

**Approved as amended**  
**PLANNING COMMISSION MINUTES**  
**August 3, 2022**  
**7:00 PM**  
**Jamestown Town Hall**  
**93 Narragansett Ave.**

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

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

Mike Swistak – Chair	Duncan Pendlebury – Vice Chair
Mick Cochran	Rosemary Enright – Secretary
Diane Harrison	Bernie Pfeiffer - arrived at 7:15pm
Dana Prestigiacomio	

Also Present:

Lisa Bryer, AICP – Town Planner  
Carrie Kolb, Planning Assistant  
David Petrarca, Jr., Esq. – Town Solicitor  
Sam Crisafulli, DiGregorio Corporation  
Anthony DiGregorio, DiGregorio Corporation  
Nick DiGregorio, DiGregorio Corporation  
Rico DiGregorio, Applicant – DiGregorio Corporation  
John Mancini, Esq. - Mancini Carter  
Alec Tesa, AIA, A Tesa Architecture

**II. Citizen’s Non-Agenda Item - none**

**III. New Business**

1. 29 Narragansett Ave, AP 9 Lot 631, Jamestown, RI. Application of Development Plan for proposed mixed use structure (2 commercial and 2 residential unit) within the Jamestown Village Special Development District, CD Zoning District– Review, Discussion, and/or Action and/or Vote

Attorney Mancini stated that the project has gone through several generations. They have listened to the Planning Commission and Zoning Board and have designed a new structure. It’s a smaller building of 4 units with 2 commercial and 2 residential. There are no variances requested.

The new architect, Alec Tesa, presented his credentials. A motion was moved by Commissioner Pendlebury and seconded by Commissioner Enright to accept Alec Tesa as an expert witness. All in favor.

Tesa explained that the new building design fits in with the streetscape of Jamestown. The building is two residential and two commercial units. They submitted a plan that shows the third-floor area ratio that is at 68% under the 75%. The building will be natural wood shingles and siding to blend into Narragansett Avenue. Local fieldstone to go with Narragansett Ave.

Commissioner Swistak asked Bryer if all of the items discussed at TRC were submitted for this meeting? Bryer replied yes.

Commissioner Swistak asked the Commission if they had any questions about the design? Commissioner Pendlebury stated that they were discussed in TRC and the minutes are part of the record.

Commissioner Enright asked about the balcony railings? Tesa replied that a piece of glass would be placed behind the railings for code purposes. Pendlebury noted it would be handled at building permit stage.

Commissioner Harrison asked who decides who the retail clients are? Is it the owner? Attorney Mancini replied that the idea is to have a tenant with office space downstairs and living upstairs. The offices on the first floor are not a “destination” office.

Commissioner Swistak asked Attorney Mancini if they received the draft motion in the packet and if they had any questions. Attorney Mancini replied that he received the draft motion and there were no questions.

Commissioner Swistak reviewed the memo from Jean Lambert Re: Water and Sewer connection comments for 29 Narragansett Avenue. The Planning Commission and Attorney Mancini agree to adopt the memo. The memo became part of the conditions of approval.

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

At the August 3, 2022 Planning Commission meeting, the Commission voted to Grant Development Plan approval of the application of We Dig Investments, LLC, 29 Narragansett Avenue, Plat 9, Lot 631, Jamestown, RI, to build a mixed-use structure with 2 commercial units and 2 residential units, based on the following findings and subject to the following conditions of approval.

#### Findings of Fact

1. At various times, representatives of the Town and the Technical Review Committee (TRC) met with the applicant 4 times over the last few months to discuss the new application of We Dig Investments and to provide comments and recommendations
  - a. June 8, 2022
  - b. July 5, 2022
  - c. July 19, 2022 (see meeting minutes)
  - d. July 26, 2022, (see TRC minutes);

2. The Applicant submitted the following in support of this application:
  - a. An application dated 7-20-2022;
  - b. Plans by A Tesa Architecture dated 7-21-22:
    - i. First Floor Plan, 101
    - ii. Second Floor Plan, 102
    - iii. Third Floor Plan, 103
    - iv. Roof Plan, 104
    - v. Elevations, 200
    - vi. Elevations, 201
    - vii. Floor Area Ratio, 500
    - viii. Architectural Rendering (digital)
  - c. Site /Utilities/Drainage/Landscape/Soil Erosion and Sediment Control Plan for Mixed Use Development, AP 9, Lot 631 by DiGregorio Corporation Updated 6-7-2022;
  - d. Traffic Study by Pare Corporation dated 2-15-2022, Supplement dated 2-17-2022;
  - e. Hydrant Data in the vicinity of 2 Narragansett Avenue;
  - f. RIDOT Physical Alteration Permit to close the existing curb cut on Narragansett Avenue with granite curbing and sidewalks to match existing conditions surrounding site;
  - g. Vicinity Plan;
  - h. Aerial Photograph;
  - i. Soils Map;
  - j. Tax Statement;
3. The applicant was represented by Attorney John Mancini, and Alec Tesa, AIA, who was recognized by the Planning Commission as an expert witness;
4. This is the second application for the applicant and this application meets the standards previously requiring variances. This proposal meets all the standards of the Zoning Ordinance including, parking, building lot coverage, setbacks, height;
5. One to two additional parking spaces will be created along Narragansett Avenue due to closing the curb cut at Narragansett Avenue;
6. The Village Special Development District permits 2 stories maximum, where the net floor area of the third floor (attic) of a structure should not exceed 75 percent of the area of the ground floor. This proposal meets this requirement based on sheet 500 by A Tesa Architecture;
7. The Lot proposed for development is 10,258 square feet;
8. The proposed duplex/mixed use structure is permitted by right within the CD District with 5,000 square feet;
9. The Landscape plan is adequate when addressing the public realm;

10. Refuse from the 4 units will be handled individually in the rear garage area of the building;
11. The building height in the CD district and throughout the island is 35 feet. The proposed structure is 34' 9 ¼" which is required to be measured from the average grade of the 4 corners of the building;
12. The property is serviced by municipal water and sewer. A municipal sewer line which services the dwelling at 7 Green Lane cuts across the south-east corner of the applicant's property.
13. The Traffic Analysis prepared by Pare Corporation, based on the previous proposal of 3 residential units and 3 commercial units, concluded that the proposed development will not have any significant impact to the capacity and safety of the surrounding roadway network. In addition, they concluded in a supplemental analysis that there are no crash trends in the vicinity of the proposed development site indicative of an existing safety hazard.
14. The applicant previously indicated that they do not intend to Short Term Rent the residential units. The Planning Commission accepted that commitment;
15. The applicant has, with the consent of the Public Works Director, installed a manhole at the southwest corner of the property and piped the water to Green Lane to resolve on site flooding from the property to the west;

Conditions

1. This approval is for a duplex/mixed use structure containing 2 residential units and 2 ground floor commercial units;
2. Water Service:
  - a. The water services must be appropriately sized for a commercial/residential use;
  - b. Each unit shall be independently metered;
3. Sewer Service:
  - a. A 6" sewer connection into the existing 8" Green Lane sewer is acceptable;
  - b. The sewer connection must be a "Y" connection; a drop connection will not be permitted;
  - c. If a new sewer connection is proposed, the existing sewer connection from the property must be removed. Please note that this removal may necessitate the repair and/or replacement of a section of the existing 8" Green Lane sewer;
  - d. Note that there may be a conflict with the installation of the new sewer connection and the existing 12" water in Green Lane. It is suggested that an onsite meeting with Town Water and Sewer Department personnel present be coordinated prior to and during excavation for the utilities. A test pit may be required to investigate the existing conditions;
4. Roadway:
  - a. An excavation permit will be required to conduct work within the Town roadway;
  - b. A bond will be required for the cost of all work within the Town right of way

- (including at a minimum: road restoration, curbing, sidewalks and utility work);
- c. The Town will require complete restoration of the roadway and sidewalks. A temporary patch must be in place for a minimum of 90 days. Final curb to curb paving on Green Lane within the area of disturbance will be required;
  5. The site will be developed in strict adherence with the plans as approved by the Planning Commission as noted above prior to issuance of a Certificate of Occupancy;
  6. No structures shall be built over the underground pipes at the southeast corner of the property in the parking lot/buffer area servicing the neighbor at 6 Green Lane (two-family with 6 Green Lane, Plat 9 Lot 570). The pipe shall be shown on the final plan;
  7. The applicant shall install new concrete sidewalks and curbing along the previous curb cut at Narragansett Avenue and Green Lane frontage to match the specifications of the existing Narragansett Avenue sidewalks to include the raised aggregate feature.
  8. The following shall be included in the Condominium Documents which shall be reviewed and approved by the Planner and Solicitor prior to final approval and recording:
    - a. Landscape maintenance standards shall be developed by a registered landscape architect and submitted to the Town Planner for review and approval at final approval;
  9. Approval of the Board of Water and Sewer Commissioners shall be received prior to Final Approval; and,
  10. Final Development Plan approval shall be granted Administratively.

So voted:

Commissioner Pendlebury - aye

Commissioner Cochran – aye

Commissioner Enright – aye

Commissioner Harrison – nay

Commissioner Pfeiffer – aye

Commissioner Prestigiacomo - aye

Commissioner Swistak - aye

Motion carries: 6-1

#### IV. Old Business

1. Jamestown Zoning Ordinance update - review, discussion and/or action and/or vote
  - A. July 2022 draft
  - B. One-page fact sheets
    1. Communication Towers
    2. Keeping of Chicken Hens
    3. Solar & Wind Energy Facilities
  - C. Building Height and Floor Area Ratio standards

Bryer clarified that the consultant for the zoning ordinance update is Horsley Witten (HW). Ursillo, Teitz and Ritch review all legal aspects to the zoning updates for HW.

She commented on the summary of statewide planning related to land use. Some necessary changes will need to be made regarding Accessory Dwelling Units (ADUs) and the new state law related to cannabis.

HW has created one-page fact sheets related to sections we have done before that will help with public outreach. The website: [Jamestownzoning.com](http://Jamestownzoning.com) is a centralized location with all the correct information in one place that residents can access.

Commissioner Prestigiaco said that Horsley Witten is doing a good job.

Commissioner Pendlebury would like to see on the fact sheet that ground mounted solar is not allowed in front yards. The same point is true for wind as well.

Commissioner Pendlebury asked what “financial surety” means in the “other requirements” section on the solar & wind energy page? Bryer will check on it. Commissioner Prestigiaco stated that “financial surety” is listed in both solar and wind.

Bryer reviewed the information on how to regulate structures looking overly large. Currently, we only have a section stating the third-floor can only be 75% of the area of the first-floor. This prevents square buildings. Regulating by Floor Area Ratio (FAR) is a well-established way. Bryer stated that it’s an interesting concept and it could work fairly well in Jamestown. Jeff Davis, from HW, did not think that Jamestown’s building lot coverage was overly permissive. FAR is a way to make the structures look not so large.

Commissioner Prestigiaco said that there are bigger houses on small lots, especially in The Shores. Bryer discussed the zones that FAR could apply to and that FAR could apply to lots under 20,000 sq. ft. But we could add R-40 district also.

Commissioner Pendlebury stated that the height is shown at (3) feet, but it should be (5) feet. Discussion ensued regarding calculations and definition of half-story.

Commissioner Enright asked if FAR is in lieu of the 75% rule? Bryer stated FAR would be in place of 75% rule. Commissioner Pendlebury stated that its easier to figure out the calculations.

Commissioner Swistak asked if FAR is for residential only? Bryer stated that it can also apply to CL and CD. Commissioner Swistak stated that an applicant can ask for a variance if needed. Bryer said that Article 11 allows for flat roofs and once they are approved there is no way to ensure that a flat roof is maintained as a green roof.

Commissioner Swistak asked if FAR covers when residential space gets too large, due to an extra bathroom or living space above a garage? Commissioner Pendlebury stated with FAR the size of the lot and the setbacks determine the amount of square feet allowed.

Commissioner Swistak asked what is next? Bryer will ask Davis to write a paragraph on FAR and see if he can provide a case study.

Bryer discussed process and potential schedule. For the Zoning change, the Planning Commission makes a recommendation to the Town Council and the Town Council holds a public hearing. Our public outreach is the website and workshop(s) to explain major changes to the ordinance to the public. Potential dates for the workshops are September 7 or October 5. We can have one or two workshops, assuming no applications on those dates. Commissioner Swistak asked if that was enough time for HW? Bryer will speak to Davis to confirm.

Bryer, if we have a workshop in September or October and get a recommendation to the Town Council, then they can have their hearing in November. Just some things to think about and we do not have a to make a decision tonight. Commissioner Prestigiaco would like to see the

process wrapped up before the start of the building season next year. Commissioner Swistak asked if there are complications with statewide changes, will they be incorporated into the zoning changes or be approved after? Bryer stated that we do not have to incorporate the changes, and if the law isn't clear, they might not be ready to go into the ordinances.

Commissioner Swistak is leaning towards October 5 not September 7.

#### V. Correspondence

1. Memo to Zoning Board for High Groundwater Table and Impervious Overlay District Sub-District A, Lot 469 Sloop, LLC: AP 3, Lot 369; Sloop Street, Jamestown, RI
2. Final Approval – Administrative Subdivision for Palo Alto LLC, to move lot lines between Plat 1 Lots 234 and 302.

Correspondence was acknowledged as received.

3. Summary of RI Division of Statewide Planning 2022 Legislative Session

Solicitor Petrarca stated that there has been a lot of action in land use law. Some of the laws are crystal clear and some as clear as mud. Ruggiero, Brochu and Petrarca are preparing a presentation to benefit everyone. There are some issues that may require action or review, for example, a topic of discussion at a future meeting should the new cannabis law. The default condition is that its allowed. If the voters of the town say yes – the Planning Commission's task is to enact an ordinance from a land use perspective. He cited the memo from UTR to start the process now as a contingency. The Planning Commission needs the ability to talk about cannabis – sooner rather than later. He counseled that if the Planning Commission waits and the voters say yes in November, and the law takes effect in December, there will only be a month for an ordinance to be written.

Solicitor Petrarca brought up another topic to discuss on a future agenda is Accessory Dwelling Units (ADU). Accessory Family Dwelling Units (AFDU) no longer exist and the law says it's just an ADU. AFDU can convert to ADU OR not.

Solicitor Petrarca explained that majority on boards has changes. For a board of 7, it is now 4 members present for a quorum. A simple majority of board present is needed a motion to pass. Example – 4 members present need 3 votes for motion to pass. Bryer asked if this over rides supermajority needed in the subdivisions? The answer is yes.

Commissioner Swistak discussed cannabis and how most people believe it only relates to retail. The Town Council cannot take a stand as a body. There needs to be education prior to the cannabis vote so the public knows what they are voting on. The Planning Commission should take a stand one way and let the Town Council know about this. Cannabis discussion needs to be on the next agenda, and hopefully Chief Mello can come talk to us. Bryer stated they need to formally ask Chief Mello to the next meeting. Commissioner Cochran asked who else should be asked to attend so both sides can be represented? Commissioner Harrison agreed that this was a good idea. There are no local people to ask, only national organizations. Solicitor Petrarca explained that the Town Council voted on the language: "Shall new cannabis related licenses for

businesses involved in the cultivation, manufacture, laboratory testing and for the retail sale of adult recreational use cannabis be issued in the Town of Jamestown?"

Commissioner Pendlebury asked if the law includes smoking in public places? Solicitor Petrarca stated that is a separate issue and that it is akin to public drinking of alcohol and regulation could be similar to public drinking. Also, given the varied use – brownies or gummy bears – is it hard to enforce. Solicitor Petrarca encourages looking at medical marijuana decision that was discussed by the Planning Commission, and this is where the advisory capacity comes into play. Commissioner Enright asked what the legal age is? Solicitor Petrarca answered 21.

Commissioner Swistak asked if the town votes no, can the Town Council put it on the ballot at a later date? Solicitor Petrarca replied he will look into. The law set the date for November 8, 2022.

Commissioner Cochran asked if there was any other revenue for the Town in manufacturing or testing, aside from the 3% tax in retail sales? Solicitor Petrarca is not aware of any additional revenue.

Commissioner Swistak said that he would like to expedite talking about cannabis so an opinion can be given to the Town Council. The next meeting agenda has CCHC's preliminary permit. Bryer stated that they can start the meeting at 6:00pm instead of 7:00pm. Everyone was in favor of starting meeting at 6:00pm. Commissioner Swistak stated that they will have to work quick as, they have 60 minutes and they should review the minutes from the previous medical marijuana before the meeting. Commissioner Harrison asked if they should have Chief Mello attend? The answer was yes.

Commissioner Enright asked if the other major issue with zoning is ADUs? Solicitor Petrarca said that the legislative summary should be done by then and to put ADUs at the bottom of the agenda for the next meeting, to address if there is time.

He answered a question from earlier in the meeting, that yes, the town can put cannabis on the ballot at a later date if it does not pass, however the tax implications are more complicated.

Commissioner Harrison asked if the ballot question could just be for retail? Solicitor Petrarca stated that the ballot language is dictated by the law and cannot be changed.

Commissioner Cochran asked about public use? Solicitor Petrarca said that the general public inebriation ordinances should be amended to include cannabis.

Commissioner Pendlebury asked if the business is still cash only? Is cannabis still illegal at a Federal level? Solicitor Petrarca said, yes, that an FDIC insured bank will not insure the funds because still illegal at federal level

## **VI. Reports**

### **1. Planner's Report –**

- Future meetings – topics and applications

Town Council formed a new Bike Committee, which will start meeting in September. The charge is to update the bike master plan for the island.

On August 22, the Town Council will be taking up Short Term Rentals. They will also be taking up pet grooming ordinance that you reviewed and gave a recommendation on.

Bryer will be out of town in September and will not have time to prep for the second meeting of the month on the 21st. She recommends cancelling the meeting of September 21.

Commissioner Swistak asked Solicitor Petrarca if his presentation will be ready by then?

Solicitor Petrarca stated it will be ready by then. Commissioner Swistak asked if it would be ok to have Petrarca or Ruggiero present at the meeting on September 21. Or 91 Carr Lane may be continued to that date.

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

##### **1. July 6, 2022**

A motion was moved by Commissioner Enright and seconded by Commissioner Harrison to approve the minutes as written. All in favor.

#### **VIII. Adjournment**

A motion to adjourn was moved by Commissioner Enright and seconded by Commissioner Cochran at 8:31pm. All in favor.

Attest:

Carrie Kolb