

Approved as amended  
**PLANNING COMMISSION MINUTES**  
**June 1, 2022**  
**7:00 PM**  
**Jamestown Town Hall**  
**93 Narragansett Ave.**

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

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

Mike Swistak – Chair	Duncan Pendlebury – Vice Chair
Rosemary Enright – Secretary	Diane Harrison
Bernie Pfeiffer	Dana Prestigiacomio

Not present: Mick Cochran

Also present:

Lisa Bryer, AICP – Town Planner  
Wyatt Brochu, Esq – Town Solicitor  
Cinthia Reppe – Clerk for Planning Meeting  
Christian Infantolino – Attorney  
Patrick Freeman – PE, American Engineering

**II. Citizen’s Non-Agenda Item-Nothing at this time**

**III. Correspondence**

1. Final Administrative Subdivision Gregg T. Takata and Margaret Testa Takata, Plat 5 Lot 4 & 5, 181 Seaside Drive, Jamestown, RI. Received
2. AFDU Approval, 90 Cedar Hill Drive, Plat 6 Lot 28. Received
3. AFDU Approval, 6 Fairview Street, Plat 1 Lot 381. Received
4. AFDU Recommendation to Zoning Board for Approval, 56 Wright Lane, Plat 4 Lot 143. Received
5. Master Plan Comprehensive Permit approval – 91 Carr Lane, Plat 4 Lot 52. Received

**IV. Reports**

1. Planner’s Report –
  - Future meetings – topics and applications

Election of officers will be on for the next meeting. Lisa Bryer let the planning commission know Michael Gray public works director will be taking another job in East Greenwich at the end of this month.

Chair Swistak asked about the Zoning Ordinance, it looks like the planning commission may have time the end of July. We will look at the changes. Enright asked about the Comp Plan that expires in 2025. Ms. Bryer will be starting the process of the survey this year.

## V. Old Business

### 1. **Palo Alto LLC, Plat 1 Lots 234 and 302, North Main Road and Wickford - Administrative Subdivision, 2 lot subdivision with no new lots being created, Review, discussion and/or action and/or vote (Continued from 5-4-22 meeting)**

Attorney Christian Infantolino, Morneau and Murphy said this application was continued from the last meeting to set the bond amount so we are here tonight for approval.

Commissioner Swistak asked Town Planner Bryer if this is complete? The Public Works Director Mike Gray is satisfied with the \$34,500 for the bond. In addition, the applicant provided RIDEM approved water table testing for the OWTS and Town Environmental Scientist Jean Lambert looked at the OWTS and said it is acceptable.

They still have to go before the Town Council for approval for the maintenance agreement which is listed in the Conditions of Approval in the motion.

Patrick Freeman – PE - they will improve the road to the standards on the plan. Town Planner Lisa Bryer said the town is concerned about the existing roadway coming close to the abutting property to the north and so the town would like an as built drawing to ensure the traveled surface does not encroach.

Commissioner Pendlebury asked about the portion of road that goes onto Sterns Farm property? They will be changing that and pulling the road south, Mr. Freeman said.

Commissioner Pfeiffer asked about the wells that are in the road at that location, will pulling the road to the south impact that. Patrick Freeman noted that well will be abandoned.

A discussion ensued regarding changes and additions to the motion. The changes discussed will be added to the motion. Add to the findings that Patrick Freeman was recognized as an expert witness at the May 4, 2022 meeting.

Attorney Infantolino would like to strike 3<sup>rd</sup> sentence in condition 9. Change was made.

A motion was made by Commissioner Swistak and seconded by Commissioner Pendlebury:

“At the June 1, 2022 Planning Commission meeting, the Commission voted to Grant Conditional Administrative Subdivision approval of the application of Palo Alto LLC, to move lot lines

between Plat 1 Lots 234 and 302 based on the following findings and subject to the following conditions of approval.

Findings of Fact

1. This application is defined as an administrative subdivision which is authorized for approval by the Administrative Officer per state law and the Jamestown Subdivision Regulations. In Jamestown Town Planner is the Administrative Officer. This application is being sent to the Planning Commission by the Town Planner due to its complicated nature involving potential Subdivision Regulation waivers, cross easements, road maintenance of a public right-of-way, and other elements as noted in this motion;
2. The Applicant submitted the following in support of this application:
  - a. An application dated 10/15/21, revised and filed with Narrative on 4/25/22, requesting an administrative subdivision and a waiver from the Subdivision Regulations – Article XIII B(1) – Frontage on Improved Streets;
  - b. Administrative Subdivision Plan for Palo Alto, LLC located at 1261 North Main Road, AP 1 Lots 234 & 302, Jamestown RI by American Engineering dated 2-17-22, revised 5/5/22:
  - c. Access and Utility Easements
  - d. Maintenance Agreement;
3. The subdivision satisfactorily addresses the issues in the Comprehensive Plan where there may be inconsistencies;
4. Both lots in the subdivision conform to the standards and provisions of the Jamestown Zoning Ordinance with the required conditions of approval. The property is zoned RR-80. Residential use is a permitted use in this district;
5. Lot 234 (Record Lot 1) is a 19.46 acre lot proposed to be reduced to 17.07 acres and Lot 302 is a .34 acre lot, currently non-conforming by lot size and frontage, proposed to be increased to 2.73 acres, becoming conforming;
6. Both existing structures utilize existing OWTS. The dwelling on Lot 1 (Plat 1 Lot 234) is currently serviced by an unpermitted OWTS and the dwelling on Lot 2 (Plat 1 Lot 302) is currently serviced by an RIDEM permitted OWTS RIDEM appl #6815-012. Lot 2 has an approved OWTS RIDEM # 2015-1782 and Lot 1 has received two test holes, witnessed by RIDEM that have been deemed favorable for approval by the Town's Environmental Scientist;
7. There will be no significant negative environmental impacts from the proposed development as shown on the plans. Further development is possible on Lot 1 (Plat 1 Lot 234) and if proposed in the future shall require Subdivision approval which will be considered a subdivision of 2 or greater lots. It has an undetermined amount of freshwater wetlands that will need to be verified by RIDEM if proposed for subdivision;
8. The subdivision as proposed will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent

regulations and buildings standards would be impracticable as both lots are currently developed. There is an existing structure on each lot 234 and 302;

9. All subdivision lots have adequate and permanent physical access to a public street, namely, North Main Road and Wickford Avenue. Both lots have physical access and frontage on Wickford Avenue. Access to North Main Road is from Wickford Avenue. Town has created a public access point along and over Wickford Avenue to Narragansett Bay. Town does not maintain Wickford Avenue in a suitable condition for vehicular use and the Owners currently use Wickford Avenue as their frontage and access to their respective properties. The applicant has agreed, as part of a legal Maintenance Agreement to upgrade, improve and maintain Wickford Avenue to a condition suitable for vehicular use and to specifications reviewed and approved by the Jamestown Director of Public Works in accordance with the referenced plans;
10. This subdivision will not negatively impact circulation safety of pedestrians and vehicular traffic safety, surface water runoff, preservation of natural, historical, or cultural features that contribute to the attractiveness of the community with all conditions of approval. The applicant has provided a bond estimate, which has been reviewed and approved by the Public Works Director, which includes clearing the 12-foot road and 4 foot shoulder on each side and laying 12 inches of gravel as noted on the plan specifications;
11. The design and location of building lots, drainage improvements, and other improvements in the subdivision minimize flooding and soil erosion to the greatest extent possible. Any future development of each lot will be subject to applicable town and state regulations;
12. All lots in the subdivision have access to sufficient potable water for the intended use. Both structures utilize private wells. Both properties are serviced by private wells. Both wells are located in the Wickford Avenue right-of-way as shown on the plan and will need to be relocated when redeveloped;
13. The Technical Review Committee reviewed this application on October 28, 2021 and on April 22, 2022, they unanimously recommended approval to the Planning Commission.
14. Patrick Freeman, PE, American Engineering was accepted as an expert witness and represented the applicant at the May 4 and June 1 meetings.

Conditions

1. This approval is for permission to move the lot lines between Assessors Plat 1 Lots 234 and 302;
2. Two existing wells shall be relocated from Wickford Avenue prior to issuance of any building permit for each lot:
3. The un-recorded OWTS on Lot 1 (Plat 1 Lot 234) shall be abandoned per the RIDEM regulations and the new OWTS installed as part of construction of any new, reconstructed or expanded dwelling;

4. Any further subdivision of Lot 1 (Plat 1 Lot 234) will require RIDEM verification of the wetlands on site, and will be considered a subdivision of 2 or more lots per the Jamestown Subdivision Regulations;
5. Any further subdivision utilizing Wickford Avenue for frontage and/or access shall be reviewed per the Jamestown Subdivision Regulations including the requirements for public road improvements along any new lot frontage;
6. Wickford Avenue shall be upgraded, per the specifications shown on the referenced plan including the emergency turn around. The existing gravel road to be improved is not centered in the ROW. Any widening required will be done to center the traveled way within the ROW;
7. The Road Improvement Guarantee, shall be posted in the amount of \$34,500 in the form of cash or a bond prior to final approval of this subdivision;
8. Future road improvement and maintenance cost sharing shall be required by any and all lots utilizing Wickford Avenue as frontage and/or access;
9. The Access and Utility Easements and Maintenance Agreement have been reviewed and approved by the Town Solicitor and, subsequent to approval of the Town Council, shall be recorded in the land evidence records of the Town of Jamestown simultaneously with the recording of this approval and the final record plat.

So voted:

Mike Swistak – Aye

Duncan Pendlebury – Aye

Rosemary Enright – Aye

Diane Harrison – Aye

Bernie Pfeiffer – Aye

Dana Prestigiacomio – Aye

## VI. New Business

1. **Michelle Martins-Botelho, AP 15 Lot 143; Buoy Street, Jamestown, RI - Zoning Ordinance Section 82-314 – High Groundwater Table and Impervious Overlay District Sub-District A review - Recommendation to Zoning Board of Review; review, discussion and/or action and/or vote**

Attorney Christian Infantolino represents the applicant. This is a 7200 sq. foot vacant lot. Patrick Freeman from American Engineering will answer questions. Commissioner Pfeiffer made a motion seconded by Commissioner Pendlebury to accept Mr. Freeman as an expert witness. So unanimously voted.

Mr. Freeman explained the plan. There are no wetlands on the site, it does fall within Sub District A because of soils. A 720 sq. ft. building, a crushed stone driveway is proposed and Advanced treatment system denitrification bottomless sand filter, a Septi –Tech Staar. They designed a rain garden and he showed it on the plan.

Pendlebury wanted to know about outdoor showers. It would be proposed with crushed stone and the runoff would be onsite. Patrick said if there is a watering ordinance he hasn't seen it.

Swistak said as they have seen these applications sometimes a swale is used how do you make the decision of which to use? Patrick said the difference is a swale would have to be a certain width and it could not be provided on this lot because of width and that is why we use rain gardens more often.

We remind the applicants that impervious surface is crushed stone and cannot be paved even down the road and the rain garden needs to be maintained.

Enright questioned the shed and the applicant is proposing to take it away.

A motion was made by Commissioner Swistak and seconded by Commissioner Pendlebury to accept the motion with the following amendments:

At the June 1, 2022 Planning Commission meeting, the Planning Commission voted unanimously to recommend to the Jamestown Zoning Board, approval of the application of Michelle Martins-Botelho, applicant: AP 15, Lot 143; Buoy Street, Jamestown, RI; being reviewed under Zoning Ordinance Section 314 - High Groundwater Table and Impervious Overlay District Sub-District A review in accordance with the plans entitled "Town Submission for Michelle Martins-Botelho, located at AP 15, Lot 143, Buoy Street, Jamestown Rhode Island dated 3/21/22. The plans are prepared by American Engineering, Inc. 400 South County Trail – Suite A 201, Exeter, RI 02822, 401-294-4090.

The recommendation for approval is based on the following findings of facts and recommended conditions of approval as noted in the Memo from Jean Lambert, PE dated April 26, 2022 and amended at the Planning Commission meeting:

**Findings of Fact Section 314**

1. The property is 7200 square feet (sf) in area. The existing site is undeveloped.
2. Topography on the lot generally slopes to the north on the site towards Buoy Street.
3. There are no freshwater wetlands on the property.
4. Soil evaluation results show that the site falls under **Sub-district "A"** requirements of the High Groundwater Table and Impervious Overlay District with 16" to the seasonal high-water table and 24" to impervious soil.
5. The maximum impervious cover allowed is **10.0% or a maximum of 720 sf**. The total proposed impervious cover will be **720 sf or 10.0%**
6. The applicant is proposing to develop the site with a house, crushed stone driveway, deck, well, and an advanced treatment OWTS (Septitech staar 0.5D to bottomless sand filter: RIDEM #0515-1518). The OWTS permit for 2-bedrooms was issued on 4/30/2021.
7. A rain garden is proposed to provide water quality treatment and stormwater mitigation of new rooftop runoff. The required stormwater treatment volume for the new rooftop is 341 cubic feet (cf). The total proposed volume is 351 cf.
8. The Memo from Jean Lambert, P.E. states the rain garden provides treatment and mitigation for the new impervious rooftop.
9. The applicant's representative Patrick Freeman, PE of American Engineering, Inc, was accepted as an expert witness, and present at the Planning Commission meeting representing the application before the Planning Commission on June 1, 2022; and,

10. Jamestown Engineer Jean Lambert provided correspondence to William Moore, Building Official and Lisa Bryer, Town Planner dated April 26, 2022 regarding the Martins-Botelho application (attached).

### **Recommended Conditions of Approval**

1. An erosion and sediment controls must be installed at the down gradient limits of site disturbance and maintained until stabilization of the site is attained;
2. After installation, Maintenance and inspection of the existing OWTS shall continue as required by the Town Onsite Wastewater Management Ordinance;
3. The rain garden shown on the approved site plans must be installed and maintained as outlined on the rain garden noted on the approved site plan. The Operation and Maintenance (O & M) Plan (reproduced in 8.5” x 11” for the stormwater mitigation (rain garden) shall be recorded in the Office of the Town Clerk with the Zoning Approval and evidence of such shall be provided to the Zoning Enforcement Officer as well as the Planning Department;
4. Any additional future site work including a change to the driveway surface that increases the area of impervious coverage will require a review following the requirements of the High Groundwater Ordinance.

So voted:

Mike Swistak – Aye

Duncan Pendlebury – Aye

Rosemary Enright – Aye

Diane Harrison – Aye

Bernie Pfeiffer – Aye

Dana Prestigiacomio – Aye

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

1. May 18, 2022

A motion was moved by Commissioner Pfeiffer and seconded by Commissioner Enright to approve the minutes as amended.

Page 5, 4<sup>th</sup> paragraph: First sentence ends at “Attorney Fracassa.” “There” becomes capitalized. Second sentence ~~comp permit~~ replaced with “Comprehensive Permit Act” and “his” replaced with “Attorney Anthony’s”.

Third sentence: ~~His review of this correspondence does not have this information in his correspondence~~ replaced with: Attorney Resnick stated that the correspondence makes references to zoning but there are no specific examples for this application.

Fourth, fifth and sixth sentences: ~~He has also looked at Fracassa’s cherry picking if we look at it and the info that he has provided with respect to zoning and planning it is so particular to the states Comprehensive Plan Permit act, zoning etc. then the actual towns ordinances are taken into account. Fracassa is referring to other states which does not pertain to this town or state at all and it is not plainly applicable to this proceeding. With respect to concept that was based on misrepresentation that would have an impact on the future is just not applicable.~~ Replaced with:

Attorney Resnick stated that Fracassa's correspondence is cherry picking of the Comprehensive Plan to convey a narrow interpretation to the Local Review Board. Fracassa's concept of looking at other jurisdictions within the USA like Vermont and Oregon is both not appropriate or applicable in this circumstance. Resnick stated that idea the original zoning relief provided was based on misrepresentations or that there were conditions that had an impact on future development or future applications are not true.

Page 6 - paragraph 3 – first sentence ~~commission conservation~~ replaced with “conservation commission”.

Third sentence ends at “appliciation.” Fourth sentence starts with “Resnick”

Paragraph 4 - ~~he has no objections to it being entered he just feels it is premature.~~ Replaced with: “Resnick has no objections to it being entered; he just feels it is premature.”

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Comments from Joyce Antonello: ~~She is a member of the Conservation Commission, they had a regular meeting and they invited CCHC so they could discuss the comments, they~~ replaced with “She is a member of the Conservation Commission. They had a regular meeting and they invited CCHC so they could discuss the comments. They...”

Comments from Dales Jerald: third sentence ~~watershed it~~ replace with “watershed and it”

Comments from Richard Ventrone: First sentence ends after “again.” “They” becomes capitalized.

Comments from Attorney Fracassa: ninth sentence ~~How to interpret, the state of RI has not done this.~~ Replace with “Why has the State of RI not done this?”

13<sup>th</sup> sentence: ~~The comp plan here says put it~~ replace “it” with “affordable housing”

Question from Commissioner Prestigiacomo: ~~Commissioner Prestigiacomo are~~ replace with Commissioner Prestigiacomo: Are

Interim Planner Ashley Sweet: first sentence ends at “monetarily.” “You” becomes capitalized. Second sentence ends at “town.” “Until” becomes capitalized.

Page nine – comments from Bonnie Hogan: first sentence ends after “contaminated.” “It” becomes capitalized. Third sentence ends after “water.” ~~The~~ is removed. “Land” becomes capitalized. Fourth sentence ~~this~~ is removed and sentence ends at “years.” “This” becomes capitalized. The fifth sentence ends at “density.” The ninth sentence ends at “public.” “It” becomes capitalized. The tenth sentence ends at “ordinance.” “There” becomes capitalized.

Comments from Nick Robertson: replaced with “Bonnie Hogan noted that Nick Robertson – 105 Carr Lane stated previously our water supply is irreplaceable.” Second sentence “Houses” is capitalized and ~~that~~ is removed. The third sentence ends at “important.” “You” becomes capitalized.



Comments from Commissioner Pendlebury: second sentence ~~that~~ is removed.

Page ten – third paragraph: “ask for more information at this point.” ~~and~~ is removed. “A” becomes capitalized.

Sixth paragraph: ~~on Ventrone’s comments~~ is removed and the sentence ends at “protection.” ~~and~~ is removed. ~~they~~ becomes “CCHC” to start the second sentence.

Page 11 – Robert Fadden: “Car Lane” spelling corrected to “Carr Lane”.

Commissioner Enright comments: Second sentence ~~he~~ becomes “she”

Mike Swistak – Recused  
Rosemary Enright – Aye  
Bernie Pfeiffer – Aye

Duncan Pendlebury – Aye  
Diane Harrison – Aye  
Dana Prestigiacomio – Aye

#### VIII. Adjournment

A motion to adjourn was made by Commissioner Enright and seconded by Commissioner Pfeiffer at 7:52 p.m. All in favor.

Attest:

Cynthia L Reppe