, Section 17.72.010 Signs. Application filed 11/06/2018. Robert D. Murray, Esq.

Variance Request:

1. To allow a new 165.8 ft² wall sign exceeding the 30 ft² maximum wall sign area in a C-4 zone.

[17.72.010 Signs]

Although incorporated in the application, Planning staff holds that no variance is required to allow a 26.4 ft² addition (13.2 ft² each side) to an existing freestanding sign.

FINDINGS OF FACT:

1. The subject site is located in a Commercial C-4 District (Highway Business), with an approximate area of 608,969 ft². The use of the site is consistent with zoning and the City of Cranston Comprehensive Plan Future Land Use designation which calls for commercial uses. The proposal does not impair the intent or purpose of zoning or the Comprehensive Plan.
2. The sign ordinance limits wall signs to be 30 ft². The proposed wall sign is composed of two rows of letters, the top row is 28" high and 25.21' wide and the bottom row is 38" high and 33.83' wide. The application calculates the sign area as the sum of the area of the two individual rows of letters [(28" x 25.21') + (38" x 33.83')] for a total area of 165.8 ft². However, the proposal is a *single* sign, not two individual signs. Therefore, per Code Sec. 17.72.010(c), the combination of rectangles "that will encompass the extreme limits of the writing" includes the space between the two rows of letters. The correct area calculation for the proposed sign is the sum of the area of

the two rows, plus the area of the space between the rows $[(28" \times 25.21') + (38" \times 33.83') + (25.21' \times 8.3")]$ for a **total area of 183.23 ft²**. The technical correction of the sign computation is does **not** have any substantive impact on the proposal or the analysis.

3. The linear dimension of the store frontage is 77'. In comparison, Planet Fitness has 93' of frontage.
4. Other signs on the **same building** in the plaza include:
 - a. The Planet Fitness wall sign is 308.1 ft² with overall letter height of 6'-6" (78"), as well as a gear icon of 31.3 ft². The signage was approved by ZBR on 6/8/16.
 - b. The Dollar Tree sign is 107.67 ft² (3'2" x 34'). The signage was approved by Zoning Board on 12/14/11 conditioned to 38" maximum letter height maximum.
 - c. The "Kochi Sushi & Steakhouse" wall sign records could not be found.
 - d. The "Cricket" wall sign is 17.73 ft² with 24" high letters, but only has 28.2' of store frontage.

Other signs on **different buildings** on the site include:

- e. The McDonald's freestanding sign is 57.2 ft² (28.6 ft² per side). Records of the wall signage could not be found.
 - f. The total Walmart signage is 630 ft². The letters for the logo itself are 5'-6" tall. The signage was approved by the ZBR on 7/13/11.
 - g. The Subway wall sign is 20 ft² (2' x 10').
5. There were findings made by the ZBR in their unanimous 2016 approval of the Planet Fitness sign which should be considered as they may also apply to the current application. They are:
 - a. Finding #6 – The Board found that the proposed size of the sign was necessary due to the location of the unit within the shopping plaza.
 - b. Finding #7 – The Board found that the sign was not visible from Plainfield Pike.
 6. With a 5/2 vote to forward a positive recommendation on the variance request for the Planet Fitness sign, the Plan Commission recommended a limit on the wall letter height to 38" to be in character with the other storefront wall signs on the building. The proposal is compliant with the 38" letter height, although the overall sign height is 74" due to there being two rows of letters.
 7. Building is located roughly 470' from Independence Way and 135' Plainfield Pike. The wall signs will not be visible to westbound traffic on Plainfield Pike. Additionally, there are existing trees which restrict line of sight to the building from Plainfield Pike.
 8. Planning staff believes the proposed addition to the existing freestanding sign does not require a variance. The approval of the freestanding sign is based on total area of the structure supporting the sign, not the compartmentalized 13.2 ft² addition of content on the existing freestanding structure. The sign will be in consistent in size with the other existing commercial signs.
 9. There is no record of a permit for the existing temporary banner sign.

ANALYSIS:

The applicant is a tenant in the shopping plaza at the southeast corner of Plainfield Pike and Independence Way, just south of the Johnston/Cranston border. The property is in a C-4 commercial zone (Highway Business), which permits the applicants retail furniture sale as an allowed use. The applicant is requesting wall signage beyond what is permitted by code; 183.23 ft² where 30 ft² is allowed.

As the request is 610% larger than the required maximum, it is evident that either the application or the sign code is inappropriate in this instance, staff finds it to be the latter. The plaza is a relatively large site, 608,969 ft² in area, with the vast parking lot and McDonalds in the 470' between Independence way and the multitenant commercial building. The strict application of the code would limit the wall sign to 30 ft²,

which would be completely illegible considering the distance from the access road to the building. The sign ordinance is more appropriately applied to commercial buildings on their own lots, built closer to the street. Therefore, relief from the sign regulations is warranted.

There have been multiple variances granted for signage on site, most relevant are the sign for Planet Fitness and Dollar Tree. Planet Fitness, which is the abutting tenant to American Freight, has a 308.1 ft² wall sign with overall letter height of 6'-6" (78"), as well as a gear icon of 31.3 ft². The Planet Fitness sign is 185% the area of the proposed American Freight sign and Planet Fitness has 121% the store frontage of American Freight. The 107.67 ft² Dollar Tree sign was approved with the condition of 38" letter height maximum, for a storefront of 80'.

Staff finds grounds for the variance request on several fronts. The variance request is comparable to the other existing signs and variance approvals in the plaza, so the strict application of the code would disproportionately fall on this applicant. The distance between the street and the building can be considered a unique characteristic of the property that is not due to the physical or economic disability of the applicant. The sign ordinance does not appear to appropriately accommodate the particular set of conditions, and in this circumstance, relief would not alter the character of the area or undermine zoning or the Comprehensive Plan.

RECOMMENDATION: Due to consistency with the previous ZBR approvals on site, and finding that the sign will not alter the character of the area or undermine zoning or the Comprehensive Plan, on a motion made by Mr. Mason and seconded by Mr. Spirito, the Plan Commission unanimously voted (7/0) to forward a **positive recommendation** on this application to the Zoning Board of Review.

NATHAN L. BEAUVAIS and HEATHER BEAUVAIS (OWN/APP) have filed an application to convert an existing dwelling to a two-family dwelling at 41 Alto Street A.P.7, Lot 561, area 4,400 sq.ft. zoned B1. Applicant seeks relief per 17.92.010 Variance, Section 17.20.120 Schedule of Intensity Regulations. Application filed 11/07/2018. Stephen Levesque. Esq.

VARIANCE REQUESTS:

All requested relief is for existing conditions. No physical changes to the structure or lot are occurring as part of this application.

1. To maintain an existing two-family dwelling on a 4,400 ft² lot where 8,000 ft² is required. [17.20.120 Schedule of Intensity Regulations]
2. To maintain an existing two-family dwelling on a lot with 40' of width/frontage on Alto Street where 60' is required. [17.20.120 Schedule of Intensity Regulations]
3. To maintain an existing two-family dwelling that encroaches in front and side setbacks. [17.20.120 Schedule of Intensity Regulations]
4. To maintain an existing two-family dwelling with a lot coverage percentage in excess of the required 35%. [17.20.120 Schedule of Intensity Regulations]

FINDINGS OF FACT:

1. The subject property is zoned B-1 as is a non-conforming lot with 4,400 ft² of lot area and 40' of frontage. B-1 zoning is intended primarily for the use of single-family and two-family dwellings (17.08.010 Zoning Districts).
2. The lot is currently occupied by a structure that has historically been used as a two-family dwelling. Additionally, the property has been taxed as a two-family dwelling for at least 34 years (based on 1984 Cranston Tax Assessors records).
3. The property has not been legally established as a two-family in Cranston's land use records.
4. The current property owner bought the property in 2012 with the intention of continuing use as a two-family.
5. The minimum lot area for a two-family dwelling in a B-1 zone is 8,000 ft². Therefore, relief is requested in the amount of 3,600 ft² to maintain the existing condition of 4,400 ft².

6. The minimum frontage for a lot in a B-1 zone is 60'. Therefore, relief is requested in the amount of 20' to maintain the existing condition or 40' of frontage.
7. The minimum front yard setback for a lot in a B-1 zone is either 25' or the average setback of abutting building on the same street within 200'. The applicant has not provided analysis of average front yard setback of abutting existing buildings, but in this case the exiting front setback of 0' feet will require relief regardless of which metric is used to determine the front setback.
8. The minimum side yard setback for a lot in a B-1 zone with less than 50' of frontage is 5' [per 17.20.090 (F) - Specific Requirements]. Therefore, relief is requested in the amount of 2.7' to maintain the existing condition of a 2.3' of side setback.
9. The minimum lot coverage in a B-1 zone is 35%. Applicant has submitted in their application that they currently have 80% lot coverage on the property but this appears to account for all paved surfaces of the lot in addition to buildings so this is not seen as an accurate figure. Lot coverage as defined in Cranston Zoning code is based on buildings alone. Based on the site plan, it appears that the current lot coverage amount is approximately 40% so relief is requested to maintain the existing condition.
10. The applicant has provided an analysis of the neighborhood within 400' of the subject property. This analysis states that:
 - There are 80 parcels within 400'.
 - A total of 37.5% of these lots are classified as two-families.
 - A total of 78.75% of these lots have a lot area of 4,400 ft² or less.
11. The use of two-family dwellings is consistent with B-1 zoning and the Comprehensive Plan's Future Land Use allocation for the property of "Single Family/Two Family Residential less than 10.39 units/acre."
12. The property also has an existing 2-car garage and a driveway with parking to fit up to 4 additional vehicles.

ANALYSIS:

No physical changes to the buildings or lot are being proposed as part of this application. The City's land use records indicate that this property is designated as a single-family residence, however the property has been taxed as a two-family dwelling for at least 34 years. The current property owners purchased the property in 2012 with the intention of continuing its use as a two-family dwelling and were unaware of the inconsistency with the land use designation until the present time. The arrangement of the building as a two-family is not the result of any actions taken by the current property owner and this application is viewed as a means to "clean-up" the record on this property moving forward. The use of two-family dwellings is consistent with B-1 zoning and the Comprehensive Plan's Future Land Use allocation for the property of "Single Family/Two-Family Residential less than 10.39 units/acre." The only inconsistencies with City Zoning code are relating to dimensional aspects of the lot and structures for existing conditions. The continued use of the property as a two-family dwelling is viewed as consistent with the character of the surrounding neighborhood.

RECOMMENDATION: Due to the finding that the neither the existing nonconforming conditions nor the creation of the second dwelling unit was a result of the actions or inactions of the current owners, and that the property has been operating and acknowledged as a two-family dwelling without issue for at least 34 years, and due to consistency with Comprehensive Plan's Future Land Use designation, and that there is no perceived detriment to the general welfare or character of the neighborhood, on a motion made by Ms. Bittner and seconded by Mr. Vincent, the Plan Commission unanimously voted (7/0) to forward a **positive recommendation** on this application to the Zoning Board of Review.

ALBACO, LLC. (OWN/APP) has filed an application to convert an existing three family dwelling to a four family dwelling at 10 Commercial Street. A.P.1, Lot 383, area 7,124 sq.ft. zoned B1. Applicant seeks relief per Section 17.92.010 Variance, Sections 17.20.030 Schedule of Uses; 17.20.120 Schedule of Intensity Regulations. Application filed 11/8/2018. Robert D. Murray, Esq.

VARIANCE REQUESTS:

Use Variance:

1. To maintain an existing nonconforming use (four-family dwelling) where not allowed in B-1 zoning. [17.20.030 Schedule of Uses]

Dimensional Variances:

1. To maintain an existing four-family dwelling on a 7,124 ft² lot where 18,000 ft² is required. [17.20.120 Schedule of Intensity Regulations]
2. To maintain an existing four-family dwelling on a lot with 57' of width/frontage on Cranston Street where 60' is required. [17.20.120 Schedule of Intensity Regulations]
3. To maintain an existing four-family dwelling that encroaches in front and side setbacks. [17.20.120 Schedule of Intensity Regulations]

FINDINGS OF FACT:

1. The subject property is zoned B-1 as is a non-conforming lot with 7,124 ft² of lot area and 57' of frontage. B-1 zoning is intended primarily for the use of single-family and two-family dwellings (17.08.010 Zoning Districts).
2. The lot is currently occupied by a structure that was constructed in 1894.
3. The property was legally established as a nonconforming three-family dwelling prior to adoption of the zoning code. The property was historically used as a three-family dwelling and was converted to a four-family dwelling without the benefit of a permit at an unknown time over 25 years ago.
4. The property has been taxed as a four-family dwelling (defined as "multi-family" in Cranston's land use records) for 25 years. Multifamily dwellings are not a permitted use in B-1 zoning (17.20.030 Schedule of Uses).
5. The expansion of this property to a four-family dwelling requires a Use Variance under section 17.92.010 Variances.
6. The current property owner bought the property in June 2018 with the intention of continuing its use as a four-family dwelling.
7. The minimum lot area for a multi-family dwelling is 18,000 ft². Therefore, dimensional relief is requested in the amount of 10,876 ft² to maintain the existing condition of 7,124 ft².
8. The minimum frontage for a lot in a B-1 zone is 60'. Therefore, dimensional relief is requested in the amount of 3' to maintain the existing condition or 57' of frontage.
9. The minimum front yard setback for a lot in a B-1 zone is either 25' or the average setback of abutting building on the same street within 200'. The applicant has not provided analysis of average front yard setback of abutting existing buildings, but in this case it is assumed the exiting front setback of 5' feet will require dimensional relief regardless of which metric is used to determine the front setback.
10. The minimum side yard setback for a lot in a B-1 zone is 8 feet. Therefore, dimensional relief is requested in the amount of 1.5' to maintain the existing condition of a 6.5' of side setback.
11. The mix of land uses within a 400' radius of the subject parcel is as follows:
 - Properties within 400' in B-1 Residential Zone:

○ Single Family	24
○ Two Family	11
○ Three Family	4
○ Four Family	1
○ Condominiums	10
○ Municipal	4
○ Undeveloped	6

- o Charitable 1
- o Religious 3
- Properties within 400' in C-3 Commercial Zone:
 - o Single Family 3
 - o Two Family 3
 - o Three Family 3
 - o Condominiums 3
 - o Mixed Use 3
 - o Business 3
 - o Undeveloped 2
 - o Other 1
- Properties within 400' in S-1 Open Space Zone:
 - o Municipal 1

12. The applicant provided a revised site plan (see above) on 12/3/18 which shows proposed improvements to the rear of the property by adding a gravel parking area and expanding on the existing garage to accommodate 8 total parking spaces (2 per unit as required by zoning).
13. It should be noted that the existing curb cut to the subject lot is 8' wide, whereas 12' is required by Zoning Code (Section 17.64.010(F) - Off-street parking). However, this dimension is a pre-existing nonconforming condition and widening the curb cut or driveway is not feasible given the location of the building and dimensions of the lot.
14. The use of multi-family dwellings is not consistent with B-1 zoning and the Comprehensive Plan's Future Land Use allocation for the property of "Single Family/Two Family Residential less than 10.39 units/acre."

ANALYSIS:

The property is currently used as a four-family dwelling and no additional units will be constructed as part of this application. The City's land use records indicate that this property is designated as a three-family residence, however the property has been taxed as a four-family dwelling for 25 years. The current property owners purchased the property in June 2018 with the intention of continuing its use as a four-family dwelling. The owner is proposing to make improvements to the basement unit and improvements to the rear of the property by adding a gravel parking area and expanding on the existing garage to accommodate 8 total parking spaces.

The use of multi-family dwellings is not consistent with B-1 zoning and the Comprehensive Plan's Future Land Use allocation for the subject property of "Single Family/Two-Family Residential less than 10.39 units/acre." As a Use Variance application, this request requires a high level of scrutiny in the review process, including but not limited to a review of consistency with the Comprehensive Plan. Staff has reviewed the Comprehensive Plan to identify if there are any relevant policies that may support the allowance of four-family dwellings in B-1 Zoning Districts in this neighborhood (Pawtuxet), however no such policies exist. Further, the size of the subject property (7,124 ft²) is approximately 40% of the minimum lot size required for a multi-family dwelling (18,000 ft²). Due to the clear inconsistency with the Comprehensive Plan, and the limited size of the lot compared to the minimum requirements of zoning for a multi-family, staff has significant concerns with legitimizing the use of a four-family dwelling on the subject property.

RECOMMENDATION: Due to the application being inconsistent with the Comprehensive Plan, and the existing lot size being significantly below the minimum zoning allowance, on a motion made by Ms. Lanphear and seconded by Ms. Maccarone, the Plan Commission voted (4/3 – Chairman Smith, Mr. Mason, and Mr. Vincent voted nay) to forward a negative recommendation on this application. Due to the result of the vote, **no specific recommendation** was approved to send to the Zoning Board of Review.

UNO FINANCIAL, LLC. (OWN) and NORBERTO SALAS (APP) have filed an application to expand a non-conforming use of land and a structure at **86 Governor Street**, A.P. 8, Lot 612, Area 3161 sq.ft. zoned B2. Applicant seeks relief per 17.92.010 Variance; Section 17.88.030 (A) Extension, Section 17.20.120 Schedule of Intensity Regulations. Application filed 11/16/2018. Jeffrey F. Caffrey, Esq.

VARIANCE REQUESTS:

- 1) To allow the expansion of a building on a non-conforming lot that will result in 35.27% lot coverage where 35% is required. [17.20.120 Schedule of Intensity]
- 2) To allow the expansion of a building to encroach 1.6' within the 5' side setback. [17.20.120 Schedule of Intensity and 17.20.090 (F) - Specific Requirements]
- 3) To allow the modification of an existing garage to encroach 3.2' within the 5' side setback. [17.20.120 Schedule of Intensity and 17.20.090 (F) - Specific Requirements]

FINDINGS OF FACT:

1. The subject property is zoned B-2 and is a non-conforming lot with 3,161 ft² of lot area and 40' of frontage
2. The lot is currently occupied by a vacant structure that was constructed in 1905 - before the zoning code became effective in 1966.
3. The primary structure has been vacant for over 30 years. Prior to this time, the property was used for commercial purposes.
4. The current owner, Uno Financial LLC, purchased the property in 2017.
5. The proposed new use of single family residential is consistent with B-2 zoning and the Comprehensive Plan's Future Land Use allocation of "Residential less than 10.39 units/acre".
6. The existing primary structure is non-conforming with regard to building setbacks as follows:
 - Structure encroaches 22.2' into the 25' front setback (without taking in account the average building setback within 200' of the property).
 - Structure encroaches 1.6' into the 5' side setback. [reduced side setback due to 17.20.090 (F) - Specific Requirements which allows for 5' side setback if lot frontage is less than 50').
7. The applicant proposes to renovate the existing primary structure by adding a second floor to the existing building area and expanding the first floor footprint with an addition measuring 8' X 20' in the rear of the building.
8. The proposed addition to the primary structure will occur within the side setback and will necessitate a variance to expand on the existing non-conformity by allowing new building activities that encroaches 1.6' into the 5' side setback (same encroachment as existing building).
9. The existing garage in the rear of the property is non-conforming in that it is straddles the property line with the property to the west (currently same owner).
10. The applicant proposes to remove a portion of the existing garage so that it will no longer straddle the property line and the proposed new garage footprint will end 1.8' from the side property line. This change necessitates a variance for altering an accessory structure that will remain in the side setback (encroaching 3.2' within the 5' side setback).
11. The combined addition to the primary structure and the removal of a portion of the garage will result in an increase in the total square footage on the property for a combined lot coverage of 35.27%. The maximum lot coverage in a B-2 zone is 35%. The proposed changes will require a variance for lot coverage due to this minor overage (0.27%).
12. The existing driveway and curb cut to the subject property straddle the property line with the lot to the west and (currently same owner). This driveway currently serves as only means for vehicle access to the rear of both lots due to limited space between the buildings. There are easements on the deeds for both properties memorializing this arrangement.

13. The existing driveway and curb cut servicing the 2 properties will be increased from 10' to 19.3' as part of the proposed redevelopment, which will bring the curb cut into conformity with city code.

ANALYSIS:

The subject lot was platted and developed prior to the effective date of the zoning code in Cranston, so the setbacks of the existing structure were not a consideration at the time. The current property owner is now seeking to redevelop the vacant property into a two-story, single family dwelling. This use is consistent with the zoning code and the Comprehensive Plan's Future Land Map. Additionally, the proposed single family is consistent with the surrounding neighborhood which exhibits a mix of single family, two-family and multi-family dwellings that are 2 to 3 stories high.

The proposed addition to the rear of the primary structure does represent an expansion of the current non-conformity, but the addition will not encroach closer to the side property than the existing building (currently encroaches 1.6' into the 5' side setback). This will expand on the footprint of the existing building from 560 ft² to 720 ft². Note that the minimum side setback requirement for this specific lot is reduced as a result of the provision within Zoning Code Section 17.20.090 (F) which reads "*In Section 17.20.120 the "minimum side yard" requirement for a nonconforming lot (as defined in subsection 17.88.010(B)) having a frontage of less than [sic] fifty (50) feet, shall be five feet.*"

The proposed removal of a portion of the garage so that it no longer straddles the property line will bring the property into further compliance with City requirements, but the proposed new footprint of the garage will still encroach into the side setback. Due to this, the applicant is requesting a variance to allow the modified garage to be in the side setback. The proposed changes to the driveway and curb cut as part of the proposed redevelopment will bring the property into further compliance with City regulations by expanding the curb cut width from 10' to 19.3'. The proposed new driveway and garage layout will be utilized by the subject property and the abutting property to the west (currently same owner) and this arrangement has been memorialized in the deeds for both properties.

In summary, this application requires consideration of relief for a side setback in that the addition to the primary structure that will extend along the existing side-lines of the building (i.e.: the addition will not encroach closer to the side property line than the existing structure). It also requires consideration for an modification to the garage in the rear of the structure that will bring that structure into further compliance with City code. Additionally, the proposed changes will result in an increase in lot coverage percentage that will require minor relief for being 35.27% whereas the maximum limit is 35%. The result of the proposed changes will allow for the redevelopment of a property that has been vacant for over 30 years. While the building had been previously used for commercial purposes, the proposed new use of single family residential is consistent with City code, the Comprehensive Plan's Future Land Map, and the surrounding neighborhood.

RECOMMENDATION: Due to the fact that the new addition to the primary structure will not be closer to the side property line than the existing structure, that the modification to the garage will bring that structure into further compliance with City code, and that the proposed new use of single family residential is consistent with City code, the Comprehensive Plan's Future Land Map, and the surrounding neighborhood, and that there is no perceived detriment to the general welfare or character of the neighborhood, on a motion made by Ms. Bittner and seconded by Mr. Spirito, the Plan Commission unanimously voted (7/0) to forward a **positive recommendation** on this application to the Zoning Board of Review.

ORDINANCES

WORKSHOP – *Solar Farm Moratorium Ordinance*

Director Pezzullo stated that “compelling reasons” and a timeframe are needed to have a moratorium on solar farm applications. He recommended the following performance standards for re-evaluation be specifically incorporated into the ordinance for study to be presented to the City Council: 1) Landscaped buffer areas and mandatory minimum setbacks from abutting residential uses and open space conservation areas, 2) maximum percentage of lot coverage, 3) maximum percentage of lot clearance, 4) minimum lot sizes, 5) soil conservation/erosion management plans, 6) operation and maintenance plan requirements, 7) noise – post construction, 8) lighting, 9) impacts and mitigation plan for interconnection path, 10) fencing standards, 11) pollinator species for the grass mix, 12) grading and site preparation standards (i.e. blasting), 13) stormwater management, 14) decommissioning requirements, 15) taxation and other revenue generation, 16) land banking/open space preservation, 17) solar farm growth cap.

Mr. Pezzullo stated that a “land conservation framework was established” several years ago. He asked that the commissioners submit their suggestions by Friday, December 7 by noontime. Chairman Smith mentioned wildlife fencing, Mr. Vincent mentioned “interconnection route and landscape buffer” and the possibility of the requirement of a Special Use Permit. Ms. Bittner mentioned the property tax rate be considered. Mr. Pezzullo stated that the properties are no longer taxed as “farm/forest” once a solar farm has been established. Attorney Murray stated that the solar farms are “taxed higher”. Ms. Lanphear suggested changing the “by right” language and “preserving farmland”. Mr. Pezzullo advised against changing the the amended Comprehensive Plan language allowing for solar farms.

PLANNING DIRECTOR’S REPORT – 2019-2020 CIP, Comprehensive Plan, Unified Development, AirBnB, Solar Farm Moratorium, Long-Range Planning Workshops

Director Pezzullo briefly discussed the resolution for a Solar Farm Moratorium and the requirement for an ordinance. He would be drafting and presenting an ordinance to the City Council and the Plan Commission will be required to make a recommendation on this ordinance at the next regular meeting.

ADJOURNMENT

Upon motion made by Ms. Bittner and seconded by Mr. Mason, the Commission unanimously voted to adjourn at 11:35 pm.

NEXT REGULAR MEETING January 8, 2019 – City Council Chamber, 7 pm

Respectfully submitted,

Jason M. Pezzullo, MPA, MCP, AICP
Planning Director