

## MINUTES

**December 6, 2005**

Chairman William Guglietta called the Planning Commission meeting in the City Council Chamber to order at 7:10 p.m. The following Commission members were present:

Chairman William Guglietta, Esq.  
Councilwoman Paula McFarland  
Mr. Marco Schiappa  
Mr. Stephen Devine

Also attending were: Jared L. Rhodes, II, Planning Director  
Jason Pezzullo, Principal Planner  
Lynn Furney, Senior Planner  
Vito Sciolto, Assistant City Solicitor  
Joanne Resnick, Clerk

The following members of the public attended:

Ann Tavares	Thomas Tricarico	Peter Alviti
Robert DiScuillo	Lisa & Brian Gill	Marchetti
Kuzman	Charles Simpson	Richard Moore
Mark Boudreaux	Richard Fann	Drew Murphy
Roger Kalikian	Tom Serabian	Stacey Eliades
Kevin Haughey	John Lanni	Johnna Pezzullo
Kerry Giroux	Anthony DeReasis	Joe & Jane Sczerbinski
Bob Cournoyer	Gino & Paola Mazzenga	Ed Cioe
Norman Andino	Paula Izzo	Anthony Tanzi
Randall Carson	Chunsong Luo	Rudy Procaccianti
Ernest Trombetti	Simon Dermukasian	

## MINUTES

Upon motion made by Councilwoman McFarland, seconded by Mr. Schiappa, the Commission unanimously voted to approve the minutes of the November 1, 2005 Planning Commission meeting.

## **ORDINANCE COMMITTEE ITEMS**

None

## **SUBDIVISIONS AND LAND DEVELOPMENT PLANS**

### **DiScullo Plat – Preliminary Plan**

Minor Subdivision with no street creation

Pippin Orchard Road

AP 32, Lots 13 & 14

Mr. Peter Alviti gave a brief overview of the proposal to create a four lot Minor Subdivision, with Pippin Orchard Nurseries located to the South, a home to the North and undeveloped land to the East and West. The application has received RIDEM permits and RIDOT approval for driveway curb cuts, as well as approval from Veolia Water for wastewater discharge into the existing sewer line on Pippin Orchard Road. The homes will be serviced by private wells. Mr. Alviti described three easements on site: 1) a cemetery with a 10 ft. easement to allow access by heirs of those interred; 2) a small construction easement to a RIDOT drainage culvert and 3) a ‘right to pass and re-pass’ easement to a wooded lot.

Discussion ensued regarding responsibility for maintenance of the cemetery on the proposed site. Councilwoman McFarland called attention to the many neglected historic cemeteries that exist in the City. She was informed by Lynn Furney, Historic District Commission Secretary and Vito Sciolto, Assistant City Solicitor, that maintenance of historic cemeteries is the responsibility of the heirs of those interred.

No public testimony was offered on this matter.

Mr. Rhodes then presented the Planning Department staff’s Findings of Fact and Recommendation, explaining that the lots have been reconfigured and well data submitted showing significant yields, as documented in his memorandum dated December 6, 2005; which is included in these minutes.

Upon motion made by Councilwoman McFarland, seconded by Mr. Devine, the Commission unanimously voted to adopt the following Findings of Fact and APPROVE this Minor Subdivision 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 and the meeting agenda has been properly posted. Advertisement for this minor subdivision was not required under Section V.C.2.h of the City of Cranston Subdivision Regulations since street extension is not proposed.

2. The proposed subdivision and its resulting density of approximately .05 residential units per acre is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map which designates the property in question as "Residential" allowing less than one residential unit per acre.
3. The proposal is consistent with the City of Cranston Zoning Code. All proposed lots conform to the area and frontage requirements of the underlying A-80 single family residential zone.
4. There will be no significant negative environmental impacts from the proposed subdivision as shown on the final plan, with all required conditions for approval.
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 to Pippin Orchard 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, for a suitable building site, and for preservation of significant cultural, historic or natural features that contribute to the attractiveness of the community.
9. The design and location of streets, building lots, utilities, drainage improvements and other improvements conform to local regulations for mitigation of flooding and soil erosion.

### **Conditions for Approval**

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

- 1 Residential dwellings to be located on proposed Lots 1, 2, and 3 shall be required to connect to the RISE return line individually.
- 2 Depict on the plan set and provide draft language for a conservation easement that would protect the existing natural buffer located along the frontage of proposed Lots 1-3, excluding an individual driveway corridor for each, into perpetuity.
- 3 Provision of proposed cemetery easement language at Final Plan Submittal.
- 4 Mapping revisions prior to Final Plan submittal to include:
  - a. Title change to DiScuillo Plat – Minor Subdivision Record Plan.
  - b. Easements and right of ways discussed under the "Notes" section to be depicted on the plan set where possible.
  - c. Title Change of "A.P. 32 Lot 13" in the text portion to "Total Plat Area" = 3,765,544 Sq. Ft.

- d. Addition of a note which reads as follows - Pursuant to Rhode Island General Laws, Title 23, Chapter 23-18-11, **Regulation of excavation around cemeteries**, no ground disturbing activities including construction, excavation or ground tilling, shall be allowed within a 25' buffer area surrounding the Historic Cemetery found on proposed Lot 2 unless the provisions outlined in the same state statute are complied with.
- 5 Payment of Western Cranston Capital Facilities Impact Fees of \$4,168.5 (\$1389.5 x 3) at the time of plat recording.
- 6 Recording of deed covenant which holds the owners of proposed Lot 2 and their successors responsible for the maintenance and upkeep of the historic cemetery. should the heirs neglect to maintain it.

Voting Aye: Chairman Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland. There were no nay votes.

### **Mazzenga Plat – Preliminary Plan**

Minor Subdivision with no street extension

Hope Road

AP 24, Lot 202

Attorney John DiBona explained the proposal to subdivide the existing 42,227 sq. ft. parcel into two lots. Parcel A would be 20,809 sq. ft with 125 ft. frontage. Parcel B would be 21,418 sq. ft. with no frontage. Parcel B would retain the existing two-family home, which is set back 235 ft. from Hope Road. A 20 ft. wide access and utility easement through Parcel A for access to Parcel B is proposed. A new single-family home is proposed on Parcel A.

Mr. Rhodes pointed out that the only way to provide frontage for Parcel B would be for a city street on the abutting property owner's driveway. It is unclear what type of agreement exists for the current homeowner to use the driveway.

Mr. Anthony Tanzi, neighboring property owner, expressed his opposition to the proposal. He stated that he feels his property value will be affected and is concerned with the proposed traffic pattern. He stated that the proposed new home is 15 ft. from his home and disturbs the integrity of the area.

Mr. Rhodes explained that the property in question has been surveyed and a stamped plan provided by a licensed Rhode Island Land Surveyor and that any new construction is required to adhere to current zoning setback requirements. He further stated that the newly proposed lot would be the only lot in the area with no frontage; stating that the provision of "frontage" through the subdivision process is an important tool in effectively managing growth and development. Although frontage requirements may initially appear simply as a means for securing access to a public roadway; their power in ensuring high quality appropriate design and as a means of influencing overall density is often overlooked. In this instance, the Planning staff is concerned that approval of the

proposed subdivision and the creation of Parcel B with zero frontage on a city street would set poor precedent that could hinder the Commission's ability to use this tool to guide growth and development in the future.

There being no further comment, the Planning Commission moved to a vote.

Upon motion made by Mr. Devine, seconded by Mr. Schiappa, the Commission unanimously voted to adopt the following Findings of Fact and DENY this Preliminary Plan for Minor Subdivision.

#### Positive Findings of Fact

1. An orderly, thorough and expeditious technical review of this Preliminary Plan has been conducted. The abutters have been notified via first-class mail and the meeting agenda has been properly posted. Advertisement for this public informational meeting is not required under Section V.C.2.h. of the City of Cranston Subdivision Regulations.
2. The proposed subdivision and its resulting density of approximately 3 residential units per acre is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map which designates the property in question as "Residential" allowing 1-4 units per acre.
3. There will be no significant negative environmental impacts from the proposed subdivision as shown on the final plan, with all required conditions for approval.
4. The proposed land development 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.
5. The proposed parcels will have adequate permanent physical access to Hope Road, an improved public roadway located within the City of Cranston. Parcel A's access will be through its own frontage whereas Parcel B's physical access will be over the proposed 20' permanent easement.
6. The proposed subdivision provides for safe and adequate local circulation of pedestrian and vehicular through traffic, for adequate surface water run-off, for a suitable building site, and for preservation of natural features that contribute to the attractiveness of the community. Significant cultural or historic features have not been identified on site.
7. The design and location of streets, building lots, utilities, drainage improvements and other improvements conform to local regulations for mitigation of flooding and soil erosion.

#### Negative Findings of Fact

1. The proposal is not consistent with the City of Cranston Zoning Code in that proposed Parcel B will be left with no street frontage whereas 125' of frontage is required by Section 17.20.120 titled *Schedule of Intensity Regulations*.

2. Proposed Parcel B's complete lack of frontage does not promote high quality appropriate design, will not be well integrated with the surrounding neighborhood and will not reflect the characteristics of the existing 24 parcels within the 400' radius, which all appear to have the required minimum frontage.

Voting Aye: Chairman Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland. There were no nay votes.

### **Dynamic Estates – Preliminary Plan**

Minor Subdivision with street extension

1730 Plainfield Pike

AP 37, Lot 533

Attorney John DiBona explained the proposal to subdivide the existing 1.42 acre parcel into five lots, four of which would be for the construction of new homes and one that will retain the existing home. He stated that roadway width and curbing waivers have been requested.

Public Works Director Marco Schiappa raised the following concerns: 1) the existing stone retaining wall along Plainfield Pike blocks the right-of-way and will need to be modified to allow pedestrian access into the plat, 2) the roadway width, as proposed, appears to be only 21 ft. in some areas and recommends 28 ft. pavement width, excluding curbing, due to the limited off-street parking that will be created and the proposed 15 ½ ft. driveways; which are inadequate to accommodate two vehicles, as required by City Code, 3) the feasibility of the proposed drain along the south and east side of proposed Lot 3, 4) the proposed 30% drainage easement slope is unacceptable, and the proposed drainage easement on Lots 2 and 3 shall be 20 ft. wide, 5) the proposed drainage network should directly connect to the existing drainage line on Lot 1, and 6) overland drainage coming onto the site from the south and west has not been accounted for in the drainage report submitted.

Mr. Robert Cournoyer, Registered Land Surveyor, stated that curbing is shown on the proposed plan, however, the applicant would rather use berm and has requested a sidewalk waiver. Mr. Schiappa responded that pre-cast concrete curbing is required by City Code but noted that he would not support the requested sidewalk waiver.

Due to the above denoted concerns raised, Mr. Schiappa suggested Mr. Cournoyer meet with him in an attempt to bring this proposal into compliance with City requirements.

At this time Chairman Guglietta opened the discussion to members of the public. Mr. Paul Sasso, property abutter, stated his concern with drainage onto his property and noted his appreciation for the Public Works Director's comments. Mr. Sasso further stated that the home to be constructed on proposed Lot 2 is directly behind his home and that the topography of the site is such that the proposed home's basement would be higher than his windows; therefore, he is requesting a dense evergreen buffer between properties be required.

Councilman Jeffrey Barone stated his concern with drainage, as the proposed site is ledge; calling attention to the flooding on Pond View Drive. Mr. Barone also expressed concern with traffic on Plainfield Pike and requests a traffic study be submitted.

Marion Gannon, property abutter, asked if the applicant proposed an evergreen buffer between her property and the proposed new lots. Planning Director Jared Rhodes explained that the applicant is not required to provide an evergreen buffer. The proposed new lots conform with City Zoning Code required setbacks for an A-8 Zone. He also noted that there is no guarantee the existing trees would remain. At that, John DiBona, attorney for the applicant, stated that the developer would make every effort to preserve as many of the existing trees as possible.

Councilwoman McFarland raised concern with public safety due to the narrow roadway proposed and lack of sidewalks for pedestrian access. In response, Mr. Cournoyer stated that he will provide for sidewalks on one side of the street on the revised plan. Councilwoman McFarland also called attention to the fact that this parcel was formerly the site of an automobile repair garage and suggested a soil evaluation for possible contaminants.

There being no further comment, Mr. Rhodes concluded that the Planning Department staff formally recommended tabling this application pending proper newspaper advertisement and suggested that the plans be revised to address the above denoted concerns

Upon motion made by Mr. Devine, seconded by Mr. Schiappa, the Commission unanimously voted to TABLE this Minor Subdivision application based on those findings.

Voting Aye: Chairman Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland. There were no nay votes.

### **Pleasant View Plat – Final Plan**

Minor Subdivision without street extension *reconsideration*

Whiting Street

AP 12, Lots 1108, 1109 and 1110

Planning Director Jared Rhodes presented a brief overview of the proposal to merge and divide the three assessors lots denoted above into two buildable lots in an A-6 Zoning District. Each record lot is 4,000 sq. ft. in area. Once merged and divided, both Lot 1 and Lot 2 would be 6,000 sq. ft. and provide 60 ft. of frontage.

This proposal was approved by the Planning Commission on April 8, 2005, at which time seven conditions of approval were imposed by the Commission. At this time the applicant, Mr. Rudolph Procaccianti, is asking for the removal of Condition #7 '*Engineering of proposed retaining walls to be submitted for Department of Public*

*Works approval prior to Final Plat application.* The Public Works Director does not have concern with this request as the proposed retaining wall will not jeopardize the quality or integrity of the proposed subdivision since steps are already in place through the building permit process to ensure that the plans are stamped and signed by a Rhode Island Registered Professional Engineer. Therefore, the Planning Department staff recommends that the Planning Commission adopt the Findings of Fact documented below Mr. Rhodes, and remove Condition #7 of its April 8, 2005 Preliminary Plan Decision.

Upon motion made by Mr. Schiappa, seconded by Mr. Devine, the Planning Commission unanimously voted to adopt the Planning Department staff's Findings of Fact and remove Condition #7 of its April 8, 2005 Preliminary Plan Decision.

#### Findings of Fact

1. Construction of street extension and turn-around in accordance with City roadway specifications.
2. Water Pressure booster pump be installed in each dwelling.
3. Recording of temporary turn around easement as shown on plans, for use by City service vehicles, which may be eliminated at any time in the future when street is extended through to Randall Street.
4. Performance Guarantee of \$55,000.00.
5. 2% Administrative Fee of \$1,100.00.
6. Capital Facilities Impact Fee of \$1,186.92.
7. Engineering of proposed retaining walls to be submitted for Department of Public Works approval prior to Final plat application.

Voting Aye: Chairman Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland. There were no nay votes.

#### **Stamas/Baptista – Final Plan**

Minor Subdivision with no street extension

Dover Street

AP 7, Lots 2269, 2271, 2272, 2273, 2988 and 3864

John DiBona, Esquire, attorney for the applicant, requested that this application be continued to the January meeting.

Upon motion made by Mr. Schiappa, seconded by Mr. Devine, the Commission voted to CONTINUE this application to the January 10, 2006 Planning Commission meeting.

Voting Aye: Chairman Guglietta, Mr. Devine and Mr. Schiappa.

Voting Nay: Councilwoman McFarland.

## **ZONING BOARD OF REVIEW ITEMS**

**CHANTHOL HUY 44 BAILEY STREET CRANSTON RI 02920 (OWN/APP)** has filed an application for permission to build a 12'X 20' family room addition to an existing legal non-conforming single family dwelling with restricted frontage and front and side yard setback on an undersized lot at **44 Bailey Street**. AP 7/2, lot 254, area 3176+/- SF, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

### **Findings of Fact**

1. The 12' x 20' one story addition will be located on the rear of the house and continue the existing 5.4 ft. right side yard restricted setback for 20 ft. An 8 ft. side yard is required in a B-1 zone.
2. The existing lot coverage is 32.7 %. The proposed lot coverage will be 40%, which is 5% more than what is allowed by ordinance.
3. The proposed rear yard setback for the addition is 13.45 ft. A rear yard of 20 ft. is required by ordinance.

Upon motion made by Councilwoman McFarland, seconded by Mr. Schiappa, the Planning Commission unanimously voted to recommend APPROVAL of this application with the following condition:

### **Condition of Approval**

Reduce the addition's footprint to 12' x 14', which will reduce the total lot coverage to 38%, and increase the rear yard setback to 19.45', bringing the rear yard setback into conformance with that of the existing structure located on A.P. 7-2, lot 253.

(Aye Votes: Mr. Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland.  
Nay Votes: none)

**ERNEST TROMBETTI AND JANET MORETTI 133 GORDON STREET CRANSTON RI 02910 (OWN/APP)** has filed an application for permission to build a 14'X 28' carport addition and modified roof to an existing single family dwelling with restricted side yard setback at **133 Gordon Street**. AP 7/2, lot 1312, area 6400+/- SF, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

### **Findings of Fact**

1. The proposed 14 ft. wide carport will be 1.4 ft. from the side property line, which is 3.6 ft. short of the 5 ft. sideyard setback that is required in this zone.
2. The carport otherwise, meets the required front and rear yard setbacks.
3. All three sides of the carport are open.

4. The carport will cover the rear portion of the existing driveway.

Upon motion made by Mr. Schiappa, seconded by Mr. Devine, the Planning Commission unanimously voted to recommend APPROVAL of this application. (Aye Votes: Mr. Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland. Nay Votes: none)

**GATEWAY WOODSIDE INC 100 MIDWAY ROAD SUITE 14, CRANSTON RI 02920 (OWN/APP)** has filed an application for permission to erect a sign larger than that allowed by ordinance at **162 Hillside Road**. AP 10, lot 692, area 583,704+/- SF, zoned C-3. Applicant seeks relief from Sections; 17.92.010 Variance, 17.72.010 Signage.

#### Findings of Fact

1. The maximum allowable area for a building maker sign in a C-3 zone is 45 sq. ft.
2. The existing sign totals 78.75 sq. ft.
3. The proposed sign totals 167 sq. ft. (3.7 times larger than allowed by ordinance)
4. Signage details for each of the other commercial units on the parcel shows that the proposed 23.5' x 8.08' sign is smaller than others in the plaza. (the Borders sign is 32' x 8, ' the Linens'n Things sign measures 37' x 5', and the Office Max sign is 32' x 4')
5. The application states that the existing sign is smaller than a sign it replaced several months ago, and the proposed sign is more in keeping with the size of the original sign on the building.
6. The building and the sign do not front on a public street and are internal to the larger shopping center.

Upon motion made by Councilwoman McFarland, seconded by Mr. Schiappa, the Planning Commission unanimously voted to recommend APPROVAL of this application as the proposed sign conforms in size to other signs on similar size buildings on the parcel.

(Aye Votes: Mr. Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland.  
Nay Votes: none)

**CFS PARTNERS LP 75 SOCKANOSSET CROSSROAD SUITE 112 CRANSTON RI 02920 (OWN) AND CITIZENS BANK OF RHODE ISLAND ONE CITIZENS PLAZA PROVIDENCE RI 02903 (APP)** have filed an application for permission to have additional signage for an existing bank building at **85 Sockanosset Crossroad**. AP 10/4, lot 1492, area 30,000+/- SF, zoned C-3. Applicant seeks relief from Sections; 17.92.010 Variance, 17.72.010 Signage.

#### Findings of Fact

1. The maximum allowable signage area in a C-3 zone is 200 S. F.
2. The sign company submitted a table which lists the existing total signage at 165.78 sq. ft.
3. The proposed new signage will equal 186.75 sq. ft.

4. Nineteen signs are proposed; of those, three signs totaling 15.4 sq. ft. are new. The remaining are being replaced in-kind with the new logo and color scheme.
5. The proposed monument sign, 82 sq. ft. and 8.5 feet high, is larger than the existing monument sign, which is 74.6 sq. ft. By ordinance, the maximum allowable for a monument sign is 45 sq. ft.
6. Several new signs were proposed for the canopy, which currently has only two small signs.

Upon motion made by Mr. Schiappa, seconded by Councilwoman McFarland, the Planning Commission unanimously voted to recommend APPROVAL of this application with the following conditions:

Conditions of Approval

1. That the proposed signage is not to exceed a total area of 173.18 sq. ft.
2. Limit the number of proposed signs to the attached list submitted by the sign company.
3. No additional signage on the canopy.

(Aye Votes: Mr. Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland.  
Nay Votes: none)

**DOMENIC AND JOAN M APOSTOLICO 15 ALPINE ESTATES DRIVE  
CRANSTON RI 02921 (OWN/APP)** have filed an application for permission to convert an existing single family dwelling to professional office use for mortgage brokerage at **1030 Oaklawn Avenue**. AP 18/4, lot 1285, area 13,202+/- SF, zoned A-8. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.030 Schedule of Uses, 17.72.010 Signage

Findings of Fact

1. RIGL 45-24-41-(c) 3 requires use variance requests to be consistent with the intent or purpose of the Comprehensive Plan.
2. This request does not conform to the City's Comprehensive Plan, which calls for residential use of this area of Oaklawn Ave.
3. The property has been beneficially used as a single family residence since 1949.
4. This same property was before the Planning Commission in June, 2003, for conversion to professional office use. The Planning Commission recommended denial, citing the application did not comply with the City's Comp Plan.
5. In June 2001, the Planning Commission recommended denial on an application to convert the abutting property at 1040 Oaklawn Ave. (A.P. 18/4, lot 1288) to office use, based on the fact that the application didn't comply with the Comp Plan.
6. In 1995, the Planning Commission recommended denial for a similar request for business/professional office use across the street at 1055 Oaklawn Ave. (A.P. 18, lot 1346) due to the fact that it once again did not conform to the Comp Plan.

7. Chapter 17.92.010 C.1. of the Cranston Zoning Ordinance states that evidence be entered into the record of the (zoning) proceedings showing that “In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance.”
8. Chapter 17.92 .010 C.1. also states “nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall **not** be considered in granting a use variance.” The fact that there were two other similar use variances that were granted by the zoning board in the immediate area should not be considered in reviewing this request.
9. The applicant can continue to make reasonable beneficial use of the property for single family purposes.
10. This application will require a Physical Alteration Permit for the proposed commercial use.

Upon motion made by Mr. Schiappa, seconded by Mr. Devine, the Planning Commission unanimously voted to recommend DENIAL of this application for the following reasons:

1. The application does not conform with the Comprehensive Plan, which calls for residential uses to be made of the property.
2. No apparent hardship; reasonable use can be made of the property with the existing single family residence.
3. The application violates RIGL 45-24-41 (C) (3) which requires “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.”

(Aye Votes: Mr. Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland.  
Nay Votes: none)

**RHODE ISLAND RESOURCE RECOVERY CORP (RIRRC) 65 SHUN PIKE JOHNSTON RI 02919 (OWN) AND MICHAEL V D’AMBRA 800 JEFFERSON BOULEVARD WARWICK RI 02887 (APP)** have filed an application for permission to build a concrete dispensing silo with related equipment higher than that allowed by ordinance for the manufacturing of concrete at **2550 Plainfield Pike**. AP 35, lot 17, area 19.86 acres, zoned M-2. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

#### Findings of Fact

1. The operation of the proposed concrete manufacturing stone crushing facility is consistent with the Comprehensive Plan’s Future Land Use Map, which calls for industrial use of the property.
2. The operation of the proposed concrete manufacturing stone crushing facility is an allowed use in an M-2 zone (see Zoning Certificate attached).
3. A dimensional height variance of 53’ is needed to accommodate the cement plant’s 88’ concrete mixing silo.

4. RIGL 45-24-41 (D)(2) requires that evidence be entered into the record of zoning proceedings showing that “in granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted, amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief. The zoning board of review has the power to grant dimensional variances where the use is permitted by special use permit if provided for in the special use permit sections of the zoning ordinance.”
5. According to the applicant, the manufacture of cement cannot be undertaken without the silo configuration and its resulting height, however, evidence was presented that a ‘mobile plant’ would be 8 ft, lower in height.
6. The proposed 88’ high silo does not appear to present any safety concerns. Its fall zone is outside of the range of abutting residential uses.
7. The visual impact of the silo, based on photographs taken of actual height demonstrations which were performed using a 90’ high crane at the silo site location, revealed that because of the lower elevation of Hummingbird Way, even with no foliage on the nearby trees, only the top of the crane was barely visible from that location, which is the closest street to the site. The crane was more visible as one proceeded southerly on Alpine Estates Drive, because of the increasing elevation of the street. However, because of the increased distance from the site, the visual effect is minimal.
8. On Nov.30, 2005, the Site Plan Review Committee issued a preliminary approval for the proposed project.
9. RIGL 45-24-41 (C) (4) states “in granting a variance, the Zoning Board of Review shall require that evidence be entered into the record that the relief to be granted is the least relief necessary”.

Upon motion made by Councilwoman McFarland, seconded by Mr. Schiappa, the Planning Commission unanimously voted to recommend DENIAL of this application as the applicant has not demonstrated, pursuant to RIGL 45-24-41 (C) (4), “that the relief to be granted is the least relief necessary.”

(Aye Votes: Mr. Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland.  
Nay Votes: none)

**Nelson M. and Lisa A. Justa, 600 Laural Hill Avenue, Cranston RI 02920 (OWN) and Accurate Builders Corp., 133 Custer Street, Warwick RI 02886 (APP)** have filed an application for permission to build a new 25’x 25’ two-story single-family dwelling on an undersized parcel (Lots 2714 and 2713) with restricted frontage on **Lark Avenue**. AP 7/4, Lots 2714 and 2713, area 4750+/-SF, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

### Findings of Fact

1. The Planning Commission originally heard this application at its May 2005 meeting. At the time, a subdivision was thought to be needed and therefore the Commission recommended the application be continued.
2. After a thorough analysis of the City's Subdivision and Zoning regulations it has been determined that formal subdivision is not necessary since the original record lots and their respective property boundaries were never merged or altered through any formal means in either the City Land Evidence Records or through alterations in the engineer's books maintained by the Tax Assessors Office.
3. As a result the only needed action is the granting of relief from the merger clause (Sec. 17.88.010) by the Zoning Board due to the lots undersized nature.
4. The existing two family house which fronts on Laurel Hill Avenue will be left on a conforming lot that provides 9,500 S.F. of area and 100' of frontage.
5. The remaining proposed building parcel which fronts on Lark Ave will provide 4,750 S.F. of area and 50' of frontage.
6. All eight houses to the south of the applicant's property on the same side of the street (on Lark Ave.) are the same size lots with 50' of frontage; therefore, this parcel conforms to the other developed lots on the street.
7. The proposed house meets all required yard setbacks and is in conformance with the Comprehensive Plan, which calls for 8 residential units per acre.

Upon motion made by Councilwoman McFarland, seconded by Mr. Schiappa, the Commission unanimously voted to recommend APPROVAL of this application as it conforms to the neighborhood and the City's Comprehensive Plan.

(Aye Votes: Mr. Guglietta, Mr. Devine, Mr. Schiappa and Councilwoman McFarland.  
Nay Votes: none)

### MISCELLANEOUS ITEMS

#### **2006 Tentative Planning Commission Schedule**

Upon motion made by Mr. Devine, seconded by Mr. Schiappa, the Commission unanimously voted to APPROVE the proposed 2006 Planning Commission Meeting Calendar.

#### **Staff Update**

Mr. Rhodes informed the Commissioners that the Associate Planner examination has taken place and interviews for this position will take place in the upcoming week.

**Capital Budget Distribution**

Mr. Rhodes informed the Commissioners that Capital Budget Request packets would be distributed to all City departments this week. Appointments are scheduled for the week of January 23, 2006 to review each department's Capital Budget requests.

**Rhode Island Ethics Commission Communication**

Chairman Guglietta stated that he will follow-up with his attempt to clarify the definition of 'neighbor' as it applies to the Commission's role, and possible conflict of interest, in making determinations on Zoning Board of Review applications.

**ADJOURNMENT**

Upon motion made by Mr. Devine, seconded by Mr. Schiappa, the Planning Commission unanimously voted to adjourn at 12:10 a.m., Wednesday, December 7, 2005.

Respectfully submitted,

Jared L. Rhodes II  
Planning Director/Secretary