

MINUTES

January 3, 2012

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

Charles Rossi, Chairman
Michael Smith
Mark Motte
Robert Strom
Gene Nadeau

Also present were:

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

APPROVAL OF MINUTES

Upon motion made by Mr. Smith and seconded by Mr. Motte, the Planning Commission unanimously voted to approve the minutes of the December 6, 2011, Planning Commission Meeting.

ORDINANCES

RE: Ordinance 12-11-1 In Amendment of Title 17 of the Code of the City of Cranston, 2005, Entitled "Zoning", (860 Reservoir Avenue – Zone Change)

Planning Director, Peter Lapolla, explained that the owner of the land identified as 860 Reservoir Avenue [Zoning Plat 9/5 Lots 618, 620, 621, 637, and an abandoned portion of Sheridan Street (125'+) located on Zoning Plat 9/5 and Zoning Plat 9/3 Lot 2755 and a portion of Lot 3360] has filed an application with the City Council to rezone said land. [On the most recent Assessor's Plat Maps, this land is currently identified as Assessors Plat 9 Lot 621.] The request before the City Council is to rezone said land from C-1 Office Business to C-4 Highway Business. While technically not part of the considerations for a recommendation on a rezoning, the Plan Commission notes that the applicants have proposed to close an existing curb cut on Auburn Street as part of its future development plans. Said closure is designed to minimize any cut through traffic on Auburn Street that may result from a future development. This proposal would be in conformance with the 2010 Comprehensive Plan Future Land Use Map.

Attorney Joseph Shekarchi, representing the applicant, reiterated Mr. Lapollas' explanation and stated that Mr. Pimental and Mr. Crossman were present to answer any questions on the proposal.

Attorney Timothy Dodd, representing the Eden Park Neighborhood Association, read a list of names of members of the Association. These neighbors are opposed to the request. He stated that there is concern that, if approved, "this will open a Pandora's Box" and other businesses would follow, namely Kentucky Fried Chicken and Walt's Roast Beef. He further stated that this parcel does not meet the 40,000 square foot minimum requirement and that if the two parcels in question are merged, this would bring more commercial use further into the neighborhood. He also mentioned that the 2010 Comprehensive Plan has not yet been approved by the State.

Mr. Joseph Lombardo, Planner, referenced elements of the Comprehensive Plan, stating that the proposal does comply with the 2010 Comprehensive Plan Future Land Use Map. He stated that the proposal has not yet had the "benefit" of the Site Plan Review Committee. He also stated that this "is the beginning of a zone change proposal without a specific plan".

Area resident, Joe Churkis, 420 Auburn Street, stated that 10-15 years ago there was a proposal for a drive-thru at Kentucky Fried Chicken. He expressed concern with Wendy's hours of operation, trash, traffic and property value decline. He implored the Commission to "use common sense, the Commission doesn't have to live there".

Ms. Doreen Boyer, resident of Shirley Blvd., expressed concern with noise from the order board and "drunks coming from Providence", as well as trash and increased traffic.

Ms. Brenda Ciccarelli, 415 Auburn Street, expressed concern with noise, as in the past there were incidents of noisy patrons at the former Bickford's Restaurant.

Ms. Mandy Howe, 130 Shirley Blvd. asked the Commission to consider how many people this proposal would effect. She stated that "there were no problems with the C-1 zoning in the past". She stated that this parcel is not surrounded by other commercial uses.

Chairman Rossi reminded everyone that there is no current development proposal filed with the City. The ultimate decision on this matter will be by the City Council. He also reminded everyone that any development proposal for this site will be subject to Site Plan Review, where all of the concerns raised would be addressed. He explained that it is the Planning Commission's job to make sure that the proposed zone change conforms to the 2010 Comprehensive Plan.

Ms. Katie King, 1389 Hope Road, stated that "the Comprehensive Plan is used against the tax payers. There is no contractual agreement".

Mr. Lapolla reiterated Mr. Rossi's remarks. He further stated that acceptance of the 2010 Comprehensive Plan by the State does not apply locally. He stated that the residents are asking the Planning Commission not to follow the law.

Assistant City Solicitor, Stephen Marsella, informed everyone that the Plan Commission is not changing the zone; they are making a recommendation to the Ordinance Committee and that the Commission's role is extremely limited.

Attorney Dodd stated that there are less intensive zones, suggesting that a C-3 zone would also be consistent with the Comprehensive Plan but only a C-4 zone would allow for a drive-thru use. Mr. Lapolla responded, stating that a C-2 zone would not be appropriate. A C-3 zone would be appropriate, however, a C-3 zone has a zero lot line and a much higher density. He further stated that a C-3, C-4 or C-5 zone would be appropriate for highway business.

Attorney Dodd stated that the applicant could not get a drive-thru by way of obtaining a zoning variance, therefore, they have made this proposal. He stated that the resident's are asking the Commission to forward a negative recommendation to the Ordinance Committee.

Attorney Shekarchi stated that all of the concerns raised by the community would be addressed by the Zoning Board of Review and the Site Plan Review Committee. He proposed a meeting with Attorney Dodd to discuss a plan that would be acceptable to the neighborhood. He closed by stating that his client "wants to be a good neighbor".

Chairman Rossi closed the discussion by stating that the Planning Commission is "duty bound" to uphold the Comprehensive Plan.

In that the proposed zoning classification of C-4 is consistent with the Future Land Use Plan of the 2010 Comprehensive Plan, and in that the land being rezoned has both the area and frontage to meet the dimensional requirements for a C-4 zone, upon motion made by Mr. Smith and seconded by Mr. Motte, the Plan Commission unanimously voted to adopt a resolution approving the ordinance and its passage by the City Council.

Ayes: Chairman Rossi, Mr. Smith, Mr. Motte, Mr. Nadeau and Mr. Strom. Nays: none.

Ordinance #12-11-2 In Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled "Zoning" (Change of Zone – 45-51 Sockanosset Crossroad)

Mr. Lapolla explained that a portion of Assessors Plat 28 Lot 6 was purchased from the State of Rhode Island and joined to Zoning Plat 10/4 Lots 1360 and 712 by an Administrative Subdivision in June, 2010. This land was part of an unused rail line that has been designated by the State as a potential bike path. The Future Land Use Map of the 2010 Comprehensive Plan designates a future land use of open space for the "bike path" parcel. The portion of Assessors Plat 28 Lot 6 was acquired prior to the adoption of the 2010 Comprehensive Plan and does not change the "bike path" parcel's land use designation as open space.

The Future Land Use Plan of the 2010 Comprehensive Plan designates a future land use of Highway Commercial and Services for Zoning Plat 10/4 Lots 1360 and 712. The 2010 Comprehensive Plan further indicates that C-3 is an appropriate zoning classification for Highway Commercial and Services.

Excepting the "bike path" land, the parcels of land to the west of the land being rezoned is zoned C-3 and the land to the east of the land being rezoned is zoned C-4.

Attorney Robert Murray, on behalf of the property owner/s CFS Partners, stated that the sliver of land in question is zoned M-2. He stated that, years ago, many adjoining properties were zoned M-2 also. He also stated that State property does cross CFS Partner's property, however, the sliver of land in question will be used for parking at this time.

No public comment was offered on this matter.

In that the proposed zoning classification of C-3 is consistent with the Future Land Use Plan of the 2010 Comprehensive Plan and it reflects the current zoning for the adjacent parcel, upon motion made by Mr. Smith and seconded by Mr. Nadeau, the City Plan Commission unanimously voted to adopt a resolution approving the ordinance and its passage by the City Council.

Ayes: Chairman Rossi, Mr. Smith, Mr. Motte, Mr. Nadeau and Mr. Strom. Nays: none.

Ordinance #12-11-3 In Amendment of Chapter 17 of the Code of the City of Cranston, 1970, Entitled "Zoning" (Zoning Board of Review Hearing Procedure)

Mr. Lapolla stated that members of the City Council have proposed Ordinance 12-11-3 [Zoning Board of Review Hearing Procedure] the purpose of which is to amend the City's Zoning Ordinance [Chapter 17 of the City Code] with regards to how both the City Plan Commission and the Zoning Board of Review are to conduct their hearings. In summary, the proposed ordinance will:

- Amend Section 17.108.020 to require the Zoning Board of Review be sworn in before the City Council.
- Amend Section 17.108.070 to require The Zoning Board of Review and the City Plan Commission to vote on the matter pending before them at the close of the public testimonial portions on said matter.
- Add a new Section [Section 17.109] to require the City Plan Commission to be sworn in before the City Council.

The Plan Commission has reviewed the above noted ordinance and would make the following comments:

The Ordinance proposes to amend Section 17.108.020 Membership by the inserting the following at the end of the first paragraphs in the Section:

Board members shall be sworn in before the City Council. The city clerk shall administer to each member an oath or affirmation to the effect that such zoning board member shall faithfully perform the duties of his office and shall support the constitution and laws of the State of Rhode Island and the United States of America and the ordinances and the zoning code of the City of Cranston.

- While the change proposed under the ordinance is strictly a policy matter under zoning and may not impact the implementation of the zoning ordinance, the Plan Commission suggests that the City Council may wish to consult with the Zoning Board of Review [ZBR] as to their opinion on this matter.

The Commission also suggests that it would be nice to know what the oath may be prior to enacting the ordinances.

The Ordinance proposes to amend Section 17.108.070 Public Hearings by the inserting the following at the end of the Section:

The Zoning Board and the Planning Board upon closing the testimonial portion of the hearing shall proceed to deliberate and vote on that matter before beginning the testimonial portion of the public hearing on any other matter.

- The Plan Commission notes that the ordinance proposes to dictate how both the ZBR and the City Plan Commission are to conduct their meetings. For the ZBR, RIGL Chapter 45-24 clearly grants the ZBR the authority to develop practices and procedures to govern the administration of the Zoning Ordinance with specific reference to how they conduct their public hearings. In that State law would take precedent over any local ordinance, staff would question the validity of this particular section of the proposed ordinance. With regards to the Plan Commission, the Plan Commission is governed by Chapter 13 of the City Charter and RIGL CHAPTER 45-23 Rhode Island Land Development and Subdivision Review Enabling Act of 1992. Authority to promulgate regulations which govern subdivisions and land development projects, including how the Plan Commission is to conduct their public hearings, is derived from both the City Charter and RIGL CHAPTER 45-23. Again, the Plan Commission would note that both State law and City's Charter would take precedent over any local ordinance and the Commission questions the validity of this particular section of the proposed ordinance. Finally, the Plan Commission would also note that the actions of the City Plan Commission are governed through RIGL Chapter 45-23 and not RIGL Chapter 45-24. The City cannot regulate the actions of the Commission through an amendment to the Zoning Ordinance.

The Ordinance proposes to amend Section 17.109 by inserting the following language:

17.109 Members of the City Plan Commission shall be sworn in before the City Council. The city clerk shall administer to each member an oath or affirmation to the effect that such City Plan Commission member shall faithfully perform the duties of his office and shall support the constitution and laws of the State of Rhode Island and the United States of America and the ordinances and the zoning code of the City of Cranston.

- As noted above the Plan Commission is governed by Chapter 13 of the City Charter and authority to regulate development is derived from RIGL CHAPTER 45-23 Rhode Island Land Development and Subdivision Review Enabling Act of 1992. Staff would again suggest that the City can not impose conduct and standards on the Plan Commission through the Zoning Ordinance.

Mr. Lapolla stated that State law gives the Planning Commission authority to regulate how they conduct their meetings, as well as the Zoning Board of Review. Chairman Rossi stated that even if this proposed ordinance passes, it will not be legal. Assistant City Solicitor, Stephen Marsella, stated that State law trumps any ordinance.

Councilman Stycos, who sponsored the proposed ordinance, stated that he disagrees that this will violate State law. He stated that the Planning Commission and the Zoning Board of Review are "powerful bodies that uphold the law". He stated that the Zoning Board of Review should conduct their meetings as the Planning Commission does, letting the public and rendering a decision on the matter before moving on to the next matter. He stated that he "feels that the Zoning Board of Review is an anti-democratic way of doing things".

Mr. Steve Boyle, President, Cranston Chamber of Commerce, stated that he would like to see the Zoning Board's procedure streamlined. He cited concern that the small business man cannot afford to pay professionals to wait until the end of the meeting to hear the decision on their particular matter.

Chairman Rossi agreed that when the applicant leaves the meeting they should have a decision. Solicitor Marsella stated that a previous Superior Court case upheld the current procedure of the Zoning Board.

Ann Marie Cohen, city resident, stated that she has been to many zoning meetings and "doesn't understand the Zoning Board's resistance to conduct their meeting in a similar way to the Planning Commission". She stated that "it is detrimental to the democratic process as to how they will treat the citizens of the city". She further stated that an oath can be made "in front of the Major is they are appointed".

Ms. Katie King, 1389 Hope Road, stated that she is in agreement with the above comment, stating that “the status quo is easier”.

Commissioner Smith stated that he does not disagree; the citizens would be better served by implementing the Planning Commission’s process. He stated that the Planning Commission already conducts their meetings in this manner and in accordance with State law.

Recommendation: Given that at least two sections of the ordinance, as proposed, conflict with the City Charter and State Law; and given that the ordinance interjects the City Council into the functioning of what should be independent bodies, upon motion made by Mr. Smith and seconded by Mr. Nadeau, the City Plan Commission unanimously voted to make no recommendation on Section 17.108.020 and to recommend denial on Section 17.108.070 and proposed Section 17.090.

Ayes: Chairman Rossi, Mr. Smith, Mr. Motte, Mr. Nadeau and Mr. Strom. Nays: none.

Ordinance #12-11-4 In Amendment of Chapter 17 of the Code of the City of Cranston, Entitled “Zoning” (Commercial Accessory Uses)

Mr. Lapolla stated that members of the City Council have proposed Ordinance 12-11-4 [Commercial Accessory Uses] the purpose of which is to regulate accessory uses under the Title 17 of the City’s Code of Ordinances. The ordinance as proposed states:

Section 1. Title 17, Article 60, Section .010 of the Code of Ordinances is hereby amended by adding thereto:

- I. Commercial Accessory Units. A use or structure on the same lot as a commercial enterprise, and of a nature customarily incidental and subordinate to, the principal use or structure.
- J. Restrictions on Commercial Accessory Units. In no case shall an accessory use predate the installation in operation of the principal use. When the principal use ceases to operate, the accessory use shall immediately cease as well. All commercial accessory units must be included as part of the Site Plan Review. After the two years from the site plan approval, a new Site Plan Review is required for any newly proposed accessory unit.

Section 2. Title 17, Article 84, Section .040 of the Code of Ordinances is hereby amended by adding thereto:

- H. All newly proposed commercial accessory units.

The Plan Commission has reviewed the proposed ordinance and would make the following comments:

In Section 17.04.030 “Definitions” the following definition is currently provided:

“Accessory use” means a use of land or of a building or portion thereof, customarily incidental and subordinate to the principal use of land or building. An accessory use may be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related.

With one exception [see below], the proposed definition mirrors the definition for accessory use as it currently exists. The Commission would question the need for a duplicative definition for accessory use when one already exists.

While the existing definition of accessory uses allows for an accessory use to be on a lot separate from the principal use, the proposed definition would restrict the location of an accessory use to the same lot.

The Commission would note that the proposed restriction conflicts with Section 17.64.010.B. which allows for off site parking as a means of complying with the parking requirements. The use of off site parking to meet the parking requirement helps to preserve the character of the City’s three squares by minimizing the “gap tooth” effect that would be created by requiring parking to be on the same site.

The definition of accessory use, as it currently exists, prohibits an accessory use independent of a principal use. Quite simply, if there is no principal use on site, there can be no accessory use. In that an accessory

use must be associated with and attached to a principle use, it cannot predate the principal use and it cannot remain if a principal use is discontinued. This being the case, the Commission would question the need for the first two restrictions in Section 17.60.010.J. as proposed.

The final conditions set by Section 17.64.010.B would require all accessory units to be included and considered as part of any Site Plan Review and further require a new Site Plan Review [SPR] for the establishment of a new accessory unit if one is proposed two years after the issuance of a SPR.

The Plan Commission would note that this restriction, as proposed, would increase the number of accessory uses being created as part of an initial site plan review. Given the potential for a new SPR as new accessory uses arise over time, a developer will propose every conceivable accessory use as part as part of an initial site plan.

Given the definition of accessory use and the nature of SPR, the Commission would question the practicality of requiring a SPR for any new accessory use that is proposed two years after a SPR Approval. If a principal use is allowed by right, an associated accessory use is also allowed by right and therefore the SPR Committee would be prohibited from denying said accessory outright. Given the nature of accessory uses, the impacts likely to be generated by a new accessory use would be minor in nature, if any. With little or no impacts, especially impacts that would exceed a performance standard set by the Zoning Ordinance, again the SPR Committee would have no practicable ability to prohibit said uses. By way of example, the Commission would ask as to what the SPR Committee would review if a commercial establishment proposes the installation of an ATM within an existing facility, the placement of a mail box on site or the establishment of a cafeteria within an industrial building.

The ordinance proposes a new Site Plan Review requirement under Section 17.84,040 of the Code of Ordinances. Section 17.84,040 specifies the activities that will require a Site Plan Review. It states:

“17.84.040 – Uses requiring site plan review (SPR)
Within any district, the following activities require site plan approval:”

In adding “H. All newly proposed commercial accessory units” to this Section, the Code of Ordinances will mandate a SPR every time a new accessory use is proposed even if the principal activity on site did not require a SPR and no matter how minor the use or impact.

Chairman Rossi stated that there have been accusations that we are “already not business friendly in this City; this proposal would not help that”.

No public comment was offered on this matter.

Recommendation: Given the above, upon motion made by Mr. Motte and seconded by Mr. Strom, the City Plan Commission unanimously voted to adopt a resolution disapproving the ordinance and its passage by the City Council.

Ayes: Chairman Rossi, Mr. Smith, Mr. Motte, Mr. Nadeau and Mr. Strom. Nays: none.

SUBDIVISION AND LAND DEVELOPMENT

Linda Shaw Minor Subdivision – Preliminary Plan
Corner of Pippin Orchard Road and Scituate Avenue
AP 34, Lots 7 and 51

Principal Planner, Jason Pezzullo, explained the proposal to subdivide AP 34, Lot 7 into two lots: Lot 1 will have 193,529 sq. ft. of land area (4.44 acres) and Lot 2 will have 167,701 sq. ft. of land area (3.84 acres). AP 34, Lot 51 (Lot 4) is proposed to add 18,536 sq.ft of land (Lot 3), thereby giving this parcel direct access to Scituate Avenue through the 52' wide area of land.

All of the proposed lots conform to the A-80 area and frontage requirements prescribed under the Cranston Zoning Code. The proposed lots will be serviced by private wells and septic systems (OWTS). He stated that permanent access is required to the existing historic cemetery and that this will be accomplished by a permanent easement agreement.

Mr. Lynn Harrington, Conservation Commission, asked that a decision be delayed on this issue as the Conservation Commission has not had an opportunity to comment. Mr. Lapolla responded, stating that we

have no development proposal at this time; this proposal is re-drawing property lines. Mr. Pezzullo also stated that there is no public infrastructure proposed at this time. This proposal has received RIDEM approval.

Commissioner Smith commented that this location is one of the major intersections in the City and it would seem that sidewalks would provide a safe place for pedestrians. Chairman Rossi stated that there are no sidewalks in that area with which to connect. Mr. Pezzullo expressed concern with maintenance of sidewalks. He stated that there is low density in the area. Also provision of sidewalks would require a bonding amount. Mr. Smith then asked that a condition of approval be added to require an easement for future sidewalks is there is insufficient right-of-way land along Scituate Avenue and Pippin Orchard Road.

There being no further comment, the Commission moved to a vote.

Upon motion made by Mr. Strom and seconded by Mr. Smith, the Commission unanimously voted to adopt the Findings of Fact denoted below and *approve* this Preliminary Plan, with waiver for curbing and 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 12/19/11 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 .25 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 less than one residential unit per acre.
3. The proposal is consistent with the frontage, area and use requirements of the City of Cranston Zoning Code. 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 Scituate Avenue 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 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 Fees of \$1,389.50 at the time of Final plat recording.
2. Depict a permanent access easement to Historical Cemetery #15 on the Final Record Plan. This easement shall be recorded in land evidence at the time of Final Plat Recording. In addition, include a note on the Final Record Plan indicating that the care and upkeep of this cemetery is the responsibility of the owner of Lot 1.
3. Final record plan shall depict the required 25' buffer around the Historic Cemetery #15.

4. Depict the available building envelope for Record Lot 1.
5. Access to Lot 1 shall only be through the frontage along Pippin Orchard Road at a suitable distance from the intersection with Scituate Avenue.
6. Depict the geo-location disk located on this lot and provide a note stating that there shall be no disturbance of this item as it is integral to the City's GIS system.
7. If there is insufficient right-of-way land along Scituate Avenue and Pippin Orchard Road for the future provision of a sidewalk than an easement shall be recorded with the Final Record Plan.

Ayes: Chairman Rossi, Mr. Nadeau, Mr. Motte, Mr. Smith and Mr. Strom. Nays: none.

ZONING BOARD OF REVIEW ITEMS

HANSON INTERNATIONAL INC 1414 ATWOOD AVENUE JOHNSTON RI 02919 (OWN/APP) has filed an application for permission to construct a privacy wall following certain lot boundary lines with restricted corner visibility at **155 Greening Lane**. AP 11, lots 3146, area 50,000 +/- SF, zoned A-8. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.100 (A), (B) Corner Visibility.

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 for an 8-10' high stone walls is not inconsistent with the 2010 Comprehensive Plan, as the plan is silent on stone walls.
2. Photographs show that most of the walls have been constructed.

Recommendation: The Comprehensive Plan does not address fences or walls specifically, therefore, upon motion made by Mr. Motte and seconded by Mr. Strom, the Plan Commission unanimously voted to forward no recommendation on this application as it relates to the 2010 Comprehensive Plan.

Ayes: Chairman Rossi, Mr. Nadeau, Mr. Motte, Mr. Smith and Mr. Strom. Nays: none.

JIM AND LYNN WILLIAMS 27 RHODE ISLAND AVENUE PROVIDENCE RI 02906 (OWN/APP) have filed an application for permission to build a 400+/- SF addition to an existing legal non-conforming single family dwelling with restricted front and side yard set back at **27 Harbour Terrace**. AP 2/2, Lot 1969 and 3896, area 25,844+/- SF, zoned A-12.

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

Findings of Fact:

1. The existing single family use for the property is consistent with the 2010 Comprehensive Plan Future Land Use Map, that designates this area of the City as **Single Family Residential, 3.63 to 1 unit per acre**.
2. The existing attached accessory greenhouse structure that will be removed, has an existing 2'-6" restricted side yard setback. The proposed new living space addition in its place will have a restricted side yard setback of 3'-3", (minimum side yard setback per code is 10'), and an 11 square feet smaller footprint.
3. The existing restricted front yard setback of 20'-11" will not change.
4. The application will require CRMC approval, as the addition is within 200' of the coastline of Narragansett Bay.

Recommendation: The proposed residential addition that increases the side yard setback by 9", that will not alter the general character of the surrounding area, is consistent with the Comprehensive Plan's Future Land

Use Map. Therefore, upon motion made by Mr. Nadeau and seconded by Mr. Motte, the Plan Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board, with the condition 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.

Ayes: Chairman Rossi, Mr. Nadeau, Mr. Motte, Mr. Smith and Mr. Strom. Nays: none.

CUMBERLAND FARMS INC 100 CROSSING BLVD FRAMINGHAM MA 01702 (OWN/APP) has filed an application for permission to remove two existing canopy fuel price signs and replace with same size electronic fuel price signs at **921 Cranston Street**. AP 7, Lot 633, area 8416+/- SF, zoned C-5.

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

Findings of Fact:

1. The existing gas station and convenience store use for the property is consistent with the 2010 Comprehensive Plan Future Land Use Map, that designates this area of Cranston Street for Highway Commercial/Services. The proposed signs are not inconsistent with the Comprehensive Plan.
2. The proposed 2'-6" x 6'-0" L.E.D. price signs will replace two existing price signs of the same size that are currently located on the left and right sides of the canopy over the fuel pumps.
3. One of the new L.E.D. signs will be located on the left front face of the canopy, instead of on the left side of the canopy face.
4. The proposed signs will not alter the general character of the surrounding area, or hinder the intent or purpose of the Zoning Code or the Comprehensive Plan upon which the Code is based.

Recommendation: The proposed sign application will not alter the general character of the surrounding area, and is not inconsistent with the Comprehensive Plan. Therefore, upon motion made by Mr. Motte and seconded by Mr. Strom, the Plan Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board, with the condition 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.

Ayes: Chairman Rossi, Mr. Nadeau, Mr. Motte, Mr. Smith and Mr. Strom. Nays: none.

STEPHEN CIAMBRONE 55 BAKEWELL COURT CRANSTON RI 02921 (OWN/APP) has filed an application for permission to shift the location of a previously approved two story garage / living unit addition to an existing two-family dwelling at **82 Berry Street**. AP 12, Lots 904, 905, 906, 907 and 3282, area 16,000 SF, zoned C-4.

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 following findings 1 through 5 were given by the Plan Commission at its September 6, 2011 meeting:

1. This area of the City is designated as Highway Commercial and Services on the 2010 Comprehensive Plan Future Land Use Map, therefore the application for additional residential use is not consistent with the Comprehensive Plan.
2. The applicant's existing 2-family dwelling is shown on the 1965 Zoning Maps; and is therefore, a legal non-conforming use.

3. The westerly side of Berry Street is zoned single family residential, though within 60 feet of the applicant's property there are three 4-family dwellings that were constructed as a result of Zoning variances received in 1979.
4. Abutting those duplexes on the dead end of Berry Street is a 6-unit apartment building that was built by variance in 1986.
5. R.I.G.L. 45-24-41 c.1 states that the hardship from which the applicant seeks relief must be due to the **unique characteristics of the subject land** or structure and **not** to the general characteristics of the surrounding area.
6. The Zoning Board approved (on September 14, 2011) the original application for the 2 bedroom apartment located over a new 3 car garage, with a 15' front yard setback from the garage doors. The current application provides a 15'-9" front yard setback, and slightly larger footprint.

Recommendation: The previous variance application for an additional residential unit with restricted yard setbacks was approved by the Zoning Board on September 14, 2011. As the approved use is still not consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area as Highway Commercial and Services, upon motion made by Mr. Motte and seconded by Mr. Smith, the Plan Commission voted to forward no specific recommendation on this application to the Zoning Board.

Ayes: Chairman Rossi, Mr. Nadeau, Mr. Motte, Mr. Smith and Mr. Strom. Nays: none.

2012 CAPITOL IMPROVEMENT PROGRAM INTRODUCTION

Mr. Pezzullo stated that the usual capitol request information was sent to the various departments. He stated that he and Mr. Lapolla will meet with the various department directors to review their requests, and in February he will have the revised budget. As usual, it will be sent to the Mayor by March 15.

ADJOURNMENT

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

NEXT MEETING: February 7, 2012 in the City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary