

MINUTES

February 5, 2008

Chairman Petit called the Planning Commission Meeting to order at 7:15 p.m. in the City Council Chamber. The following Commission members were in attendance:

Paul M. Petit, Chairman
Corsino Delgado, Finance Director
Anthony Sylvia, P.E., Public Works Director
Councilwoman Paula McFarland

Also present were:

Peter Lapolla, Planning Director
Jason M. Pezzullo, AICP, Principal Planner
Lynn Furney, AICP, Senior Planner
Vito Sciolto, Esq., City Solicitor
J. Resnick, Senior Clerk

See attendance sheets for a listing of those members of the public that attended.

MINUTES

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to *approve* the minutes of the January 8, 2008, Planning Commission Meeting.

ZONING BOARD OF REVIEW ITEMS

ST MARY & ST MENA COPTIC ORTHODOX CHURCH OF RI 8 PENDLETON STREET CRANSTON RI 02920 (OWN/APP) has filed an application for permission to build new church with restricted height, additional signage and street access greater than that allowed by ordinance at the **northeast corner of Scituate Avenue and Seven Mile Road**. AP 32, lot 38, area 348,480 +/- SF, zoned A-80. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.72.010 Signs, 17.64.010 (F) (2) Street Access.

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:

The applicant submitted new elevation drawings that illustrated an 8 foot reduction in the height of the two bell towers to a new height of 72 feet and reduced the former height of the 72 foot dome to 66 feet. The 43 foot roof height will remain the same.

Recommendation: Upon motion made by Mr. Delgado and seconded Councilwoman McFarland, the Commission unanimously voted to recommend *approval* 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.

Aye votes: Chairman Petit, Mr. Delgado, Mr. Sylvia and Councilwoman McFarland. No nay votes.

JOSEPH DESANTO AND PATRICIA A LEFF 410 GARDEN CITY DRIVE CRANSTON RI 02920 (OWN) AND FINANCIAL CONCEPTS INC DOUGLAS WATTS 9 MERCER ROAD NATICK MA 01760 (APP) AND RANDOLPH HOLDING II LLC 730 CENTRE OF N E BLVD COVENTRY RI 02816 have filed an application for permission to renovate an existing building into a Randolph Savings Bank branch with drive-thru with restricted frontage and side yard set back at **875 Pontiac Avenue**. AP 9/1, lot 3200, area 12,476 +/- SF, zoned C-4. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

The applicant's attorney has requested a continuance to a date after the necessary Preliminary Approval has been received from the City's Site Plan Review Committee.

CONSTANTINE & KATHRINE GRAMMAS 81 RAVEN CIRCLE CRANSTON RI 02921 (OWN/APP) have filed an application for a special use permit to build a 610+/- SF family accessory apartment at 81 **Raven Circle**. AP 35, Lot 269, area 20,000 +/- SF, zoned A-20. Applicant seeks relief from Sections; 17.92.020 Special Use Permit, Schedule of Uses 17.20.030.

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's residential use is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map which designates the subject parcel as "Residential" allowing 1-4 units / acre.
2. The proposed accessory family apartment will exceed the maximum allowed square footage by 10 sq. ft. The site plan shows an addition that is 18'-6" wide. The floor plans submitted show the addition's width is 18 ft.-9-1/2". If the addition's width were reduced to 18' even, the area of the proposed apartment would conform to the zoning requirement for maximum area.
3. The proposed site plan shows the addition will have a 15.21' side yard setback, where 15 feet is required.
4. The proposed addition's area is well within 25% of the primary dwelling's total living space allowed for a family accessory apartment.
5. The proposed family accessory apartment addition has direct interior access to the living room of the primary dwelling.
6. The addition's exterior door conforms to the specific requirements of the zoning code, as it does not face the street, thereby retaining the appearance of a single family dwelling.
7. Therefore, the proposal to construct an addition for a family accessory apartment will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.

Recommendation : Upon motion made by Councilwoman McFarland and seconded by Mr. Delgado, the Commission unanimously voted to recommend *approval* with the following conditions:

2. 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.

Aye votes: Chairman Petit, Mr. Delgado, Mr. Sylvia and Councilwoman McFarland. No nay votes.

SCITUATE AVENUE REALTY LLC 94A JEFFERSON BOULEVARD WARWICK RI 02888 (OWN) AND JMJ ENTERPRISES INC D/B/A INSIDE SCOOP PO BOX 851 NORTH KINGSTOWN RI 02852 (APP) have filed an application for permission to add to the existing menu the sale of takeout products including but not limited to chowder clam cakes and doughboys at **1075 Scituate Avenue**. AP 36/4, Lot 43, area 4.59 +/- acres, zoned A-80. Applicant seeks relief from Sections; 17.92.010 Variance, Schedule of Uses 17.20.030.

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 City of Cranston Comprehensive Plan's Future Land Use Map designates this area along Scituate Avenue as "Residential" allowing 1-4 units / acre, however, the building had been used commercially as a farm stand, prior to the adoption of the Comprehensive Plan.
2. In November, 2003, a zoning variance was approved to sell ice cream, dairy products, and seasonal fruits and vegetables from the existing farm stand building.
3. The outside eating area and limited inside seating area provides a total of 60 seats, requiring 24 parking spaces. The unpaved parking area can provide parking spaces for 24 cars.
4. The property is located within a Conservation Easement area.. A letter dated December 11, 2007 from the City Solicitor, states that it is his "opinion that the expansion of the menu to include clam cakes and doughboys can in fact be reasonably construed so as to not violate the outstanding Conservation Easement Agreement."
5. There will be no exterior changes to the building that will change its rural character, therefore the addition of chowder, clam cakes and doughboys to the takeout menu will not alter the general character of the surrounding area, or impair the intent or purpose of the zoning ordinance.

Recommendation: Upon motion made by Mr. Sylvia and seconded by Mr. Delgado, the Commission unanimously voted to recommend *approval* 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 added menu item to clam cakes, chowder and doughboys only, so as to not change the character of the business to a fast food restaurant.

Aye votes: Chairman Petit, Mr. Delgado, Mr. Sylvia and Councilwoman McFarland. No nay votes.

PUMPKIN PATCH REALTY LP TAX ASSESSORS PLAT 36 LOT 14 AND LINK COMMERCIAL PROPERTIES LLC TAX ASSESSORS PLAT 36 LOT 158 1150 NEW LONDON AVENUE

CRANSTON RI 02920 (OWN) AND PUMPKIN PATCH EARLY LEARNING CENTER INC 1150 NEW LONDON AVENUE CRANSTON RI 02920 (APP) have filed an application for permission to build a new 4960+/- SF commercial building for an early learning center on lot 14 and a portion of lot 158 on the northerly side of **220 Comstock Parkway**. AP 36/4, Lot 14 and portion of 158, area 76,780 +/- SF, zoned A-80 and M-1. Applicant seeks relief from Sections; 17.92.010 Variance, Schedule of Uses 17.20.030, 17.20.120 Schedule of Intensity, 17.72.010 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 City of Cranston Comprehensive Plan's Future Land Use Map designates this area along Comstock Parkway as "Industrial.
2. Page 25 of the Comprehensive Plan's Land Use Element entitled Growth Management in Western Cranston, states: "Commercial and Community services should be provided for existing and future residents of western Cranston, without supplanting industrial development opportunities." Though this property is zoned industrial, the learning center will be constructed on a portion of lot #158, leaving the remainder of the lot with a large enough area of land to create a lot that conforms to industrial zoning, resulting in no net decrease in the number of industrial lots.
3. The abutting property contains the Pumpkin Patch Early Learning Center. The proposed new building is an expansion of that use, which did not require a zoning variance, because of its location in a residential, B-2 Zone. (The A-80 Zone listed in the application is incorrect).
4. The applicant will be before the Site Plan Review Committee with a Preliminary Site Plan Review application on February 6, 2008. The applicant already has pre-application approval.
5. The Comp Plan states in some cases, it may be desirable to include commercial uses (such as banks, restaurants, motels and hotels and gas stations) in industrial areas, to provide support services for industrial businesses, or to minimize off-site traffic impacts resulting from employee trips during the work day. Though not specifically listed, the applicant's proposal could be considered an important support service for the industrial park.
6. One parking space for every two teachers is required by zoning code, plus sufficient off street space for safe and convenient loading and unloading of students.
7. The site plan shows 17 parking spaces on the site, where 5 spaces are required. The parking and circulation plan has not yet been approved by the city's traffic engineer.
8. The proposed sign will match the area, height and materials, of the existing Pumpkin Patch Early Learning Center monument sign at 220 Comstock Parkway. (Masonry, 7' long x 4' high =56 S.F.)
9. The application 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."

Recommendation: Upon motion made by Mr. Delgado and seconded by Mr. Sylvia , the Commission unanimously voted to recommend *approval* 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. Parking plan to be approved by the City Traffic Engineer.

Aye votes: Chairman Petit, Mr. Delgado, Mr. Sylvia and Councilwoman McFarland. No nay votes.

SUBDIVISION AND LAND DEVELOPMENT PLANS

Swanson Minor Subdivision-Preliminary Plan

Minor subdivision without street extension

174 Riverside Avenue

AP 5/3, Lots 747,748,749,750,751 and 753

Mr. Pezzullo explained the proposal to subdivide the combined 15,000+/- sq. ft. of land area (six existing record lots) into two new conforming house lots; one for the existing single-family home to be situated on a 9,000 sq. ft. lot, and one 6,000 sq. ft. lot suitable for an additional single-family residence. Both proposed lots meet the minimum frontage and area requirements within the A-6 Zone, and both will be serviced by public water and sewer.

No public testimony was offered on this proposal.

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, the Commission unanimously voted to adopt the Findings of Fact denoted below and *approve* this Preliminary Plan, with waiver for sidewalk provision, subject to the following conditions.

Findings of Fact

1. An orderly, thorough and expeditious technical review of this Preliminary Plan has been conducted. Property owners within a 100' radius have been notified via first class mail on January 28, 2008 and the meeting agenda has been properly posted. Advertisement for this minor subdivision is not required under Section V.C.2.h of the City of Cranston Subdivision Regulations since no street extension is proposed.
2. The proposed subdivision and its resulting density of approximately 5.8 residential units per acre is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map which designates the subject parcel as "Residential" allowing more than 8 residential units per acre".
3. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.
4. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Preliminary Plan.
5. The proposed subdivision promotes high quality appropriate design and construction, will be well integrated with the surrounding neighborhoods and will reflect its existing characteristics.
6. The proposed subdivision will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.
7. The property in question has adequate permanent physical access on Riverside Avenue, an improved public roadway located within the City of Cranston.

8. The proposed subdivision provides for safe and adequate local circulation of pedestrian and vehicular through traffic, for adequate surface water run-off and for a suitable building site.
9. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.
10. The design and location of streets, building lots, utilities, drainage and other improvements conform to local regulations for mitigation of flooding and soil erosion.

Conditions of Approval

1. Payment of Eastern Cranston Capital Facilities Impact Fees of \$593.46 at the time of Final plat recording.
2. Applicant shall install 6" concrete curbing along the entire frontages of both lots to the satisfaction of the Cranston Building Department at the time of building permit.
3. Waiver for sidewalk provision is granted, however, granite curbing is required.

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

Sanctuary Estates – Preliminary Plan (REINSTATEMENT)

Minor subdivision with street extension
Pippin Orchard Road
Plat 28, Lot 64

Mr. Pezzullo explained the proposal to subdivide this 13.99 acre parcel into 4 single family house lots and one lot retaining the existing church in an A-80 Zoning District. The subdivision originally received Preliminary Plan approval from the Planning Commission on July 12, 2005. On July 11, 2006, the Planning Commission approved a one-year extension; to July 12, 2007. Subsequently, the Final Plan was submitted but was never deemed complete due to the fact that the applicant, Mr. Golini, was not able to provide a performance guarantee suitable to the City's Finance Department. At this time, the applicant has proposed to provide the City with a cash bond which will be retained until such time that the public improvements have been completed.

Upon motion made by Mr. Sylvia and seconded by Mr. Delgado, the Commission unanimously voted to adopt the Findings of Fact denoted below and *approve* the reinstatement of this Preliminary Plan for a period of one year.

Findings of Fact

1. The subdivision, "Sanctuary Estates", is consistent with the Comprehensive Plan, and with the prior approval including all conditions attached thereto;
2. The Subdivision and Land Development Regulations are substantially the same as they were at the time of the original approval;
3. The zoning of the subdivision parcel is substantially the same as it was at the time of the original approval;
4. Physical conditions on the subdivision parcel are substantially the same as they were at the time of the original approval; and
5. Any applicable State or Federal regulations are substantially the same as they were at the time of the original approval.

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

PERFORMANCE GUARANTEE

Wildflower Estates

Bond Reduction Request

Mr. Pezzullo explained that the property owner, Mr. Joseph Germaine, has requested a reduction in the existing Domestic Bank Irrevocable Letter of Credit No. 168 in the amount of \$409,000.

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, the Commission unanimously voted to *reduce* the performance bond by \$298,000, leaving a new balance of \$111,000, in accordance with the Public Works Department recommendation.

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

Glenham Park Phase 3

Performance Guarantee Release

Mr. Pezzullo explained that the property owner, WFD Associates, has requested release of existing Key Bank Letter of Credit No.S306179 (Amendment 003) in the amount of \$25,000.

Upon motion made by Mr. Sylvia and seconded by Mr. Delgado, the Commission unanimously voted to *release* Key Bank Letter of Credit No. S306179 (Amendment 003) in the amount of \$25,000 in its entirety, in accordance with the Public Works Department's recommendation.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Delgado and Councilwoman McFarland. Nay votes: none.

Orchard Meadows

Pending Bond Expiration

This Performance Guarantee will expire on March 30, 2008; therefore, this matter will be heard at the March 5, 2008, Planning Commission Meeting.

Sanctuary Estates

AP 28, Lot 64

Bond Reduction Request

Mr. Pezzullo explained that the developer of this subdivision, Mr. James Bellini, has requested a reduction in the amount of the previously approved performance guarantee requirement of \$347,000. He has begun a build/bond scenario for the proposed development and has constructed approximately 25% of the total required public improvements.

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to *reduce* the previously required \$347,000 Performance Guarantee by \$113,000, leaving a new Performance Guarantee requirement of \$234,000, to be provided at the time of Final Plat recording.

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

Western Industrial Complex

Pending Letter of Credit Expiration
Section 3, Phase 2 – AP 36/1, Lot 96

Mr. Pezzullo explained that the existing Performance Bond for this subdivision (First Pioneer Farm Credit Irrevocable Standby Letter of Credit No. 2006-001) is set to expire on March 13, 2008.

Communication with the City Engineering Division indicates that the planned public improvements have not been completed as yet. Therefore, upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Planning Commission unanimously voted to take the following actions:

1. Allow extension of Irrevocable Standby Letter of Credit (LOC) number 2006-001 to 3/14/10 if received prior to 2/29/08; and to
2. Authorize the City Finance Department to withdraw the applicable funds should an extension not be received by 2/29/08.

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

EXTENSION OF TIME

Western Industrial Complex

Preliminary Plan
Section 3, Phase 2 – AP 36/1, Lot 96

Mr. Pezzullo explained that a request was received from the property owner’s attorney, John Kupa, Jr., for an extension of the Preliminary Plan approval originally granted by the Planning Commission on October 7, 2003, which is set to expire on March 6, 2008. The request was reviewed for conformance with Section V (F) (3) (f) of the Cranston Subdivision and Land Development Regulations and the decision is based on “good cause”.

Upon motion made by Mr. Devine and seconded by Mr. Delgado, the Commission unanimously voted to *extend* the Preliminary Plan approval for one year; to expire on March 6, 2009.

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

Soprano Plat

225 Macklin Street
AP 11, Lot 2064
Preliminary Plan

Mr. Pezzullo explained that the conditionally approved Preliminary Plan granted by the Planning Commission on December 5, 2006, contained several conditions of approval. Condition #2 of this approval stated: “Necessary dimensional relief to be received from the Zoning Board of Review prior to Final Plan submittal”. Subsequently, the dimensional variance request was heard by the Planning Commission on October 2, 2007, for a recommendation. At that time there was question of City Code compliance on the site, and the Commission unanimously voted to table the application, thus halting the time frame which would otherwise cause the application to expire while historic code compliance research was conducted.

The City Solicitor, Mr. Vito Sciolto, has stated that the vote to table the application essentially halted the time frame which would otherwise cause this application to expire while the historic code compliance research was being conducted. In addition, appearance before the Zoning Board of Review for the dimensional variance is still outstanding.

Therefore, upon motion made by Councilwoman McFarland and seconded by Mr. Delgado, the Commission unanimously voted to *extend* the Preliminary Plan approval for one additional year-to expire on October 2, 2008.

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

PRESENTATION OF FIRST DRAFT CAPITAL BUDGET

Mr. Pezzullo reported that the Planning Department's staff meeting in December, 2007, with the various Department Directors was a success; resulting in better submission of departmental budget requests. He further stated that this first draft is for the Commission's perusal. He stated that the staff is in the process of determining what has already been appropriated for each department and how much of that appropriation has been spent. He stated that all items in the yellow column of the document have already had bonds authorized. He noted that the final draft will be presented to the City Council on March 15, 2008.

Councilwoman McFarland complimented the Planning Department staff for producing a "much improved format". She asked if past appropriated funds have been used for infrastructure. Mr. Sylvia responded, stating that \$850,000 remains that will rehabilitate approximately 6-7 city streets.

Councilwoman McFarland stated that she is not in support of \$400,000 for the relocation of portable classrooms as she is against students being housed in portable classrooms all day long, noting that middle school students "rotate" for classes and are not subject to spending an entire school day in portable classrooms.

COMPREHENSIVE PLAN UPDATE

Mr. Lapolla informed the Commission that the staff has completed the review of three elements and would like to schedule mid-month public meetings for public input. He stated that public meetings have been held in the past, however, too much time has elapsed since the public has been apprised of the Comprehensive Plan Update.

Councilwoman McFarland pointed out that public meetings may not be possible in the next few months as members of the City Council will be meeting several times a month for budget negotiation. However, she stated that "there will be concerns with land use that are in the old Comprehensive Plan".

2008 Planning Commission Workshop Schedule

Mr. Pezzullo suggested that the Planning Commission consider holding workshops, perhaps one workshop per quarter, or to possibly establish a subcommittee, to discuss planning issues. However, no workshops were established at this meeting.

Mr. Lapolla mentioned that the Planning Department staff is considering the task of revising the Zoning Ordinance, which was written in 1965, and will enlist the help of the Building Inspections Department.

PLANNING COMMISSION APPOINTMENT

Mr. Lapolla stated that in view of the fact that several Commissioners were not in attendance, appointment to the Parks and Recreation Commission will be determined next month.

NEXT MEETING

Due to the Primary – the March 4th meeting has been moved to the following day, Wednesday, March 5, 2008.

ADJOURNMENT

Upon motion made by Mr. Delgado and seconded by Mr. Sylvia, the Commission unanimously voted to adjourn at 10:55 p.m.

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary