

## MINUTES

November 7, 2018

Chairman Smith called the City Plan Commission Meeting to order at 7 p.m. in the City Council Chamber. He introduced and welcomed new member, Ann Marie Maccarone.

The following Commission members were in attendance:

Michael Smith, Chairman  
Ken Mason, P.E.  
Kimberly Bittner  
Lynne Harrington  
Kathleen Lanphear  
Steven Spirito  
Ann Marie Maccarone

Also present were:

Jason M. Pezzullo, AICP, Planning Director  
Stephen Marsella, Esq, Assistant City Solicitor  
Douglas McLean, Principal Planner  
Joshua Berry, Senior Planner  
J. Resnick, Clerk

### APPROVAL OF MINUTES

Upon motion made by Ms. Harrington and seconded by Ms. Bittner, the Commission unanimously voted to approve the minutes of the October 2, 2018, City Plan Commission Meeting with minor corrections.

### ORDINANCE RECOMMENDATIONS

**Ordinance 06-18-07** – Amending Title 17.24 of the Code of the City of Cranston, 2005, Entitled “Zoning” “Performance Standards Generally” for the regulating of **Compassion Centers**

Senior Planner, Joshua Berry, reminded everyone that this matter was continued from the October meeting for further review. He reviewed the medical marijuana context and cannabis regulation in Rhode Island, as well as his memorandum and slide presentation. He gave comparisons of other community’s regulations and their regulatory process. He stated that it has not been an issue of controversy in Providence, Portsmouth or Warwick (the three communities where Compassion Centers have been allowed to date in Rhode Island) after speaking with the respective planning departments of each municipality. He stated that after factoring in the buffers provided by the City Plan Commissioners, there are might only be ten feasible areas outside of these buffers.

Ms. Kim Ladefian, 127 Warwick Avenue, asked where the Compassion Centers would be located. She expressed concern with “trouble, fake IDs, the need for police details” and asked how many workers it would require. She suggested this use would be ideal in one of the medical buildings in the Garden City area.

Commissioner Bittner expressed concern with creating a loophole. She suggested the centers be referred to as 'Compassion Centers' rather than 'medical marijuana dispensary'. In referring to Mr. Berry's proposed ordinance language, in particular the 'athletic/recreational facilities, she stated that ownership should not matter and suggested omitting the following: 'owned or operated by the city'. Regarding the proposed new language for "substance abuse and half-way houses", Ms. Bittner stated that "houses of worship should be added to the list as Narcotics Anonymous meetings are held at churches". She also expressed concern with the proposed 400 ft. residential buffer when everywhere else is a 500 ft. buffer. She expressed concern with Section 6 of the proposed ordinance in regards to lighting and, in general, the health, safety and wellbeing of residents of the city. She urged the Commission not to compare Cranston to Providence but, instead, to compare Cranston to the Town of Westerly which prohibits the siting of Compassion Centers. She stated that "we are being pro-active **in case** the General Assembly allows this. She also stated her concern the relative ease in which someone can obtain a medical marijuana card.

Commissioner Maccarone questioned if "formal police records are kept for the three existing centers". She expressed concern with the proposed 400 ft. residential buffer, hours of operation and stated that reporting requirement language should be changed to 'shall'. She stated that the centers should require insurance and expressed concern with unforeseen problems arising from these sites.

Commissioner Lanphear thanked Mr. Berry for his report. She stated that she didn't see the need to enact the ordinance and should consider the appropriateness for the city.

Chairman Smith stated that he is concerned "it may be premature for the city to enact an ordinance for this at this time".

Mr. Marsella cautioned the Commission that, "if you do nothing, it can possibly go anywhere". He stated that it is the administration's stance to allow Compassion Centers in very limited areas.

Commissioner Spirito stated that "this is limiting it so much it is next to impossible" to locate a facility. Commissioner Harrington expressed concern with some of the language proposed and stated that there is "no compelling reason to site these facilities in Cranston". She stated that she was recently in the vicinity of the Summit Center in Providence and it "is a zoo". She also expressed concern with the 400 ft. residential buffer, odor and the questionable "illegality of marijuana".

There being no further comment, the Commission moved to a vote. A motion to forward a **negative** recommendation, and for Plan Department staff to provide testimony at the City Council - Ordinance Committee expressing the Commissions concerns was made by Commissioner Harrington and seconded by Commissioner Bittner. Commissioner Spirito abstained, resulting in a 6/0 vote.

## **SUBDIVISIONS AND LAND DEVELOPMENTS**

### **Mixed-Use Development at 100 Sockanossett**

**Pre-application** - Major Land Development (Former Citizens Bank Site)

- o *Two-story, 200,000 sq.ft. of office space*
  - o *Four-story, 450 space parking structure*
  - o *Three-story Commercial Recreation / Entertainment Center*
- 100 Sockanossett Crossroad  
AP 14, Lot 2

Mr. Pezzullo stated that this is the former "Citizens Bank" site. He stated that there is an application "taking shape" and the Master Plan for this project will be heard in December. He stated that the reason for this pre-application is to inform every one of the project – no vote will be taken.

Mr. Kelly Coates, CEO, Carpionato Properties, stated that "he is here to comply with the Plan Commissions concerns with traffic". He stated that he has had a neighborhood meeting and pledged that he would eliminate cut-through traffic. He stated that a full traffic impact and access study will be prepared as the project

proceeds and should be ready by mid-January, 2019. VHB will be conducting the primary traffic study that will consist of the following roadways:

- New London Avenue (Route 2) from Chapel View Boulevard to Sockanosset Crossroad/Meshanticut Valley Parkway
- Sockanosset Cross Road from New London Avenue (Rt. 2) to Pontiac Avenue
- Pontiac Avenue from Route 37 West Ramps to Sockanosset Crossroad

The study will also include the following intersections:

- New London Avenue (Rt.2) at Chapel View Boulevard
- New London Avenue (Rt.2) at Sockanosset Crossroad/Meshanticut Valley Parkway
- Sockanosset Crossroad at Midway Road
- Sockanosset Crossroad at Power Road
- Sockanosset Crossroad at Chapel View Phase II/Costco West Driveway
- Sockanosset Crossroad at Chapel View Phase II/Costco East Driveway
- Chapel View Boulevard at Power Road
- Pontiac Avenue at Sockanosset Crossroad
- Pontiac Avenue from Route 37 West Ramps to Sockanosset Crossroad

Mr. Robert Clinton, VHB, stated that he is also working with RIDOT. He mentioned the traffic congestion at the end of Route 37 off of Route 95 at Pontiac Avenue. He stated that he has filed a TIGER Grant for improvements to this area. He quashed rumors that an off-ramp could be potentially allowed off of Route 37 to allow access to the Carpinato property as this would not be allowed per RIDOT and the FHWA. He stated that in order to secure the TIGER Grant, ques and volumes are projected through 2040. He also reviewed proposed RIDOT Route 2 changes into the Chapel View Shopping Center.

Mr. Coates stated that an entertainment center is currently being proposed at the former Citizens Bank site. He stated that a 100,000 sq. ft. portion of the former Citizens Bank building will be demolished. The entertainment facility is proposed for the rear portion of the property, along with a parking garage. This proposal will eliminate what is now a "large parking area". He stated that this new proposed use will "reduce peak period traffic".

Chairman Smith asked about the number of jobs that would be created and the economic impact. Mr. Coates stated that he will prepare a fiscal impact study.

Ms. Pauline DeRosa, 97 Cypress Drive, expressed her "disapproval" of the proposed development stating that it is an "amusement type venue". She expressed concern with a proposed new traffic signal, stating that there would be five traffic signals within a one mile stretch of road. She also expressed concern with lighting and the height of the proposed poles (170 ft.) high. She further expressed concern with birds becoming trapped in the one inch diameter netting proposed, the landscaping proposed, "stadium lighting", the height of the sign and having traffic and roadway improvements computed prior to any further development.

A resident of 27 Perennial Drive (Gretchen) expressed concern with the proposed entertainment venue. She stated that in 2016 office and mixed use was proposed, "similar to what is at Chapel View now". She expressed concern that the proposal "is not in keeping with the 2016 zone change". She further expressed concern with "big box development". She urged the Commission "to proceed with caution and not allow any big box development".

Mr. Ken Filarski, Perennial Drive, expressed concern with traffic on Pontiac Avenue and Sockanosset Road. He stated that the "traffic correction proposal doesn't adequately address the problem". He suggested at study of the Pastore Center, Chapel View and Garden City Center future development.

Mr. Douglas Doe expressed concern with traffic at Reservoir Avenue, any future development, and trees that were not provided as promised on Sockanosset Road. He read aloud the "Commercial/Recreation" section of the ordinance. He also expressed concern with lighting.

Another area resident expressed concern with "flashing lights and what will happen if the economy crashes".

Ms. Kim Ledfian, 127 Warwick Avenue, stated that the project is “too big”. She expressed concern with traffic, bird entanglement and “alcohol” being served. She suggested “apartments, tennis courts, or a park” be constructed on the site rather than the proposed entertainment venue.

Mr. Coates stated that “he will be prepared to address the concerns”. He also stated that a traffic study will be provided to the “Garden City neighbors association”.

A resident of 11 Hall Place, Tom, asked if a video of the proposed entertainment center could be provided.

Ms. Leah Hill, Sweetbriar Drive, thanked the Commission. She expressed concern with “another driving range”, traffic, the number of spaces in the parking garage and pedestrian safety.

Mr. Pezzullo stated that the Master Plan for this project along with the requisite zoning code amendment will be presented at the December 4, 2018, Plan Commission Meeting.

### **Denali Minor Subdivision**

#### **Preliminary Plan - Replat of South Auburn Plat, Lots 443, 444, 446, and 447**

Minor Subdivision without street extension

(One new single-family house lot)

Allen and Riverside Avenues

AP 5/3, Lots 443-447

Principal Planner, Douglas McLean, stated that currently, the owner has four contiguous substandard lots at this location that are merged for zoning purposes per City Code Section 17.88.010 *Substandard Lots of Record*. The total area of the 4 existing lots is 14,017 ft<sup>2</sup> or 0.32 acres. The record lots are zoned A-6 and there is one existing single-family residence on the property. The property owners are proposing to combine/subdivide the 4 existing nonconforming lots into 2 conforming lots – one of which would contain the existing single-family dwelling and the other would be a vacant buildable lot. The A-6 zoning allows for single-family residential homes on lots that have a minimum of 60’ of frontage and 6,000 ft<sup>2</sup> of land area. Both of the proposed lots will meet or exceed the A-6 zoning requirements. The proposed new lot will be serviced by public water and sewer. The proposed single-family residential use is allowed by-right per City Zoning Ordinance and the overall development plan is consistent with the Comprehensive Plan Future Land Use Map allocation of [Single Family Residential 7.26 to 3.64 units / acre] with a proposed density of 6.22 units / acre.

Mr. Richard Byzdera, RLS, Ocean State Planners, stated that five lots are being re-plated to allow the above referenced development articulated by Mr. McLean.

No public comment was offered on this matter.

Upon motion made by Commissioner Spirito and seconded by Commissioner Bittner, the Commission unanimously voted (7/0) to adopt the Findings of Fact denoted below and approve this minor subdivision, subject to the following conditions:

### **Findings of Fact**

This Preliminary Plan application was reviewed for conformance with required standards set forth in RIGL Section 45-23-60, as well as the City of Cranston’s Subdivision and Land Development Regulations.

#### **Positive Findings:**

1. An orderly, thorough and expeditious technical review of this Preliminary Plan has been conducted. Property owners within a 100’ radius have been notified via first class mail and the meeting agenda has been properly posted. Advertisement for this minor subdivision is not required under Section V.C.2.h of the City of Cranston Subdivision Regulations since no street extension is proposed.

2. The proposed subdivision and its resulting density of approximately 6.22 residential units per acre is consistent with the City of Cranston Comprehensive Plan Future Land Use Map which designates the subject parcels as “Single Family Residential 7.26 to 3.64 units/acre.”
3. The proposed subdivision will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.
4. The proposed subdivision will be well integrated with the surrounding neighborhood and will reflect its existing characteristics.
5. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Preliminary Plan.
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 properties in question will have adequate permanent physical access on Allen Avenue and Riverside Avenue, both improved public roadways located within the City of Cranston.
8. The proposed subdivision would not have a negative impact on safe and adequate local circulation of pedestrian and vehicular through traffic.
9. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.

**Condition of approval**

1. Payment of Eastern Cranston Capital Facilities impact fee in the amount of \$593.46 must be submitted at the time of final plat recording.

**PERFORMANCE GUARANTEE**

**Woods at Orchard Valley**

Ashbrook Drive, AP 25/2, Lot 6

Existing Performance Guarantee Bond to expire

Public Works Director, Ken Mason, stated that his department is awaiting receipt of as-builts, confirmation of granite bounds installation and detention pond maintenance. Attorney Robert Murray, on behalf of his client, stated that some as-builts have been provided. He stated that the detention pond is deeded to the HOA. Mr. Mason stated that he has asked the City’s engineer to inspect the detention pond.

Upon motion made by Commissioner Mason and seconded by Commissioner Bittner, the Commission unanimously voted (7/0) to continue this matter to the December 4, 2018, Plan Commission Meeting to allow time for the provision of “as-builts”, re-inspection of the detention pond and confirmation of the provision of granite bounds.

**ZONING BOARD OF REVIEW RECOMMENDATIONS**

**PARK AVENUE REALTY, INC. (OWN) AND MACERA’S ITALIAN RESTAURANT, INC. (APP)** have filed an application to operate a restaurant in an existing building in an industrial zone at 1350 Park Avenue, A.P. 11, lot 1768, area 14,748 s.f. zoned M1. Applicant seek relief per Section 17.92.010 Variance; Sections 17.92.020 Special Use Permit, 17.20.120 Schedule of Intensity Regulations, 17.72.010 Signs.

**(Continued from the 9/11/18 agenda)**

**SPECIAL PERMIT REQUEST:**

1. To allow a restaurant in M-1 zoning. [17.20.030 Schedule of Uses]

*This application does not require any variance consideration. Variances for existing nonconforming conditions were advertised in an abundance of caution, later determined to be unnecessary. Neither the proposed use nor the proposed improvements trigger variances as they are in compliance with the nonconforming provisions of the Code.*

## PROJECT SUMMARY:

The applicant is proposing to locate a restaurant in an M-1 zone, in a currently vacant building which is the former site of a bakery. The project includes interior renovations. All proposed building exterior and site modifications are minor and aesthetic in nature (sign content, dumpster, parking striping, etc.).

## FINDINGS OF FACT:

1. The subject site is a 14,742 ft<sup>2</sup> lot in M-1 (Restricted Industry) zoning. The applicant is proposing a restaurant at this location, with no structural alterations to the building. Restaurants are allowed with a Special Permit in M-1 zoning per Sec. 17.20.030 *Schedule of Uses*.
2. In February of 2001, the Zoning Board of Review approved an application to operate a retail and service establishment on an undersized lot with restricted front and rear yard setback and off-street parking at this site, subject to the following condition:
3. Potted landscape along apron of building [front] and no overnight parking of vehicles with a 5000 lb GVW of greater.
4. Due to several years of vacancy, the site is not currently in compliance with the landscaping portion of the condition. This approval was granted under different ownership; the current owner purchased the property in 2013.
5. The 1954 Property Assessment Record states the use as retail (fruit store – Community Fruitland). The 1984 Property Card recognizes a commercial use of the property. The site was previously occupied by a bakery, but has been vacant since 2011. All of the City of Cranston’s VISION property appraisal cards since 2006 (when the City began using them) list the property as commercial (Code 3333 large business), not industrial.
6. The City of Cranston Comprehensive Plan’s Future Land Use Map designates the subject parcel as “Neighborhood Commercial/Services.” This designation recommends C-1, C-2, and C-3 zones, all which allow restaurants as a permitted use. The proposed use is consistent with the City of Cranston Comprehensive Plan’s Future Land Use Map.
7. The Comprehensive Plan Appendix A provides a list of miszoned properties and includes recommended zoning allocations for each miszoned property. The subject property is on the list, with a recommended zoning designation of C-3. This zoning recommendation is based on an evaluation of appropriateness and analysis of land uses within the area, therefore the proposed use is consistent with the surrounding area and is not injurious or offensive to the neighborhood. The proposal would not hinder the future development of the city, but would further the vision as established in the Comprehensive Plan.
8. The existing nonconforming building is exempt from zoning, having been built prior to the adoption of the City of Cranston’s Zoning Ordinance. The absence of structural alterations to the building renders the proposed use to be compliant with Chapter 17.88 *Nonconforming Uses and Structures*.
9. Cranston’s Development Plan Review Committee held a meeting on October 31, 2018, at which the project was heard and unanimously approved with the following conditions:

## GENERAL

1. This approval authorizes only those activities included in the Preliminary Site Plan dated as revised and approved. Any change, extension or modification to those activities is not authorized and shall be subject to the provisions of Title 17 Zoning of the Municipal Code City of Cranston [Zoning Ordinance]. This approval does not waive compliance with the Zoning Ordinance.
2. Any revision required by this approval shall be incorporated onto a final plan [**PLAN**] and a mylar and 6 paper copies of the plan shall be submitted for endorsement by the Committee Chair within 30 days of an issuance of this approval. Prior to endorsement, the applicant shall comply with all applicable conditions set by this approval. The endorsed Plan shall be incorporated into the approval by reference and made part thereof.
3. The applicant shall comply with all City requirements, including but not limited to: off-street parking, landscaping, lighting, signage, erosion control, and the Americans with Disabilities Act. All proposed changes to the site are improvements of challenging existing conditions which include nonconforming aspects.

#### **PARKING & CIRCULATION**

4. Vehicular parking is prohibited in front of the building between the building and Park Avenue.
5. The two parking spaces closest to the dumpster in the southwestern corner of the property shall be designated as "Employee Parking" on the Final Plan and physically designated on site.
6. The applicant shall revise the Site Plan dated 10/30/18 so that parking spaces # 13 & 14 will become a handicap parking space, and space #4 will no longer be designated as a handicap space. Crosswalk striping shall be required from the newly designated handicap space to the entrance of the building. A fifth parking space may be located on the east side of the building, subject to the approval of the Traffic & Safety Engineer.
7. The dimension of the curb opening on Park Avenue shall be provided on the Final Plan.

#### **LANDSCAPING & FENCING**

8. The Final Plan shall clearly identify all proposed landscape areas and provide a table showing proposed species and quantities.
9. Two street trees shall be planted adjacent to Park Avenue, a maximum of 35' apart.
10. The northwest corner of the lot, in the area between parking space #14 and Park Avenue which shall be shaped as to not impede traffic circulation and shall be designated as a landscape area.
11. A 3' wide planter box shall be provided, as appropriate, along Budlong Road and Park Avenue.
12. The proposed dumpster shall be screened in compliance with the Cranston City Code.

#### **FINAL PLAN REVIEW**

13. The Final Plan review shall be conducted administratively.

#### **PERMITTING/AUTHORIZATIONS**

14. This approval is subject to approval of a Special Permit from the Zoning Board of Review for the proposed use. A note stating the date of such approval shall be provided on the Final Plan.

#### **ANALYSIS:**

Staff recommended that the owner rezone the property to C-3 in lieu of the application for the Special Permit. Under no obligation to do so, the applicant has moved forward with Special Permit application. The City of Cranston's zoning designations do not always accurately reflect the current uses, surrounding context, or future vision for their respective designated areas. This circumstance is recognized by the Comprehensive Plan, which includes in its appendices a list of all known mis-zoned properties in the City. Taking into account the history of commercial uses on the site, the subject property was included on the list, recommended to be rezoned to C-3. This recommendation is based on an analysis of the existing uses and character of the area, and would bring the zoning into consistency with the Future Land Use designation of Neighborhood Commercial/Services. Therefore, staff finds that the proposed use is consistent with the surrounding area and the Comprehensive Plan. The proposal is harmonious with the general welfare and the future development of the City.

It is understood that the parking and circulation is less than ideal, that there are existing nonconforming aspects such as building setbacks and signage, and that there is no existing landscaping on the site. The DPR Committee reviewed the plans in detail at a meeting on 10/31/18, and unanimously approved the plan with conditions that are intended to make the best possible scenario of a challenged site. The applicant had already made changes based on staff comments, and will be making additional changes based on the comments and conditions of the DPR which are listed in Finding of Fact #4.

Staff recommends reasonable discretion when applying the criteria of approval to this application. The criteria of approval for a Special Permit is not as strict as is required for a Use Variance, Cranston Zoning Code Section 17.92.020 (A).(1).(b). states that applications for a Special Permits in an industrial district are subject to an affirmative finding that the proposed use "will predominantly serve the employees and visitors to the existing industrial uses within the district." Staff holds that the strict application of this requirement may

not be appropriate, considering the character of the area and the history of approved uses at the location. Park Avenue is predominantly commercial, not industrial, with residential also in the near vicinity. Surely, the proposed restaurant would serve the employees and visitors of the industrial district, but to limit the business to “predominantly” serve them would put an unnecessary and unenforceable restriction on the business. The Plan Commission and Zoning Board should consider that the strict application of the Special Permit criteria may not have been applied when Defusco’s Bakery was approved in 2001.

**RECOMMENDATION:** Due to consistency with the Comprehensive Plan, and considering the history of uses at this site, upon motion made by Mr. Spirito and seconded by Ms. Harrington, the Plan Commission unanimously voted (7/0) to forward a **positive recommendation** to the Zoning Board of Review.

**PLANNING DIRECTOR’S REPORT** – Unified Development Review, Comprehensive Plan Update, 2019-2020 Capital Budget and Improvement Program, AirBnB

Mr. McLean distributed a memorandum on Unified Development and stated that he will formulate an ordinance.

Mr. Pezzullo stated that Comprehensive Plan “visioning” will begin in January, and the Capital Budget request forms will be sent “in a couple of weeks”. He also informed the Commission that the administration is concerned with short term rentals (AirBnb) and he has been working with the City of Warwick Planning staff on this matter.

**ADJOURNMENT** Upon motion made by Ms. Bittner and seconded by Ms. Harrington, the Commission unanimously voted (7/0) to adjourn at 9:50 p.m.

**NEXT REGULAR MEETING** December 4, 2018 – City Council Chamber, 7 pm

Respectfully submitted,

Douglas McLean, AICP  
Principal Planner/Administrative Officer