

## **MINUTES**

May 1, 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  
James Moran

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 April 3, 2012, Planning Commission Meeting.

### **SUBDIVISION AND LAND DEVELOPMENT**

#### **The Lodges at Phenix Glen**

Mixed-Use Planned District / Major Land Development  
Preliminary Overall District Plan / Master Plan  
950 Phenix Avenue  
AP 19/1, Lot 3

Principal Planner, Jason Pezzullo, stated that he had revised his March 2, 2012, memorandum to what was provided to the Commission, dated April 19, 2012. He stated that "no comments from City staff amounted to a negative endorsement", and that the peer review, done by Fuss & O'Neill, confirmed the applicants traffic study findings (prepared by VHB). Mr. Pezzullo proceeded to review the Findings of Fact.

Chairman Rossi asked the Commission if they had questions on the Findings. The Commission had no response. Chairman Rossi proceeded to review concerns that the public may be unclear on, as follows:

He asked if a traffic study is normally required at the Master Plan level. Mr. Lapolla responded, stating that a traffic study is not required at Master Plan but the Planning Department is aware that traffic is a major concern in that area. The applicant submitted a detailed report.

Chairman Rossi asked if another traffic study will be required. Mr. Lapolla responded, stating that "this is a multi-step process. The project will also have to receive Site Plan Review Committee approval, and that if a considerable time passes, then the SPR Committee will ask for an updated traffic report".

Chairman Rossi asked about the role of Fuss & O'Neill, stating that there was confusion whether they actually went out and counted traffic. Mr. Lapolla responded, stating that they did a peer review, which is confirmation of what was submitted by VHB accurate and true.

Chairman Rossi asked whether consideration was given to the fact that the Natick Avenue Bridge was closed at the time of the traffic study. Mr. Lapolla responded, stating that "contingencies are built in; engineers knew and factored it in based on historic data".

Chairman Rossi asked whether the intersection at Phenix and Scituate Avenues should have been included in the traffic study. Mr. Lapolla responded, stating that previously the Planning Department did not recommend that this intersection be studied; it is 1 ½ miles away from the subject site.

Chairman Rossi stated that additional studies will be done before this project is built. Mr. Lapolla responded, stating that "if the Planning Commission wishes to see an updated traffic report at the time of Preliminary Plan submittal, the Commission can make it a condition" of approval.

Chairman Rossi asked how this proposal relates to the 2010 Comprehensive Plan and its designation as a Special Redevelopment Area, Future Village Center. Mr. Lapolla responded, citing Part 3, Page 37 of the Land Use Plan.

Chairman Rossi addressed the size of the proposed development and whether the Planning Commission can suggest the project be "scaled back". He stated that the size of the development is not the purview of the Planning Commission. What is included in the proposed MPD is strictly done by ordinance and the City Council.

Chairman Rossi asked why the Fiscal Impact Study submitted by the applicant was not reviewed. Mr. Pezzullo responded, stating that RI State Law does not require a Fiscal Impact Study. The applicant chose to submit this, but it is not required. Mr. Lapolla further stated that "land use decisions are made in accordance with State Law".

As a result of this discussion and upon motion made by Mr. Motte and seconded by Mr. Moran, the Commission unanimously voted that the Findings of Fact in the April 19, 2012 memorandum will be re-written accordingly and the Commission is ready to make a decision on this matter at this time.

Ayes: Messrs Rossi, Smith, Nadeau, Moran, Motte and Strom. Nay: none

Mr. Pezzullo stated that the applicant has not yet submitted an application to the Ordinance Committee.

Upon motion made by Mr. Motte and seconded by Mr. Smith, the Commission unanimously voted to adopt the revised Findings of Fact (see below) and forward a positive recommendation on this proposal to the City Council's Ordinance Committee.

#### Findings of Fact

The following findings of fact are consistent with R.I.G.L 45-23-30 and 45-23-60 for the proposed MPD / PODP / Master Plan (MP) / Major Land Development (MLD):

#### Positive Findings

*45-23-30: General purposes of land development and subdivision review ordinances, regulation and rules. – Land development and subdivision review ordinances, regulation and rules shall be developed and maintained in accordance with this chapter and with a comprehensive plan which complies with chapter 22.2 of this title and a zoning ordinance which complies with R.I.G.L. 45-24-27 et seq. Local regulation shall address the following purposes:*

#### (1) Providing for the orderly, thorough and expeditious review and approval of land developments and subdivision:

An orderly, thorough and expeditious technical review of this MPD / PODP / MP / MLD has been conducted. City staff has reviewed the proposal and their comments have been summarized in Section IV of the staff memo dated 4/19/12. Property owners within a 100' radius have been notified via first class mailing and meeting agenda was been properly

posted. Newspaper advertisement for this project was published in the 2/16/12 edition of the Cranston Herald. The public informational meeting was first scheduled for 3/6/12 at the Cranston High School East Auditorium. Without opening the 3/6/12 public informational meeting, the applicant requested a continuance to the 4/3/12 City Plan Commission agenda. The public informational meeting was opened and the applicant and their team presented their proposal to the City Plan Commission and the public. The public informational meeting was then closed by a vote of the members of the commission. The City Plan Commission deliberated the planning staff findings of fact and made their decision on this matter on 5/1/12.

(2) Promoting high quality and appropriate design and construction of land developments and subdivisions:

The proposed multi-family mixed-use project as presented by the applicant's architect, Duncan Pendlebury AIA, NCARB, CCS, promotes high quality and appropriate design and construction. Mr. Pendlebury was qualified as an expert witness by the City Plan Commission and his resume and credentials have been added to the project file. The proposal is for a luxury lifestyle apartment complex with associated amenities. The site abuts the municipal ice rink and animal shelter, the City's highway storage facilities and an active quarrying operation. There is no architectural style to contradict or conflict with this development in the immediate neighborhood.

(3) Promoting the protection of the existing natural and built environment and the mitigation of all significant negative impacts of any proposed development on the existing environment:

The proposed development, as presented with the Master Plan level of detail, promotes the protection of the existing natural and built environment and the mitigation of all significant negative impacts on the existing natural environment as presented by Mr. David Taglianetti P.E. who was qualified as an expert witness by the City Plan Commission. His resume and credentials have been added to the project file.

(4) Promoting design of land developments and subdivisions which are well-integrated with the surrounding neighborhoods with regard to natural and built features, and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure:

The proposed development will be well integrated with the surrounding area with regard to the natural and built features found in the Natick/Phenix corridor. The project concentrates development in those areas which are best suited to support this intensive use due to the natural wetland characteristics of the lot. Mr. Peter Alviti Jr. P.E. was qualified as an expert witness by the City Plan Commission and presented the proposed sanitary sewer connection to be drilled under I-295. His resume and credentials have been added to the project file.

(5) Encouraging local design and improvement standards to reflect the intent of the community comprehensive plans with regard to the physical character of the various neighborhoods and districts of the municipality:

The proposal is consistent with the City of Cranston Comprehensive Plan. The Future Land Use Map of the Comprehensive Plan specifically designates the subject parcel as a "Special Redevelopment Area". In addition, this area is denoted as a "Future Village Center". This therefore enables a proposal of this size and scope to be entertained by the City Plan Commission, conditioned ultimately on City Council approval for the MPD zoning district. Furthermore, the size and scope of the proposal was determined to be in keeping with the illustrative development scenarios as discussed within the City Council adopted 2010 Comprehensive Plan.

(6) Promoting thorough technical review of all proposed land developments and subdivision by appropriate local officials:

The appropriate local officials have reviewed the proposal and a summary of their comments have been provided in Section IV of the staff memo dated 4/19/12. There were

no comments or concerns from any of the city staff which amount to a negative recommendation of the proposed project. As this is the Master Plan stage of review, or concept review, additional details and outside approvals are required for the Preliminary Plan stage of review and approval.

(7) Encouraging local requirements for dedications of public land, impact mitigation, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered; and

The traffic impacts have been given a high degree of importance at this stage of review which is typically handled at the Preliminary Plan stage. Mr. Robert J. Clinton, PE, the applicant's traffic engineer was qualified as an expert witness by the City Plan Commission and his resume has been added to the project file. Mr. Clinton prepared the traffic report which addresses: easing existing congestion; addressing future demand [background growth]; the reopening of the Natick Avenue bridge; and accommodating the impacts of new vehicle trips anticipated from this development. The City hired the consulting firm Fuss & O'Neil to peer review the findings and conclusions of Mr. Clinton's analysis. Mr. Derek L. Hug P.E. of Fuss & O'Neil was qualified as an expert witness and his resume and qualifications have been made part of the project file. Mr. Hug concurred with the findings and conclusions of the applicant's traffic study to mitigate traffic impacts from this project.

(8) Encouraging the establishment and consistent application of procedures for local record-keeping on all matters of land development and subdivision review, approval and construction.

Staff practices the consistent application of procedures for local record-keeping on all matters of land development and subdivision review, approval and construction.

*45-23-60 Procedure – Required findings. – (a) All local regulations shall require that for all administrative, minor and major development applications the approving authorities responsible for land development and subdivision review and approval shall address each of the general purposes stated in R.I.G.L. 45-23-30 and make positive findings on the following standard provisions, as part of the proposed project's record prior to approval.*

(1) The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues were there may be inconsistencies;

The proposal is consistent with the City of Cranston Comprehensive Plan. The Future Land Use Map of the Comprehensive Plan specifically designates the subject parcel as a "Special Redevelopment Area". In addition, this area is denoted as a "Future Village Center". This therefore enables a proposal of this size and scope conditioned ultimately on City Council approval for the MPD zoning district. Both the designation of the Special Redevelopment area and the Future Village Center envisions the site as being developed with higher residential density to support the anticipated commercial/retail development. Furthermore, the size and scope of the proposal was determined to be in keeping with the illustrative development scenarios as discussed within the City Council adopted 2010 Comprehensive Plan.

(2) The proposed development is in compliance with the standards and provisions of the municipalities' zoning ordinance;

The applicant is following the MPD process as prescribed within the Cranston Zoning Code as well as the Cranston Subdivision and Land Development Regulations. To the extent that the project needs an MPD zone, (a project specific zoning district), the project will conform upon adoption of this specific ordinance by the City Council.

(3) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions of approval;

The site's wetlands have been flagged and verified by the RIDEM. The developer has indicated that they will conform to the most recent stormwater standards as promulgated by RIDEM (no increase in the rate or volume of runoff from the site pre and post condition). The developer has indicated that they will comply with all state and city floodplain

regulations for development within the floodplain. The site has been used for gravel extraction and has been seriously degraded and disturbed. The RIDEM wetlands approval will require the developer to restore these degraded areas and protect them in perpetuity.

(4) The subdivision, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans; and

Development of this lot according to all pertinent regulations will not be impracticable based upon the materials submitted to date at the Master Plan level of detail.

(5) All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.

The proposal has permanent physical access to Natick and Phenix Avenues, public streets within the City of Cranston.

(b) Except for administrative subdivisions, findings of fact must be supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted.

The above findings of fact have been supported by legally competent evidence and testimony from expert witnesses qualified by the City Plan Commission on the record which discloses the nature and character of the observations upon which the fact finders acted.

#### Conditions of Approval

1. Prior to Preliminary Plan submission, applicant shall receive the Mixed-Use Planned District approval from the City Council and receive all necessary permits from outside agencies prior to submission of a Preliminary Plan application.
2. The Preliminary Plan submission shall include an updated traffic study prepared by the applicant's traffic engineer.

Ayes: Messrs Rossi, Smith, Nadeau, Moran, Motte and Strom. Nay: none

#### **ZONING BOARD OF REVIEW ITEMS**

**JESSIE PERRY 105 FORT AVENUE CRANSTON RI 02905 (OWN/APP)** has filed an application for permission to build a 520+/- SF raised parking structure with restricted front yard set back at **105 Fort Avenue**. AP 1, Lot 144, area 7178+/- SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

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 residential use of the property is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area as Single Family Residential, 7.26 to 3.64 units per acre.
2. The applicant's lot has frontage on Pawtuxet Cove, and therefore requires CRMC approval for the new structure.
3. The FEMA flood maps show that this entire property falls within an AE zone, which is the 100 year flood plain. The Floodplain elevation is 15 feet.
4. The proposed structure abuts an existing retaining wall that is constructed along the front property line.

5. The City's Engineer has submitted a written memo dated February 1, 2012 that states several concerns relating to the proposal. The memo addressed issues with the City's storm drain, the curb cuts, and the retaining wall and footings within the City's right of way, as the plans show.

Recommendation: The residential use is consistent with the Future Land Use Map. Based on the fact that the application will not receive an approval or the necessary permits from the City's Public Works or Engineering Departments for the plans as submitted, upon motion made by Mr. Smith and seconded by Mr. Strom, the Commission unanimously voted to make a negative recommendation on this application to the Zoning Board.

Ayes: Chairman Rossi, Messrs Smith, Moran, Nadeau, Strom and Motte. Nay: none

**MINERVA A TAVAREZ 5 FOUNTAIN AVENUE CRANSTON RI 02920 (OWN) AND JOSEPH MANZANILLO 5 FOUNTAIN AVENUE CRANSTON RI 02920 (APP)** have filed an application for permission to have a vehicle greater than one ton parked in a residential zone at **5 Fountain Avenue**. AP 8/3, lot 1530 & 1543, area 6400 +/- SF, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.60.010 Accessory Uses.

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 Zoning Code states vehicles other than passenger vehicles and school buses having a capacity of more than one ton or having three or more axles, shall be prohibited from being stored or garaged in residential districts.
2. The application submitted, states that the vehicle is an 11 ton, (1997 Ford E-350 truck) former shuttle bus that has been converted into a food truck, (Gourmet Mobile Kitchen)
3. The 2010 Comprehensive Plan Future Land Use Map designates this area of the City as Single and Two-family Residential; therefore, parking a commercial vehicle on the residential lot is not consistent with the Comprehensive Plan.
4. The site plan submitted by the applicant is not drawn to scale.
5. Lot #1543 that fronts on Meadow Street, is behind the applicant's house. The proposal is to park the vehicle here, 2 ft. from the westerly property line.
6. According to the City's GIS 2011 aerial photos, Lot #1543 is landscaped with grass and trees.
7. Portions of the westerly lot line of both lots contain a 6 ft. high wooden fence.
8. Most of lot #1530 (that contains the dwelling) is paved.

Recommendation: The Comprehensive Plan designates this area of the City as Residential, therefore parking an 11 ton commercial vehicle on a residential lot that permits parking for passenger vehicles with a load capacity up to 1 ton, is not consistent with the intent or purpose of the Zoning Code or the Comprehensive Plan. Therefore, upon motion made by Mr. Moran and seconded by Mr. Smith, the Commission unanimously voted to forward a negative recommendation on this application to the Zoning Board.

Ayes: Chairman Rossi, Messrs Smith, Moran, Nadeau, Strom and Motte. Nay: none

**RUBEN CHAKMAKIAN 66 VICTORY STREET CRANSTON RI 02920 (OWN/APP)** has filed an application for permission to build a 46' X 46' one story addition to an existing single family dwelling with restricted side and rear setback at **38 Susan Drive**. AP 10/1, lot 1199, area 8375 +/- SF, zoned A-8. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

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 residential use and density is consistent with the 2010 Comprehensive Plan Future Land Use Map.
2. The existing side yard setback is 18'; the proposed side yard setback for the 46 x 46 ft. addition is 5.4', where a 10' minimum is required in this zone.
3. The existing garage and breezeway will be removed.
4. The existing rear yard setback is 35 ft.; the proposed rear yard setback will be 16.8 ft., where a minimum 20 ft. is required per the Zoning code.
5. The maximum lot coverage permitted is 2,512 S.F. (30%). The proposed lot coverage is 2,684 S.F. (32%).
6. The proposed addition will have a front yard setback of 35 ft., where a minimum of 25 ft. is required.
7. The need for a rear yard variance could be eliminated if the portion of the proposed addition that contains the garages and master bedroom, was shifted 4 feet closer to the front property line; therefore, the applicant is creating his own hardship for relief from the rear yard setback requirement. (The interior would not be effected).
8. The City's GIS maps show that of the 60 dwellings within the 400' radius, 26 (43%) appear to have side yard setbacks of less than the required 10 ft.
9. Only 3 of the 60 dwellings have restricted rear yard setbacks (5%).

Recommendation: The existing residential use is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area as single family residential, and the Commission further finds that the request for a side yard variance will not alter the general character of the surrounding area. Regarding finding # 7, during the Plan Commission meeting, the applicant agreed to move the garage section 4 ft. closer to the front property line, thereby eliminating the need for the rear yard setback variance. Based on that information, upon motion made by Mr. Nadeau and seconded by Mr. Motte, the Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board.

Ayes: Chairman Rossi, Messrs Smith, Moran, Nadeau, Strom and Motte. Nay: none

**LICHT INDUSTRIAL REALTY CO 765 WESTMINSTER STREET PROVIDENCE RI 02903 (OWN) AND BC AUTO SALES 1473 ELMWOOD AVENUE CRANSTON RI 02910 (APP)** have filed an application for permission to operate a used auto sales business from a portion of a building at **1473 Elmwood Avenue**. AP 4, lot 2645, area 111,061 SF, zoned M-2. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.71.010 Signs, 17.20.030 Schedule of Uses.

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 2010 Comprehensive Plan Future Land Use Map designates the Elmwood Avenue Corridor as an area for a Special Redevelopment Area.. The Comp Plan text notes that until the area is rezoned, the current underlying Zoning controls. Therefore, the proposed used auto sales (commercial use) is not consistent with the current Industrial Zone, or the Comprehensive Plan Future Land Use Map.
2. The lot contains large connected buildings (51,865 sq. ft.) that currently contain three separate businesses – Bichon Automotive, Bichon Truck Parts, and JCD Design and Display.
3. The proposed used auto sales business will convert 2,800 sq.ft. of the building into 6 sales offices, conference room, and 2 storage areas. Approximately 8,300 sq. ft of the existing parking lot will be dedicated to the display of 26 cars for sale.
4. The site plan states 4 additional customer parking spaces and 2 handicap spaces will be utilized for the auto sales dealership, leaving 27 spaces for the remaining businesses.
5. The application received Preliminary Approval from the Site Plan Review Committee on April 18, 2012.

Recommendation: Upon motion made by Mr. Smith and seconded by Mr. Motte, the Commission unanimously voted to support the findings of fact, and stated that the proposed used auto sales (commercial use) is not consistent with the current Industrial Zone, or the Comprehensive Plan Future Land Use Map.

Ayes: Chairman Rossi, Messrs Smith, Moran, Nadeau, Strom and Motte. Nay: none

**ADJOURNMENT**

Upon motion made by Mr. Moran and seconded by Mr. Motte, the Commission unanimously voted to adjourn at 8:25 p.m.

**NEXT MEETING** June 5, 2012, at 7 p.m. in the City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP  
Principal Planner/Secretary