

City of Warwick Planning Board

Meeting Minutes

Wednesday, December 13, 2017

Members Present: Valerie Bataille

Benny Bergantino

Steve Catalano

James Desmarais

Vincent Gambardella

Cynthia Gerlach

Steve Horowitz

Sue Stenhouse

Members Absent: Philip Slocum

Also in Attendance: Patricia Reynolds, Assistant Principal Planner

Lidia Cruz-Abreu, Assistant Administrative Officer

Diana Pearson, City Solicitor

Vice-Chairman Gambardella called the meeting to order at 6:00 p.m.

Public Hearing

Request for a Recommendation for a

Comprehensive Plan Amendment/Zone Change

Pleasure Marina – 7 Ottawa Avenue

Owner/Applicant: Joseph DiCenzo, III and Joanne DiCenzo

Location: 7 Ottawa Avenue, Pequot Avenue and Quonset Avenue

Assessor's Plat: 376

Assessor's Lots: 542,543,544,557,559 (Comprehensive Plan Amendment)

Assessor's Los: 542, 543,544 (Zone Change)

Existing Zoning: Waterfront Business, Residential A-7 and Residential A-10

Proposed Zoning Waterfront Business

Land Area: 118,800+/- sf

Surveyor: Jeffrey K. Balch, Frisella-Balch & Associates

Ward: 6

Planning Staff informed the Board that there was a letter submitted requesting that the following application, which had previously been opened and continued be further continued due to a death in the family of the Surveyor.

Public Hearing

Major Land Development

1009 Centerville Road-Restaurant

Preliminary

Applicant/Owner: Michael Kent

Location: 1009 Centerville Road (Route 117)

Assessor's Plat: 241

Assessor's Lot: 10

Zoning: City Council approved zoned change PCO-18-17, dated May 21, 2017, changing the classification from Residential A-15 to General Business (GB), with waivers and stipulations.

Land Area: 16,971sf

Number of Lots : 1

Engineer: Andersen Engineering, LLC

Ward: 8

Mr. Joseph K. Shekarchi, ESQ; Shekarchi Law Offices requested a continuation of the following Application, indicating that the Application was not ready to proceed at this time. Additionally, Mr. Shekarchi requested that the Applicant not be required to re-notice or re-advertise.

Ms. Bataille, seconded by Mr. Bergantino, made a motion to open and continue the Application to the January 10, 2018 Planning Board meeting; with the re-notice, re-advertisement requirement. All in favor, none opposed.

Public Hearing

Major Land Development

135 Lambert Lind Highway-Soule Street-Cumberland Farms

Preliminary

Applicant: TMC CF New England LLC

Property Owners: APM Associates (Lots 379, 382, 383, 410)

Rebecca Brosco (Lot 409)

Location: 135 Lambert Lind Highway, Soule Street

Assessor's Plat: 273

Assessor's Lots: 379, 382, 383, 409, and 410

Zoning: City Council approved PCO-26-16, 12/20/16, changing the zoning classification from Residential A-7 to General Business, with restrictions, conditions and stipulations.

Land Area: 1.29 +/-acres

Number of existing lots: 5

Number of proposed lots: 1

Engineer: Civil Design Group, LLC

Ward: 8

Mr. K. Joseph Shekarchi, ESQ; Shekarchi Law Offices represented the Applicant who was requesting Preliminary Approval of a Major Land Development Project/Subdivision for the construction of a one story, 4,794 square foot convenience store, and a 22' x 93' canopy with three (3) fueling pumps (six total fueling positions). The Applicant has received City Council approval for a zone change on a portion of the development parcel, PCO-26-16, changing the zoning classification from Residential A-7 to General Business, with waivers for a Special Use Permit for Use Code 421. Gas station (no repairs), with a convenience store, and dimensional relief for less than required setback from an abutting residential zone. The Applicant

has also received approval for PCO-25-16, signed 12/20/16, ORDER ON THE ABANDONMENT OF A PORTION SOULE STREET, which is located within the proposed development area.

Mr. Shekarchi informed that Board that the property had been formally acquired from Rebecca Brosco by APM Associates.

Mr. Shekarchi stated that the project had a neighborhood meeting and had received Master Plan Approval from the Planning Board, a road abandonment, and a City Council Zone Change. Mr. Shekarchi informed the Board that there was an appeal to the Zone Change in Superior Court, but there was no stay of proceedings. Mr. Shekarchi stated the Project had received all State approvals and that the Applicant had reviewed and concurred with the Planning Department's Findings and Recommendations.

Mr. Catalano asked who had filed the appeal, Mr. Shekarchi indicated that it was an abutter to the Project and that the abutters Counsel was present.

Ms. Bataille asked Mr. Shekarchi to explain the appeal, Mr. Shekarchi explained that the appeal was of the City Council's Zone Change and not to the Planning Board's decision, he further indicated that the construction would not begin until the Superior Court decision. Ms. Bataille asked if the concept or the plan could change. Mr. Shekarchi stated that it would be possible for a change, but any change would

be heard by the Planning Board.

There was extensive discussion regarding the legal aspects of the appeal.

Ms. Stenhouse indicated that she had a huge concern regarding past Cumberland Farms Projects, specifically, Post Road and Rt. 37, she was very concerned with having approved a project that did not appear to be a good neighbor to the Lincoln Avenue and Maryland Avenue area. Ms. Stenhouse indicated that she had a complaint that she wanted to read.

“Heavy volume of traffic biggest concern, cars parking on both sides Maryland and Lincoln Avenues, cars turning around in private driveways, customers make living in the neighbor difficult. Not just vehicles but trucks, UPS, FEDEX vehicles parked on the roadway. Speeding vehicles cutting through neighborhood at all hours of the day and night. Trash and debris from the Dunkin Donuts and the Cumberland Farms left uncollected.”

Mr. Shekarchi indicated that this was a different developer, additionally, Mr. Shekarchi indicated that when the Rt. 37 Cumberland Farms applied to the Board of Public Safety for extended hours, there was no opposition by the neighborhood. Mr. Shekarchi asked if there had been any complaints submitted to the City or Police Department regarding these concerns. Ms. Stenhouse indicated that she only

received these concerns today.

Ms. Stenhouse submitted the complaint for the record.

Mr. Shekarchi noted an objection due to authenticity.

There was extensive discussion regarding the Post Rd/Rt. 37 Cumberland Farms.

Mr. Bataille asked if the Project was consistent with the RIDEM Stormwater Regulations, Mr. Matt Lydner, Civil Design Group, indicated that the proposed plan would reduce the impervious area and that the stormwater management system was approved by RIDEM.

Mr. Gambardella asked if the Developer would be installing a raised crosswalk. Mr. AJ Barbado, APM Associates, indicated that his preference was stamped concrete crosswalk.

Planning Staff indicated that a portion of the development would be the abandoned portion of Soule Street and there was a concern that it would be as a cut-through. Mr. Barbado indicated that he would install the raised crosswalk as requested.

Mr. Catalano, seconded by Mr. Desmarais, made a motion to open the public hearing. All in favor, none opposed.

Mr. Christopher Mulhearn, 55 Pine Street, legal counsel for Mr. Anthony Farina, Appellant. Mr. Mulhearn informed the Board that he felt that Preliminary Approval was premature indicating that of the appeal could change the plan.

Mr. Catalano asked if the business risk was entirely on the Developer. Mr. Mulhearn responded affirmatively.

There was a discussion regarding the legalese of the appeal.

Mr. Gambardella addressed the Planning Board's Solicitor, Ms. Diana Pearson, who indicated that the Planning Board's jurisdiction was different that the City Council's jurisdiction. The Planning Board worked with developers and reviewed plans. The City council has a different jurisdiction and it was the City Council's Zone Change w/waivers that was appealed, without a stay of proceedings.

Mr. Mulhearn asked to include all the previous objections as presented at the October Planning Board meeting.

Being no testimony, Ms. Stenhouse, seconded by Mr. Desmarais, made a motion to close the Public Hearing. All in favor; none opposed.

Being no questions, the Planning Board waived the reading of the

Planning Department Findings and Planning Staff read the Planning Department Recommendations into the record.

Planning Department Findings

The Planning Department finds this proposal to be generally consistent with Article 1 “Purposes and General Statements” of the City’s Development Review Regulations, and

1. Generally consistent with the City of Warwick, Comprehensive Plan 2033, (Comprehensive Plan) which finds that land development in the future will increasingly involve redevelopment of previously used sites. Over 60 percent of Comprehensive Plan survey respondents indicated that improving the appearance of major roads and commercial corridors is “very important” and when asked what kind of development they would like to see more of in the City, most respondents included neighborhood retail.

2. That Chapter 12 of the Comprehensive Plan, the Future Land Use, Zoning and Urban Design element, states as a Goal, that Warwick has sufficient diversity of land uses to support a strong and stable tax base, and to continue to balance land uses, particularly between regional retail and non-retail commercial uses.

3. That the Future Land Use Map (FLUM) as contained in the Comprehensive Plan 2033, shows this area as a combination of

commercial and high density residential uses.

4. That this proposal received Master Plan approval at the October 12, 2016 meeting of the Planning Board.

5. That the subject parcel fronts on Lambert Lind Highway (Route 5), West Natick Road and Soule Street, and is identified as Assessor's Plat: 273 Assessor's Lots: 379, 382, 383, 409, 410. The development area is primarily zoned General Business, with Lot 382 and a portion of Lot 383 formerly zoned Residential A-7.

6. That the proposal is in compliance with the standards and provisions of the City's Zoning Ordinance having received approval from the City Council, PCO-26-16, signed 12/20/16, changing the zoning classification for a portion of the parcel, (Assessor's Lot 382 and a portion of Assessor's Lot 383) from Residential A-7, to General Business, with a Special Use permit for Use Code 421, and relief for less than required setback from an abutting residential zone.

7. The Applicant received approval for the ORDER ON THE ABANDONMENT OF A PORTION OF SOULE STREET, PCO-25-16, dated 12/20/16 for the abandonment of the portion of Soule Street which is located within the proposed development area.

8. That the four (4) existing commercial buildings on the site will be razed, and were formerly used as a hair salon, a restaurant, retail, and

a vacant commercial building.

9. That there was a gasoline filling station on Assessor's Lot 410 from 1969 to 1982.

10. That the proposed development possesses access to two public streets, Lambert Lind Highway and West Natick Road, with one (1) full service driveway proposed on Lambert Lind Highway, one (1) full service driveway proposed on West Natick road, which will utilize an existing traffic signal.

11. That a traffic report, prepared by McMahon Associates, and dated July 2016, concludes that "With the predominately pass-by nature of the proposed Cumberland Farms convenience store and gasoline station, the project will not result in a significant impact on the overall traffic operations of the study area roadways....due to the nature of the convenience market with gas station sites, patrons will seek out the most efficient routes for entering and exiting a site. Based on the analysis results presented in this report, the proposed development of Cumberland Farms is expected to have a minimal impact on the operations of the study area roadways and the site access modifications will improve overall access and safety."

12. That the Applicant has received RIDOT PAP No. 170307, for the construction of new site driveways, sidewalk improvements and left turn lane into the site on Route 5.

13. That the properties north and south of the subject parcel, and fronting on Lambert Lind Highway are general business uses; there is an area of residentially zoned properties to the northwest.

14. That the development will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.

15. That there are no indications of significant negative environmental impacts from the proposed development.

16. That the Applicant has received RI DEM Underground Storage Tank (UST), Approval of New Installation.

Planning Department Recommendations

Planning Department recommendation is to grant Preliminary approval, with the following stipulations:

1. That Final Approval shall be before the Planning Board.

2. That the Final Plan shall comply with Section 3.02C of the Procedural & Technical Standards for the Practice of Land Surveying in the State of Rhode Island and Providence Plantations, Effective

November 25, 2015.

3. That the Final submittal shall include a subdivision plan for the merger of Assessor's Plat 273, Assessor's Lots 379, 382, 383, 409 and 410, and the abandoned portion of Soule Street as per The City of Warwick's Development Review Regulations.

4. That the Applicant shall note on the subdivision plan all the stipulations of City Council PCO-25-16, dated 12/20/16 ORDER ON THE ABANDONMENT OF A PORTION OF SOULE STREET, including, but not limited to:

a. That signs shall be placed at each end of that portion of Soule Street having thereon the words "NOT A PUBLIC HIGHWAY".

b. That the City of Warwick hereby reserves for itself, its successor's and assigns, a perpetual easement over and under the abandoned portion of Soule Street for the purpose of construction, installing, repairing, and replacing of utilities, sewers, drains and for any other purposes.

5. That the Project Engineer shall install measures to discourage cut through traffic, including, but not limited to, raised pedestrian crosswalks and site signage. As part of the Final submittal, the Project Engineer shall provide a detail on the construction of the raised crosswalk(s).

6. That a Soil Erosion and Sediment Control Permit shall be obtained

from the Building Department prior to the commencement of any work on-site; soil erosion and sediment control measures must be properly maintained throughout construction.

7. That the Project Engineer shall inspect the installation of the Stormwater Management System and submit a certification that the construction substantially conforms to the approved plans. In addition, the Project Engineer shall prepare an as-built plan of the system; highlighting any significant deviations from the approved plan. Changes from the approved design plan will require prior authorization from the Approving Authority.

8. That the Property Owners shall be provided with the as-built plan and the Operation and Maintenance Plan for the Stormwater Management System; the Property Owners shall be responsible for the long-term maintenance and operation of the Stormwater Management System and shall submit an annual report detailing all inspections and maintenance performed on the System to the Department of Public Works.

9. That the Project Architect shall work with the Administrative Officer to the Planning Board regarding the exterior elevations of the building and canopy in order to design a project that is compatible with, and complimentary to, the abutting residential neighborhood and nearby Pontiac Village. Building elevations and site details shall be included in the Final submittal.

10. That the Final submittal shall include a Landscape Plan, prepared and stamped by a registered Rhode Island Landscape Architect. The Landscape Architect shall contact the Planning Department regarding the design. Said plan shall be subject to approval by the Administrative Officer and provide, at a minimum, hardscape along Lambert Lind Highway and West Natick Road, and landscape screening for area residential properties.

11. That all signage shall conform to the standards of the Warwick Zoning Ordinance, Section 800. LED signage may be utilized for gas/fuel price information only. LED advertising message boards are prohibited.

12. That all site lighting shall be designed and installed to protect the neighboring residential properties from any light emissions from the proposed development. The lighting design shall be Dark Sky compliant, to the extent practicable.

13. That prior to the issuance of any permits for construction of buildings within the project, the Warwick Fire Department shall review the plans for compliance with all life safety codes and issues.

14. That the Applicant will be extending sewer service to the site. The Property Owner will be assessed in accordance with Warwick Sewer Authority (WSA) Regulation No. 60. All proposed work shall comply

with WSA guidelines.

15. That water is available to the subject property through an existing distribution line on Soule Street. The existing water line on Soule Street crosses Lambert Lind Highway and provides water and fire protection to existing buildings on Lambert Lind Highway. Any cutting and capping at the existing waterline must provide for a new tie-in to the existing eight inch (8") water line on West Natick Road, approximately 150'; any costs associated with this requirement shall be paid by the Applicant prior to the water line being abandoned in the field.

Being no further questions, Mr. Catalano, seconded by Mr. Bergantino, made a motion to adopt the Planning Department's Findings and Recommendation and to grant Preliminary Approval with Final Approval to be by the Planning Board. Mr. Bergantino, Mr. Catalano, Mr. Desmarais, Mr. Gambardella, Ms. Gerlach, Mr. Horowitz, and Ms. Stenhouse voted in favor and Ms. Bataille opposed noting that she felt the Preliminary Approval was premature and that she was concerned with cut-through traffic.

Bond Reduction

Tollgate Hill Farm Plat

Total Bond Amount: \$84,560.00

Amount to be released: \$67,000.00

Total remaining: \$17,560.00

Norwood Estates Plat

Total Bond Amount: \$19,300.00

Amount to be released: \$19,300.00

Total remaining: NONE

Monroe Street Plat

Total Bond Amount: \$3,300.00

Amount to be released: \$3,300.00

Total remaining: NONE

Ms. Stenhouse, seconded by Mr. Catalano, made a motion to approval the Bond Reductions as presented. All in favor, none opposed.

The Board was advised of actions by the Administrative Officer.

On a motion by Ms. Stenhouse, seconded by Mr. Desmarais, the meeting was adjourned at 7:00 p.m. All in favor; none opposed.