

## MINUTES

**November 1, 2005**

Chairman Guglietta called the Planning Commission meeting to order in the City Council Chamber at 7:07 p.m. The following Committee members were in attendance:

Chairman William Guglietta  
Vice Chairman Paul Petit  
Councilwoman Paula McFarland  
Charles Rossi  
Jerome Baron

Also attending were: Jared L. Rhodes, II, Planning Director  
Lynn Furney, Acting Principal Planner  
Vito Sciolto, Assistant City Solicitor  
Joanne Resnick, Senior Clerk  
Tracy Shepherd, Stenographer

Those members of the public that attended were:

Daniel Gallant	Yanaiza Gallant	Nicholas Lebracci
Valerie Lebracci	Jan Irwin	A. Lemieux
E. Robinson	R.B. Balog	Eleanor O'Rourke
Joseph O'Rourke	Francis Waldron	George Waldron
Richard Leahey	Ray & Bea Charlonne	Chris & Sara Whitney
Josh Wood	Patricia Rosen	Thomas Millerick
Susan Pacheco	Mr. & Mrs. Alfred DiOrio	Isabel Godfrey
Susan Gernt	Marie Sweet	Arthur Moreira
E.L. Cape	Robert Colagiovanni	

## MINUTES

Upon motion made by Mr. Petit, seconded by Mr. Rossi, the Commission unanimously voted to approve the minutes of the October 4, 2005 Planning Commission meeting.

## **ORDINANCE COMMITTEE ITEMS**

### **Ordinance 9-05-5** 1369-1387 Park Avenue-Comprehensive Plan Amendment

Attorney John DiBona explained the reason for proposing this amendment and zone change (from M-1 Industrial to C-3–General Business) is so that, going forward, each new development proposal for this area will not need to be heard by the Zoning Board of Review.

Councilwoman McFarland expressed concern with the possibility of this amendment allowing outdoor motor vehicle storage and/or sales. Mr. Rhodes explained that this proposal specifically excludes outdoor storage and indoor repair facilities (which are only allowed in C-4 and C-5 zoning districts), as referenced in Mr. Rhodes memorandum, dated October 26, 2005, contained in these minutes. He explained that the proposed C-3 zoning designation is in line with the Comprehensive Plan Future Land Use Map.

No members of the public came forward to speak on this matter.

Upon motion made by Mr. Petit, seconded by Councilwoman McFarland, the Commission unanimously voted to adopt the following findings of fact and recommend APPROVAL of Ordinance 9-05-5.

#### Findings Relative to the Comprehensive Plan (Ordinance 9-05-5)

1. The proposed amendment calling for a zone change from M-1 (Industrial) to C-3 (General Business) is consistent with the Comprehensive Plan’s Future Land Use Map which calls for “commercial and service uses” to be made of the subject parcels.
2. Amending map 2-4 and the textual references of page 65 to call for a zone change from M-1 to C-3, as opposed to C-2, implements the original intention of the references in moving from an industrial to commercial classification while not drastically altering the mix of uses that would be allowed under a C-2 scenario.

Aye votes: Chairman Guglietta, Mr. Petit, Mr. Rossi, Mr. Baron and Councilwoman McFarland. There were no Nay votes.

### **Ordinance 9-05-6** – 1369-1387 Park Avenue - Change of Zone

Upon motion made by Mr. Petit, seconded by Mr. Baron, the Commission unanimously voted to adopt the following findings of fact and recommend APPROVAL of Ordinance 9-05-6.

#### Findings Relative to Zoning (Ordinance 9-05-6)

*Assuming Approval of Ordinance 9-05-5 as recommended above.*

1. Proposed change of zone from M1 (Industrial) to C-3 (General Business) is consistent with the City of Cranston’s 1992 Comprehensive Plan as amended, its Future Land Use Map, Map 2-4 and the textual references to the subject property found on page 65.

2. Proposed change of zone recognizes and has considered each of the applicable purposes of zoning as presented in Section 45-24-30 of the Rhode Island General Laws.

Aye votes: Chairman Guglietta, Mr. Petit, Mr. Rossi, Mr. Baron and Councilwoman McFarland. There were no Nay votes.

### **Ordinance 9-05-7 – Calart – Comprehensive Plan Amendment**

Attorney Robert Murray, representing Calart Associates, II, LLC, stated that the subject lots are bound by the Providence city line and the existing “Calart Tower” to the North, the Route 10 on ramp to the West and South and Pontiac Avenue to the East. All property owned by Calart is presently zoned B-1, which is a residential zoning district, and the applicant is requesting a change of zone to C-2-Neighborhood Business. The applicant proposes the construction of a new medical office building. He explained that the abutting parcels are currently zoned as a “General Commercial District” in the City of Providence Comprehensive Plan. He mentioned a neighborhood meeting, held on October 27, 2005, where one neighbor was concerned with the proposed building being used as retail. He reiterated that retail is not proposed for this site, and his client is happy to abide by any use restrictions requested by the City Council.

Mr. Murray further stated that it is his client’s intent to request abandonment of Richfield Road. The proposal will direct traffic to Reservoir Avenue and Route 10.

Mr. Kevin Morin, P.E., DiPrete Engineering, explained that presently there are three curb cuts. The new development will share parking with the existing Calart facility. Although only conceptual in nature, current plans do include an additional driveway opening to Pontiac Avenue. He further stated that all work is subject to RIDEM regulatory review.

Area residents Jan Irwin and Annette Lemieux, of Paine Avenue, expressed concern with the possibility of this area being re-zoned and then sold and possibly used for a different use than what is currently proposed by this developer. They were also concerned with egress to Paine Avenue and asked that no additional curb cuts onto Pontiac Avenue be allowed; that a vegetative buffer between the existing residential area and proposed commercial use be provided and that any new lighting not intrude upon the neighborhood.

Chairman Guglietta informed the residents that future development plans of this magnitude would be reviewed by the Site Plan Review Committee to ensure that the above stated concerns conform to the Site Plan Review criteria.

Mr. Joseph O’Rourke expressed concern with traffic, the proposal for Richfield Street, and asked if there will be a restaurant on site. He was assured by Mr. Murray that any food services proposed would be for employee use only.

Mr. Robert Balog, Friendly Road, asked who would own Richfield Road should it be abandoned. Mr. Rhodes explained that the property would be deeded to Calart.

Councilwoman McFarland stated that there would be a monetary exchange for the property based on an appraisal.

Mr. Balog also expressed concern with Fire Department access on Richfield Road and stated he is against this expansion of Calart. It is his feeling that the proposal is too large and residents will “lose control of the neighborhood.”

Citing his memorandum dated October 26, 2005, contained in these minutes, Mr. Rhodes explained that this proposal balances the neighborhoods needs with economic development for the City.

Councilwoman McFarland asked if ‘right turn only’ signage could be placed at the Pontiac Avenue driveway. Assistant City Solicitor, Vito Sciolto, responded that a restriction can be placed on the driveway signage.

Mr. Murray then stated that 93-95 Richfield Road has been owned by the applicant since 1986. In fact, Calart owns both sides of the street, and abandonment of Richfield Street is not critical to the changes proposed. He further stated that discussion regarding the abandonment of Richfield Street is premature as application for abandonment has not been submitted.

In closing the discussion on the proposed Comprehensive Plan Amendment and Zone Change, Chairman Guglietta stated that this proposal is an opportunity for the City to create much needed tax revenue and economic development.

There being no further discussion, the Chairman moved to a vote.

Upon motion made by Mr. Petit, seconded by Mr. Baron, the Commission voted to adopt the following Findings of Fact and recommend APPROVAL of Ordinance 9-05-7.

Findings Relative to the Comprehensive Plan (*Ordinance 9-05-7*)

1. The proposal will not compromise the stability of the established neighborhood but will maintain it through continued economic development and revitalization (*Cranston Comprehensive Plan Policy H-4.2*).
2. The proposal will contribute to the revitalization of an underutilized area for uses that are in keeping with the need and values of the neighborhood (*Cranston Comprehensive Plan Goal ED-4*).
3. The proposal will add to the City’s taxable property base commercial structures which meet the needs of residents (*Cranston Comprehensive Plan Goal ED-3*).
4. The proposal will increase employment opportunities for Cranston Residents (*Cranston Comprehensive Plan Policy Goal ED-1A*).
5. The Proposal will promote commercial development that serves local needs and harmonizes with surrounding land uses (*Cranston Comprehensive Plan Policy Goal LU-3*).

6. The proposal will promote orderly growth and development that recognizes the natural characteristics of the land, its suitability for use and the availability of existing and proposed public and/or private services and facilities [R.I.G.L 45-22.2.3.(C)(1)].
7. The proposal is consistent with the City of Providence's Comprehensive Plan and Zoning Code which designates the abutting property for "General Commercial" uses.

Voting aye: Chairman Guglietta, Mr. Petit, Mr. Rossi, and Mr. Baron. Councilwoman McFarland abstained. There were no Nay votes.

### **Ordinance 9-05-8 Change of Zone**

Upon motion made by Mr. Petit, seconded by Mr. Baron, the Commission voted to adopt the following Findings of Fact and recommend APPROVAL of **Ordinance 9-05-8**.

#### Findings Relative to Zoning (Ordinance 9-05-8)

*Assuming Approval of Ordinance 9-05-5 as recommended above.*

1. The proposal is consistent with the original 1992 City of Cranston Comprehensive Plan in that it adjusts zoning map boundaries of commercial districts along major arterials to provide for adequate commercial services while minimizing impacts on adjoining residential neighborhoods (*Policy ED 5.1*).
2. Proposed change of zone recognizes and has considered each of the applicable purposes of zoning as presented in section 45-24-30 of the Rhode Island General Laws.
3. Proposed change of zone from B1 (Single and two family residential) to C-2 (Neighborhood Business) is consistent with the City of Cranston's 1992 Comprehensive Plan Future Land Use Map as amended.

Voting aye: Chairman Guglietta, Mr. Petit, Mr. Rossi, and Mr. Baron. Councilwoman McFarland abstained. There were no nay votes.

## **SUBDIVISIONS AND LAND DEVELOPMENT PLANS**

### **Millerick Manor (Minor Subdivision with no street extension) Pippin Orchard Road AP 33, Lots 23 & 34**

Mr. Thomas Millerick addressed the Commission, informing them that this two lot subdivision is proposed so that he may construct a home next to his wife's childhood home.

No testimony was offered by members of the public on this application.

Mr. Rhodes then presented the staff's Findings of Fact and Recommendation, as documented in his memorandum dated October 28, 2005, contained in these minutes.

Upon motion made by Councilwoman McFarland, seconded by Mr. Baron, the Commission unanimously voted to adopt the following Findings of Fact and APPROVE this Minor Subdivision Preliminary Plan, subject to the conditions listed below:

Findings of Fact

1. An orderly, thorough and expeditious technical review of this minor subdivision without street extension has been conducted. The abutters have been notified via first class mail and the meeting agenda has been properly posted. Advertisement for this informational hearing is not required since the proposal is along an existing improved state road within the City.
2. The proposed subdivision is consistent with the City of Cranston Comprehensive Plan, which designates the property in question as “Residential, less than 1 unit per acre”.
3. Each lot conforms to the standards and provisions of the City of Cranston Zoning Ordinance.
4. There will be no significant negative environmental impacts from the proposed subdivision as shown on the preliminary plan, with all required conditions for approval.
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 land development 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 to Pippin Orchard Road, an improved public roadway located within the City of Cranston.
8. The proposed subdivision provides for safe and adequate local circulation of pedestrian and vehicular through traffic, for adequate surface water run-off, for a suitable building site, and for preservation of natural features that contribute to the attractiveness of the community. No significant cultural or historic features have been identified on site.
9. The staff finds that design and location of streets, building lots, utilities, drainage improvements and other improvements conform to local regulations for mitigation of flooding and soil erosion.

Conditions of Approval

The following conditions shall apply to this approval, in addition to all other applicable state and local requirements.

1. The receipt of an approved Physical Alteration Permit from RIDOT for the curb cut on Parcel B prior to final submission.
2. Submission of Municipal Lien Certificates for lots 23 and 34.
3. Payment of Cranston Capital Facilities Impact Fee of \$1,389.50 prior to recording.

Aye Votes: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

**Moreira Plat at South Auburn  
Minor Subdivision with no street extension  
Mapleton Street, Forest Avenue and Dale Avenue  
AP 5/3, Lot 8**

Mr. Robert Curran, Registered Land Surveyor, 1050 Main Street, East Greenwich, explained the proposal to divide this 27,872 sq. ft. parcel into four residential lots. The existing home on Mapleton Avenue will remain.

Kenneth Colaluca, Esq., 1050 Main Street, Unit #27, East Greenwich, addressed the Commission, informing them that all correspondence to the applicant, Ms. Mary Healy, Plymouth, Montserrat, British West Indies, shall be copied to his office.

Area resident Josh Wood, 83 Forest Avenue, expressed concern with density and the types of homes to be constructed. Chairman Guglietta explained that the applicant must abide by the City's *Subdivision and Land Development Regulations*, ensuring that new homes to be constructed conform to zoning regulations.

Area resident Al DiOrio, 139 Mapleton Street, questioned where the homes would be built on this four lot subdivision. Mr. Rhodes explained that the home at 123 Mapleton Street is to remain and three new homes would be constructed within the building envelopes resulting from the Zoning Code's setback requirements as depicted on the plan set. He explained that the City does not have jurisdiction over what types of homes will be built, nor the removal of existing trees on private property. Mr. Rhodes then read into the record correspondence of Mr. Bob Panciocco, 89 Forest Avenue, dated October 24, 2005, expressing his concerns with the proposal (contained in these minutes). He presented the Planning Department's Findings of Fact and Recommendations as documented in his memorandum of November 1, 2005 (contained in these minutes).

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

Upon motion made by Mr. Petit, seconded by Councilwoman McFarland, the Commission unanimously voted to adopt the following Findings of Fact and APPROVE this Minor Subdivision subject to the conditions denoted below.

Findings of Fact

1. An orderly, thorough and expeditious technical review of this minor subdivision without street extension has been conducted. The abutters have been notified via first class mail and the meeting agenda has been properly posted. Advertisement for this informational hearing is not required since the proposal is along existing improved city streets.
2. The proposed subdivision is consistent with the City of Cranston

Comprehensive Plan which designates the property in question as “Residential” allowing more than 8 units per acre.

3. Each lot conforms to the standards and provisions of the City of Cranston Zoning Ordinance.
4. There will be no significant negative environmental impacts from the proposed subdivision as shown on the final plan, with all required conditions for approval.
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 land development 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 to Forest Avenue, Dale Avenue and Mapleton Street, all of which are 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. No significant cultural or historic features have been identified on site.
9. The staff finds that the design and location of streets, building lots, utilities, drainage improvements and other improvements conform to local regulations for mitigation of flooding and soil erosion.

#### Conditions of Approval

The following conditions shall apply to this approval, in addition to all other applicable state and local requirements:

1. Installation of Granite Curb, per City of Cranston specifications, along all four lots.
2. If not already connected, connection of existing house at 123 Mapleton to the public sanitary sewer system and removal/abandonment of existing cesspools and sewerage with proper documentation from a Class II or Class III designer licensed by RIDEM.
3. Engineering Divisions approval of the proposed roof drainage galley systems prior to issuance of building permits for the respective homes.
4. Setting of two granite bounds.
5. Posting of a performance bond in the amount of \$15,600 and administrative fees of \$312.
6. Payment of Cranston Capital Facilities Impact fee of \$1,780.38 prior to recording.

7. Subsequent applications, notices and approvals to be forwarded to Kenneth Colaluca, Esquire, attorney for the owner.

Aye Votes: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

**Cardi Shopping Plaza II – Master Plan  
(Major Land Development Plan)  
1458 Park Avenue  
AP 11/2, Lots 224 & 2971**

*Continued*

Chairman Guglietta began by thanking Mr. Mancini and Mr. Cardi for meeting with him and Mr. Rhodes to determine how to proceed with the project introduced at last month's Planning Commission meeting.

Mr. Mancini thanked Chairman Guglietta and Mr. Rhodes for the meeting, which proved to be most helpful in moving their proposed project to construct a commercial building, daycare center and residential apartment building forward. As a result of that meeting, it was determined that a zone change from C-5 to C-2, which is consistent with the Comprehensive Plan Future Land Use Map would be requested by the applicant. Establishment of a "land unit condominium" form of ownership is also proposed. Proposed access to the site is from Park Avenue with an easement through the existing shopping plaza. A Physical Alteration Permit is not required.

No testimony was offered by members of the public on this application.

Mr. Rhodes then presented the Planning Department's Findings of Fact and Recommendation as documented in his memorandum of October 28, 2005 (contained in these minutes). Mr. Rhodes also explained that the project will require subdivision and relocation of the three structures so that zoning variances are not required.

Upon motion made by Mr. Rossi, seconded by Mr. Petit, the Planning Commission unanimously voted to adopt the following Findings of Fact and APPROVE this Revised Master Plan subject to the conditions denoted below.

Findings of Fact

1. An orderly, thorough and expeditious technical review of this land development plan has been conducted. The abutters have been notified via first-class mail and the meeting agenda has been properly posted. Advertisement for this public informational meeting was published in the September 22, 2005, edition of the Cranston Herald.
2. The proposed development is consistent with the City of Cranston Comprehensive Plan Future Land Use Map. Specifically map 2-4 calls for the subject parcels to be rezoned from C-5 (Heavy Business and Industry) to C-2 (Neighborhood Business) thereby supporting the mixing of multi-family residential and commercial uses which are otherwise prohibited in a C-5 zone.
3. Significant negative environmental impacts are not anticipated to result from the proposed development as shown on the final plan, with all required conditions for approval.

4. The proposed land development 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 recording of reciprocal right-of-way easements over the three resulting lots to facilitate traffic flow to and from Park Avenue will provide adequate and permanent physical access to an improved public street.
6. There are no significant natural, cultural, or historic features on site that contribute to the attractiveness of the community and are therefore worthy of preservation.
7. The proposed development will be well integrated with the surrounding neighborhood, and reflect its general characteristics.
8. The proposed development and resulting parcels do not comply with the standards and provisions of the City of Cranston Zoning Code.
  - a. A change of zone from C-2 to C-5 is required to allow the residential use. Residential uses are not permitted in “Heavy Business and Industry” zones. The applicant is already making reasonable use of the subject property and a hardship does not exist.”
9. Opportunities might exist to improve the quality of the current design by working to reduce the amount of impervious surfaces and increase the provision of green space.
10. Due to the lack of a current Traffic Impact Analysis it is not possible to determine whether the proposed land development provides for safe and adequate local circulation of pedestrian and vehicular traffic.
11. The adequacy of proposed surface water run-off, drainage improvements and conformance with local regulations for mitigation of flooding and soil erosion will be addressed at the Preliminary review stage.

#### Conditions of Approval

The following conditions shall apply to this approval, in addition to all other applicable state and local requirements.

- 1) Change of zone for the subject parcels from C-5 to C-2 as prescribed by the City of Cranston Comprehensive Plan Future Land Use Map 2-4 prior to Preliminary Major Land Development Plan Submittal.
- 2) Submittal of a traffic impact study at the Preliminary Major Land Development stage as specified by the City Traffic Safety Engineer under agency comments above.
- 3) Receipt of Underground Injection Control Permit from the Rhode Island Department of Environmental Management and submittal of complete drainage design and calculation details prior to Preliminary Major Land Development Plan Submittal.

- 4) Preliminary Site Plan Review approval prior to Preliminary Land Development submittal so as to ensure a high quality design with appropriate consideration for reduction of impervious surfaces and provision of adequate green space.
- 5) Conformance with the requirements of Veolia Water as documented in Bill Wilbur's correspondence of September 27, 2005.

Aye Votes: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

**Stamas/Baptista Preliminary Plan *Remand from the Platting Board of Review*  
(Minor Subdivision with no street extension)  
Dover Street – AP 7/4, Lots 2269, 2271, 2272, 2273, 2988 & 3864**

Chairman Guglietta began by stating that this application was originally before the Planning Commission on April 5, 2005. He explained that the applicant appealed one of the Conditions of Approval of the April 5 Planning Commission decision to the Zoning Board of Review, sitting as the Platting Board of Review, on July 13, 2005.

Attorney John DiBona explained that the Zoning Board of Review has granted a variance for a four unit condominium structure, and his client is now seeking a Preliminary Plan approval from the Planning Commission.

Chairman Guglietta stated that he sought the council of the Rhode Island Statewide Planning Office regarding the Platting Board of Review decision of July 13 to ensure that the Commission was in compliance with the City of Cranston's *Subdivision and Land Development Regulations* in their decision to limit the proposed construction of a four-unit condominium structure to a single or two-family dwelling structure. He also thanked Mr. Vito Sciolto, Assistant City Solicitor, for his guidance on this matter. Mr. Guglietta stated that the Planning Commission has come to a "respective disagreement" on this matter, and he took exception to the statement that "the Planning Commission exceeded our authority" and committed a procedural error in making their decision last April 5, 2005. He stated that the Platting Board does have the authority to overturn Planning Commission decisions. He further stated that the Planning Commission has done their due diligence and cannot challenge the Platting Board's decision, given the expiration of the twenty day appeal period mandated by State Law.

Mr. Sciolto stated that the Platting Board is asking for removal of the above referenced condition. He advised the Planning Commission to follow the Platting Board of Review's decision as the existing statute requires the Planning Commission remove that statement and recommend approval.

Councilwoman McFarland questioned the Platting Board's authority to "pick and choose" which elements of the Planning Commission's decisions to remove; as in this case the "proposed development does nothing to enhance the area and, in fact, adds to the further decline of the area."

Area resident Dave Capuano, 18 Dover Street, stated that he has attended all the meetings regarding the area in question. He is concerned with parking congestion and emergency

vehicle access. He asked that the proposed area be designated a “green area” and remain undeveloped.

Chairman Guglietta stated that he shares Mr. Capuano’s frustration and reiterated the Planning Commission’s attempt to limit the development. He stated that should this situation arise in the future, the Planning Commission will be certain to act within the twenty day appeal period.

Mr. Sciolto stated that, in his opinion, there was nothing to vote on at this point, and that the decision has been made by the Platting Board, however, Mr. Guglietta stated that the matter has been remanded to the Planning Commission for further proceedings. He stated that a vote is required to remove Condition (a). Mr. Rhodes stated that the Planning Department would be unable to grant a Final approval, when it is requested, without the removal of this condition.

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

Upon motion made by Chairman Guglietta, seconded by Mr. Petit, the Commission voted to:

1. remove Condition (a) “limitation to a single or two family dwelling structure” from its conditional approval rendered April 5, 2005.
2. require that the Stamas/Baptista Final Plan submittal be brought back before it, with public notice, for review and consideration.

Voting Aye: Chairman Guglietta, Mr. Petit, Mr. Rossi and Mr. Baron. Voting Nay: Councilwoman McFarland.

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

Planning Director Jared Rhodes called attention to a draft letter addressed to Ms. Joy Montanaro, Chairwoman of the Zoning Board of Review, which was provided to each Commission member. The letter, which is contained in these minutes, references *Rhode Island General Law 45-24-41 (c)* [Standards for Granting of Variances] and was intended to serve as a cover letter for future transmittals of the Planning Commissions advisory findings and recommendations to the Zoning Board. Chairman Guglietta asked the commissioners to review the proposed letter and provide their feedback to Mr. Rhodes.

**DANIEL J GALLANT 1249 CRANSTON STREET CRANSTON RI 02920 (OWN/APP)** has filed an application for permission to use the third floor as an additional living unit in an existing two family dwelling with restricted front and side yard setback on an undersized lot at **1247-1249 Cranston Street**. AP 8/2, lot 1262, area 4500+/- SF, zoned B-2. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

#### **Findings**

1. The property was assessed as a two family in the 1996 revaluation.

2. The existing illegal third unit located in the attic is currently vacant.
3. A three unit dwelling would require 6 parking spaces. A parking plan was not submitted. According to the site plan submitted, only four parking spaces, which allow for vehicles to enter & exit in a forward motion can be accommodated on site.
4. A three family dwelling in a B-2 zone requires 14,000 sq. ft.; therefore, the applicant falls 9,500 sq. ft. (67%) below the required minimum.
5. Whereas the average residential density within the 400' radius is 3,095 sq. ft. per dwelling unit, the proposed density calculates to 1,500 sq. ft. per dwelling unit.
6. Although there is a 3-family dwelling on 4,222 sq. ft., which abuts the applicants property, it preexisted the adoption of the current ordinance, and is therefore considered a legal non-conforming/grandfathered use.

Upon motion made by Chairman Guglietta, seconded by Councilwoman McFarland, the Planning Commission unanimously voted to make *no specific recommendation* on this application. Voting Aye: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

**EFENDI AND ELIZABETH ATMA 18 BROOKWOOD ROAD CRANSTON RI 02920 (OWN/APP)** have filed an application for permission to convert an existing single family dwelling into a two family dwelling and build a 16' X 27' two story rear addition with an 8' X 23" porch with restricted front and side yard set back on an undersized lot at **18 Brookwood Road**. AP 9/4, Lots 2313 and 2314, area 6750+/- SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity, 30.20.030 Schedule of Uses, 17.20.090 Specific Requirements, 17.116.030 Limitation on Successive Petitions.

### Finding

1. Application to convert this structure to a two family dwelling was recommended for denial by the Planning Commission and denied by the Zoning Board of Review in August, 2004. Reasons for denial of the 2004 application by the Planning Commission included:
  - a. Out of character with the single family neighborhood.
  - b. No apparent hardship. The applicant is already making reasonable use of the lot with a single family.
2. The current application is different from the 2004 application in that the depth of the proposed addition has been reduced by 8 ft.
3. The abutting two-family structure is illegal in that it did not pre-exist the adoption of the current zoning ordinance or receive a variance from the Zoning Board of Review.
4. The two other two-family structures located on this street are considered legal non-conforming due to their existence prior to the adoption of the current Zoning Code.
5. The remaining neighborhood is predominantly single family homes on 4500 sq. ft. lots.

6. The landscaped parking plan provides for 4 spaces which conform to zoning requirements. The previous application showed a significant asphalted area for 6 illegal spaces, and no landscaping.

Upon motion made by Councilwoman McFarland, seconded by Mr. Baron, the Planning Commission unanimously voted to recommend DENIAL, for the following reasons:

1. Out of character with the predominantly single family neighborhood.
2. No apparent hardship. The applicant is already making reasonable use of the lot with a single family.

Voting Aye: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

**WILLIAM E DELSANTO JR AND DENISE DELSANTO 265 CAPUANO AVENUE CRANSTON RI 02910 (OWN/APP)** have filed an application for permission, pending minor subdivision, to leave an existing legal nonconforming single family dwelling with restricted front and rear yard setback on a proposed 7236 +/- SF undersized [lot 2] and build a new 50' X 20' two story single family home with restricted front, side and rear yard set back on the proposed remaining 6660+/- SF undersized [lot 1] at **265 Capuano Avenue**. AP 10/2, Lots 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, area 13,896+/- SF, zoned A-8. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

The related Minor Subdivision was denied by the Planning Commission on October 4, 2005, and therefore, in accordance with *Section V.6.1.a* of the City of Cranston Subdivision Regulations the subsequent variance request may not proceed to the Zoning Board of Review for consideration.

**VALERIE R AND NICHOLAS LEPORACCI JR 236 WHITING STREET CRANSTON RI 02920 AND JOHN LANGELLA, ANTONETTA PENDELTON, BARBARA REED AND PEARL RYAN 195 CORNELL STREET CRANSTON RI 02920 (OWN) AND VALERIE R AND NICHOLAS LEPORACCI JR 236 WHITING STREET CRANSTON RI 02920 (APP)** have filed an application for permission to leave an existing single family dwelling with restricted front, side and rear yard set backs on a proposed 4800 +/- SF lot and add the abutting 4520+/- SF [lot 2882] to lot 3193 at **236 Whiting Street**. AP 12/6, Lots 3193, 2882 and 2902, area 13,800+/- SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120, Schedule of Intensity.

#### Findings

1. The administrative subdivision has received a conditional approval from the Planning Commission's administrative officer.

2. The ownership of the 4,520 S.F. lot (#2882) located behind 195 Cornell St. will be transferred to the owners of the house at 236 Whiting Street, creating a 9,000 sq. ft. parcel.
3. The garage on lot #2902 has an existing side yard setback of 2.1 feet, and a proposed rear yard setback of .4 feet from lot #2882. The rear yard setback was not an issue previously, as the lot was in common ownership with lot #2902.
4. The physical appearance of the lots will not change.
5. The proposal will change two parcels, each with 9,320 and 4,480 s.f., to two parcels, with 4,800 and 9,000 s.f. each.

Upon motion made by Mr. Petit, seconded by Mr. Rossi, the Planning Commission unanimously voted to recommend APPROVAL; the application increases the overall conformity of the lots in question with the zoning code's area requirement.

Voting Aye: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

**JUPITER REALTY GROUP 1615 PONTIAC AVENUE CRANSTON RI 02920 (OWN) AND CARMEN BOSCIA 1 COLDBROOK COURT CRANSTON RI 02920 (APP)** have filed an application for permission to leave an existing two family dwelling on a 23,227+/- SF lot and build a new 4938+/- SF four unit storage building with restricted rear yard set back at **1659 Pontiac Avenue**. AP 15/3, lot 639, area 23,227 SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.20.030 Schedule of Uses.

### Findings

1. The Comprehensive Plan calls for the property to be used for residential purposes.
2. The subject parcel itself is zoned for single-family residential uses and currently contains a legal non-conforming two-family structure
3. According to the applicant the two family structure is to remain and to be rented for residential purposes.
4. Nine other residential units and a women's shelter either directly abut or are in close proximity to the subject parcel.
5. The property also abuts a state owned recreational facility, which contains two soccer fields and a basketball court.
6. According to the applicant, his intent is to operate his own construction business from at least one of the proposed commercial storage units and to lease, sell or rent the others to prospective clients for similar uses.
7. The applicant is requesting a use variance.
8. The property is across the street from the Waste Management, Inc. transfer station, which is an M-2 Zone.

Upon motion made by Mr. Petit, seconded by Councilwoman McFarland, the Planning Commission unanimously voted to recommend DENIAL of this application, for the following reasons:

1. The proposed commercial use does not conform with the City's 1992 Comprehensive Plan Future Land Use Map, which calls for residential uses to be made of the subject parcel, and will therefore impair its purpose.
2. The commercial nature of the proposal is out of character with the abutting residential uses found in the same district.
3. There is no hardship. The legal nonconforming two family unit currently located in this single family zone constitutes an existing beneficial use of the property.
- 4.

Voting Aye: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

*Note: The proper vehicle for combining residential and commercial uses on this property is to seek a Comprehensive Plan Amendment and Zone Change. Application for a use variance cannot be legally upheld given the nonconformance of the proposal with the Comprehensive Plan.*

**SOLID ROCK CHURCH 42 WEST STREET WEST WARWICK RI 02886 (OWN) AND OMNIPOINT HOLDINGS INC A WHOLLY-OWNED SUBSIDIARY OF T-MOBILE USA INC 50 VISION BOULEVARD E PROVIDENCE RI 02914 (APP)** have filed an application for special permit to build a 90'+/- flagpole style wireless communications tower with related facilities at **1753 Phenix Avenue**. AP 24, lot 4, area 4.07 acres, zoned A-80. Applicant seeks relief from Sections; 17.92.020 Special Use Permit, 17.76.010 Telecommunications Facilities, 17.20.030 Schedule of Uses.

#### Findings

1. The proposed flagpole/monopole style tower is specifically prohibited by Section 17.76.010.C.2.o of the Cranston Zoning Code.
2. Whereas the City Code requires at least 2.5 miles of separation between towers greater than 75' in height; the proposed tower would be within 1.5, 1.75 and 2.3 miles of three previously existing facilities (A.P. 17 Lot 1, A.P. 28 Lot 66 and A.P. 20 Lot 3).
3. The applicants "Predicted Coverage Map" does not depict at least two other telecommunications towers which currently exist in the immediate area.
4. The applicant did not provide the alternative site analysis as required by Section 17.92.020.A.4.a.iii. showing all sites from which the needed coverage could be provided.

Upon motion made by Chairman Guglietta, seconded by Councilwoman McFarland, the Planning Commission unanimously voted to recommend DENIAL as the applicant has not demonstrated that existing nearby facilities cannot accommodate the service need.

*Note: Mounting of the desired antennas on a purpose build steeple could offer a creative compromise between the carrier's service needs and the code's aesthetic concerns.*

Voting Aye: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

**PINE RIDGE ESTATES OF CRANSTON LLC 150 HIGGINSON AVENUE LINCOLN RI 02865 (OWN) AND RENEE M COSENTINO 83 MYSTERY FARM DRIVE CRANSTON RI 02921 (APP)** have filed an application for permission to build a new 3650+/- sf single family home including a 588+/- sf family accessory apartment on **Pine Ridge Road**. AP 35, Lot 383, area 39,959+/- SF, zoned A-20. Applicant seeks relief from Sections; 17.24.010 F Accessory Family Apartment, 17.19.020 Special Use Permit.

#### Findings

1. The 598 sq. ft. accessory family apartment will be located on the second floor, over the garage.
2. There is a second door on the front of the house into the garage, and access to the accessory apartment is from inside the garage.
3. There is no landing at the top of the stairs, as is required by building code.
4. The stairs in the garage depicted on the first floor plan do not line up with the stairs shown on the second floor plan. Correcting this drafting error could increase the square footage of the accessory apartment, which then would require additional zoning approval for an apartment which exceeds the maximum area limitations for the accessory unit.

Upon motion made by Councilwoman McFarland, seconded by Mr. Petit, the Planning Commission unanimously voted to recommend APPROVAL, provided that the unit does not exceed 600 sq. ft.

Voting Aye: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

**CARL C AND FRANCES FERRUCCI 9 BEACON HILL DRIVE WARWICK RI 02886 (OWN) AND DDB PONTIAC LLC 76 DORRANCE STREET SUITE 212 PROVIDENCE RI 02903 AND RICKY GREIGRE 415 LINDSEY STREET ATTLEBORO MA 02703 (APP)** has filed an application for permission to operate a Dunkin Donuts coffee shop with drive-thru and a convenience store from an existing legal non-conforming gasoline service station at **480 Pontiac Avenue**. AP 5/1, lots 630, area 19,829+/- SF, zoned C-3. Applicant seeks relief from Section 30-28 Variance, 30-8 Schedule of Intensity, 30-18 (e), (2), (b), (c), (d), Additional Performance Standards and 30-18 (r) Signage (e) Driveway openings and 30-18 (p) Off-Street Parking.

#### Findings

1. A facility with full hours of operation (5 a.m. -11:00p.m.) serving a variety of foods and beverages, and advertising diverse breakfast and lunch menu options, constitutes a restaurant.

2. Restaurants with drive-thrus are prohibited in a C-3 zone and therefore this application constitutes a request for a use variance.
3. The subject parcel (19,829 SF.) is less than half the size that is otherwise required for restaurants with drive-through uses (40,000 SF.).
4. Where restaurants with a drive-thru are permitted, a minimum distance of 100 feet is required to be provided between the order station/squak box and the abutting properties. In this instance, only 19.5 feet is provided.
5. The surrounding properties are primarily residential in nature and will directly abut the proposed drive-thru.
6. According to the original signage plan submitted, the applicant is requesting more than twice the amount of signage allowed by ordinance.
7. The proposal requires site plan review consideration prior to hearing by the Zoning Board. Although the Site Plan Review Committee has not reached a preliminary decision at this point, it has been reviewing the application since January 26, 2005, and has made several key findings and recommendations. Site Plan Review correspondence of July 28, 2005, included the following:
  - a. A finding that noise buffering for the adjacent residential properties from the proposed drive through use had not been adequately addressed.
  - b. Denial of the applicant's request to waive the 25' buffer requirement between the more intensive (drive-thru) and less intensive (residential) land uses (17.84.070.C.4.c.ii).
8. The SPR Committee is currently scheduled to render a preliminary decision on this application on 11/2/05, and will forward a copy of that decision to the ZBR for consideration at their 11/9 meeting.
9. Section 17.28.010.12.B of the Zoning Code stipulates that approval for the proposed facility shall only be granted if the City Traffic Engineer determines that said use and operational characteristics will not create a traffic hazard with respect to either traffic congestion and entry and exit point safety, or on-site vehicular traffic patterns.
10. In correspondence dated October 28, 2005 the City Traffic Safety Engineer concluded that the traffic increases resulting from the proposed addition of the drive-thru would have a detrimental impact on the community (see attached).

Additionally:

  - a. The proposed drive-thru lane is situated so that it will direct patrons to exit via Laurens Street.
  - b. The proposal is anticipated to result in 50 additional vehicles per hour heading westbound onto Laurens during the AM peak (7AM-10AM) which will further degrade the existing intersections level of service from "D" to "E" and add an additional 15 seconds of delay to the existing 25-35 second delay periods.
  - c. The degradation to the intersection is anticipated to be more pronounced during the PM Peak (12PM-5PM) beyond what is already a failed level of service with delays greater than 50 seconds per vehicle.

Upon motion made by Councilwoman McFarland, seconded by Mr. Rossi, the Planning Commission unanimously voted to recommend DENIAL for the following reasons:

1. There is no hardship, the owner can continue to make beneficial use of the property in its current configuration without the need for the proposed drive-thru.
2. The addition of the proposed drive-thru would result in an over intense use of the property. The buffering required to shield the abutting less intensive residential uses from the more intensive proposed drive-thru cannot be accommodated given the parcels limited size and the applicants desire to maintain the existing building.
3. The proposed drive-thru will further degrade the functioning of the Pontiac, Rolfe and Laurens intersection beyond what is already a failed level of service and will have a detrimental impact to the community.

Voting Aye: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

### **PERFORMANCE GUARANTEES**

#### **Bond release request – Crossroads Condominiums, Scituate Avenue**

Based on correspondence from Mr. Walter Skorupski, City Engineering Division, dated October 28, 2005, and upon motion made by Councilwoman McFarland, seconded by Mr. Petit, the Commission unanimously voted to *Release* Bond #B21844123 in the amount of \$213,000.

Voting aye: Chairman Guglietta, Mr. Petit, Mr. Baron, Mr. Rossi and Councilwoman McFarland. There were no nay votes.

### **MISCELLANEOUS ITEMS**

#### **State Ethics Communication**

Chairman Guglietta called attention to a letter he has written to the Ethics Commission seeking an advisory opinion on the issues of conflict and recusal; a result of a presentation made by the Ethics Commission's attorney at the Attorney Generals' Open Meeting Forum on August 5, 2005 at Roger Williams University. The Planning Commission is seeking guidance on the following questions:

1. Who is a "neighbor"? Is it an adjacent landowner? Is it an individual on the same street? Same block?
2. Does there have to be a relationship between the Commission member and the applicant? Does the Commission member have to know the applicant?
3. How does the Commission Member know there is an increase in the property value which would result in a direct financial gain? For example, if the requested zoning variance is to allow a deck to be built inside the allowed setback, does this small encroachment cause the value of the property to rise?

Chairman Guglietta asked the commissioners to review the letter and respond to him before Friday, November 4, 2005.

**New Planning Department Staff member**

Planning Director Jared Rhodes introduced Mr. Jason Pezzullo, newly hired Principal Planner. Mr. Pezzullo attended the meeting to familiarize himself with the meeting procedure and format. He will be starting his employment with the City on November 7, 2005. He was welcomed by all.

**DATE AND TIME OF NEXT MEETING**

Tuesday, December 6, 2005 at 6:30 pm for a little Christmas Cheer!!

**ADJOURNMENT**

Upon motion made by Mr. Petit, seconded by Mr. Rossi, the Commission unanimously voted to adjourn at 11:30 pm.

Respectfully submitted,

Jared L. Rhodes, II  
Secretary