

Approved As Amended  
**PLANNING COMMISSION MINUTES**

July 1, 2020

**7:00 PM**

Held by Zoom

<https://zoom.us/j/93540685480>

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

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

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

Also present:

Lisa Bryer – AICP, Town Planner  
Wyatt Brochu – Town Solicitor  
Cinthia Reppe – Planning Assistant

**Marian Falla**

**II. Approval of Minutes June 17, 2020;** review, discussion and/or action and/or vote

A motion was made by Commissioner Smith and seconded by Commissioner Cochran to accept the minutes with the following changes submitted by Commissioner Enright:

Page 2, last third of page, Commissioner Cochran asked if the **percent coverings calculation included the portion of** asphalt driveway extended out to Frigate St. or only to the property line?

Only **to** the property line not the town right of way. Rosemary Enright asked will you be removing the part of the road outside of property line? He responded the westerly downhill **side drive** will be removed, loomed and seeded. ~~Her~~ Calculations **of allowable coverage differ in different material presented** are not the same as what Mr. Principe's are. He **Mr. Principe** said when the soil evals were done, it started at 10% and as it progressed, they determined it was 9% allowable coverage.

Commissioner Cochran asked about the 2 pavement driveways, they are going to remove 1 **completely** and remove **change the other** from an asphalt driveway **to pervious material.**

Page 3, 4<sup>th</sup> paragraph, 3<sup>rd</sup> sentence, The ones Ms. Bryer can actually think of ~~they were~~ **included** replacing the septic systems but with this one they are not.

Page 3, 6<sup>th</sup> paragraph 1<sup>st</sup> sentence; They do not want to redirect any excess runoff to the OWTS which is in **the downhill** direction.

Page 3, 9<sup>th</sup> paragraph second sentence from bottom of page: Clarification of the square footage needs to be updated on the motion and Commissioner Pfeiffer wants it noted that the applicant is removing the pavement **outside the property line** and replacing it with topsoil and seed.

So unanimously voted.

### III. Correspondence

- 1.FYI – Final Approval letter – M. Tracie Shea – 53 Coronado, Plat 8 Lot 105. Received

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

### V. Reports

1. Town Planner's Report
  - Town Council Update – the town council approved the budget at the financial town meeting
  - Future meetings – topics and applications – we do not have any applications so we will continue discussion on short term rentals.

### VI. Old Business

#### 1. Short Term Rental Regulation - Discussion - review, discussion and/or action and/or vote

Town Planner Lisa Bryer said we have talked about Short term rentals in Jan, Feb and March and we have come to some conclusions as to what the goals are for the ordinance. Maintaining neighborhood continuity and protecting residents from issues that can sometimes arise with short term rentals, but to always allow property rights. Water resources and assuring affordable housing and year-round rentals are other goals we have discussed. We looked at what other towns are doing in this regard. Should this be in the Zoning Ordinance or a separate town ordinance as the Solicitors have suggested. It will be easier to enforce if it is in the Code of Ordinances. If we address this in Zoning then the Zoning Enforcement Office is only on duty during the weekdays, and not on duty when most issues occur on nights and weekends.

Enforcement is the biggest issue. The weekend is when most complaints will come in when the building official is not working. The police department does not feel this is their jurisdiction unless it involves parking and noise ordinances. If they will be enforcing, it needs to be clearly backed up by ordinance.

This would be best as having a registration process and requiring owners to have certain responsibilities. Posting rules regarding parking, noise, trash etc. There was concern about this being unfair to B&Bs. The definition of owner-occupied short-term rentals could be looked at with respect to B&Bs. ~~They~~ The Planning Commissioners have the most updated copy of the proposed ordinance. Ms. Bryer checked in with the Fire Chief and regarding an inspection; it will be about \$30.00 per house inspection.

The building inspector needs clear guidance about what is he going to be inspecting? Life safety issues? He feels it should be an annual inspection. He also feels that once we have registration then there should be excessive fines if not complying with regulations. The fee for building inspections will be \$30-\$50 for safety issues.

Police feel it should be 1 parking space per bedroom. Who will be enforcing? They have no way of knowing if it is a rental or not today. If we want them to enforce nuisance disturbances, it needs to be clear, like the noise ordinance. Violation will go to person on site not owner.

Host Compliance which is one of the registration companies, utilizes the hotline services they provide so it will not be a burden to police. A commissioner noted that several long term rentals are problematic too so should these be considered in this ordinance too?

Commissioner Cochran asked if they would find rental properties that are not registered. Yes, Host Compliance could. How will they know if it is a rental property if the police respond to a noise matter? The registration company will know. If it is not listed as one and it appears to be one then it can be investigated later.

Commissioner Pendlebury said with regards to Chris Costa's comment about life safety. Is B&B a separate category in the building code? Discussion ensued about the difference between B&Bs and short term rentals. The inspection needs to be clear. Lisa will check with Chris about that.

Solicitor Brochu was asked to weigh in on this. When we say it is safe for rental and something happens then who is responsible? Wyatt noted that anytime the town engages in an inspection process and the town says it meets the regulation then there is potential for the town to be held accountable or responsible if something goes wrong.

Commissioner Swistak has a question on registration fees and enforcement. If someone fails to register how do we find out and collect money? Can we shut them down if they have not registered? It would fall with the compliance company. Solicitor Wyatt Brochu said there are very few enforcement or involvement issues related to property that the police would handle. They as the town solicitors have had very few issues that have gone to court. He says it is a testament to the citizens of Jamestown. Code enforcement is handled through Chris's office. The building and zoning office is not staffed 24/7. Injunctive relief would go through court process. If an owner refused to register can the police show up and evict the renter. Wyatt said no. What type of town resources do the council want to use for this?

Commissioner Swistak said we need more information so we have a viable ordinance.

Commissioner Pendlebury asked how are other towns handling this? Ms. Bryer said when we say the program needs to pay for itself we need to charge accordingly, Host compliance has a fee that should cover the administrative aspects and the inspections need to be done separate and paid for by the property owners. We could bid for a Jamestown designated inspector.

Commissioner Pfeiffer asked if we have gotten any pushback from the realtors in town. Bryer said we sent notice to the Chamber in January or February and we should bring them in specifically when we are ready and further along in this process.

Lisa Bryer said when we talk about violations we are talking about registration and posting of rules and laws of the town. It is not that onerous. This is a registration ordinance. Wyatt said stick with the already existing laws we have in town already. Noise and parking? The complaint is the beginning point not the end. The town has to prove and sustain the alleged violation. If it is a chronic problem registration could be pulled. Commissioner Swistak asked if Host Compliance offers online registration, would it be by mail and then it goes to the clerk? They handle everything.

A discussion ensued about B&B's and the difference between that and short term rental? You can distinguish what a short term rental is and a B&B. Room rentals will not be covered under this, Lisa made a note about rental of an accessory structure. Swistak asked about the B&B definition that was provided. Guest may not stay in a room more than 14 days.

Commissioner Cochran asked why are we making a distinction? Does it make sense to distinguish by number of bedrooms? 2 or more than you are a B&B?

Wyatt noted that if we allow as a commercial use in a residential neighborhood, we will be hard pressed to deny a variance such as parking. Solicitor Brochu cautions the commission because if in zoning they can ask for a variance. Every property is unique but once a use is allowed by right then it's allowed.

Marian Falla – she said thank you for listening, one of the things from the March 4<sup>th</sup> meeting it seemed to her that maybe this should be all rentals. Because of the pandemic Air BnB is going into long term rentals now, maybe we should look at all rentals now and maybe different regulations for both long and short, another income stream for Jamestown, they are increasing fees for all rentals in Narragansett and Newport. Fines are \$1000 a day in Middletown. With Covid 19 contact tracing we should have all rentals registered. She remembered room rentals are exempt but when more than 1 room it should be considered. B&B Rules long term and short term different postings, caveats for short and long term. Deb Ruggiero put together a bill for all rentals. Middletown is charging \$1 per day per rental. Lisa Bryer has the articles that she shared.

Lisa Bryer was asked about the timeline to finalize this draft ordinance. It's up to the board. Whenever you are comfortable with what we are providing. Right now it is basically a rental ordinance. We have talked about bringing realtors in for discussion. She needs to go back and talk to staff.

Lisa Bryer shared some discussion points about whether we should tax ~~them~~ **short term rentals** as commercial. The state association of tax assessors have been talking about it because of Deb Ruggiero's bill. Some do not think it is worth it. Commissioner Pfeiffer said this is a home-based business. Exception made for it in zoning. Something similar could be appropriate down the line for this. He questioned whether it is a business or residential.

Commissioner Swistak said do you think we can encourage some of the local realtors to weigh in on this and share the draft ordinance with them to see what their opinion is? Can Lisa Bryer ask some of the other towns if there are neighborhood disturbances and any experience with enforcement.

Commissioner Prestigiacomo asked has there been a change because of Covid 19?

Solicitor Brochu said keep a list of what problems you want to address? There are a few problem areas, noise, parking and overcrowding. Registration component is to keep them honest. Water is also an issue in Jamestown. When we start talking about short term and B&B's it can get complicated quickly. Be straightforward and address complaints to give a mechanism to those that have been complaining. **P**ut a piece of legislation in place for the tools.

Commissioner Enright asked about the zoning ordinance and where it stands. Solicitor Brochu said he is reviewing it again.

**VII. New Business – nothing at this time**

**VIII. Adjournment**

A motion was made by Commissioner Swistak and seconded by Commissioner Enright to adjourn the meeting at 8:44 p.m. So unanimously voted.

Attest:

  
Cynthia L Reppe