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To: Cranston City Plan Commission, Cranston City Council
From: Kevin M. Flynn, Planning and Land Use Consultant
Date: November 19, 2020
Regarding: Application for Change of Zone, New London Avenue, Plat 15, Lots 1, 4, 8, 9, 1706

INTRODUCTION

I have been engaged with land use attorneys Ursillo, Teitz & Ritch, Ltd, in conjunction with neighboring landowners, with regard to the above referenced application, currently operating as a business called Mulligans Island. The property is located at 1000 New London Avenue and is adjacent to parts of the State-owned Pastore Complex and two distinct residential neighborhoods. Included in my review will be analysis of the proposal as it relates to the following:

- City of Cranston Comprehensive Plan 2010,
- City of Cranston Zoning Code and Subdivision and Land Development Regulations,
- State Enabling Acts Relating to Land Use and Planning, 45-22.2 (Rhode Island Comprehensive Planning and Land Use Regulation Act),45-23 (Land Development and Subdivision Review Enabling Act), and 45-24 (Rhode Island Zoning Enabling Act)
- File materials relating to the development of Mulligan’s Island, as provided by City planning staff,
- Application materials provided by Coastal Partners LLC in support of their application, including the Narrative Outline and Statement of Purpose, application for Change of Zone, Final Overall District Plan for Cranston Crossing dated July 17, 2020 and revised plans of November 6, 2020 (sheets G-001, G-002, C-100, C-101, C-102, C-103, C-200, C-201, C-202, C-203, C-300, C-301, C-302, C-303)
- Pre-application Meeting Summary and recommendations, dated July 16, 2020 from Joshua Berry
- Video of site walk through conducted August 11, 2020.

My resume is attached. I have 35 years of professional planning experience, including my 24 years on the City of Cranston planning staff, 20 years as the Director of City Planning from 1985-2005. During that time, I oversaw the original development of Mulligans Island, and other projects including but not limited to the Chapel View Development, Narragansett Brewery, the WalMart on Plainfield Pike, and major redevelopment of Garden City Shopping Center. During that period, we introduced the concept of Mixed Use Planned Districts, which were applied to both Chapel View and Mulligans Island. Following my years with the City of Cranston, I served

as Associate Director of the Rhode Island Division of Planning from 2005-2015, where I supervised the review and approval of local comprehensive plans, and several amendments to state enabling statutes related to planning and land use.

OVERVIEW OF PROPERTY

The applicant, Coastal Partners, LLC, of Beverly Farms MA, proposes an amendment to the existing Mixed Use Planned District designation of a 55 acre property located at 1000 New London Avenue (Map 15-1, Lot 9 and Map 15- 4, Lots 8 and 1706) . The property is currently home to a commercial recreation facility called Mulligan’s Island, consisting of a miniature golf facility, golf driving range, a nine-hole golf course, batting cages, beach volley ball courts, and a pro shop. The owners of this facility also maintain and manage a pitch and putt area, which is located on land leased to them by the State of Rhode Island Commerce Corporation.

The applicant proposes the construction of a 163,763 square foot retail building, associated parking and a fueling station at the southerly portion of the site. Several smaller retail pads are proposed north of the major proposed retail, closer to the property’s current sole point of access on Howard Avenue, near the entrance to the complex of state institutional and correctional facilities, referred to as the Pastore Complex. A major signalized intersection from Route 2 is proposed across from Brayton Ave to facilitate entry to this new retail development. The site plan requires the relocation of a historic cemetery and a telecommunications tower owned by the Rhode Island Department of Transportation, which includes leased telecommunications equipment for one or more private carriers. The plan also includes a future commercial parcel at the southern boundary of the property, abutting a City of Cranston recreational facility (parcel 3) and an area designated as “future residential” (parcel 4) along the easterly edge of the property, abutting residential neighborhoods off East Avenue,

REVISED SITE PLAN

A revised site plan and narrative was submitted to the City of Cranston on November 12. The revised plan proposes the elimination of the future residential designation at the easterly edge of the site, and now proposes that this 18-acre property be deeded to the City of Cranston for open space and public recreational use. The plan also makes changes to the location and configuration of retail pad sites to be located at the new access point from Route 2 and closer to Howard Ave. A traffic impact study was previously submitted to the City of Cranston, although it was not part of the original submission to the City.

ZONING CHANGES SOUGHT

The applicant proposes a major alteration to the site’s current designation as a Mixed Use Planned District (MPD). Unlike other zoning categories, mixed use planned district designation requires detailed site plans and use categories to be approved by the Cranston City Plan Commission and the Cranston City Council. The current MPD designation is limited to the uses and configuration that currently exist on the site.

HISTORY OF THE SITE

Redevelopment history of this site predates the Mulligan's Island construction. The subject property was part of the state holdings in this area, which at one point stretched north to Sockanosset Cross Road and east, across Pontiac Ave to the Pawtuxet River. That area housed the State's old Medium Security facility, but it was decided to convert the largely vacant land around Medium to one of the state's premier industrial parks. Beginning in the early 1980s, the Howard Industrial Park was developed in two phases. Although physically separated from phases one and two, the subject property was designated as Howard phase three.

The State of Rhode Island chose a part of the site for the construction of a new medium security prison, now called the John J. Moran Medium Security Prison, which opened in 1992. The design of this facility, a single level with the series of connected residential 'pods' surrounding open areas, was significantly different from the other correctional facilities at Pastore, and used a substantial amount of Howard phase 3 land. This greatly added to the difficulty of using the site for its originally intended use, and to provide for proper buffering of existing residential neighborhoods to the South and East. The development of Howard phases one and two did not face similar challenges.

At the time that the development which became known as Mulligan's Island was proposed, the subject property was leased as a cornfield, and was commonly referred to as such.

Mulligan's Island

The development now known as Mulligan's Island went through many years from its original proposal in 1997 to what we see today, approved in 2001 with some minor amendments since then. The city based its review and ultimate approval of the development on the guidance provided by the 1992 Cranston Comprehensive Plan which sought "to restrict future development at the 'Cornfields' site to only that which will maintain or enhance the limited economic development potential of the parcel and buffering nature of this parcel to the nearby residential neighborhoods."

The 2001 approval included the construction of a restaurant and a pro shop. The addition of a restaurant proved problematic, likely due to the less than ideal access from Howard Avenue, and the pro shop was subsequently constructed as a stand-alone building.

The multiyear approval process for Mulligans Island was not without controversy. At numerous neighborhood public hearings and workshops, concern was expressed over the loss of the buffer between neighboring residential areas and the state correctional facilities provided by the leased cornfields. Ultimately a general consensus was achieved that a recreational /commercial development that was 90 percent grass was preferable to expanded state institutional uses or more intensive commercial development.

COMPREHENSIVE PLAN REVIEW

The City of Cranston Comprehensive Plan of 2010 contains numerous references to sound planning practice and specific suggestions of areas considered appropriate for development or redevelopment among references that are germane to the current application are these:

EDG 3 Add to the city's taxable property base by constructing industrial and commercial structures that are properly designed and sited in keeping with environmental, planning, and design considerations.

EDG 5 Ensure that new and expanded commercial development along major arterials exhibits a high standard of design and is compatible with existing roadway functions and adjacent residential neighborhoods.

The plan also makes reference to specific locations for economic development initiatives. These include the former site of the Narragansett Brewery Trolley Barn (now demolished), the former Ciba Geigy property, the Elmwood / Wellington corridor along route 95 and the Amtrak line, vacant Pastore Center land along Pontiac Ave, the site of the Cranston Printworks, and the city's several commercial centers (Garden City, Knightsville, Rolfe Square).

The plan contains no reference to the Mulligan's Island site as a candidate for more intensive development.

The 2010 plan also makes several references to the 1992 Comprehensive Plan, and provided updates on goal and actions that were highlighted in that plan. The 1992 plan called for "restricting development at the 'Cornfields' site to only economic development options that include buffers to nearby residential neighborhoods." This goal was achieved through the development of Mulligan's Island.

The future land use map of the 2010 Cranston Comprehensive Plan designates this property as mixed use development. The applicant is asserting that the proposed redevelopment of the site qualifies as mixed use, so that presumably no amendment to the Comprehensive Plan is necessary. However, calling something 'mixed use' does not make it so. This will be discussed more fully in the subsequent section of this report. But for purposes of consideration as part of the comprehensive plan review, it is my professional opinion but the current application should require an amendment to the comprehensive plan that would change the bulk of the property's future land use designation to highway commercial, with the remaining easterly portion to be designated as open space.

Cranston Zoning Code

Since the origin of zoning, nearly 100 years ago, traditional zoning codes have been designed to separate uses thought to be incompatible, for example, keeping manufacturing areas away from residential areas. However, more recent trends in zoning have argued that the development of downtowns and village centers depend on a combination of uses that traditional zoning often sought to separate. The City of Cranston recognized this growing need by adopting mixed use

zoning. Developers now have the option of applying this ‘floating zone’ concept to specific parcels. A developer now has the freedom to propose a mix of uses that no single zoning category would permit. In return, city regulators (City Plan Commission and City Council) get to decide what is an appropriate mix for a site, as well as far more detailed approval powers on such matters as building design , height, parking, access, landscaping etc. This concept has been used in several Cranston developments including Chapel View and Mulligan's Island. The following are a series of excerpts from the city of Cranston Zoning Code:

17.04.030 Definitions

mixed use - A mixture of land uses within a single development, building, or tract.

17.96.020 Planned Districts Generally

Mixed Use Planned Districts (MPD) means a development undertaken by a single owner or group of owners and planned as a single entity, within which uses shall be multiple in nature and may include uses not otherwise permitted within the same zoning district. The mix and orientation of these uses are required to be compatible within the proposed development and also in relationship to the surrounding area.

17.96.050 Ownership

A tract of land to be developed as a planned district shall be under the legal control of:

- A. A single owner, or*
- B. A group of landowners acting through a corporation, corporate partnership, trust or joint venture where each owner agrees in writing to be bound by the conditions and regulations that will be effective within the district and to record such covenants, easements and other provisions with the city clerk.*

17.96.070 General Requirements

All planned districts shall demonstrate that there is a general public benefit to be gained by deviation from the requirements of the existing zoning classification. These benefits may include but are not limited to:

- A. Preservation of unique or sensitive natural areas or significant historic sites;*
- B. Preservation of architecturally significant buildings;*
- C. Ecologically sensitive building orientation, utility placement, roadway pattern and/or construction methods.*

Should the city council, in reviewing an MPD or the planning commission, in reviewing an RPD, conclude no general public benefit is to be gained in approving a particular application, they may reject said proposal.

Why Mulligan’s Island Was Developed as an MPD

The Mulligan's Island development went through several iterations before its final approval in 2001. As noted earlier, plans always included a restaurant, in addition to the golf course, driving range, miniature golf, and batting cages. There was no single existing zoning designation that would have accommodated all of these uses. Golf courses are allowed as a matter of right in an S-1 zone, and as a special permit use in zones A-80 and A-20. Restaurants are allowed in zones

C-1, C-2, C-3, C-4, C-5, and as a special permit use in manufacturing zones M-1 and M-2. The closest designation in the schedule of uses that would accommodate the miniature golf, driving range, and batting cages was thought to be ‘commercial recreation’ and that designation is only permitted in zones C-3, C-4, and C-5. Therefore, the Mixed Use Planned District designation was the only vehicle available to the applicant and to city regulatory bodies, other than seeking multiple use variances through the Zoning Board of Review.

Why Cranston Crossing Fails as a Mixed Use Planned District

The revised plans for Cranston Crossing indicate three types of projected commercial uses for the site: a wholesale club with fueling station (large scale retail), fast food/ retail, and an ATM and retail. All of these uses are allowable uses under the C-4 designation, Highway Commercial. This designation also permits such varied uses as a bakery, banks, day care, hardware store, fitness club, dance studio, laundromat, medical or dental office, hotel, tavern, convenience store, and professional office, among many others. These are in addition to the uses proposed in the Cranston Crossing plan submission.

The major and essential feature of what distinguishes mixed use zoning from other types of zoning classification is the MIX of uses. In this proposal, that does not exist. Merely showing different retail or restaurants uses or dimensions does not qualify as a mixed use planned district, because of the specific requirement in the definition of an MPD, as cited above, that “The mix and orientation of these uses are required to be compatible within the proposed development and also in relationship to the surrounding area.” In other words, it is not a mix of uses alone that qualifies a development as an MPD, but a mix of uses that combine harmoniously both within the development itself and in relation to the context surrounding the subject property.

The proposed development is a highway commercial development, pure and simple. Calling it an amendment to what is truly a mixed use development is at a minimum, disingenuous. It is my opinion that this proposal should be called what it clearly is; a C-4 highway commercial designation. The property proposed to be donated to the City could be designated as S-1. Since there is clearly no relationship or interdependency between the retail and the open space, a zoning district boundary separating the two would be sufficient.

Spot Zoning

Spot zoning is defined by the American Planning Association as “the singling out of a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and the detriment of other owners. Perhaps the most important criteria in determining spot zoning is the extent to which the disputed zoning is consistent with the municipality’s comprehensive plan.”

Clearly this site is proposed for a use that is totally different from what exists in the surrounding area. The future land use plan for the City calls for the continuation of this site as a mixed use development. This proposal, although it is proposed as an amendment to an existing mixed use development, is, in actuality, something quite different. As such, its departure from the

recommendation of the City's future land use map raises the specter of this zoning action to be considered as spot zoning.

Site Planning Considerations

The site plan for Cranston Crossing proposes a large box retail site at the southerly boundary of the property. This 164,763 square foot structure is located in close proximity to residential properties on Hilltop Drive. At its closest point, pavement and driveways associated with the building are located within 75 feet of residential property boundaries, only slightly further than the minimum 50 foot buffer shown on the plans. In this area of closest proximity, the development proposes the construction of a 10 foot high screening berm. The site plan indicates that loading docks are proposed on the South side of the structure, which will clearly contribute to traffic noise in this vicinity.

The plan also shows a future commercial site (parcel 3) which abuts a neighborhood playground. Since no structure is indicated, it is difficult to assess the compatibility of this future commercial development with nearby residential use.

The site plan also shows two commercial pad sites at the entrance to the Pastore complex on Howard Avenue. The level of compatibility of such uses with the Pastore complex should require consultation with the State of Rhode Island.

The revised plan also shows an 18-acre parcel to be gifted to the City of Cranston for recreational use. However, it is not clear how access to this area is to be achieved. There appears to be only a very narrow right of way off Beekman Ave that may not provide adequate access to this part of the site for future recreational development.

As noted earlier, the plan for Cranston Crossing introduces a highway commercial use into an area that contains no such uses. The property to the north is a large institutional campus consisting of state correctional facilities, office uses, the traffic tribunal, and the Division of Motor Vehicles (the latter two uses have been added to Pastore since the construction of Mulligan's Island). The closest large-scale commercial area along Sockanosset Cross Road (Chapel View and Garden City) is over a mile away. There is commercial activity on New London Ave closer to Oaklawn Avenue, but these are far smaller and less intense commercial uses (dentist's office, memorial Chapel and doctor's offices).

Cranston contains few examples of large-scale retail abutting residential development. Where that has been approved, the buffer zones have been far more substantial than what is proposed here. For example, the retail along the southern portion of the former Narraganset Brewery property has an approximate 140 foot distance between its edge and the residential properties on Pomham St. But that is also a much smaller retail building than what is proposed for this neighborhood. The closest comparison would be the Walmart on Plainfield Pike, but even there, buffers between the development are at least 200 feet deep from residential properties on Westfield Drive.

Although this is not intended to be a review of the traffic study submitted for this site, it should be noted that access to the development from the South presents certain challenges. The plan appears to show that it will be impossible to enter this site if one is traveling northbound on New London Avenue from Oaklawn Avenue. Such traffic would need to continue north to Howard Avenue, take a right on Howard, and then take another right to proceed to the retail site. The alternative would be to continue north on Oaklawn Avenue to Garden Hills Drive, take a right to New London Avenue, then take another right to access this site from the new signalized intersection proposed at Brayton Avenue.

In summary, the site plan is deficient for the following reasons:

1. It proposes an island of commercial development, completely out of context with State institutional uses to the north and residential uses to the south, east, and west.
2. Buffers, particularly to properties to the south, are not adequate and not consistent with past practice of the City.
3. Compatibility of a fast food or other commercial uses at the entrance to the Pastore complex is questionable at best.
4. The continuation of access to the site from Howard Avenue should be confirmed by the Rhode Island Departments of Administration and Transportation.
5. Future access to the 18-acre property to be gifted to the City is problematic.

Also, it should be stressed that the major abutting institutional user to this site is the Department of Corrections. Security concerns, particularly at the perimeter of the medium security facility, were the subject of considerable discussion between the City of Cranston, the Department of Corrections, and the developer when Mulligan's Island was proposed and approved. This development would represent a far greater influx of people into an area directly abutting a high security prison facility. At this time, it is unknown whether any coordination with the Department of Corrections has been part of this application review process.

Summary and Recommendation

In my past role as Director of Planning for the City of Cranston, I have perhaps a unique history and perspective on the development of this site and how this proposal is inappropriate for the area.

Mulligan's Island was developed with the intention of providing a limited commercial use of the former 'Cornfields' in a manner that would serve as a buffer between existing residential properties and the state institutional complex of the Pastore Center. This proposal represents a radical departure from that concept.

From a procedural standpoint, it is clear that this proposal should not be considered as an amendment to an existing mixed use planned district. An amendment might be something like adding a commercial swim club to what already exists at Mulligan's Island or a number of pickleball courts. This proposal calls for the complete elimination of what is there and replacing it with something entirely different. To be properly considered for what it clearly is, the City should require an amendment to the Comprehensive Plan and subsequent zone change to a

highway commercial designation. The current proposal is inconsistent with the City Comprehensive Plan.

While claiming to be an amendment to the current designation as a mixed use planned district, this development proposal clearly fails on one essential point - actually proposing a MIX of uses. Everything this development seeks to accomplish can be done within a highway commercial zoning designation. From a site planning perspective, Cranston Crossing proposes a new 'island' of commercial activity which is dramatically inconsistent with abutting residential and institutional uses. Large-scale commercial activity off Sockanosset Cross Road is a mile away, and nearby professional service establishments closer to Oaklawn Avenue, are at a completely different level of scale, intensity, and traffic generation.

Buffering of residential properties to the South is minimal, and considerably less extensive in comparison with other large retail sites elsewhere in Cranston. The property proposed to be donated to the City at the easterly edge of the site presents access issues that should be fully explored before that gift should be accepted.

For these reasons, and those noted elsewhere in this report, I would recommend that the Cranston City Plan Commission and Cranston City Council reject the Cranston Crossing development proposal.

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PROFESSIONAL EXPERIENCE

2005 – 2015 Associate Director, State of Rhode Island, Division of Planning
1981 – 2005 Cranston, Rhode Island, City Planning Director, and other positions

ACCOMPLISHMENTS

2005 – 2015 Associate Director, RI Division of Planning; Manages all aspects of the Division of Planning , supervising a staff of 32 as outlined below:

Transportation: Oversees all aspects of Transportation Planning, including the State's long range transportation plan, *Transportation 2030*, periodic updates to the State's *Transportation Improvement Plan*, as well as participation in strategic planning initiatives, such as the current Strategic Planning Committee, being managed by RIPTA. As staff to the MPO, the Division of Planning coordinates all public participation aspects of transportation planning. Oversight responsibility for the State's Safe Routes to School Program, as well as over \$3 Million in Challenge Grant funds for RI Cities and Towns and qualified non profit organizations.

Comprehensive Planning: Manages the state review process of mandated local Comprehensive Plans, to insure their consistency with state goals and policies as expressed in the *State Guide Plan*, which addresses all functional areas relating to the development of the state, including transportation, land use, infrastructure, housing and economic development. Managed the process of rewriting the state's enabling statutes relating to local comprehensive planning.

Land Use: Manages all aspects of land use planning at the state level, including such activities as water supply planning, renewable energy, assistance to local communities in land use activities, open space and agricultural lands preservation. The state's land use plan, *Land Use 2025*, adopted in 2006, serves as the state's overarching policy guide and calls for controlling low density sprawl through greater development with urban services areas and village centers, coupled with preservation of rural resource lands. Oversees activities related to the state's Geographic Informational Systems program, **RIGIS**.

Housing and Community Development - Oversees all aspects of the Office of Housing and Community Development, including implementing the state's *Five Year Strategic Housing Plan*, working with communities to implement their affordable housing goals, providing staff support to the Housing Resources Commission, managing the distribution and oversight of the small cities Community Development Block Grant Program (CDBG), Neighborhood Stabilization Program, HPRP, Neighborhood Opportunities Program, and Building Homes Rhode Island affordable housing bond funds. Oversees various programs related to homelessness and lead hazard mitigation.

Served in progressively responsible staff roles within the City Planning Department, including as its Director from 1985-2005. Responsible for major redevelopment initiatives including the redevelopment of the former Narragansett Brewery and the redevelopment of the former Training School for Boys as a 400,000 square foot mixed use project called Chapel View. Rewrote the City's Comprehensive Plan in 1992, its first update since 1975. Continually developed local regulatory tools to incorporate better environmental project review, improved site design standards, development of impact fees, regulation of signage, etc. Prepared annual Capital Budget and 5 Year Capital Improvement Program for City. Developed and managed projects related to transportation and infrastructure improvements, including a biennial transportation plan for the City, numerous grant applications to the state, including projects involving complex regulatory hurdles, both environmental and multi community. Leveraged municipal open space funds resulting in the preservation of over 350 acres of open space through developing partnerships with the State of Rhode Island, the Champlin Foundation, and Nature Conservancy.

Made countless presentations at various public venues (Planning Commission, City Council, other legislative hearings). Worked successfully with 3 Mayors and 13 City Councils.

EDUCATION

University of Rhode Island – Masters of Community Planning 1980

University of Massachusetts – Bachelors of Arts (History) 1975 (member, PhiBetaKappa 1975)

Universite de Paris, Sorbonne – 1973 – 1974

ACTIVITIES/AFFILIATIONS

Secretary, State Planning Council, 2005 – present, member since 1985

Member, State of Rhode Island Housing Resources Commission, 1999 – present

Member, Water Resources Board, 2009 – present

Member, Capital Development Oversight Committee, Dept. of Administration, 2005 – present

Chairman, Board of Directors-Cranston YMCA 2010; Board of Directors Greater Providence YMCA Finance Committee 2006 – 2013

Board of Directors – Access Point RI (formerly Cranston ARC) 2012- present

Member, Board of RI Local Initiative Support Corporation 2010- present

Adjunct Faculty Member, Graduate Curriculum in Community Planning and Area Development University of Rhode Island, 1992 – 2006; taught courses in land development and studio practicum at Kingston and Providence Campuses

REFERENCES

Available upon request