

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2008-1

No. 1 AN ORDINANCE IN AMENDMENT OF CHAPTER 27 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE ENTITLED "THE CITY OF PROVIDENCE ZONING ORDINANCE" APPROVED JUNE 27, 1994, AS AMENDED, TO CHANGE THE ZONING DESIGNATION OF ZONING MAP 56, LOTS 9, 64, 70, 71 AND 280 FROM W-2 to W-3.

Approved **JANUARY 16, 2008**

Be it ordained by the City of Providence:

WHEREAS, On December 6, 2000, the Providence Zoning Board of Review formally notified Russo Realty, LLC, that the Board had approved a use variance for Assessor's Plat 56, Lot 9, located within a W-2 district, to permit the bulk dry storage of salt; and

WHEREAS, In Resolution No. 8458, the Board imposed certain conditions upon the use variance, including that the salt pile (a) be covered twelve months of the year; (b) cover no more than 35,000 square feet; and (c) be no higher than thirty-five feet from grade to peak; and

WHEREAS, It is undisputed that in the period of nearly seven years since the granting of the use variance, Russo Realty LLC and its tenant, Morton International, Inc., failed to comply with the conditions imposed by the Board, and in fact created a generally uncovered salt pile that is more than sixty feet high and covers approximately 140,000 square feet; and

WHEREAS, On May 2, 2007, Morton International, Inc. sought a change to the zoning designation of Zoning Map 56, Lot 9 (owned by Russo Realty LLC), as well as Lots 280 and 71 (owned by ProvPort, Inc.) and Lots 64 and 70 (owned by the City of Providence), from W-2 to W-3; and

WHEREAS, On June 21, 2007, the Providence City Plan Commission found that a change of zone from W-2 to W-3 would be consistent with the Comprehensive Plan, and moreover would be consistent with the purpose of the zoning as listed in Section 100 of the Zoning Ordinance, and therefore voted to advise the City Council to change the zoning as requested; and

WHEREAS, On October 1, 2007, the Providence City Council Committee on Ordinances conducted a Public Hearing on the zoning change petition; and

WHEREAS, Johnson & Wales University, some of whose facilities are located in the vicinity, produced expert witnesses whose testimony was that the re-zoning would not be in conformity with the Comprehensive Plan, and that the present Morton International operations

vastly exceed those permitted by the existing use variance, as well as causing detriment to Johnson & Wales property; and

WHEREAS, at a meeting of the Providence City Council Committee on Ordinances on October 2, 2007, petitioner's counsel advised that in discussions with ProvPort and Johnson & Wales, agreement had been reached as to certain limitations to be placed on the allowed uses of the rezoned parcels, as well as certain other conditions which would be incorporated in a new lease between petitioner and ProvPort; and

WHEREAS, the Providence City Council Committee on Ordinances agreed that Lots 9, 64, 70, 71 and 280 on Zoning Map 56 could be rezoned from W-2 to W-3, provided that the following uses would not be allowed:

Use Code 24.2 - Health Care Institution Disposal Use

Use Code 66 - Power Plant

Use Code 66.1 - Incinerator and Waste Facility

Use Code 70.5 - Canning and Preserving of Fish and Seafood

Use Code 77.4 - Other Materials Processing, Distribution and Storage

The following uses otherwise allowed within Use Code 77.3 - Stone Mill, truck or automobile wrecking and also provided the height of any pile of materials stored on the site will not exceed seventy feet at any time; and

WHEREAS, the Providence City Council Committee on Ordinances agreed that Lots 9, 64, 70, 71 and 280 on Zoning Map 56 could be rezoned from W-2 to W-3, provided that the following provisions would be incorporated in an executed lease between ProvPort and petitioner, which shall be submitted prior to the placement of the matter on the docket of the Providence City Council:

Salt pile will be set back from Shipyard Street to fully expose existing storm drain

Area around storm drain will be regarded, if necessary, to allow proper drainage

Salt pile will be set back and/or will be protected by reasonable and appropriate engineering controls to prevent salt run-off into Shipyard Street and/or New York Avenue

Salt pile will be covered at all times, except for working face of the salt pile and except for areas of the salt pile that are being filled, excavated or reworked

Perimeter fences will be maintained and site-related debris will be removed from the area surrounding the site if the operation of the site generates debris

NOW, THEREFORE, be it ordained by the City of Providence:

SECTION 1: Chapter 27 of the Code of Ordinances of the City of Providence, entitled "The City of Providence Zoning Ordinance" approved June 27, 1994, as amended, is hereby further amended, as shown on the accompanying map, by changing the zoning designation of Lots 9, 64, 70, 71 and 280 on Map 56 of the City of Providence Official Zoning Maps.

SECTION 2. This Ordinance shall take effect upon passage and publication as prescribed by law.

IN CITY COUNCIL
DEC 6 2007
FIRST READING
READ AND PASSED
Adam M. Steele CLERK

IN CITY
COUNCIL
JAN 3 2008
FINAL READING
READ AND PASSED
Robert J. Manning PRESIDENT
Adam M. Steele CLERK

APPROVED
[Signature]
MAYOR 1/16/08

CITY OF PROVIDENCE
State of Rhode Island and Providence Plantations

PETITION TO CITY COUNCIL

To the Honorable City Council of the City of Providence:

The undersigned respectfully petition your honorable body

Morton International, Inc., as petitioner, Russo Realty Company, LLC, as owner of that property found on the City Tax Assessor Map at Plat 56, Lot 9 and Deed Book 3072, Page 307 in the City of Providence Land Evidence Records and Provport, Inc., as owner of that property found on the City Tax Assessor Map at Plat 56, Lots 280 and 71 and Deed Book 3025, Page 288 and Deed Book 3025, Page 288 in the City of Providence Land Evidence Records, request that the Providence City Council amend the City of Providence Zoning Ordinance Chapter 1994-24 No. 365, approved June 27, 1994, as amended, by changing the zoning designation of the above-referenced properties, together with that property owned by the City of Providence and found on the City Tax Assessor Map at Plat 56, Lots 64 and 70 in the City of Providence Land Evidence Records from W-2 to W-3.

Respectfully Submitted:

Owners:

Russo Realty Company, LLC

By: *Labor Russo*
Name: LABOR RUSSO
Title: MANAGER

Petitioner

Morton International, Inc.

By: *Lisa F. Zumbach*
Name: LISA F. ZUMBACH
Title: Vice President Industrial and Ice Control
Sales and Marketing

Provport, Inc.

By: *Raymond L. Meador*
Name: RAYMOND L. MEADOR
Title: PRESIDENT

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ORIGINAL DOCUMENT IS PRINTED ON CHEMICAL REACTIVE PAPER & HAS A MICROPRINTED BORDER

TILLINGHAST LIGHT LLP
FIRM OPERATING ACCOUNT
TEN WEYBOSSET STREET
PROVIDENCE, RHODE ISLAND 02903

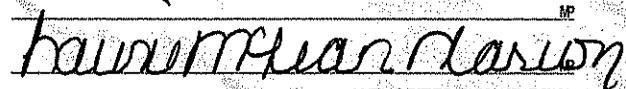
 Sovereign
SOVEREIGN BANK NEW ENGLAND
A Division of Sun Life of Canada
5-7515/110

CHECK NO. 1826

DATE CHECK NO. AMOUNT
05/02/2007 000001826 \$*****150.00
DOLLARS

PAY *One Hundred Fifty and 00/100 Dollars*
TO THE ORDER OF City of Providence

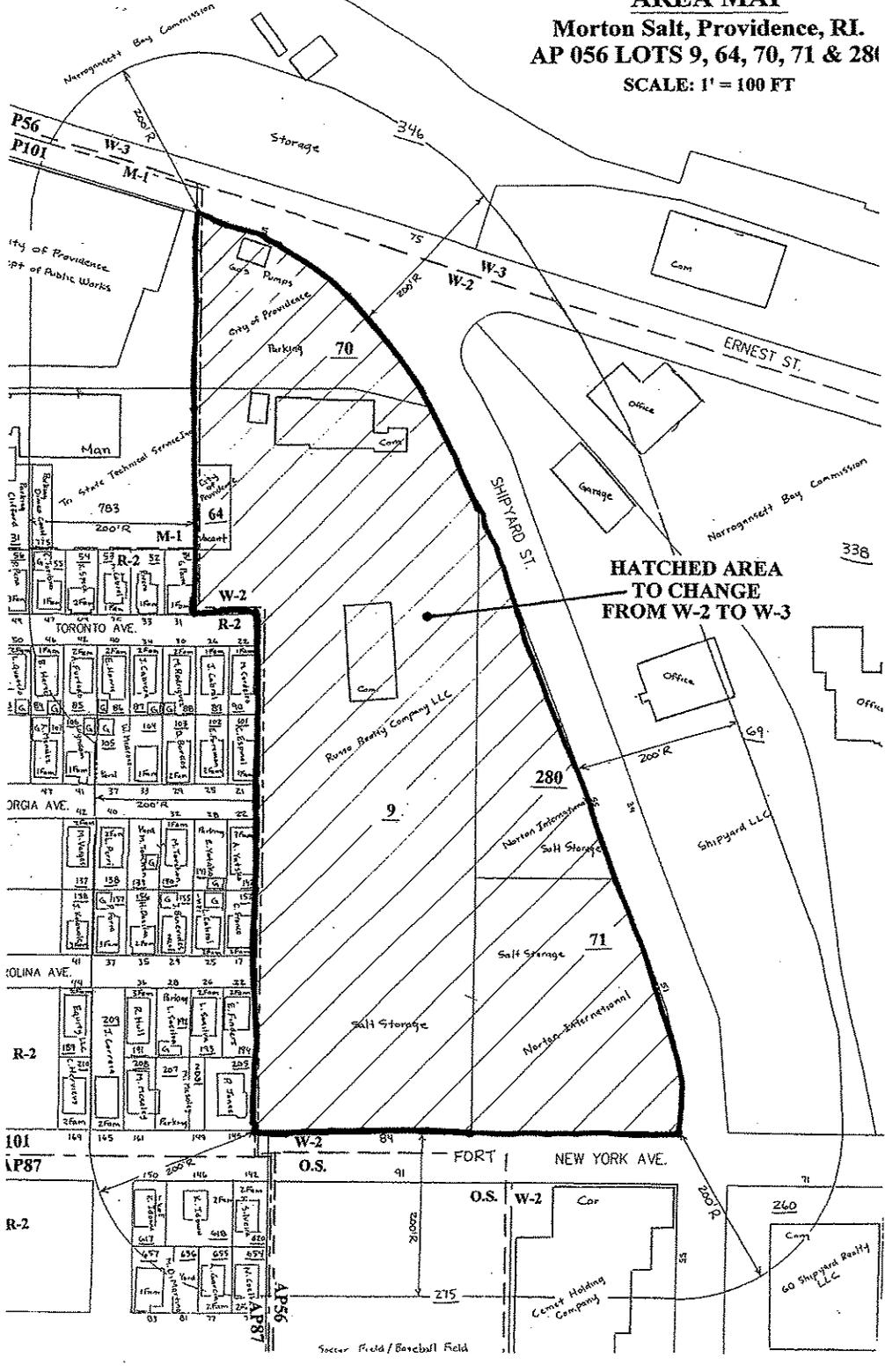
TWO SIGNATURES REQUIRED IF AMOUNT EXCEEDS \$5000.00


AUTHORIZED SIGNATURE(S)

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

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AREA MAP
Morton Salt, Providence, RI.
AP 056 LOTS 9, 64, 70, 71 & 280
SCALE: 1" = 100 FT





Providence City Plan Commission

DAVID N. CICILLINE
Mayor

June 21, 2007

Honorable Michael A. Solomon, Chair
Committee on Ordinances
Providence City Hall
25 Dorrance Street
Providence, RI 09203

Attn: Anna Stetson, City Clerk

Re: CPC Referral 3285: Petition to Rezone Lots 9, 64, 70, 71 and 280 on Assessor's Plat 56, from W-2 to W-3

Dear Councilman Solomon:

At a regular meeting of the City Plan Commission (CPC) on June 19, 2007, and pursuant to Section 1100 of the City of Providence Zoning Ordinance Chapter 1994-24, No. 365, as amended, the Commission reviewed the petition for the above-referenced amendment to the Ordinance as petitioned by Lisa F. Zumbach, Vice President, Morton International, Inc. The Commission voted unanimously as described below to make certain findings of fact and to recommend that the petition be approved.

Findings of Fact

Article XI of the Zoning Ordinance requires that in order for the CPC to make a positive recommendation on amendments to the Ordinance, it must demonstrate consistency with the Comprehensive Plan and with the purposes of zoning as listed in Section 100 of the Ordinance.

1. The Comprehensive Plan map designates this area waterfront mixed uses. A change to W-3 would be consistent with the Comprehensive Plan.
2. A change to W-3 would be consistent with the purpose of the zoning as listed in Section 100 of the Ordinance in that it would be a consistent implementation of the Comprehensive Plan.

Recommendation

The CPC voted to advise the City Council to change the zoning to W-3.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Ise". The signature is written in a cursive, somewhat stylized font.

Christopher J. Ise
Administrative Officer

cc: Lisa F. Zumbach, Morton International, Inc.