

MINUTES

May 5, 2009

Chairman Paul Petit called the Planning Commission Meeting to order in the City Council Chamber. The following Commission members were in attendance:

Paul Petit, Chairman
Robert Strom, Finance Director
Michael Smith
James Moran

Also present were:

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

Those members of the public in attendance were:

Mario Aceto	Eric Prive	Tom Daley
Robert Murray, Esq.	Ken Bock	Dan Bock
Cheryl Bock	Nic Rente	Eugenia Marks
Robert Perrotti	Eunice Matano	Brooke Macomber
John Addressi	David Ricci	Raymond Macomber
Ann Marie O'Mara	Tom Trainor	Jason Passalacqua
Kristie Passalacqua	Thomas Sweeney	Dorothy Greene
Marie DelPadre	Rocco DelPadre	Steve Garofalo
Anthony Muccio	Michael Macaruso	John Pariseault
John Bolton	Michael D'Amare	

APPROVAL OF MINUTES

Upon motion made by Mr. Smith and seconded by Mr. Strom, the Commission unanimously voted to *approve* the minutes of the April 7, 2009, Planning Commission Meeting.

COMPREHENSIVE PLAN UPDATE

Discussion of Future Land Use Map

Planning Director, Peter Lapolla, stated that he is seeking feedback from the Commission on the work that has been done to date on the Future Land Use Map; reiterating that the Future Land Use Map should mesh with zoning and vice versa. A visual of the Future Land Use Map was projected on the screen, for the benefit of those in attendance, which depicted the Future Land Use categories by color and classification.

Lippitt Farm Subdivision – Phase I **Preliminary Plan (REMAND of CONDITION #9)**

Major Subdivision with street extension
Lippitt Avenue
AP 30/4, Lot 250

Mr. Lapolla gave a brief explanation of the background of the subdivision proposal, stating that the matter has been remanded to the Planning Commission by the Platting Board of Review for re-consideration/removal of Condition #9 of the Preliminary Plan approval granted by the Commission on June 3, 2008.

Attorney Robert Murray, representing the applicant, The Picerne Real Estate Group, JGP Builders, explained that the property owner has accepted conditions 1-8 of the Preliminary Plan approval granted on June 3, 2008. However, the property owner appealed specifically Condition #9 which is as follows: "The deeds for the proposed lots shall reflect a permanent restrictions limiting outdoor water use associated with their street address (odd street numbered homes can water their lawns on odd days of the month, even numbered houses can water their lawns on even days of the month) until such time that Providence Water can provide water service to the area. The deed language is to be provided prior to final plan recording."

Mr. Murray went on to explain that the property owner was unable to refute Condition #9 at the June 3, 2008, Planning Commission Meeting as the public hearing was closed. Present along with Mr. Murray for this meeting were Nick Arruda, Director, JGP Builders; Eric Preavy, DiPrete Engineering, and Tom Daley, LFR Inc., located in Warwick, RI.

Mr. Tom Daley, of LFR Inc., outlined a slide presentation of the additional analysis of the site, soils and bedrock (granite). The presentation addressed water availability and potential impacts and results of field tests of wells for May and June, 2008. (Please refer to the hard copy of the slide presentation contained in the Planning Department's 2009 Minutes of Meeting.)

Abutting property owner, Alfred Vasconcellos, B.S., Biotechnology with P.E. Certification, addressed the Commission and distributed a Summary of the Previously Presented Information (June 3, 2008 Planning Commission Meeting). He stated that the proposed development is 110-210 feet higher than the rest of the development in the area and Curran Reservoir. He maintained his concern with insufficient water availability for the proposed development and its impact on existing homeowners' water supply in the area.

Abutting property owner, Douglas Yates, stated that water availability has "gone down" with development. He stated that when he waters his lawn his well goes dry within 4-5 hours.

Ms. Eugenia Marks, Audobon Society, and Ms. Margaret Robinson, Knight Wildlife Refuge, agreed that more water is used in the summer between June and September.

There being no further testimony, the Planning Commission moved to a vote. Upon motion made by Mr. Moran and seconded by Mr. Smith, the Commission unanimously voted to *remove* Condition #9, with waivers for 1) pavement width of 27', 2) provision of sidewalks and 3) roadway length (the proposal exceeds the 400' maximum). The revised Conditions of Approval are as follows:

1. The name of the Final Plan submission shall be changed to the satisfaction of the Police and Fire Departments and shall not have any reference to the local historic name of "Lippitt Farm".
2. Final Plan submission shall depict underground utilities as well as a safety fence around the detention basin as required by the Cranston Subdivision and Land Development Regulations.
3. Final Plan submission shall denote the names of the proposed roadway to the satisfaction of the Police and Fire Departments.
4. No curb opening widths for any of the lots shall exceed the maximum of 20'.
5. Applicant shall revise the drainage plan to be in conformance with all City standards and this plan shall be reviewed and approved by the Public Works / Engineering Division prior Final Plat Recording.

6. Provide 911 address maps with the Final Plan submission.
7. Payment of Western Cranston Capital Facilities Impact Fees of \$16,674 (\$1,389.50 x 12) at the time of Final plat recording.
8. Provide a Performance Bond in the amount of \$523,000, with a separate 2% administrative fee of \$10,460.

Aye votes: Chairman Petit, Mr. Smith, Mr. Moran and Mr. Strom. There were no nay votes.

Kenneth L. Bock Major Subdivision

Master/Preliminary Plan

Major Subdivision without street extension

210 Tomahawk Trail

AP 25/2, lots 17 & 286

Attorney John DiBona explained the applicant's proposal to subdivide the existing lots into two new lots: Lot 17 will have 37,188 square feet of land and contain the existing home on Tomahawk Trail; Lot 286 will have 31,818 square feet of land with 19.37' of frontage on South Comstock Parkway and contain one additional single-family home. The substandard frontage and proposed lot configuration for proposed lot 286 will require waivers from the Subdivision and Land Development Regulations as well as a variance from the Zoning Board of Review (ZBR) prior to consideration for Final Plan approval. Both proposed lots will be serviced by public water and ISDS.

Mr. Robert Perrotti, 25 Fox Ridge Dr., stated that when he purchased his property he was told by the realtor that the lot behind him could not be built on. He questioned whether a retaining wall would be built as his property is higher than the Bock's lot. He also expressed concern with a blind curve at the proposed driveway entrance.

Mrs. Macomber, a resident of Fox Ridge Dr., stated that her pool is 20 feet from the rear property line. She was also told that a house would never be built on the proposed lot.

Ms. Andrea DiMaria, 5 Cheryl's Way, stated that she has basement flooding and most neighbors have sump pumps. She stated that there is a dangerous curve at the site of the proposed driveway and the street narrows at this point.

Mr. Ricci, 10 Cheryl's Way, stated that his sump pump runs constantly during rainfall. He also expressed concern with traffic at that corner and stated that a traffic study should be done.

There being no further testimony 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 Master Plan; reserving judgment on the Subdivision and Land Development Regulations waiver requests until the Zoning Board of Review has approved the variances from the Zoning Code, subject to the following conditions.

Positive Findings

1. An orderly, thorough and expeditious technical review of this Master Plan has been conducted. Property owners within a 100' radius have been notified via first class and return receipt mail on 4/16/09 and the meeting agenda has been properly posted. Advertisement for this major subdivision was published in the 4/15/09 edition of the Cranston Herald.
2. The proposed subdivision and its resulting density of approximately .62 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 1-4 residential units per acre".

3. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Master Plan.
4. 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.
5. 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.
6. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.
7. The design and location of the driveway, building lots, utilities, drainage and other improvements conform to local regulations for mitigation of flooding and soil erosion.

Negative Findings

8. The proposed subdivision meets the gross area requirements of the Cranston Zoning Code, but does not meet the frontage and minimum lot area requirements of the A-20 zone. These issues will require waivers from the Subdivision and Land Development Regulations as well as dimensional variances from the Zoning Board of Review.
9. The proposed subdivision promotes high quality appropriate design and construction, will be well integrated with the surrounding neighborhoods but the unconventional lot configuration and substandard frontage will not reflect its existing characteristics.
10. The property in question has adequate permanent physical access, though substandard frontage, on South Comstock Parkway, an improved public roadway located within the City of Cranston.

Conditions of Approval

1. Applicant shall provide a Municipal Lien Certificate at the time of Preliminary Plan hearing.
2. Payment of Western Cranston Capital Facilities Impact Fees of \$1,389.50 at the time of Final plat recording.
3. Preliminary Plan submittal shall depict the proposed lot with an additional 80' of depth.
4. Preliminary Plan submittal shall depict the driveway as crushed stone or gravel no more than 50' from the intersection with South Comstock Parkway.
5. Applicant shall receive all variances from the Zoning Board of Review prior to submittal of the revised Preliminary Plan application with the Planning Department.

Aye Votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

Aceto Plat (formerly Phenix Avenue Minor Subdivision)

Final Plan

Minor Subdivision without street extension

Phenix Avenue

AP 17/2, Lot 1756

Attorney Robert Murray explained the proposal to subdivide the 38,699 square foot parcel into 3 lots; one for the existing home and two new building lots. The average lot size of the three lots is 12, 899 square feet. The proposed lots conform to the area and frontage requirements of the Cranston Zoning Code and will be serviced by public water and sewer.

Per State Law, Final Plan applications are not required to appear before the Planning Commission as they are handled administratively by the Administrative Officer. The Preliminary Plan was originally approved on 7/10/07 and was extended once on 7/8/08. The only thing to be

accomplished at this phase is to ensure that the Preliminary Plan conditions have been met prior to recording the Record Plan.

Ms. Dorothy Greene, 180 Highland Street, stated that debris has not yet been removed. She asked where the trash will be placed for pickup. She stated that currently trash from the existing house is left at the driveway on Highland Street.

Mr. Robert DelPadre, 176 Highland Street, stated that trash and debris on the applicant's lot has not been removed since July 10, 2007, which was at the time of the original Preliminary Plan approval. He presented photos of conditions then and existing conditions now.

Attorney Murray responded, stating that his client will have the site cleaned up to Ms. Green's and Mr. DelPadre's satisfaction.

Upon motion made by Mr. Smith and seconded by Mr. Strom, the Commission unanimously voted to accept the applicant's completion of the Preliminary Plan's conditions of approval denoted below and *approve* this Final Plan subject to the following conditions.

Conditions of Final Plan Approval:

1. Payment of Eastern Cranston Capital Facilities Impact Fees of \$1,186.92 (\$593.46 x 2) at the time of Final plat recording.
2. Final record plan shall not depict proposed structures or lot improvements.
3. Provide a performance guarantee in the amount of \$57,000 with a 2% administrative fee of \$1,140 for connection of public water and sewer.
4. If required, applicant shall obtain a temporary construction easement from the owner of AP 17/2, Lot 1980 for the proposed retaining wall on the easterly side of the subdivision.
5. Applicant shall submit appropriate cross easement documents for the shared driveway configuration.
6. The applicant shall stake out and maintain the surveyed property line throughout construction of the proposed driveway.
7. The Planning Department will conduct a site visit to ensure the removal of trash and debris on the property has been completed.

Aye Votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

EXTENSION OF TIME

Equestrian Estates – Master Plan Extension of Time

Major Residential Planned District (RPD) with street extension
Laten Knight Road
AP 28, Lot 11

Upon motion made by Mr. Strom and seconded by Mr. Smith, the Commission unanimously voted to *approve* the request for a **one-year** extension of time of the Master Plan approval.

Aye votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

Atwood Village Condominiums (formerly Testa & Carlino Condominiums)
Preliminary Plan

Major Land Development
Burton Street, Berry Street and Cady Avenue
AP 12/4, Lots 938-953 and 996-1002

Upon motion made by Mr. Moran and seconded by Mr. Strom, the Commission unanimously voted to *approve* the request for a two-year extension of time for the Atwood Village Condominiums project Preliminary Plan approval originally granted on June 3, 2008.

Aye votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

Gray Coach Estates – Phase II

Preliminary Plan

Scituate Avenue
Major Land Development
AP 36/6, Lot 54

Upon motion made by Mr. Moran and seconded by Mr. Smith, the Commission unanimously voted to *approve* your request for a one year extension of time for recording of the Final Plan of Gray Coach Estates, Phase 2, Section 1 (2-1).

Aye Votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

PERFORMANCE GUARANTEES

Dynamic Estates

Minor Subdivision with street extension
1730 Plainfield Pike - AP 37, Lot 533
Extension of Letter of Credit

Upon motion made by Mr. Smith and seconded by Mr. Strom, the Commission unanimously voted to *approve* your request for a one-year extension of Bank RI Letter of Credit No.D8401, in the amount of \$124,000; to expire on May 15, 2010.

Aye Votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

ZONING BOARD OF REVIEW

KING T AND XIAO P LAM 21 YOUNG LANE JOHNSTON RI 02919 (OWN) AND DIAMOND SPA AND TUI NA CENTER INC 620 RESERVOIR AVENUE CRANSTON RI 02910 (APP) have filed an application for special use permit to operate a spa with stress relief massage services in an existing legal non-conforming building with restricted off-street parking, frontage, front, side and rear yard setback on an undersized lot at **620 Reservoir Avenue**. AP 6, lot 2198, area 4948 +/- sf, zoned C-4. Applicant seeks relief from Sections; 17.92.020 Special Use Permit, 17.20.120 Schedule of Intensity, 17.64.010 Off-Street Parking.

Findings of Fact:

1. The property's proposed commercial use is consistent with the Comprehensive Plan's Future Land Use Map, which calls for Commercial and Services along this section of Reservoir Avenue.
2. The total gross floor area of commercial space on the first floor and basement of the building is 2231 sq. ft., which requires 8 off street parking spaces. The site plan shows 3 illegal off-street spaces that require egress by backing out onto the street.
3. The first floor plan shows 4 massage rooms, a waiting room, and a kitchen.
4. The second floor of the building contains 2 bedrooms and is labeled on the floor plan as "proposed residential unit" requiring one additional parking space.
5. The building formerly housed a commercial photo lab in the basement, and office on the first floor.
6. Within the 400' zoning notification radius, there are 20 single family houses, 6 two-family houses, 3 multi family buildings, 9 mixed residential/commercial buildings, and 13 commercial buildings.
7. The City's GIS shows that of the total 22 commercial properties within the 400' radius, only 4, (18%) have insufficient off street parking.
8. There is no on-street parking on High School Avenue at this location.

Upon motion made by Mr. Smith and seconded by Mr. Moran, the Commission unanimously voted to recommend *denial* for the following reason:

1. Insufficient off-street parking. The three illegal off-street parking spaces are insufficient; nine spaces are required by Code.

Aye votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

GARFIELD AVENUE DEVELOPMENT LLC 14 GARFIELD STREET CRANSTON RI 02920 (OWN) AND STOP & SHOP SUPERMARKET CO 1385 HANCOCK STREET QUINCY MA 02169 (APP) have filed an application for special permit to construct a gasoline fueling facility with kiosk, ATM and vending machines at **110 Garfield Avenue**. AP 7, lots 2561, 2562, 2593 thru 2597 and 3768, area 33,083 +/- sf, zoned M-2. Applicant seeks relief from Sections; 17.92.020 Special Use Permit, 17.48.010 Gasoline Service Stations, 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 property's proposed commercial service use is inconsistent with the Comprehensive Plan's Future Land Use Map, which calls for Industrial uses in this area of the City.
2. Though zoned for industrial use, the existing lot size is ½ the required area needed to construct an industrial building in an M-2 zone (60,000 sq. ft.).
3. The triangular shape of the lot makes it difficult to accommodate the placement of an industrial building on the lot with sufficient parking and site circulation.
4. The structures on the site (pump islands, canopy, kiosk) meet the required yard setbacks.
5. The proposed freestanding sign with LED numbers, totals 50 sq. ft., and is 15' high., which conforms to the area and height for freestanding signs in an M-2 zone.
6. The proposed signs on the canopy equal a total of 42 sq. ft, which falls under the 45 sq. ft. allowed for building signage.
7. Each of the 5 pump islands has a 2 sided sign that equals 9.03 sq. ft. x 2 = 18.06 sq. ft. times 5, equals 90.3 sq. ft. total.
8. Total signage for the site is 182.3 square feet, which is less than the total allowed signage permitted (300 sq. ft.) in an M-2 zone.
9. The project received Preliminary Site Plan Review approval on March 5, 2009.
10. There is a pre-existing non-conforming 1,472 sq. ft. billboard located on the southerly end of the site that will remain. Maximum allowed for a billboard is 500 sq. ft.

Upon motion made by Mr. Smith and seconded by Mr. Strom, the Commission unanimously voted to recommend *approval* 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.

Aye votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

ANTHONY MUCCIO 28 WOODVIEW DRIVE CRANSTON RI 02920 (OWN/APP) has filed an application for permission to build a 34' X 60' one story two-family dwelling on **Macklin Street**. AP 11/2, lots 1727 & 1728, area 8000 +/- SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 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 proposed application’s density of 10.89 units per acre is not consistent with the Comprehensive Plan’s Future Land Use Map, which designates the area as residential, 4-8 units per acre.
2. The average lot size for the 37 existing single family dwellings located within the 400’ zoning notification radius, is 6,606 sq. ft.
3. The average lot size for the existing 2 duplexes within the 400’ radius is 10,400 sq. ft.
4. The average residential lot size for the 41 total dwelling units within the radius is 6,469 sq. ft. per unit; therefore, the application’s proposed 4,000 sq. ft. of lot area per unit, is 40% smaller than the neighborhood average.
5. 94% of the dwellings within the 400’ radius are single family dwellings, therefore, the application for a two family dwelling, alters the general character of the neighborhood, and impairs the intent and purpose of the Cranston Zoning Code, and the Comprehensive Plan upon which the Zoning Code is based.
6. The site plan submitted shows the proposed 4 parking spaces for the duplex will be located in the front yard.

Upon motion made by Mr. Moran and seconded by Mr. Smith, the Commission unanimously voted to recommend *denial* for the following reasons:

1. The proposal alters the general character of the neighborhood, and impairs the intent and purpose of the Cranston Zoning Code.
2. The proposal is not consistent with the Comprehensive Plan’s Future Land Use Map’s residential density of 4-8 units per acre.

Aye votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

WILLIAM D AND CLAUDIA BOFFI 265 OAKLAWN AVENUE CRANSTON RI 02920 (OWN/APP)

have filed an application for permission to convert the attic area of an existing two family dwelling into an additional living unit at **295 Oaklawn Avenue**. AP 17/4, lots 1338, area 1.2471 +/- acres, zoned A-8. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.030 Schedule of Uses, 17.20.120 Schedule of Intensity, 17.88.030 A Extension of non-conforming Use.

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 is consistent with the comprehensive Plan’s Future Land Use Map, which designates the property as *Residential, 4-8 units per acre*.
2. The proposed density is 2.4 units per acre.
3. The existing house is set back 145.0 feet from Oaklawn Ave.
4. The site plan shows six off-street parking spaces to the rear of the building.
5. The applicant’s southerly property line abuts a 6 unit apartment.
6. No exterior renovations are proposed.
7. Within the 400’ Zoning notification radius, there are 66 dwelling units total (located in single, two, three, and multi family dwellings.) The average square footage of lot area per unit is 10,155.2 sq. ft.

8. The proposed lot area per unit is 11,500 sq. ft., which exceeds the average lot area within the radius; therefore, the application will not alter the general character of the surrounding area, and will not impair the intent or purpose of the Zoning Code.

Upon motion made by Mr. Strom and seconded by Mr. Smith, the Commission unanimously voted to recommend *approval*, 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.

Aye votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

CHAPEL ASSOCIATES LLC 1414 ATWOOD AVENUE JOHNSTON RI 02919 (OWN/APP) has filed an application for special permit to operate a health spa including massage services at **Chapel View Boulevard**. AP 14, lots 1, area 22.25 +/- acres, zoned MPD. Applicant seeks relief from Sections; 17.92.020 Special Use Permit, 17.20.030 Schedule of Uses.

Findings of Fact:

The application conforms with the Comprehensive Plan.

Recommendation: Upon motion made by Mr. Smith and seconded by Mr. Moran, the Commission unanimously voted to recommend *approval* for a Special Use Permit for health spa use, including massage therapy; as the application will not alter the general character of the surrounding area and will not impair the intent or purpose of the Zoning Code, and with the condition that the massages being rendered be by a massage therapist licensed by the State of Rhode Island.

Aye votes: Chairman Petit, Mr. Strom, Mr. Smith and Mr. Moran. There were no nay votes.

ADJOURNMENT/NEXT MEETING

Tuesday, June 2, 2009 at 7 p.m. in the City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary

