

## MINUTES

**September 9, 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  
Corsino Delgado, Finance Director  
Anthony Sylvia, P.E., Public Works Director  
Charles Rossi  
James Moran

Also present were:

Peter Lapolla, Planning Director  
Jason M. Pezzullo, AICP, Principal Planner  
Lynn Furney, AICP, Senior Planner  
Vito Sciolto, Esq., City Solicitor (arrived 8:45 p.m.)  
Ron Ronzio, Stenographer  
J. Resnick, Senior Clerk

The attendance sheet was unsigned, therefore, there is no record of those members of the public that attended.

Planning Director, Peter Lapolla, announced that E.A. Fish (developers of the proposed Phenix Terrace project) are in the process of conducting traffic studies and have agreed to toll the 120 day time frame for Planning Commission action.

In regard to Subdivision and Land Development Projects, acting on behalf of the proposed 'Rogers Plat', John Caito, P.E., requested that this matter be continued and the required time frame for Planning Commission action be tolled. Upon motion made by Mr. Rossi and seconded by Mr. Sylvia, the Commission unanimously voted to *continue* this matter to the October Planning Commission Meeting.

## MINUTES

Upon motion made by Mr. Rossi and seconded by Mr. Sylvia, the Commission unanimously voted to *approve* the minutes of the August 5, 2008, Planning Commission Meeting.

## ORDINANCES

**Ordinance # 7-08-1** - Ordinance in amendment of Title 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Halfway Housing)

The ordinance proposes to amend Section 17.04.030 Definitions of the City's Zoning Ordinance by amending two definitions ["Community Residence" and "Rooming House or Boarding House"] and by adding a new definition ["Halfway House"].

As proposed, the definition of Community Residence would be amended by adding the following sentence to the end of subsection four of the definition: "This shall not include halfway houses or substance abuse treatment facilities," so that "Community Residence" would be defined as

'Community residence means a home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to the following:

1. Whenever six or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to Chapter 24 of Title 40.1 of the General Laws of Rhode Island. All requirements pertaining to local zoning are waived for these community residences;
2. A group home providing care or supervision or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons and licensed by the state pursuant to Chapter 24 of Title 40.1 of the RIGL;
3. A residence for children providing care or supervision or both, to not more than eight children including those of the care giver and licensed by the state pursuant to Chapter 72.1 of Title 42 of the RIGL;
4. A community transitional residence providing care or assistance or both, to no more than six unrelated persons or no more than three families, not to exceed a total of eight persons, requiring temporary financial assistance and/or to persons who are victims of crimes, abuse or neglect and who are expected to reside in that residence not less than sixty (60) days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms and will receive appropriate social services for the purpose of fostering independence, self-sufficiency and eventual transition to a permanent living situation. **This shall not include halfway houses or substance abuse treatment facilities.'**

As proposed, the definition of "Rooming House or Boarding House" would be amended by adding the following sentence to the end of the definition: "This shall not include halfway houses or substance abuse treatment facilities," so that "Rooming House or Boarding House" would be defined as "Rooming house or boarding house" means a dwelling or part thereof in which lodging is provided by the owner or operator to more than two but less than ten (10) boarders. **This shall not include halfway houses or substance abuse treatment facilities."**

As proposed, the ordinance would add the following new definition "**Halfway houses means a residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society."**

The Commission would note that the second sentence in the definition of "Community residence" already states "This shall not include halfway houses or substance abuse treatment facilities." so that the addition of the same language at the end of subsection four may be redundant.

The Commission would note that the ordinance does not propose to change either the Future Landuse Plan or the Zoning Map and it does propose to authorize a new use under 17.20.030 Schedule of uses. The ordinance would therefore have no impact upon the City's Comprehensive Plan.

The Commission would further note that the definitions, as proposed, mirror the definitions found in the Rhode Island Zoning Enabling Act of 1991. RIGL Section 45-24-31 Definitions provides the following definitions:

- *“Community Residence.* A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This does not include halfway houses or substance abuse treatment facilities. This does include, but is not limited, to the following:
  - (i) Whenever six (6) or fewer children or adults with retardation reside in any type of residence in the community, as licensed by the state pursuant to chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community residences;
  - (ii) A group home providing care or supervision, or both, to not more than eight (8) persons with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;
  - (iii) A residence for children providing care or supervision, or both, to not more than eight (8) children including those of the care giver and licensed by the state pursuant to chapter 72.1 of title 42;
  - (iv) A community transitional residence providing care or assistance, or both, to no more than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8) persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor more than two (2) years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.”
- *“Halfway House.* A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.”

RECOMMENDATION

Given the above, the City Plan Commission finds that the proposed ordinance is not inconsistent with the Comprehensive Plan. Upon motion made by Mr. Delgado and seconded by Mr. Moran, City Plan Commission unanimously voted to recommend to the City Council favorable action on Ordinance Amendment 7-08-01 conditioned on replacing the word “retarded” where ever it appears in the proposed ordinance with the term “mentally disabled or mentally handicapped.”

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

**Ordinance #7-08-2** - Ordinance in amendment of Title 17 of the Code of the City of Cranston, 2005, entitled “Zoning” (Definitions)

The ordinance proposes to amend Section 17.04.030 Definitions of the City’s Zoning Ordinance by adding the following two new definitions:

- “Food store” means any food retail establishment, not to exceed 2,500 square feet gross floor area, engaged in the sale of any food product. Restaurants and other such service establishments shall be excluded from this classification.
- “Retail and service establishment” means any retail establishment, greater than 2,500 square feet of gross floor area, engaged in the sale of any retail products unless otherwise individually classified in Section 17.04.040.

The proposed ordinance defines two uses that are already identified within Section 17.20.030 Schedule of Uses. These definitions would alter how “Foods stores” and “Retail and service establishments other than those listed above” are to be treated specifically in C-2 and C-5 zoning districts. Under the current use table “Foods stores” and “Retail and service establishments” are authorized within the Schedule of Use as follows:

	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>C-4</b>	<b>C-5</b>	<b>EI</b>
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Food store; delicatessen	<b>p</b>	<b>a</b>	<b>a</b>	<b>a</b>	<b>p</b>	<b>a</b>
Retail and service establishments other than those listed above	<b>p</b>	<b>p</b>	<b>a</b>	<b>a</b>	<b>a</b>	<b>a*</b>

\* Retail uses in EI zone limited to uses primarily serving students, staff, and faculty of the educational institution and not designed to serve the public at large.

In proposing to define a “Food store” as an establishment of less than 2,500 SF, the ordinance would, by definition, classify the larger food stores, i.e. Shaws, Price Rite or Stop & Shop, as “Retail and service establishments other than those listed above.” The effect of this reclassification will be to allow by right these type stores in a C-5 zoning district and to prohibit them in a C-2 Zone.

In proposing to define “Retail and service establishments other than those listed above” as having a gross floor area of greater than 2,500 SF, the new definition would prohibit in all zoning districts any retail or service use not elsewhere classified of less than 2,500 SF. If the definition is adopted as proposed, smaller businesses [having less than 2,500 SF] that have traditionally been classified under this catchall use will either be excluded or become pre-existing non-conforming. **[Note that the proponents of the zoning article has submitted an amended article which eliminates the definition for “Retail and service establishment.” A copy of said amendment is attached.]**

It was noted at the Commission’s meeting that Ordinance Amendment 7-08-2 has been submitted in support of a proposed development of a Stop and Shop Super Market on land located at 261 Warwick Avenue [Assessor’s Plat 4 Plat 2659]. The site, which currently houses Warwick Nurseries, is zoned C-5 and as noted above a “food store” use is not allowed in a C-5 Zoning District.. For the development to move forward, the proponents needed to either seek a use variance or change the Zoning Ordinance to allow the development. They have chosen to seek a change in zoning definitions to allow the use.

**RECOMMENDATION**

Upon motion made by Mr. Rossi and seconded by Mr. Delgado, the City Plan Commission unanimously voted to make no recommendation with regard to Ordinance Amendment 7-08-2 Entitled Zoning (Definitions).

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

**Ordinance #8-08-3** – Ordinance in amendment of Title 2 of the Code of the City of Cranston, 2005, entitled “Administration and Personnel” (Redevelopment Agency)

Ordinance Amendment 8-08-3 is a resubmission of a prior Ordinance Amendment [01-08-1] that had been taken off of the docket by the Ordinance Committee. Staff for the City Plan Commission had reviewed the prior Ordinance Amendment for the Commission’s August, 2008 meeting and had suggested a number of amendments to the Ordinance Amendment. [See attached memo of July 31, 2008]. The current Ordinance Amendment has incorporated the recommend changes.

**RECOMMENDATION**

In that there are a number of development projects currently being discussed [i.e. Cranston Print Works or the Wellington Avenue TOD] that could be assisted by a designation as a redevelopment area, the Commission can foresee the need to provide the legislative framework to re-establish a Cranston Redevelopment Agency. Upon motion made by Mr. Delgado and

seconded by Mr. Moran, the City Plan Commission unanimously voted to recommend favorable action on the Ordinance Amendment 8-08-3.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

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

**TYCO FIRE SUPPRESSION AND BUILDING PRODUCTS 1467 ELMWOOD AVENUE CRANSTON RI 02910 (OWN/APP)** have filed an application for permission to build a new 20' X 80' one story storage building with restricted front yard setback at **1467 Elmwood Avenue**. AP 4/1, Lot 1614, area 3.97 +/- acres, zoned M-2. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.020 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 industrial use of the property complies with the Comprehensive Plan's Future Land Use map which designates the area as industrial.
2. The zoning code requires 40' building setbacks in an M-2 zone. The site plan shows the existing building has a 25' front yard setback, as scaled from Elmwood Avenue.
3. The proposed new storage building will have side yard setbacks of 10' and 30', where 25' is required by the zoning code.
4. The proposed storage building will eliminate 9 parking spaces, however, those spaces are not being utilized; as equipment and materials are presently being stored out doors in the same area.
5. The new building will have 4 – 20' x 20' garage bay doors
6. The property has received six zoning variances for additions since 1968.
7. The proposed new building, that is not visible from Elmwood Avenue, will not alter the character of the surrounding industrial area, as 10 out of 14 existing buildings within the 400' zoning notification radius have one or more restricted yard setbacks.

#### Recommendation:

Upon motion made by Mr. Rossi and seconded by Mr. Sylvia, the Commission unanimously voted to recommend *approval* with the condition that the applicant enters into the Zoning Board of Review's record of proceedings, sufficient evidence satisfying the remaining standards for the granting of variances relating to hardship, least relief necessary, mere inconvenience and reasonable use, as put forth in R.I.G.L. 45-24-41.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

**GEORGE VIQUIERT 67 POND STREET CRANSTON RI 02910 (OWN/APP)** has filed an application for permission to build a 24' X 24' one story detached two car garage with restricted side and rear set back on an undersized lot at **67 Pond Street**. AP 3/3, Lot 391, area 5000 +/- SF, zoned B-1. 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 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 garage setbacks will be 3' from the side, and 3' from the rear property line. Chapter 17.60.010B.8. of the Zoning Code entitled "Accessory uses" permits side yard setbacks of 3' on residential lots with less than 60 feet of frontage; therefore, the proposed side yard setback complies with zoning, as the lot only has 50' frontage.
3. The proposed rear yard setback of 3' from the rear property line does not comply with the minimum zoning requirement of 5'. The southeast corner of the proposed garage will be 6.5' from the north west corner of the enclosed porch on the rear of the house.
4. An analysis using the City's GIS shows that of the 30 of the 67 residential dwellings located within the 400' zoning notification radius has detached garages. 16 (53%) of those 30 garages have similar restricted yard setbacks.
5. The existing 8' x 12' shed in the rear yard's opposite corner has a rear setback of less than 1 foot in the rear, and approximately 1 foot side yard setback.
6. The application and plans submitted, states that the house is a single family; however, the field cards in the tax assessor's office shows that the property has been taxed as a two family since 1954.

Recommendation: Upon motion made by Mr. Delgado and seconded by Mr. Rossi, the Commission unanimously voted to recommend *approval*, as the proposed garage's location 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."

And with the condition that the applicant enters into the Zoning Board of Review's record of proceedings, sufficient evidence satisfying the remaining standards for the granting of variances relating to hardship, least relief necessary, mere inconvenience and reasonable use, as put forth in R.I.G.L. 45-24-41.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

**JUN ZHAO AND XIAOYUAN WANG 1431 PARK AVENUE CRANSTON RI 02921 (OWN/APP)**

have filed an application for permission to convert the first floor of an existing legal non-conforming two-family dwelling into a professional office with a residence remaining on the second floor at **1431 Park Avenue**. AP 11/2, Lot 944, area 5660 +/- SF, zoned C-2. Applicant seeks relief from Sections; 17.92.010 Variance, 17.64.010 Off Street Parking, 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 application is consistent with the Comprehensive Plan's Future Land Use Map, which designates the area as Commercial and Services.
2. The property abuts a commercial use on the left, and an industrial use on the right (across Southern Street).
3. Both office and residential uses are allowed in a C-2 zone.
4. The site plan provides 4 off-street parking spaces. Per code, 4 spaces are required for the proposed office use, and one space for the residential use.
5. Within the 400' zoning notification radius, there are 14 commercial uses, 5 industrial uses and 25 residential uses; therefore, the proposal 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 ordinance is based."

Recommendation: Upon motion made by Mr. Delgado and seconded by Mr. Rossi, the Commission unanimously voted to recommend *approval* with the condition that the applicant enters into the Zoning Board of Review's record of proceedings, sufficient evidence satisfying the remaining standards for the

granting of variances relating to hardship, least relief necessary, mere inconvenience and reasonable use, as put forth in R.I.G.L. 45-24-41.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

**JOSEPH AND SUSAN TASONI 2 STONY ACRE DRIVE CRANSTON RI 02920 (OWN/APP)**

have filed an application for permission to leave a driveway curb opening closer than 25 feet to the end of a radius curb on a corner lot at **2 Stony Acre Drive**. AP 37/2, Lot 45, area 6518 +/- SF, zoned A-8. Applicant seeks relief from Sections; 17.92.010 Variance, 17.64.010 F, (3) Street Access.

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. In July 2007, the applicant's property received a zoning variance for a single family home on an undersized lot.
2. The site plan submitted with this application shows the house location, but does not show the location of the proposed driveway, or the distance from the radius curb, however, recent photographs of the property show a driveway opening that appears to be between 5 to 7 feet from the Plainfield Street radius curb.
3. There are no dwellings within the 400' zoning notification radius that have driveways closer than the required 25' from a street intersection's radius curb.
4. The intersecting road, Plainfield Street, (also designated as RI Route 14) is a highly traveled collector road (2004 state traffic count of 12,800 vehicles per day) that handles commercial, residential and industrial traffic.
5. The City's traffic engineer has indicated that because of traffic public safety issues, he would not approve any plan that shows a residential curb cut for a driveway closer than the required 25' distance from the end of the intersection's radius curb, on a street that has the high traffic volumes of Plainfield Street.

Recommendation:

Upon motion made by Mr. Sylvia and seconded by Mr. Moran, the Commission unanimously voted to recommend *denial* based on the above finding of facts, as the application will alter the general character of the surrounding area, and impair the intent and purpose of the zoning ordinance. The driveway's proximity to a major arterial street will create a public safety issue.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

**MICHAEL J VALELLI 350 PIPPIN ORCHARD ROAD CRANSTON RI 02921 (OWN/APP)** has filed an application for permission to build a new 40' X 81' one story two family dwelling with restricted lot coverage at **51-53 Connecticut Street**. AP 8/1, Lots 2310, 2311, 2312, 2313, 2314, area 8,000 +/- SF, zoned B-1. 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 application is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map, which designates the subject parcel as "Residential, more than 8 units per acre."

2. An analysis using the City's GIS, shows that in the surrounding neighborhood, the proposed 81' long, two family house, is out of character with the length and width of other neighborhood dwellings. Only 4 out of 66 houses within the 400' radius are between 70-72 feet long. The average length of the 66 houses within the neighborhood is 44 feet.
3. The proposed front yard setback of 20' is 5' short of the 25' front yard setback requirement. However, the average setback for the 4 houses on the street within 200' of the applicant's property is 19.75 feet; therefore Sec.17.20.110(c) of the zoning code, which makes allowances for decreased setbacks may be applied here.
4. The Housing element of Cranston's Comprehensive Plan states that residential infill development should be compatible, in terms of both density and appearance, with the surrounding neighborhood. The application's variance request for increased building lot coverage will alter the general character of the surrounding neighborhood, and impair the intent and purpose of the zoning ordinance and the comprehensive plan upon which the ordinance is based.

Recommendation: Upon motion made by Mr. Sylvia and seconded by Mr. Delgado, the Commission unanimously voted to recommend *denial* based on the above findings and for the following reasons:

1. The application alters the general character of the neighborhood and impairs the intent and purpose of the Cranston Zoning Code.
2. The applicant can still make reasonable use of the property with a building that is more harmonious with the surrounding area, and one that doesn't exceed the 72 feet length of the longest buildings in the neighborhood.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

**60 KENNEY DRIVE LLC 60 KENNEY DRIVE CRANSTON RI 02920 (OWN/APP)** has filed an application for permission to have additional signage than that allowed by ordinance at **60 Kenney Drive**. AP 13, Lot 49, area 5.75 +/- acres, zoned M-2. Applicant seeks relief from Sections; 17.92.010 Variance, 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 current industrial use is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map, which designates the subject parcel as "Industrial."
2. In May 2008, the applicant received a zoning height variance for a 38'-9" high dust tower.
3. The former building sign on the previous business measured 49' x 5' for a total of 245 sq. ft. The current application is for a smaller building sign that measures 35' x 5', for a total of 175 sq. ft. The Zoning code limits the area of building signs to 45 sq. ft. in an industrial zone. The new sign is 288% larger than what is permitted but is 29% smaller than the former sign.
4. Within the 400' zoning notification radius, there are 3 industrial uses, and the State's Minimum Security prison on the abutting lot. Because of the location of the building on the end of Kenney Drive, and the vacant land across the street, the building and sign is visible from the travel lanes on Route 95.
5. The separate signs for Receiving and Shipping, measure 31 sq. ft. ea. for a total of 62 sq. ft. One sign will be installed on the opposite sides of the building.
6. Two "arrow" signs measure 9 sq. ft. each.

7. The total signage for the building equals 255 sq. ft., which is less than the 300 sq. ft. total permitted per building lot in an industrial zone.
8. The application will not alter the general character of the area, and will not impair the intent or purpose of the Zoning Code or the Comprehensive Plan.

Recommendation: Upon motion made by Mr. Delgado and seconded by Mr. Rossi, the Commission unanimously voted to recommend *approval* with the condition that the applicant enters into the Zoning Board of Review's record of proceedings, sufficient evidence satisfying the remaining standards for the granting of variances relating to hardship, least relief necessary, mere inconvenience and reasonable use, as put forth in R.I.G.L. 45-24-41.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

**40 SOCKANOSSET LLC 1414 ATWOOD AVENUE JOHNSTON RI 02919 (OWN/APP)** has filed an application for permission to have additional signage than that allowed by ordinance at **40 Sockanosset Cross Road**. AP 10, Lot 40 area 2.75 +/- acres, zoned C-4. Applicant seeks relief from Sections; 17.92.010 Variance, 17.72.010 (5) 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 proposed commercial use is consistent with the City of Cranston Comprehensive Plan's Amended Future Land Use Map, which designates the subject parcel as "Commercial and Services."
2. The proposed letters only for the Pawtucket Credit Union sign are 18 inches high x 10 feet long for the word "Pawtucket", and 10-3/4 inches x 7.5 feet for the word "Credit Union", as contrasted with the proposed 36 inch height by 18 feet long for the individual letters over each of the 8 smaller storefronts.
3. The Pawtucket Credit Union Sign with Logo equals 30 square feet, where the individual smaller storefronts have signs that equal 54 square feet each.
4. Two, 2-sided, freestanding monument signs are proposed. One is to be located on Sockanosset Crossroad and one is to be located on the same frontage at the corner of Wholesale Way. Both measure 19 feet high by 13.5 feet wide, and 3 feet deep. Each sign is 229.44 sq ft., (45 sq. ft. is allowed by code), for a total of 458.88 sq. ft. The requested amount of freestanding signage is 410% larger than what is allowed by the Zoning Code.
5. Though lots fronting on two or more streets are allowed the permitted sign area for each street frontage, Zoning Code Section 17.72.010.C.4 states "the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building or wall area frontage on that street." The 2<sup>nd</sup> monument sign, located on the corner of Wholesale Way and Sockanosset Crossroad, is oriented to be viewed from Sockanosset Crossroad, thereby violating this section of the code.
6. The application is requesting that the former KAMCO 75' high, highway pole sign, with 256 sq. ft. of signage area (8' x 16') be retained in addition to the other freestanding signs. This sign is located on Wholesale Way, in the southeast corner of the property. Relief is required from the ordinance restriction that only one freestanding sign is permitted per street frontage, as well as relief from the 15 height requirement. Nothing was submitted relating to the proposed text for this sign. When the 256 sq. ft of this signage is added to the totals for the other 2 freestanding monument signs, the new totals for freestanding signs is 714.88 sq. ft., which is 694% more than what is allowed by code.

7. Both freestanding monument signs are proposed to be 19 feet high, which is 4 feet higher than what is allowed by code. However the sign proposed to be installed at the northwest corner of the property will be located on the top of a retaining wall whose elevation is already 7.5 feet higher than the road surface of Sockanosset Crossroad. In essence, the top of the sign will be 27.5 feet higher than the road surface.
8. Total proposed building signage equals 547 sq. ft., where the Zoning Code permits 45 sq. ft. total per street frontages.
9. The total square footage for all signs on the parcel is 1,413.88 sq. ft. The total maximum allowed by the Zoning Code is 600 sq. ft. for a lot with two street frontages.

Recommendation: The staff's recommendation of denial was not accepted by the Commission but, instead, a motion was made by Mr. Rossi and seconded by Mr. Sylvia to recommend approval.

Aye votes: Chairman Petit, Mr. Rossi, Mr. Moran, Mr. Delgado and Mr. Sylvia. Nay votes: none.

## **SUBDIVISION AND LAND DEVELOPMENT PROJECTS**

### **Glen Hills Drive Minor Subdivision - Preliminary Plan**

Minor Subdivision without street extension  
Glen Hills Drive and Evans Way  
AP 16/1, Lot 1286

*Public Informational Meeting  
(\*continued\*)*

As this matter was continued from the August 5, 2008, Planning Commission Meeting and all members present were not present at this meeting, Chairman Paul Petit began by stating that Attorney Robert Murray chose to move forward with this matter. At the August 5, 2008, informational meeting, questions were raised as to if the City complied with Section 2.08.090 of the City Ordinances regarding the processing of State surplus land and what, if any, said noncompliance would have on the pending subdivision application.

City Solicitor, Vito Sciolto, presented his legal opinion on the matter (a copy of the legal opinion is part of the subdivision file located in the Planning Department office). In summary, it states that the alleged non-compliance with Section 2.08.090 is, in fact, beyond the scope of review of the Planning Commission and that the Planning Commission should, in fact, move forward with their required review of Findings of Fact and render a decision.

Attorney Murray concurred, stating that the Planning Department staff has reviewed this minor subdivision proposal in accordance with Rhode Island State Law and the City of Cranston's Subdivision Regulations. For the Commissions benefit, he distributed a copy of the Purchase and Sale Agreement, which is made part of the record. He noted that Lot 16, which is across the street from the subject site, was created in 1978 through the same process and distributed a copy of the deed for that parcel.

In closing, Mr. Murray requested a waiver for provision of sidewalks and asked that the final application be handled administratively.

Ms. Michele Fern-Andrews, 280 Summit Drive, then asked City Solicitor, Vito Sciolto, what the Planning Commission's role is in regard to the sale of the property if the sale process was found to be "tainted". Attorney Sciolto responded, stating that the Planning Commission can only act on the applications before them and that the role of the Planning Commission is specifically set forth. The Planning Commission does not have the authority to determine that the process of the sale of the land was not handled correctly. He further stated that if the subdivision criteria and requirements are met, the Planning Commission's role is ministerial and they must approve the application. He stated that if there is a third party that is aggrieved there are appellate procedures. He reiterated that the Commission should move forward in their review and rendering of a decision.

Again, as last month, several members of the public spoke in opposition of the application. They were: Aram Garabedian, Council President, Mayor Napolitano, Councilman John Lanni, mayoral candidate Allen Fung, Councilman Lupino, area residents Robert Cicerone, Linda Marcello, Paula Cicerone, Steve Carrera, Suzanne Arena, Richard Evans, Michele Ferdinandi and Joanne Gargani. The concerns were as follows: In the presentation of the Findings of Fact, the process followed applies to all subdivisions both major and minor, the standards are inconsistent, “the regulations do not protect the people”, the proposal is not consistent with the Comprehensive Plan, the state had planted trees along the highway to deter noise for the area residents, the standards of review of this subdivision do not comply with state law, and several asked the Commission to “do the right thing” and deny the application.

An attorney representing the area residents stated that state law was not followed as the State of RI should be represented by the attorney general and not by a private party. He stated that the parcel was not sold ‘as is’ and, instead, the contract was made subject to subdivision approval. He further suggested that the three lots in question should have been sold for \$80,000-\$100,000 per lot but, instead, were sold below fair market value.

Attorney Murray rebutted, stating that the sale of the parcel was handled by the State Properties Committee, who determined what the minimum price would be, and he is not representing the state. Chairman Petit also responded, stating that the matters raised by the residents are legal issues and not within the purview of the Planning Commission. Planning Department Director, Peter Lapolla, also responded, stating that the Planning Department staff’s function is to provide the review and advise the Commission. The Commission has 65 days to render a decision. He further stated that the proposed subdivision complies with minor subdivision criteria, therefore, legally, it must be approved.

Public Works Director and Commissioner, Anthony Sylvia, stated that he visited the site and, in his opinion, removing the trees will have an adverse effect on the neighborhood. He has concern with the proposed design and doesn’t see potential for mitigating the concerns. Therefore, based on shortcomings in design, Mr. Sylvia motioned to *deny* the application, as proposed. The motion was seconded by Mr. Rossi.

Aye votes: Mr. Sylvia, Mr. Rossi and Mr. Delgado. Nay votes: Chairman Petit and Mr. Moran.

In rendering this decision, Public Works Director and Planning Commissioner, Anthony Sylvia, noted that, in his opinion, the loss of trees resulting from the addition of three house lots would create a negative environmental impact from increased noise and air pollution from Route 37.

The minor subdivision as proposed, therefore, failed to meet the City of Cranston’s Subdivision and Land Development Regulations under Section H. Required Findings as follows: *3. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.*

City Solicitor, Vito Sciolto, stated a majority vote of the Commission to approve is required, by the City Charter. Therefore, a motion to approve was made by Chairman Petit and seconded by Mr. Moran; however, the motion did not carry as a majority vote of four was not attained. Having not received sufficient favorable votes (four) to approve the subdivision, the application is therefore denied.

Aye votes: Chairman Petit and Mr. Moran. Nay votes: Mr. Sylvia, Mr. Rossi and Mr. Delgado.

**Bissanti/Gallo Plat – Preliminary Plan**  
Minor Subdivision without street extension  
Olney Arnold Road  
AP 25, Lot 13

*Public Informational Meeting*

Attorney Chris DePalo, 117 Metro Center Blvd., explained the applicant proposes to retain the existing home as a 'homestead'. This subdivision will provide the applicant with the necessary funds to maintain the existing home.

Principal Planner, Jason Pezzullo, further explained the applicant proposes to subdivide the existing 61,124 sq. ft. parcel (1.4 acres) into two lots. Parcel A will have 29,562 square feet and contain the existing home and Parcel B will have 31,562 square feet for one additional single-family home. Both of the proposed lots exceed the minimum area requirement of the A-20 zone but will each require a dimensional variance from the Zoning Board of Review as they are both 18.37' short of the 125' frontage requirement. Both lots will be serviced by public water and private ISDS. The applicant has requested waiver for sidewalk provision.

No public comment was offered on this application.

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

#### 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 and its resulting density of approximately .73 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 1-4 residential units per acre".
3. Each of the proposed lots exceed the minimum area requirements of the A-20 zoning district but will have 18.37' less than the required 125' of frontage. 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. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Preliminary Plan.
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 Olney Arnold Road, an 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 each lot prior to the submission of the Final Plan with the Planning Department.

2. Submission of a draft easement to be recorded at the time that Parcel B is transferred to a new property owner for the crossing of the overhead utilities.
3. Final Plan submission shall depict the illegal shed either moved, or noted to be demolished.
4. Payment of Western Cranston Capital Facilities Impact Fees of \$1,392.93 the time of Final plat recording.
5. Payment of Western Cranston Water District Impact Fee of \$1,352.00 at the time of Final Plat Recording.
6. Provide a performance guarantee at the time of Building Permit for the installation of 6" concrete curbing for the frontages of both lots.

**Lawrence and Elizabeth Moses Minor Subdivision**  
**– Preliminary Plan**

*Public Informational Meeting*

Minor Subdivision without street extension  
 Laten Knight Road  
 AP 29, Lot 2

Peter Alviti, P.E., explained the proposal to the existing 32.85 acre lot into two lots. One four-acre lot will be created and the remaining 28 acres would remain as is. He explained that each lot would have the required frontage. RIDEM has provided an Insignificant Alteration Permit. An individual well is proposed, and the existing home on the parcel has adequate water for that home. The sewer system for the single family home was at issue, however, the developer has resolved all technical issues with Veolia Water, the Public Works Department and the FPLE.

Mr. Pezzullo stated that the proposed subdivision is straight forward. The proposal had been continued due to unresolved issues with sewer design that have been resolved. The applicant has requested waiver for curbing and sidewalk provision.

No public comment was offered on this application.

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

**Positive Findings**

1. An orderly, thorough and expeditious technical review of this Preliminary Plan has been conducted. Property owners within a 100' radius have been notified via first class mail 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 and its resulting density of approximately .06 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 less than one residential units per acre".
3. Both of the proposed lots exceed the area and frontage requirements of the City Zoning Code. 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. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Preliminary Plan.
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 Laten Knight Road, an 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. Final Plan submission shall be reviewed administratively.
2. Applicant shall receive all remaining approvals from Veolia Water, the Public Works Director, and the City Engineer prior to submitting the Final Plan with the Planning Department.
3. The Engineering Division shall provide a performance guarantee for the restoration and upgrade of Laten Knight Road to the Planning Staff prior to Final Plan submittal.
4. Payment of Western Cranston Capital Facilities Impact Fees of \$1,392.93 the time of Final plat recording.

Aye votes: Chairman Petit, Mr. Sylvia, Mr. Delgado, Mr. Rossi and Mr. Moran. There were no nay votes.

**Lake View Estates – Preliminary Plan**

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

*Public Informational Meeting*

Mr. Richard Bzdyra, Ocean State Planners, explained the proposal to subdivide the existing 15,884 sq. ft. parcel into two lots. Parcel A will have 8,520 square feet and Parcel B will have 7,364 square feet and contain one single family home. Both of the proposed lots meet the minimum frontage and area requirements within the A-6 zone and will be serviced by public water and sewer. However, Parcel B will require a dimensional variance from the Zoning Board of Review because the existing house will be set back 10.83' from the rear lot line where 20' is required in this zone. The applicant has requested a waiver for sidewalk provision.

No public comment was offered on this application.

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

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 and its resulting density of approximately 5.48 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 4-8 residential units per acre".
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. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Preliminary Plan.
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. 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.
3. Final Record Plan shall depict the location for the driveway locations for each lot.
4. Payment of Eastern Cranston Capital Facilities Impact Fees of \$593.46 at the time of Final Plat recording.
5. 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, Mr. Rossi, Mr. Sylvia, Mr. Delgado and Mr. Moran. There were no nay votes.

#### **PERFORMANCE GUARANTEES**

##### **Replat of the Vendetti Plat**

Lark Street

Performance Guarantee Release Request

Upon motion made by Mr. Sylvia and seconded by Mr. Rossi, the Commission unanimously voted to *approve a reduction* of the bond by \$33,000; leaving a \$2,000 balance, in accordance with the Engineering Division's recommendation as final landscaping remains to be completed.

Aye votes: Chairman Petit, Mr. Moran, Mr. Sylvia, Mr. Delgado and Mr. Rossi.

Nay votes: none.

## **COMPREHENSIVE PLAN UPDATE**

Mr. Lapolla explained that the Economic Development Element remains and Economic Development Director, Paula Watt, is in the processing of reviewing this. He stated that the Land Use element was reviewed last week and will continue this week.

## **MISCELLANEOUS**

### **Amendment to Land Development Regulations**

Mr. Lapolla stated that he would like to start the process of amending the review requirements of the Land Development Regulations.

Upon motion made by Mr. Moran and seconded by Chairman Petit, the Commission unanimously voted to *approve* the proposal to hold public hearings on this matter.

Aye votes: Chairman Petit, Mr. Moran, Mr. Sylvia, Mr. Delgado and Mr. Rossi.  
Nay votes: none.

### **Plan Commission Policy**

Mr. Lapolla stated that, going forward, he would like to e-mail the agenda to the commissioners one week prior to the Planning Commission Meetings. He stated no new agenda items would be accepted the Tuesday prior to the meeting, and the agenda will be e-mailed to the commission on Wednesday. All were amenable to this proposal.

## **NEXT REGULAR MEETING**

Tuesday, October 7, 2008 at 7 p.m. in the City Council Chamber

## **ADJOURNMENT**

Upon motion made by Mr. Rossi and seconded by Mr. Delgado, the Commission unanimously voted to adjourn at 11:10 p.m.

Respectfully submitted,

Jason M. Pezzullo, AICP  
Principal Planner/Secretary