

LINCOLN PLANNING BOARD

FEBRUARY 25, 2009

APPROVED

The regular meeting of the Planning Board was held on Wednesday, February 25, 2009, at the Lincoln Town Hall, 100 Old River Road, Lincoln, Rhode Island.

Chairman Olean called the meeting to order at 7:01 p.m. The following members were present: Gerald Olean, Michael Reilly, Timothy Griffin, Kenneth Bostic and Wilfred Ordonez. Also in attendance were Town Planner Albert Ranaldi, Town Engineer N. Kim Wiegand and Joelle C. Sylvia for the Town Solicitor. Russell Hervieux kept the minutes.

The following members were absent from this meeting: John Hunt & Greg Mercurio Jr..

Chairman Olean advised that five members were present; have quorum.

CONSENT AGENDA

Chairman Olean reminded members that the consent agenda has eight zoning applications, two recordable decisions and staff reports. A consent agenda is normally voted on in total unless a member

motions to remove an item.

Motion was made by member Bostic to accept the consent agenda as presented was seconded by member Griffin. Motion was approved by all members present.

Agenda Change - Motion was made by member Reilly to amend the Planning Board agenda to have item 8, Secretary's Report, be the next item for consideration and was seconded by member Ordonez. Motion was approved by all members present.

SECRETARY'S REPORT

The Board was given one set of minutes to review. They are for January 28, 2009. The Town Planner Al Ranaldi stated that he has reviewed these minutes.

Motion made by member Reilly to dispense with the reading of the January 28, 2009 minutes was seconded by member Griffin. Motion was approved by all members present.

Motion made by member Bostic to approve the minutes of January 28, 2009 as presented was seconded by member Ordonez. Motion was approved by all members present.

Agenda Change - Motion was made by member Reilly to amend the

Planning Board agenda to have item 5a, Hills of Monticello Subdivision, be the next item for consideration and was seconded by member Griffin. Motion was approved by all members present.

MAJOR SUBDIVISION REVIEW

a. Hills of Monticello Subdivision AP 40 Lots 30 & 31 Preliminary Plan

R.H. Jergensen Construction Co. Albion Road Extension

Mr. Ranaldi stated that this application is for a 14 lot single family residential development. This application received preliminary plan approval on February 27, 2008. This approval runs out on February 27, 2009. The applicant put in a request for an extension before this deadline date. The applicant could not make tonight's meeting but did submit a letter requesting a one year preliminary plan extension. The letter explains the national economic situation as the main cause for the extension. This extension would bring preliminary plan approval until February 27, 2010 if approved. The TRC reviewed this request and recommends approval.

Motion made by member Bostic to accept the TRC recommendation for a one year preliminary plan approval extension was seconded by member Reilly. Motion was approved by all members present.

COMPREHENSIVE PERMIT

a. The Residences at Stone Creek AP 20 Lot 15 Public Hearing – 7:15 PM

Break Hill Development, Inc. Breakneck Hill Rd. Preliminary Plan Discussion/Approval

Chairman Olean called the Public Hearing to order at 7:15 pm. Roll call of the abutters list was read by the recording secretary. There were two responses to the reading of the abutters list. Chairman Olean called for any other abutters in the audience whose name was not read to be recognized. One response was given but the person did not believe they were an abutter.

Mr. Ranaldi stated that this application is under the 2005 subdivision regulations and under RIGL 45-53. The Board has until May 20, 2009 to make a decision on this application. This application represents a 70 unit condominium project comprised of duplexes and triplexes. The entire project, from Breakneck Hill Road in, will be owned privately. There are a couple of key issues with this project. The first is the upgrade of the East Butterfly pumping station. The applicant has agreed to replace this sewer pump station with a new pump station which will handle the increase in flow. This pump station replacement would have to be completed before the main project can be started. The other issue was the integration of the affordable units within this project. The applicant has provided a color rendition of how they plan to accomplish this. The affordable units also had to

resemble in architectural style. The Board agreed with their architectural renderings at the last meeting. The units are relatively similar to each other and are integrated throughout the project. The applicant has received an approval from the Lime Rock Fire Department. There will be sidewalks and cape cod style curbing included in this project.

John DiBona, attorney for the applicant, made a brief presentation to the Board. Mr. DiBona stated that this Board gave master plan approval to this project on September 24, 2008 with seven conditions.

Three of the seven conditions relate to document preparation. The documents being a maintenance agreement for storm water facilities, a maintenance agreement for the sanitary sewer system and deed restrictions. The applicant has discussed these with the Town Solicitor and is working with that office to complete the documents before final plan approval. An easement will be prepared for maintenance of drainage facilities by the Town in the case of an emergency. Another condition was to receive a permit from RIDEM. The applicant received a letter from RIDEM stating that this project will not be considered an insignificant alteration to wetlands. Therefore, our engineer will meet with RIDEM to go over their concerns and make modifications to the plan to make this project be an insignificant alteration to wetlands. Traffic issues were addressed at master plan level. Our traffic engineer determined at that point that this project would not adversely impact traffic in the area. The traffic engineer also determined that this project would not have an impact

on the proposed changes to the YMCA or vice versa.

Brian P. Thallman, engineer for the applicant made a brief presentation to the Board. Mr. Thallman stated that all regulatory applications have been submitted to the appropriate agencies. We have received some feedback from those applications as with RIDEM.

Mr. Thallman stated that he will be meeting with RIDEM to resolve any of their issues. Mr. Thallman also stated he has met with the Lime Rock Fire Chief and received an approval with one modification.

This modification is to add a fire hydrant within the limits of this project.

Member Bostic questioned the difference between the 18 affordable units and the 52 market rate units. Member Bostic had concerns about the square footage difference between the units. He believes that half of the affordable units should be with the smaller units and the other half should be with the full size units. That is not the way the plan is presented. Mr. Thallman explained that the six triplex buildings will be the affordable units which are the smaller square footage units but they are architecturally similar to the market rate units. Ms. Sylvia reviewed the finding of fact in the State law which applies to this issue. Ms. Sylvia stated that all low and moderate income housing units are integrated throughout the development, are compatible in size and architectural style and will be built and occupied prior to or simultaneous with the market rate units. Mr. DiBona stated that this plan has been submitted and approved by

Rhode Island Housing. Member Bostic still believes that the 18 affordable units should be made up of 9 smaller units and 9 full size units. This would make the affordable compatible in size as per the law. Mr. DiBona further stated that the applicant is requesting that the 18 affordable units remain the smaller units as presented. Member Reilly believes the law to mean when you drive by an affordable unit you would not be able to distinguish it from the market rate on the outside.

Chairman Olean asked Mr. DiBona to explain the content of the letter from Rhode Island Housing to the public. Mr. DiBona explained that the letter generally approves the project with a total of 70 units 18 of which are affordable. Ms. Sylvia explained that the process for getting this letter of eligibility is to submit an application which requests who owns the project and the general nature of the project. Rhode Island Housing would issue the letter stating how much you could sell the affordable units for. Rhode Island Housing does not actually approve the project. That is up to the local jurisdiction.

Kenneth Boch, owner of Break Hill Development, Inc. made a brief presentation to the Board. Mr. Boch stated that he submitted a concept layout of the entire development to Rhode Island Housing. Architectural plans of the units were also submitted. The size of the units was determined by the price they could sell them for. That is how the affordable units ended up smaller in size than the market rate units. The affordable units can not sell for more than \$199,000. It

would be impossible to sell the full size units at that price. Member Bostic still believes that half of the affordable should be the smaller units and the other half should be the full size units.

Chairman Olean opened the meeting to public comments at this time. There were three members of the public who came up to speak.

Karen Martin, 39 Breakneck Hill Road spoke to the Board. Ms. Martin stated that she is very concerned about drainage. Her property abuts this development. Ms. Martin is concerned about the detention ponds along the property line that dump into the adjacent wetlands and the implications of flooding on her property. Ms. Martin questioned that if flooding does occur after this development goes in whom does she contact? Brian Thallman answered that this project is using a “wet pond” type basin to mitigate drainage on this project. State law prohibits this developer from increasing the runoff rate or volume going into this wetland complex. Therefore any flooding that occurs now will not increase because of this development. The design of this project may actually reduce the flooding that occurs today. Ms. Martin disagreed with that statement. Ms. Martin was still concerned about her recourse if flooding becomes worse after this development.

Mr. Thallman stated that the condominium association would be responsible for maintaining these drainage structures. The Town would have an easement in place to come in and repair drainage facilities if the condominium association fails to maintain. Ms. Sylvia made a clarification that the Town would only come in to do

maintenance on an emergency basis.

Ida McDermott, 47 Breakneck Hill Road spoke to the Board. Ms. McDermott stated that she is concerned about traffic on Breakneck Hill Road. The traffic travels at greater speeds than what is posted. Ms. McDermott also expressed concerns about blasting that would be required on this project. Mr. Thallman responded that the amount of blasting required has not been quantified at this time. Mr. Thallman further stated that all blasting required will follow all regulations as set forth by the State Fire Marshall's office. Member Reilly asked Mr. Thallman to explain how a pre-blast survey would benefit the abutters. Mr. Thallman responded that if the Town sees fit, the developer would perform a survey of all necessary properties prior to any blasting and after to guard against any damage to these properties. Ms. McDermott expressed a concern that as many trees as possible remain on the site. Mr. Thallman responded that many trees would have to be removed because of the design of these drainage structures.

Mike Conway, 35 Breakneck Hill Road spoke to the Board. Mr. Conway had a question about the zoning of this area and in particular this parcel. Mr. Conway believed that this area was zoned for single family homes when he purchased his home. Chairman Olean explained that this project is properly before this Board even in the RS-20 zone. Mr. Conway questioned whether someone from the Town could answer why this project is good for the Town. Chairman

Olean explained the State mandates for affordable housing and this project helps the Town in that regard. Mr. Conway disagreed stating that this project adds very little to the Town's goal of affordable housing at the expense of a scenic roadway. Mr. Conway questioned whether other Boards and Commissions in the Town and State were notified of this project. Ms. Sylvia stated that there are no Boards required to be notified. Mr. Conway disagreed with that statement citing section 16 of the Town Subdivision Regulations. Ms. Sylvia further explained that all pertinent Town Officials were notified of this project. Mr. Conway questioned as to whether a mosquito abatement program will be in place for these drainage structures. Mr. Thallman stated that this would be part of the permitting process through RIDEM. Mr. Conway ended his comments strongly opposing this project.

Motion was made by member Bostic to close the Public Hearing at 7:54 pm was seconded by member Reilly. Motion was approved by all members present.

Al Ranaldi responded to some comments that arose during the public hearing. Mr. Ranaldi stated that the scenic views along this section of Breakneck Hill Road are looking east toward Great Road. This fact was taken into effect when reviewing this project. This project has no impact on the scenic quality along that section of roadway. There will also be buffering between Breakneck Hill Road and where this project begins. The Town affordable housing plan

allows for comprehensive permit applications like this one if they fit into the area where they are proposed. The Town has previously determined that this site is good for a comprehensive permit application because of the several natural buffering areas immediately around it. Mr. Ranaldi elaborated on the benefits of this project to the Town such as upgrade to sewer pump station, 55 and over community, private community and very little services required by the Town.

Motion was made by member Griffin to accept the TRC recommendation to move this application to the March meeting was seconded by member Reilly. Motion was approved by all members present.

MAJOR SUBDIVISION REVIEW

b. Stone Way Subdivision AP 23 Lot 91 Master Plan

Crescent Properties, Inc. Dexter Rock Road Discussion/Approval

Mr. Ranaldi stated that this application is under the 2005 subdivision regulations. This property is located in a RA-40 zone which is 40,000 square feet residential single family. The applicant is proposing a 375' long cul-de-sac road with public sewer and water. However, plans did not arrive in time for the TRC to review for this Planning Board meeting. The Board has until June 25, 2009 to make a decision. The TRC has not offered a recommendation at this point.

Chairman Olean advised the applicant through their attorney that this Board does not want a presentation without a report from the TRC. He explained that it is unfair to the Board to hear an application without the report of the TRC.

John Shekarchi, attorney for the applicant explained the circumstances to the Board. Mr. Shekarchi explained that he was retained after the application process had started. The applicant is requesting guidance from the Board almost like a big “TRC” on this current plan. Chairman Olean explained that this Board is not in the position of being the TRC and does not look at unique situations. The applicant must follow the prescribed procedure in accordance with the Town regulations. Mr. Shekarchi asked if the Board would feel more comfortable if his client asked for a continuance to confer with the TRC. Member Reilly explained that would be in the best interest of all involved especially the applicant.

Motion was made by member Griffin to refer this application back to the TRC was seconded by member Bostic. Motion was approved by all members present.

**c. Truesdale/Archambault Subdivision AP 23 Lots 202, 199 & 2
Master Plan**

Robert & Marcia Truesdale Great Road Discussion/Approval

Mr. Ranaldi stated that this application is under the 2005 subdivision regulations. This application is actually an administrative subdivision between three existing residential lots except for zoning variances that are required. These lots are split zoned between RS-20 and RA-40. The zoning relief required is caused by the subdivision the applicant is requesting. The fact that zoning relief is required it brings this administrative subdivision up to a major subdivision. The applicant is requesting master plan approval of this proposal. This applicant received a certificate of completeness on February 18, 2009.

The Board has until June 19, 2009 to make a decision. The TRC and the Town Engineering Division reviewed this application. The TRC had concerns about the zoning relief needed. The applicant is proposing to move two lot lines. One lot line is to relieve an encroachment of an existing driveway that crosses over the existing lot line. The other lot line was an attempt to compensate that person for getting more property. Basically a land swap. That lot line movement, for lot 202, causes two zoning variances. The TRC felt that if you do not move the second lot line then zoning relief will not be required. Without the zoning variances this subdivision would revert back to an administrative subdivision which is what the TRC recommends.

John Shekarchi, attorney for the applicant made a presentation to the Board. Mr. Shekarchi stated that he is representing both applicants on this application. The applicant is seeking master plan approval so they can move on to the Zoning Board to seek the dimensional relief

required. Both applicants are good friends and neighbors and wish to rectify an existing encroachment by the driveway. Edward Pimentel will make a presentation to show that the applicant sees this differently than the TRC.

Edward Pimentel, certified planner made a presentation to the Board. Mr. Pimentel stated that this is a unique situation in that you are dealing with basically a family compound. Mr. Pimentel showed the Board, on the plans, where the land exchange is to occur and what applicants own which lots. One of the properties requiring the variance is planned to be refurbished. The driveway of the middle property encroaches onto the back corner of the left lot. The applicants are trying to cure that encroachment which is the cause for the first lot line movement. In turn the neighbor wanted to give some land in exchange for the land given to cure the encroachment. The second lot line movement is to give that piece of land as well as move the rear lot line further back from the existing barn. The barn as well as a tree along side of it has historical significance in this family. The applicants would like to preserve this barn and tree. The applicant is considering an addition to the barn to the rear and the movement of this second lot line would cure a rear yard setback for that. Mr. Pimentel believes this plan is the best plan to achieve the applicant's goals with the least variances. Mr. Shekarchi added that utilities run up the driveway. Member Reilly stated that he attended the TRC meeting and feels the proposal the TRC discussed is the better plan. Chairman Olean agreed with member Reilly in that the

Board does not want to create zoning issues. Movement of the first lot line will cure the encroachment without the need for zoning. Movement of the second lot line does create zoning issues. Mr. Pimentel further stated that the applicant worked with the surveyor to come up with plan and again believes this is the best plan.

Marcia Truesdale, applicant and owner of record lot #1 on the plan made a brief presentation to the Board. Ms. Truesdale stated she is also the trustee of lot #3 on the plan. The property shown as record lot #2 was previously owned by her brother. The Archambault family now owns that lot. Ms. Truesdale did not realize that the driveway crossed the lot line until after the sale. Ms. Truesdale has no issue with conveying that piece of lot #1 to lot #2 to clear up the driveway issue. However, lot #3 is listed as Rhodes Family Trust which Ms. Truesdale is the trustee. That lot is the parcel of issue with the zoning variances. Ms. Truesdale met with the surveyor to come up with a plan to achieve this land swap with the least amount of jogs in the lines. The intention is to enlarge the existing barn on lot #3. The plan submitted tonight helps reduce the amount of jogs in lot #2. Ms. Truesdale presented pictures to the Board to review. The plan currently shown will eliminate the rear yard setback encroachment on the existing barn. Ms. Truesdale believes the plan presented makes lot #2 less irregular and lot #3 very minimally irregular. Ms. Truesdale testified that she has approached all her neighbors and none of them opposed this plan.

Motion was made by member Ordonez to move this application to a Public Informational meeting was seconded by member Reilly. Motion was approved by all members present.

Motion was made by member Griffin to adjourn which was seconded by member Reilly at 8:45 pm. Motion was approved by all members present.

Respectfully submitted,

Russell Hervieux