**MINUTES**

**December 3, 2019**

Chairman Smith called the City Plan Commission Meeting to order at 6:35 p.m. in the City Council Chamber. He mentioned that the matter of the ordinance recommendation will be heard at the January 7, 2020, Plan Commission Meeting.

The following Commission members were in attendance: Chairman Smith, Fred Vincent, Ken Mason, Robert Strom, Joseph Morales, Ann Marie Maccarrone, Kathleen Lanphear and Robert Coupe.

Also present were: Jason M. Pezzullo, AICP, Planning Director

 Douglas McLean, AICP, Principal Planner

 Joshua Berry, AICP, Senior Planner

 Stephen Marsella, Esq., Assistant City Solicitor

J. Resnick, Clerk

**APPROVAL OF MINUTES**

Upon motion made by Mr. Vincent and seconded by Mr. Morales, the Plan Commission voted (7/0 – Ms. Maccarrone abstained) to approve the minutes of the November 5, 2019, meeting with a correction as noted by Ms. Lanphear.

**SUBDIVISION AND LAND DEVELOPMENTS**

**Mixed Use Development at 100 Sockanosset**

**Preliminary Plan –** Major Land Development (Former Citizens Bank Site)

Mixed-use commercial / office complex, commercial recreation (Topgolf)

Parking garage proposal eliminated, surface area parking expanded

100 Sockanossett Crossroad

AP 14, Lot 2 and a portion of AP 14, Lot 15

Mr. Douglas McLean, Principal Planner, presented his staff memorandum and an overview of the mixed-use development. Sections of the memorandum have been included for overall clarity.

The overall development has been divided into three sections:

1. The reuse of a portion of an existing building (former Citizens Bank headquarters) for office and retail uses.
2. New golf entertainment center (Topgolf).
3. New building including retail and drive-in restaurant uses.

The existing building on the site is proposed to be partially demolished and the remaining sections of the building will be 1- to 2-stories in height. The proposed new golf entertainment center in the rear of the property will consist of a 3-story building and driving range area surrounded by poles and netting up to 190’ in height. The proposed new building in the front of the property will contain retail and drive-in restaurant uses and require a zone change application to allow the drive-in restaurant within this zone.

Mr. McLean noted several aspects of the proposed development have changed since Master Plan approval was granted in January 2019. The major changes include: removal of the 4-story structured parking garage, removal of the 2 large TV screens within the Topgolf driving range, addition of a new building in the front of the site with retail and drive-in restaurant uses, and a new alignment of property lines in the south-west corner of the site in which a portion of an abutting property (AP 14, Lot 15) is being added to the subject property (AP 14, Lot 2) to increase the size of the development by approximately 2 acres (total of 24.71 acres). The applicant has submitted a Preliminary Plan application to the Plan Commission and a parallel zone change request to the City Council specifically for the proposed drive-in restaurant use.

The proposed mixed-use development consists of office/retail uses within the remaining portions of the existing building, a golf entertainment center (Topgolf) along the back of the property, and a new building including retail and drive-in restaurant uses near the front of the site. To facilitate the redevelopment of the site, the applicant has proposed a new property line alignment in the south-west corner of the site in which a portion of an abutting property (AP 14, Lot 15) is being added to the subject property (AP 14, Lot 2) to increase the size of the development by approximately 2 acres (total of 24.71 acres).

Major Site Plan Changes:

The following aspects of the proposed development have changed since Master Plan approval was granted in January 2019:

• Removal of the 4-story structured parking garage,

• Removal of the 2 large-size TV screens within the Topgolf driving range,

• Addition of a new building in the front of the site with retail and drive-in restaurant uses, and

• New alignment of property lines in the south-west corner of the site in which a portion of an abutting property (AP 14, Lot 15) is being added to the subject property (AP 14, Lot 2) to increase the size of the development by approximately 2 acres.

He stated that he has instructed the applicant to submit a parallel zone change application to include the drive-in restaurant use for this zone. He noted that drive-in restaurants are allowed by-right in C-4 and C-5 zones that such a use is viewed as appropriate for the site and consistent with the Comprehensive Plan Future Land Use Map allocation for this site of “Highway Commercial/Services.”

This project was reviewed at DPR meetings on 11/6/19 and 11/20/19 and ultimately received DPR approval on 11/20/19. The DPR did give consideration for a waiver for the applicant’s request to waive RIDEM permits to the final DPR application stage and provided for a condition to this effect as part of its approval. The DPR voted unanimously (5-0 final vote) to approve the project.

The Conservation Commission reviewed the proposal at a meeting on 11/25/19 and approved the following motions:

*“During its meeting of November 25, 2019 the Cranston Conservation Commission (CCC) reviewed the above referenced application (Application of 100 Sockanossett LLC for Mixed Use Development of 100 Sockanosset Cross Road) including plans dated November 15, 2019 at the request of the Cranston Planning Commission. The CCC voted 4-0-0 to forward a* ***positive*** *recommendation to the Cranston Plan Commission subject to the following conditions:*

*1. The applicant finds additional tree plantings onsite.*

*During its review the CCC found that:*

*1. The proposed landscape plans indicated a reasonable revision that reflected site conditions, addressed site constraints, safety, fire, and facility programming.*

*2. The removal of video screens eliminated the need for additional offsite planting.*

*3. The applicant provided additional landscaping to become more in compliant with city landscape requirements section 17.84.140 – 7B.*

*4. Applicant expressed high level of interest in cooperating with the commission’s recommendations prior to final plan approval.”*

Another motion approved by the Conservation Commission at its 11/25/19 meeting was to designate a Conservation Commission member as the Commission’s official liaison to this project moving forward to assist with identifying appropriate location for an additional 34 (+/-) tress plantings as a commitment from the applicant in lieu of meeting the landscaping requirements of the DPR process.

The applicant has submitted a lighting plan that provides a detailed analysis of the lumen levels across the site give the number of different lights throughout the Topgolf facility and surrounding parking area. The plan indicates that the lights will be directed and shaded such that the lumen levels will read “0” at the property line, consistent with City Code requirements.

As part of the previous Master Plan application the applicant submitted a qualitative traffic assessment of the impacts associated with the proposed redevelopment of the subject property. The traffic assessment concluded that the projected weekday morning and evening peak hour traffic volumes of the redeveloped site will be less than the previous use (Citizens Bank). The relatively minor increase in peak hour traffic on a Saturday can be accommodated because traffic volumes on the adjacent roadway network are between 8 and 16 percent lower during the Saturday midday peak than during the weekday evening peak.

The traffic assessment made the following assumptions in reaching this conclusion:

* The proposed redevelopment will result in a significant decrease (105,900 sf) in the amount of office space and the intensity of the office use which results in a decrease in weekday morning and evening peak hour traffic from this land use.
* The proposed office use will be a less intense use (less densely occupied space) than the Citizens Bank. The call center component of the Citizens Bank consisted of over 7 employees per 1,000 sf; whereas, the typical office space consists of 5 employees per 1,000 sf.
* The peak traffic generation and traffic patterns of the proposed entertainment center are different than the current Citizens Bank facility. The proposed entertainment center will generate less traffic than the Citizens Bank during the weekday morning and evening peak periods of the adjacent roadway. The entertainment center will generate some traffic during the Saturday midday peak period compared to negligible traffic generated by the Citizens Bank. This minimal increase in traffic can be accommodated due to the lower traffic volumes during Saturday midday peak than during the weekday evening peak.

The peer review by Fuss and O’Neil has confirmed that the proposed development is expected to reduce weekday peak hour traffic.

Mr. Kelly Coates, Carpionato Corporation, stated that the former Davol/Citizen’s Bank Building was “cavelike” with its distinct lack of windows so therefore 105 thousand square feet of the building will be demolished. He explained that Topgolf will be the anchor for the proposed entertainment area as interest in retail overall is waning. He stated that the project has all required approvals with the exception of RIDEM, which he is anticipating he will receive in January as they have signed off on the proposed changes. Regarding the historic cemetery on site, he stated that they fully intend to comply with all regulations (no disturbance within 25 feet).

Mr. Robert Clinton, traffic engineer, VHB, stated that over one hundred thousand sq. ft. of the existing office building will be demolished resulting in 340 less a.m. vehicle trips and 170 less p.m. vehicle trips.

Mr. Tom Waldon, Topgolf, gave an overview of the company mission. He mentioned the company’s commitment to the community as well as the fact that the venue will create approximately 450 jobs.

No public comment was offered on this matter.

Upon motion made by Mr. Vincent and seconded by Mr. Mason, the Plan Commission unanimously voted (8/0) to adopt the Findings of Fact denoted below and *approve* this Preliminary Plan, with a waiver for requiring the RIDEM permit at this stage of application, subject to the following conditions.

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

1. The proposed mixed-use development is consistent with the Comprehensive Plan – Future Land Use Map designation of the parcel as “Highway Commercial/Services,” because this designation is suitable for the most intensive types of commercial uses in the City. The proposed uses for the site (commercial recreation, office, retail, and drive-in restaurant) and the proposed intensity/scale of development on the site are consistent with the Comprehensive Plan’s vision for the Highway Commercial/Services designation. Additionally, the Comprehensive Plan describes the intent of this Future Land Use Map designation as being “oriented towards providing services to citywide and regional markets”.
2. Significant cultural, historic or natural features that contribute to the attractiveness of the community will not be unduly negatively impacted through this proposal.

*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.”*

1. The proposed mixed-use development iscompliant with the *majority* of the zoning provisions currently in place for this parcel of land. The proposed drive-in restaurant use is not currently allowed on the site. It is understood that the applicant has submitted a corresponding zoning amendment, and if such an amendment is approved without modification then this negative finding is converted into a positive finding of compliance with the zoning ordinance.
2. The proposed zoning amendment associated with this Preliminary Plan application (to add drive-in restaurant use) is consistent with the Comprehensive Plan Future Land Use Map allocation for this site of “Highway Commercial/Services.” The City Plan Commission is scheduled to review the zone change application and make a final advisory opinion to the City Council at its next regular meeting. .

*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* ***final*** *plan, with all required conditions for approval.” (emphasis added)*

1. The current site is almost entirely paved except for the perimeter slope areas, parking lot landscaped islands, and a small wetland in the south-east corner of the lot. The proposed development will allow for more on-site drainage infiltration than currently exists on the site. The applicant has proposed permanent stormwater management measures that will fully mitigate the impacts to stormwater runoff, and will comply with the City of Cranston Stormwater Ordinances and the Stormwater Management Standard and Performance Criteria of the RI Stormwater Design and Installation Standards Manal (RISDISM). The project will be subject to all local, state and federal standards regarding environmental impacts. The final RIDEM permit will be secured prior to consideration of a ***Final Plan approval***. At this point, staff finds that there will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.”
2. The Rhode Island November 2018 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.”*

1. The proposed project does not incorporate a subdivision of land or any improvements that would create physical constraints to development such that future building would be impracticable.
2. The design and location of building lots, utilities, drainage and other improvements 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.”*

1. The property in question has adequate permanent physical access from Sockanosset Cross Road, an improved public roadway located within the City of Cranston.
2. The proposed project will result in a net traffic reduction to and from the site compared to the previous use on the site (Citizens Headquarters) or the potential future use of existing building as high density office.

 **Conditions of approval**

1. City Council approval of the requested change of zone primarily focused on adding drive-in restaurant use that has been submitted in association with this Preliminary Plan application prior to a Final Plan approval;
2. Veolia Water approval of sewer engineering stating that the plans conform to Annex A - Design of Sewers prior to Final Plan approval; and
3. All required local, state and/or federal permits and approvals to be granted by the various state or federal agencies with jurisdictional authority for the project, including but not limited to: RIDEM, prior to Final Plan approval.

**Replat of Oaklawn Plat, AP 18-4, Lot 369**

**Preliminary Plan –** Minor Subdivision without street extension

One additional single-family house lot

76 Angel Street, Lincoln Park Avenue

AP 18-4, Lot 369

City Solicitor, Steven Marsella, recused himself on this matter.

Mr. McLean stated that the proposed minor subdivision has a total land area of 20,000 ft2. The site is zoned A-6, which allows for single-family residential homes on lots that have a minimum of 60’ of frontage and 6,000 ft2 of land area.

The applicant proposes to subdivide/merge the existing lot into two (2) lots for the purposes of creating an additional buildable lot. Proposed Parcel A is host to the existing single-family dwelling and will contain 10,000 ft2 on the eastern portion of the property. Proposed Parcel B is on the western portion of the property and contains 10,000 ft2 with frontage on Lincoln Park. The proposed lots conform to all A-6 dimensional requirements and no dimensional relief is needed. Both lots have access to public water and public sewer systems. The site does not lie within a flood zone or natural heritage area. The proposed subdivision is consistent with the density prescribed by the Comprehensive Plan Future Land Use Map.

Mr. Richard Bzdyra, Ocean State Planners, reiterated Mr. McLean’s sentiment that this is a “simple subdivision”.

No public comment was offered on this matter.

Upon motion made by Mr. Coupe and seconded by Mr. Morales, the Plan Commission unanimously voted (7/0) to *approve* the Preliminary Plan application, with a waiver from the provision of sidewalks and curbing, subject to the conditions denoted below.

**Findings of Fact**

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

1. The proposed subdivision is consistent with the City of Cranston Comprehensive Plan policies and Future Land Use Map (FLUM). The proposed resulting density of approximately 4.35 units per acre is consistent with the FLUM’s designation of the subject parcel as “Residential 7.26 to 3.63 units per acre.”
2. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.

*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.”*

1. The proposed new lot will comply with all sections of the City’s Zoning Ordinance.
2. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.

*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 final plan, with all required conditions for approval.”*

1. The site does not contain significant natural resources (such as wetlands) that require additional permits for alteration.
2. The Rhode Island November 2018 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.”*

1. 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.
2. The design and location of building lots, utilities, drainage and other improvements 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.”*

1. The properties in question will have adequate permanent physical access on either Angell Avenue or Lincoln Park Avenue, both public roadways located within the City of Cranston.
2. 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.

**Condition of approval**

1. The applicant shall pay the Eastern Cranston Capital Facilities Impact Fee in the amount of $593.46 at the time of Final Plan recording.

**Replat of Oaklawn Plat, Lots 86-89**

**Preliminary Plan** – Minor Subdivision without street extension

Two additional single-family house lots

21 Turner Avenue

AP 18-4, Lots 485, 486, 489 & 490

Mr. Berry stated that the proposed minor subdivision is located at 21 Turner Avenue, AP 18-4, Lots 485, 486, 489, and 490, with a total land area of 20,000 ft2. The site is zoned A-6, which allows for single-family residential homes on lots that have a minimum of 60’ of frontage and 6,000 ft2 of land area.

The applicant proposes to subdivide/merge the existing four (4) lots into three (3) lots for the purposes of creating two (2) additional buildable lots. There is a pre-existing conforming single-family dwelling on site which is to remain on proposed Parcel A which would consist of 8,368 ft2 on the northern portion of the property. Proposed new buildable parcels B and C contain 5,816 ft2 each and will require dimensional variances for both frontage (58.16’ where 60’ is required) and area (5,816 ft2 where 6,000 ft2 is required). All parcels in the proposed subdivision will have direct frontage along Turner Avenue. The proposed development will be serviced by public water and public sewer systems. The site does not lie within a flood zone or natural heritage area. The proposed subdivision is consistent with the density prescribed by the Comprehensive Plan Future Land Use Map with an allocation of Residential 7.26 to 3.63 units per acre.

No public comment was offered on this matter.

Upon motion made by Ms. Lanphear and seconded by Mr. Vincent, the Plan Commission unanimously voted (7/0) to adopt the Findings of Fact denoted below and *approve* this Preliminary Plan, with a waiver for the provision of sidewalks and curbing, subject to the following conditions.

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

1. The proposed subdivision is consistent with the City of Cranston Comprehensive Plan policies and Future Land Use Map (FLUM). The proposed resulting density of approximately 6.53 units per acre is consistent with the FLUM’s designation of the subject parcel as “Residential 7.26 to 3.63 units per acre.”
2. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.

*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.”*

1. Each of the two (2) proposed buildable lots will require variances for frontage and area. Approval of the subdivision shall be conditioned to zoning relief.
2. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.

*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 final plan, with all required conditions for approval.”*

1. There is no proposed vegetation clearing other than for the footprint of a potential structures. The site is currently empty grass lawn with a few trees and bushes.
2. The Rhode Island November 2018 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.”*

1. 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.
2. The design and location of building lots, utilities, drainage and other improvements 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.”*

1. The properties in question will have adequate permanent physical access on Turner Ave, a public roadway located within the City of Cranston.
2. 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.

**Conditions of approval**

1. The applicant shall receive the necessary relief for lot frontage and lot area from the Zoning Board of Review.
2. The applicant shall pay the Eastern Cranston Capital Facilities Impact Fee in the amount of $1,186.92 ($593.46 per new buildable lot) at the time of Final Plan recording.

**ZONING BOARD OF REVIEW RECOMMENDATIONS**

**GIUSEPPE LANNI (OWN/APP)** has filed an application to convert an existing single family dwelling to a two family dwelling at **53 Woodside Street** A.P. 12, Lots 2175; area 8,000 sq.ft. Zone A8. Applicant seeks relief per Sections 17.92.010 Variance; Section 17.20.030 Schedule of Uses.

**USE VARIANCE REQUEST:**

To allow an existing two-family dwelling where it is not allowed in an A-8 zone. [17.20.030 Schedule of Uses]

**FINDINGS OF FACT:**

1. The project site is zoned A-8 which is intended primarily for the use of single-family dwelling on lots of minimum areas of 8,000 ft2.
2. The proposed two-family residence is not an allowed use in A-8 zoning.
3. The owner / applicant, Giuseppe Lanni purchased the property in 2016. Staff spoke with the owner/applicant Giuseppe Lanni on 11/25/19 and 11/26/19. Mr. Lanni conveyed that he did not know when the property was converted to a two-family, but that it was in that condition when he purchased the property in 2016. Staff recommended that Mr. Lanni provide evidence or documentation to show that both units existed before he purchased the property. The City’s tax records have always assessed the property as a single-family, never as a two-family, although a walk-through has not been conducted since 1995.
4. The variance application was filed and advertised only for AP 12 Lot 2175, the lot with the existing residence. However, the owner /applicant also owns abutting parcels AP 12 Lots 2175, 2716, 2177, & 2178. Notably, the survey / site plan and the 400’ radius map used to determine abutters for notification incorporated all four lots as part of the application. The portion of Woodside Street fronting lots 2176, 2177 & 2178 is an unpaved paper street, and said lots therefore do not have sufficient frontage and are merged for zoning purposes.
5. AP 12 Lot 2175 is 8,000 ft2 and has 80 of frontage on Woodside Street, meeting the minimum criteria for A-8 zoning. If lots 2176. 2177, & 2178 are incorporated into the area calculation, the total site area is 19,910 ft2. The total site area is sufficient to yield two lots under A-8 zoning.
6. The Comprehensive Plan Future Land Use Map identifies the area as “Single Family Residential 7.26 To 3.64 Units Per acre.” The proposed density based on AP 12 Lot 2715 is 10.89 units/acre, which is NOT consistent with the Comprehensive Plan. Should the application have incorporated lots 2176, 2177 & 2178, the proposed density would have been 4.38 units/acre, and would have been consistent with the Comprehensive Plan.
7. There are 56 total lots developed residential properties within 400’ of the project site. Of these properties, 1 is designated by the City Tax Assessor as a four-family (Yeoman Ave), and there are four (4) two-family residences (two on Yeoman Ave, one on Enterprise Street and one on Morgan Street, none on Cannon Street or Woodside Street). Therefore, the project is consistent with 9% of the 56 surrounding residential uses.
8. On 11/26/19, staff discussed the feasibility of a future street extension and subdivision on Woodside Street with the City Engineering Division. The Engineering Division articulated that it would be highly challenging and economically impractical to extend Woodside Street, issuing a memo dated 11/26/19 finding that the area is essentially not developable.
9. Mr. Lanni offered that he would be willing to restrict AP 12 Lots 2716, 2177, & 2178 so that he would not also be able to yield the potential density from these lots should the variance request be granted.

**PLANNING ANALYSIS:**

The applicant purchased the property in 2016, and has been using the property as a two-family rental. Mr. Lanni claims that there were two units in the building at the time of purchase, and that he did not alter the building to create an additional unit. City Tax Assessor records have never recognized the property as a two-family. The only building permit on record is for a new roof in 2016.

Staff understands that a request for a two-family residence in a predominantly single-family neighborhood under single-family zoning is a tall ask. However, **after a deeper look into the facts surrounding the application and existing conditions, a reasonable appeal for a two-family residence can be made.**

* The total area of abutting lots owned by the applicant is over 19,000 ft2, which is more than sufficient for another buildable lot in A-8 zoning.
* Should the application have incorporated lots 2176, 2177 & 2178, the proposed density would have been 4.38 units/acre, and would have been consistent with the Comprehensive Plan Future Land Use Map.
* Lots 2176, 2177 & 2178 are not currently buildable because they do not have frontage on a public road which would allow vehicular access. The Engineering Division believes that the street extension would be problematic due to topography, would require retaining walls, and would ultimately be economically infeasible to merely yield one additional buildable lot. One may interpret these conditions as a hardship preventing the applicant from realizing the potential yield/density of the land area.
* The applicant has verbally verified that they would be willing to restrict the development rights on AP 12 Lots 2176, 2177 & 2178 should the City permit the two-family dwelling on lot 2175. This restriction would require an administrative subdivision application, combining the four (4) existing parcels into two (2) with the second lot being labeled as an unbuildable lot and would be deed restricted. This outcome could be beneficial for the City, as public road as well sewer and water utilities would not need to be extended, no additional impervious surface or grading would be required, and the neighborhood would not need to endure the impacts of construction.

**However, although there are reasonable arguments in favor of the request, there are still qualities regarding the application which prevent staff from being able to recommend approval.**

* The approval criteria for a use variance request is that the subject land or structure cannot yield any other beneficial use if it is required to comply with zoning. Staff cannot make this finding on the application materials as presented.
* An analysis of the surrounding area indicates that 9% of the residences within 400’ of the subject property are two-family or multifamily, none of which are on Woodside Street or Cannon Street. Although there is no hard and fast percentage required for consistency, staff cannot make the finding that the request would be consistent with the neighborhood. City Code Section 17.92.010 (C) also specifically states that “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 property has been operating as a two-family for a few years, so whether the approval would cause a detriment to the surrounding area may be illuminated by public comment during the public hearing, which staff does not have the benefit of such testimony at this time.
* The application was filed and advertised as only incorporating AP 12 Lot 2175. It is staff’s understanding that the total site should have been incorporated into the application and advertisement, and that conditions or consideration on the other lots may be problematic. The application must be reviewed only for the lot on which the application was filed, and the proposed density based on AP 12 Lot 2715 is 10.89 units/acre and is NOT consistent with the Comprehensive Plan.

**RECOMMENDATION:**

Due to inconsistency with the proposed density as allocated by the City Comprehensive Plan Future Land Use Map, and absent the required finding that the site could not yield any other beneficial use, upon motion made by Mr. Vincent and seconded by Ms. Lanphear, the City Plan Commission unanimously voted (7/0) to forward a ***negative recommendation*** on this application to the Zoning Board of Review.

**RICHARD CARDELLO (OWN) AND BARBARA GAGLIONE (APP)** have filed an application to create a new lot to construct a new single family dwelling with reduced lot width and frontage and area at **0 Turner Street** A.P. 18, Lot 485, area 5,816 sq.ft. Zone A6. Applicant seeks relief per Sections 17.92.010 Variance; Section 17.20.120 Schedule of Intensity Regulations.

**RICHARD CARDELLO (OWN) AND BARBARA GAGLIONE (APP)** have filed an application to create a new lot to construct a new single family dwelling with reduced lot width and frontage and area at **0 Turner Street** A.P. 18, Lot 486, area 5,816 sq.ft. Zone A6. Applicant seeks relief per Sections 17.92.010 Variance; Section 17.20.120 Schedule of Intensity Regulations.

**DIMENSIONAL VARIANCE REQUESTS:**

1. To allow the creation of two lots with frontages of 58.16 feet where 60 feet is required [17.20.120 - Schedule of Intensity Regulations]
2. To allow the creation of two lots with areas of 5,816 ft2 where 6,000 ft2 is required [17.20.120 - Schedule of Intensity Regulations]

**FINDINGS OF FACT:**

1. The existing lots were platted as 50’x100’ lots prior to the adoption of zoning and have not been altered since.
2. The total site area of 20,000 ft2 is sufficient for three A-6 lots (18,000 ft2 required). The proposed subdivision is designed as to accommodate for the existing residence at 21 Turner Ave and therefore cannot be split into three lots with equal area.
3. The total site frontage of 200’ is sufficient for three A-6 lots (180’ required). The proposed subdivision is designed as to accommodate for the existing residence and therefore cannot be split into three lots with equal frontage.
4. The building envelope for two new buildable lots is roughly 1,897 ft2 after accounting for all required setbacks on the proposed lots. The proposed new single-family residences will not require dimensional relief.
5. The subdivision proposes a density of 6.53 units/acre, which is consistent with the density allocated by the Comprehensive Plan Future Land Use Map allocation of Residential 7.26 to 3.63 units per acre with approximately 6.53 units per acre.
6. The relief requested is not substantial and therefore is not anticipated to have any negative impacts on the neighborhood or undermine the intent of zoning. The request for relief from frontage is to have 58.16’ where 60’ is required (1.84’ or 3% deviation from the standard). Similarly, the request for relief from lot area is to have 5,816 ft2 where 6,000 ft2 is required (184 ft2 or 3% deviation from the standard).
7. The Comprehensive Plan recommends the City allow 5,000 ft2 lots within A-6 zoning (among other zones) to reduce the burden on property owners and helping the City meet its housing demand (p. 69).

**ANALYSIS:**

The total site area including the lots with the existing residence is 20,000 ft2, which is sufficient for three compliant A-6 lots (18,000 ft2 required). The subdivision is designed as to accommodate for the existing residence and therefore cannot be split into three lots with equal area or frontage. The location existing single-family residence is a unique characteristic which could be interpreted as a hardship in regards to the applicant’s ability to comply with zoning. Therefore, it is reasonable for the applicant to design the subdivision as proposed, which is the minimum relief necessary to yield three (3) lots.

The relief requested is not substantial and therefore is not anticipated to have any negative impacts on the neighborhood or undermine the intent of zoning. The request for relief from frontage is to have 58.16’ where 60’ is required, a request of 1.84’ or 3% deviation from the standard. Similarly, the request for relief from lot area is to have 5,816 ft2 where 6,000 ft2 is required, a request of 184 ft2 or 3% deviation from the standard. This degree of relief should not have any measurable impact compared to what could be built by-right under zoning.

The request is consistent with the Comprehensive Plan in terms of both density and housing policy. The Comprehensive Plan supports infill development as part of the policy guidance in its Housing Element, recommending the City allow 5,000 ft2 lots within A-6 zoning to reduce the burden on property owners and helping the City meet its housing demand (p. 69). Additionally, the subdivision proposes a density of 6.53 units/acre, which is consistent with the density allocated by the Comprehensive Plan Future Land Use Map allocation of Residential 7.26 to 3.63 units per acre with approximately 6.53 units per acre.

**RECOMMENDATION:**

Considering that the reasonable design accommodations required to preserve the existing single family residence, that the relief requested is the minimum relief necessary, that the subdivision is consistent with the character of the neighborhood, and that the Comprehensive Plan Housing Element supports infill development on lots with 5,000 ft2 or greater, upon motion made by Ms. Lanphear and seconded by Mr. Coupe, City Plan Commission unanimously voted (7/0) to forward a ***positive recommendation*** on Lot 485, upon motion made by Mr. Vincent and seconded by Mr. Mason, the City Plan Commission unanimously voted (7/0) to forward a ***positive recommendation*** on Lot 486 to the Zoning Board of Review.

**PARK AVENUE PLAZA, LLC (OWN) AND 2 PAWS UP, LTD (APP)** have filed an application to allow an animal day care use in commercial shopping plaza at **1375-1381 Park Avenue** A.P. 11, Lots 749, 3599, and 3600. Area 59,119 sq.ft, zone C3. Applicant seeks relief per Sections 17.92.010 Variance; Section 17.20.030 Schedule of Uses.

**USE VARIANCE REQUESTS:**

To allow animal day care in a C-3 zone in which such a use is prohibited. [17.20.030 - Schedule of Uses]

**FINDINGS OF FACT:**

1. The applicant, 2 Paws Up, Ltd., operates an animal day care and grooming service currently located at 85 ½ Rolfe Street. The owner is proposing to relocate to the business to 1375 Park Avenue.
2. The subject parcels at 1375 Park Avenue are designated as Assessor’s Plat 11, Lots 749, 3599 and 3600. The lots are zoned C-3 (general business) and contain approximately 59,119 square feet.
3. While submitting information through the building permit process, the applicant discovered that of the 2 uses associated with their business (animal grooming and animal day care), only animal grooming is a permitted in the C-3 zone.
4. The use of animal day care has historically been associated with the existing business operation, although it is unclear how this came to be as the current location is also zoned C-3 (same zoning designation as the proposed new location).
5. The definitions for each use in Section 17.04.030 of the zoning code are as follows:
6. “Animal day care" means a facility providing care for domestic animals that do not reside in the facility, that are present primarily during daytime hours and that do not board. An animal day care may include incidental grooming.
7. "Animal grooming service" means any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged.
8. Animal day care is allowed by-right in the C-4 zone, and as a special use permit in the C-5 and S-1 zones. Animal grooming is allowed by-right in the C1, C-2, and C-3 zones and as a special use permit in the A-80, C-4 and C-5 zones.
9. It is unclear why the use of animal grooming is regulated differently than the use of animal day care as the 2 uses appear to have similar impacts in terms of noise, odor, waste, etc. After staff conducted research into the rationale for why there was a different regulatory approach for the 2 uses, staff could not find a specific intention or rationale for treating these uses differently.
10. The proposal does not include any changes to the building footprint or other physical site improvements to the subject property.
11. The Comprehensive Plan - Future Land Use Map designation for the subject parcels is Neighborhood Commercial/Services. The Comprehensive Plan states that the appropriate zoning district allocations for Neighborhood Commercial/Services are C-1, C-2 and C-3. It should be noted that since the proposed use of animal day care is only allowed by-right in the C-4 district, this proposal is not consistent with the Comprehensive Plan.

**ANALYSIS:**

The subject parcel is zoned C-3 (general business) and contains approximately 59,119 square feet. The proposal does not include any changes to the building footprint or other associated physical improvements to the subject property. The proposed use of animal day care is frequently connected to the use of animal grooming, as evidenced by the fact that within the definition for animal day care it includes the sentence: “An animal day care may include incidental grooming.” However, the inverse correlation is not explicitly stated in the zoning definitions, thus an animal grooming us is not allowed to include incidental animal day care in the C-3 zone.

Animal day care is only allowed by-right in the C-4 zone, and as a special use permit in the C-5 and S-1 zones. Animal grooming is allowed by-right in the C1, C-2, and C-3 zones and as a special use permit in the A-80, C-4 and C-5 zones. After staff conducted research into the rationale for why there was a different regulatory approach for the 2 uses, staff could not find a specific intention or rationale for treating these uses differently. It should be noted that the proposed animal day care use will have the same hours of operation as the animal grooming use. Additionally, “overnight” animal day is not being proposed. It is unclear why the use of animal grooming is regulated differently than the use of animal day care as the 2 uses appear to have similar impacts in terms of noise, odor, waste, etc.

Staff’s view of this application is that the proposed use of animal day care will not substantially impact the site differently than the use of animal grooming. Staff has no outstanding concerns with the proposal, however, the Comprehensive Plan - Future Land Use Map designation of “Neighborhood Commercial/Services” does not provide staff with a margin of interpretation in which to provide a positive recommendation on this application.

**RECOMMENDATION:**

Due to the finding that the proposal is not consistent with the Comprehensive Plan - Future Land Use Map, upon motion made by Mr. Vincent and seconded by Mr. Mason, the Plan Commission unanimously voted (7/0) to make ***no specific recommendation*** on this application to the Zoning Board of Review. It should be noted that there are no outstanding concerns with the proposed use and it is viewed that animal day care will not substantially impact the site differently than the use of animal grooming, which is allowed by-right on the subject property.

**2020 CITY PLAN COMMISSION CALENDAR**

Mr. Pezzullo stated that he will be adding workshop meetings to the calendar. This will be discussed further next month.

**PLANNING DIRECTOR’S REPORT** – 2020 Capital Budget and Improvement Program, 2020 Work Program

Mr. Pezzullo stated that the Capital Budget requests will be distributed soon. He stated that the final draft budget will be presented in March.

**ADJOURNMENT**

Upon motion made by Ms. Lanphear and seconded by Mr. Morales, the Plan Commission unanimously voted to adjourn at 8:35 p.m.

**NEXT REGULAR MEETING –** January 7th- 6:30PM City Hall Council Chamber