

MINUTES

February 7, 2017

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

Michael Smith, Chairman
Kenneth Mason, P.E.
Lynne Harrington
Gene Nadeau
Fred Vincent
Robert Strom
Kimberly Bittner

Also present were:

Peter Lapolla, Planning Director
Stephen Marsella, Esq. Assistant City Solicitor
Jason Pezzullo, AICP, Principal Planner
J. Resnick, Clerk

APPROVAL OF MINUTES

Upon motion made by Mr. Mason and seconded by Ms. Harrington, the Commission unanimously voted (7/0) to approve the minutes of the January 3, 2017, Plan Commission Meeting.

SUBDIVISION AND LAND DEVELOPMENT

Scaralia Plat – Preliminary Plan

Minor Subdivision without street extension – 3 single-family house lots
Pippin Orchard / Laten Knight Road
AP 28, Lot 78

Mr. Richard Bzdyra, RLS, Ocean State Planners, explained the proposal is for a three-lot minor subdivision without street extension zoned A-80. The subject parcels have a total land area of 6.53 acres and the applicant proposes to subdivide this area into three new conforming house lots:

- Parcel A: 2.36 acres with 200' of frontage;
- Parcel B: 2.03 acres with 200' of frontage;
- Parcel C: 2.14 acres with 510' of frontage.

All lots conform to the A-80 zoning requirements for area and frontage, and will be serviced by public water and sewer. Rain Gardens are proposed.

No public comment was offered on this matter. Mr. Pezzullo stated that since Pippin Orchard Road is a State road, a Physical Alteration Permit is required.

Upon motion made by Mr. Vincent and seconded by Ms. Bittner, the Commission unanimously voted (7/0) to adopt the Findings of Fact denoted below and approve this Minor Subdivision application, with a waiver for the provision of curbing and sidewalks; subject to the following conditions.

Positive Findings

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 1/27/17 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 residential subdivision and its resulting density conform to the Comprehensive Plan – Future Land Use designation of “Residential, less than 1 unit 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 as the lots are proposed consistent with the A-80 zoning district.
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 lots in question have adequate permanent physical access on Laten Knight Road and Pippin Orchard Road, improved public roadways 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 Western Cranston Capital Facilities Impact Fee in the amount of \$4,168.50 (\$1,389.50 x 3) at the time of Final Plat recording.
2. Letter of Sewer Availability from Veolia Water at the time of Final Plan application with the Planning Department.
3. Physical Alteration Permit (PAPA) from the RIDOT at the time of Final Plan application with the Planning Department.

Hope Farm 10 MW Solar Array – Final Plan

Private solar power facility
840 Hope Farm Road
AP 23, Lot 12, AP 24, Lot 66

Chairman Smith prefaced this matter with a reminder that the FINAL PLAN application, normally handled administratively, was before the Commission for review and verification of conditions relating to the outstanding RIDEM permits, including RIPDES and Wetlands, which was required at the time of the

Master/Preliminary Plan approval. These items were waived as submission requirements at that time, but their waiver only amounted to a temporary *delay* until the permits were received for inclusion with the Final Plan application. Commissioner Harrington recused on this matter.

Chairman Smith then read a letter that was received on the evening of the meeting from Kelly & Mancini law office who represent Mr. Gary Malloy, the appellant of the Master/Preliminary approval which subsequently upheld by the Platting Board of Review. [The City Council rezoning to allow solar as a use by-right, and the Platting Board's decision have now been appealed to RI Superior Court]. Mr. Pezzullo asked for clarification as to whether the Commission can and should move forward on the matter given this objection from Mr. Malloy's attorney. Assistant City Solicitor, Stephen Marsella, stated that there is no restraining order and the Commission could move forward with Final Plan application consideration. Attorney John Bolton, on behalf of Hope Farm Solar, LLC, responded to the above, referring to the letter as an "ambush" and urged the Commission to proceed. He noted that in November, 2016, the Zoning/Platting Board of Review upheld the Plan Commission's Master/Preliminary Plan approval. He further stated that there have been no changes to the Comprehensive Plan that would alter any previous review. He stated that the Commissions' focus should be only on the changes since December, 2015; referring to the RIDEM permit process.

The applicant proceeded to present the Final Plan application to the Commission. Mr. John Starbuck, P.E., of VHB, stated that there has been a decrease in the overall project footprint as well as in the length of the internal driveways in accordance with RIDEM regulations, and the Final Plan reflects these modifications.

Mr. Douglas Doe, 178 Lippitt Avenue, made several positive comments on the project. Also, he had concern with the lack of a landscaping plan, as was required by the DPR Committee. He then asked questions about the project's scope being "temporary" (25-30 years), the timetable for construction and the performance bond needed for eventual decommissioning. Mr. Lapolla responded, stating that the final plan set and mylar for the DPR Committee signoff will contain the required landscape plan. He stated there is no requirement that a landscape plan be part of the submission for the Plan Commission. Mr. Doe stated that the public will not be aware of the landscape plan.

Ms. Ann Marie Bruin, 126 Ocean Avenue, reiterated Mr. Doe's concerns. She stated that this "was not done in accordance with the Comprehensive Plan, which is to preserve the character of Western Cranston".

Ms. Heather Tibideau, a concerned citizen, then spoke about global warming and climate change and stated "it is not right to cut down trees for this". She stated that "we need a better ordinance". Chairman Smith responded, reminding everyone that the Commission was "considering only a narrow aspect" of this Final Plan in regard to RIDEM Wetland permits.

Mr. Pezzullo presented his staff report for the commission specifically addressing the outstanding conditions from the Master/Preliminary Plan approval, and how the Final Plan application fully addresses these items. In regard to the concern with the decommissioning performance guarantee, he stated that the bond amount would be calculated and set by the Building Inspector, therefore, the Planning Department would not be responsible for accepting a bond for this project prior to Final Plat recording. He further explained that most of this site was not forested and has been used as a nursery before it was used for raising crops in the most recent years. He stated that the Department finds the proposal meets all of the December 1, 2015, Master/Preliminary Plan conditions adopted by the Plan Commission and recommends approval.

Commissioner Vincent stated that he would like to see the decommissioning performance guarantee made part of the final decision letter. He felt that if the DPR Committee required a landscape plan then "we should have it". Mr. Lapolla responded, stating that it is not the purview of the Plan Department to take the decommissioning performance guarantee. He stated that the ordinance requires the Building Inspector to set the bond amount. In regard to the landscape plan, he stated that there is a 75 ft. setback that would buffer the project much of the year. He stated that the applicant has agreed to fill in additional landscaping where needed and that the DPR Committee felt a 75 ft. buffer is adequate.

Attorney Bolton reiterated Mr. Lapolla's comments that certain areas along Hope Road would be filled in with more vegetation. He then reminded everyone that the only reason the Final Plan was back before the

Commission for Final Plan approval was to certify that the RIDEM permits were received. He further stated that none of the appeals pending in court can stop the applicant from moving forward with this project.

Commissioner Bittner stated that “there should be more transparency as all of the commissioners were named in the court proceedings.

In conclusion, Chairman Smith again stated that “we are here for the very narrow review of the five waivers sought at the time of the Master/Preliminary Plan approval; which have been successfully met”.

Upon motion made by Mr. Vincent and seconded by Mr. Strom, the Commission voted (5/1, Ms. Bittner voted nay and Ms. Harrington recused) to approve the Final Plan application; subject to provision of a decommissioning performance guarantee to be made part of the final decision letter, in accordance with Ordinance 11-15-03.

ORDINANCE RECOMMENDATIONS

Ordinance #1-17-02 In Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled “Zoning” (Electronic Filing of Planning or Land Use Documents)

Mr. Lapolla summarized Councilman Stycos’ ordinance request. He stated that the ordinance is “trying to intrude zoning matters into the Plan Commission matters”. He stated that the Commission can set a purview as to whether or not to require this as part of plan submissions. He stated that the ordinance is “overly broad” in view of the fact that many plan sets submitted also include renderings. He stated that, as chairman of the DPR Committee, he determines what to make available on the City website.

Commissioner Bittner stated that she liked the idea of having the plans available on the website. Mr. Vincent, Ms. Harrington and Chairman Smith concurred. Mr. Strom suggested that the IT Department be consulted on this. Mr. Lapolla stated that currently the DPR Committee has a section on the Plan Commission Page of the City website.

Upon motion made by Mr. Vincent and seconded by Mr. Nadeau, the Commission voted (6/1, Ms. Harrington voted nay) to forward a negative recommendation for jurisdictional reasons. The Plan Commission will promulgate its own requirements for plan submission.

Upon motion made by Mr. Nadeau and seconded by Mr. Vincent, the Commission unanimously voted (7/0) to develop rules and requirements to accomplish the spirit of the ordinance request.

Ordinance #1-17-09 In Amendment of Chapter 17.24 of the Code of the City of Cranston, 2005, Entitled “Zoning” Performance Standards Generally (Licensed Cultivator)

Mr. Lapolla stated that the ordinance proposes to amend Chapter 17-24 “Performance Standards- Generally” by adding §17.24.030 Licensed Cultivator to regulate the siting and operation of Licensed Cultivator Uses within Cranston. Per state law, the City has determined that a Licensed Cultivator use **[CULTIVATOR]** is classified as a light manufacturing use and as such it is a use by right in M-1 and M-2 zoning districts and a use by special permit in C-5 zoning districts. The ordinance, as proposed, is designed to recognize the State law authorizing said facilities while providing a set of performance standards to mitigate any potential impact that may be created by the use. The ordinance, as proposed, would:

- Restrict a Cultivator to M-1 and M-2 industrial zoning districts;
- Require a Cultivator be set back from other land uses:
 1. 1000’ from any educational institution,
 2. 500’ from any Commercial Day Care, Halfway House, Higher Education Institution, Library, Municipal Park/Playground, Outdoor Sports Field, Substance Abuse Treatment Facility and Trade or Business School, and

3. 400' from a residential zoning district or a residential use in a MPD;
- Prohibit a Cultivator as a home business or accessory use;
 - Require a Cultivator to be located only within a building;
 - Set provision of adequate screening of activities associated with a Cultivator;
 - Require safe storage, treatment and disposal of waste products generate by a Cultivator;
 - Require the screening of lighting associated with a Cultivator;
 - Require the mitigation of any noises, vibration, odor, dust or other impacts created by a Cultivator;
 - Require that a Cultivator be licensed by the RI Department of Business Regulation;
 - Require the implementation of security measures and
 - Provide for annual inspections and reporting.

In that the ordinance proposes performance standards for a use that is already authorized within the City's Zoning Ordinance, the 2010 Comprehensive Plan is silent on this matter. For the most part, a comprehensive plan addresses land use in general and does not address the specific elements of a zoning ordinance. Based on a review of the pertinent elements of the Comprehensive Plan, the Plan Department staff could find no language that referred to subject matter of the ordinance which would cause it to be in conflict with the Comprehensive Plan. Absent any conflict, Ordinance 1-17-09 is consistent with the 2010 Comprehensive Plan.

Ms. Harrington read DBR regulation #4. She expressed concern that "we are not allowing farmers this opportunity". She stated she would like to add agricultural land to the ordinance so that farmers could grow in a secure facility. Assistant City Solicitor, Stephen Marsella, stated that it is not the Commission's purview to amend the City Council's ordinance. He stated that under the Freedom to Farm Act, allowing this in agricultural areas would allow it to be grown everywhere in the city.

The Commission took a 15 minute recess at this point. Upon return, a vote was taken on this matter. Upon motion made by Ms. Mason and seconded by Mr. Nadeau, the Commission unanimously voted (7/0) to recommend a positive endorsement of the staff report. Ordinance 1-17-09 proposes to impose a regulatory scheme to mitigate potential impacts from a use that is authorized by the State and by the City's Zoning Ordinance. While Licensed Cultivator as a use may not have been of issue in the past because of State prohibition, this prohibition has been replaced by licensing and the City may see increased interest in said use. This ordinance is in anticipation of that increase. In addition, The Commission finds the proposed zoning amendment to be consistent with the 2010 Comprehensive.

In voting a positive recommendation on the Ordinance 1-17-09, upon motion made by Ms. Harrington and seconded by Mr. Vincent, the Commission also voted (7/0) to recommend that the City Council consider amending Ordinance 1-17-09 to authorize a Licensed Cultivator as an agricultural use.

Ordinance #01-17-10 In Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled "Zoning" (Establishing Garden City Center Development District)

Attorney Robert Murray explained the applicant's reason for the MPD request. The ordinance, as proposed, is designed to give Garden City the flexibility to redevelop existing buildings, to attract new businesses, allow for business expansion and the introduction of new uses with the need to minimize variances or special use permits. The creation of the Garden City Development District would unify the Garden City Center under one overlay district.

Mr. Joseph Koechelle, Garden City Center Management, went through the history of Garden City Center. Mr. Tom Wilder gave an overview of the changes the Center has undergone and predicted that the Center would continue to evolve. With that in mind, what they are trying to accomplish with this ordinance is to put "guidelines into effect".

Attorney Murray reiterated the applicants request for a “framework”. He stated that the existing sign ordinance is from the 1960’s and is being updated. He stated that 95% of the Center is zoned C-3 and there is a small portion zoned A-8. He stated that, at some time in the future, a multi-family use may be considered. The ordinance would also possibly allow kiosks and a drive-thru restaurant, as well as structured parking. The ordinance would also provide for height reconsideration. Some electronic signage is also proposed. He referred to several meeting with the Plan Department staff that resulted in “considerable give-and-take” on this matter.

Mr. Greg Guglielmo, DiPrete Engineering, spoke about the changes the Center has undergone and what may be considered in the future. He mentioned that the new signage being requested is confined to the center of the complex.

Mr. Lapolla stated that Garden City Center has done as suggested; create an MPD. He stated that the eastern side of Midway Road has served as a buffer to the existing residential use. What is proposed is multi-family, mixed use. Regarding signage, they “cannot be given carte blanche”. The Center is proposing a static picture in place of the existing billboard sign. Mr. Lapolla went on to explain his sign allowance proposal.

Mr. Vincent expressed concern with the “border” of the existing residential being maintained. Mr. Lapolla suggested that a height restriction could be imposed.

Based on the above, the Commission finds the proposed zone change to MPD consistent with the 2010 Comprehensive Plan. The Commission reviewed a number of amendments to the ordinance as proposed. The amendments were designed to address the Plan Commission concerns with signage and the use of the residential land. That being the case, upon a motion made by Mr. Nadeau and seconded by Mr. Vincent, the Commission unanimously voted to forward a positive recommendation (7/0) and endorsement of the proposed zoning amendment [Ordinance 1-17-10], as amended, being adopted as part of the ordinance to the City’s Ordinance Committee and to the full City Council.

2017-2022 Capital Budget and Improvement Program – First Draft Presentation

Mr. Pezzullo stated that he will be sending out a draft of the Capital Budget proposals.

ADJOURNMENT

Upon motion made by Mr. Vincent and seconded by Ms. Harrington, the Commission unanimously voted (7/0) to adjourn at 10:45 p.m.

NEXT MEETING March 7, 2017 – City Council Chamber, 7 pm

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Administrative Officer