

Approved as amended
PLANNING COMMISSION MINUTES
June 21, 2023
7:00 PM
Jamestown Town Hall

I. Call to Order and Roll Call

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

Michael Swistak – Chair	Duncan Pendlebury – Vice Chair
Mick Cochran	Rosemary Enright - Secretary
Diane Harrison	Bernie Pfeiffer
Dana Prestigiacomo	

Also present:

Lisa Bryer, AICP – Town Planner
Carrie Kolb – Planning Assistant
Wyatt Brochu, Esq. – Ruggiero, Brochu & Petrarca
Brian Grossman, Esq. – Bowditch & Dewey
Joseph Duquette, Esq. – Bowditch & Dewey
Louis Vitali – Navigator Properties, LLC
Sohail Usmani, Radio Frequency Engineer, C Squared Systems LLC
Nick Robertson, resident

II. Citizen's Non-Agenda Item - none

III. New Business

1. 90 Carr Lane, Plat 4 Lot 17. Jamestown, RI – Proposal by Navigator Properties LLC/Carr Homestead Foundation for a 160' monopole wireless communication tower and related ground infrastructure. Review, discussion and/or action and/or vote:
 - a. Jamestown Planning Commission Development Plan approval per Zoning Ordinance Article 8 – Regulations for RR-200 Zoning District, Advisory Report to Zoning Enforcement Officer;
 - b. Recommendation to Jamestown Zoning Board of Review – Special Uses Permit per 82-300, Table 3-1 V.12 for transmission lines, towers or substations in RR-200 district

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Brian Grossman, Esq., with Bowditch & Dewey represented the application, and also Louis Vitali, Navigator Properties, LLC (DBA Mariner), Sohail Usmani, Radio Frequency Engineer, with C Squared Systems attended the meeting on behalf of the application.

Grossman said they submitted an application, stormwater management report and supplement to build a 160-foot monopole on a concrete foundation in the RR-200 zoning district at 90 Carr Lane. There is a need for the wireless communication system on the north end of Jamestown to increase broad-based geographic coverage. The setbacks are 160 feet from North Road, 175 feet to the north and south, and 1100 feet to the east. The FAA determination of no hazard to air navigation means that the monopole does not require marking or lighting. The monopole can accommodate up to four (4) wireless carriers.

The monopole is centered inside a proposed 75 feet x 75 feet compound and the proposed fence is an eight (8) foot chain link fence with privacy slats. The compound is surrounded by heavy vegetation and fencing. Most of the vegetation will stay in place except for the compound and access road. The carrier's equipment will be within fenced compound. The carriers will put in a concrete pad, typically 10 feet x 20 feet, with weather proof equipment cabinets that include their radio communications equipment, and some still use a shelter that are eight to ten feet tall. The ground cover inside the compound is crushed stone, aside from the concrete carrier pads and monopole foundation. There is very little increase in impervious surface. The access road will be a pervious asphalt surface.

The utility vehicles that monitor the site, one to two times per month, for the carriers are SUV size vehicles and will not look out of place. The permeable pavement for the access road will be maintained every six months. There is a stone wall on the property that runs parallel to North Road and just for the access road to be created stones will be removed to create the opening. The stones will be stacked and left onsite, with a notation in the plans. In terms of additional equipment, Mariner will not have its own generator onsite. Each carrier will have battery pack up system as a primary, and there is a note in the plans that the batteries are required to be the gel type that are deemed non-hazardous by the EPA. There is also a note in the plans that generators need to run on propane, not diesel or natural gas.

There are no wetlands on the site. Sediment and erosion control will be put in place when building the site and storm water run-off will be contained onsite. The compound is unmanned and does not require water or sewer and does not emit pollution.

The application requires development plan review from the Planning Commission. The Zoning Board of Review will need to grant a special use permit under the category transmission lines, towers or substation and an additional special use permit for the height.

Grossman discussed the two general frequency bands used, 700 and 1900. He explained that 700 travels further and that 1900 is limited in coverage. The carriers layer the two frequencies for

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infill coverage. Charts from C Squared Systems LLC were presented to explain the coverage and proposed coverage areas.

Discussion of coverage ensued. In the white areas on the coverage chart, the carriers do not achieve 99% coverage. The amount of coverage a resident receives depends on where they are situated. Water interferes with coverage and service at the northern outer edge of the island will take longer to load websites.

Discussion of emergency at the pole ensued. If there was a problem with the equipment on the pole, a certified and trained worker would climb the pole. The question was asked who is responsible if a worker gets stuck on the pole? Grossman said that he has never heard of a situation where a worker was stuck on a pole.

Discussion ensued regarding the different heights of monopoles. The question was asked how the 160-foot height was determined. Grossman said a height analysis was done in order for the lowest carrier on the pole to be able to provide coverage.

Discussion ensued regarding noise from the generators. A question was raised about the noise from the generators. Grossman explained that the generators have mufflers and the battery back-up has to run out before the generators kick in. The generators are exercised once per week and that can be done during business hours. The generators will allow residents to have cell coverage for emergency services after the battery backup is out. Grossman said that not all carriers put in generators at each site. The question was raised what happens to coverage? Grossman said that battery back-up continues coverage 95% of the time.

Discussion ensued regarding painting the monopole. The question was asked if their monopole can be painted a grayish blue? Grossman said that the monopole is made of galvanized steel. His recommendation is to leave the monopole unpainted as it tends to blend into the background. When painted and non-painted monopoles are near each other, the painted ones are more visible.

Discussion ensued regarding camouflage on the monopole (such as tree structures). Grossman said that in some mountainous circumstances faux foliage works to blend the monopole into the background. Due to the tree line in Jamestown, camouflage/faux foliage will not work.

Discussion ensued regarding the safety and welfare of residents. Grossman said that more than 50% of the entire population is wireless cell phone only and do not have telephone land lines. Each year the percentage of wireless only number creeps up. The monopole will allow cell phone users to call public safety for help.

Discussion ensued regarding the need for a monopole in the future. Grossman said that as

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technology advances, there is the need for more facilities, not less. People want to use their cell phones in homes and offices and there is a need more sites to be closer to the users. Satellites are too far away and cannot handle the number of users.

Discussion ensued regarding booster equipment and who is responsible for installing it? Grossman said that there may be pockets where nodes/booster equipment are needed. The carriers would be responsible for installing the nodes and some towns come up with their own solutions.

Discussion ensued regarding supervision of construction. Mariner hires the contractor and construction works like any other project. The monopole will be erected with a crane and the access into the site and turn around area have been calculated for a crane.

Discussion ensued regarding public safety. Public safety will have access to the compound. Public Safety has reviewed the plans, and made comments. Public Safety will be allowed to build a shed within the compound.

Discussion ensued regarding the memo written by Jean Lambert. A question was asked if all the comments from Jean Lambert were included in the site plan? Grossman said that all of the comments were addressed. The culvert that appeared on the original plan was removed from the updated plan.

Discussion ensued regarding the stone wall. The question was raised if the stone wall can be improved? The note in the plans states that stonewall needs to be maintained as it is in now. Grossman is not sure how to quantify the improvements because the stone wall is on the property, outside of the land leased by Mariner? It was discussed that stones will not be removed from the site and that the access road will be wide enough that trucks turning around do not take out any more stones.

Discussion ensued regarding a removal bond. A question was raised if an escalation clause can be added? Grossman said that the standard escalation clause is 10% every five (5) years. Bryer asked how the removal bond is addressed in the lease between Navigator Properties LLC/Mariner and Carr Family Foundation. Vitali said that it is not addressed. The question was asked why the Town would get involved in removing an item from private property? If the tower is being un-utilized, then it becomes a public safety issue. The bond ensures that the taxpayer does not have to pay for the removal.

Discussion ensued regarding if Mariner is registered as foreign corporation with Secretary of State's office in Rhode Island? Grossman replied that they are working on it.

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Discussion ensued regarding carrier compliance and FCC. The question was raised do the carriers get compliance approval each time? Grossman explained that the carriers decide their equipment needs. The carriers are licensed under the FCC guidelines and are required to comply with the obligations. The FCC needs to be technology and competitor neutral. The FCC is the regulator of the tower, not the Town of Jamestown.

Public Comment:

Nick Robertson of 109 Carr Lane asked some questions.

How will it affect property in the area? Grossman said that there was a property value assessment included in the application and the property values will not go down. Robertson will be sent a copy of the report after the meeting.

How much consideration was given to the landfill –are they the same elevation? Vitali said that the landfill was the first site that Mariner looked at. There were two problems with the site, there were restrictions on where the tower could be located and the site itself was too far north for the carriers. Bryer said that a town report on using the landfill showed a tower would be too far north and didn't provide enough coverage that was needed for the masses in West Passage and the Shores.

Robertson said that does not have problems at his home.

Commissioner Swistak said the applicant that the packet took a complex topic, simplified it and made it easy to understand what was going on.

A motion was moved by Commissioner Swistak and seconded by Commissioner Enright as follows:

At the Jamestown Planning Commission meeting on June 21, 2023, Navigator Properties, LLC presented a plan to install a 160-foot monopole wireless cellular communication tower and related ground infrastructure at 90 Carr Lane. The Planning Commission unanimously voted to recommend to the Jamestown Zoning Board, approval of the application being reviewed under: Zoning Ordinance Article 8 – Regulations for RR-200 Zoning District, Advisory Report to Zoning Enforcement Officer; Special Uses Permit per 82-300, Table 3-1 V. 12 for transmission lines, towers or substations in RR-200 district; Special Uses Permit per 82-305 B exceptions to height regulation for a structure in excess of 50 feet; and Special Uses Permit per 82-306 D for relief for an eight (8) foot security fence, if required.

The application of Navigator Properties, LLC, 90 Carr Lane was reviewed by the TRC on May 17, 2023 and the Planning Commission on June 21, 2023. The review and recommendation was based on the discussion at these meetings as well as submittal of the following information:
Plans entitled Site Number: NAV-29, site name: Jamestown RI, Site Address: 90 Carr Lane, Jamestown, RI 02835, Newport County:

- Title Sheet T-1
- General notes GN-1

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- Survey C-1, 2
- Site Plan C-3
- Compound Plan and Elevation A-1
- Details A-2
- Erosion Control and Grading Plan A-3
- Erosion Control Details A-4
- Soil Map A-5

The following information was submitted as part of the development package:

1. Application for Development Plan Review, signed and dated March 24, 2023
2. The Original Owner Authorization Form was received May 17, 2023
3. Project Narrative signed by Attorney Brian S. Grossman (7 pages)
4. Jamestown Application “Alternatives Analysis”
5. Fair Market Advisors, LLC report (40 pages)
6. Report by Donald L. Haes, Jr., CHP, Radiation Specialist (13 Pages)
7. RF Report dated February 7, 2023
8. Wetland Report from Natural Resource Services, Inc., Scott P Rabideau, PWS
9. Stormwater Management Report by TEP Northeast dated April 25, 2023
10. 300 foot abutters list
11. Owner Authorization Form
12. Supplement #1 dated June 14, 2023

The Planning Commission Advisory Report and recommendations for approval are based on the following findings of fact and subject to the following conditions of approval:

Findings of Fact:

1. This application has been reviewed by the TRC on May 17, 2023. (See attached Minutes from TRC);
2. This property is located in the RR-200 Zoning District. This district covers the watershed area of the north and south pond reservoirs. Towers are permitted in this district by special use permit from the Zoning Board of Review. This application is subject to Development Plan Review per Article 8 of the Jamestown Zoning Ordinance;
3. The existing site has two existing homes, one built in 1690 and one built in 1940 according to town records. The older structure is presumed the oldest house in Jamestown and the former home of Governor Carr;
4. The Cellular Communication Tower is permitted in the RR-200 zoning district by special use permit;
5. The property is 10.65 acres and is currently afforded the tax structure of “Farm, Forest, and Open Space;
6. The applicant will be entering into a long term property lease from the Carr Homestead Foundation will be in 5-year increments between 30-50 years for a portion of Plat 4 Lot 17, 90 Carr Lane;

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7. The Cell Tower compound will be made out of concrete and crushed stone and the driveway and access turnaround is permeable pavement. The concrete parts will be 10x20 foot equipment pad for the carriers and the foundation for the tower. The site will be minimally visible from the road with views of the access road and potentially the 75x75 foot compound;
8. Stormwater will be infiltrated onsite and a stormwater report was provided and reviewed by the Town Engineer, Jean Lambert. All her concerns have been addressed;
9. Navigator Properties, LLC has indicated that they are constrained by the land owner as to where the tower can be located;
10. There are no wetlands on the property within 100 feet of the Tower Facility;
11. The Applicant has agreed that propane generators will be used if needed and no petroleum fuel will be stored on site;
12. The Applicant has agreed to provide space on the Tower, for communication for first responders, at no cost the Town at a height not to exceed 115 feet above ground level to the top of all antennas and appurtenances. This limitation is necessary to avoid potential interference with a wireless communications provider occupying the lowest available mounting height for their equipment. The Applicant would require a written agreement documenting the Town's use of the Tower;
13. The Applicant will construct and maintain the Tower, compound and access easement, but its tenants will determine whether to utilize equipment shelters or weatherproof ground mounted equipment cabinets. It is common that wireless communications providers utilize equipment cabinets and not shelters; therefore, there is no guarantee that a shelter would be installed at the Property. For safety reasons, wireless communications providers typically do not permit others to share shelter space or have access to their equipment shelters (if one is even installed);
14. The Planning Commission, reviewed this application under the Jamestown Zoning Ordinance and note the following approvals/relief are required:
 - c. Jamestown Planning Commission Development Plan approval per Zoning Ordinance Article 8 – Regulations for RR-200 Zoning District, Advisory Report to Zoning Enforcement Officer;
 - d. Recommendation to Jamestown Zoning Board of Review – Special Use Permit per 82-300, Table 3-1 V.12 for transmission lines, towers or substations in RR-200 district;
 - e. Recommendation to Zoning Board of Review – Special Use Permit for height of a structure over 50 feet; and,
 - f. If deemed necessary, a variance for a fence over 6 feet in height.
15. The proposed monopole is set back a minimum of 160 feet from the front, North Road, property line, 175 feet from the north and south side lot lines and approximately 360 feet from the closest structure on site. The site is completely wooded and will not need additional screening for that reason. The Communication Tower meets the required setback for the proposed height; 1 foot for each foot setback from the property line;

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16. The 8-foot fence around the compound is recommended and supported for safety reasons;
17. The Applicant has agreed to provide a removal bond, indicating that it is not uncommon for the industry; and,
18. The health, safety and welfare benefits of providing the north end of Jamestown with a cellular communication tower outweigh any conflicting considerations in the Comprehensive Plan.

Conditions of Approval:

1. The Applicant shall provide a written agreement documenting the Town's use of the Tower. The written agreement would provide that the rights to utilize the designated space would be assignable to any public safety agency which supports communications for first responders, subject to necessary limitations including without limitation those concerning interference and structural capacity;
2. The removal bond shall name the Town and shall be a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include an escalator clause for a 10% increase every 5 years;
3. The Stormwater Mitigation measures shall be adhered to and the construction superintendent shall coordinate with the Town Public Works Department to insure compliance;
4. Any future on-site generators shall be fueled by propane. No petroleum fuels shall be used or stored on site;
5. Any permanent on-site generators shall utilize a sound reducing enclosure;
6. The stones from the stone wall shall be maintained on site. The design of the driveway entrance shall take turning radii into consideration so as not to encourage stone wall damage from entering or exiting the site;
7. The permeable pavement on site shall be appropriately maintained every 6 months as noted on Plan A-1;
8. Public Safety access shall be provided either by key, knox box, or combination lock;
9. The applicant shall be required to register with RI Secretary of State Corporations as a foreign entity doing business in RI.
10. This application is subject to Zoning Board approval for the following.
 - a. Recommendation to Jamestown Zoning Board of Review – Special Use Permit per 82-300, Table 3-1 V.12 for transmission lines, towers or substations in RR-200 district;
 - b. Recommendation to Zoning Board of Review – Special Use Permit for height of a structure over 50 feet; and,
 - c. If deemed necessary, a variance for a fence over 6 feet in height.

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So voted:

Commissioner Pendlebury – aye

Commissioner Enright – aye

Commissioner Pfeiffer – aye

Commissioner Swistak – aye

Motion carries 7-0

Commissioner Cochran - aye

Commissioner Harrison – aye

Commissioner Prestigiacomo – aye

IV. Old Business

1. No items at this time.

V. Correspondence

1. Memo to Zoning Board for High Groundwater Table and Impervious Overlay District Section 82-314 - Sub-district A:
 - a. John Aquino: AP 14, Lot 27; 74 Seaside Drive, Jamestown, RI;
2. Memos to Zoning Board for High Groundwater Table and Impervious Overlay District Section 82-314 - Sub-district B:
 - a. Michael Junge: AP 14, Lot 386; 4 Galley Street, Jamestown, RI;
 - b. George and Ann Zainyeh: AP 3, Lot 127; 433 Seaside Drive, Jamestown, RI;
3. Administrative Subdivision approval letter, William and Jessica Cushman and 361 Highland LLC: AP 10 Lots 37 & 153, 145 Fort Wetherill Road & 361 Highland Drive, Jamestown, RI
4. Administrative Subdivision approval letter, Samuel and Natasha Younts and Rikhi D'Souza: AP 3, Lots 51 and 235, 973 and 991 North Main Road, Jamestown, RI

Correspondence recognized as received. Bryer responded that the Cushman administrative subdivision was between the same property owners on two lots and they were transferring land from one lot to the other. The conditional subdivision approval for North Main Road will go before the Zoning Board for approval for Plat 3 Lot 235 becoming more non-conforming in terms of size prior to final Administrative Subdivision approval.

VI. Reports

1. Planner's Report

A. Future meetings – topics and applications

Bryer stated that the Town Council appointed Ed Mello as permanent Town Administrator at the June 20 Town Council meeting. TRC will be held tomorrow for 2 Hammett Court for existing 5-unit Affordable Housing. The second large structure onsite has been used for a lumber yard and offices. The proposal by the same owner, Looking Upwards/Bridges, is to convert the large structure into 12 affordable housing units. They will go through major land development project process and have asked to combine Master Plan and Preliminary processes and hearings.

VII. Approval of Minutes – review, discussion and/or action and/or vote

1. May 17, 2023

A motion was moved by Commissioner Enright and seconded by Commissioner Harrison to approve the minutes from the May 17, 2023 meeting as amended. All in favor.

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Page 5 Paragraph 2: replace ~~its~~ with it's

Page 5 Paragraph 4: sentence 1: remove ~~denial of~~ and replace with "for"

Page 6: Roll call vote moved to page 5 under the motion.

Page 7 Paragraph 4 Sentence 2: replace ~~can not~~ with cannot. Add "and that" after the word "fill"

Page 7-8: Replace numbering of ~~16 through 32~~ with numbering of 1-17

VIII. Adjournment

A motion to adjourn at 8:58pm was moved by Commissioner Enright and seconded by Commissioner Harrison. All in favor.