

## MINUTES

**October 7, 2008**

Chairman Paul Petit called the Planning Commission Meeting to order at 7:10 p.m. in the City Council Chamber.

The following Commission members were in attendance:

Paul Petit, Chairman  
Councilwoman Paula McFarland, Vice Chair  
Anthony Sylvia, P.E., Public Works Director  
Robert Cicerone

Also present were:

Peter Lapolla, Planning Director  
Jason M. Pezzullo, AICP, Principal Planner (arrived 8:15 p.m.)  
Lynn Furney, AICP, Senior Planner  
Vito Sciolto, Esq., City Solicitor  
Ron Ronzio, Stenographer  
J. Resnick, Senior Clerk

Those members of the public in attendance were:

Joseph Ranone	Michael Mitchell, Esq.	Robert Murray, Esq.
Richard Bzdyra	Ronald Jameson	Joyce Jameson
Robert Gelfuso	Gina Malloy	Richard Evans
Ray Lucia	Martha Lucien	David Camate
David Parenatcyk	Dolores Caranan	David Cloken
Robert Pelletier	John Lanni, Jr.	P. Cicerone
A. Garabedian	Robert Cicerone	Linda Marcello
Peter Palumbo	Tom Sacco	Bob McCaffry

## MINUTES

Upon motion made by Mr. Sylvia and seconded by Mr. Cicerone, the Commission unanimously voted to *approve* the minutes of the September 9, 2008, Planning Commission Meeting.

## ORDINANCES

**Ordinance # 8-08-1** – Amending the Comprehensive Plan of 1992 (Glen Hills Section)

**Ordinance # 9-08-2** - Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Change of Zone – Glen Hills Section)

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, the Commission unanimously voted to *table* the above referenced ordinances due to the fact that there were only four Commission members present and Mr. Cicerone would be obligated to recuse himself from any discussion of the matter.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. Nay votes: none.

**Ordinance # 9-08-1** - Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Change of Zone – 870 Oaklawn Ave.)

Ordinance 9-08-01 proposes to amend the City's Zoning Map to re-zone a parcel of land (AP 15, Lot 350) located at 870 Oaklawn Avenue from a C-2 Zone (Neighborhood Business) to a C-3 Zone (General Business). The parcel is currently being used for business uses and is located in an established business district. The land abutting the parcel to the south, east (across the street on Oaklawn Avenue) and north is zoned C-2 and the land abutting the parcel to the west is zoned A-6.

The change in zoning classification for the parcel from C-2 to C-3 will change the uses allowed on site under the Zoning Ordinance. The table below summarizes the differences between uses allowed in the two zoning districts.

Principal Use		
	C-2	C-3
Accessory family apartments	s	p
Philanthropic, religious institutions other than schools and churches	a	s
Tourist home; rooming and boarding houses	a	p
Health care facility	a	p
Motels, hotels and inns, not including restaurants	p	a
Parks and playgrounds	a	p
Open air market	p	s
Lodging house	a	p
Restaurants without drive-in facilities		
1. Serving alcoholic beverages	p	a
Retail and service establishments other than those listed above	p	a
Business school	p	a
Office, including display or sales space of a wholesale, jobbing, or similar establishment where not more than 25 percent of the floor area is used for assembly, packaging, or storing merchandise	p	a
Salesroom for the display of motor vehicles, trailers, boats, and machinery		
2. Excluding storage and repair facilities	p	a
Commercial recreation or entertainment facilities (subject to Section 17.24.010)		s

The change in zoning classification for the parcel from C-2 to C-3 will change the dimensional and density requirements for the site. In that the dimensional and density requirements in a C-3 district are less stringent than a C-2 district, a rezone may make the site more conforming.

City Council President, Aram Garabedian, Councilwoman McFarland, Councilman John Lanni, Councilman Emilio Navarro and Representative Peter Palumbo spoke in favor of the proposal. Attorney Dennis Greco presented the Commission with a petition signed by members of the public also in support of the zone change to allow for the operation of Tommy's Pizza. He stated

the Comprehensive Plan designates the area as 'Commercial and Services', therefore, the application is consistent with the Comprehensive Plan.

Tom Sacco, owner of Tommy's Pizza on Chalkstone Avenue, addressed the Commission also, stating that it has been a successful and popular family restaurant for many years. He stated that hours of operation are from 11 a.m. to 11 p.m. The restaurant has a limited liquor license serving beer and wine.

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to recommend that the City Council act favorably on this request for a change of zone from C-2 to C-3.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. There were no nay votes.

#### **AMENDMENT TO THE CRANSTON SUBDIVISION AND LAND DEVELOPMENT REGULATIONS**

Amendments to Sections IV.A Land Development Project/Planned Districts  
IV.B Environmental Assessment

Planning Director, Peter Lapolla, stated that the proposed amendments are in response to the failed "Mulligan's Island" proposal. The proposed changes are as follows: 1) The threshold for industrial developments has to be set back from ten acres to five acres as it is currently in the regulations and, 2) The criteria for determining whether residential developments are major or minor now refer to residential units being "created" as opposed to being "built" in order to clarify that the determining factor is the number of units generated. (Refer to Mr. Lapolla's memorandum of October 2, 2008, which is included in the record of minutes.)

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to *approve* the above referenced amendments to the Subdivision and Land Development Regulations.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. There were no nay votes.

#### **SUBDIVISION AND LAND DEVELOPMENT PROJECTS**

##### **The Palazzo Plat - Master Plan**

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

At the request of the applicant's attorney, John DiBona, the Commission, upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, unanimously voted to *continue* the informational hearing on this proposed subdivision to the November 5, 2008, Planning Commission Meeting.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. There were no nay votes.

##### **Gold Meadow Farm – Preliminary Plan**

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, the Commission, upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, unanimously voted to *continue* the

informational hearing on this proposed subdivision to the November 5, 2008, Planning Commission Meeting.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. There were no nay votes.

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

**JOSEPH GELFUSO 346 PRINCESS AVENUE CRANSTON RI 02910 (OWN/APP)** has filed an application for permission to leave an existing legal nonconforming single family dwelling with restricted side and corner side yard set back on an undersized [lot 74] and build a new 27' X 42' +/- single family home on the abutting undersized [lot 75] at **346 Princess Avenue**. AP 8, Lots 74 & 75, area 10,800 +/- sq ft, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.88.010 Sub-standard lots of record.

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 residential use of the property conforms to the Comprehensive Plan's Future Land Use Map, which designates the area as residential, more than 8 units per acre.
2. The proposed new single family meets all required yard setback distances, though the existing dwelling on lot #74 will have a 6' side yard setback.
3. The tax assessor's records and current field card indicate the house on Lot 75 is a two-family, and not a single family as listed in the application, and on the site plan submitted with the application.
4. The average lot size for the 96 (combined) single and two family dwellings located within the 400' zoning radius is 6,425 sq. ft.
5. Taken separately, the average lot size for the 68 single family dwellings is 6,325 sq. ft., and the average lot size is 6,668 sq. ft. for the 28 two family dwellings.
6. However, 44 (65%) of the 68 single family dwellings are on lots that are 5,000 or less square feet, and 14 (50%) of the 28 two family dwellings are on lots that are 5,000 or less square feet.
7. Therefore, though the applicant's 5,000 sq. ft. lots are 22% smaller than the neighborhood's average lot size, the application is not out of character with 58 (60%) of the 96 residential lot sizes within the 400' radius.

**Recommendation:** Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, and based on the above findings, the Planning Commission unanimously voted to recommend *approval*, as the application will not alter the general character of the surrounding area, or impair the intent or purpose of the Zoning Code, or the Comprehensive Plan upon which the Zoning ordinance is based, and with the following condition:

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.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. Nay votes: none.

**LAKE VIEW DEVELOPMENT LLC 110 LAKE VIEW ROAD CRANSTON RI 02920 (OWN/APP)** has filed an application for permission, pending minor subdivision approval, to leave an existing single family dwelling on a proposed 7364 +/- sq ft lot with restricted front and rear yard setback [parcel B, **140 Lake View Road**] and build a new one story 28' X 64' single family dwelling on a

proposed 8520+/- sq ft lot with restricted rear yard setback on **Wine Street**. AP 17/4, Lots 1586, 1587 & 1588, area 15,884 +/- sq ft, zoned A-6. 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 proposed 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. Almost half of the new 7,364 sq. ft. lot is located within a 100 year flood plain as shown on the 1984 FEMA flood maps with a flood elevation at 56 feet. The site plan submitted shows part of the proposed house is located within the FEMA floodplain area.
3. The building plans submitted shows a full basement, which may not be allowed because of the flood plain elevation of 56'. (The basement floor must be above this elevation). Fill would not be allowed, unless the same cubic footage of fill placed in the flood plain is compensated for (excavated) on the same lot.
4. Several properties located in the surrounding floodplain area have submitted Certificates of Elevation to FEMA, that show that the parcels are above the floodplain elevation, and have received LOMAs (Letters of Map Amendments) from FEMA.
5. The professional land surveyor for the property has indicated that the elevation of Wine Street is 60' along the front of the property, and is therefore out of the floodplain. No request for a LOMA has been submitted by the applicant to FEMA.
6. The proposed Minor Subdivision of the property received a conditional Preliminary Plan Approval from the Plan Commission on October 7, 2008, with the condition that the applicant receive a dimensional variance from the Zoning Board, and receive an approved LOMA from FEMA.
7. The new lot depths are 71 feet and 52.42 feet, which are insufficient lengths to allow for conforming rear setbacks. The existing house will have a new 10.83' rear yard setback, and the new house will have an 18' restricted rear yard setback. The remaining yard setbacks for the new dwelling conform to the zoning requirements.
8. The restricted 10.26' front yard setback for the existing house is preexisting.

Recommendation:

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, and based on the above findings, the Planning Commission unanimously voted to recommend *approval*, as the application will not alter the general character of the surrounding area, or impair the intent or purpose of the Zoning Code, or the Comprehensive Plan upon which the Zoning ordinance is based, and with the following condition:

1. That the applicant obtains an elevation certificate and Letter of Map Amendment (LOMA) from FEMA for the proposed new lot on Wine Street.
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 Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. Nay votes: none.

**CALVI REALTY CO INC, SUCCESSOR BY MERGER TO EPPLEY REALTY CO INC 1385 HANCOCK STREET QUINCY MA 02169 (OWN) AND STOP & SHOP SUPERMARKET CO 1385 HANCOCK STREET QUINCY MA 02169 (APP)** have filed an application for permission to construct an 8 dispenser gasoline service station with canopy and additional signage than that allowed by ordinance at **200 Atwood Avenue**. AP 12/5, Lot 3184, area 9.92 +/- acres, zoned C-2. Applicant seeks relief from Sections; 17.92.020 Special Use Permit, 17.48.010 Gasoline Service Stations, 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 conforms with the Comprehensive Plan's Future Land Use Map, which designates this area of Atwood Avenue as "Commercial and Services".
2. The Site Plan Review Committee approved the Preliminary submission on August 6, 2008.
3. The dimensions of the proposed canopy are 138' x 55' x 3'-8". The overpowering height of the proposed letters to be installed on the canopy is 3', leaving only 4" of white space above and below the letters.
4. The total area of the proposed "Stop & Shop" canopy signage is 150 sq. ft. (3' x 25' x 2 sides).
5. The new 2-sided pylon sign will be 12 ft. high, with a total of 64 sq. ft. of sign area. (5'-1" x 6'-6" x 2 sides). The Zoning ordinance permits 25 sq. ft. total for a freestanding sign.
6. The proposed total area of new additional signage is 214 sq. ft. The existing supermarket and bank presently have signage that exceeds limits for a C-2 zone.
7. 82 parking spaces are to be eliminated within the project area, but 15 of those spaces will be relocated, for a net loss of 67 spaces; however, the number of parking spaces for the entire parcel, including the supermarket and bank, exceeds the zoning requirements.
8. The proposal meets the specific requirements for gasoline service stations, listed in Sec.17.48.010 of the Cranston Zoning Code.

Recommendation: Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, and based on the above findings, the Planning Commission unanimously voted to recommend *approval*, as the application will not alter the general character of the surrounding area, or impair the intent or purpose of the Zoning Code, or the Comprehensive Plan upon which the Zoning ordinance is based, and with the following condition:

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. Reduce the height of the letters on the canopy to a maximum of 2'-6" (30"), which will reduce the length proportionately, and allow for better letter spacing on the canopy.
3. Confirm that no Physical Alteration Permit is required from RIDOT.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. Nay votes: none.

**GINO TONETTI 380 ATWOOD AVENUE CRANSTON RI 02920 (OWN) AND LEGERE INC 30 NORTH MAIN STREET ATTLEBORO MA 02703 (APP) AND SPEEDEE INC CORPORATION TRUST CENTER WILMINGTON DE 19801 (LESSEE)** have filed an application for permission to install a double sided two line electronic message unit sign at **380 Atwood Avenue**. AP 12, Lots 887, 888, 889, 908, 909, 910 & 3260, area 20,000 +/- sq ft, zoned C-4. Applicant seeks relief from Sections; 17.92.010 Variance, 17.72.010 (B), (G), and (P) 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 current use of the property, a Speedee Oil change and automotive maintenance business, conforms with the Comprehensive Plan’s Future Land Use Map, which designates this area of Atwood Avenue as “Commercial and Services”. The Land Use Element of the Comprehensive Plan entitled *Commercial Corridor Design Strategies*, recommends an action that would “prohibit tall and internally lit signs, and allow free-standing signs only under limited conditions...”(page 43).
2. The proposed 2 sided message board will measure 9.4 ft. x 2.1 ft. for a total of 39.48 sq. ft. (19.74 sq. ft. per side), which is an increase of 78% over the permitted area of 50 sq. ft. allowed by ordinance for freestanding signs in a C-4 zone.
3. The proposed message board will be installed under the existing 10’-10” x 2’-6” pylon sign, which totals 54.16 sq. ft. The height of the existing sign is 14’-6” which conforms to the maximum allowed height of 15’ for freestanding signs. The area of the existing sign is 4.16 sq. ft. larger than the maximum 50 sq. ft. allowed by the sign ordinance.
4. As depicted on photos taken on October 6, 2008, an illegal, changeable copy, 2-sided portable sign formerly located on the ground under the existing pylon sign, had been removed. (The Inspections office shows the only permit application for a temporary portable sign was taken out in 2004.)
5. Within the 400’ radius, there are 13 commercial businesses located on Atwood Avenue, one business (Paul Mitchell across the street) has an EMU that was granted by variance.. Less than a half mile away, Sasa Auto at 550 Atwood Avenue received a sign variance for an EMU in April 2008, with the condition that their existing pylon sign be removed, and the electronic letters (LED’s) in the EMU be amber in color.(The Planning staff had recommended denial for the EMU.)
6. CVS, located 1,700 feet south of the applicant’s property on Atwood Avenue, also recently received a zoning variance for an EMU. (The Planning staff’s recommendation had been for denial).

Recommendation:

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, and based on the above findings, the Planning Commission unanimously voted to recommend *tabling* this application, with the applicant’s attorney’s consent, to allow the applicant sufficient time to redesign the existing and new EMU sign to conform with the sign ordinance’s maximum area of 50 sq. ft. for freestanding signs.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. Nay votes: none.

**NOTE:** The Commission realizes that EMU signs are a trend of the future, but also realizes that the addition of EMUs on existing signs has the potential to double the area of freestanding signage on Commercially zoned streets (ie. Park Ave., Reservoir Ave., Oaklawn Ave., Atwood Ave.) The photo of the signs on Atwood Avenue located to the north and south of the applicant’s property illustrates the Commission’s concern, and recognizes the need to update the sign ordinance to list standards for future EMUs.

**J&G BENDER REALTY LLC 629 BUDLONG ROAD CRANSTON RI 02920 (OWN/APP)** has filed an application for permission to convert an existing dental office/residence to a professional office/residence at **629 Budlong Road**. AP 11, Lot 3051 area 10,800 +/- sq ft, zoned A-8. Applicant seeks relief from Sections; 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 proposed residential and professional office use of the property does not conform to the Comprehensive Plan’s Future Land Use Map, which designates the area as residential, 4-8 units per acre; however, the property has been used as a residence/dental office since 1985, when the property received a zoning variance.
2. The proposed office use, an insurance agency, will not increase the floor area (960 S.F.) formerly used as a dental office. The residential area of the building will still contain 1120 S.F. of living space.
3. The proposed office area requires 4 off-street parking spaces. The paved parking area in the rear of the building provides 6 spaces and 1 handicap space.
4. An insurance office is a less intensive use than a dental office.
5. The abutting property to the south (lot 3054) contains doctor’s office, that is a legal nonconforming use (since 1962).
6. As the property has been used as a professional office/residential dwelling for the past 23 years, the proposal 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 Councilwoman McFarland and seconded by Mr. Sylvia, and based on the above findings, the Planning Commission unanimously voted to recommend *approval*, as the application will not alter the general character of the surrounding area, or impair the intent or purpose of the Zoning Code, or the Comprehensive Plan upon which the Zoning ordinance is based, and with the following condition:

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.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. Nay votes: none.

**SUBDIVISION AND LAND DEVELOPMENT PROJECTS**

**Lake View Estates – Preliminary Plan**

Minor Subdivision without street extension  
Wine Street and Lake View Road  
AP 17/4, Lots 1586, 1587 and 1588

A favorable decision was rendered by the Planning Commission last month on this proposal; however, in researching this applicant’s Zoning Board of Review application, the Planning Department staff found that the proposed subdivision is inconsistent with the 1992 Comprehensive Plan, Future Land Use Map which designates the area as Open Space. Due to the level of detail provided on the Future Land Use Map, staff could not positively determine 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. The parcel is in the 100 year floodplain and will require a flood elevation certificate and a Letter of Map Amendment (LOMA).

Richard Bzdrya, Ocean State Planners, stated that the parcel is in Flood Zone A-5, which indicates that the entire area is in a flood zone. He noted that at elevation 56 the area flooded, however, he stated his finding is that the elevation is 62. He agreed with the need for a flood elevation certificate and a Letter of Map Amendment (LOMA).

Mr. Lapolla pointed out that fill has been brought in to the site. Mr. Bzdyra addressed this concern, stating that topography was taken before the fill was brought in. He stated that the property is 4-6 feet above the floodplain.

No public comment was offered on this matter.

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Planning Commission unanimously voted to adopt the following Findings of Fact and *approve* this Preliminary Plan, with waiver for sidewalk provision, subject to the conditions denoted below.

#### Findings of Fact

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 on 8/22/08 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 is inconsistent with the 1992 Comprehensive Plan, Future Land Use Map which designates the area as Open Space. Due to the level of detail provided on the Future Land Use Map, staff can not positively determine 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.**
3. Both of the proposed lots exceed the minimum area requirements of the A-6 zoning district. Parcel B will require a variance from the Zoning Board of Review for a substandard rear setback. The layout of the proposed lots will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.
4. It is unknown if there will be any significant negative environmental impact because staff data depicts the proposed lot as being located within the 100 year flood plain.
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 Lake View Road and Wine Street, 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. Applicant shall receive the required dimensional variance for proposed Parcel B prior to submission of the Final Plan with the Planning Department.
2. **Provide an elevation certificate and LOMA (Letter of Map Amendment) from FEMA verifying that the proposed lot does not lie within the 100 year floodplain.**
3. Submission of a draft easement to be recorded at the time that Parcel A is transferred to a new property owner for the crossing of the overhead utilities.
4. Final Record Plan shall depict the driveway locations for each lot.

5. Payment of Eastern Cranston Capital Facilities Impact Fees of \$593.46 at the time of Final Plat recording.
6. Provide a performance guarantee at the time of Building Permit for the required installation of 6" concrete curbing along the frontages along both lots.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. Nay votes: none.

### **Lincoln Avenue – Preliminary Plan**

Major Land Development with no street extension

Lincoln Avenue

AP 7, Lots 135-138, 2334 and 3706

Attorney David Igliozzi, on behalf of his client, Gary Balletto, explained the progress of the submission to date. He stated that the project has received Site Plan Review and Zoning Board of Review approvals. The applicant proposes to subdivide the existing lots creating two new additional building lots for the construction of two 3-family structures (6 additional units). Parcel 1 is proposed at 10,202 square feet for a new 3-family structure; Parcel 2 is proposed at 9,372 square feet for a second new 3-family structure; and Parcel 3 is proposed at 6,684 square feet for the existing 2-family. The applicant has successfully obtained a Use Variance from the City's Zoning Board of Review for the proposed 3-family structures which are normally prohibited within the **B-1** zone. Also, the applicant has been granted a dimensional variance for the reduced lot size for the existing 2-family unit. The parcels will be serviced by public water and sewer. The project has received Veolia Water sewer approval. 'No Parking' signs will be placed in front of the new structures, and the site has sufficient parking to accommodate the residents.

No public comment was offered on this matter.

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Planning Commission unanimously voted to adopt the following Findings of Fact and *approve* this Preliminary Plan, subject to the conditions denoted below.

#### Findings of Fact

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 certified / return receipt requested mail on 9/26/08 and the meeting agenda has been properly posted. Advertisement for this major land development appeared in the 9/24/08 edition of the Cranston Herald.
2. The proposed subdivision and its resulting density of approximately **13.2** 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 more than 8 residential units per acre" and therefore will not impair or alter its intent or purpose.
3. The applicant has received a variance from the Zoning Board of Review in order to construct two three-family structures within the B-1 zone and therefore this proposal will not alter or impair the intent of the Cranston Zoning Code.
4. The property in question has adequate permanent physical access to Lincoln Avenue, an improved public roadway located within the City of Cranston.
5. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.
6. Significant negative environmental impacts are not anticipated to result from the proposed subdivision as shown on the Preliminary Plan.
7. The proposed subdivision will not result in the creation of individual lots with such physical constraints to development that building on these lots, according to pertinent regulations and building standards would be impractical.

8. The design of building lots, utilities, engineered drainage and other improvements will conform to local regulations for mitigation of flooding and soil erosion.
9. The proposed subdivision promotes high quality appropriate design and construction, will be well integrated with the surrounding neighborhood and will reflect its existing characteristics.
10. The proposed subdivision provides for safe vehicular through traffic, for adequate surface water run-off, and for a suitable building site.

#### Conditions of Approval

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

1. Applicant shall receive Final Site Plan Review approval from the Site Plan Review Committee Prior to submitting the Final Plan application with the Planning Department.
2. The Final Plan submission shall depict the new roadway to end in a pressure treated wooden guardrail rather than steel.
3. Payment of Eastern Cranston Capital Facilities Impact fee in the amount of \$3,560.76 (\$593.46 x 6)
4. Obtain final design approval from the Providence Water Supply Board prior to Final Plan submittal with the Planning Department.
5. Provide a performance guarantee in the amount of \$51,000, subject to a separate 2% administrative fee of \$1,020.

#### **Rogers Plat – Master Plan**

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

The Planning Commission was prepared to review the Master Plan submittal entitled 'Rogers Plat', however, due to the fact that the Planning Department has not received a revised plan, the following action was taken.

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to *continue* this matter to the November Planning Commission Meeting and toll the time frame for which review and decision is required.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Cicerone and Mr. Councilwoman McFarland. Nay votes: none.

#### **COMPREHENSIVE PERMIT**

##### **Phenix Terrace - Request to extend time for public hearing and decision**

Mr. Lapolla informed the Commission that the Planning Department is in receipt of a letter from Adler Pollock & Sheehan on behalf of the developers (E.A. Fish Assoc.) of the proposed Phenix Terrace site which states that they have agreed to toll the time frame for which Planning Commission action must be taken on their proposal. More time is needed by this developer to complete the traffic studies requested at the June 24, 2008, informational meeting. Also, in an effort to expedite the process, the developer indicated that they will request that the Planning Commission consider Master Plan and Preliminary Plan proposals at the same time.

Councilman Lupino expressed opposition to the above request, stating that the proposal has not come before the City Council and asking for clarification of "tolling". Mr. Lapolla addressed his

concern, explaining that the Planning Commission is under obligation to act on proposals within a 120 day time frame. In view of the fact that additional traffic studies (with school in session) were requested, the “tolling” of the time frame for which to act basically “stops time”, allowing sufficient time for E.A. Fish to perform the additional studies requested. He stated that the letter essentially holds the City harmless. City Solicitor, Vito Sciolto, concurred with Mr. Lapolla’s explanation.

At Mr. Lupino’s request, Mr. Lapolla read the letter of request from E.A. Fish Co. into the record (included in the minutes kept in the Planning Department Office).

Mr. Robert Pelletier and Councilwoman McFarland asked what the time frame is for the developer to submit the required information. He suggested that the applicant be notified that the required documents be provided by a certain date. Councilwoman McFarland also expressed concern with some of the language contained in the letter, particularly the sentence about “the City will hold a public hearing”. It is her opinion that the “request for public hearing should be theirs (the applicant’s)”. She also asked what the statute is for the applicant to respond.

Public Works Director, Anthony Sylvia, stated that the applicant’s are not ready to move forward as 1) the required traffic study has not been submitted and, 2) no sewer service approval has been provided.

Chairman Petit expressed concern with establishing a deadline for the developer’s submittal of the required information. He stated that the developer’s may site past Planning Commission practice on other projects that have been continued by the Commission.

Mr. Pelletier then mentioned that there is currently a Master Plan approval for 150 units. Mr. Lapolla stated that the applicant has two years to act on a Master Plan approval. Mr. Pezzullo noted that a Comprehensive Permit was a condition of the Master Plan approval.

There being no further comment, the Commission moved to a vote. Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, the Commission unanimously voted to send a letter of response to the applicant approving their request that the 120 day review period required by Section V(F)(2)(d) of the City of Cranston’s Subdivision and Land Development Regulations be tolled.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Cicerone and Mr. Councilwoman McFarland. Nay votes: none.

### **EXTENSIONS OF TIME**

#### **Soprano Plat – Preliminary Plan**

Minor Subdivision without street extension  
225 Macklin Street  
Assessors Plat 11, Lot 2064

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to *approve* a one-year extension of the Preliminary Plan approval originally granted by the Planning Commission on December 5, 2006, to October 7, 2009.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Cicerone and Mr. Councilwoman McFarland. Nay votes: none.

### **PERFORMANCE GUARANTEES**

#### **Alpine East**

Performance Guarantee Reduction  
Scituate Avenue  
AP 36/3, Lot 11

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, the Commission unanimously voted to *reduce* the required Performance Guarantee amount from \$374,000 to \$107,000, in accordance with the Engineering Divisions' recommendation.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone. Nay votes: none.

**Sanctuary Estates**

AP 28, Lot 64

Performance Guarantee Reduction

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, the Commission unanimously voted to *reduce* the existing \$97,000 Performance Guarantee by \$73,500, leaving a new Performance Guarantee of \$23,500.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Cicerone and Councilwoman McFarland. There were no nay votes.

**Replat of the Vendetti Plat**

Oxford Street and Lark Avenue

AP 7/4, Lots 3849, 1072 and 2981

Performance Guarantee Release

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland, the Commission unanimously voted to *release in its entirety* the remaining \$2,000 cash bond for the above referenced project, in accordance with the Public Works Department's recommendation.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone.  
Nay votes: none.

**Rossi Subdivision**

1850 and 1876 Phenix Avenue

AP 22/2, Lots 127 and 129

Performance Guarantee Release

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to *release in its entirety* the \$9,600 Performance Guarantee, in accordance with the Public Works Department's recommendation.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Cicerone and Councilwoman McFarland. There were no nay votes.

**Greenfield Commons**

AP 12, Lots 3158, 3166, 3167 and 3234

Reduction of Letter of Credit

Upon motion made by Mr. Sylvia and seconded by Councilwoman McFarland; and in accordance with the recommendation of the Public Works Department, the Commission unanimously voted to *reduce* the existing Sovereign Bank Letter of Credit #4973 in the amount of \$56,000 by \$42,000, leaving a balance of \$14,000.

Aye votes: Chairman Petit, Councilwoman McFarland, Mr. Sylvia and Mr. Cicerone.  
There were no nay votes.

## MISCELLANEOUS

Mr. Lapolla stated that the staff has been reviewing the process by which it and the City Plan Commission determine whether an application for subdivision approval will be treated as a major or minor subdivision. Based on the review, staff would suggest that the past practices of both Staff and the Commission should be changed. In arriving at this conclusion, staff cited the following:

RIGL Sec. 43-23-32 Definitions states:

'Where words or phrases used in this chapter are defined in the definitions section of either the Rhode Island Comprehensive Planning and Land Use Regulation Act, § 45-22.2-4, or the Rhode Island Zoning Enabling Act of 1991, § 45-24-31, they have the meanings stated in those acts. Additional words and phrases may be defined in local ordinances, regulations and rules under this act. The words and phrases defined in this section, however, shall be controlling in all local ordinances, regulations, and rules created under this chapter. See also § 45-23-34. In addition, the following words and phrases have the following meanings:

*(25) Minor subdivision.* A plan for a subdivision of land consisting of five (5) or fewer units or lots, provided that the subdivision does not require waivers or modifications as specified in this chapter.'

It is clear from the above definition that for an application to be processed as a minor subdivision two criteria must be met:

- The subdivision shall be for 5 or fewer lots.
- The subdivision shall not require a waiver or modification of the City's Subdivision and Land Development Regulations.

While in the past only the first criteria have been applied, staff now intends to process as a major subdivision any application for subdivision approval which would require as part of the approval a waiver or modification of the "Regulations."

In applying the above, staff would specifically note that Section XIII of the City's Subdivision and Land Development Regulation set the following design criteria that all subdivisions must meet:

### XIII.B. Street Design Standards

#### Curbs <sup>23</sup> :

Curbs shall be required along the gutter line of all streets and shall have a minimum radius of twenty-five (25) feet at corners. Pre-cast concrete wheelchair ramp curbs meeting RI DOT Standard 43.31/43.32 or 43.34 shall be installed where required by the Engineering Division.

#### Sidewalks

Sidewalks shall be required to be installed at minimum on one side of all proposed new public streets in residential subdivisions, all residential cluster developments, or multi-family land developments. Sidewalks may be required to be installed along both sides of streets in areas where the Planning Commission finds any of the following:

- a. The subdivision/development is located within one-half mile of a public or private school; or

b. The subdivision/development is located in reasonable proximity to major public or private destinations such as churches, shopping areas, playgrounds, etc. where there is a reasonable likelihood that pedestrian traffic would result; or

c. The subdivision is located within an area with high vehicular traffic volumes and where there would be a likelihood of significant danger to pedestrians.

Sidewalks may be waived in the A-80 and A-20 zoning districts, on short cul-de-sacs serving 10 or fewer lots/dwellings, and in residential cluster developments in special circumstances provided none of the conditions noted in a, b, and c above, exist. Where the sidewalk requirement has been waived, loam and seed shall be installed from the curb to the property line.

### XIII.B. Lot Design Standards

1. Size: Minimum lot areas and dimensions shall conform to the requirements of Section 30-19 of the Code of the City of Cranston, entitled "Zoning", with the following exceptions:

a. that if the proposed subdivision is not to be served by a public water system, the Commission may require larger sizes and greater frontages for lots in such area if it deems such action necessary to prevent unsanitary conditions from occurring on such lots. The requirements of the State Department of Health shall be used as a guide for determining whether an unsanitary condition may occur and the lot sizes recommended by the State Department of Health shall be used as a guide in determining lot sizes and lot dimensions necessary to assure healthful conditions.

b. that for Planned District proposal, lot areas and dimensions shall conform to the requirements of Section 30-34 or 30-35 of the Code of the City of Cranston, whichever is applicable.

c. that depth and width of properties laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

2. Use: The use of lots shall conform to the requirements of Chapter 30 of the code of the City of Cranston, entitled "Zoning".

Given these design standards, staff intends to process any application for subdivision approval as a major subdivision that either

- Proposes the creation of buildable lots that do not conform to zoning [both dimensional and density and use] requirements;
- Proposes not to install sidewalks and/or curbing.

As this new procedure is implemented staff would ask that the Plan Commission adopt the following policies:

For subdivisions involving 5 or fewer lots that require a grant of waiver only from a zoning standard, the master plan and preliminary plan steps of the approval process will be combined provided all fees [Pre-Application, Master Plan and Preliminary Plan] are paid.

For subdivisions that propose not to install curbing and/or sidewalks, an applicant may be allowed to make a payment to the City for future installation of improvement to curbing and sidewalks in lieu of seeking a waiver with said payment to be an amount equal to the costs of the curbing and sidewalks.

Public Works Director, Anthony Sylvia, stated that should the Planning Commission choose to combine the Master Plan and Preliminary Plan hearing, the final plan should be heard by the Planning Commission so that “the Commission will hear it twice”. He also expressed concern that we are needlessly imposing more stringent criteria for developers.

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to *approve* the above referenced changes to the Subdivision and Land Development Regulations.

**NEXT REGULAR MEETING**

**WEDNESDAY**, November 5, 2008 at 7 p.m. in the **Cranston High School West Auditorium**

**ADJOURNMENT**

Upon motion made by Councilwoman McFarland and seconded by Mr. Sylvia, the Commission unanimously voted to adjourn at 10:30 p.m.

Respectfully submitted,

Jason M. Pezzullo, AICP  
Principal Planner/Secretary

