

MINUTES

November 9, 2010

Chairman Charles Rossi called the Planning Commission Meeting to order in the City Council Chamber at 7 p.m. The following Commission members were in attendance:

Charles Rossi, Chairman
James Moran, Vice Chairman
Gene Nadeau
Michael Smith
Mark Motte

Also present were:

Peter Lapolla, Planning Director
Stephen Marsella, Esq., Assistant City Solicitor
Lynn Furney, Senior Planner
J. Resnick, Clerk

APPROVAL OF MINUTES

Upon motion made by Mr. Moran and seconded by Mr. Motte, the Planning Commission unanimously voted to *approve* the minutes of the October 5, 2010, Planning Commission Meeting.

ORDINANCES

Ordinance #09-10-9 In amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Change of Zone – Chapel View Blvd.)

Mr. Lapolla explained that this is a request to modify the existing MPD to make the plans submitted consistent with the MPD. The existing MPD has some miscalculations in the maximum amount of residential space and parking. For instance, currently the building that houses REI has 19,500 sq. ft. in their lowest level that has been designated as storage space. The applicant has proposed to use this space as office space rather than storage. The increase in gross leasable area is contained within the existing building and will not result in the expansion of building footprint.

The applicant is also seeking increases (Buildings A3, B1, B-4) and decreases (Buildings B3C and B-2) in building height to reflect what has already been constructed. Mr. Lapolla also noted that the original MPD ordinance required more parking that is needed.

John Bolton, Esq., representing Carpionato Properties (the applicant), thanked Mr. Lapolla for his accurate summary of the proposed MPD ordinance change, noting that the project narrative outline was originally done in 1998.

No public testimony was offered on this matter.

Upon motion made by Mr. Moran and seconded by Mr. Smith, the Plan Commission unanimously voted to forward a positive recommendation on this ordinance proposal to the Ordinance Committee.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Smith, Mr. Nadeau and Mr. Motte. No nay votes.

SUBDIVISIONS AND LAND DEVELOPMENT PROJECTS

Chapel View MPD

Amendment #5 to the Final Recorded Plan
Modification to building heights, parking requirement and gross floor area (GFA) allocation
Sockanosset Crossroad and New London Avenue

The above referenced ordinance/Major Land Development amendment was referred to the Plan Commission for the major alteration which involves:

- Page 3, the gross leasable area [GLA] authorized for the project is increased from 372,456 SF to 392,349 SF. This increase of 19,839 SF results from a proposal to convert what is now storage space in building B3C from storage space to active flexible space [doctor's offices]. The increase in GLA is contained within existing buildings and will not result in the expansion of any building footprint.
 - Page 3, the overall size of the project has been reduced from 31.4 acres to 29.1 acres and the number of easements cited for the development has been reduced from 5 to 3. The changes proposed reflect the recent designation of Power Road as a public way.
 - Page 4, the maximum square footage allowed under Chart A has been increased for Total Office Space [from 205,413 SF to 225,306 SF], Total Retail Use [from 185,413 SF to 225,306 SF], Total Multi-Family Residential Use [from 85,631 SF to 112,542 SF] and Total Restaurant Use [from 24,780 SF to 40,000 SF].
 - The increase in Office and Retail Uses reflect the proposed increase overall GLA and correction in a mathematical miscalculation in the original Narrative.
 - The increase in Multi-Family Residential Use corrects an omission error in the original Narrative [the 2nd floor of building A1/A2 was omitted from the calculations].
 - The increase in Restaurant Use is requested because the development has already used its current restaurant allocation.
3. Page 5, square footage allocations by buildings are modified as follows:
- Buildings B2 and B3C are combined and the total area allowed is increased from 37,000 SF to 56,500 SF. The 19,500 SF increase reflects the proposed increase in GLA.
 - The total area allowed for Building B4A is increased by 393 SF to reflect the "as built" condition.
4. Page 5, language on minimum and maximum land uses allowed are eliminated because it is not needed and it is not consistent with other sections of the Narrative.
5. Page 5, language on minimum and maximum land uses allowed are eliminated because it is not needed and it is not consistent with other sections of the Narrative.

6. Page 6, the maximum range of residential units allowed was increased from 86 to 101 to correct an addition omission [see above].
7. Page 6, reference to the range of stores allowed has been eliminated.
8. Page 7, the square footage of use in buildings B2 and B3C and B4A are adjusted in Chart C. The adjustments make Chart C consistent with Chart A [see above]. In addition, Chart C shows buildings B2 and B3C as having a 3rd floor which reflects the conversion of storage space to active space.
9. Page 8, the minimum and maximum section of Chart C and most of the foot notes are eliminated. Both the minimum and maximum section and the foot notes are eliminated because they are not needed and there are not consistent with other sections of the Narrative.
10. Pages 16 & 17, the total number of parking spaces required has been reduced from 1911 to 1849 and the total number of parking spaces provided has been increased from 1,260 to 1,301. The change in total number of parking spaces required reflects a correction by applying foot note 14. The total parking provided reflects the current "as built" conditions. Please note that 95 of the parking spaces currently counted as employee parking have been shown as parking associated with the training school. Staff would note that the availability of these spaces is subject to an easement interpretation. In any event, the total parking required has been reduced by 62 spaces and the addition or loss of 95 spaces should not matter.
11. Pages 17 & 18, building heights and number of floors have been modified as follows:
 - Building A3 - the height is increased from 83' to 94' to reflect the "as built" condition.
 - Building B1 - the height is increased from 64'6" to 83'9". While staff would suggest that the number of stories allowed for this build should be increased which would justify an increase in height, staff would suggest that applicant provide a justification for an approximate 20' increase in height where there is no corresponding increase in the number of stories allowed.
 - Buildings B3C and B2 - the height at the front of the buildings is reduced from 60' to 52'6" to reflect the "as built" condition and the height at the rear of the buildings is set at 70'6" to reflect both the "as built" condition and to reflect the conversion of storage space to active space.
 - Building B4 - the height is increase from 42' to 44'9" to reflect the "as built" condition.

The Final Plan has been amended to reflect the changes noted above so that the Plan and Narrative are consistent with each other. The Plan calls for the site to be developed as an MPD. The proposed amendment is consistent with the 2010 Comprehensive Plan.

While there appears to be a significant number of changes to the Narrative and the Plan, the major change is the conversion of 19,500 SF of storage space to active use and an increase in height to building B1 by 20'. The remainder of the changes to the Narrative and Plan are intended to make them more consistent and clear.

Given the above, upon motion made by Mr. Moran and seconded by Mr. Motte, the Plan Commission unanimously voted to amend the Major Land Development Final Plan and narrative as presented to the City Council.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte, Mr. Nadeau and Mr. Smith. Nay votes: none.

**Equestrian Estates – Preliminary Plan
(Continued from the August 3, 2010 Agenda)**

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

John DiBona, Esq., explained that the project needs Veolia Water approval. There has been some discrepancy regarding the amount owed to Veolia Water by the applicant, however, the amount owed has been determined to be less than \$1,000. Therefore, the applicant is requesting this matter be continued to the December 7 Plan Commission Meeting. The applicant will re-notify property abutters prior to the December 7 meeting.

No public comment was offered on this matter.

Upon motion made by Mr. Motte and seconded by Mr. Nadeau, the Plan Commission unanimously voted to *continue* the public hearing on the above referenced subdivision to the December 7, 2010, Plan Commission Meeting and require the property abutters within 100 ft. radius of the subject site be re-notified.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte, Mr. Nadeau and Mr. Smith. Nay votes: none.

ZONING BOARD OF REVIEW RECOMMENDATIONS

DELFINA MACHADO 305 BAYVIEW AVENUE CRANSTON RI 02905 (OWN/APP) has filed an application for permission to convert a detached 21' X 22' [462+/- sf] garage with restricted rear yard set back on an undersized lot into an apartment at **305 Bay View Avenue**. AP 2/4, lot 369 & 370, area 5,280+/- SF, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.20.010 F Accessory Family apartment, 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 application's resulting density of 16.5 units per acre, is not consistent with the density designations of the Comprehensive Plan's Future Land Use Map, which calls for less than 10.89 units per acre in this area of the City.
2. The joint area of both lots is 720 sq. ft. short of the required area for a single family (6,000 sq. ft.) in this zone.
3. The proposed apartment will have a 2'-7" rear yard setback, where a 20 ft. setback is required by the Zoning Code.
4. There are 131 residential dwellings within the 400' zoning notification radius. Of those, 100 are single family houses. Only 29 (29%) of those 100, are on the same size or smaller than, the applicant's 2,640 sq. ft. lot. Therefore, conversion of the garage into one residential unit on 2,640 sq. ft. will alter the general character of the surrounding residential area, and impair the intent or purpose of the Zoning Code, and the Comprehensive Plan upon which the Code is based.
5. A new front door for the apartment has already been installed behind the left garage door, and the conversion to residential has already taken place.

Recommendation: The Plan Commission finds the application and proposed density of 16.5 units per acre is inconsistent with the Comprehensive Plan's Future Land Use Map that designates this

area as residential, less than 10.89 units per acre, and, therefore, upon motion made by Mr. Motte and seconded by Mr. Smith, unanimously voted to forward a *negative* recommendation on this application to the Zoning Board.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Smith, Mr. Motte and Mr. Nadeau. Nay votes: none.

MICHELE REALI 1383R NEW LONDON AVENUE CRANSTON RI 02920 (OWN/APP) has filed an application for permission to renew a previous approval to operate a beauty salon from a dwelling at **1377 New London Avenue**. AP 18/3, Lots 1000 & 1461, area 31,538+/- SF, zoned A-8. Applicant seeks relief from Section 17.92.010 Variance, 17.20.030 Schedule of Uses.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. Land Use Records in the Planning Department shows Zoning Board variances for the Beauty Salon have been granted since 1979 with 5 year conditions. A renewal was granted in 1984 and 1990, each for a period of 5 years.
2. The application states that the beauty salon has been in continued operation since its 5 year expiration date in 1995.
3. The commercial use of the first floor of the building is not consistent with the Comprehensive Plan's Future Land Use Map that designates this area of the City as Single Family Residential; however, the residential use on the second floor is consistent with the Future Land Use Map.
4. The City's GIS aerials shows a large parking area (96' x 66') for the business's use, located on lot 1461, that is located to the right of the dwelling/hair salon, with access from New London Avenue.

Recommendation: Though the Commercial use in part of the building is not consistent with the Future Land Use Map that designates this area as residential, the Plan Commission considers the fact that the beauty salon has been operating since 1979 with a zoning Variance; and therefore, upon motion made by Mr. Moran and seconded by Mr. Motte, unanimously voted to forward a *positive* recommendation on this application to the Zoning Board, 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 Rossi, Mr. Moran, Mr. Smith, Mr. Motte and Mr. Nadeau. Nay votes: none.

ROBERT AND SANDRA GUARINO 74 CEDAR HILL DRIVE JAMESTOWN RI 02835 (OWN/APP) have filed an application for permission to operate a personal training and a dance studio business at **140 Comstock Parkway**. AP 36/2, Lot 70, area 78,164+/- SF, zoned M-2. Applicant seeks relief from Section 17.92.010 Variance, 17.20.030 Schedule of Uses.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. The application for a dance studio and personal training gym (commercial and services) is inconsistent with the Comprehensive Plan's 2010 Future Land Use Map, which designates this parcel and the surrounding area for industrial uses.
2. The application proposes to use 2 units (totaling 5,000 sq. ft.) of a 10 unit industrial building. Photographs taken on 11/9/10 show the businesses are already operating. (The dance studio for 2-1/2 years, and the fitness center, for 1 year.)
3. Each use would require a minimum of 9 parking spaces, for a total of 18 dedicated spaces out of 62 total parking spaces total on site for the 10 units. This exceeds the allotted 6.2 spaces per unit for the industrial use
4. The Economic Development Element of the Cranston's Comprehensive Plan, entitled *Strengthening and Preserving Existing Industrial Districts*, states: "...there is a danger that commercial and service development will erode an important job-creating resource for the City if they are allowed to occur in industrial zones."
5. The Land Use Element of the Comprehensive Plan states, "Commercial development should be restricted in industrial districts in order to maintain the existing industrial base and provide for future expansion."
6. Land Use Policy LU-4.3, of the Comprehensive Plan, states "Discourage infiltration of commercial and retail activities into industrial zones, particularly those that might lead to strip commercial development." Allowing the infiltration of Commercial and Services into 2 units of the 10 unit building would certainly set the precedence for expansion of other commercial uses in the remaining 8 units.
7. Economic Development Policy ED-3.1 states "Strengthen use standards for industrially zoned land to prevent the erosion of the City's supply of land suitable for manufacturing."
8. In the recent past, the City's industrial base has been eroding though the issuances of Zoning Variances for other than industrial uses.

Recommendation:

Though the application for commercial use in an industrial zone is inconsistent with the 2010 Comprehensive Plan and the 2010 Future Land Use Map that designates this property and surrounding area as "Industrial", the Plan Commission unanimously voted to forward no specific recommendation on this application.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Smith, Mr. Motte and Mr. Nadeau. Nay votes: none.

JOHN MURO 51 LEMAC STREET WARWICK RI 02889 (OWN/APP) has filed an application for permission to build a new 28' x 62' two story single family dwelling with restricted front yard set back on **Phenix Avenue**. AP 21, Lot 60, area 9251+/- SF, zoned A-8. Applicant seeks relief from Section 17.92.010 Variance, 17.20.090 (L) Additional Setbacks on Certain Streets and 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 proposed residential use is consistent with the 2010 Comprehensive Plan's Future Land Use Map, which designates this area as Single Family Residential, 7.26 to 3.64 units per acre.
2. The same property (different owner) received a zoning variance in 2003 for a 34' front yard setback for a 38' x 62' house. The current application is for the same 34' setback, but a smaller house, 28' x 62'.

3. The 2003 zoning approval's condition #2 was to relocate the attached garage to the right side of the house. The current application shows a site plan with an attached garage on the right side of the house, with a conforming 12' side yard setback.
4. The left side yard setback is a conforming 11'
5. The City's GIS aerial photography shows the 7 houses on Phenix Avenue on the same side of the street starting with the house abutting the applicant's right property line, all have between 30' and 35' front yard setbacks; so the request for a 34' front yard setback will not alter the character of the surrounding neighborhood, or impair the intent or purpose of the Zoning Code.

Recommendation: Based on the Findings of Fact, the Plan Commission finds the application is consistent with the Comprehensive Plan's Future Land Use Map that designates this area as residential, 7.26 to 3.64 units per acre, and therefore, upon motion made by Mr. Motte and seconded by Mr. Moran, unanimously voted to forward a *positive* recommendation on this application to the Zoning Board, 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 Rossi, Mr. Moran, Mr. Smith, Mr. Motte and Mr. Nadeau. Nay votes: none.

M&D REALTY HOLDINGS LLC 178 PHENIX AVENUE CRANSTON RI 02920 (OWN) AND D&M TYRE SALES INC AND D&M MOTOR SALES INC 178 PHENIX AVENUE CRANSTON RI 02920 (APP) have filed an application for permission to operate a retail tire and auto parts business with auto repair and auto sales at **50 Libera Street**. AP 12, Lot 3139, 3140, area 65,041+/- SF, zoned M-1. Applicant seeks relief from Section 17.92.010 Variance, 17.20.030 Schedule of Uses, 17.32.010 B, (3), (4) Used car and rental business, 17.64.010 F, 2, I Off-Street Parking, 17.72.010 Signs.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. The application for retail tire and auto parts business with auto repair and auto sales (commercial and services) is inconsistent with the Comprehensive Plan's 2010 Future Land Use Map, which designates this parcel and the surrounding area for industrial uses.
2. This property had received a zoning variance for an office use (Domestic Bank) in 2006.
3. The proposed service shop will contain 18 hydraulic lifts in an 11,610 sq. ft. area within the building.
4. There will be a 3,277 s.f. office area, requiring 14 parking spaces.
5. There are 32 parking spaces on site, and 6 spaces reserved for car sales display.
6. A separate room for interior tire storage is 2,087 s.f.
7. A 7,161 sq. ft. separate room in the building will be used for storage of auto parts, which is a permitted use.
8. The application received Site Plan Review Preliminary approval on October 20, 2010 pending Zoning Variance approvals. (See attached Site Plan Review Decision for conditions).
9. Approximately one half of the building is located within the 100 year flood plain.
10. The proposed freestanding sign is 21'-6" high, where a 15' max height is permitted per the zoning code. The area of the pylon sign is 86.95 sq. ft., where 50 sq. ft. max is permitted per the zoning code.
11. The building sign (wall sign) is 38.25 sq. ft., where 45 sq. ft. is permitted by code.
12. The total sign area for the site equals 125.2 sq. ft., where 300 sq. ft. is permitted by code.

Recommendation: Though the application for retail sales, auto repair and auto sales is currently inconsistent with the Comprehensive Plan's 2010 Future Land Use Map, which designates this parcel and the surrounding area for industrial uses; The Plan Commission is considering a change to the 2010 Future Land Use Map, that will change the designation of this area to Commercial and Services. The Planning Staff and Building Inspections Department are also currently reviewing and rewriting the existing Zoning Code, and will be recommending that the future Zoning Code permit auto repair and auto body repair uses in M-1 and M-2 zones; therefore, upon motion made by Mr. Smith and seconded by Mr. Moran, the Plan Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Smith, Mr. Motte and Mr. Nadeau. Nay votes: none.

RHODE ISLAND BOY SCOUTS 223 SCITUATE AVENUE CRANSTON RI 02921 (OWN) AND T&H HOLDINGS INC 99 QUAKER CHURCH ROAD #2 RANDOLPH NJ 07869 (APP) have filed an application for special permit for permission to erect a 160' monopole telecommunications tower at **223 Scituate Avenue**. AP 37 & 12, lots 7, 10 and 3177, area 106.7+/- acres, zoned **A-12** Applicant seeks relief from Sections; 17.92.020 Special Use Permit, 17.20.030 Schedule of Uses, 17.76.010 iv, D, N, Telecommunications Facility.

Findings of Fact:

1. The Boy Scout property where the monopole will be located is in an S-1, Open Space zone, and not an A-12 zone as listed in the notice.
2. The proposed mono-pole communication tower will be able to accommodate 6 new telecommunications carrier's antennas. T-Mobile, Cox Wireless, have already signed on.
3. A setback of 240' is required from any abutting residentially zoned property line; the proposed setback for the tower is 272' from the property line and 521' from the closest residential dwelling.
4. The 160' monopole is located at elevation 244' AMSL (as listed on the title page of the supporting document submitted with the application) which is one of the highest elevations on the parcel. The top of the monopole will be 404' above sea level. By comparison, the elevation on the Scituate Avenue street frontage for A.P. lot 7 is 120 ft. A.S.L.
5. The location of the monopole antenna is within ½ mile radius of 3 National Register Historic Properties, all of which are located on Scituate Avenue. (Nathan Westcott House, el.115 ft. A.S.L., the Joy Homestead, el. 118 ft. and the Sheldon House, el. 226 ft.)
6. Section 106 of the National Historic Preservation Act, requires review of any communications antenna by the state's SHPO (State Historic Preservation Office). The Rhode Island Historic Preservation and Heritage Commission (RIHPHC) has reviewed the applicant's plans, and in a letter dated September 22, 2010, had requested a view shed analysis using a crane (or balloon) be conducted, with photosimulations of the monopole as seen from the 3 historic property locations. The RIHPHC had also requested the applicant include views and photosimulations from the Thomas Fenner House, northwest of the project area, which sits at approximately 166 feet ASL. The balloon test was performed on November 2, (with 8-11 mph winds), using a 3' diameter weather balloon. Photographs have been submitted to the Zoning Office. Discussions with the RIHPHC office revealed that they were not notified of the balloon test, (neither was the Planning Department) and therefore was not present for the visual test.
7. Correspondance received from The RIHPHC on 11/9/10, indicated that their office had reviewed the photosimulations for the new tower, and believes that the tower will pose no adverse effect to historic properties within the project's area of potential effect.

8. The monopole telecommunication tower will be located in a wooded area, limiting visibility from surrounding residential neighborhood to the north, which is at approximately the same elevation. However, the residential neighborhood to the north west (approximately 700' feet away) is at a lower elevation of 170 ft. and photosimulations show the visual impact as seen from Mockingbird Dr.
9. The revised location site plan, page PR-1 shows an existing road and trails used by the boy scouts, that will be used by T & H Holdings for equipment access to the site during construction of the proposed tower and equipment compound. The existing trail and access road crosses a stream and wetland. There was **no** documentation in the materials the planning staff received that indicated that the existing structures over the wetland will accommodate the construction equipment, so that no wetland disturbances or alterations or permits would be necessary.

Recommendation: Based on the fact that the cell tower proposal is not inconsistent with the Comprehensive Plan, upon motion made by Mr. Moran and seconded by Mr. Smith, the Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board with the following provisions:

1. Verification from D.E.M. that the existing trail/road over the wetland will not be altered during construction.
2. 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 Rossi, Mr. Moran, Mr. Smith, Mr. Motte and Mr. Nadeau. Nay votes: none.

ADJOURNMENT In closing, Mr. Lapolla informed the Commission that the revised Hazard Mitigation Plan has been accepted by FEMA. Upon motion made by Mr. Smith and seconded by Mr. Nadeau, the Commission unanimously voted to adjourn at 8:40 p.m.

NEXT MEETING December 7, 2010, at 7 p.m. in the City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary