

**LINCOLN PLANNING BOARD
SPECIAL MEETING/WORKSHOP
October 17, 2022 at 7:00 pm
MINUTES**

This meeting was held as an in person meeting. The purpose of the meeting was for the Town Planner and the Planning Board to discuss planning related matters. The public was welcome to attend but this is not a public hearing and public participation will be at the discretion of the Planning Board.

The Planning Board intends to discuss each and every item appearing on the agenda. No votes are required except for adjournment.

The Planner opened the meeting at 7:00 PM.

Roll call was taken by Planning Board Recording Secretary Elizabeth A. Gagnon. Those in attendance were Town Planner Joshua Berry, Planning Board members Mike, Reilly, Ned London, Jeff Almond, Tom Salvatore, and Tom Tutyschaevers.

Planner Berry thanked everyone for attending. He stated that as the new Town Planner he wanted to build a relationship with the Board and did not want to implement any changes without the input of the Board.

PROCEDURAL ITEMS

A. Two Meeting Process

Planner Berry mentions that the two meeting process in Lincoln is unique and has been told that is the way it always has been done. But he questioned why. This is confusing for applicants and on agendas.

Sec. 1 Article A (3) "...procedures for review and approval of land development and subdivision shall be consistent between abutting communities to the Town of Lincoln" p.2

After surveying of other communities, the Planner is unaware of any other community that does it this way. There is some value there however; to vet the application. The Administrative Officer has the authority to schedule a public hearing. Eliminating the extra meeting from the process will reduce total meeting, time, and expenses for applicants, making clearer and succinct agendas. It will also enhance clarity in the preview process consistent with other town and municipalities. These could be put on as a pre-application with the discretion of the Planner. It would eliminate extra meetings and streamline the entire process. This is just for discussion as the full Board is not in attendance.

Member Almond felt eliminating the two member process would be suitable for the simpler meeting it but not for the more controversial applications.

Planner Berry said he could either bring the Pre-App to the Planning Board or to the Technical Review Committee or both. The Planner stated that Town Solicitor can speak about this from a legal standpoint.

Member Reilly said the bringing a Traffic Report to Master is beneficial. Planner Berry said we should know what is legally required at each phase.

Planner Berry mentioned that in high profile cases that he can recommend a Pre-App site walk with the public and Town Council. The concerns and merits of the project will come out. He stated that site walks would not be necessary for most applications but can be beneficial.

It was decided to discuss the matter further when the Chair and Solicitor are present.

B. Findings of Fact

Town Planner Berry explained the importance of findings in making decisions and read from the Subdivision Regulations:

Required Findings All administrative, minor and major development applications shall address each of the general purposes stated in Section 1 hereof. In approving such development projects, **the Planning Board, shall make positive findings of the following standards, as part of the proposed project record prior to such approval being granted.**

- (1) The proposed development is consistent with the Lincoln Comprehensive Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
- (2) The proposed development is in compliance with the standards and provisions of the Lincoln Zoning Ordinance.
- (3) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions of approval.
- (4) Subdivisions, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impractical. (See definition (8) buildable lot and (9) buildable lot area.) Lots with such physical constraints to development may be created only if identified as permanently open space or permanently reserved for a public purpose on the approved, recorded plans.
- (5) All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.
- (6) Each lot in the subdivision conforms to the standards and provisions of the Lincoln Zoning Ordinance. Provided, however, that lots not being created for the purpose of present or future development need not meet the area and other dimensional requirements of the Zoning Ordinance provided that (a) a notation is shown on the recorded plat that the lot being created is not a buildable lot; and (b) a conservation or preservation restriction pursuant to Title 34, chapter 39 of the Rhode Island General Laws, as amended is granted to the Town of Lincoln prohibiting any such present or future development.

- (7) Each subdivision shall provide for the safe circulation of pedestrian and vehicular traffic, for adequate surface water run-off, for suitable building sites, and for the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.
- (8) The design and location of streets, building lots, utilities, drainage improvements and other improvements in each subdivision shall minimize flooding soil erosion.

The Planner said that (1) Finding of Fact is the most critical. He said these findings of fact are boilerplate and run the risk of an appeal. He goes on to give examples of findings of fact. And he then sites examples of robust findings of act.

Member asked if there is provision in the sub regulations for a 3rd party review or any criteria. Planner Berry does not think that there is a provision. It is something that they should consider getting in.

C. Affordable housing Fee in-lieu Calculation

N. In-Lieu-of Fees:

(1)The Town of Lincoln prefers that Inclusionary Units be constructed on –site. To that end, developers must prove that providing the Inclusionary Units on-site is feasible to the Planning Board (As provided for in this Article, if approved.) Planning Board approval of the agreement to pay an in-lieu-of fee in order to providing inclusionary Units shall be determined using the fee schedule calculation set forth in Subsection N. (3) For projects constructed in phases, in-Lieu fee shall be paid prior to the issuance of each building permit in the proportion that the phase bears to the overall project. The in-lieu-of fees shall be paid in the Affordable Housing Trust Fund as established and administrated by the Town of Lincoln’s Town Council or their designees.

The Planner recommends a high level of scrutiny for this standard.

(2) For projects to be developed on subdivided lots, in lieu-of fees shall be paid by the Developer prior to Issuance of final subdivision approval or in such cases where subdivision approval is not required, prior to issuance of a building permit for the project or as determined by the projects adopted Conditions of Approval.

(3) An in-lieu-of fee is due from developers of residential projects where payment of affordable housing in-lieu-of fees and/or fractional unit fees was included as a condition on project approval. The fee amount due per each whole affordable dwelling unit required shall equal the sum of the cost of the land as assessed by the Town at the time of subdivision application and the cost of development, including construction, of an affordable unit on the same site as the proposed market rate units. The development cost used to complete in-lieu-of fee calculations shall be determined by Rhode Island Housing. Projects with fractional unit requirements shall pay an amount equal to the applicable in-lieu fee amount for a whole unit multiplied by the fractional requirement calculated out to two (2) decimal places. This in-lieu-of fee shall be review and may be adjusted as necessary by the Town of Lincoln’s Town council.

The 2022 development cost fee in-lieu for Lincoln According to RI Housing is \$63,000.00.

Planner Berry said that the highlighted area in N. (1) is critical. All member were in agreement with the in-lieu fee.

D. Bond types and Minimum Expiration

Town Planner Berry led a discussion on bonds, which kinds are allowed and which kinds (cash) are preferred.

3. Required Form of Guarantees. The security shall be in the form of a financial instrument acceptable to the Finance Director and approved by the Planning Board and shall enable the Town to gain timely access to the secured funds, for cause. Improvement, remediation, and maintenance guarantees may be provided by a variety of mean including, but not limited to, the following:

a. Security Bond – the subdivider may obtain a security bond from a surety bonding company holding a certificate of authority as acceptable surety on federal bonds as published in the Federal Register.

b. Cash – the subdivider may deposit cash in the form of a bank check, cashier's check or certified check into an appropriate account held in the name of the Town. Interest accrued will be returned to the developer at the time(s) of reduction or release.

c. Letter of Credit- the subdivider may obtain an irrevocable letter of credit in a format acceptable to the Finance Director through a bank or other institution licensed to do business in the State of Rhode Island and possessing a satisfactory bond rating. P 51

The Board gets to have some say in the bond. The Planner said cash should be preferred. He does not think the Board can *require* a cash bond. The Town has no established monitoring mechanism to prevent expiration of bonds.

E. Abutters Lists

(c) Notice Area. (1) The distance for notice of the public hearing shall be to all owners of property within two hundred (200) feet of the perimeter of the entire property under consideration Intervening street, highway, roadways, easements or rights-of-way shall not nullify the intention of this notice area.

It came to the Planner's attention that the solicitor reads the Abutters Lists and does not believe this is necessary. He will speak to the solicitor about this. The previous planner had been doing a 250' in an abundance of caution. The Planner recommends that we cease this practice and strictly adhere to the 200' radius. The Board was in agreement.

F. RECLASSIFICATION OF APPLICATIONS

Town Planner Berry led a discussion on reclassifying major subdivision applications as minor. He referred to the subdivision regulations:

(C) The Planning Board may vote to combine review stages and to modify and/or waive requirements as specified in these regulations. Review stages may be combined only after the Planning Board determines that all necessary requirements have been met by the applicant. P. 28

Article G. Modification of Standards.

Where strict adherence to these design standards is not feasible due to special conditions of the land or the features of the subdivision or land development project, or where in the board's opinion such adherence would not allow for the best design, the Planning Board may vote to modify the requirements in Section 22. Provided that such modification is not contrary to the general intent of these Regulations. Such modifications shall not include the reduction of lot standards below the requirements of the Town of Lincoln's Zoning Ordinance P.47-48.

Town Planner Berry pointed out that the Subdivision regulations do not really appear to give broad authority, but that state law does.

45-23-62 Procedure – Waivers – Modifications and reinstatement of plans.

(b) **Waiver and /or modification of requirements.** The planning board has the power to grant waivers and/or modifications from the requirements for land development and subdivision approval as may be grounds for waivers and/or modifications are where the literal enforcement of one or more provisions of the regulations is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question or where waiver and/or modification is in the best interest of good planning practice and/or design as evidenced by consistency with the municipality's comprehensive plan and zoning ordinance.

Planner Berry states that the subdivision regulations are not clear. However, they are clear for reclassifying minor to major. He said we could not simply change our definition of minor subdivision to allow waivers without being in conflict with state law requirement. He recommended the Board act cautiously when granting waivers and reclassifying major subdivisions to become minors as they no longer have a required public participation process. They could consider amending the subdivision regulations so that if the Planning Board reclassifies a major to a minor with waivers to require a public informational meeting.

A Board member said that the Major to minor was just brought to them on the agenda. They agreed that reducing the public engagement process was troublesome.

POLICY ITEMS

A. HOUSING/AFFORDABLE HOUSE/ACCESSORY DWELLING UNITS.

The Town of Lincoln housing plan and comp plan are outdated. The Town needs a new plan. In the meantime, we should clarify our current positions and goals. The Planner encourages that when feasible consider increasing density and affordability. And said outreach and education is

needed. He would guide some developers where feasible and suitable do consider friendly comprehensive permits.

A multi-pronged approach is needed:

- Comp permits
- ADU's – slow roll and needs a new ordinance
- Inclusionary zoning with discouraging fee in-lieu

B. TRAFFIC

The Town of Lincoln does not have a policy on traffic studies. Planner feels it is important to define “adequate capacity”, establish a trigger for traffic statements and traffic studies, establish required information in traffic studies, etc. This is very important.

C. ENERGY/SUSTAINABILITY/ROOFTOP SOLAR

“Natural Hazard and Climate Change” is a new requirement in Comprehensive Plans. Energy. Energy production and consumption is part of the “services and facilities” assessment

All agreed consider changing “S” (special use permit) to a “P” (permitted) for rooftop utility scale solar applications.

Should start pushing for rooftop solar /and or carports for new buildings where feasible and also start pushing for electric vehicle charging stations where practical.

D. Curbing and Sidewalks

Should consider a sidewalk master plan to have a system to be clear on the outset.

E. Minimum street Pavement Width

Section 22 Article C(5) Street rights-of-way shall not be less than fifty (50) feet , and street pavements measured between faces of curbing and centered within the property lines shall not be less than thirty (30) feet in width. P.44

These measurements should be tailored to road classification. It is extreme.

F. Maximum Cul0de-sac Slope

Section 22 Article C (7) Street grades of residential streets shall not be less than on half percent (0.5%) or more than eight percent (8.0%). Arterial streets shall not exceed five percent (5%) except, however that when a minor residential street intersects with a collector street, the maximum grade of the minor residential street may not exceed one percent (1%) of a distance of thirty (30') feet from the intersection of said collector street. The grade within a cul-de-sac, and for distance of thirty (30) feet prior to it, shall not exceed one percent (1%). P.44-45.

Town Engineer recommends between 1% and 2% for drainage. Less than 1% does not drain

OPEN DISCUSSION OF PLANNING ISSUES

Quorums

Section 8 (D) all votes of the Planning Board shall be made part of the permanent record and show the members present and their votes. A decision by the Planning Board to approve any land development or subdivision application shall require a vote of approval by a majority of the current Planning Board membership (i.e. a majority of the full board's membership regardless of the number of members present at any meeting.) Failure to obtain a majority vote on the approval of any application shall be an automatic denial). P.21

Planner Berry says this is direct conflict with the new bill. Four (4) is a quorum of seven (7). Three is the majority of those present.

The Planner encourages the Board to utilize the Website for information prior to the Board meetings. Packets will continue to be sent out. The Board all agreed they like the paper plans.

Motion by Tom Salvatore to adjourn, second by Jeff Almond. Motion approved by all present.

Workshop adjourned 9:15 pm.