

## **MINUTES**

October 4, 2016

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

Michael Smith, Chairman  
Kenneth Mason, P.E.  
Mark Motte  
Lynne Harrington  
Fred Vincent  
Robert Strom  
Kimberly Bittner  
Gene Nadeau

Also present were:

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

### **APPROVAL OF MINUTES**

Upon motion made by Mr. Vincent and seconded by Mr. Motte, the Commission unanimously voted to approve the minutes of the September 6, 2016, Plan Commission Meeting.

### **ORDINANCE RECOMMENDATIONS**

**Ordinance 08-16-01** In amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Change of Zone – 1353 Park Avenue) – M-1 to C-3

Mr. Lapolla stated that the property owners made the request for a zone change from M-1 to C-3. The request concurs with the Future Land Use Map. Mr. Kevin Morin, DiPrete Engineering, stated that he had nothing to add to Mr. LaPolla's introduction but further stated that "no greater relief is needed".

#### I. PROPOSAL/ANALYSIS

##### A. Change in Zoning Designation

Ordinance 08-16-01 proposes to change the zoning classification for a parcel of land identified as Assessors Plat 11 Lot 3559 [Zoning Map Plat 11 Lot 3559 and a portion of Zoning Map Plat 8 Lot 207] located at 1353 Park Avenue from M-1 Restricted Industry and to C-3 General Business. The site consists of 17,642 SF and its current use is classified as a Fuel Station Minimart. The property is located at the intersection of Park Avenue and Dyer Avenue. It is bounded by a commercial uses to the west, south and north, vacant land to the east. The Site is owned by Asad Ali LLC who proposes the rezone to reflect the current use on site, to aid in a proposed upgrade of the existing use and to make the site consistent with the Future Land Use Plan of the City's Comprehensive Plan.

The site is currently zoned M-1 Restricted Industry which is not consistent with the Future Land Use Plan. The Future Land Use Plan of the 2010 Compressive Plan designates the site as Neighborhood Commercial and Services [Land Use Classification]. The Land Use Element of the 2010 Comprehensive Plan indicates that for Highway Commercial and

Services the appropriate zoning would be C-1, C-2 and C-3. Therefore the proposed rezone to C-3 General Business will be consistent with the Comprehensive Plan.

Appendix A-Zoning Consistency Analysis of the 2010 Compressive Plan has identified Assessors Plat 11 Lot 3559 as being inconsistent with the Future Land Use Plan and has proposed a zoning classification of C-3.

LU-24 of the Land Use Plan Action Program of the Land Use Element of the 2010 Comprehensive Plan requires the City to "Amend Zoning Map and Zoning Ordinance to eliminate inconsistencies between the Future Land Use Map and Zoning."

Section 17,120-"Power of the city council to adopt-Consistency with the comprehensive plan" of the City Code of Ordinances states:

'For the purpose of promoting the public health, safety, morals and general welfare of the city, the city council may adopt, amend or repeal and provide for the administration, interpretation and enforcement of this chapter or any part thereof. The provisions of a zoning ordinance shall be set forth in text and map(s) and may incorporate charts or other material. The zoning ordinance and all amendments thereto, shall be consistent with the city's comprehensive plan, as described in Rhode Island General Laws Section 22-2 and shall provide for the implementation of the city's comprehensive plan.'

B. Relief from Section 17.49.010.C.

In addition to the proposed change in zoning classification, the applicant is seeking to amend the setback requirements set by Section 17.49.010.C of the City's Code of Ordinances. Said section states "Setbacks. Every structure erected for use as a gasoline service station shall have a minimum setback from the street right of way of forty (40) feet and a minimum setback from all property lines of ten (10) feet. Pump islands shall be permitted in front yard and set back a minimum of fifteen (15) feet from all property lines." As proposed, said section would state "Setbacks. Every structure erected for use as a gasoline service station shall have a minimum setback from the street right of way of **fourteen (14)** feet and a minimum setback from all property lines of ten (10) feet. Pump islands shall be permitted in front yard and set back a minimum of fifteen (15) feet from all property lines **in order to accommodate an existing canopy and its extension.**" Staff would normally not support the creation of site specific density standards as part of a zone change. However, the site's existing canopy does not meet the 40' set back requirement and given the site's geometry it would not be possible to create compliance. In this particular instance, staff has suggest and would recommend the amended set back requirement because it does not seem logical to go through the rezoning process and then require a Zoning Board of Appeals action to legitimize an existing condition.

II. FINDINGS

Cranston Comprehensive Plan 2010: The Future Land Use Plan of the 2010 Compressive Plan designates the site as Neighborhood Commercial and Services [Land Use Classification]. The Land Use Element of the Comprehensive Plan indicates that for Neighborhood Commercial and Services the appropriate zoning would be C-1, C-2 and C-3. In addition, a change in zoning to C-3 would be consistent the zoning classification proposed in Appendix A Zoning Consistency Analysis and with LU-24 of the Action Plan of the Land Use Element of the 2010 Comprehensive Plan. Therefore the proposed rezone to C-3 Neighborhood Business will be consistent with the 2010 Comprehensive Plan.

Findings Under §17.04.010 City Code. Sec. 17.20.30 requires that the City Plan Commission as part of its recommendation to the City Council "Include a demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in Section 17.04.010 of this title." Section 17.04.010 set forth the General Purpose for Title 17 of the City Code. The Commission notes that to the extent that any redevelopment of this site will be required to comply with Title 17, including Development Plan Review, and will be required to comply with City of Cranston Subdivision and Land Development Regulations, the Commission finds that the proposed rezone of the site to C-3 is consistent with the appropriate purposes detailed in §17.04.010.

III. RECOMMENDATION

The Commission finds the proposed zone change to C-3 Highway Business consistent with the 2010 Comprehensive Plan. The Commission further finds that, in this particular instance, the creating of property specific setback requirement would be appropriate. Therefore, upon motion made by Mr. Motte and seconded by Mr. Strom, the Commission voted (7/1- Ms. Harrington voted nay) to forward a positive recommendation and endorsement of Ordinance 08-16-01 to City's Ordinance Committee and the full City Council as it applies to this property.

**Ordinance 09-16-03** In amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled “Zoning” (Change of Zone – 1191 Pontiac Ave.) – M-1 to C-4

Attorney Robert Murray stated that the zone change from M-2 to C-4 would bring this parcel in line with the Burger King restaurant across the street and the neighboring Town Fair Tire building. He stated that it is a four acre site.

Mr. Vincent expressed concern that “we are giving away industrial land”. Mr. Lapolla stated that “this particular strip of land had so changed that we decided to re-zone those parcels to reflect how the land is being used”.

#### PROPOSAL/ANALYSIS

Ordinance 9-16-03 proposes to change the zoning classification for a parcel of land identified as Assessors Plat 10 Lot 39 [a portion of Zoning Map Plat 10 Lot 698] located at 1191 Pontiac Avenue from M-2 General Industry and to C-4 Highway Business. The site consists of 1.36 acres and its current use is classified as a Retail Sales Large Scale. The property is located at the intersection of Sockanosset Crossroad and Pontiac Avenue. It is bounded by a mixed commercial use and industrial use to the west, a commercial use [drug store] to the east, a Drive-In Restaurant use to the north and a Fuel Station Minimart use to the south. The Site is owned by Ruggieri Floor Fashions Inc. who proposes the rezone to reflect the current use on site, to aid in any future redevelopment of the site and to make the site consistent with the Future Land Use Plan of the City’s 2010 Comprehensive Plan.

The site is currently zoned M-2 General Industry which is not consistent with the Future Land Use Plan. The Future Land Use Plan of the 2010 Compressive Plan designates the site as Highway Commercial and Services [Land Use Classification]. The Land Use Element of the 2010 Comprehensive Plan indicates that for Highway Commercial and Services the appropriate zoning would be C-3, C-4 and C-5. Therefore the proposed rezone to C-4 Highway Business will be consistent with the Comprehensive Plan.

Appendix A-Zoning Consistency Analysis of the 2010 Compressive Plan has identified Assessors Plat 10 Lot 39 as being inconsistent with the Future Land Use Plan and has proposed a zoning classification of C-4.

LU-24 of the Land Use Plan Action Program of the Land Use Element of the 2010 Comprehensive Plan requires the City to “Amend Zoning Map and Zoning Ordinance to eliminate inconsistencies between the Future Land Use Map and Zoning.”

Section 17,120-“Power of the city council to adopt-Consistency with the comprehensive plan” of the City Code of Ordinances states:

‘For the purpose of promoting the public health, safety, morals and general welfare of the city, the city council may adopt, amend or repeal and provide for the administration, interpretation and enforcement of this chapter or any part thereof. The provisions of a zoning ordinance shall be set forth in text and map(s) and may incorporate charts or other material. The zoning ordinance and all amendments thereto, shall be consistent with the city’s comprehensive plan, as described in Rhode Island General Laws Section 22-2 and shall provide for the implementation of the city’s comprehensive plan.’

#### FINDINGS

Cranston 2010 Comprehensive Plan: The Future Land Use Plan of the 2010 Compressive Plan designates the site as Highway Commercial and Services [Land Use Classification]. The Land Use Element of the Comprehensive Plan indicates that for Highway Commercial and Services the appropriate zoning would be C-3, C-4 and C-5. In addition, a change in zoning to C-4 would be consistent the zoning classification proposed in Appendix A Zoning Consistency Analysis and with LU-24 of the Action Plan of the Land Use Element of the 2010 Comprehensive Plan. Therefore the proposed rezone to C-4 Highway Business will be consistent with the 2010 Comprehensive Plan.

Findings Under §17.04.010 City Code. Sec. 17.20.30 requires that the City Plan Commission, as part of its recommendation to the City Council, “Include a demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in Section 17.04.010 of this title.” Section 17.04.010 set forth the General Purpose for Title 17 of the City Code. The Commission notes that to the extent that any redevelopment of this site will be required to comply with Title 17, including Development Plan Review, and will be required to comply with City of Cranston Subdivision and Land Development Regulations, the Commission finds that the proposed rezone of the site to C-4 is consistent with the appropriate purposes detailed in §17.04.010.

#### RECOMMENDATION

The Commission finds the proposed zone change to C-4 Highway Business consistent with the 2010 Comprehensive Plan. Therefore, upon motion made by Mr. Vincent and seconded by Mr. Mason, the Commission unanimously voted (8/0) to forward a positive recommendation and endorsement of Ordinance 9-16-03 to City's Ordinance Committee and the full City Council.

**Ordinance 09-16-10** In amendment of Chapter 17.04.08.020 of the Code of the City of Cranston, 2005, entitled "Zoning" District Boundaries (Digitized GIS Zoning Maps)

Mr. Lapolla explained that this ordinance proposal is an initiative of the Planning Department and the GIS Coordinator to "modernize" the process of accessing the City's zoning maps.

Ms. Harrington asked if there is a guide that lists all of the zoning changes. Mr. Lapolla informed her that there is. It reflects all of the changes since 1966. She then questioned "Letter D". Mr. Lapolla responded to her concern about the right of way abandonment process. Mr. Marsella further explained that the process of abandonment is a City Council matter. He further stated that this ordinance proposal has, "nothing to do with the road abandonment process".

#### PROPOSAL/ANALYSIS

Ordinance 9-16-10 is the end result of a joint initiative between the Plan Commission and its staff and the City's GIS manager. The ordinance proposes to replace the current Zoning Plat Maps [the City's official zoning map] with an on line zoning map using data from the City's GIS. [The ordinance proposes to digitize the zoning map.] The City's current zoning map consists of a set of linen/paper plat maps. The maps were created in November, 1965 and the base information presented is for the City [parcels, roads, development] and the zoning classifications assigned as of that date. As zoning has changed, said changes have been recorded by making handwritten notes on the Zoning Plat maps. As the land form has changed [new lots and/or new development], the maps have not changed. The official zoning maps are linens that are kept by the City Clerk. In addition to the linens, both the Planning Department and the Building Inspector's office have a paper set. Given the procedures as to how the sets of maps have been updated, there is no assurance of consistency between the linens and the paper maps.

The ordinance as submitted proposes to designate as the official zoning map

- The zoning data that is online as part of the City's GIS
- A paper copy which will be generated for the GIS data and stored at the office of the City Clerk.

The GIS zoning data uses the City's current parcel configuration and current development pattern and assigns zoning on a parcel by parcel basis. The GIS zoning data provides a link to a parcel's zoning history [if zoning has changed] which shows date of any change and the zoning documents associated with the change.

In addition to designating a "zoning map," the ordinance:

- Establishes procedures updating the zoning data and map;
- Requires that an updated record copy of the GIS data and a paper zoning map be filed annually at the office of the City Clerk;
- Provides standards for establishing zoning boundaries where property lines do not control [i.e. shorelines].

**RECOMMENDATION** - The Commission suggests that the City has a simple choice. It can continue to use, as its official zoning maps, maps that are now over 50 years old and that reflect a City that no longer exists. It can adopt as its official zoning map the data shown in the City's GIS [digitized map] that assigns zoning on a parcel basis, reflects the City as it currently exists and provides a mechanism for updating as zoning and/or the development occurs. Given the two choices, upon motion made by Mr. Motte and seconded by Mr. Vincent, the Plan Commission voted (7/1- Ms. Harrington voted nay) to forward a positive recommendation and endorsement of Ordinance 9-16-10 to City's Ordinance Committee and the full City Council.

**Ordinance 6-16-10** Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (950 Phenix Ave.) – *Daycare/Education & 150' tall signage*

Mr. Lapolla stated that he was informed by the City Clerk that the City Council had acted on the Daycare/Education portion of this ordinance and that the applicant was to submit a new ordinance for the sign only. Apparently the City Council removed the sign portion of the proposal. Attorney John Mancini stated that this matter was continued last month to give him an opportunity to "work out issues with the sign proposed". He expressed disbelief at this and stated that it was his understanding that the City Council wanted to move forward with the education portion and

“remand” the signage proposal back to the Plan Commission. He stated that he submitted the required additional information, as requested, and stated that he feels “this is unlawful and not due process”.

Mr. Marsella asked “Do we have an ordinance?” Mr. Mancini stated that “you have the additional information that was requested”. Mr. Marsella then suggested that the matter be continued for another month and the City obtain transcripts of the Ordinance Committee Meeting as well as the City Council Meeting prior to next month’s meeting. He further stated that he will have the City Solicitor, Christopher Rawson, attend next month’s meeting.

Upon motion made by Mr. Motte and seconded by Mr. Mason, the Commission unanimously voted (8/0) to continue this matter to the November 1, 2016, Plan Commission Meeting.

### **ZONING BOARD OF REVIEW RECOMMENDATIONS**

**CHRISTINA M INFANTOLINO AKA CHRISTINA M L'HEUREUX 25 HIGH VIEW DRIVE CRANSTON RI 02921 (OWN/APP)** has filed an application for permission to build an 18’ X 32’ one story bedroom addition with restricted front yard setback at **25 High View Drive**. AP 22/2, lot 28, area 12,000+/- SF, zoned A-8. Applicant seeks relief from Sections; 17.92.010 Variance 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 existing residential use is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area of the City as Single Family Residential 7.26 to 3.64 units per acre.
2. The existing house has a 25’ side yard setback.
3. On the right front area of the house where the 18’ wide addition will be attached, the existing front yard setback extends from 47 ft. to 54 ft. because the house is diagonally located on the lot.
4. The proposed 32 ft. front addition attached to the right side of the house will have an 18’-8” front yard setback, where 25’ is required.
5. The proposed addition will have a 10’-6” side yard setback where 10’ is required.
6. GIS analysis shows that this will be the only house within the 400’ radius (includes 35 houses) to have a 32’ front addition that encroaches 6’-4” into the minimum front yard setback, thereby altering the general character of the surrounding area.
7. The existing garage on the left side of the house has a restricted 20.2’ front yard setback.

**Recommendation:** The Commission finds that the application for an addition on a Single Family residential use, is not inconsistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area of the City to be used as Single Family Residential, 7.26 to 3.64 units per acre. Therefore, upon motion made by Mr. Motte and seconded by Ms. Bittner, the Commission unanimously voted (8/0) to forward a positive recommendation on this application.

**DELLWOOD BUILDERS INC 11 POPLAR CIRCLE CRANSTON RI 02921 (OWN) AND PJ'S PUB 1139 PONTIAC AVENUE CRANSTON RI 02920 (APP)** have filed an application for permission to expand outdoor seating with an additional 12’ X 15’ concrete patio at **1139 Pontiac Avenue**. AP 10/4, lot 680, area 10,000+/- SF, zoned M-2. Applicant seeks relief from Sections; 17.92.010 Variance and 17.20.120 Schedule of Intensity, 17.64.010 (F), (I) Off-Street Parking.

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 commercial restaurant use is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area of the City as Highway Commercial.
2. There were no floor plans submitted that would indicate how many seats are in the restaurant and existing covered patio, and how many seats are proposed for the new patio.
3. The application states relief is sought for off-street parking requirements; the applicant’s attorney verbally stated that there are 71 seats in the building, 30 seats in the screened patio, and 16 additional seats are proposed for the proposed patio, for a total of 117 seats, requiring 39 parking spaces.

4. There is an existing 15' x 19.5' screened patio enclosure with a 28.5' front yard setback, (where a 40' setback is required) that was constructed without a Zoning Variance or building permit. (Verified by the Building Inspections Department)
5. The City's Traffic Engineer disapproved the parking plan that shows 16 parking spaces, at least 10 of those do not permit egress from the parking lot in a forward motion.
6. The proposed patio with optional screen enclosure will abut the unpermitted, screened patio, and will have a 16.5 ft. front yard setback from Pontiac Avenue, where a 40 ft. front yard setback is required in this zone.

Recommendation: The existing commercial restaurant use itself is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area of the City as Highway Commercial. The Commission takes no position on this application as the nature of this application falls under the jurisdiction of the Zoning Board. Therefore, upon motion made by Mr. Motte and seconded by Mr. Vincent, the Commission unanimously voted (8/0) to make no recommendation.

**MONTECATINI REALTY INC 800 OAKLAWN AVENUE CRANSTON RI 02921 (OWN/APP)** has filed an application for permission to convert the second floor of an existing two-family dwelling into a professional office with restricted front yard setback at **10 Miles Avenue**. AP 15/2, lot 281, area 7,350+/- SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance and 17.20.120 Schedule of Intensity, 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 2010 Comprehensive Plan Future Land Use Map designates this area of the City as Single Family Residential, 7.26 to 3.64 units per acre, therefore the application for a professional office is not consistent with the Comp Plan.
2. The site plan submitted shows the existing garage will be removed and a parking lot with six parking spaces will be provided in the rear yard.
3. The proposed parking lot at the rear of the building abuts a parking lot for the business at 780 Oaklawn Ave.
4. The existing front yard setback is 23.5'.
5. The property abuts commercial uses to the left and rear.
6. The site plan submitted shows a 13.3' asphalt driveway to the rear parking lot will be installed along the right property line. Photographs show that there is a dense arborvitae hedge along this property line that acts as a screened buffer.

Recommendation: Upon motion made by Mr. Motte and seconded by Mr. Nadeau, the Plan Commission voted (7/1 – Ms. Harrington voted nay) to forward no specific recommendation on this application to the Zoning Board, as the 2010 Comprehensive Plan Future Land Use Map designates this area of the City as Single Family Residential, 7.26 to 3.64 units per acre; therefore, the application for a professional office is inconsistent with the Comp Plan. The Commission recommends that the arborvitae hedge be retained as a screened buffer between the commercial use and the abutting single family to the right of the applicant's property.

**MONTECATINI PROPERTIES LLC 800 OAKLAWN AVENUE CRANSTON RI 02921 (OWN/APP)** has filed an application for permission to build a 26' X 52' one story single family dwelling with restricted frontage, front and side yard setback on an undersized lot at **0 Warman Avenue**. AP 15/2, lot 289 & 290, area 4,000 +/- SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance 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 2010 Comprehensive Plan Future Land Use Map designates this area of the City as Single Family Residential, 7.26 to 3.64 units per acre; the proposed application will result in a density of 10.89 units per acre; therefore, the application is not consistent with the Comp Plan.
2. The applicant's lot has 40 feet of frontage, where the average lot frontage for the 17 houses on Warman Avenue within the 400' radius is 86.8 ft., but the median frontage is 100 ft.
3. No lots on the street have less than 60 ft. frontages.
4. Lot 290 (an unbuildable 2,000 sq. ft. lot since the 1965 Zoning Ordinance) was acquired at a tax sale in 1977 by a different owner, and the chain of title shows that the lot has been owned by 8 different entities since then.

5. Lot 289 (also an unbuildable 2,000 sq. ft. lot ) has been owned by 9 different entities since 1977.
6. Montecatini took ownership of both unbuildable lots in 2013.
7. In addition to insufficient frontage and undersized area, the proposed new dwelling cannot meet the required side yard setbacks of 8 feet, or the required front yard setback of 25 feet.
8. The application alters the general character of the surrounding area, and impairs the intent and purpose of the Zoning Ordinance, and the Comprehensive Plan upon which the ordinance is based.

Recommendation: Upon motion made by Mr. Motte and seconded by Mr. Mason, the Plan Commission voted (7/1 – Mr. Strom voted nay) to forward a negative recommendation on this application to the Zoning Board, as the resulting density will be 10.89 units per acre which is inconsistent with the Comprehensive Plan's Future Land Use Map's designated density of 7.26 to 3.64 units per acre, in this area of the City, and will alter the general character of the neighborhood.

#### **ADJOURNMENT**

Upon motion made by Mr. Motte and seconded by Ms. Bittner, the Commission unanimously voted (8/0) to adjourn at 9:15 pm.

**NEXT MEETING** November 1, 2016 – City Council Chamber, 7 pm

Respectfully submitted,

Jason M. Pezzullo, AICP  
Principal Planner/Administrative Officer