

LINCOLN PLANNING BOARD

JULY 27, 2011

APPROVED

The regular meeting of the Planning Board was held on Wednesday, July 27, 2011, at the Lincoln Town Hall, 100 Old River Road, Lincoln, Rhode Island.

Chairman Olean called the meeting to order at 7:00 p.m. The following members were present: Gerald Olean, Kenneth Bostic, Timothy Griffin, John Hunt and Jeffrey Delgrande. Also in attendance were Town Planner Al Ranaldi, Town Solicitor Anthony DeSisto and John Simone for the Town Solicitor. Russell Hervieux kept the minutes.

The following member was absent from this meeting: Michael Reilly. Member Reilly called the Chairman and was excused.

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

CONSENT AGENDA

Chairman Olean reminded members that the consent agenda has (4) zoning applications, one decision 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.

MAJOR SUBDIVISION REVIEW

a. Poirier Subdivision AP 36 Lot 75 Master Plan

Ms. Jeanne Poirier Old Main Street Manville Discussion/Approval

Member Bostic had to step out of the meeting prior to this presentation and did not return.

Mr. Ranaldi stated that this application is under the 2005 subdivision regulations. The application received a certificate of completeness on July 20, 2011 and the Board has until November 17, 2011 to make a decision. This application was moved from a minor subdivision to a major subdivision because the existing house and garage require dimensional variances. The application represents one lot subdivided into two lots with zoning relief required on the existing buildings. The subdivision does not cause the dimensional relief needed. The existing lot would have 9,082 square feet and the new lot would have 8,500 square feet. The new lot meets all zoning requirements. The utilities are in the road and accessible. The TRC agrees that combining review stages for this application is

acceptable. The TRC recommends conditional master plan approval for this application. The TRC also recommends combining master plan review stages and voting on master plan at tonight's meeting. The applicant will have to come back for preliminary plan review if granted dimensional relief by the Zoning Board.

Motion made by member Hunt approve master plan approval with conditions listed in the TRC report and make note that the applicant go before the Zoning Board for the necessary dimensional relief. The motion was seconded by member Griffin. Motion was approved by all members present.

MAJOR LAND DEVELOPMENT REVIEW

a. 90 Industrial Circle AP 2 Lot 82 Master Plan

A.F. Homes, LLC Walker Street & Industrial Circle Extension

Mr. Ranaldi stated that this applicant is before the Board for a master plan extension of a major land development project. The project is proposing 48 residential units in an existing mill building. The TRC report includes the history of this project. The application received master plan approval by this Board on April 25, 2007. The last extension was a mediated agreement between the applicant and the Town through the court. The agreement was reviewed by the

Planning Board and an extension was granted until August 25, 2011. The applicant has written to the Board and is requesting a two year extension based on the tolling law. However, after reviewing the litigation and the mediated agreement, the TRC recommends a one year extension until August 25, 2012.

Tom Carter, attorney for the applicant, made a presentation to the Board. Mr. Carter stated that the applicant is now requesting a one year extension of A.F. Homes master plan approval. The application is currently vested until August 25, 2011. The applicant had hoped to meet the conditions of master plan approval including the removal of a land use restriction in a timely fashion. However, factors outside of A.F. Homes powers slowed that process so the applicant is here before the Board tonight. At the time of approval and extension A.F. Homes was the holder of a purchase and sales agreement on the subject property. The owner of the property went into receivership and the property went to foreclosure. A.F. Homes was not able to work on the conditions of master plan approval until they were able to acquire the property out of foreclosure. A.F. Homes now owns the property and is requesting an extension to continue to work on this project. The applicant has reviewed the TRC recommendations and has no problem with a one year extension. The applicant will withdraw the original request of a two year extension in lieu of a request of a one year extension.

Anthony DeSisto, Town Solicitor, advised the Board that the Town

was successful at an appeal in Superior Court and the mediated agreement came when the case went to Supreme Court. The mediated agreement allowed for the vesting period to extend for one year until August 25, 2011. This extension and vesting period would not be subject to the current tolling law for approvals. The Board has the ability to extend the vesting period for one year or deny the request. This decision is at the Board's discretion. The Chairman expressed a concern about making a decision with proper procedures and felt that the Board should continue this request to next month for more review.

Joelle Sylvia, attorney for the applicant, suggested that her office could present the Board with a copy of the consent order that was entered in Supreme Court. Ms. Sylvia believes that there was no time frame in the consent order. The time frame of one year until August 25, 2011 was set when the case was remanded back to this Board.

Motion was made by member Hunt to continue this application to next month's agenda was seconded by member Delgrande. The motion was approved by all members present.

Motion made by member Reilly to adjourn at was seconded at 7:42 pm by member Griffin. Motion was approved by all members

present.

Respectfully submitted,

Russell Hervieux

Technical Review Committee Report

July 22, 2011

Town of Lincoln – Planning Board

100 Old River Road

Lincoln, RI 02865

Dear Honorable Members,

On July 20, 2011 at 3:00 pm, the Technical Review Committee met to review the agenda items for the July 27, 2011 meeting of the Planning Board. In attendance were Al Ranaldi, John Faile, Laszlo Siegmund, Russell Hervieux, and Peggy Weigner. Below are the Committee's

recommendations.

Major Subdivision Review

- a. Poirier Subdivision AP 36 Lot 75 Master Plan Discussion /
- Ms. Jeanne Poirier Old Main Street Manville Approval**

This application is under the 2005 Subdivision Regulations and represents the subdivision of one lot into two residential lots. All lots are accessed from an existing road. The proposed project is classified as a Major Subdivision due to the need for zoning relief for the existing house and garage. On July 20, 2011, the Master Plan submittal received a Certificate of Completeness. According to our Subdivision Regulations, the Planning Board shall, within one hundred twenty (120) days of certification of completeness, or within such further time as may be consented to by the applicant, approve the master plan as submitted, approve with changes and/or conditions, or deny the applicant, according to the requirements of Section 8. Therefore, a decision on the master plan review must be made by November 17, 2011, or within such further time as may be consented to by the applicant.

The Technical Review Committee has reviewed the above proposed development according to the Land Development and Subdivision Regulations master plan submission requirements. The submission includes a plan entitled, "Preliminary / Final Minor Subdivision – Old Main Street, AP36 Lot 75, Old Main Street, Lincoln, Rhode Island, June 23, 2011. Below are the TRC comments.

Site Plan

The applicant proposes to subdivide 8,500 square feet from the existing main lot. This subdivision will create a new vacant lot that will meet the lot size requirements for a two family house which is a permitted use in the existing zoning district. The main lot will be reduced from 17,582 square feet to 9,082 square feet. This smaller lot will meets the zoning requirements for the existing two family-house. However, this existing house and its associated garage do not meet the Town's existing set back dimensions.

The existing house and garage were built before the adoption of our current zoning regulations. The house and garage represent pre-existing nonconforming structures. Several dimensional variances will be required to bring the property into conformance once it is subdivided. The dimensional variances are not being created by the proposed subdivision. The nonconformance currently exists on the property.

Per the Town ordinance, a sedimentation and erosion control plan must be submitted and approved before any construction or earth disturbance is performed on the new proposed house lots. This plan will be required at the building permit stage. There is no apparent proposed disturbance of any wetlands shown on the plans. This should be noted on the plan. The TRC recommends that Drywells be installed on the proposed new house. The type and precise location of the drywells will be required at the building permit application phase.

Utilities

The existing house and the proposed lot have access to public water and sewer. The applicant must obtain a permit from Narragansett Bay Commission for new sewer discharge. Narragansett Bay Commission permits are required at the building permit application phase.

Record plan

Granite bounds marking the location of the new property corners must be shown on the plan. The TRC recommend that the installation of granite bounds be a condition of preliminary plan approval.

Zoning

The proposed project is dependent upon successfully obtaining several dimensional variances. This proposal is scheduled to be heard at the September Zoning Board meeting. A successful outcome is required before this application can move to the preliminary plan stage.

Based on the subdivision regulations, this application would require two more review meetings at the master plan stage. The TRC recognizes that the proposed subdivision design cannot change between review stages and that if the existing house and garage did not exist or met the current zoning setbacks, this application would be classified as a minor subdivision. A minor subdivision plan would require one preliminary plan review meeting and possibly a final plan

review. According to the subdivision regulations, the Planning Board has the ability to combine review stages.

Based on the Master Plan submission, the Technical Review Committee recommends that the master plan review stages be combined to one meeting and allow the applicant to proceed to the Zoning Board in September. In order to proceed forward, the master plan application requires conditional approval. Therefore, barring any unforeseen concerns, the TRC recommends Approval with Conditions of this Master Plan. The following are the conditions of Master Plan approval.

- 1. The title of the plan shall be changed to Major Subdivision – Master/Preliminary Plan Subdivision.**
- 2. A note shall be placed on the plan stating that “No RIDEM wetlands exist on the subject property”.**
- 3. A note shall be placed on the plan stating that “A Narragansett Bay Commission permit for new sewer discharge from the new house will be required at the building permit application phase”.**
- 4. A note shall be placed on the plan stating that, “A sedimentation and erosion control plan must be submitted and approved before any construction or earth disturbance is performed on the new proposed house lot. This plan will be required at the building permit application phase”.**
- 5. A note shall be placed on the plan stating that, “Drywells shall be installed on the proposed house. The type and precise location of the drywells will be required at the building permit application phase”.**

6. Granite bounds must be installed marking the location of the subdivision corners. This requirement shall be a condition of preliminary plan approval.

Major Land Development Review

**a. 90 Industrial Circle AP 2 Lot 82 Master Plan Extension
- A.F. Homes, LLC Walker Street & Industrial Circle**

This land development project is for the construction of forty-eight (48) residential units in an existing 41,480 square foot mill building. This project received Master Plan approval with conditions on April 25, 2007. Several master plan extensions have been granted. On July 5, 2008, the General Assembly amended the vesting period set forth in R.I. Gen. Laws §45-23-40. The Town and the applicant disagreed with the vesting period of this particular project. Ultimately, this dispute was stated during a mediation session held according to the procedures of the Rhode Island Supreme Court.

Based on this mediated agreement, the applicant appeared before the Planning Board on August 25, 2010 and was granted a reinstatement of their project as a vested Master Plan with conditions. The Planning Board also granted a one year extension of the project to August 25, 2011. A copy of the Planning Board's decision is enclosed.

The applicant submitted a letter to the Administrative Officer on July 5, 2011 requesting an extension to the recently amended R.I. Gen. Laws §45-23-40 vesting period of July 2013. The letter explained that

the applicant has been actively pursuing his rights to purchase the property. Unfortunately, the property fell into foreclosure. The applicant was precluded from taking any action on behalf of the property including negotiating with RIDEM to resolve their concerns about the site and meet one of the conditions of approval. The letter goes on to state that the applicant is now in a position to rightfully proceed forward with the project.

The Technical Review Committee took the applicant's request into consideration. The TRC also took into consideration the outcome of past litigation and the mediated agreement. Therefore, based on the spirit of the mediated agreement, the outcome of past litigation, and the issues presented in the letter dated July 5, 2011, the Technical Review Committee recommends that the master plan approval for this project be extended for one additional year to August 25, 2012.

b. Reservoir Avenue Apartments AP 6 Lot 374 Master Plan Discussion /

- Joseph Kishfy Reservoir Avenue Approval

This application is under the 2005 Subdivision Regulations and represents the land development of two 6-unit apartment buildings and associated parking areas on one lot. The proposed land development project requires a Special Use permit for three or more dwelling units on a lot. On July 20, 2011, the Master Plan submittal received a Certificate of Completeness. According to our Subdivision Regulations, the Planning Board shall, within one hundred twenty

(120) days of certification of completeness, or within such further time as may be consented to by the applicant, approve the master plan as submitted, approve with changes and/or conditions, or deny the applicant, according to the requirements of Section 8. Therefore, a decision on the master plan review must be made by November 17, 2011, or within such further time as may be consented to by the applicant.

The Technical Review Committee and the Engineering Division reviewed the above proposed land development project according to the 2005 Land Development and Subdivision Regulations master land development plan submission standards and requirements and standard engineering practices. The submission includes a plan entitled “Proposed Site Layout Plan – 141 Reservoir Avenue - AP 6 Lot 374, 351 and 428 - Lincoln, Rhode Island”, prepared for Joseph Kishfy, 1 Morning Star Court, Lincoln, Rhode Island by FCI Engineering Group, LLC, Pawtucket, Rhode Island, dated October 26, 2010 and revised through March 14, 2011. Also included within the submittal was a letter of “Insignificant Alteration – Permit” from the Rhode Island Department of Environmental Management dated April 7, 2011 for property located on Assessor’s Plat 6, Lots 351, 374, and 428, Lincoln, Rhode Island. Also submitted was a letter of “Water Availability – Proposed 6 Unit Residential Apartments, Lincoln Plat Map 6, Lot 374 (new lot merger)” from the Pawtucket Water Supply Board, 85 Branch Street, Pawtucket, RI 02860. Below are the Technical Review Committee’s comments.

Site Plan

The proposed site layout represents the razing of an existing commercial building and associated parking areas and the development of two, 6-unit apartment buildings and associated parking areas and play area. The applicant proposed to capture and treat stormwater run-off in a system of four underground infiltration units. Any excavation in the Town's right-of-way (Reservoir Avenue) will require a Road Excavation permit.

Wetlands/Drainage

Spectacle Pond is within very close proximity of the proposed work. A permit or determination from RIDEM Wetlands Section is required for land development approval. In a letter from the Rhode Island Department of Environmental Management dated April 7, 2011, a permit of insignificant alteration was determined and a permit was issued for the proposed land development. Per the Town ordinance as well as RIDEM regulations, a sedimentation and erosion control plan must be submitted and approved before any construction or earth disturbance is performed on site. A note should be placed on the plan stating, "A sedimentation and erosion control plan must be submitted and approved before any construction or earth disturbance is performed on the new proposed lot. This plan will be required at the building permit application phase".

The Town requires that the owner install dry wells on the two proposed buildings to capture the roof runoff. A note should be placed on the plan stating, "Drywells shall be installed on the

proposed buildings. The type and precise location of the drywells will be required at the building permit application phase". The notes placed on the plans will be required as a condition of Master Plan approval.

Utilities

The new building is proposed to be connected to public water and sewer. The owner must determine if the sewer line is owned by the Town of Lincoln or the City of Pawtucket. Based on projects along this road, the TRC believes that the sewer is owned by the City of Pawtucket. Approval for a connection to the existing sewer system is required as a condition of the Master Plan approval. The applicant must obtain a road opening permit before construction from the Town of Lincoln if the proposed sewer service connection is a new, separate connection. The applicant must obtain a permit from Narragansett Bay Commission for the sewer flows. The applicant must obtain approval to be connected to public water for the proposed new building. The Lincoln Water Commissioner stated at the TRC meeting that one of the existing water lines in the roadway is owned by the Lincoln Water Commission (LWC). However, the Water Commissioner stated that the existing 1 1/2" service line may have to be upgraded to accommodate the additional units. Another option is to connect to the City of Pawtucket's public water line.

The applicant applied for and received permission to connect to this water line. The applicant submitted a letter to the Town from the Pawtucket Water Supply Board dated July 22, 2011. The TRC would

like the applicant to ask the LWC if they have any objection to this proposal. Therefore, as a condition of Master Plan approval, the applicant must supply a letter from the LWC stating that they have no objection to this proposal. The City of Pawtucket is also requesting a letter from the LWC that they choose not to service the proposed project and that they do not object to the proposed connection. Excavation to connect to the public utilities in the Town's right-of-way (Reservoir Avenue) will require a Road Excavation permit.

Zoning Approval

This project requires a Special Use permit for the development of two 6-unit apartment buildings within this zone. This zoning applicant is scheduled to be heard by the Zoning Board during its August 2, 2011 meeting. The TRC recommends that as a condition of approval for the Special Use permit and the Major Land Development that a minimum of 25% of the units be designed as affordable according to the requirements and standard of Rhode Island Housing. This recommendation is also stated below in the TRC recommendation on the Zoning applicants.

Based on the Master Plan submission and the TRC review, the Technical Review Committee feels that the applicant can easily address the above noted concerns. It was also noted that this project is scheduled for the upcoming August Zoning Board meeting. In order for the project to proceed to this meeting it would require conditional Master Plan approval. The subdivision regulations

outline two more review meetings at the master plan stage. However, according to the subdivision regulations, the Planning Board has the ability to combine review stages.

Based on the Master Plan submission and the relatively minor concerns brought out at the TRC meeting, the Technical Review Committee recommends that the master plan review stages be combined to one meeting and allow the applicant to proceed to the Zoning Board in August. Therefore, barring any unforeseen concerns, the TRC recommends Approval with Conditions of this Master Plan. The following are the conditions of Master Plan approval.

- 1. A note should be placed on the plan stating, “A sedimentation and erosion control plan must be submitted and approved before any construction or earth disturbance is performed on the new proposed lot. This plan will be required at the building permit application phase”.**
- 2. A note should be placed on the plan stating, “Drywells shall be installed on the proposed buildings. The type and precise location of the drywells will be required at the building permit application phase”.**
- 3. Approval for a connection to the existing sewer system is required.**
- 4. The applicant must supply a letter from the LWC stating that they have no objection to the buildings being serviced by the Pawtucket Water Supply Board.**

Zoning Applications (*) – August's Zoning Applications

Gloria E. Cavanaugh, 33 Southwick Drive, Lincoln, Rhode Island - Application for Use Variance to store a commercial vehicle over 10,000 lbs on a residential property located at 2 Draper Road, Lincoln, RI

AP 45, Lot 121 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 use variance to store a commercial vehicle over 10,000 lbs on a residential property located at 2 Draper Road, Lincoln. The Technical Review Committee feels that the application does not meet any of the standards for relief of a use variance as presented in the Zoning Ordinance. More specifically, the Technical Review Committee feels that the site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land. The Technical Review Committee feels that the use variance will alter the general character of the surrounding area and is not consistent with the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Majestic Motors, Inc., P.O. Box 230, West Warwick, Rhode Island – Application for Special Use Permit seeking relief for a new accessory

sign for property located at 1300 Eddie Dowling Highway, Lincoln, Rhode Island.

AP 40, Lots 11, 12 and 29 Zoned: BL 05 and RS 20

Members of the Technical Review Committee reviewed the submitted plans and application. The proposed application for special use permit seeks relief for a new accessory sign for the property located at 1300 Eddie Dowling Highway, Lincoln, Rhode Island. The Technical Review Committee recommends Approval of this application. The TRC finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Majestic Motors, Inc., P.O. Box 230, West Warwick, Rhode Island – Application for Dimensional Variance seeking front setback relief from residential district boundary for a new accessory sign for property located at 1300 Eddie Dowling Highway, Lincoln, Rhode Island.

AP 40, Lots 11, 12 and 29 Zoned: BL 05 and RS 20

Members of the Technical Review Committee reviewed the submitted plans and application. The proposed dimensional variance seeks front setback relief from a residential district boundary for a new accessory sign for property located at 1300 Eddie Dowling Highway, Lincoln, Rhode Island. The Technical Review Committee

recommends Approval of this application. The TRC finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Joseph Kishfy, 1 Morning Star Court, Lincoln, Rhode Island – Application for Special Use Permit for construction of two 6-unit residential buildings, 4 of which will be affordable housing, on property located at 131 Reservoir Avenue, Lincoln. Rhode Island.

AP 6, Lot 374 Zoned: RG 7

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Approval with conditions of the Special Use Permit for the construction of two 6-unit residential buildings on property located at 131 Reservoir Avenue, Lincoln. Rhode Island. The property has recently been rezoned to RG-7 which allows for multi-family housing complexes. The site plan and application specifically details the proposed location of the proposed buildings and their associated parking areas. A similar multi-family complex, which is owned by the applicant, is located directly adjacent to this parcel of land. The TRC feels that the proposed complex will compliment the adjacent complex. The applicant presents a realistic and thoughtful site layout that meets the intent of the zoning and would not be detrimental to the surrounding neighborhood. The condition of the approval is that the proposed multi-family complex

has 25% of its units designated as affordable housing according to the requirements of Rhode Island Housing.

Correspondence/Miscellaneous

a. Staff Reports

b. 141 Reservoir Avenue AP 6 Lots 374, 351, 428 Administrative Subdivision Plan

Recorded

This represents final plan approval of an administrative subdivision of three lots into one residential lot. The applicant successfully met all of the Subdivision regulations.

Respectfully submitted,

Albert V. Ranaldi, Jr. AICP

Albert V. Ranaldi, Jr. AICP

Administrative Officer to the Planning Board