

# CITY PLANNING DEPARTMENT



## Memorandum – Unified Development Review

**To:** City Plan Commission  
**From:** Brianna Valcourt, M.Arch | Senior Planner  
**Date:** May 28, 2024  
**RE:** Garden Park Replat: 257 East View Avenue – Assessors Plat 11-3, Lot 1177  
**Application for Dimensional Variance**

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**Owner / Applicant:** Robert E. Moll  
**Location:** 257 East View Avenue  
**Zoning:** A-6 – Single-family dwellings (6,000 sq. ft.)  
**FLUM Designation:** Single Family Residential 7.26 to 3.64 Unit Per Acre

### I. Applicant | Property | Proposal

The Applicant and Owner is Robert E. Moll.

The subject property is in Garden Park, abutting East View Avenue, identified as Assessors Plat 11-3, Lot 1177.

The property is zoned Single Family Residential (A-6).

The Proposal is to reconfigure the existing one (1) record lots into two (2) new lots for the existing residential dwelling on Parcel A and a new residential dwelling on Parcel B.

- Lot A: 6,660 sq. ft.
- Lot B: 5,040 sq. ft.

Required relief includes relief from multiple dimensional requirements for a replat and residential development project in a A-6 zone (17.20.120 – Schedule of Intensity Regulations, 17.92.010 – Variances).

*Relief from 17.20.120 - Schedule of intensity regulations:*

- Parcel B: Minimum Land Area
  - Required: 6,000 sq. ft.
  - Proposed: 5,040 sq. ft.
- Parcel B: Minimum Frontage
  - Required: 60 ft.
  - Proposed: 56 ft.
- Parcel A: Minimum Rear Setback
  - Required: 20 ft.
  - Proposed: 8 ft.

## **II. Documents Submitted for This Application**

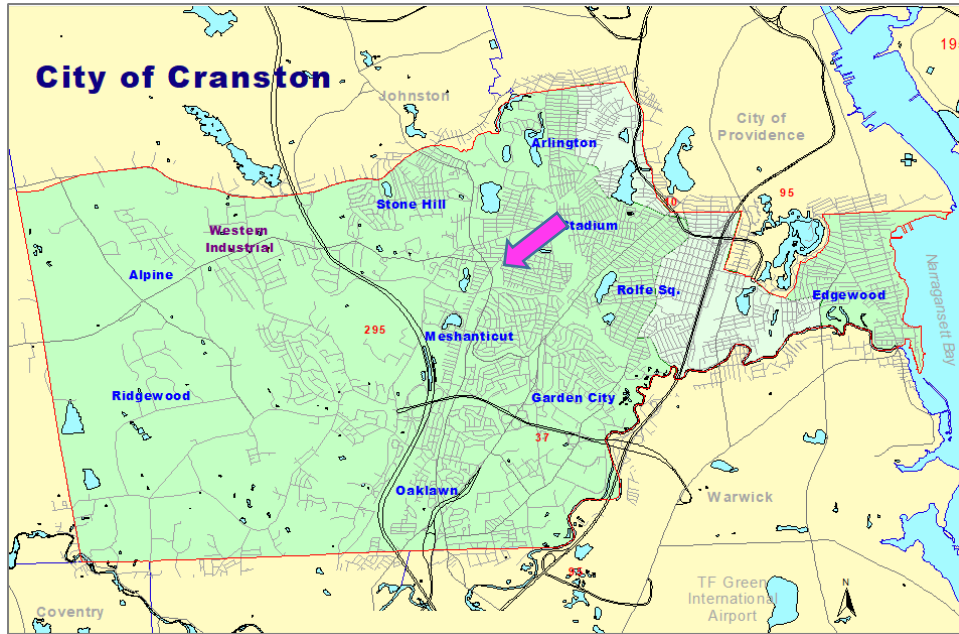
1. Minor Subdivision – Preliminary Plan Set entitled “**Garden Park**” prepared by Patricia A. Kelly, PLS, of Kelly Land Services, Inc.; dated April 9, 2024.
  - a. Sheet 1 of 2: Preliminary Plan – Existing House
  - b. Sheet 2 of 2: Preliminary Plan – Proposed House
2. Minor Subdivision – Preliminary Plan Application, signed by Owner/Applicant Robert E. Moll; dated May 1, 2024.
  - a. Application Fee for \$335.00; dated May 6, 2024
3. Minor Subdivision – Preliminary Plan Checklist, prepared by Robert D. Murray, Esq., of Taft & McSally LLP; dated May 1, 2024.
4. “257 East View Avenue” Project Narrative discussing hardships, prepared by Robert D. Murray, Esq., of Taft & McSally LLP.
5. Abutter Documentation
  - a. 400’ Abutters List
  - b. 400’ Abutters Map
  - c. Signed affidavit certifying mailing of 400’ abutter notices; sent May 17, 2024; signed by Robert D. Murray, Esq., of Taft & McSally LLP; dated May 17, 2024
6. Water Service Availability Certification, signed by Supervisor of T&D, of Providence Water; dated April 15, 2024.
7. Sewer Availability Letter, signed by John E. Ayotte, Underground Asset Manager, of Veolia Water; dated April 17, 2024.

## **III. Surrounding Land Use & Context**

Analysis using the Cranston Geographic Information System and the FEMA Flood Map Service Center indicates that:

1. The subject property is located on the southerly side of Uxbridge Street, westerly side of East View Avenue, and northerly side of Hazelton Street.
2. The surrounding area is A-6 land, with M-1 to the immediate south and A-8 to the immediate south. Development in the area consists of single-family and two-family, with multi-family development along Oaklawn Avenue.
3. The subject property is outside of any regulated resource areas under jurisdiction of the Rhode Island Department of Environmental Management, (RIDEM).
4. The subject property is outside of any identified historic / cultural districts under jurisdiction of the Local Historic District Commission, State Historical Preservation Commission, State, or National Registers of Historic Places.
5. The subject property is identified as “Zone X – Area of Minimal Flood Hazard” on FEMA Flood Map Panel 44007C0314H, and outside of any regulated floodplain or flood hazard districts, effective October 2, 2015.

**LOCATION MAP**



**AERIAL PHOTO**





**STREET VIEW**

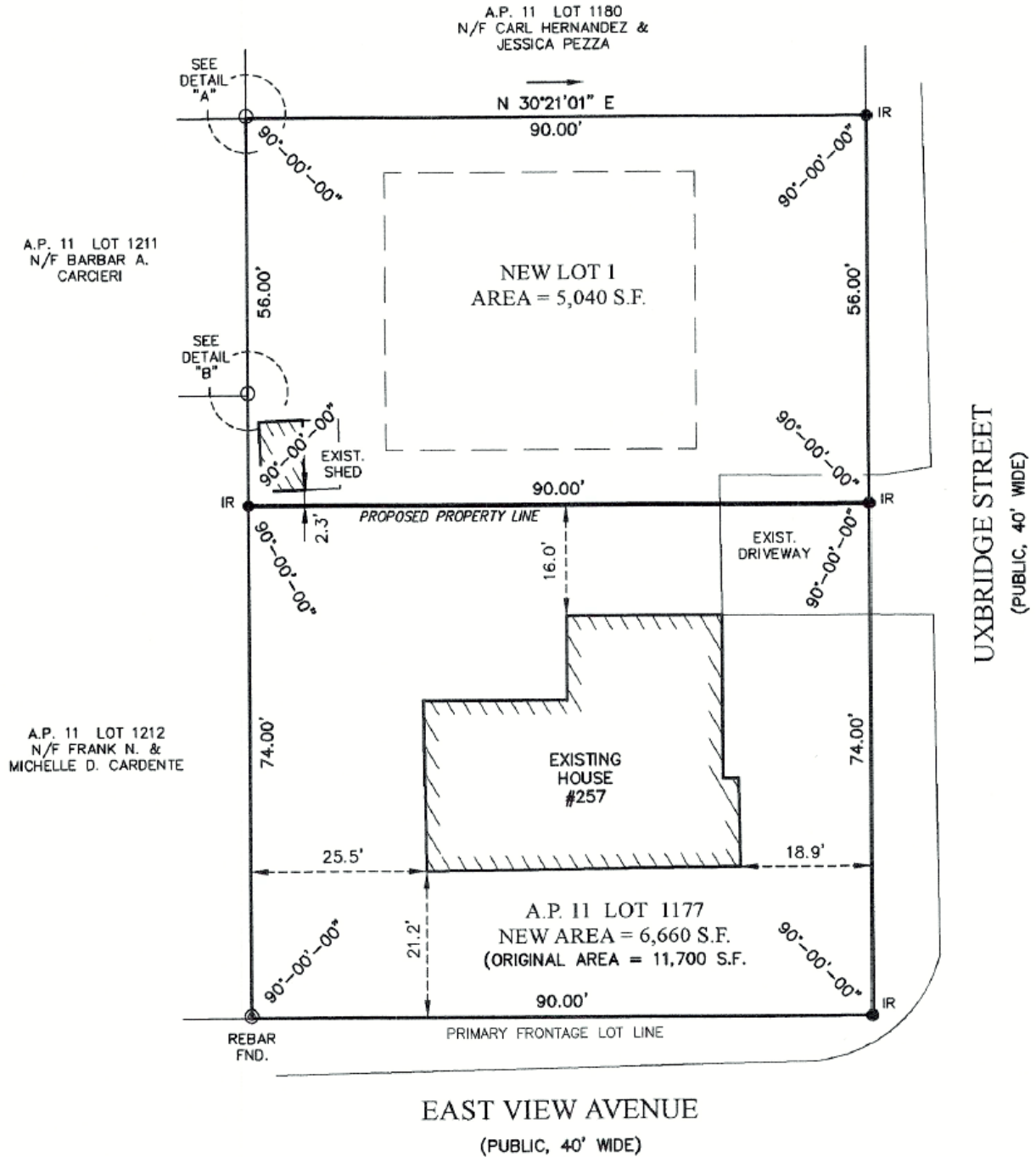


*(View south from Uxbridge St)*

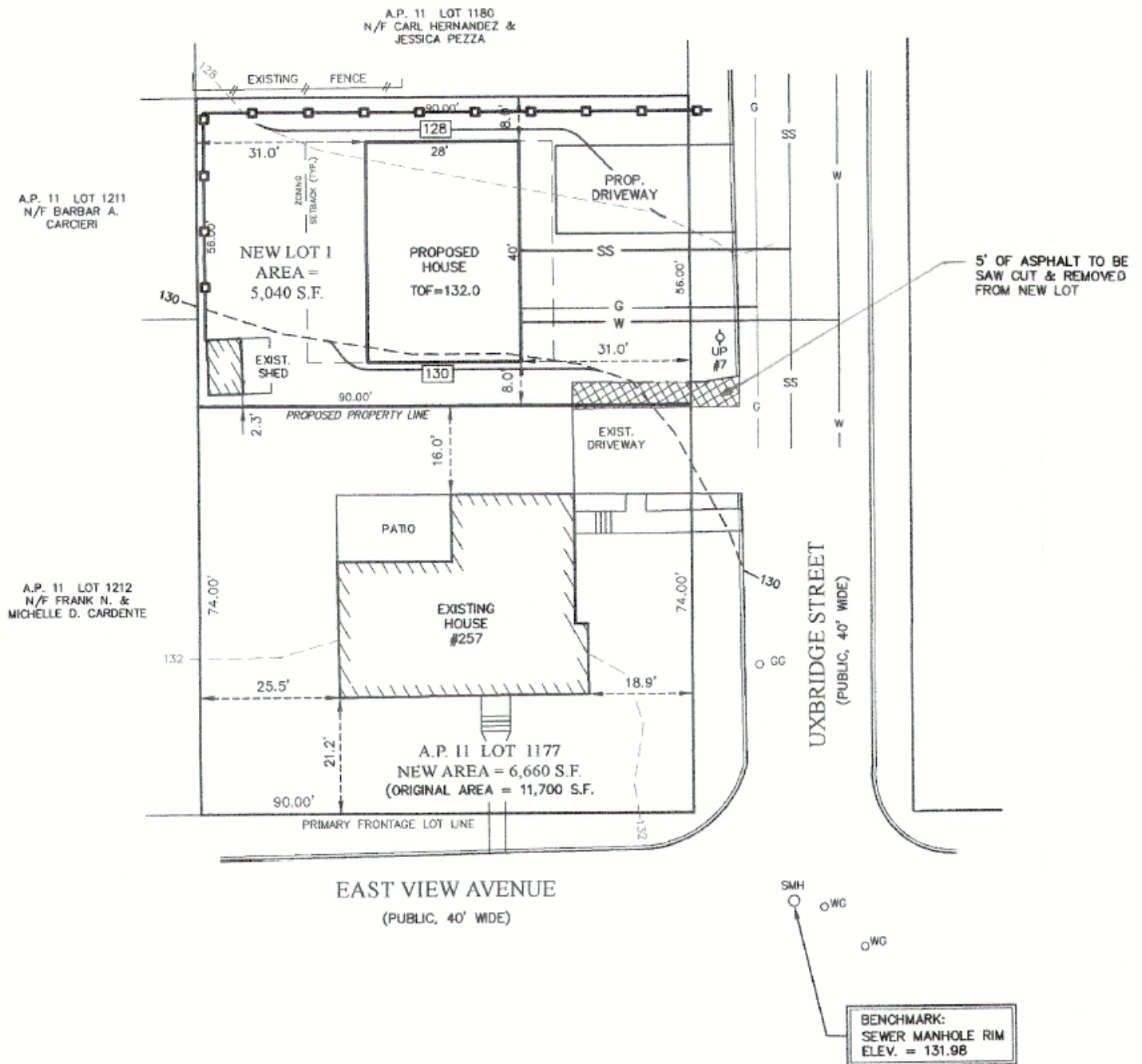


*(View south from Uxbridge St)*

# EXISTING CONDITIONS PLAN



# PROPOSAL



#### IV. Municipal Review

Pursuant to RIGL §45-23-37, these Plans and submitted documents were distributed for comment to the following agencies. Responses are as follows:

1. Department of Public Works
  - a. Engineering Division: Mr. Justin Mateus, P.E., Public Works Director, reviewed the Proposal with Staff and has no issues at this time.
  - b. Traffic Safety Division: Mr. Steven Mulcahy reviewed the Proposal with Staff and has no issues at this time.
  - c. Sewer Division: Mr. Edward Tally, Environmental Program Manager, reviewed the Proposal with Staff and has no issues at this time.
  - d. Providence Water Supply Board: Although PWSB hasn't responded at this time, The presence of a water supply line on the Existing Conditions Plan indicates existing service to existing building. The Proposed Plan calls for a service connection from the proposed water supply line on Parcel A to the existing water main along Park Avenue.
2. Department of Building Inspection & Zoning Enforcement
  - a. Mr. David Rodio, Building Official, has not provided commentary at this time.
  - b. Mr. Stan Pikul, Alt. Building Official, reviewed the Proposal and determined that Parcel A requires dimensional relief from density.
  - c. Fire Department: Mr. James Woyciechowski, Fire Marshal has reviewed the Proposal with Staff and has no issues at this time.

#### V. Planning Analysis

##### Consistency with the Comprehensive Plan

- The Future Land Use Map (FLUM) designates the subject property as “*Single Family Residential 7.26 to 3.64 Unit Per Acre.*”
  - Per the Comprehensive Plan, the A-6 zoning district is an appropriate zoning classification for single-family residential development.
  - The proposed use (single-family residential) is consistent with the Comprehensive Plan – 7.4 units per acre.
  - The proposed density is slightly above ( **.2 units**) the calculated density designated within the Comprehensive Plan.
  - Staff finds that the Application is directly consistent with the Future Land Use Map designation.
- The Comprehensive Plan outlines goals, policies, and action items pertaining to residential development which Staff find support the approval of this Application, specifically:
  - Housing Goal 4: Promote housing opportunity for a wide range of household types and income levels.
    - Housing Policy 4.1: Maintain a varied housing stock, with units of different age, size and type that are affordable to a wide range of incomes.
    - Housing Policy 4.2 Identify potential sites for redevelopment options for future residential use, and mixed use.
  - Housing Goal 5: Conserve housing resources, especially affordable housing units, to preserve the base housing stock, as the costs of locating and constructing new housing units are significant.

- Housing Policy 5.2: Review zoning for existing residential neighborhoods to ensure the zoning matches, as closely as possible, the dimensions and unit types of what has already been built.
- Staff has reviewed this Application in consideration of the compatibility with the character of the surrounding area and the request does not impose undue nuisances and is not out of character beyond any other uses on this site or within the surrounding area.
  - The surrounding area is A-6 land, with M-1 to the immediate south and A-8 to the immediate south. Development in the area consists of single-family and two-family, with multi-family development along Oaklawn Avenue.
  - The pre-existing single-family dwelling that exists on the corner of East View Avenue and Uxbridge Street, sits on the corner edge of an oversized lot, which enables this subdivision.
  - The Proposal is a reconfiguration of an existing record lot.
  - Off-site traffic impacts are negligible.
  - The proposed use (single-family residential) is consistent with the Comprehensive Plan.
  - Staff finds that the Application is compatible with the character of the surrounding area.

**VI. Interests of Others**

None to Report.

**VII. Additional Matters**

Municipal tax payments are current as certified by the Tax Collection’s Office on May 3, 2024.

**VIII. Waivers**

None Requested.

**IX. Findings of Fact:**

An orderly, thorough, and expeditious staff review of this Preliminary Plan has been conducted. Property owners within a 400’ radius have been notified via certified mail and the meeting agenda has been properly posted.

**A. Unified Development Review**

Staff has reviewed this Preliminary Plan application for conformance and consistency with the required Findings of Fact in accordance with RIGL §§ 45-23-50.1(b)(1), 45-24-41(d), 45-24-41(e)(2), and 45-24-46.4(f), as well as Section VII of the Subdivision & Land Development Regulations and finds as follows:

**The Applicant has submitted the following response to the required Findings of Fact in accordance with RIGL § 45-24-41:**

The proposed dimensional relief sought is minimal, reasonable in nature and will create any additional dwelling unit for housing purposes.

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**Staff has reviewed the requested dimensional relief for conformance and consistency with the required Findings of Fact in accordance with RIGL § 45-24-41 and finds as follows:**

*RIGL § 45-24-41. General provisions – variances. (d)(1) states, “That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(a)(16).”*



- Staff notes that there is no avenue to construct this type of permitted development on the subject property without dimensional relief due to the placement of the existing house and the shape of the subject property. Alternatives requiring less relief would restrict the proposed building footprint in a way that makes it inconsistent with the neighboring buildings and impractical for the property owner.

*RIGL § 45-24-41. General provisions – variances. (d)(2) states, “That the hardship is not the result of any prior action of the applicant.”*

- The property was owned by the Marcil family since prior to 1966. There do not appear to be any prior actions by the current applicant that would have resulted in hardship.

*RIGL § 45-24-41. General provisions – variances. (d)(3) states, “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.”*

- The proposal is compatible with the general character of the surrounding area as:
  - The Proposal consists of construction of a multi-family residential dwelling within a C-2 zoning district.
  - The surrounding area is A-6 land, with M-1 to the immediate south and A-8 to the immediate south. Development in the area consists of single-family and two-family, with multi-family development along Oaklawn Avenue.
  - The Proposal would be consistent with the existing dwellings present in neighboring zones B-1 and A-6.
  - The proposed subdivision would change one (1) existing record lot into one (2) new lots for the existing residential dwelling on Parcel A and a new residential dwelling on Parcel B.
- The proposed use (single-family residential) is consistent with the Comprehensive Plan.
  - The Application is directly consistent with the Future Land Use Map designation as the proposed use falls within the Future Land Use Map density designation as “*Single Family Residential 7.26 To 3.64 Unit Per Acre.*”
  - Per the Future Land Use Map, the “as “*Single Family Residential*” district is an appropriate zoning classification for single-family residential development.

*RIGL § 45-24-41. General provisions – variances. (e)(2) states, “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, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. 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, or, where unified development review is enabled pursuant to § 45-24-46.4, the planning board or commission has the power to grant dimensional variances where the use is permitted by special-use permit.”*

- Staff notes that there is no avenue to construct this type of permitted development on the subject property without dimensional relief due to the placement of the existing house, the shape and size of the subject property.

#### **B. Subdivision & Land Development Review**

Staff has reviewed this Preliminary Plan application for conformance and consistency with the required Findings of Fact in accordance with RIGL § 45-23-60 as well as the Subdivision & Land Development Regulations and finds as follows:

*RIGL § 45-23-60. Procedure – Required findings. (a)(1) states, “The proposed development is consistent with the comprehensive plan and/or has satisfactorily addressed the issues where there may be inconsistencies.”*

- The Proposal is generally consistent with the Comprehensive Plan’s Future Land Use Map (FLUM). The proposed resulting density of approximately 7.45 units per acre is slightly above the FLUM’s designation of the subject property as “Single Family Residential 7.26 To 3.64 Unit Per Acre.”
- Part III: Strategies and Actions, Existing Conditions and Issues, of the Comprehensive Plan, references the Schedule of Intensity Regulations which should “reflect the higher density in these areas, which are essentially built out and have an older housing stock”.
- The Proposal is referenced later in the Land Use and Zoning Consistency section which states: “The lot sizes of many parcels in the A-6, B-1 and B-2 zoning districts are, on average, under the minimum lot size of 6,000 square feet for single family and 7,500 square feet for two-family homes. To reduce the number of variances that are required to improve buildings and permit new development, the City should amend the zoning ordinance to allow expansions to preexisting nonconforming lots in an expedited manner.”
- A chart within Land Use and Zoning Consistency emphasizes reason for the City to amend the zoning ordinance to allow expansions to preexisting nonconforming lots in an expedited manner. This would make the Proposal, which consists of (2) two lots between 5,000-6,000 sq. ft. to be built without dimensional relief.

District	Total Parcels	Parcels <5,000 SF	% parcels < 5,000 SF
<b>A6 Zone</b>	10,539	5,083	48%
<b>B1 Zone</b>	7,083	3,879	55%

**Table 2-3 Sizes of Lots = or <5,000 Square Feet in A6 and B1 Zones**

*RIGL § 45-23-60. Procedure – Required findings. (a)(2) states, “The proposed development is in compliance with the standards and provisions of the municipality’s zoning ordinance.”*

- Staff notes that this Proposal requires and will seek dimensional zoning relief, (density and frontage on Parcel B; rear setback on Parcel A) which if granted, will establish compliance with the Zoning Ordinance.

*RIGL § 45-23-60. Procedure – Required findings. (a)(3) states, “There will be no significant negative environmental impacts from the proposed development as shown on the preliminary plan, with all required conditions for approval.”*

- No significant environmental impacts are anticipated.
- The Proposal will be subject to all state and local regulations pertaining to environmental impacts and wetlands.
- RIDEM’s Natural Heritage Map shows that there are no known rare species located on the site.

*RIGL § 45-23-60. Procedure – Required findings. (a)(4) states, “The subdivision, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.”*

- The Proposal 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.

- The design and location of building lots, utilities, drainage, and other improvements will conform to local regulations for mitigation of flooding and soil erosion.

*RIGL § 45-23-60. Procedure – Required findings. (a)(5) states, “All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.”*

- The Proposal will have adequate permanent physical access to Uxbridge Street and East View Avenue, improved public city streets.
- The Proposal provides for safe and adequate local circulation for vehicular traffic.

#### **X. Recommendation – Land Development Project**

Staff finds this Proposal generally consistent with the Comprehensive Plan, the Zoning Ordinance, and the standards for required Findings of Fact set forth in RIGL § 45-23-60 and Section **III(L)** of the Subdivision & Land Development Regulations.

Staff therefore recommends that the City Plan Commission adopt the Findings of Fact documented above and **APPROVE** the Minor Land Development Project – Preliminary Plan submittal subject to the conditions denoted below.

#### **XI. Recommended Conditions of Approval**

The Final Plan submittal shall be subject to the following:

1. Curb-to-curb pavement restoration shall occur as needed in accordance with and to the satisfaction of the Department of Public Works.
2. Applicant shall install one granite bound on Uxbridge Street prior to recording of the Final Plan.
3. Payment of the Eastern Cranston Capital Facilities Development Impact Fee of \$593.46.

Respectfully Submitted,

*Brianna L. Valcourt*

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Brianna Valcourt, M'Arch  
Senior Planner / Administrative Officer

**Cc:** City Planning Director  
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