

MINUTES

September 6, 2011

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
Michael Smith
Mark Motte
Robert Strom
Gene Nadeau

Also present were:

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

APPROVAL OF MINUTES

Upon motion made by Mr. Strom and seconded by Mr. Smith, the Planning Commission unanimously voted to approve the minutes of the August 2, 2011, Planning Commission Meeting.

ORDINANCES

Ordinance #-8-11-1 In Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled "Zoning" (Scituate Ave., Sundale Rd. and Charcalee Dr – Zone Change)

Mr. Lapolla reminded the Commission that a similar ordinance proposal was before them last April regarding the applicant's petition to re-zone a portion of the land that abuts the Western Industrial Complex (AP 36/4, Lot 1) from A-20 and S-1 to M-2.

Attorney John DiBona, representing Tory Woods Investments LLC, stated that the Ordinance Committee, last April, 2011, voted against this proposal. The Ordinance Committee wanted to know what type of use would be proposed prior to consideration of their granting approval. Mr. DiBona stated that, at this time, the property owner has an excavation company interested in using the parcel for storage of their equipment. Also, the property owner has proposed a 200 ft. vegetative buffer rather than the previously proposed 100 ft. buffer.

No public comment was offered on this matter.

Last year, the City Plan Commission adopted the 2010 Cranston Comprehensive Plan and Future Land Use Map. During the process of creating a new Future Land Use the Planning Department requested property owners to come forward if they had requests that could be incorporated into the Plan as long as they complied with the goals and policies of the Comprehensive Plan. The petitioned zone change is specifically referenced on page 27 of the Land Use Element:

AP 36, Lot 1 - Change the land use classification from open space and residential to open space and industrial. Change the zoning from A-20 to M-2 (should zoning be changed to M-2, said zoning should be restricted to low impact uses to protect the abutting residential neighborhood).

In addition: this change was graphically represented on the Future Land Use Map which is the legally binding document which controls decisions for all City bodies, boards and commissions. The Plan Commission determines that the proposed zone change from A-20 & S-1 to M-2 is consistent with the 2010 Comprehensive Plan and the Future Land Use Plan. Upon motion made by Mr. Smith and seconded by Mr. Motte, the Commission unanimously voted to recommend favorably on this request and also recommends that any zone change by the City Council respect the language of the approved Comprehensive Plan which specifically calls for “low impact uses to protect the abutting residential neighborhood”. The Commission feels that recommending specific land uses would be unwise at this time, however, we are prepared to recommend that any future use of the property should be limited to the following:

- Noise levels and hours of operation which respect the abutting residential neighborhood
- Severely limit or prohibit the scope of outside operations on site
- Minimize the level of lighting to the least amount necessary for the safe operation of any future business

Ayes: Chairman Rossi, Mr. Nadeau, Mr. Strom, Mr. Smith and Mr. Motte. Nays: none.

Ordinance #08-11-2 In Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled “Zoning” (11 Comstock Parkway – Zone Change)

Mr. Lapolla stated that the owners of land identified as Assessor’s Plat 35 Lot 17 have petitioned the City Council to rezone a portion of said land from General Industry M-2 to Highway Business C-4. The property is located at the corner of Plainfield Pike and Comstock Parkway.

The Commission finds that:

- The Future Land Use Map of the 2010 Cranston Comprehensive Plan designates the land use for the parcel as Highway Commercial/Services. We further note that said land use designation was assigned to this specific parcel via a City Council amendment to the future land use plan as proposed by the City Plan Commission.
- The Land Use Plan Element of the 2010 Cranston Comprehensive Plan [page 45] states:
 - **Neighborhood Commercial/Services and Highway Commercial/Services:** The Future Land Use Plan divides the previous 1992 designation of Commercial and Services into two new categories: Neighborhood Commercial/Services [NCS] and Highway Commercial/Services [HCS] in recognition that commercial land has a hierarchy of intensity of uses and service different market areas. NCS is oriented towards providing services to local neighborhoods while HCS is oriented towards providing services to citywide and regional markets. This plan recommends that the appropriate zoning for NCS is C-1, C-2 and C-3, and the appropriate zoning designation for HCS is C-3, C-4, C-5.
- Both State Law [RIGL 45-22-2] and the City’s Charter required that all zoning actions shall be consistent with any locally adopted Comprehensive Plan.

Upon motion made by Mr. Motte and seconded by Mr. Smith, the Plan Commission unanimously voted a resolution finding that the requested zone change is consistent with the 2010 Cranston Comprehensive Plan and its Future Land Use Map and recommends favorable action by the City Council.

Ayes: Chairman Rossi, Mr. Nadeau, Mr. Strom, Mr. Smith and Mr. Motte. Nays: none.

ZONING BOARD OF REVIEW ITEMS

MICHAEL J VALELLI 350 PIPPIN ORCHARD ROAD CRANSTON RI 02921 (OWN/APP) has filed an application for permission to build a 2880+/- SF two-family dwelling on **Loretta Street**. AP 11, Lots 190, 191, 192 & 193, area 20,000 SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.030 Schedule of Uses, 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 2 family dwelling is not 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**. There is sufficient area to build two single family dwellings that would result in densities of 4.356 units per acre.
2. All four lots are located in a FEMA, AE Flood Zone (100 year). Lots 190 and 193 fall completely within the flood plain. Approximately ½ of lot 191, and 2/3 of lot 192 are within the flood plain.
3. The parcel lies within a wetland and wetland buffer, and will need a permit from RI Department of Environmental Management for the construction of the proposed duplex. The wetland edge has not been verified by DEM.
4. The eastern side of Loretta Street, (directly across from the subject lot) contains 6 duplexes, each upon 6,000 sq. ft. lots.
5. R.I.G.L. 45-24-41 c.1 states that the hardship from which the applicant seeks relief must be due to the **unique characteristics of the subject land** or structure and **not** to the general characteristics of the surrounding area.
6. In November 2007, the applicant received 2 separate zoning variances to construct two separate, single family dwellings on these same lots. (never built) Those single family dwellings would be consistent with the intent and purpose of the Comprehensive Plan.
7. The applicant's attorney stated that he learned on 9/6/11 from the applicant, that DEM would not approve 2 separate dwellings, but did approve one building containing two units. The attorney did not have the DEM permit number or date of approval.

Recommendation: Though the Comprehensive Plan Future Land Use Map designates this area as Single Family Residential, the proposed density of 4.356 does fall within the Comp Plan's designated density of 7.26 to 3.64 units per acre for this area.

Based on the Findings of Fact, the Commission finds that extenuating circumstances justifies the diversion from the confines of the Comprehensive Plan, and therefore, the Plan Commission, upon motion made by Mr. Strom and seconded by Mr. Motte, unanimously voted to forward a positive recommendation on this application for a two family house, with the following conditions:

1. Submit an Administrative Subdivision to the Planning Department to combine all four undersized lots.

2. 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.

Ayes: Chairman Rossi, Mr. Motte, Mr. Strom, Mr. Nadeau and Mr. Smith. Nays: none.

LISA VIDETTO 70 HIGHLAND STREET CRANSTON RI 02920 (OWN/APP) has filed an application for permission to build a 560+/- SF family accessory apartment to an existing single family dwelling at **70 Highland Street**. AP 17, Lots 839, 840, 841 & 842, area 9500 SF, zoned A-6. Applicant seeks relief from Sections; 17.92.020 Special Use Permit.

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 single family use for the property 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 proposed in-law apartment addition is 24'-4" x 20', which equals 486.6 sq. ft. The area is less than the 600 sq. ft. maximum area allowed for an accessory family apartment.
3. The apartment will have access to the main dwelling unit through a new mud room, that is a common area to both units.
4. The new mud room addition will include a new porch addition and a new door that faces the street.
5. An existing garage on the property will be removed.
6. The proposed in-law addition meets all required yard setbacks.

Recommendation: Upon motion made by Mr. Smith and seconded by Mr. Strom, the Plan Commission unanimously voted to confirm the recommendation made at the August 10th Plan Commission meeting on this same application that has now been correctly advertised with the correct lot numbers.

August 10, 2011 Recommendation: Based on the fact that the residential use is consistent with the Single Family Residential classification on the Comprehensive Plan Future Land Use Map, the Plan Commission, upon motion made by Mr. Smith 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.

Ayes: Chairman Rossi, Mr. Motte, Mr. Smith, Mr. Nadeau, Mr. Strom. Nays: none.

JOHN VOLPE 1591 CRANSTON STREET CRANSTON RI 02920 (OWN/APP) has filed an application for permission to operate a; day spa with massage services, hair salon and art gallery with retail sales from an existing professional office building at **1591 Cranston Street**. AP 8/1, Lots 277, 308, 310, 311, & 312, area 36,150 SF, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.030 Schedule of Uses, 17.72.010 Signs.

It was pointed out by Planning Staff that though shown on the site plan submitted, Lot #309 was not listed in the application nor in the ad for public notice.

Based on that information, upon motion made by Mr. Smith, seconded by Mr. Nadeau, it was voted to table this application until the application is corrected and re-advertised.

Ayes: Chairman Rossi, Mr. Motte, Mr. Smith, Mr. Nadeau, Mr. Strom. Nays: none.

STEPHEN CIAMBRONE 55 BAKEWELL COURT CRANSTON RI 02921 (OWN/APP) has filed an application for permission to build a two story garage / living unit addition to an existing two-family dwelling at **82 Berry Street**. AP 12, Lots 904, 905, 906, 907 and 3282, area 16,000 SF, zoned C-4. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.030 Schedule of Uses, 17.20.120 Schedule of Intensity, 17.88.030 Extension of Legal non-conforming Use, 17.88.050 Structural Alterations.

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. This area of the City is designated as Highway Commercial and Services on the 2010 Comprehensive Plan Future Land Use Map, therefore the application for additional residential use is not consistent with the Comprehensive Plan.
2. The applicant's existing 2-family dwelling is shown on the 1965 Zoning Maps; and is therefore, a legal non-conforming use.
3. The westerly side of Berry Street is zoned single family residential, though within 60 feet of the applicant's property there are three 4-family dwellings that were constructed as a result of Zoning variances received in 1979.
4. Abutting those duplexes on the dead end of Berry Street is a 6-unit apartment building that was built by variance in 1986.
5. R.I.G.L. 45-24-41 c.1 states that the hardship from which the applicant seeks relief must be due to the **unique characteristics of the subject land** or structure and **not** to the general characteristics of the surrounding area.
6. The proposed 1,005 sq. ft, 2 bedroom apartment located over the new 3 car garage, will have a 15' front yard setback from the garage doors. The area is insufficient for a vehicle to park in front of the garage without protruding onto the Berry Street right of way .

Recommendation: The application for an additional residential unit is not consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area as Highway Commercial and Services. However, the Plan Commission feels that the possibility that the property will be developed commercially will be remote, based on the difference in elevation between the commercial properties on Atwood Avenue and the applicant's abutting property. Therefore, upon motion made by Mr. Smith and seconded by Mr. Motte, the Plan Commission forwards no specific recommendation on this application for an additional residential unit.

Ayes: Chairman Rossi, Mr. Motte, Mr. Smith, Mr. Nadeau, Mr. Strom. Nays: none.

HAO YUAN HUANG AND JULIA HUANG 22 BRIDLE DRIVE LINCOLN RI 02865 (OWN/APP) have filed an application for permission to build a 1490+/- SF addition to an existing medical office with second floor one bedroom apartment to remain at **333 Budlong Road**. AP 11, Lot 2796, area 15,975 SF, zoned A-6. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.030 Schedule of Uses, 17.20.120 Schedule of Intensity, 17.64.010 (I) Off-Street Parking, 17.88.030 Extension of Legal non-conforming Use, 17.88.050 Structural Alterations.

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 medical office commercial use and proposed expansion of the medical office use on the property is **not** 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 property received a Zoning variance in April 1988 for conversion of a single family house to a doctor's office and apartment. The current owner (doctor) was the applicant at the time.
3. An additional variance was received in 1991 to convert additional interior space to an office for export overseas of medical products technology. The current owner resided at the property at the time, which contained a doctor's office and apartment.
4. The proposed addition provides an office for an additional doctor, 4 exam rooms, a lab, staff room, consultation room, bath room, manager room, file room and garage.
5. The remainder of the existing first floor contains a waiting room, reception area, file room, doctor's office, billing office, conference room, a 9'-6" x 11' storage room, kitchen and bathroom.
6. The application states the total area for the medical office use will be 3,731 sq. ft., requiring 15 parking spaces per the Zoning Code. The plan provides 13 spaces, but has no handicap spaces. Excess parking needs would require an encroachment into the abutting residential side streets.
7. Though the doctor's office exists today, the building currently resembles a residential dwelling, heavily landscaped with trees, grass and bushes. The proposed addition, and two large paved parking areas that will be located on both sides of the building, will change the appearance to a Commercial use, and therefore alters the general character of the surrounding residential neighborhood, and hinders the intent and purpose of the Comprehensive Plan.
8. The applicant's attorney stated that the second doctor has already been operating in the building, and therefore the request is not for an expansion of the practice, only an expansion of the building.

Recommendation: Though the application is not consistent with the Comprehensive Plan Future Land Use Map that designates this area as Single Family Residential; based on the fact that the doctor's office has been operating for over 23 years, the Plan Commission, upon motion made by Mr. Smith and seconded by Mr. Strom, unanimously voted to forward no specific recommendation on this application for an expansion of the commercial medical office use.

Ayes: Chairman Rossi, Mr. Motte, Mr. Smith, Mr. Nadeau, Mr. Strom. Nays: none.

ADJOURNMENT: Upon motion made by Mr. Rossi and seconded by Mr. Strom, the Commission unanimously voted to adjourn at 8:10 p.m.

NEXT MEETING: October 4, 2011 at 7 p.m., City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary

