

## **MINUTES**

**November 5, 2008**

Chairman Paul Petit called the Planning Commission Meeting to order at 7:10 p.m. in the Cranston High School West Auditorium.

The following Commission members were in attendance:

Paul Petit, Chairman  
Corsino Delgado, Finance Director  
Anthony Sylvia, P.E., Public Works Director  
Robert Cicerone  
Mr. Rossi  
Mr. Moran

Also present were:

Peter Lapolla, Planning Director  
Jason M. Pezzullo, AICP, Principal Planner  
Lynn Furney, AICP, Senior Planner  
Vito Sciolto, Esq., City Solicitor  
Ron Ronzio, Stenographer  
J. Resnick, Senior Clerk

## **MINUTES**

Upon motion made by Mr. Rossi and seconded by Mr. Moran, the Commission unanimously voted to *approve* the minutes of the October 7, 2008, Planning Commission Meeting.

## **ORDINANCES**

**Ordinance # 8-08-1** – Amending the Comprehensive Plan of 1992 (Glen Hills Section)  
(*Continued from October 7, 2008*)

Mr. Lapolla stated that this ordinance was submitted by the City Council. The subject parcel has frontage on Evans Way, Belvedere Drive and Glen Hills Drive. A portion of the parcel abuts RI Route 37. The parcel has an area of 19,037 SF. Based on the City's GIS, the subject parcel does not have wetlands, is not in the 100 year flood plain and not within a historic district. Topography on site runs from east to west with a relatively steep slope at the Glen Hills Drive side of the site that flattens out as it approaches Belvedere Drive. The lot can be serviced by existing utilities from the street. The subject parcel is currently zoned Residential A-8 [minimum lots size of 8,000 SF]. With 19,037 SF of area the parcel as is conforms to zoning. [Note: the parcel was recently the subject of an application for a subdivision to create 3 lots. Even with the creation of 3 lots the parcel would conform to zoning.]

Other than the fact that the subject parcel is not developed, the parcel is basically indistinguishable from the existing developed lots within the neighborhood and is indistinguishable from the 15+ other undeveloped lots located within the neighborhood. The proponents of the ordinance [the City Council] have set forth no reasons to justify the changing of the land use designation for a single 19,000 SF parcel of land within a developed neighborhood to open space. He stated that the staff recommendation on this proposal would be for denial.

Attorney Robert Murray, on behalf of his client, the State of Rhode Island, spoke in opposition to both ordinance proposals. He stated that the proposed site was the subject of considerable testimony at the September 9, 2008, Planning Commission Meeting. He further stated that on September 29, 2008, an appeal was filed with the Platting Board of Review which essentially halts any action to be taken on the proposed site. He stated that the sponsor of this ordinance is attempting to "pluck" this parcel from the current land use map. He further stated that in January, 2008, the City waived its' rights to purchase the parcel. He stated that the State followed proper procedure in regard to the sale of the parcel and received one offer (that being his client) and subsequently entered into a purchase/sale agreement. He went on to cite specific characteristics of those parcels that should be considered for Open Space designation; stating that the parcel in question does not "fit any of the criteria" for Open Space designation.

The following members of the public spoke in opposition of the proposed Open Space designation.

Attorney Michael Mitchell, State Department of Transportation, stated that the property has been vacant for over 30 years. He stated that one offer was received, from Glen Hills LLC, to purchase the property and that, in his opinion, it is wrong to re-zone the parcel Open Space. He further stated that the City had the opportunity to purchase the property at fair market value and insinuated that the City approach Glen Hills LLC and possibly negotiate "a deal".

Councilman Aram Garabedian, a resident of 173 Belvedere Drive for over 40 years, stated that when Route 37 was constructed the State failed to recognize the effect of highway noise to the neighborhood and subsequently planted trees as a buffer. He stated that this is a matter of health, safety and welfare and urged the Commission to oppose the proposed ordinances.

Councilman John Lanni stated that the parcel is a buffer for noise pollution and road glare. He stated that the City Council was not aware that the parcel was for sale. He urged the Commission to protect this parcel and support the proposed ordinances.

Chairman Petit expressed concern with the legality of the Planning Commission taking any action on this matter. Mr. Sciolto stated that the Commission is able to proceed and act on the matter. Mr. Lapolla stated that the State could treat this as a "taking" and could seek the fair market value of the parcel (\$170,000) plus the cost of developed parcels (3 house lots with homes) which could range from \$400,000 to \$600,000.

Mr. Garabedian stated that the \$400,000 to \$600,000 is "a stretch", stating that the value of the parcel is based on zoning. He further stated that if the Zoning Board of Review denies the applicant's appeal the matter will go to Superior Court.

There being no further comment, the Commission moved to a vote. A motion for an unfavorable recommendation was made by Mr. Moran and seconded by Chairman Petit, however, the motion did not carry (Aye votes: Mr. Moran and Chairman Petit. Nay votes: Mr. Delgado, Mr. Sylvia and Mr. Rossi. Mr. Cicerone recused.) Mr. Sylvia then made a motion to recommend favorably, which was seconded by Mr. Rossi, however, the motion did not carry (Aye votes: Mr. Sylvia and Mr. Rossi and Mr. Delgado. Nay votes: Chairman Petit and Mr. Moran. Mr. Cicerone recused.) Finally, at the advice of City Solicitor, Vito Sciolto, the Commission, upon motion made by Mr. Delgado and seconded by Mr. Rossi, unanimously voted to *take no action* on Ordinance 8-08-10.

(Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. There were no nay votes. Mr. Cicerone recused.

**Ordinance 9-08-2** Amendment of the City's Zoning Map of the Zoning Ordinance (Change of Zone – Glen Hills Section)

The Ordinance proposes to amend the City's Zoning Map by changing zoning designation for a parcel of land identified as Assessor's Plat 16 Lot 1286 plus an abandoned portion of Stone Hill Drive from Residential A-8 to S-1 Open Space. [For a description of the parcel of land being rezoned see above.]

Ordinance 9-08-2 has been sponsored by the City Council and is a companion ordinance to a purposed reclassification of the parcel under the Future Land Use Plan. The owner of the parcel neither agrees to nor supports the rezone.

The change in zoning classification for the parcel from A-8 to S-1 will change the uses allowed on site under the Zoning Ordinance. The tables below summarize the uses that will be allowed within an S-1 zone and differences between uses allowed in A-8 and S-1 zoning district.

<b>Uses Allowed IN S-1 District</b>	
Churches; pre-primary and secondary schools; library; museum	a
Philanthropic, religious institutions other than schools and churches	s
Swimming pool, tennis court	s
Lodge, private club, fraternal org.	s
Nurseries	a
Raising crops	a
Parks and playgrounds	a
Conservation area, wildlife area, reforestation area, woodlots; watersheds	a
Cemetery	a
Fire stations	a
Municipal services and facilities other than those listed above	a
Telecommunications tower	s
Telecommunications antenna	s
Public, Primary, Secondary or Charter schools	a

<b>Uses Allowed A-8 and S-1 Zones</b>		
	<b>A-8</b>	<b>S-1</b>
Single-family dwelling	a	p

Accessory family apartments	s	p
Hospital or sanitarium	s	p
Lodge, private club, fraternal org.	p	s
Nurseries	p	a
Cemetery	s	a
Lodging house	a	p
Municipal services and facilities other than those listed above	p	a

The change in zoning classification for the parcel from A-8 to S-1 will change the dimensional and density requirements for the site. In that the dimensional and density requirements in an S-1 zone are more stringent than an A-8 district, a rezone will make the site nonconforming. In an S-1 zoning district, minimum lot size is 80,000 SF and maximum lot coverage is 10%. If the subject parcel is rezoned to S-1, it will have less than 25% of the minimum lot size and only 1,900 SF of the parcel may be covered by buildings.

Given the limitations an S-1 zoning classification would impose on the subject parcel both in terms of the uses and density of development allowed, staff would suggest that a rezone may devalue the land to a point to create a takings issue. [Note that because the subject lot will not have the minimum 80,000 SF the lot will become pre-existing nonconforming upon the rezone and any change from the current condition to the parcel will require Zoning Board of Review approval. There will be no use or development by right for this parcel.]

Also, the rezone of one parcel of land located within an established neighborhood and within a larger zoning district may be construed as spot zoning. Prior to the City Council rezoning the parcel, it is suggested that the Council seek an opinion from the City Solicitor as to if the rezone, as proposed, constitutes spot zoning.

Once again, absent an argument to change the zoning classification for this one parcel of land from A-8 to S-1 there is no justification for such a rezone. Absent a specific argument that distinguishes the subject parcel from other undeveloped parcels both in the neighborhood and City wide, the rezoning of the parcel to S-1 can establish precedent which could be used to justify reclassifying every vacant parcel of residential land to S-1. Note: the desire to keep a particular piece of land undeveloped and the desire to minimize impacts from residential development [i.e. traffic, schools, and storm water run off] can be applied equally to all undeveloped land.

A motion for an unfavorable recommendation was made by Mr. Moran and seconded by Chairman Petit, however, the motion did not carry (Aye votes: Mr. Moran and Chairman Petit. Nay votes: Mr. Delgado, Mr. Sylvia and Mr. Rossi. Mr. Cicerone recused.) A subsequent motion was made by Mr. Sylvia and seconded by Mr. Rossi, and the Commission unanimously voted to *make no recommendation* on Ordinance 9-08-2. (Aye votes: Chairman Petit, Mr. Sylvia, Mr. Rossi, Mr. Delgado, Mr. Moran: Mr. Cicerone recused.) There were no nay votes.

**Ordinance 9-08-3** Amending the Comprehensive Plan of 1992 (47 Natick Avenue)

**Ordinance 9-08-4** Amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Change of Zone – 47 Natick Avenue)

The Ordinances propose to amend the Future Land Use Plan in the City's Comprehensive Plan of 1992 by changing land use designation for a parcel of land at 47 Natick Avenue identified as

Assessor's Plat 21 Lot 56 from Residential 1-4 Units" to "Future Village Center/Limited Commercial." [Note: there is a companion Ordinance Amendment to change the zoning classification for said site from Residential A-20 to Neighborhood Business (C-2) See below.]. The Ordinance as submitted requests a general change to the Comprehensive Plan and is not associated with a specific development proposal or use.

The subject parcel is located on Natick Avenue at the intersection of Natick Avenue and Route 37. The subject parcel has an area of 61,782 SF and has frontage on Natick Avenue [384.44']. Current access to the site is via a driveway that is one leg of a four way intersection at Natick Avenue, Route 37 and the site drive. Based on the City's GIS, the subject parcel does not have wetlands, is not in the 100 year flood plain and not within a historic district. Topography on site increases from east to west with a major grade difference [approximately 36'] between the front lot line on Natick Avenue and the rear lot line. Slope on the parcel is approximately 20%. The parcel and abutting properties are zoned Residential A-20 and the land across Natick Avenue is zone Residential A-12. The land located within 400' of the subject parcel is zoned Residential A-20, Residential A-12 and Open Space S-1. The Future Land Use Plan of the City's Comprehensive Plan of 1992 classifies the subject parcel and abutting parcels as Residential 1-4 Units. The Future Land Use Plan of the City's Comprehensive Plan of 1992 classifies the land located within 400' of the subject parcel as Residential 1-4 Units and Open Space. The land use layer of the City's GIS indicates that the subject site is currently being used as a single family residence. The land use layer of the City's GIS indicates that parcels of land located within 400' of the subject parcel are currently being used as single family residences or are undeveloped. Given the above, the subject parcel is consistent with both the City's Comprehensive Plan and with the City's Zoning Ordinance. The subject parcel is basically indistinguishable from other existing developed lots within the surrounding area.

Attorney Robert Murray, on behalf of 47 Natick Avenue, LLC, introduced Mr. Greg Guglielmo, Mr. Len Bradley, P.E., of DiPrete Associates, and Mr. Paul Bannon, the applicant's traffic engineer. These gentlemen presented a powerpoint presentation depicting the merits of this proposal.

Many members of the public spoke in opposition of the proposal and urged the Commission to give an unfavorable recommendation citing traffic as a major concern, concern with the grade change of the site and drainage, diminished property value and quality of life in the area, concern that this is spot zoning, and the effect on existing businesses on Oaklawn and Atwood Avenues.

Those members of the public were: Robert Riley, Dwight Street; Steven Perrera, 16 Mollie Drive; Jean Vondereskas, Hines Farm Road; Gary Inval, 11 Hornbeam Street; Bill Macaleny, Pasture View Lane; Ronald Blackmar, 143 Natick Avenue; George Pascarella; Alan Rappaport, 47 Hines Farm Road; Randall ??, Wayland Avenue; Fred Joslyn, 23 Gaglione Court; Mario Aceto, 152 Locust Glen Drive; councilman elect Robert Pelletier; Anthony Lupino, 15 Black Oak Court; Councilman John Lanni; State Representative Nick Mattiello; Mayor elect Allen Fung, 252 Mayfield Avenue; Ricky Carulo, 77 Hines Farm Road; Robert Battey, 121 Hope Road and Jim Malloy, Natick Avenue.

Upon motion made by Mr. Delgado and seconded by Mr. Sylvia, the Planning Commission unanimously voted to recommend *denial* of both ordinance proposals referenced above.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Rossi, Mr. Delgado, Mr. Moran and Mr. Cicerone. There were no nay votes.

## **SUBDIVISION AND LAND DEVELOPMENT PROJECTS**

### **The Palazzo Plat - Master Plan (continued from October 7, 2008)**

Major Subdivision with no street extension  
Natick Avenue  
Assessors Plat 22/4, Lot 7

Attorney John DiBona explained the proposal, stating that the existing lot contains four (4) single-family dwellings. The applicant has proposed to create three separate lots: Parcel 1 will have 20,002 square feet with 125' of frontage and contain one existing single-family dwelling; Parcel 2 will have 2.4 acres with 267' of frontage and contain one existing single-family dwelling; Parcel 3 will have 49.59 acres with 290.31' of frontage and contain two existing single-family dwellings. The applicant will need to obtain a Use Variance from the Zoning Board of Review in order to retain two individual houses on proposed Parcel 3. There will be no new housing units as a result of this subdivision.

Richard Bzdyra, Ocean State Planners, reiterated that the proposal is to "cut out two parcels on Natick Avenue at this time

Upon motion made by Mr. Sylvia and seconded by Mr. Rossi, the Commission unanimously voted to adopt the following Findings of Fact and *approve* your Master Plan with waivers for curbing, sidewalks, frontage and use; 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 mail on 9/26/08 and the meeting agenda has been properly posted. Advertisement for this major subdivision is not required under Section V.C.2.h of the City of Cranston Subdivision Regulations since no street extension is proposed.
2. The proposed subdivision and its resulting density of approximately .07 residential units per acre is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map which designates the subject parcel as "Residential" allowing "less than 1 residential unit per acre".
3. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code as there is no proposed alteration to the site. However, the applicant will need to receive a use variance for proposed lot 3.
4. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Master Plan since there are no proposed changes.
5. The proposed subdivision promotes high quality appropriate design and construction, will be well integrated with the surrounding neighborhoods and will reflect its existing characteristics.
6. The proposed subdivision will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.
7. The property in question has adequate permanent physical access on Natick 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 and for a suitable building site.
9. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.
10. The design and location of streets, building lots, utilities, drainage and other improvements conform to local regulations for mitigation of flooding and soil erosion.

#### Conditions of Approval

1. Payment of Pre-application fee, and the additional Master Plan fee associated with a Major Subdivision application due to the applicant's need to seek variances from the Zoning

Board of Review.

2. Applicant shall receive the required use variance for proposed Lot 3 *prior* to submission of the Preliminary Plan application with the Planning Department.

Aye votes: Chairman Petit, Mr. Delgado, Mr. Rossi, Mr. Cicerone, Mr. Sylvia and Mr. Moran.  
There were no nay votes.

**Gold Meadow Farm – Preliminary Plan (continued from October 7, 2008)**

Major Subdivision with street creation  
Lippitt Avenue  
AP 30/3, Lot 240 and AP 23, Lots 6, 7, 8, 15, 20 and 36

At the request of the applicant's attorney, Robert Murray, and upon motion made by Mr. Rossi and seconded by Mr. Delgado, the Commission unanimously voted to *continue* the review of the above referenced subdivision to the December 2, 2008, Planning Commission Meeting.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado, Mr. Sylvia and Mr. Cicerone.  
Nay votes: none.

**Rogers Plat – Master Plan (continued from October 7, 2008)**

Major Subdivision with street extension  
Hodsell Street and Arthur Street  
AP 5/1, Lots 20 and 1831

Upon motion made by Mr. Rossi and seconded by Mr. Delgado, the Commission unanimously voted to *continue* this matter to the December 2, 2008, Planning Commission Meeting as the applicant has not submitted a revised plan.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Cicerone, Mr. Delgado, Mr. Moran and Mr. Rossi.  
Nay votes: none.

**ZONING BOARD OF REVIEW ITEMS**

**PHILLIPS MEMORIAL CHURCH INC RI 565 PONTIAC AVENUE CRANSTON RI 02910 (OWN) AND OMNIPOINT COMMUNICATIONS INC 15 COMMERCE SUITE B NORTON MA 02766 (APP)** have filed an application for a special permit to install wireless telecommunications facility / antennas within an existing church steeple at **565 Pontiac Avenue**. AP 9, lots 1027, area 101,059+/- SF, zoned B-2. Applicant seeks relief from Sections; 17.92.020 Special Use Permit, 17.20.130 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 antenna and associated radio equipment cabinets will be located entirely within the existing church structure (steeple and second floor).
2. The exterior appearance of the Church will not change; therefore, the application will not alter the character of the surrounding neighborhood or impair the intent or purpose of the Zoning Code, or the Comprehensive Plan upon which the Zoning ordinance is based.
3. Section 17.76.010 C.I. of the Cranston Zoning Code states:

4. *Communication antennas not attached to a communication tower shall be permitted as an accessory use to any commercial, industrial, office, institutional or public utility structure, provided that:*
  - i. *The antennas are not higher than twenty-five (25) feet above the highest point of the structure;*
  - ii. *The antennas comply with applicable FCC and FAA regulations; and*
  - iii. *The antennas comply with all applicable zoning requirements and building codes, with the exception of the restriction pertaining to height limitations.*
5. As the antenna is not attached to a communication tower, and is located entirely within the church steeple, the application could be considered a permitted accessory use.
6. The application will not have a negative impact on the natural, historic, cultural or scenic character of the City, so therefore, it is in conformance with the Comprehensive Plan.

Recommendation: Upon motion made by Mr. Rossi and seconded by Mr. Delgado, the Commission unanimously voted to recommend *approval* of this application based on the above findings of fact.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Sylvia, Mr. Delgado, Mr. Moran and Mr. Cicerone.  
There were no nay votes.

**WILLIAM A CAPUANO, PAULA C SARDELLI, EVELYN C RECCHIA, WILLIAM A CAPUANO, EVELYN C RECCHIA, CO-TRUSTEES C/O 1020 PARK AVENUE CRANSTON RI 02910 (OWN) AND COLBEA ENTERPRISES, LLC 2050 PLAINFIELD PIKE CRANSTON RI 02920 (APP)** have filed an application for permission to install an electronic message unit on an existing freestanding sign at **1036 Reservoir Avenue**. AP 9/2, lots 2606 & 2609, area 23,627+/- SF, zoned C-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.72.010 B, P, G, 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 existing use, a Shell gasoline service station, is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map , which designates the subject parcel as Commercial and Services.
2. The property received a Zoning Variance in June 2008 to install new gasoline pumps and new canopy.
3. The proposal is to alter an existing free standing sign to allow for electronic messaging for pricing schedule of fuels.
4. The application replaces 3 existing pricing panels that total 7'x 18' with one 7' LED display sign to show prices for regular gas and diesel.

Recommendation: Upon motion made by Mr. Sylvia and seconded by Mr. Rossi, the Commission unanimously voted to recommend *approval* with the following conditions:

1. 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.
2. The total square footage of the freestanding sign does not increase.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Sylvia, Mr. Delgado, Mr. Moran and Mr. Cicerone.  
There were no nay votes.

**SUSAN M PACHECO 463 PONTIAC AVENUE CRANSTON RI 02910 (OWN/APP)** has filed an application for permission to build a 370 SF three seasons room / porch, 120 SF deck and 84 SF mudroom addition with restricted front and corner side yard set back at **463 Pontiac Avenue**. AP 9/3, lot 640, area 4618+/- SF, zoned B-1. 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 current use of the property is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map's residential designation for this area.
2. The proposed 3 season room will have a 7.3' setback from Blackamore Avenue, where the pre-existing nonconforming setback is 15.8'. The proposed setback from Pontiac Avenue will be 16.8' where a pre-existing nonconforming 17.7' setback distance currently exists. (On corner lots, 25' street yard setbacks are required for each street frontage.)
3. An analysis using the City's GIS showed the average street yard setback for the other 6 houses located on corners within the 400' radius is 18.4 feet from Pontiac Avenue, and 13.7 feet from the side street frontages. Therefore, the proposed setbacks are out of character with the neighborhood's average corner setbacks.
4. The average street yard setback, for the houses on both sides of Blackamore Ave. within 400 feet of the applicant's house, is 16.1 feet. (GIS analysis).
5. The City's GIS shows that only 2 of the 14 front yard setbacks on Blackamore Avenue within the 400' radius are between 8.5 and 10.4 ft., the rest are between 12.6 feet and 25 feet.
6. The property abutting the applicant's westerly property line has a 10.4 foot front yard setback from Blackamore Ave.
7. The proposed rear deck will have a 16.8 foot setback from Blackamore Avenue where a 14.8 ft. setback for the house currently exists. Therefore, the deck will not decrease the existing setback.
8. The existing lot coverage is 25%. The proposed lot coverage will be 34%, where a 35% lot coverage is allowed by ordinance.

Recommendation: Upon motion made by Mr. Moran and seconded by Mr. Sylvia, the Commission unanimously voted to recommend *denial*. The proposed 7.3 ft. setback from Blackamore Avenue will alter the streetscape and general character of the surrounding area, and impair the intent and purpose of the zoning ordinance.

*Note: If the portion of the 3 season room that is on Blackamore Avenue were eliminated, the staff would recommend approval for the mudroom addition and proposed deck, and enclosed front porch addition that only decreases the Pontiac Avenue yard setback by 1 foot.*

Aye votes: Chairman Petit, Mr. Rossi, Mr. Sylvia, Mr. Moran and Mr. Cicerone. Nay votes: Mr. Delgado.

**OCEAN STATE INVESTMENTS INC 1294 PARK AVENUE CRANSTON RI 02910 (OWN/APP)  
AND DISCOUNT LIQUOR SHOPPE 1294 PARK AVENUE CRANSTON RI 02910 (LESSEE)**

have filed an application for permission to remove an existing free standing sign and erect a new free standing double sided sign having an overall height of 12' with a total square footage of 79 square feet at **1294 Park Avenue**. AP 11/1, Lot 147, area 20,600 +/- sq ft, zoned C-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.72.010 (3) 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 existing use, a liquor store, is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map , which designates the area as Commercial and Services.
2. The proposed 2-sided sign measures 6' x 6.5' for a total of 78 sq. feet; which is three times larger than the 25 sq. ft. maximum allowed for a freestanding sign in a C-1 zone.
3. The proposed 11.5 ft. overall height conforms with the sign ordinance, which permits a maximum height of 12 feet.
4. The proposed new sign will be 3 feet from the Park Avenue property line. A 5 ft. front yard setback is required by ordinance.
5. The liquor store use in this C-1 (office business zone) was granted by the Zoning Board in 1970. The proposed 79 square feet of signage even exceeds the 35 sq. ft. maximum freestanding signage allowed in a C-3 zone, a zone in which liquor stores are allowed.
6. No information was given as to whether the existing sign exceeds the zoning requirements.
7. The right of way width (50 feet) and speed limit (30 mph) of Park Avenue in this area does not warrant signs that exceed the maximum allowed square footage of freestanding signage.

Recommendation: Upon motion made by Mr. Moran and seconded by Mr. Sylvia, the Commission unanimously voted to recommend *denial*, as the excess signage will alter the streetscape and general character of the surrounding area, and impair the intent and purpose of the zoning ordinance, and the Comprehensive Plan upon which the Ordinance is based.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Delgado, Mr. Moran and Mr. Cicerone. Nay votes: Mr. Sylvia.

**RAYMOND B AND PATRICIA DIORIO 180 LAKE VIEW ROAD CRANSTON RI 02920 (OWN/APP)** have filed an application for permission to rearrange a lot line adding a portion of lot 1582 [477+/- SF] to lot 1581 an existing legal non-conforming single family dwelling on an undersized lot with restricted frontage at **180 Lake View Road**. AP 17/4, lots 1581, 1582, & 1583, area 12,877+/- SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 17.120.120 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 current residential use of the property is inconsistent with the Comprehensive Plan's Future Land Use Map, which designates this area around the lake as open space; however, due to the level of detail provided on the Future Land Use Map, it can not positively be determined if this area was intended to be designated as Open Space, due to the presence of preexisting homes on both Lake View Road and Wine Street.

2. A review of the title cards show that the applicant's lot was never jointly owned by the abutting lot owner.
3. A survey of the abutting property revealed an encroachment of the applicant's deck and stairway (on lot 1581) on the abutting property (assessor's lot 1582).
4. The proposal will move the side lot line a distance of 4.5 feet, resulting in a new 1.9 ft. side yard setback for the existing deck, and increasing the lot size from 4,330 S.F. to 4,807 S.F. (477 S.F. increase). The lot's existing 40 ft. frontage would also be increased to 44.50 ft.

Recommendation: Upon motion made by Mr. Cicerone and seconded by Mr. Sylvia, the Commission unanimously voted to recommend *approval*, though ever so slightly: the application does make a previous non-conforming lot of record less nonconforming, and will not alter the general character of the surrounding area, or impair the intent or purpose of the Zoning Code.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Sylvia, Mr. Delgado, Mr. Moran and Mr. Cicerone.  
There were no nay votes.

**BLUE EYES LLC 836 OAKLAWN AVENUE CRANSTON RI 02920 (OWN/APP)** has filed an application for permission to subdivide a 50.44 acre parcel and leave more than one dwelling on a lot at **463 & 465, Natick Avenue**. AP 22/4, lot 7, area 52.44+/- Acres, zoned A-20. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.070 More than one dwelling, structure on any lot prohibited.

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 applicant's proposal has been submitted as a Major Subdivision. The subdivision's Master Plan submittal will be heard by the Plan Commission on November 5, 2008. The Zoning Board application cannot go forward unless the first stage (Master Plan) application is approved by the Plan Commission.
2. The residential use of the property is consistent with the Comprehensive Plan's Future Land Use Map, which designates the area as residential, less than one unit per acre.
3. The original lot contained four, single family houses. Two houses will be on 49.58 acres, containing 290.31' of frontage which is not contiguous, and the remaining two will be on a new 2.4 acre lot (parcel 2) with 267' of street frontage, and a new 20,002.1 sq. ft. lot (parcel 1) with 125' of street frontage.
4. There is an existing shared driveway from the Natick Road frontage that services the 2 houses on the 49.58 acre parcel (parcel 3). The existing houses are set back 830 feet and 1300 feet from Natick Road, and located near the northerly lot line, because of wetland and topography constraints.
5. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code as there is no proposed alteration to the site.
6. The application reduces the non-conformity of the former lot which contained 4 houses.

Recommendation: Upon motion made by Mr. Moran and seconded by Mr. Rossi, 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. Rossi, Mr. Sylvia, Mr. Delgado, Mr. Moran and Mr. Cicerone.  
There were no nay votes.

**COLBEA ENTERPRISES LLC 2050 PLAINFIELD PIKE CRANSTON RI 02921 (OWN/APP)** has filed an application for permission to install an electronic message unit display on an existing free standing sign at **1207 Pontiac Avenue**. AP 10/4, lot 97, area 35,236+/- SF, zoned M-2. Applicant seeks relief from Sections; 17.92.010 Variance, 17.72.010 B, P & G 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 commercial use of the property (gasoline station) is consistent with the Comprehensive Plan's Future Land Use Map, which designates this area as "Commercial and Services".
2. The existing freestanding sign contains the "Shell" logo plus 3 – 8' x 18" panels that advertise the current gasoline prices; the sign also contains three other 8' panels that advertize *Tim Hortons, Food Mart and Car Wash*.
3. The proposal will remove the three pricing panels and replace them with one 8' x 54" LED sign for electronic pricing.
4. The total square footage of the existing freestanding sign will not increase, and therefore, the application 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.

Recommendation: Upon motion made by Mr. Sylvia and seconded by Mr. Rossi, 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. Rossi, Mr. Sylvia, Mr. Delgado, Mr. Moran and Mr. Cicerone. There were no nay votes.

**EXTENSIONS OF TIME**

**Garden Vista – Preliminary Plan**

Upon motion made by Mr. Sylvia and seconded by Mr. Rossi, the Planning Commission unanimously voted to *approve* the applicant's request for a one year extension of time for the above referenced subdivision.

Aye votes: Chairman Petit, Mr. Rossi and Mr. Sylvia, Mr. Moran, Mr. Cicerone and Mr. Delgado. There were no nay votes.

**Crestwood Estates – Preliminary Plan**

Written correspondence from attorney John S. DiBona notes that the need for the extension is due to litigation against the owner of AP 18, Lot 2006 due to a breach of the Purchase and Sale Agreement between his client and the owner of that property. Without the sale of this property to his client, they will not be able to meet Condition 1 of the Preliminary Plan Decision. This is an ongoing issue and is likely to take additional time to resolve this matter.

Upon motion made by Mr. Delgado and seconded by Mr. Sylvia, the Commission unanimously voted to *table* this matter to the December 2, 2008, Planning Commission Meeting.

As required by Section V (F) (3) (f) of the Cranston Subdivision and Land Development Regulations staff finds that the request is based on "good cause" and recommends that the Planning Commission *approve* a one year extension of the Crestwood Estates Preliminary approval to April 5, 2009.

Aye votes: Chairman Petit, Mr. Rossi and Mr. Sylvia, Mr. Moran, Mr. Cicerone and Mr. Delgado.  
There were no nay votes.

### **PERFORMANCE GUARANTEES**

#### **Knightsville Replat – Performance Guarantee Release Request**

Upon motion made by Mr. Moran and seconded by Mr. Rossi, the Commission unanimously voted to *release* in its entirety your existing \$5,200 cash bond; in accordance with the Engineering Divisions recommendation.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Sylvia, Mr. Delgado, Mr. Moran and Mr. Cicerone.  
Nay votes: none.

#### **Newbury Village – Phase 1H – Performance Guarantee Release Request**

Upon motion made by Mr. Sylvia and seconded by Mr. Rossi, the Commission unanimously voted to *release in its entirety* the remaining \$5,000 cash bond conditioned upon receipt of written correspondence from Mr. Walter Skorupski stating that all infrastructure improvements have been satisfactorily completed.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Delgado, Mr. Cicerone, Mr. Devine and Mr. Sylvia.  
There were no nay votes.

#### **Gray Coach Estates (Avalon Builders) - Extension of existing Letter of Credit**

The Planning Commission took the following action on existing Citizens Bank Letter of Credit #S904043, in the amount of \$257,000; which is set to expire on December 7, 2008.

Upon motion made by Mr. Rossi and seconded by Mr. Sylvia, the Commission unanimously voted to:

1. Allow extension of the Citizens Bank Letter of Credit #S904043 to December 7, 2010, if received prior to November 21, 2008; and to
2. Authorize the City Finance Department to withdraw the applicable funds should an extension not be received by November 21, 2008.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Delgado, Mr. Cicerone, Mr. Devine and Mr. Sylvia.  
There were no nay votes.

### **PLANNING DIRECTOR'S REPORT**

Mr. Lapolla stated that the City Council passed a resolution recommending the Planning Commission deny the Phenix Terrace Comprehensive Permit application on the basis that the City already has the State required 15% affordable housing units. He suggested that the Commission send a letter urging the applicant, E.A. Fish, Inc., to either provide the documents requested at the June 24, 2008, Planning Commission meeting (i.e.: additional traffic studies and current traffic counts) or withdraw the application.

Commissioner Rossi stated that sending the applicant a letter is not necessary; stating that it is the applicant's responsibility to provide the required documents in a timely manner.

Mr. Lapolla also informed the Commission that the Department has received an ordinance for the Pomham Street Comprehensive Plan Amendment and Zone Change, which will be heard at the December meeting.

**ADJOURNMENT**

Upon motion made by Mr. Sylvia and seconded by Mr. Delgado, the Commission unanimously voted to adjourn at 11:20 p.m.

**NEXT REGULAR MEETING**

December 2, 2008, at 7 p.m. in the City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP  
Principal Planner/Secretary