

Approved As Written  
**PLANNING COMMISSION MINUTES**  
January 21, 2015  
**7:00 PM**  
**Jamestown Town Hall**  
93 Narragansett Ave.

**I. Call to Order and Roll Call**

The meeting was called to order at 7:00 p.m. and the following members were present:

Michael Swistak – Chair	Duncan Pendlebury – Vice Chair
Rosemary Enright – Secretary	Mick Cochran
Michael Jacquard	Bernie Pfeiffer
Michael Smith	

Also present:

Lisa Bryer, AICP – Town Planner  
Cinthia Reppe – Planning Assistant  
Wyatt Brochu – Town Solicitor  
Peter Brockmann – Attorney  
Steve Perry – Dutch Harbor Development LLC.  
Michael Darveau – Professional Land Surveyor  
Bob Bailey – Lila Delman Real Estate  
Frank Spinella – FJS Associates  
Ken Rudman  
Robert Powers  
Dan Viera  
Robert Brayston  
Jim McCooey  
Alan Katz  
Jason Viera  
Bill Fortenberry

**II. Approval of Minutes January 7, 2015**

A motion was made by Commissioner Enright and seconded by Commissioner Cochran to accept the minutes as written. So unanimously approved.

**III. Correspondence**

1. FYI - Memo to Zoning Board – Re: Scott Hallberg HGWTO. Received
2. FYI – Letter – Re: Reamer – Partial Release of Bond. Received

#### IV. Citizen's Non Agenda Item – nothing at this time

#### V. Reports

1. Town Planner's Report
2. Chairpersons report
3. Town Committees
4. Sub Committees

#### VI. Old Business

#### VII. New Business

1. **The Cottages @ Dutch Harbor - Dutch Harbor Development LLC. – Plat 8 Lots 68, 109 and 886 - Westwind Dr., Arnold Ave. & Pemberton Avenue (paper street). Major Land Development Project, 24 units in 12 buildings (includes affordable units) - Pre-application Review**

Commissioner Pendlebury recused and left the table.

Commissioner Swistak asked the Town Planner Lisa Bryer to explain pre-application process. This project is a major land development project. This is because it is proposing more than 4 units and they are joining three separate lots and proposing a coordinated development. In terms of procedure there are 4 phases of review for a major land development project. This is a very conceptual phase of review. The Planning Commission will be looking at basic things like design of the subdivision, number of units, water availability, access to the units and street design. They will not be focusing in on details at pre-app; they will be looking at this proposal from a bird's eye view during this phase. Nothing is binding and no decisions will be made during a pre-application review. Master Plan phase will be next and all the abutters will be notified of the Master Plan Informational Meeting when that is scheduled. The next stage of review is the preliminary stage, which also requires public notification. Final is the last stage and it generally a record keeping phase where all the details are insured and such things as final permits, legal agreements and conditions of approval are all verified. Final approval is when all the conditions of approval are reviewed to make sure they have been met.

Planning Commission Chair, Swistak asked if he should have public comment tonight. Ms. Bryer said there are obviously interested neighbors here tonight and public input is up to the Planning Commission and at the Chairs discretion. She recommended that is public comment is received, that it be kept short and focused on the conceptual stage and not on details that may not be known at this point of design.

The Planner also reported that we have had 2 TRC meetings, the first one in October and then again last week. According to Town Ordinance, 20% of the units will have to be affordable at 80-120% of median income. They will be able to apply through the Comprehensive Permit application process for affordable housing. The Planning Commission will then be the permitting authority for all local planning and zoning permits and relief. They have not applied for a Comprehensive Permit yet, and when they do they may have to start with the Pre-application stage. They have applied to RI Housing and they have a letter of eligibility as required. After the first

TRC they did not come to Planning because it was more of a pre-pre-application at the applicants request. They were interested in gaining feedback at the staff level before filing formally.

Peter Brockmann attorney representing the applicant will be narrating the discussion. He introduced the team. Mike Darveau, Land Surveyor will discuss the current and proposed site plan, Bob Bailey, Realtor will address feasibility, Frank Spinella FJS Associates, Affordable Housing Development projects consultant has worked on low and moderate income housing in the state of RI. Mr. Brockmann views this as a discussion where they will gain feedback from the Planning Commission.

Mike Darveau explained the site to the commission and the audience. He pointed out the paper streets within the property and there is a marsh on the property 45,000 + square feet. The total area is 10.17 acres of which 9.1 acres are usable, total area minus wetlands and marshes. This property is zoned R40 and has been a vacant hay field. The site slopes at 5% from Arnold Ave to Westwind Dr. There is public water and sewer on Arnold Ave. They currently have 2 lots that front on Arnold Ave. and these 2 lots have water and sewer by right. Any additional water or sewer would have to be approved by the water and sewer board. The water table is high on the property, this is why they are requesting sewer instead of installing septic systems. They are not planning anything for Lawn Ave. (paper street) at this time. Essentially if they propose abandonment, Lawn Ave would be split down the center and half would be added to the abutters and the other half would belong to them. Pemberton Ave. (paper street) which abuts Mr. MacColl's property would be deeded to Mr. MacColl if he is interested. In regards to existing conditions Westwind does not have public water they have private wells and a force sewer main that ties into the town sewer system.

The proposed development is 12 buildings, all duplex units and a total of 24 units. A cul-de-sac private road. He explained that they would have one water service for the town water department that will have separate water meters. Drainage for the site preliminarily will be held in swales and water retention which is approved by RI DEM requirements. They are proposing a bike path that will go from Westwind Dr. to Arnold Ave. Also after a discussion with the fire chief they are looking at putting the bike path and an emergency access for fire department that can be opened when needed. He calculated the area that is needed for buildings and yards, 5.78 acres or 56% of site will be used for buildings, landscaping, etc.

Attorney Brockmann asked about potential water and he is concerned that they can loop the water and add more hydrants for better water flow. A hydrant at both ends of the development is preferred. The fire dept. wants some input on where the hydrants will go. Drainage will be a big issue here. Will the drainage capture all the runoff from the sites? Yes, the states stormwater regulations state it needs to be captured and retained. The public works director is concerned about runoff and drainage on the site since there is currently a problem in that area.

Commissioner Pfeiffer asked a few questions, "are there any storm drains on Westwind Dr?" There is a drainage system there currently. "Are there curbs?" Only some. "Is there a retention area there now currently?" Just storm drains. Engineer Dan Cotta, American Engineering will be joining the team; he is working on the drainage plan.

Bob Bailey will talk about the buildings and market for these types of units. He is the listing agent for the property and is assisting the buyer too. The current owners are Lorraine Clarke, David Sylvia and George Sylvia. They acquired the property from their parents. 18,000 square foot lots were the original intent. The current sellers have had the property listed since 2007 off and on. It could potentially yield 9 house lots. Currently zoned R-40 where multi family is permitted. He explained how condo projects work. Jamestown does not have many condo units currently that are not high rise with elevators. They find there is a current trend for the older population who want to downsize and be able to still have a yard. Under the comprehensive permit process as well as inclusionary zoning affordable housing is a component of the application. They are targeting moderate income. There are standards set forth that establish those units and prices for LMI. They are looking for units to sell for \$240,000 and \$296,000 thousand and that will service buyers at 100% and 120% of median income. Units will be 3 bedroom 2 ½ bath with a living space of 2350 sq ft. for each unit, with a 2 car garage. They will be built on a slab. Basic floor plan of unit is for master bedroom suites on first floor. The houses will be Cape Style. Mr. Bailey explained RI housing maximum income for a family of 4 cannot exceed \$6017 per month for 100% of median in Jamestown, and \$7221 per month for 120%. These units may service and are targeted for Police, Teachers, Fire Dept and town employees. These will count towards our 10% goal. Total monthly payment for the affordable units will be \$1636 per month PITI and condo fee for the affordable units. Market rate units will be designed and sold for \$550,000-\$700,000. Originally they had the affordable units on Arnold Ave but RI housing wants them disbursed throughout the development.

Commissioner Cochran said he would like to know what the median income is for those Jamestown workers on the island. Bob explained that although he does not have those figures, Jamestown is looped into Providence instead of Newport for median income. Brockman said the fire chief said he has a couple of fire fighters that might be interested.

Frank Spinella, founded FJS in 1993, a housing development consultant he has been doing this for 23 years. Most are affordable developments. This is really a market rate project with a few affordable scattered throughout. He has done developments in RI including Narragansett, East Greenwich and South Kingstown. They have to follow the HUD median income not local Jamestown. Average income is \$72,200 of 100% of median income and 120% is \$86,600. Those are the maximum numbers.

Commissioner Smith asked what the number is of the median income of those that live in Jamestown? We will look that number up. The density bonus is the major source of subsidy. It costs more to build than what you can sell it for or rent it for with the affordable units. They just did North Cove landing in North Kingstown and it cost \$300,000 to build them but they are rented to those that are at 60% median. You lose a lot of money on the affordable units. It will cost 2.3 million to build the 3 affordable buildings and you can only sell for 1.6 million, the only way to make it up are with the market rate units. That makes up for the profit and the shortfall. We calculate density here by bedrooms per acre: Bayview 72 bedrooms per acre, Jamestown Village is 19 per acre, Pemberton is 47 per acre Bayside 40 per acre, Bridges 7 per acre. Dutch harbor is 72 bedrooms on 9 acres or 8.22 bedrooms per acre. Commissioner Cochran asked at 120% which is \$86,600 the family that makes that can afford the house that costs \$296,000? What is not talked about is that income does not equal assets. They can buy one of these cash as long as their "income" does not go above the maximum amount. A senior resident that owns a house currently

can sell their house and buy one of these affordable units. Town Planner Lisa Bryer asked is anyone responsible for insuring that these units are owner occupied? Is that the role of the monitoring agent? Could these units be able to be rented out if someone chose to do that? That is generally addressed in the condo documents. If your income goes up, you will not be made to leave. Commissioner Jacquard asked what happens if you get more applications than you have units? That is a good situation for the developer.

Peter Brockmann said he would like to meet with those members in the audience that are interested in this project. Commissioner Swistak is still going to open it up to audience to make statements or ask questions.

Commissioner Pfeiffer would like to see a 2<sup>nd</sup> exit for emergency vehicles. He asked about the Lawn Ave. abandonment does it change the size or scope of the project? No but it would add to their sq. footage. They would likely provide a buffer to the abutters. Darveau said it would be open space. Currently they are envisioning 30 feet of back yard for the units. Pfeiffer noted that abandonment of Pemberton is almost a full acre if you do the math. What does the town get out of it?

Commissioner Cochran if water is negotiated will it be at the developers expense. Yes all public improvements would be paid for by the applicant because it is a private driveway.

Commissioner Enright stated the marsh actually extends across what is now Pemberton. Yes a portion of it is crosses the paper road.

Commissioner Jacquard asked if they have the actual numbers of the relief they are seeking? Peter Brockmann said they will have more concrete information as they proceed further. It is substantial the amount of relief they are requiring. Commissioner Smith is not in favor of coming in off Westwind Dr. and exiting off Westwind which he feels is a dangerous intersection and the TRC discussed putting the Cul de sac coming in off Arnold or a through road. The through road is important to him and also a side walk to Arnold Ave. The fire Chief would like a through street, which could include an access point or gate. Bob Bailey explained why they did it that way. It has to do with wetlands on the Pemberton paper street. There has been no town adoption of Lawn Ave. They went back to the 30's and they were not formally adopted by the town council. It is open to discussion to have the entrance on Arnold Ave. Bailey reported that this site was also studied archeologically. In his narrative Mr. Brockmann said he touched on the archeological issue.

Commission Chair Swistak asked did you talk about rather than a private road a public roadway?

This will be a paved road so it should not be a concern Bob Bailey explained. Swistak asked if it is a continuous bond? Lisa Bryer noted that bonds are released after work is completed and maintenance bonds expire. Commissioner Cochran wants the street to go straight through.

What would happen if there is one person that does not pay their water bill? Some meters at every unit. The Association would pay it and have legal rights. The association is responsible.

Is this a high risk project or is it a walk in the park? What if they don't sell then what? They will not be built them all at once. Mr. Spinella said they would be doing it in phases. He ran the numbers in a 2 year sell out. The reason they positioned the affordable units like they did was so in the first Phase they would build 3 market rate units and 1 affordable.

Lisa Bryer said we have only dealt with a non profit developer for a comprehensive permit so far. Are you eligible for any state or federal subsidies? They are, but will not likely they ask for them.

Commissioner Swistak asked if there were any members of the audience that wanted to speak:

Ken Rudman - North Main Rd. and Westwind Dr. – he has a down syndrome son and this is a bad intersection how will this help his son and other children on that street.

Robert Powers- 30 Westwind Dr. –The live directly across where the street comes into the subdivision. They built their house in 1999 and are full time island residents. They along with their neighbors are very concerned and troubled by this development. They are not proposing single family homes. They would prefer single family homes. This is out of character with their neighborhood. They are coming before you so they can get the waivers from you and not have to go to zoning too. This is R40. To do this to the character of the neighborhood is not fair. He wants to address the drainage on Westwind Dr. which is ridiculously bad. He does not know what they are proposing to do. Retention ponds are a breeding ground for mosquitoes. North Rd. and Westwind Dr. is a dangerous intersection. He can sit on a school morning for a solid 5 minutes before he can make the turn. All the cars are going fast too. To add 48 more cars is going to increase the danger. Density of development, environmental impacts on wetlands, noise, traffic sewer, water, safety of their children too. All these issues need to be reviewed in a comprehensive process. He wants all to understand both he and his wife are attorneys and have engaged outside experts. They are working with those neighbors and they want to stop the project. It will alter their community.

Dan Viera has lived there for 70 years the drainage ditch marsh has always been there. In fact it is less wet than it was years ago. How come the town does not get compensation from the 2 paper streets?

Robert Brayston – an abutter on Westwind Dr. he wants to reiterate his concerns that some of the other neighbors have said. Zoning is there for a reason. He is also sympathetic to the towns desire for affordable housing. The development by the library is great it is integrated nicely. He is concerned that their property values would be reduced. They have been paying taxes all these years.

Brockmann said this is R40 and in the R40 district multi-family dwellings are allowed with a special use permit.

Jim McCooey - 70 Westwind – The realtor suggested that the LMI units will sell for ½ of the market units. What is the history and success for these types of units since they are integrated?

Alan Katz - 52 Westwind – agrees with neighbors, he has owned his house for 15 years and flooding is a problem, The storm sewers in the street are not doing the job they are supposed to do. He mentioned 46% hardscape where it is currently all grass. That increase will cause more flooding.

Jason Viera - 125 North rd. He is concerned about more houses displacing water and the wetlands flooding behind his house.

Mike Darveau said the wetlands were flagged by Scott Roubideaux, a leading wetlands biologist in the state.

Bill Fortenberry - 29 Arnold Ave. at the top of the hill. He is an affordable housing advocate, but be opposed to this too. He is not opposed to affordable housing, he is opposed to the comprehensive permit process. Please understand we are not opposed to affordable housing. As soon as they put the application in they have 120 days to finish. He wants a more thoughtful approach. When is the right time to bring this to the planning commission? Master Plan information hearing step 2 and step 3. The earlier in the process that you come forward the better. Each phase has its own clock when the applicant starts it with a submission.

Frank Spinella said the 120 days start when the planner states the plan is complete. If you do not vote by then it is automatically approved. He has never been in that position. Mr. Fortenberry can submit something in writing if he wants right now.

Town Solicitor Brochu said the applicant and neighbors should get together outside the meetings to discuss this. For the neighbors in the audience if you are objecting to traffic, engineering, flooding you need to engage your own experts. Brochu said if you have the technical concerns it is up to you to bring forward evidence for the hearings.

Commissioner Smith said he thinks it would be helpful if the applicant shows them what conventional drawings would look like. He would like to see what it would look like if it was developed by the requirements of the ordinance. The planner noted that a yield plan is required throughout the process. Smith asked to see this.


Brockmann said we want to try and work with the neighbors. Please come reach out to one of us and we will have a local meeting to discuss.

A gentleman from West Reach Dr. said those wanting to downsize like himself this is a perfect opportunity for him. He has been on the island for 40 years, he said this is an elegant option for them.

### **VIII. Adjournment**

A motion to adjourn was made by Commissioner Smith and seconded by Commissioner Jacquard at 9:00 p.m. So unanimously voted.

Attest:

  
Cinthia L. Reppe  
Planning Assistant