

Town of Hampton



PLAN REVIEW COMMITTEE DRAFT MINUTES November 22, 2021 – 2:00 PM Selectmen’s Meeting Room

PRESENT: Jason Bachand, Town Planner
Joseph Lynch, Deputy DPW Director
Mark Gearreald, Esquire
Matt Newton, Fire Prevention Officer
Jim Marchese, Building Inspector
Laurie Olivier, Office Manager, Planning

Absent: David Hobbs, Police Chief
Jodie Strickland, CMA Engineers
Tobey Spainhower, DPW
Mike Bernier, Aquarion
Taylor Raine, Until
Brianna O’Brien, Conservation Coordinator

17 & 19 L Street,

Map: 293 Lot: 55 & 56.

Applicant: T.R.D Entertainment Co., LLC

Owner of Record: Same and Town of Hampton (Leased Land #19).

Site Plan: Proposed permanent outdoor seating for restaurant/bar at #17 & #19. Existing residential use of #19 to be abandoned and become commercial.

Waiver Request: Section V.E.-Detailed Plans.

Terry Daidone is present, the applicant. The project is partially on leased land. Henry Boyd, Millennium Engineers, is present. Mr. Boyd felt where nothing is being constructed, he thought it was bizarre to need to come to a PRC. He noted the bar needs to be cut back. Everything else is existing.

Matt Newton, Fire Prevention, discussed a second exit is needed in front of the bar, the north side of the bar. He reiterated there needs to be a second exit.

Anything more than 50 people needs 2 exits. Mr. Daidone said at the back of the building, there are 40 inches, is that not all that is needed. Mr. Newton said it should be the same as the front exit. It can be closed; it can be closed during business. Not a latch; not a lock. Mr. Daidone said on the west side it's open. It goes into the driveway. Mr. Newton discussed people being trapped. Mr. Daidone said they can open it up. The plans don't seem to be the same. Mr. Newton said people need to be able to get out.

Jim Marchese, Building Inspector, said the whole area is convoluted. Assessment records and what the Building Department has are different. 17 L Street says it has 2 occupancies. Mr. Daidone said there is an apartment in the back with a separate entrance. There are two exits and entrances to the back apartment.

Mr. Marchese said there was a commercial occupancy. There is an apartment at 17 L Street. 19 L Street is listed with the assessors as vacant land; the Building Department says there are 3 rental units. 2014 is when they were issued. **We need to get that corrected per Mr. Marchese.**

Mr. Marchese compared the JSN plan with the Millennium plan. There is a scaling issue. It shows 27 feet between two buildings, but the JSN plan says 22 feet. The JSN plan seems like it's not to scale at all. The use is tight. It should be drawn to scale. Mr. Daidone said the Millennium plan was done 6 weeks ago. JSN said it's drawn to scale; it's not. It does not agree with the current plan. Millennium said they can provide us with information digitally. Seating will make a big difference per Mr. Marchese with aisle width, etc.

Leased land versus fee ownership was asked about. Why are the setbacks not recognized on the plan. Mr. Boyd said setbacks would not fit. He will list them on the table. The buildings pre-date zoning per Mr. Boyd.

Mr. Marchese said if improvements are made; are they holding to the 75 percent impervious rule. Mr. Boyd said they both (lots) exceed, but nothing new is being constructed. One is at 89.4 and the other is 76.5. He's not adding more sealed surface. Mr. Marchese said it is existing non-conforming and changing it to a restaurant type of use – does that non-conforming situation go away was asked by Mr. Marchese. How can we make the lots conform. Once changed, it goes away. Mr. Boyd does not agree with that. Mr. Boyd said most lots down the beach don't comply. Mr. Boyd thought this (application) was for outdoor seating.

Mr. Marchese asked about the tables; are they structures or not. They (applicant) said not. Mr. Marchese read the definition of structures for the record. He thinks the tables meet the definition of a structure. Mr. Daidone asked where Mr. Marchese got that definition. Mr. Marchese will discuss this more with the Town Attorney. The 'structure' definition is in the Town Zoning Ordinance. Mr. Daidone asked if this was policed throughout Town. Mr. Boyd asked about lawn chairs. Mr. Marchese said it is a gray area.

Joe Lynch (DPW) discussed the lack of clarity in the two buildings and future uses of the two buildings. The Millennium plan shows the front building to become commercial—to what extent and what use was asked, and also its permanence. The back is noted as an existing residential building.

Mr. Lynch discussed the site plan and architectural plan; there is a lack of consistency. He believes the survey is probably pretty accurate. Architecturals are schematic. The plans do not go together. Existing seating was 95 seats; pandemic resulted in abandonment of inside seating. There will be calculation with the wastewater charge. There is an impact to that. Not enough information is given.

Mr. Lynch discussed trash. Existing trash and proposed trash is not given. Historical problems with existing trash management were discussed, and also the lack of compliance. It needs to be VERY explicit. What is going on there now is non-compliant.

Mr. Lynch discussed the driveway area; is it being used as a dining area was asked. How are utilities affected. There are no utilities shown on the plan. If utilities come down the driveway, more information is needed.

The egress on the plan shows the gate to be held open, then closed. It cannot swing out. It has to swing in.

Mr. Lynch discussed the seating of 10 at the wall at L Street. The proposed shows table 10 that is where the conduit box is. Is this allowed by Code was asked.

Gas meter—is this a conflict with seating was asked.

Curb cuts were discussed. Are they leaving the curb cut as is was asked. How does that work with egress. Is it too wide or does it need to be narrowed down. Mr. Boyd asked who determines that. Egress lies with the Fire Department. Fire is fine with the curb cut. Mr. Boyd wants to leave it as it is. Mr. Lynch asked Mr. Boyd to put 'curb cut to remain' on the plan.

Mr. Lynch asked about the residential and commercial uses and the back building—it boils down to a parking question.

The gate swinging out-architectural plan shows new counter seating along to the back of the sidewalk. Mr. Boyd's existing bar is a corner over the line. The bar has to be picked

up. Mr. Lynch said the bar can't stay there. It draws attention that the architectural plan does not fit.

Runoff was discussed. It was a driveway, but now there is outside dining. Potential pollutant load was discussed. How is it to be managed was asked.

Attorney Mark Gearreald discussed making permanent the outside seating going on with COVID. He said the plans aren't even oriented the same. Millennium is oriented showing the street and the other plan is the opposite. It should be redone to be able to compare the plans consistently. The Planning Board will want it consistent.

The JSN Plan does not show the rear building on 19 L Street. It suggests the rear building may be demolished. A waiver of the detailed plan was discussed. Because of the detail still needed for both lots, Attorney Gearreald does not recommend the waiver be granted.

Deeds – both lots are shown on the plan of leased land. The L Street lot was not conveyed by a deed through the Town. There is no deed restriction on that lot – 17 L Street.

Attorney Gearreald said 19 L Street is leased land and it is subject to restrictions, i.e. "...no fences....other than ornamental – no more than 3' height..." The outdoor seating and egress plan shows a desire to erect a new enclosure fence to go across the boundary line of both lots. That fence is not a boundary fence; it is a structure per the definition and it has to comply with the setbacks or get a variance.

Structures across lot lines. It is subdivided without a new lease and (Attorney Gearreald read it aloud). There are structures crossing lot lines. There is new counter seating that crosses over the lines; they will need a waiver from the Selectmen. They should get a new lease. There's only 13 years left to run and they want this to be permanent. It was signed and they have 20 years now per Mr. Daidone. That lease should be provided as part of the application per Attorney Gearreald.

Variations needed – setback questions. Parking problems would exist for the remaining residential structure. Under Zoning, each dwelling unit requires 2 on-site and unstacked parking spaces. Mr. Daidone said they want the whole property to be commercial. Mr. Daidone said the buildings will be used as storage. Attorney Gearreald said it needs to be made clear on the plan. Otherwise, they need a variance for on-site parking or a remote parking lot owned by same owner would need to dedicate spaces for the uses.

Abutters notices, the 14 M Street notice went to Nicholas Riccio and it is owned by someone else now. Noticing for Planning Board – it needs a new entity. The Town needs to be sent an abutter notice also. 19 L Street since it is leased. There is an indemnity clause. It was noted a policy of liability insurance is needed. Attorney Gearreald read it aloud. It will have to be approved by the Selectmen naming the Town as additional insured.

Land rent being owed for April of 21 through March of 22 needs to be taken care of. It was billed to the prior lessee. The amount of \$4,868 for this year is needed.

Attorney Gearreald discussed the outdoor seating, there are noise concerns. The Planning Board has the ability through its Site Plan Regulations to provide for noise controls to prevent undesirable elements. Attorney Gearreald discussed the various sound controls to prevent noise pollution. These need to be explored with the Planning Board.

Attorney Gearreald discussed L Street activities; this will enhance the operation of people outside.

Mr. Bachand discussed permanency of this proposal. It needs to be aesthetically enhanced. 16 L Street; Galley Hatch with new deck; Smuttynose—all have followed higher aesthetic standards with Site Plan Review. Landscaping and porous pavers were discussed. The plan needs to clearly state what is intended. What the buildings will be used for needs to be clearly depicted on the plan to be recorded.

It is important that noise concerns be addressed with the Planning Board. The Planning Board has jurisdiction over the private property during Site Plan Review.

The Police Department offered comments as well. It was noted that a line that often forms outside of L Street on busy nights. The line tends to form on the sidewalk which makes it difficult for pedestrians who are walking to pass and often forces them into the street. It was suggested that there may be an area on the Tavern property where the line could form off the public access way. Mr. Bachand agrees with this comment - there cannot be an obstruction of the public sidewalk.

Mr. Bachand said the bar encroaches along the right of way. Bar seating along sidewalk was discussed. Bar seating facing out directly along the public sidewalk would seem to invite problems with pedestrians.

Mr. Bachand discussed the idea of the two lots being merged. If the applicant could buy 19 L Street from the Town, it may be helpful. He could need variances for multiple building on one lot.

Mr. Bachand discussed porous pavers; it would help with infiltration, sealed surface concerns.

Mr. Bachand asked about if the buildings at 19 L Street are currently occupied. 19 L street is currently rented per Mr. Daidone.

Mr. Bachand discussed the banner along the frontage. He discussed the barrier with the banner. It was confirmed by Mr. Daidone that the barrier is temporary. Mr. Bachand said a decorative fence would be better. He said 50 s.f. maximum for banners is allowed in the BS zone. It is in violation right now. This is also expressed in our architectural guidelines - criteria was read aloud.

The existing string lighting is not shown on the plan. Mr. Bachand discussed the seating layout. He wants Mr. Boyd to show it on his plan, as he did for the 16 L Street project.

Mr. Bachand may support a partial waiver of detailed plan, but that is to be determined. Much more information is needed with the next resubmission.

Henry Boyd, Terry Daidone and Jake Magro thought this was for seating. Mr. Boyd asked about a reduction of the sealed surface. Mr. Bachand said he should make a best effort to bring it down. Putting tables and chairs down on an asphalt parking lot does not depict permanent outdoor seating.

Attorney Gearreald discussed outdoor seating and Mr. Boyd's plan. It shows two decks that cross over from 17 L Street to 19 L Street. Those are not shown on the dividing line on egress plan.

Mr. Bachand said another PRC is needed; we need to see a full plan. Mr. Bachand provided some upcoming resubmittal dates. The applicant will try for a January 12th resubmittal, and (if that date is met) the PRC would be on the 26th of January. If dates further out need to be known, we (Planning Office) can provide those.

Laurie Olivier
Office Manager/Planning
Ended 3:00 p.m.