

LINCOLN PLANNING BOARD

NOVEMBER 16, 2011

APPROVED

The regular meeting of the Planning Board was held on Wednesday, November 16, 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, John Hunt, Michael Reilly, Kenneth Bostic, Timothy Griffin and Jeffrey Delgrande. Also in attendance were Town Planner Al Ranaldi, Town Solicitor Anthony DeSisto and Town Engineer Laszlo Siegmund. Russell Hervieux kept the minutes.

The following member was absent from this meeting: William Murphy. Member Murphy contacted the Chairman and was excused.

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

CONSENT AGENDA

Chairman Olean reminded members that the consent agenda has two zoning applications and staff reports. A consent agenda is normally voted on in total unless a member motions to remove an item.

Motion made by member Reilly to remove zoning application Rosemary Flynn of 17 Avenue F from the consent agenda.

Motion was made by member Griffin to accept the consent agenda with the Rosemary Flynn zoning application removed was seconded by member Reilly. Motion was approved by all members present.

MAJOR SUBDIVISION REVIEW

a. Kirkbrae Ledges Subdivision-Phase 11 AP 32 Lot 45 Preliminary Plan

**Kirkbrae Ledges, LLC Lancers Lane & Discussion/Approval
Hemlock Road**

Mr. Ranaldi stated that this application is for a major subdivision under the 2005 subdivision regulations. The Board has until December 8, 2011 to make a decision on preliminary plan. A public hearing was held at last month's meeting. There were many public here to express their opinions. The TRC report focuses on the list of conditions requested and the waivers sought by the applicant. The RIDEM consent agreement would have the Town approve final plan then the wetlands permit would be issued. The Board needs to consider this method of approval since it is not the way this Board normally approves subdivisions. The TRC is comfortable with this method but feels the Board should feel comfortable also. The TRC

came up with a couple more conditions of approval based on the public hearing comments. The first additional condition is that the developer must perform a pre and post blast survey for all homes within 250 feet of the blast bore hole. The second additional condition is that all abutters within 200 feet of the original lot get a notification at least 10 days prior to blasting activities. Another condition to be added per discussions at the public hearing is to have a third party engineer to supervise the construction of the detention basin. Therefore, the TRC recommends preliminary plan approval with 9 conditions, as listed in the TRC report. The TRC also recommends that the applicant return before the Board for final plan approval which would include the bonding amounts.

Joelle Sylvia, attorney for the applicant, made a presentation to the Board. Ms. Sylvia stated that the applicant does not have an objection to the new conditions that were a result of the public hearing. A stamped property survey has been submitted to the Town per this Board's request. The management plan for the conservation easement has been supplied to the Town also. The consent agreement with RIDEM is almost the same as having the actual wetlands permit in hand. The consent agreement is signed by both parties and is binding on both parties. RIDEM is aware that the Town does not want to own the conservation easement land. The applicant and RIDEM will be working to find a suitable owner for that land. The consent agreement will be revised after preliminary plan approval is granted and supplied to the Town before final plan approval. The

applicant agrees that no work will be done on site until the consent agreement is finalized and recorded. Chairman Olean asked if the applicant knew what is involved with a pre and post blast survey. Ms. Sylvia responded that she did not have knowledge of what is involved. The blast contractor would know that information. Chairman Olean wanted to know if there is a standard in the industry. Ms. Sylvia replied she contacted the State and did not understand what is involved in the surveys. Ms. Sylvia stated that the applicant can supply the Town with a form for what the pre and post blast survey contains.

Chairman Olean asked Ms. Sylvia to review the process with RIDEM that came up with the consent agreement one more time. Ms. Sylvia stated that the process is that an applicant submits an application for an alteration of wetlands. The application gets reviewed and a public comment process. RIDEM either gives you a letter of approval or denial. This applicant received a denial. The applicant appealed that decision. A negotiation was started as part of that appeal. The negotiation came up with the consent agreement which basically states that RIDEM will issue the permit if they get the conservation easement. Once final approval is granted the easement will be recorded and remain forever. The actual wetlands permit will be issued at that point. The reason it can't be delivered until after final plan approval is that the easement is part of a subdivision which does not happen until final plan.

Motion made by member Bostic to accept the TRC recommendations and approve preliminary plan with conditions was seconded by member Hunt. Motion was approved by all members present.

MAJOR LAND DEVELOPMENT REVIEW

**a. Albion Commons AP 41 Lot 9 Master Plan
Link Commercial Properties, LLC 618 George
Washington Discussion/Approval
Highway**

Mr. Ranaldi stated that this is a new application for a major land development under the 2005 subdivision regulations. The Board has until March 6, 2012 to make a decision on master plan. This application represents the redevelopment of an approximately 2 acre commercial lot. The lot currently has a one story commercial building with associated parking area. The proposed redevelopment is to remove the existing building and construct 3 separate commercial buildings. The buildings would be for retail, a bank and a restaurant. The project exceeds all Town parking requirements. The applicant has successfully addressed all zoning requirements. The surface water is to be mitigated in the existing on site mitigation system. The property currently is all asphalt in which rain water is treated in an underground system. The new development will be an improvement in runoff since buildings will have drywells for roof drainage and some green space will be added in parking area. The

TRC reviewed this application and has one conflict with this application. The conflict is with the property line along Albion Road. The survey discovered that some of Albion Road is on this private lot and some of this current private development is in the right-of-way of Albion Road. The applicant is proposing to swap those pieces of land to correct these situations. There is a question as to who owns Albion Road. Once the ownership is resolved the applicant can approach the appropriate authority to make the change to the property line. The TRC does not see this as a major concern. The TRC wanted to make the applicant aware that the Town has strict sign regulations and would request the applicant seek appropriate relief, if necessary, as soon as possible. The TRC recommends the applicant incorporate the comments and return in December for a public informational meeting.

John Shekarchi, attorney for the applicant made a brief presentation. Mr. Shekarchi stated that the Town gave a good summary of what the intent of this project is. This property is the site of a former car dealership. The intention is to remove that building and building three separate buildings of a bank, a restaurant and a retail building of approximately 6,750 square feet. The biggest issue is the ownership of Albion Road to correct a deficiency in the property line. The applicant believes the Town owns that section of Albion Road.

Richard Bzdyra, engineer for the applicant, made a presentation to the Board. Mr. Bzdyra stated that the proposal is to take down the

existing commercial building and add a new parking configuration including green areas along with 3 new commercial buildings. The property line currently goes into the paved area of Albion Road. In addition, when this property was a car dealership they utilized an area of Albion Road right-of-way for their entrance and parking. The applicant would like to do a land swap to correct the road from being on private property and move the property line to keep the entrance and parking on private property. Mr. Bzdyra did a lot of research on this issue and found the State does not have a platted Albion Road going north of Rt. 116 but does have one going south. The Town claimed it is a State road since the State plows the road and work on the road requires a Physical Alteration Permit from RIDOT. After talking to the property department at the State, they believe the Albion Road right-of-way is owned by the Town. There is a c&m agreement for this road which says the State will maintain this road for use, plowing and utilities. This means that any changes to the road would require a PAP from RIDOT but the land swap would have to be with the Town since they own it.

Attorney Shekarchi notified the Board that zoning relief is not required for this project. However this parcel falls under the Area of Planning Concern which would require further review by the APC committee. Mr. Shekarchi was hoping to get approval at this level to keep the project moving forward. Meanwhile the applicant will continue to work on resolving the land swap issue. Member Bostic inquired whether this action will make the pavement of Albion Road

narrower. Mr. Bzdyra stated that it will actually widen the pavement area slightly to the end of their lot. Mr. Bzdyra also stated that the drainage calculations and plan are currently being reviewed by RIDOT. Some discussions took place about the ownership of Albion Road. Town Solicitor DeSisto wanted the Board to understand that the Town's position is that Albion Road is owned and maintained by the State. The Board members agreed that the ownership issue will need to be resolved for this project to be approved. Chairman Olean wanted a clarification on the drainage whether the Town gets to review the drainage or just RIDOT. Mr. Shekarchi replied that once an approval comes from RIDOT the Town would get to review the drainage. Town Engineer Siegmund questioned whether the drainage would be reviewed under the new regulations or the old regulations because you are reusing an existing system. Mr. Bzdyra stated that he believes RIDOT will make that decision during their review.

Motion made by member Griffin to accept the TRC recommendations and move this application to a public informational hearing in December was seconded by member Delgrande. Motion was approved by all members present.

ZONING APPLICATIONS

Rosemary Flynn, 17 Avenue F, Lincoln, Rhode Island – Application for a Special Use Permit to permit the conversion of a single family home into a two family home.

AP 29, Lot 180 Zoned: RL-9

Mr. Ranaldi stated that this application is to convert a single family home into a two family home. Town records show that the applicant does not meet the dimensional criteria for a two family home in the RL-9 zone. The applicant is not proposing to change the exterior of the home and the property currently has two large driveways which will accommodate the off street parking requirement. There are multi-family homes in this area of town. The TRC recommends a positive recommendation to the Zoning Board for this Special Use Permit upon clearing up the dimensional issue.

Russell Hervieux, Zoning Official for the Town of Lincoln, had some pertinent testimony for the Board. Mr. Hervieux stated that this application does not require dimensional relief for this Special Use Permit. After much research Mr. Hervieux discovered that Town records are incorrect as to the size of this lot. The TRC relied on the Town records to make their recommendation. The Town records show this lot at approximately 8,500 square feet. The lot is in fact 12,785 square feet which would make this property meet the dimensional criteria for a two family in the RL-9 zone. This was confirmed with the subdivision records and no further subdivisions have taken place on this property. The Tax Assessor has been notified of this error. Therefore this applicant would not need any dimensional variances for this Special Use Permit. The TRC report and the recommendation from this Board would need to be amended

to exclude the statement that this application requires dimensional relief.

Motion made by member Hunt to amend the TRC report and recommendation regarding the Rosemary Flynn zoning application to remove the statement that this application requires dimensional relief and further recommends approval of the Special Use Permit. The motion was seconded by member Delgrande. Motion was approved by all members present.

SECRETARY'S REPORT

The Board was given one set of minutes to review. They are for September 28, 2011. The Town Planner Al Ranaldi stated that he has reviewed these minutes.

Motion made by member Griffin to dispense with the reading of the September 28, 2011 minutes was seconded by member Delgrande. Motion was approved by all members present.

Motion made by member Griffin to accept the September 28, 2011 minutes as presented was seconded by member Reilly. Motion was approved by all members present.

Town Solicitor DeSisto mentioned to the Board that the Town Council has scheduled a public hearing for November 29, 2011

regarding a zone change application. This Board would be required to make a recommendation as to whether the zone change would conform to the comprehensive plan. Mr. DeSisto would like the Planning Board to meet before the hearing to make that recommendation. Some discussions took place to consider when to set this meeting date. The Board decided to hold a Special Planning Board meeting on November 21, 2011 at 6:30 pm. The subject of the meeting will be for a recommendation to Town Council for a proposed zone map change.

Motion made by member Reilly to adjourn at was seconded at 8:05 pm by member Hunt. Motion was approved by all members present.

Respectfully submitted,

Russell Hervieux

Copy of Technical Review Committee Report

Dear Honorable Members,

On November 7, 2011 at 3:00 pm, the Technical Review Committee met to review the agenda items for the November 16, 2011 meeting of

the Planning Board. In attendance were Al Ranaldi, Michael Reilly, John Faile, Russell Hervieux, Peggy Weigner, Michael Gagnon, and Michael Gamage. Below are the Committee's recommendations.

Major Subdivision Review

a. Kirkbrae Ledges Subdivision – Phase 11 AP 32 Lot 45 Preliminary Plan Discussion /

- Kirkbrae Ledges, LLC Lancers Lane & Hemlock Rd Approval

This major subdivision project is under the 2005 Subdivision Regulations and represents the subdivision of one lot into 10 single-family residential lots and one undeveloped lot to be deeded as permanent open space. The ten house lots are proposed to be developed off of an extension of Lancers Lane. This street extension will have two new cul-de-sacs. On August 10, 2011, the preliminary plan submission 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 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 December 8, 2011, or within such further time as may be consented to by the applicant.

The Technical Review Committee reviewed the proposed development according to the Land Development and Subdivision Regulations preliminary plan submission requirements. The

submission includes a full size set of plans entitled “Kirkbrae Subdivision, Phase 11, dated August 2011, revised September 13, 2011, October 5, 2011 and October 18, 2011, prepared by Pare Corporation for Kirkbrae Ledges, LLC. The plan set contains 16 pages. The submission also contained: a copy of a consent agreement between the State of Rhode Island, Department of Environmental Management, Administrative Adjudication Division and Kirkbrae Ledges, LLC/Gregory Richard executed on August 17, 2010, a memorandum dated September 13, 2011 and revised on October 5, 2011 to the Lincoln Planning Board from Cari L. Orsi, P.E., Pare Corporation regarding Kirkbrae Ledges retaining wall inspections was submitted, a report entitled Lancer’s Lane - Force Main Operations & Maintenance Manual dated September 2011 and revised October 2011 prepared by Pare Corporation. Also included is a copy of the stamped property survey AP32 Lot 45, and a document entitled, “Kirkbrae Ledges Management Plan for the Kirkbrae Ledges Conservation Easement”, prepared by Pare Corporation and dated March 2010. A copy of the State of Rhode Island’s law that governs blasting is also included for your reference.

Below are the Technical Review Committee comments.

Site Plan:

The review by the Town Engineer concluded that the proposed design meets all of the Town’s Subdivision Regulations relating to civil engineering. The applicant has addressed all of the concerns brought out by the Planning Board and the Town had regarding this

project. All changes are reflected in the current plan set.

Wetland Consent Agreement:

The TRC was told by the applicant that the RIDEM has reviewed this proposed house lot configuration and feels that it is acceptable. As part of DEM's review and approval, a consent agreement was developed and executed. This agreement created a lot that will have a conservation easement on it and be given to the Town of Lincoln. The Town of Lincoln does not want to accept ownership of this lot. The Town prefers that this lot be incorporated into another residential lot or owned by a private party. The language of the consent agreement must be changed to remove the Town of Lincoln as being the party who will accept ownership of this parcel of land. The revised consent agreement must be submitted to the Town as a condition of preliminary plan approval.

The consent agreement also specifically states within section 6 and 7 that a permit letter will be issued after the final plan is recorded. Therefore, the applicant will not technically have DEM's approval at the preliminary plan review stage. The consent agreement acts as a passive approval that will allow the issuing of a fully approved permit when the final plan is recorded. This situation is unusual to the Town and the Planning Board. Applicants usually have received their DEM permit letter or the permit letter is made a condition of preliminary plan approval. The Planning Board should discuss this concern and be comfortable with this type of passive approval. The TRC discussed this situation and stated that they are comfortable with the

consent agreement and the passive approval presented within it.

Subdivision Waivers:

The applicant has spent significant time and effort with RIDEM and the TRC to develop the current development plans. At the Preliminary Plan review stage of this subdivision, the applicant is requesting six waivers from the subdivision regulations. The waivers are as follows:

- 1. Lot #1 does not conform to the minimum buildable area due to steep slopes and easements.**
- 2. Lot #5 does not conform to the minimum buildable area due to steep slopes and easements.**
- 3. Lot #12 does not conform to the minimum buildable area due to a 200 foot riverfront buffer area.**
- 4. The length of the proposed roadway from the allowed 720 feet to 844 feet.**
- 5. Reduce the right-of-way width from 50 feet to 40 feet**
- 6. Reduce pavement width from 30 feet to 26 feet wide with 7 feet of public easement area running along each side of the pavement area.**

The TRC reviewed each of these waivers, the supporting explanations presented within past TRC reports, and statements made during past Planning Board meetings. The TRC concluded that the proposed subdivision regulation waivers are acceptable based on the unique characteristics of the property, the supporting explanations presented within past TRC reports, and statements made during past

Planning Board meetings.

Proposed conditions of preliminary plan approval:

Below is a summary of the proposed conditions of preliminary plan approval. The TRC is recommending five additional conditions based on concerns expressed by neighbors during the public hearing.

1. The developer of this project must closely follow all State requirements regarding blasting during the construction of this project.

2. The developer must notify all abutters of the date/s of when any blasting is scheduled to take place. All abutters within 200 feet of the property boundary lines shall be notified by regular mail no less than 10 days before blasting is to take place (§23-28.28-37).

3. The developer must perform a pre and post-blast survey of all homes within 250 feet of all blast borehole, as measured from the nearest borehole to the closest improved real property (§23-28.28-37).

4. A home owners association made up of owners of the 10 house lots shall be created. The HOA shall be responsible for the yearly maintenance of each detention basin servicing the development.

5. The developer shall hire a third party engineer to supervise the construction of the proposed detention basins as presented in the plans and provide the Town with the proper documentation stating that the engineer supervised the construction of the detention basins and that the detention basins have been constructed in accordance with the recommended installation methods as presented in the submitted plan set. The Engineer shall submit to the Town his

professional liability (errors and omissions) insurance with limits that the Town considers adequate in case of detention basin failure. The insurance must remain in force for at least 5 years.

6. The owner of the project should develop realistic infrastructure and site improvement costs that can be closely scrutinized by the Engineering Department when it comes time to establish the bond requirements.

7. The bond amount must be reviewed and approved by the Planning Board.

8. The developer shall hire a third party engineer to supervise the construction of the proposed retaining walls and provide the Town with the proper documentation stating that the engineer supervised the construction of the retaining walls and that the retaining walls have been constructed in accordance with the recommended installation methods as presented in the memorandum from Pare Corporation dated October 5, 2011. The Engineer shall submit to the Town his professional liability (errors and omissions) insurance with limits that the Town considers adequate in case of retaining wall(s) failure. The insurance must remain in force for at least 5 years.

9. The language of the consent agreement must be changed to remove the Town of Lincoln as being the party who will accept ownership of this parcel of land. The revised consent agreement must be submitted to the Town as a condition of preliminary plan approval.

Based on submitted plans and other documentation, testimony of experts throughout the various Planning Board meetings on the

application for Preliminary Plan review, and staff/ Technical Review Committee (TRC) recommendations and reports, the Technical Review Committee recommends Approval with Conditions of this Preliminary Plan. The proposed conditions of approval are stated above. The conditions of approval shall include the subdivision waivers as stated above.

Major Land Development Review

a. Albion Commons AP 41 Lot 9 Master Plan Discussion /

- Link Commercial Properties, LLC 618 George Washington HWY Approval

This major land development project is under the 2005 Subdivision Regulations and represents the redevelopment of 2.06 acre commercial lot. Currently, the lot contains an existing 1-story commercial building and associated parking areas. The proposed redevelopment of this property is to remove the existing building and construct three separate commercial buildings with associated parking areas. One building is designated as “Proposed Retail – 6750 sqft”. Another building is designated as “Proposed Bank – 3,500 sqft, and the other building is designated as “Proposed Restaurant – 3,100 sqft. The project exceeds all of the commercial parking requirements. All surface water runoff is proposed to be directed into the existing on-site storm water mitigation systems.

On November 7, 2011, the project 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. A decision on the master plan review must be made by March 6, 2012, or within such further time as may be consented to by the applicant.

The Technical Review Committee reviewed the proposed development according to the Land Development and Subdivision Regulations master plan submission requirements. Below are the TRC's recommendations.

Site Layout

The submitted plans show two areas of conflict along the property line between Albion Road. The survey shows that some of the public highway is located on private property while some private infrastructure improvements are located on public property. The applicant has proposed a resolution to this problem. The TRC feels that this resolution is reasonable and makes for a better project. However, neither the Town nor the State knows which entity owns this land. This problem will have to be researched and resolved by the applicant before Master Plan approval can be granted.

The proposed site layout is similar to the existing site layout. However, two elements are proposed to change. The proposed application shows the relocation of the existing access point on George Washington Highway. The applicant proposed to move the

access point approximately 50 feet northwest of the existing access point. This new entry is proposed to have egress and ingress lines. The Department of Transportation will review this new entry as part of the Physical Alteration Permit (PAP) review process.

The second element that will be incorporated into the proposed site layout is the addition of landscaped islands. These islands will serve to direct and separate patrons within the property. These landscaped islands will provide much needed vegetation to this existing large asphalted area.

Zoning Requirements

The proposed project exceeds the commercial parking requirements for the uses shown. At preliminary plan review, the applicant will have to submit a lighting plan and a landscaping plan as part of their submission. The Technical Review Committee wants to advise the applicant about the Town's sign requirements. It has been the committee's experience that most commercial business want more signage than what the Town permits. In most cases, the commercial business had to go before the Zoning Board. The TRC recommends that the applicant starts this discussion with all proposed businesses so the necessary steps can be taken in advance.

Storm Water Runoff

All surface water runoff is proposed to be directed into the existing on-site storm water mitigation systems. The existing systems connect to the State's storm water mitigation system within George

Washington Highway. The combination of the two systems will be reviewed by the Department of Transportation as part of the Physical Alteration Permit (PAP) review process. At preliminary plan review, an approved PAP will be required.

The TRC recommends that the applicant incorporate the comments presented by the TRC and return in December for a public informational meeting. An abutters list will need to be submitted to the Town Planner a minimum of three weeks before the December 28, 2011 meeting.

Zoning Applications (*) - November's Zoning Applications

Elaine Wagner, 5 Valley View Road, Lincoln, RI – Application for a Special Use Permit to permit the creation of a second family unit to an existing single family unit.

AP 3, Lot 134 Zoned: RL-9

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed special use permit is to allow for the creation of a second family unit from an existing single family unit. According to our Zoning Ordinance, a two family house is allowed within this zoning district by a special use permit if the lot has a minimum of 9,000 square feet of land plus an additional 1500 square feet for a total lot square footage of 10,500

square feet. The original footprint of the house will not change. The lot is over the minimum square footage needed by ordinance. 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.

Rosemary Flynn, 17 Avenue F, Lincoln, Rhode Island – Application for a Special Use Permit to permit the conversion of a single family home into a two family home.

AP 29, Lot 180 Zoned: RL-9

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed special use permit is to permit the conversion of a single family home into a two family home. According to our Zoning Ordinance, a two family house is allowed within this zoning district by a special use permit if the lot has a minimum of 9,000 square feet of land plus an additional 1500 square feet for a total lot square footage of 10,500 square feet. Unfortunately, the assessor's plat maps show that the property only has 10,000 square feet of land. Therefore, the applicant would need a dimensional variance in addition to this special use permit.

If the applicant is successful in obtaining a dimensional variance, 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.

Correspondence/Miscellaneous (*)

a. Staff Reports

Respectfully submitted,

Albert V. Ranaldi, Jr. AICP

Albert V. Ranaldi, Jr. AICP

Administrative Officer to the Planning Board