LINCOLN PLANNING BOARD

NOVEMBER 16, 2005

MINUTES

The regular meeting of the Planning Board was held on Wednesday, November 16, 2005, at the Town Hall, 100 Old River Road, Lincoln, RI.

Chairman Mancini called the meeting to order at 7:06 p.m. The following members were present: Diane Hopkins, John Hunt, John Mancini, Gerald Olean and Michael Reilly. Also in attendance were Town Planner Albert Ranaldi, Town Engineer N. Kim Wiegand, and Assistant Town Solicitor Roger Ross. Margaret Weigner kept the minutes.

Chairman Mancini advised five members present; have quorum.

SECRETARY'S REPORT

There was no secretary report for review.

CONSENT AGENDA

Chairman Mancini stated that any item on the consent agenda could

be removed and discussed separately by making a motion. There are ten items on the agenda for consideration.

Ms. Hopkins made a motion to accept the Consent Agenda as recommended by the Technical Review Committee (TRC). Mr. Reilly seconded motion. Motion passed unanimously.

MINOR SUBDIVISION REVIEW

a. Birch Street Subdivision AP 35 Lot 67 Preliminary Plan Discussion/
Debar Enterprise Birch Street Approval

Mr. Ranaldi stated that this is a minor subdivision under the 2005 Subdivision Regulations and represents the subdivision of one lot into two conventional residential lots. The lot contains approximately 36,800 square feet and is zoned RL-9 (9,000 square feet – Residential Limited). The proposed two-family house is to be serviced by public sewer and water. The applicant received a Certificate of Completeness on November 7, 2005; the Board has until January 6, 2006 to approve, approve with conditions, or deny. The application fits all the subdivision regulations. The TRC recommends Preliminary Plan Approval with the following conditions:

1. RIDEM Wetlands permit approval.

2. The sedimentation and erosion control plan must include in addition to the hay bales shown on the plan, a stone pad for construction access during construction.

3. A RIDEM certified soil evaluator must determine the seasonal high groundwater elevation before the house foundation can be installed. The Town Engineer has requested to witness the on-site evaluation.

4. The finished floor or basement elevation must be set above the seasonal high groundwater elevation.

5. The developer needs to have a final approval letter from the Lincoln Water Commission stating that water is available and the submitted plans are acceptable.

Mr. Ranaldi stated that in an RL-9 zone, a special use permit is needed for a two-family home; there is enough space for a two family home. Chairman Mancini asked if #6 should be added to the conditions and Mr. Ross responded that the applicant would have to appear before the Zoning Board for a special use permit.

Attorney John Shekarchi represented the owner and applicant and stated that the lot will front on Birch Street and meets all zoning requirements for a single family home. A special use permit will be required for a two family home; they will seek the needed relief from the Zoning Board at a later date. The existing home will be on a 17,088 sq. ft. lot. They have letters for sewer and water. They accept

the TRC conditions and ask that final approval be granted to the Administrative Officer.

Mr. George Gifford, an Environmental Planner and Landscape Architect stated that the hay bale line – the line of disturbance – was unrealistic, not realistic zone to build a house. RIDEM moved line closer to wetland – approved by RIDEM with no impact to jurisdictional area. Mr. Reilly asked about the revision dated on the plan of 10/7/05. Mr. Gifford explained that the plan was originally stamped on 8/25/05 with a revision made on 10/7/05. Mr. Shekarchi stated that the plan is stamped by RIDEM and was submitted, reviewed and approved by the Town Engineer. He will submit a stamped plan from RIDEM.

Chairman Mancini asked if there were other two family houses in area and Mr. Shekarchi responded that they were only subdividing the lot at this point. Mr. Reilly asked about Birch Street being a paper street and the cul de sac. Mr. Ranaldi explained that the cul de sac was formalized by Seminole Development approximately three years ago.

Mr. Shekarchi introduced Mr. Edward Pimentel, AICP, to testify about the project. Mr. Shekarchi asked that Mr. Pimentel be accepted as an expert witness. Mr. Hunt made a motion to accept Mr. Pimentel as an expert. Mr. Olean seconded motion. Motion passed unanimously. Mr. Pimentel stated that he reviewed the application according to the Town's Comprehensive Plan, Zoning Ordinance, and Land

Development and Subdivision Regulations. The subject lot is approximately 36,800 sq. ft. and fronts Manville Avenue and Birch Street (part of which is a paper street). It also fronts a third street, Ash Street, which is a paper street. Lot #1 with the existing home will be a new corner lot consisting of approximately 17,088 sq. ft. Lot #2 will consist of approximately 19,712 sq. ft. and will also be a corner lot fronting Birch Street and Ash Street. A small portion of Lot #2 contains wetlands – approximately 1,752 sq. ft. – leaving more than enough area for a single family home and enough for a special use as a two family.

Mr. Pimentel stated that in conclusion, the project is consistent with the Comprehensive Plan, maintains overall density, meets Zoning and Subdivision Regulations and will be serviced by public utilities. The lots will be rectangular shaped. Mr. Shekarchi asked that Mr. Pimentel's report be submitted into record.

Mr. Reilly made a motion to approve subdivision with conditions set forth by the TRC. Mr. Hunt seconded motion. Motion passed unanimously.

PETITION FOR AMENDMENT TO ZONING MAP

a. 143 Reservoir Avenue AP 6 Lot 437 Recommendation to

Joseph Kishfy Reservoir Road Town Council

Mr. Ranaldi stated to the Board that the TRC struggled with the zone change, as it relates to two elements of the Comprehensive Plan – The Housing Element and the Economic Development Element. The lot has an existing 6-unit building and is currently zoned BL 0.5. The applicant seeks to have the lot rezoned to residential to build another 6-unit building in the back. The properties surrounding the subject parcel to the left, front and right of the existing lot are zoned BL 0.5. Mr. Ranaldi stated that the TRC felt that in the future, the apartments could be converted to offices. The Comprehensive Plan sets a goal of residential to business land ratio of 3.6:1. By keeping the parcel zoned as BL 0.5, the parcel can be converted to a commercial use in the future. If the parcel is rezoned, this flexibility will not exist. Residential brings school kids; taking away commercial land will jeopardize the ratio. This is the analysis the TRC went through when reviewing the application.

Chairman Mancini agreed with Mr. Ranaldi, but it is a Town Council decision. The Board must be cautious in recommending a zone change to the Town Council. There are advantages both ways – more restricted if changed to residential. Mr. Olean asked what the ratio is now and Mr. Ranaldi replied that there is more residential than commercial and would like the zone to remain commercial. Chairman Mancini commented that the Board hears more residential than commercial requests. Mr. Olean asked what the effect would be on

this property and Mr. Ranaldi replied not much. Mr. Olean commented that he would tend to move toward housing for affordable housing. Mr. Ranaldi stated that he would prefer a use variance to allow the project to go forward.

Attorney Wyatt Brochu represented the applicant. Also in attendance was Joseph Lombardo, a Land Use Planner. Mr. Brochu commented that the TRC looked at Housing and Economic Development and chose Economic Development. The lot is currently zoned BL 0.5 and the applicant seeks to put another residential building on it.

Mr. Lombardo looked at project and did a windshield survey – reviewed the Comprehensive Plan and the Zoning Ordinance and found that the facts lean more towards housing. The facts remain that there is a 6-unit building there now with a mixture of housing going into Pawtucket. There are a lot of retail/businesses in area – tenants can walk to work. There is a high demand for affordable rental properties in Lincoln. One unit will be dedicated to stay low/moderate income. By rezoning, the residential units will remain for a long time. The Housing Element of the Comp Plan looks at ways to keep housing units. Since the property is close to Fairlawn Public Park and close to many multi-family homes, in his opinion, it is in compliance with the Comp Plan.

Mr. Olean asked if the applicant looked into a use variance. Mr. Ross

stated that if the Town Council approves zone change, a special use permit will be needed. Mr. Lombardo stated that his interpretation of a use variance is for a use outright prohibited in one zone and similar to another use. For example, a fruit stand is allowed, but you want to sell vegetables instead of fruit. Chairman Mancini stated that the Board is looking at zone change – there is already a 6-unit building there – there is justification for a variance. Mr. Lombardo stated that there is a special criterion that must be met. Mr. Ross agreed with the fruit stand example that Mr. Lombardo presented. A use variance is needed for a use prohibited in a specific zone – legal standards are very difficult to meet. A special use permit is for something tentatively approved on property. The existing building is an existing non-conforming use.

Chairman Mancini stated that the Board is only making a recommendation to the Town Council; the zone change is ultimately the Council's decision. Mr. Brochu stated that the recommendation to the Council carries weight and asked the Board to agree with the applicant and housing element.

Mr. Hunt states that he feels that since apartments are there now, that we should continue with the same use.

Mr. Hunt made a motion to send a positive recommendation of zone change to the Town Council. Mr. Reilly seconded motion. Mr. Olean stated that once the zone is changed, there may be repercussions

down the road. Mr. Reilly stated that the zone change makes it more conforming; makes it right – it is non-conforming now. Mr. Olean asked if the zone change makes the non-conforming legal, and Mr. Ranaldi replied yes. On a roll call vote, everyone voted in favor. Motion passed.

CORRESPONDENCE/MISCELLANEOUS

Mr. Ranaldi stated that the maintenance bond for Presidential Estates has been reduced from $104,000 to $41,000 as a number of items were completed by the developer.

Mr. Ranaldi informed the Board that Zoning Revisions are nearing completion. Recommendations, revisions, and zoning techniques (rural flexible zoning and inclusionary zoning) were added. Rural flexible zoning would enable a developer to come in and put open space in front (clearer than RPZ in Subdivision Regulations). Inclusionary zoning would give a density bonus of 25%. The developer would gain an additional house to be affordable or pay to build offsite. Mr. Ranaldi will give the revisions to the Board, and then schedule a meeting.

There being no further business to discuss, on a motion made by Mr. Olean and seconded by Mr. Reilly, it was unanimously voted to adjourn. Meeting adjourned at 8:05 p.m.

Respectfully submitted,

Margaret Weigner

Attached November 16, 2005 TRC Report:

On November 3, 2005 at 3:00 pm, the Technical Review Committee met to review the agenda items for the November 16, 2005 Planning Board meeting. In attendance were Al Ranaldi, Kim Wiegand, Russell Hervieux, Peggy Weigner, and Greg Mercurio. Below are the Committee's recommendations:

Minor Subdivision Review

a. Birch Street Subdivision AP 35 Lot 67 Preliminary Plan Discussion /

- Debar Enterprise Birch Street Approval

This application is under the 2005 Subdivision Regulations and represents the subdivision of one lot into two conventional residential lots. The subject lot contains approximately 36,800 square feet of land and is located in zoning district RL-9 (9,000 square feet – Residential Limited). The proposed two family house is to be serviced by public water and sewer. There is no proposed street

creation or extension needed. This project is in front of the Planning Board for Preliminary Plan Discussion/Approval.

On November 7, 2005, the Preliminary Plan submittal for the above noted project received a Certificate of Completeness. According to our Subdivision Regulations, if no street creation or extension is required, the Planning Board shall, within sixty five (65) days of certification of completeness, or within such further time as may be consented to by the applicant, approve the preliminary plan as submitted, approve with changes and/or conditions, or deny the applicant, according to the requirements of Section 8. A decision on the Preliminary Plan review must be made by January 11, 2006 or within such further time as may be consented to by the applicant.

The Technical Review Committee and the Engineering Division have reviewed the above-proposed development according to the 2005 Land Development and Subdivision Regulation's Preliminary Plan submission standards and requirements and standard engineering practices. The plans reviewed were entitled "Preliminary Submission", AP 35 Lot 67 Lincoln, RI, prepared for Blackstone Valley LLC, owners Paul and Mike Savard by David M. Garrigan PLS, dated August 25, 2005. The Town is in receipt of letters from the Sewer Division and Water Commission stating that public sewers and water are available to the lot.

Based on the submitted application, the Technical Review Committee finds that the application successfully meets all of the Town's subdivision requirements. The proposed minor subdivision is for two-family house lot and does not require onsite drainage controls.

Therefore, the TRC recommends Preliminary Plan Approval with Conditions for this project. The TRC also recommends that Final Plan approval be delegated to the Administrative Officer. The recommended conditions are as follows;

1. RIDEM Wetlands permit approval.

2. The sedimentation and erosion control plan must include in addition to the haybales shown on the plan, a stone pad for construction access during construction.

3. A RIDEM certified soil evaluator must determine the seasonal high groundwater elevation before the house foundation can be installed. The Town Engineer has requested to witness the on-site evaluation.

4. The finished floor or basement elevation must be set above the seasonal high groundwater elevation.

5. The developer needs to have a final approval letter from the Lincoln Water Commission stating that water is available and the submitted plans are acceptable.

Petition for Amendment to Zoning Map

a. 143 Reservoir Avenue AP 6 Lot 437 Recommendation to Town Council

- Joseph Kishfy Reservoir Road

The Technical Review Committee struggled with this zone change application. On one hand, the housing element of the 2003 Comprehensive Plan highlights and encourages the creation of a

variety of housing stock within the Town. It is clear that this proposed project will further this policy. On the other hand, the economic development element encourages the creation of additional commercial and industrial zones within Town in order to maintain the goal of residential to business land ratio of 3.6:1.

Ultimately, the goals and policies of the economic development element of the Comprehensive Plan outweighed the housing element.

This proposal will eliminate approximately 1/2 acre of commercial/industrial land even though this parcel is currently used as apartment housing. This existing apartment building is located within an existing commercial area. By keeping the parcel zoned as BL 0.5, the parcel can be converted to a commercial use in the future. If the parcel is rezoned, this flexibility will not exist. Therefore, the Technical Review Committee finds that the proposed zone change is NOT consistent with the surrounding area and NOT consistent with the comprehensive plan of the town, including the goals and policies statement of the economic development element.

November Zoning Applications

Miguel & Elizabeth Simao, 11 Riverside Drive, Lincoln, RI – Dimensional Variance for front yard setback for the construction of a second story and farmer's porch.

AP 13, Lot 92 Zoned: RL9

Members of the Technical Review Committee visited the site and reviewed the revised submitted plans and application. The Committee feels that the majority of the requested dimensional variances are needed for the existing foot print of the existing house. Based on the revised submitted plans, the TRC recommends Approval of these dimensional variances. The TRC feels that this plan represents the least relief required, will not alter the general character of the surrounding area nor impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Lincoln Point, LLC, 2547 West Main Road, Portsmouth, RI/Cloverleaf III, LLC, 640 George Washington Highway, Lincoln, RI – Special Use Permit for the construction of a Senior Residential Community and medical office building on property located on George Washington Highway, (Route 116), Lincoln, RI.
AP 31, Lots 38 & 40 Zoned: BL5

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Technical Review Committee recommends Approval of this application. Based on a site visit, the Committee feels that the general character of the area has evolved into a mixed-use area made up of light commercial and multi-unit housing developments. The TRC finds that the granting of a special use permit will not alter the general character of the surrounding area of impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

As outlined in the application, the proposed development is for a 195 unit senior residential community. The TRC reviewed the public utilities in the area for their capacity to handle this increase in additional density. Based on a general review and knowledge of the systems in the area, the TRC feels that these systems can adequately accommodate the proposed density. If approved, this project would have to be reviewed as a major land development project by the Planning Board. This review will focus on the capacity on the existing public utilities systems and their ability to accommodate the proposed density. The following are concerns that will be reviewed by the TRC and the Planning Board.

1. Drainage/Environmental – The proposed project must receive a permit from the RIDEM Wetlands program. The drainage discharging to George Washington Highway must be approved by RIDOT.

2. Traffic – The proposed project must receive a physical alteration permit from the RIDOT for the access to Old Louisquisset Pike and the land use alteration for the access to George Washington Highway.

3. Utilities – The proposed project must obtain approval from the Narragansett Bay Commission for sanitary sewer discharge. The developer is responsible for any modifications to the private pump station.

4. Public Water – The Lincoln Water Commission must approve the water service.

5. Fire Suppression – The Albion Fire Department must approve the development's water supply for fire suppression.

Lincoln Point, LLC, 2547 West Main Road, Portsmouth, RI/Cloverleaf III, LLC, 640 George Washington Highway, Lincoln, RI – Dimensional Variance for parking spaces and building height relief for a proposed Senior Residential Community and medical office building on property located on George Washington Highway (Route 116), Lincoln, RI.

AP 31, Lots 38 & 40 Zoned: BL 5

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Technical Review Committee recommends Approval of this application. Based on a site visit, the Committee feels that the subject lot contains several limiting natural features that restrict the placement of buildings and utilities. The Technical Review Committee feels that the applicant presents a realistic site layout that meets the intent of the zoning and would not be detrimental to the surrounding commercial neighborhood. The TRC feels that the dimensional variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, nor the Comprehensive Plan.

Lincoln Park, 1600 Louisquisset Pike, Lincoln, RI – Dimensional Variance to remove existing 20' lighting poles and install new 35' poles.

AP 42, Lot 24 Zoned: CR 2

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The TRC recommends Approval of this application. The Committee finds that the dimensional variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, or the Comprehensive Plan. The TRC feels that the proposed lighting fixtures and associated shields will help control the overall direction of lighting within the complex and will eliminate light spillage into residential areas.

Michael Ricci, 1805 Old Louisquisset Pike, Lincoln, RI – Dimensional Variance for the creation of a second lot.
AP 25, Lot 178 Zoned: RA 40

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Denial of the application for a dimensional variance. The Committee feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance nor the Subdivision Regulation for an additional single family lot. The application does not meet the buildable lot definition; therefore, even with a dimensional variance, the proposed lot will not meet Subdivision Regulations. The Technical Review Committee has concerns about the existing wetlands on the site and how they will impact to the size of the lot.

Lanmar Corporation, 362 Central Avenue, Pawtucket, RI – Dimensional Variance for the construction of a two-story, single family dwelling on a 24'x28' foundation located at the corner of Reservoir and Oakwood Avenue.
AP 16, Lot 177 Zoned: RL 9

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Technical Review Committee recommends Approval of this application. Based on a site visit, the Committee feels that the subject lot is a pre-existing sub-standard lot of record. The Technical Review Committee feels that the applicant presents a realistic site layout that meets the intent of the zoning and would not be detrimental to the surrounding residential neighborhood. The TRC feels that the dimensional variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, nor the Comprehensive Plan.

Mohamed Shaker, 76 Oakdale Avenue, Pawtucket, RI/Sheran Bequir, 149 Lonsdale Main Street, Lincoln, RI – Special Use Permit for the operation of a used car dealership on property located at 1740 Lonsdale Avenue, Lincoln, RI.
AP 5, Lot 40 Zoned: ML 05

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The applicant is

requesting a special use permit for the operation of a used car dealership on property located at 1740 Lonsdale Avenue. This property has three existing auto related businesses operating from this location. The submitted site plans do not accurately show the existing site layout or the proposed site layout. The Zoning Official requested a more detailed site plan but the second site plan submitted still did not have the detail requested. The TRC feels that the application does not present how the applicant will successfully incorporate another business operation onto the site. The Technical Review Committee had a great amount of concern regarding this application. The Committee feels that all commercial applicants should present zoning applications that specifically address public safety above all other standards. Therefore, based on the submitted site plans and application, the TRC recommends Denial of the special use permit. The TRC finds that the applicant does not meet the standards for a special use permit, will alter the general character of the surrounding area and will impair the intent and purpose of the zoning ordinance, and the Comprehensive Plan.

Lawrence & Cheryl Feeney, 1011 Smithfield Avenue, Lincoln, RI – Special Use Permit to provide an accounting practice and financial planning services in property located at 1011 Smithfield Avenue, Lincoln, RI.

AP 6, Lot 385 Zoned: RG 7

Members of the Technical Review Committee visited the site and reviewed the submitted site plan and application. The submitted site

plan adequately addresses zoning requirements such as parking and safety concerns. The Technical Review Committee recommends Approval of this special use permit. The TRC feels that the proposed special use permit will not alter the general character of the surrounding area and will not impair the intent or purpose of the Zoning Ordinance or the Lincoln Comprehensive Plan.

Calyx Homes, LTD, 21 Spring Green Road, Lincoln, RI/Anita Ally, 17 Ada Drive, Chepachet, RI – Dimensional Variance for front yard relief for the construction of a single family home on property located at Pole 425, Twin River Road, Lincoln, RI.
AP 45, Lot 357 Zoned: RA 40

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Technical Review Committee recommends Approval of this application. Based on a site visit, the Committee feels that the subject lot contains several limiting natural features that restrict the placement of a proposed house. The Technical Review Committee feels that the applicant presents a realistic site layout that meets the intent of the zoning and would not be detrimental to the surrounding residential neighborhood. The TRC feels that the dimensional variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, nor the Comprehensive Plan.

Presidential Estates – AP 26 Lot 129 – Maintenance Bond

The Engineering Department calculated the cost of a maintenance bond for the above noted project. See attached memorandum from Kim Wiegand. The TRC reviewed the recommended bond amount and agree with the Town Engineer. Therefore, the TRC recommends Approval of the maintenance bond for the Presidential Estates subdivision.