

Approved As Amended 1-2-08
PLANNING COMMISSION MINUTES
December 19, 2007
7:30 PM
Jamestown Town Hall
93 Narragansett Ave.

The meeting was called to order and the following members were present:

Gary Girard	Victor Calabretta
Betty Hubbard	Richard Ventrone
Jean Brown	Barry Holland

Also present:

Lisa Bryer, AICP – Town Planner
Cinthia Reppe – Recording Clerk
Christopher Orton – Town Solicitor
Jack & Mary Brittain – Windridge Properties
Donald Packer – Attorney Windridge Properties
Jean Scott – Attorney

I. Approval of Minutes November 7, 2007

A motion was made by Commissioner Calabretta and seconded by Commissioner Holland to accept the minutes as written. So unanimously voted.

II. Correspondence

1. FYI – Memo to Town Council Re: Ordinance Amendment – Tree Preservation and Protection. Received
2. FYI - Letter to Randall Re: Major Land Development Project Approval. Received

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

IV. Reports

1. Town Planner's Report
2. Chairpersons report
3. Town Committees
 - a. Harbor
 - b. Fort Getty
 - c. Buildings and Facilities
 - d. Others
4. Sub Committees

Commissioner Girard addressed the audience and stated “The applicant “Windridge Properties LLC” attorney has requested that I recuse myself on this matter. Apparently the applicant has

concerns over property in the residential zoning area in the vicinity of Windridge's property. The property of concern is owned by my daughter and her husband who live out of state and are totally independent of me and have been so for many years. I can state without reservation that I have no beneficial or financial interest in the concerned property.

The Town Solicitors have recommended that I honor the request of Mr. Packer the applicant's attorney. I do not agree with this request as I have nothing to gain. However on the advice of our solicitors I am recusing myself."

Commissioner Girard left the table.

V. Old Business

1. Windridge Properties LLC - Jacks Electric – Plat 9 Lot 201, 14 Clinton Ave.

a. Request for Modification to Approved Development Plan

b. Special Use Permit for Shared Parking, - Recommendation to Zoning Board

Attorney Donald Packer stated he reviewed the planners report and the motion. For the record a Zoning Board appeal based on a Planning Commission decision will be withdrawn. The Applicant and Land Surveyor are here if there are questions.

Commissioner Hubbard asked "where do we stand regarding a couple of these items." She thought that these items would not be conditions and that they would have been taken care of. She is questioning a few things on the draft motion, item 3 the pole mounted light is gone but the other lights are not shielded, so #3 should be removed. She went by the site and made a notation that it had been removed. She was also confused by item 8 regarding the shared parking.

Attorney Donald Packer handed out a lease that was signed by the applicant and Mr. Ed Holland. Mr. Packer said in the ordinance that the town would be notified if the shared parking agreement was annulled.

Commissioner Ventrone said he can't read this in a few minutes and understand it and it was just handed out. He stated that it should have been in their packets **prior to the meeting**. The shared parking is the Zoning Boards purview and the Planning Commission just makes a recommendation. It did not have to go to Planning only Zoning. There was a discussion regarding designating on the site plan the hours that Jacks Electric is open for business.

Jack Brittain said Ed Holland (Hammett Court Properties) is required to have 26 spaces and he has 46 so the 3 spaces do not affect Mr. Holland at all. The town would be notified within 30 days if the agreement is voided. It will be filed in the town records. Mr. Brittain thinks they went above and beyond what was required.

Commissioner Calabretta said the commission is going to change after this meeting. He would like to resolve this tonight.

Chris Orton, Town Solicitor stated the jurisdiction of the parking is up to the Zoning Board the Planning Commission can make a recommendation. Mr. Orton said the Planning Commission should move to approve or deny the modifications of the Development Plan Review and then make a recommendation to Zoning Board on their application for a special use permit for parking. He also recommended making 2 these separate motions.

Commissioner Holland would be comfortable with the site plan approval the way it is worded. Commissioner Ventrone asked about the motion for approval if it is also contingent that these 8 items are completed. They have already been done. Commissioner Hubbard said item 4 is not done. Jack Brittain explained the lighting issue on the back of the building and showed pictures of it and he said the lighting has to cover the parking lot since there are kids skating back there and it is an issue of liability and security for him. A discussion ensued regarding the lights. Finally, it was noted that if it remains in the motion, it will have to be taken care of to the satisfaction of the Building Official in order to get a Certificate of Occupancy.

Jean Scott – Attorney from Ursillo, Teitz and Ritche - represents the Andres's that live across the street from the building. There are several items that have not been submitted, an easement for parking, class 1 survey, as built plans, parking plans with setbacks. The applicant has known for a long time this is what the Planning Commission is looking for. She entered into the record an exhibit that was an overview of the subdivision and reference notes that show one dimension as 94 feet that references a plan that shows 102 feet on another. Which is it? The numbers do not match up. Ms. Scott read from some plans that she handed out, when asked if she thinks it would affect the parking she said she did not know. She thinks that the issues have not been satisfied. She questioned number 1.

Jack Brittain showed current pictures of the 3rd floor being empty. Mr. Packer went through all of the questions that Attorney Scott brought up. A revised plan was submitted after Commissioner Calabretta raised the issue and they found that an error by the surveyor was done it has since been corrected and submitted.

Jean Scott said it's good enough at the town hall to have pull down stairs why can't Jack's Electric do that. Ms. Scott read from the standards of design professionals regarding the classes of surveys. The parking plan submitted shows 5 foot setbacks but the actual striping of the parking lot does not show that.

Commissioners Calabretta made a motion to approve that was seconded by Commissioner Holland that the request for modifications to the approved Development Plans with the stipulation in Findings of Fact in Lisa's memo dated December 13, 2007 with the exception of item 3. Commissioner Holland thinks item 3 should be left in and made a motion to amend which was seconded by Commissioner Ventrone.

So voted on the amendment: Calabretta, Holland, Ventrone, Hubbard – Aye, Brown – Nay

Commissioner Calabretta asked for further discussion, there was none so a roll call vote was called for the following motion:

To approve the modifications to the Development Plan for Windridge Properties, LLC, Jacks Electric Building located at 14 Clinton Avenue, Assessors Plat 9 Lot 201, which project was previously approved by the Planning Commission on May 18, 2005 in conformance with

representations set forth in the plans, documents and evidence presented by the applicant at the April 4, 2007, May 16, 2007, July 18, 2007, and August 1, 2007 Planning Commission meetings. The approved modifications shall include those changes between the approved plan and the built site substantially identified in the Town Planners Memorandum dated February 15, 2007 excluding those site and building changes subsequently made in conformance with the approved development plan as follows:

- The Trellis on the north side of the building
- The Fencing along the west property line

The modifications to the attic shall be approved as shown on the plans submitted by Windridge Properties titled Existing Attic Floor Plan dated 02-05-06, amended (date not noted on plan) to show the changes to the third floor attic floor. The changes to the plans are as follows:

Removal of the third floor except for a central catwalk and associated platform access to mechanical equipment located on the third floor.

The approval of the modifications are based on the following findings of fact:

1. The applicant made changes to the approved Development Plan during construction without approval by the Town of Jamestown;
2. The modifications proposed by the applicant represent significant alterations from the previously approved development plan and require approval of the Planning Commission and the Zoning Board (for parking);
3. Changes in the windows approved compared to those installed do not alter the character of the building as previously approved;
4. Interior changes to the building from those approved by the Commission do not alter the exterior character of the building as previously approved, but do require greater parking which is unable to be provided on site;
5. The modifications to the approved building plans do not alter the general character of the surrounding area and are not inconsistent with the Jamestown Comprehensive Plan and comply with the Zoning Ordinance requirements, except as where noted; and,
6. The applicant has not satisfactorily demonstrated that the additional parking spaces required to accommodate the building as modified are available per the intent of the Jamestown Zoning Ordinance.

The approval for modification shall be subject to the following conditions of approval:

1. That the building and the use of the subject property remain in strict compliance with all the representations, plans, renderings and evidence entered into the record of the Planning Commission. Any deviations or modifications from the approved plans and use of the subject property must be submitted for review and approved by the Planning Commission and may require additional town, State and/or Federal approvals.
2. The approved modifications shall be shown on an as-built plan stamped by a professional engineer and dated appropriately once all approved improvements are completed;
3. The pole mounted light on the western property boundary shall be removed;
4. The lights at the rear and the north side of the building shall be properly shielded so as not to shine on to neighboring properties to the east and west;

5. The interior lighting in the second floor hallway shall be illuminated at night only during building occupancy;
6. The property owner shall continue to work with the Jamestown Public Works Department to ensure that stormwater coming from and passing through the property is handled in the most appropriate manner and does not cause dangerous conditions in the driveway of 14 Clinton Avenue or on Clinton Avenue;
7. No occupancy of the third floor including storage;
8. The applicant provides a resolution acceptable to the Zoning Board regarding the second floor space which is currently storage and office that causes the site to not be able to accommodate the required on site and streetside parking.

So voted:

Victor Calabretta - Aye

Betty Hubbard - Aye

Jean Brown - Aye

Richard Ventrone - Aye

Barry Holland – Aye

Motion carries by a vote of 5-0

Commissioner Ventrone made a motion to recommend to the Zoning Board relative to the petition for issuance of a special use permit for shared parking that the petition be denied based upon the substance of the shared parking agreement as submitted for this Commission's consideration. The reason he finds that this is inadequate is that #1 its revocable at will, at any time for any cause without prior notice to the town and #2 the applicant has not shown that the parking spaces to be shared will be in use at different times as noted in the parking ordinance section 82 -1205. This was seconded by Commissioner Hubbard for discussion purposes.

Commissioner Ventrone thinks if this is approved now and Ed Holland decides to pull the agreement he thinks there should be something in there to protect the town. Commissioner Ventrone says there is nothing that says that those spaces are specifically for Jacks Electric and there is no control over that.

Commissioner Holland said that with this lease they have gone above and beyond what is normally required for shared parking and that others have not provided as much information as this and he does not think it is right, just or fair since it has not been required for anyone else.

Commissioner Brown said this is an issue for the Zoning Board and thinks the applicant has gone through enough and that the applicant should get an OK from Planning and move it on to the Zoning Board. The parking needs to be resolved we are saying to zoning board please look at these things. Commissioner Brown asked, would it not be the normal procedure for the Solicitor and the Zoning Board to look at it.

Commissioner Holland said the motion is a recommendation to not make a positive recommendation to the Zoning Board. A discussion ensued and Commissioner Ventrone withdrew the motion.

Commissioner Calabretta made a motion that the Planning Board recommends to the Zoning Board approval of the request for variance provided the applicant satisfactorily demonstrates that additional parking spaces required to accommodate the building as modified are available per the

intent of the Jamestown Ordinance and the applicant provides a resolution acceptable to the Zoning Board regarding second floor space which is currently storage and office that causes the site not to be able to accommodate the required on site and street side parking reference ordinance 82-1-205. This motion was seconded by Commissioner Holland. So voted:

Victor Calabretta - Aye

Betty Hubbard - Aye

Jean Brown - Aye

Richard Ventrone - Aye

Barry Holland – Aye

Motion carries by a vote of 5-0

Commissioner Girard came back to the table.

VI. New Business

1. **Village Hearth Bakery –Andrea Colognese & Doriana Carella – 2 Watson Ave. – Development Plan Review - recommendation to the Zoning Board**

The applicants are here to expand the bakery and the parking lot, they have worked with the Town Planner to date on the plans. They show on site parking that will accommodate the required parking but they are willing to eliminate their parking lot and utilize on street parking per the suggestion of the Town Planner.

Commissioner Girard said the planner recommended reducing the number of tables. They want 8 tables to hold 40 people and said they are small tables. The applicant indicated that they have approval from the Fire Marshall for 40 capacity and they feel that this would not be too crowded. Town Planner Lisa Bryer explained to the Planning Commission the discussions she had with the applicant regarding the parking issues. By going to on street parking they need a variance for possibly 2 spaces and recommended that Planning Commission recommend to the Zoning Board that this is in the best interest of the community for safety of the school walkers and the community as a whole.

Commissioner Hubbard cannot accept this plan and wants to know how many they want to seat. They are requesting 40 seats. Commissioner Ventrone wants to see more drawings of what the building is going to look like. The Planner indicated that no exterior changes were represented. After further discussion the applicant indicated that they would like to change the windows, and expand the deck.

A discussion ensued and the Planning Commission would like them to meet with the Town Planner to come up with a more complete plan with drawings of the building changes.

Commissioner Ventrone said the more they include the easier it will be for them to make a recommendation to the Zoning Board. Commissioner Ventrone wants an architect to draw the building changes and show the elevations.

The applicant will meet with the Town Planner and come back to a future meeting.

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A motion to adjourn at 8:55 p.m. was made by Commissioner Calabretta and seconded by Commissioner Ventrone. So unanimously voted.

Attest:



Cynthia L Reppe

This meeting was recorded on 1 micro-cassette