

Approved As Written  
**PLANNING COMMISSION MINUTES**  
August 7th, 2013  
**7:30 PM**  
**Jamestown Town Hall**  
**93 Narragansett Ave.**

The meeting was called to order at 7:30 p.m. and the following members were present:

Michael Swistak – Chair	Duncan Pendlebury – Vice Chair
Rosemary Enright – Secretary	Mick Cochran
Michael Jacquard	Dick Lynn
Michael Smith	

Also present:

Lisa Bryer, AICP – Town Planner  
Cinthia Reppe – Planning Assistant  
Wyatt Brochu – Town Solicitor  
Abby Campbell King  
Sav Rebecchi  
Jim Butrick

**I. Approval of Minutes July 17, 2013**

The Planning Commission postponed the approval of the minutes until the next meeting.

**II. Correspondence**

1. FYI – Letter Re: Administrative Subdivision O’Farrell/Drexel. Received
2. FYI – Memo to Al & Ranae Scartabello Re: 14 Holmes Ct. DPR. Received

**III. Citizen’s Non Agenda Item**

Sav Rebecchi said he attended the open meetings conference last week and they discussed recusals from the boards and how the board member has to announce they are recusing and why they are. Town Planner Lisa Bryer asked if this is required or suggested. Mr. Rebecchi said it is required. He also said a consensus is actually a vote. We do record them in our minutes.

**IV. Reports**

1. Town Planner’s Report
2. Chairpersons report
3. Town Committees
  - a. Harbor
  - b. Buildings and Facilities
  - c. Affordable Housing Committee
  - d. North Rd. Bike Path Committee

4. Sub Committees

**V. Old Business**

Commissioner Jacquard recused and left the table.

**1) Spinnakers Café - 3 Ferry Wharf - Plat 9 Lot 791 – Development Plan Review per Zoning (Section 82-1101 K. 5) New Use – Request to add liquor license to establishment - Motion**

Attorney John Murphy gave an update and filled in the information that Town Planner Lisa Bryer asked for. He said they determined there are 17 spaces in front of Ferry Wharf. Commissioner Enright asked about the seating, she wanted to know if all 38 are inside and used year round? No some of them are outside. The only ones available year round are in the sunroom and inside.

Commissioner Swistak made a motion seconded by Commissioner Cochran to recommend approval to the Zoning Board for the Development Plan for Spinnakers Cafe, 3 Ferry Wharf - Plat 9 Lot 791 per Zoning Section 82-1101K. New Use - Request to add Beer & Wine Liquor License to establishment based on the following Findings of Fact :

**FINDINGS**

1. Lucky Ridge LLC dba Spinnakers Cafe - owned and operated by Michael Ridge - is a casual dining restaurant located at 3 Ferry Wharf in the Ferry Wharf East Condominium. Spinnakers Cafe is a tenant of Regnum LLC. The property is specifically identified as Plat 9, Lot 791D. It is located in the Commercial Downtown Zone.
2. Spinnakers Cafe seeks to add the service of Beer & Wine to its operations. Addition of the service of liquor triggers Development Plan Review as a new use, and the Planning Commission has purview under Article 11, specifically Section 82-1109 - Building Function and 82-1110 Parking & Density Calculations.
3. The current operation includes indoor counter service and seating, and outdoor seating at both the front and rear of the premises. There are currently 24 seats at the front of the building, located on the sidewalk, which is owned by the Condominium Association. The outdoor seating at the rear of the premises includes 8 outdoor seats directly behind the restaurant, and 6 seats along the southeast boardwalk, in an area which is under lease agreement with Conanicut Marine Services.
4. The Technical Review Committee reviewed and recommended approval of the application on 11 July 2013. The minutes of this meeting are attached.
5. The applicant was represented at the Planning Commission meeting on 17 July 2013 by Attorney John Murphy, and testimony in support of the application was presented by the applicant, William Munger of Regnum LLC and Conanicut Marine Services, and Bob Bailey of Lila Delman Real Estate. There were no comments or testimony in opposition to the application.

**FINDINGS SPECIFIC TO CHANGE OF USE**

6. With regards to the addition of the service of Beer & Wine, the applicant's intent is to allow consumption of alcohol inside the building and at the rear outside seating only. The applicant

stated that alcohol would not be served on the sidewalk at the front of the premises. Attorney Murphy confirmed that the current 'bring-your-own-bottle' arrangement will be permanently discontinued upon issuance of a new liquor license.

7. Prior to proceeding with the Town Application process for addition of a Beer & Wine license, the applicant sought and received unanimous approval from the five condo unit owners at Ferry Wharf East Condominium per the condo by-laws.

8. If alcohol is served at the 6 seats on the rear boardwalk, it was noted that there should be strict control of the service operation to limit service to a confined area, since these seats are outside the perimeter of the restaurant. This will be the purview of the Liquor Licensing Board.

9. There were no findings cited by the Planning Commission which were not in conformance with Section 82-1109 Building Function. The Planning Commission unanimously approves the Development Plan with 6 members voting.

**So voted:**

Michael Swistak – Aye

Rosemary Enright – Aye

Michael Smith - Aye

Duncan Pendlebury – Aye

Mick Cochran - Aye

Dick Lynn - Aye

Motion Carries 6-0

A motion was made by Commissioner Swistak and seconded by Commissioner Pendlebury to recommend approval of the special use permit required for serving alcohol and relief from Article 12 - Parking Regulations, which requires 9 parking spaces for the current/proposed 68 seats and 3 parking spaces are provided. Relief from additional 6 spaces is recommended based on the following Findings of Fact.

**FINDINGS SPECIFIC TO PARKING**

10. The current total seats approved for the restaurant is 29, according to the most recent victualing license signed by the applicant and approved by the Town Council. The Zoning Officer - Fred Brown concurs with this record.

11. The proposed seating configuration presented by the applicant is as follows:

Seating within the restaurant perimeter	38 (includes 8 not covered, on rear deck)
Seasonal outside seating – front sidewalk	24
Seasonal outside seating – rear (off site)	<u>6</u>
Total	68

12. The applicant testified that the Parking Requirement for the restaurant is regulated by the exception to Section 82-1203, which "applies to lots in CD with greater than 50% building lot coverage as of October 22, 2009. Based on this exception, the applicant will need to provide 1 parking space for every 8 seats. Therefore, with a total of 68 seats, the applicant needs to provide 9 parking spaces. The applicant currently provides 3 spaces in front of the establishment.

*A site plan is attached verifying that the Condominium Building is greater than 50% of the lot coverage. Lot 791 contains 9,940 sq ft of land. The building area is 6,753 sq ft.*

13. The applicant cited the following observations regarding their desire to obtain relief from the additional 6 required spaces:

- a. There are currently 17 spaces directly in front of the condominium building. These spaces have shorter allowable parking times than the other spaces at the East Ferry municipal lot.
- b. The addition of a beer & wine license is not expected to increase the number of patrons. Spinnakers has been operating within the current 800± sq ft of space since June, 2012.
- c. Shared Parking agreements were solicited from Bank Newport and Jamestown Designs. It is Bank Newport's policy to make their lot available to the public when the bank is closed, but is unable to offer a specific allocation of spaces to the applicant. Jamestown Designs is unable to offer a shared parking arrangement for various reasons.
- d. Some patrons of Spinnakers are common to Conanicut Marina, and either arrive by boat or take advantage of the shuttle service between the Conanicut Marina Taylor Point facility and Ferry Wharf.
- e. Employees of Spinnakers are encouraged to park their cars at Conanicut Marina's Taylor Point Lot to relieve congestion in the village.
- f. The two real estate offices at the Ferry Wharf Condominium have operating hours which are opposite from some of the busiest hours of Spinnakers.

14. The Planning Commission recommends relief from the additional 6 spaces with a majority vote of 5 in favor and one opposed.

**CONCERNS / RECOMMENDATIONS**

- 1. The Planning Commission recommends that service of alcohol be prohibited at the outdoor seating at the front of the building.
- 2. The outdoor area where consumption of alcohol is permitted should be clearly defined, marked and strictly enforced.
- 3. If a Beer & Wine license is issued, any future BYOB arrangement should be prohibited.

So voted:

Michael Swistak – Aye

Rosemary Enright – Aye

Michael Smith – Nay

Duncan Pendlebury – Aye

Mick Cochran - Aye

Dick Lynn - Aye

Motion Carries 5-1

**VI. New Business**

**1) Discussion of Zoning Ordinance Section 82-1105 C – pre-existing conditions - continued**

Town Planner Lisa Bryer read this section to the Planning Commission from the Zoning ordinance. Town Planner Lisa Bryer noted that the language in this section states that not only a building of value but a “building actually or potentially eligible for inclusion on a state, local or national

historic register shall be subject to approval by the Jamestown Planning Commission.” Since there is no way to quantify which buildings are “potentially eligible”, she said this was not the intention when we adopted this ordinance. This pertains to Historic structures. The Planning Commission needs to decide what the intention of this section is and then if we are going to keep this in the ordinance we need to come up with standards and designate buildings of value. If this is not the intent then we need to eliminate this from the ordinance. Ms. Bryer said buildings of value are shown in the purple book, the State’s historic book on archaeology for Jamestown. The purple book designates by streets. The RI Historical Preservation society published this book in 1995. She would like to hear the board’s thoughts about this.

Commissioner Pendlebury – renovation or modification which is defined as a dimensional variance. No discussion about tearing a building down. In the comp plan we have 5 or 6 references to historic districts in town and mention a number of buildings and the comp plan says you cannot demolish these buildings, the windmill for instance. He thinks there are some loose ends that would be nice to pull together and be consistent.

Commissioner Enright says there really are not any restrictions about demolishing or changing these buildings, other than deed restrictions.

Commissioner Pendlebury said this only applies to the village and there are other buildings not in the village. So if we are going to discuss this we need to discuss it all. We would then need criteria and a review process and what are the standards we are looking for. Commissioner Smith said he thinks this creates a deed restriction. No Ms. Bryer said this is a regulation in the Zoning Ordinance.

Commissioners Pendlebury and Smith got into a discussion about buildings of value and districts. Should we come up with qualifications? Smith thinks we should take out potentially.

For instance the 3 sisters, the lot is sub-dividable, this would change the character of those historic structures and it is only through good luck we have not had anyone interested in tearing it down. There is not a review process in place for these buildings of value. Commissioner Pendlebury said that we should look at their development or stall demolition. If it doesn’t say what we want it to say then let’s make it say what we want. Currently there is not a process for demolition.

Abby Campbell King said this town is about wonderful historical significant houses. It is about preserving and protecting our history here in Jamestown.

Commissioner Swistak asked about the whole move towards greener structures being inconsistent with maintaining historic structures. Ms. King said there is a lot out there now that specifically talks about how to go green when keeping original and historic structures, but you have to convince your client that they want to do it.

Zoning is a regulatory tool. Ms. King thinks it has to be an expert, the historical society for instance.

Commissioner Swistak would like a consensus of what the Commissioners want to do.

Commissioner Pendlebury said this is a town wide issue that requires some support from town's people to take such an action. Creating an overlay district, having public hearings and getting town council approval are things that need to happen. We need to educate the public and towns people to let them know what buildings of value are and why they are important to our history. There is a process that needs to be followed.

Mr. Jim Butrick said tomorrow night at the library Ron Onorato from URI is speaking about what is significant to Jamestown.

The Planning Commission agreed that they would like to designate some "buildings of value" in the future and Lisa Bryer will give this issue we have discussed tonight more thought as to where we will go from here.

Sav Rebecchi asked if Wyatt Brochu can answer his question about changing the law if you change your zoning. Peter Ruggeiro is researching it now.

Commissioner Smith asked about the Historic District hearing. It is scheduled for September 16<sup>th</sup>, but it might be extended further. She will let the Planning Commission know.

A motion to adjourn was made by Commissioner Cochran and seconded by Commissioner Enright at 8:50 p.m. So unanimously voted.

Attest:

  
Cynthia L Reppe

*This meeting was digitally recorded*