



100 Old River Road
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Lincoln, RI 02865
(401) 333.8433

OFFICE OF THE
TOWN PLANNER

March 16, 2023

Town of Lincoln Planning Board
100 Old River Road
Lincoln, RI 02865

Re: TRC Variance Recommendations (Consent Agenda Items)

Dear Honorable Members,

Technical Review Committee (TRC) met to review and make recommendations on the variance applications for the March 22, 2023 meeting of the Planning Board. The TRC recommendations are below, respectively.

The purpose of this report is to provide technical comments and recommendations on the projects listed below based on the Town of Lincoln's Zoning Ordinance, Comprehensive Plan and Land Development and Subdivision Regulations. The TRC review is advisory in nature, and in no case shall the recommendations be binding on the Planning Board in its activities or decisions.

I. Carly McEnery

**AP 29 Lot 148
1147 Great Road**

**Special Use Permit
Agriculture Use - Livestock**

Summary:

Application for a special use permit to allow the keeping of three ducks in a RS-20 zone.

DUCK COUPE LOCATION EXHIBIT



1147 GREAT ROAD • LOT 148

★ - proposed placement of ducks on property

Analysis:

The subject property is home of the Valentine Whitman House, a historic property in Lincoln. The lot is just over 1-acre. Agricultural uses, including the “keeping of animals for home use” requires a special use permit per § 260-8A. The ducks are desired to produce eggs for home consumption. The ducks would be kept in an 8’x4’x6’ black fenced area intended to “match the aesthetic of the property.” The fenced area is located on the west side of the existing detached garage on the side opposite the abutting neighbor, utilizing the garage to shield the immediate potential visual and noise impacts. The TRC was concerned about attracting predators and rodents, but was otherwise supportive of the proposal. The use was deemed in character with the neighborhood and subject property. The primary use is still residential, consistent with the Comprehensive Plan FLUM.

Recommendation:

Finding that the special use permit request is in keeping with the character of the area, is consistent with the Comprehensive Plan, and with the proposed condition would not have a negative impact to the abutters, the TRC unanimously (6-0) recommends that the Planning Board make a **positive recommendation** on this application to the Zoning Board of Review with the condition that the enclosure be designed as to prevent rodents and predators.

II. Carly McEnery

AP 29 Lot 148
1147 Great Road

Special Use Permit
Agriculture Use - Farm Stand

Summary:

Application for a special use permit to allow a flower stand in a RS-20 zone.

FLOWER STAND LOCATION EXHIBIT



1147 GREAT ROAD - LOT 148

★ - proposed placement of farm stand

Analysis:

The subject property is home of the Valentine Whitman House, a historic property in Lincoln. The lot is just over 1-acre. Agricultural uses, including farm stands requires a special use permit per § 260-8E. The application indicates that the flowers are grown from the garden on the

property. The stand was deemed by the TRC to be in keeping with the character of the area and the subject property. The only small snag with the application is that an easement was found that may restrict the signage and improvements conducted on the property. The TRC recommends that a condition be included in the recommendation that the applicant abide by the easement recorded in Book 2445 page 130.

Recommendation:

Finding that the special use permit request is in keeping with the character of the area, is consistent with the Comprehensive Plan, and would not have a negative impact to any abutters, the TRC unanimously (6-0) recommends that the Planning Board make a **positive recommendation** on this application to the Zoning Board of Review with the condition that the applicant abide by the easement recorded in Book 2445 page 130.

III. Maria's Breakfast & Lunch (app)
Rafailia's 4 Realty, LLC (own)

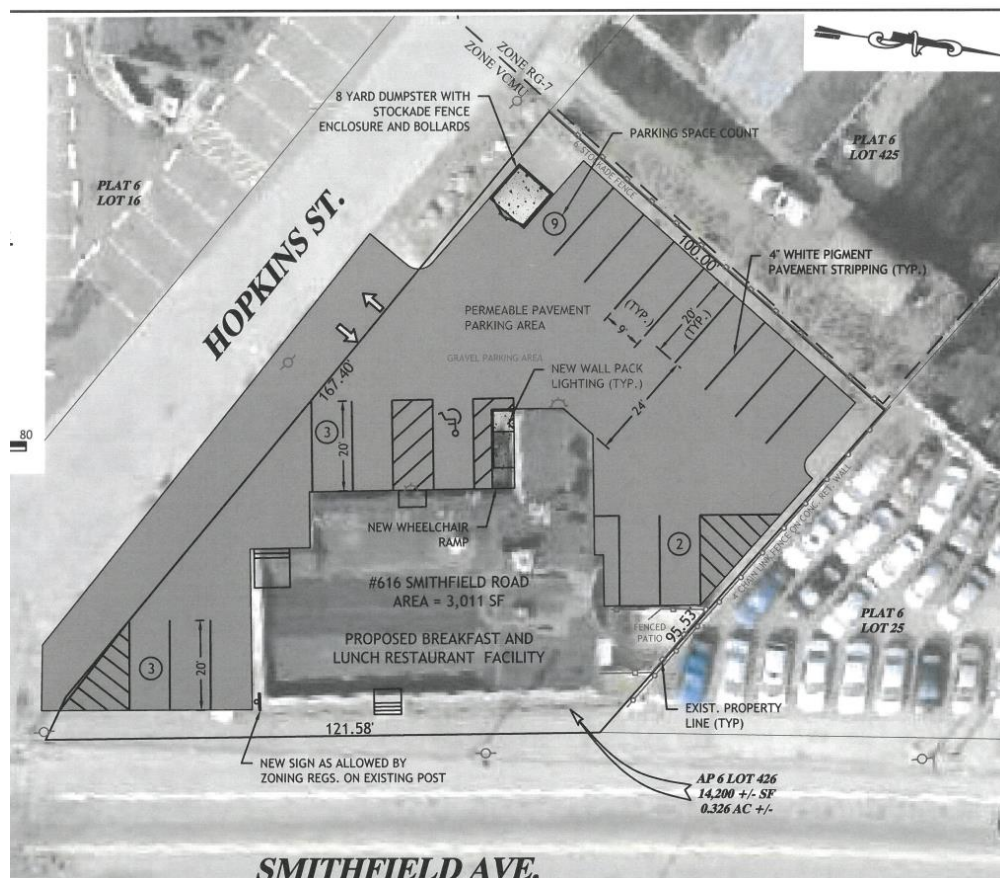
AP 6 Lot 426
616 Smithfield Ave

Special Use Permit
Restaurant

Summary:

Application for a special use permit to allow a restaurant use in a VCMU zone.

SITE PLAN



Analysis:

The applicant seeks a special use permit to allow them to move their breakfast and lunch restaurant to the existing building at 616 Smithfield Ave. The property was previously a bar (Brooksies), a very similar use but it is under a different category under the Lincoln Zoning Code. The subject property as well as those directly to the north (used car lot) and south (restaurant) are all zoned VCMU. There is a RG-7 neighborhood abutting to the west on Hopkins St and a BL-0.5 zone to the east across Smithfield Ave. The VCMU zone serves as the appropriate transition zone between the neighborhood and the business zone. The VCMU zone was created by ordinance in 2007, after the Comprehensive Plan was written and adopted. The TRC found that the granting of the special use permit would not alter the general character of the surrounding area nor impair the intent or purpose of the Zoning Code nor Comprehensive Plan. A restaurant is one of *the most appropriate* uses for mixed use zoning districts.

Recommendation:

Finding that the special use permit request would not alter the general character of the surrounding area nor impair the intent or purpose of the Zoning Code nor Comprehensive Plan, the TRC voted (6-0) to recommend that the Planning Board make a **positive recommendation** on this application to the Zoning Board of Review.

IV. Maria's Breakfast & Lunch (app)	AP 6 Lot 426	Dimensional Variance
Rafailia's 4 Realty, LLC (own)	616 Smithfield Ave	Off-Street Parking

Summary:

Application to allow 17 off-street parking spaces when 31 are required for their proposed restaurant to relocate to the existing building.

(The site plan is the same as on previous page)

Analysis:

The subject property is 14,375 SF lot with a 3,011 SF building. The existing parking area is not paved or striped, and is limited based on the shape of the lot in relation to the footprint of the existing building. The applicant proposed pervious pavement and striping of 17 spaces, one of which would be ADA accessible (there are currently no ADA spaces). There is an existing 6' stockade fence between the parking area and the residential abutter to the west. The TRC noted, however, that the fence may not be sufficient to buffer the abutter from the proposed dumpster and asked the applicant to move the dumpster to the northern property line abutting the used car lot at AP 6 Lot 25. The TRC was concerned with the lack of available parking and also the lack of available on-street parking due to the open curbs and parking arrangement for the subject use and Frank's Family Restaurant across the street. Despite the concern, the TRC

recognizes the limitations of the existing site conditions and acknowledges the applicant's efforts to make the best use of the limited space.

Recommendation:

Considering the existing conditions and previous uses of the site the TRC finds that the relief requested would not alter the general character of the surrounding area nor impair the intent or purpose of the Zoning Code nor Comprehensive Plan. The TRC voted (6-0) to recommend that the Planning Board make a **positive recommendation** on this application to the Zoning Board of Review with the conditions that the dumpster be relocated to abut AP 6 Lot 25.

Respectfully submitted,

Joshua Berry, AICP

Joshua Berry, *AICP*

Town Planner

Administrative Officer to the Planning Board



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OFFICE OF THE
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March 16, 2023

Whispering Oaks Subdivision – Master Plan
Staff Report for the March 22, 2023 Planning Board Meeting

Project Name:	Whispering Oaks Subdivision	TRC Meeting: 3/14/2023
Application Type:	Major Subdivision	
Review Phase:	Master Plan	
Project Address:	100 & 110 Jenckes Hill Road	
Plat and Lot:	AP 43 Lots 15 & 91	
Zone:	RA-40	
Land Area:	13.29 acres	
Future Land Use:	Med-Low (1-2 acre)	
Owner/Applicant:	Oakley Holdings, LLC & Philip A. Oakley & Lisa M. Misiaszek	

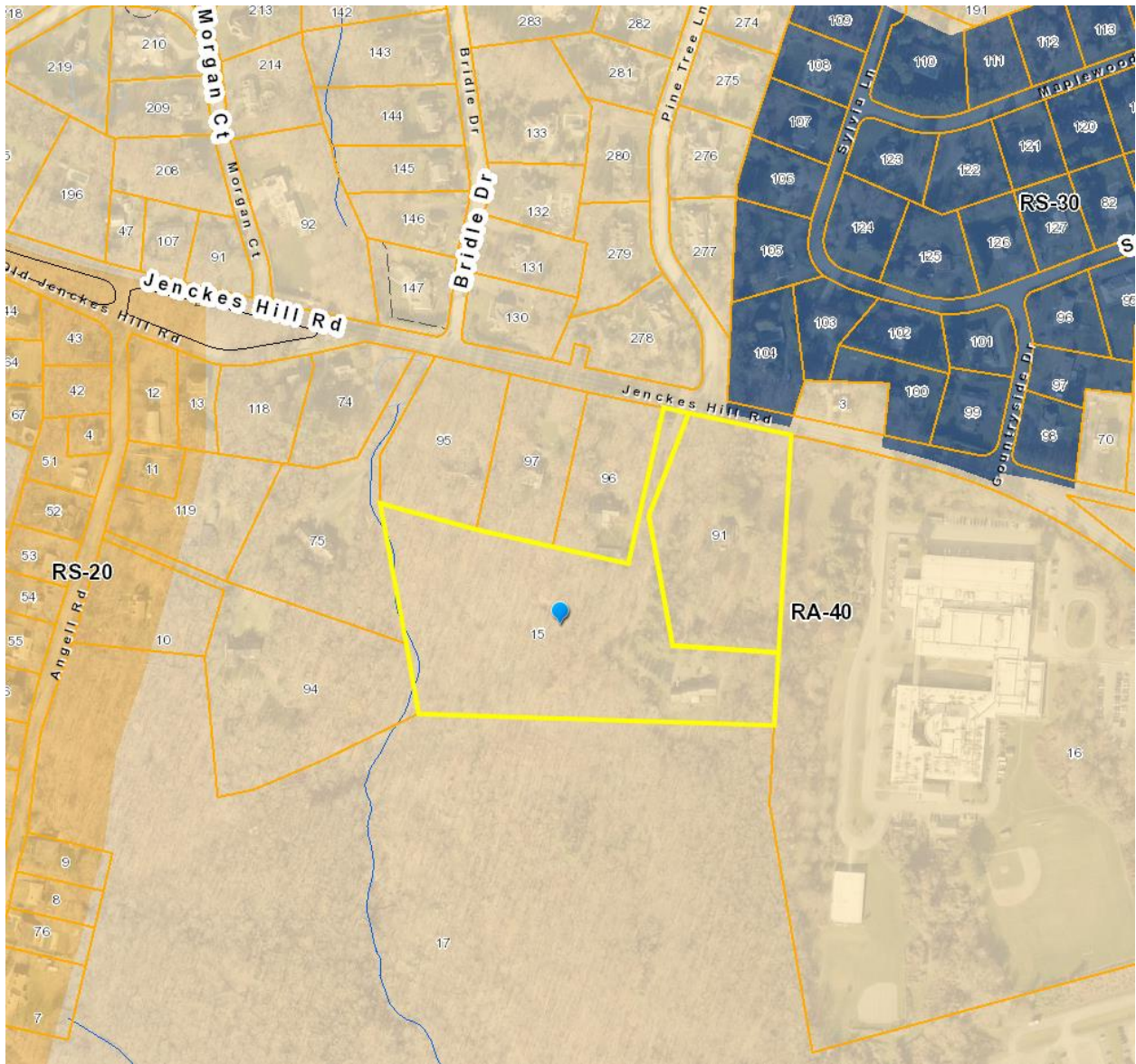
Proposal Summary:

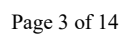
This Major Subdivision Master Plan application proposes the subdivision and development of a 13.29-acre site comprised of two existing lots each with an existing single-family residence into nine (9) lots. A 900' new public roadway and cul-de-sac is proposed to create frontage and vehicular access for subdivision. Public water and sewer is proposed. Waivers are requested for the interior lot angles, the minimum 150' centerline offset for the new road, the minimum 20' easement width, and the minimum 30' roadway width. No zoning relief is required. The site currently has frontage on Jenckes Hill Road.

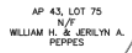
The submission included the following plans and report:

- *Whispering Oaks Subdivision, Major Subdivision of Land Project, AP 43 Lots 15 & 91, 100-110 Jenckes Hill Road, Lincoln, RI*, prepared by David D'Amico of D'Amico Engineering Technology, Inc. dated 2/23, last revised 3/14/23.
- *Nine-Lot Major Subdivision Analysis 'Whispering Oaks Subdivision'* prepared for Oakley Holdings, LLC by Pimentel Consulting, Inc.

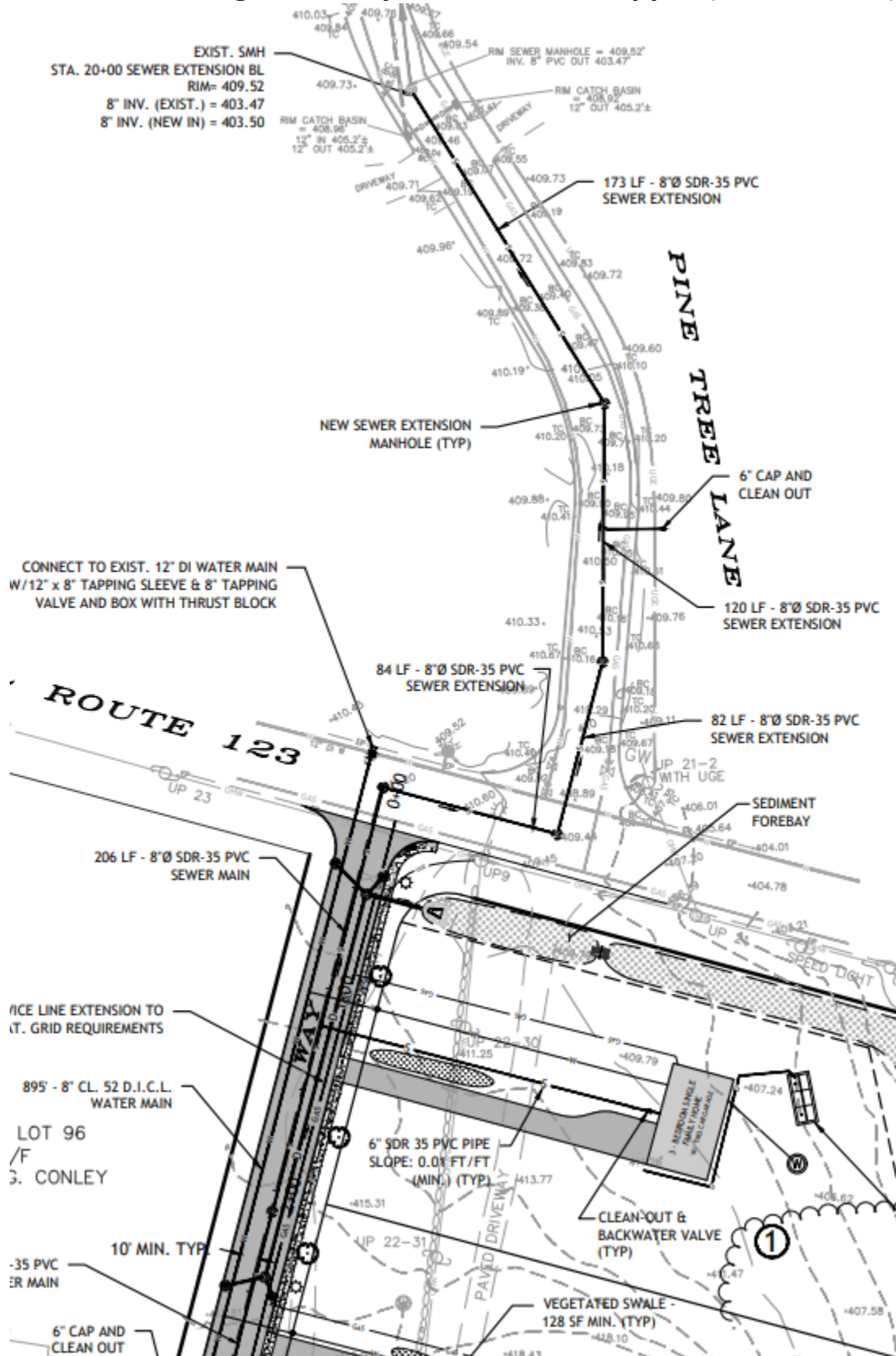
Zoning Map



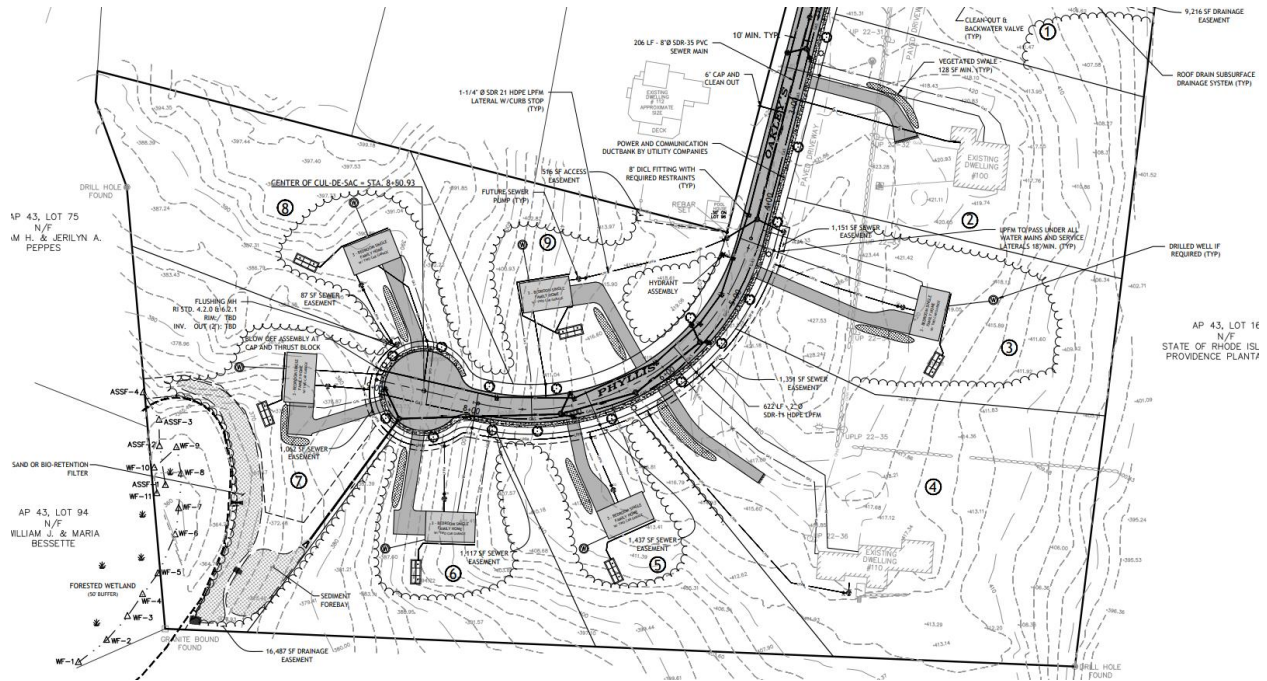




Drainage & Utility Plan NORTH Snippet (Sheet 6 of 6)



Drainage & Utility Plan SOUTH Snippet (Sheet 6 of 6)



Aerial Image With Site Plan



Street View (on Pine Tree Lane facing South)



Waivers:

The applicant is requesting four (4) waivers as itemized with the following justifications as provided on the following snippets from Sheet 5 of 6:

1. ARTICLE B - EASEMENTS - MIN. 20' WIDE - PROPOSED 10' SEWER EASEMENT ALONG ROW.

JUSTIFICATION: THE PROPOSED SEWER EASEMENT IS PARALLEL WITH THE ROADWAY RIGHT-OF-WAY AND THE PROPOSED SEWER LINE IS 2" IN DIAMETER THUS MAKING A 20' SEWER EASEMENT EXCESSIVE IN THE APPLICATION.

2. ARTICLE C - STREETS, (2) - MIN. STREET CENTERLINE OFFSET 150' - PROPOSED 88' STREET CENTERLINE OFFSET.

JUSTIFICATION: THE PROPOSED WAIVER IS 62' BETWEEN THE EXISTING INTERSECTION PINE TREE LANE WITH JENCKES HILL ROAD AND THE NEW INTERSECTION OF THE PROPOSED SUBDIVISION ROAD. JENCKES HILL ROAD IS A RIDOT MAINTAINED ROADWAY AND WILL REQUIRE A PHYSICAL ALTERATION PERMIT FOR THE CURB CUT. RIDOT DOES NOT PUBLISH A MIN. DISTANCE BETWEEN ROADWAY CENTERLINES. A FOUR WAY INTERSECTION WOULD NOT BE DESIRABLE AND NOT RECOMMENDED BY RIDOT IN MOST CASES. THEREFORE WITH THE LOW VOLUME OF TRAFFIC FOR BOTH ROADWAYS, THE PROPOSED INTERSECTION HAS BEEN LOCATED AWAY FROM THE EXISTING INTERSECTION TO THE GREATEST EXTENT POSSIBLE.

3. ARTICLE C - STREETS, (5) - MIN. ROADWAY WIDTH 30' - PROPOSED 26' ROADWAY WIDTH.

JUSTIFICATION: THE PROPOSED ROADWAY WILL ONLY SERVICE NINE (9) HOMES ALONG A CUL-DE-SAC THUS THERE WILL BE NO THRU TRAFFIC WITH MINIMAL VEHICLE TRIPS. THE NEED FOR TWO (2) 15' TRAVEL LANES IS EXCESSIVE FOR THIS APPLICATION AND WILL REDUCE THE IMPERMEABLE SURFACE THROUGH THIS AREA BY APPROX. 3,600 SF. IN REDUCING THE IMPERMEABLE AREA, THE SIZE OF THE DRAINAGE SYSTEM REQUIRED FOR THE ROADWAY WILL REQUIRE LESS LAND AREA ALONG WITH PROVIDING ENVIRONMENTAL BENEFITS BY REDUCING THE HEAT ISLAND EFFECTS OF LARGE PAVEMENT SURFACES.

4. ARTICLE E - LOTS, (5) - ALL SIDE LOT LINES SHALL BE AS NEAR TO RIGHT ANGLES TO A STREET RIGHT-OF-WAY AS PRACTICAL OR THEY SHALL BE RADIAL IN ARRANGEMENT WHEN THE STREET RIGHT-OF-WAY IS A CURVE - LOTS 5 - 9.

JUSTIFICATION: WITH THE SHAPE OF THE EXISTING LOTS BEING A 'L' SHAPE WHEN COMBINED AND NARROW IN WIDTH IN ORDER TO MEET FRONTAGE REQUIREMENTS RIGHT ANGLES CAN NOT BE OBTAINED ON THE SUBJECT LOTS. TWO (2) LOTS CONTROL THE ABILITY OF ALL LOT LINES TO BE RADIAL AS PRACTICAL TO THE ROADWAY CURVES AND THAT IS LOT 9 AND LOT 4. IN ORDER TO GET THE REQUIRED AREA ON LOT 9 THE PROPERTY LINE MUST ANGLE OFF RADIAL TO ARCHIVE THE AREA. WITH THE EXISTING HOME ON LOT 4 THE FRONTAGE DISTANCE FROM LOT 9 TO LOT 4 REQUIRES THE LINES TO ANGLE OFF RADIAL TO ARCHIVE THE FRONTAGE AND LOT AREAS. THE SIDE LOT LINES ARE AS CLOSE TO RADIAL 'AS PRACTICAL'.

The waivers were discussed at the TRC meeting. The following is a summary of the TRC's analysis of each waiver respectively:

14. Section 22 (B) to allow a 10' sewer easement where 20' is required.

The DPW Director and Engineer did not have a problem with the waiver because the easement is to be granted to the HOA, not to the Town. It was unclear if the waiver is required if the easement isn't to be issued to the Town, but the Subdivision Regulations don't specifically exclude private sewer easements, so the waiver request is listed in an abundance of caution.

15. Section 22 (C)(2) to allow the centerline of the proposed road to be offset 88' from the centerline of Pine Tree Lane where 150' is required.

The applicant claimed that RIDOT would NOT want a four-way intersection and therefore the waiver is justified because the centerline is pushed as far away from Pine Tree Lane as possible. The TRC noted that both Pine Tree Lane and the proposed new road are never anticipated to have a high volume of vehicle trips. Site distance will be evaluated at the Preliminary Plan phase. The TRC supports the waiver for the reduced centerline offset at this time.

16. Section 22 (C)(5) to allow a roadway width of 26' where 30' is required.

Because the road will never be connected to the street grid and will only serve 9 homes, the reduced pavement is supported by the TRC because it reduces the amount of impervious cover, stormwater runoff and total pavement that the Town will have to both plow and maintain.

17. Section 22 (E)(5) to allow side lot lines as near to right angles to a street right-of-way as practical.

The TRC understands that the subdivision was designed to comply with zoning area and lot width requirements, and that the existing residences had to be accommodated. The TRC is generally understanding of this justification, however, would like further demonstration that the side lots lines deviate from the standard to the least amount necessary at the preliminary plan phase.

The Planning Board is not required to grant the waivers for the project at the Master Plan phase. It would be appropriate, however, to indicate to the applicant whether the Planning Board is inclined to support the waivers at the Preliminary Plan phase or would like to see modifications to the plans.

Site Layout

The site layout is largely designed to accommodate the two existing single-family homes. The position of the homes renders the best position for the new roadway to be as proposed, on the west side of the subject lot abutting AP 43 Lot 96. The roadway and cul-de-sac are designed to create conforming area, frontage and lot width for nine (9) lots. Each home will be serviced by a private driveway. Drainage areas are proposed in the northeast and southwest corners of the lots and subsurface drainage systems are proposed on each lot to capture flow from the roof drains. Vegetated swales are adjacent to each driveway respectively. Sidewalks on one side of the new road, granite curbing, street trees and street lights are proposed.

There is an existing shed for 110 Jenckes Hill Road (proposed Lot 4) that would conflict with the proposed lot line between proposed Lot 4 and Lot 5. There is a note on sheet 3 of 6 that the shed will be removed.

There is a shed belonging to the owner of abutting parcel AP 43 Lot 96 that encroaches into the subject lot. There is a note on sheet 3 of 6 reading “shed to be relocated off ROW to the require [sic] zoning setback.” This issue shall be resolved and confirmed prior to Final Plan.

There is another encroachment of abutting parcel AP 43 Lot 96 for their pool deck and pool fence. The applicant proposes a 516 SF access easement to be granted to the owner of AP 43 Lot 96 shown on sheet 4 of 6.

The applicant made the following changes to the plans since the TRC meeting which were included in the plans distributed to the Planning Board:

- Sheets 4, 5 and 6 of 6, adjusted the cul-de-sac length to 900’.
- Sheet 5 of 6, added additional justification for waiver #3 Roadway Width, to mention environmental and drainage benefits.
- Sheet 6 of 6, added two (2) sewer lateral stubs for AP 43, Lot 96 and AP 25. Lot 104.

Zoning

The subject site is located in the RA-40 (Residential Single Family on 40,000 ft² lots). All of the proposed lots meet/exceed the zoning requirements.

Utilities

The applicant proposed public water and sewer for all nine (9) lots. The gravity sewer main will have to be extended from Pine Tree Lane. Stub outs to homes on Pine Tree Lane and AP 43 Lot 96 are being provided. At the point where the gravity system is infeasible and a low pressure force main (LPFM) is required, the LPFM must be located outside of the public right-of-way beginning on proposed Lot 3. A 10' easement to be provided to the HOA is shown on the plans, potentially requiring a waiver from the 20' width requirement. A sewer availability letter has been issued. There is a note on sheet 5 of 6 of the plans that "all lots with sewer grinder pump stations shall have emergency generators on-site. The generators should be sized at the minimum to power the sewer grinder pump station and the water well if provided."

Regarding the proposed sewer utilities, the TRC recommends the following conditions:

1. The LPFM system shall be privately owned and maintained by a homeowners association.
2. Generators shall be required on each lot with a grinder pump system to ensure power during power outages.

The applicant is aware that they need to provide a water availability letter. In the unlikely event that there is no availability, the applicant has shown where private wells may be proposed. The applicant has submitted to the Lincoln Water Commission and hopes for an update prior to the Planning Board meeting. LWC approval will be required at the Preliminary Plan phase.

Grading

There are considerable slopes on site, but not raising to the level that development is impractical. A grading plan is not required until the Preliminary Plan phase. The grading was discussed conceptually at the conceptual level at the TRC meeting. The roads and driveways will have to meet the slope maximums in the Subdivision Regulations while preserving the elevations/grades of the around the two existing homes. When a detailed grading plan is devised, the limits of disturbance will be illuminated in greater detail.

Stormwater

Drainage areas are proposed in the northeast and southwest corners of the lots and subsurface drainage systems are proposed on each lot to capture flow from the roof drains. Vegetated swales are adjacent to each driveway respectively. The stormwater systems and drainage calculations will be reviewed as part of the Preliminary Plan review process.

Wetlands

There is a wetland area located in the southwest corner of the property, to the rear of the proposed home on Lot 7. The wetlands were flagged by Gifford Design Group, Inc. All of the

improvements are proposed outside of the wetlands and wetland buffer. The TRC expressed concern about the proximity of the proposed disturbance to the wetland area, but the applicant is not required to fully address this issue at the Master Plan phase. RIDEM permits will be required at the Preliminary Plan phase.

Affordable Housing

This project triggers the Town's inclusionary zoning requirement. Twenty percent of 9 lots is 1.8 so the developer must deed restrict 2 lots or pay the fee-in-lie for 1.8 units. General Site Note #6 on sheet 5 of 6 reads "The project is subject to Article VII Inclusionary Zoning with two (2) lots proposed as an affordable unit [sic]."

Comprehensive Plan Analysis:

The new single-family lots are consistent with the development pattern in the area and the Comprehensive Plan policy of maintaining residential densities. Corroborating this finding, the proposed density of 0.68 units/acre is consistent with the Future Land Use Map designation as *Residential Med-Low (1 – 2 units/acre)*. The single-family housing development is generally consistent with Comprehensive Plan Housing Element policies.

Findings of Fact:

(1) The proposed development is consistent with the Lincoln Comprehensive Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

- a. The subdivision's proposed density of 0.68 units/acre is consistent with the Future Land Use Map designation as *Residential Med-Low (1 – 2 units/acre)*.
- b. The single-family housing development is generally consistent with Comprehensive Plan Housing Element policies, maintaining the residential densities, overall housing pattern and character in Lincoln.

(2) The proposed development is in compliance with the standards and provisions of the Lincoln Zoning Ordinance.

- c. All of the nine (9) proposed lots are in compliance with the standards and provisions of the Lincoln Zoning Ordinance and do not require zoning relief.

(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.

- d. The wetlands and associated buffers are under RIDEM jurisdiction and review. Full RIDEM review will be required at the Preliminary Plan phase.
- e. At this conceptual phase, no significant negative environmental impacts anticipated from the proposed project, with all required conditions of approval as may be applied to this or future review phases.
- f. The subdivision is subject to all state and local environmental regulations.
- g. The 2021 Rhode Island Natural Heritage map shows no known rare species located on site.
- h. The parcel does not lie within the watershed of a drinking water supply.

(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 (9) building lot and (10) building lot area). Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

- i. At this conceptual phase, the proposed nine (9) lots do not have any known physical constraints to development that building on those lots according to pertinent regulations and building standards would be impractical.
- j. The topography and other physical features are such that building on the lots appears to be feasible at this conceptual stage.
- k. The design, location of lots and buildings, utilities, drainage, and other improvements conform to local regulations.

(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.

- l. The nine (9) proposed lots will have adequate and permanent physical access to the proposed new road (Phyllis Oakley's Way). The access to the two (2) existing residences will be modified from Jenckes Hill Road to the new road.

(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.

- m. The nine (9) proposed lots conform to the standards and provisions of the Lincoln Zoning Ordinance. Each lot exceeds the minimum upland area, frontage, and width/depth ratio requirements.

(7) Each subdivision shall provide for 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.

- n. The proposed access for the subdivision has been reviewed by the Town and provides for safe circulation of pedestrian and vehicular traffic, with the condition that the applicant provide site distance calculations as part of the Preliminary Plan submittal.
- o. The Town Engineer shall conduct a thorough review of the stormwater and drainage for compliance with Town regulations at the Preliminary Plan phase.
- p. There are no known natural, historical or cultural features that contribute to the attractiveness of the community that are protected by Town regulations. The Town will ask that disturbance to the tree canopy and existing stone wall be avoided to the greatest possible extent.

(8) The design and location of streets, building lots, utilities, drainage improvements and other improvements in each subdivision shall minimize flooding and soil erosion.

- q. The Town Engineer shall conduct a thorough review of the utilities and drainage improvements for compliance with Town regulations at the Preliminary Plan phase.

TRC Recommendation*:

**The TRC review is advisory in nature, and in no case shall the recommendations of the TRC be binding on the Planning Board in its activities or decisions.*

Based on the submitted materials and the discussion during the March 14th meeting, the TRC found that the application successfully addresses the technical requirements of the subdivision regulations for a Master Plan review stage and is consistent with the Comprehensive Plan. Upon a motion by Member Hervieux, seconded by Member Quish, **the TRC unanimously voted to recommend the Planning Board APPROVE the Whispering Oaks Subdivision Master Plan application subject to the following conditions:**

1. The LPFM system shall be privately owned and maintained by a homeowners association.

2. Generators shall be required on each lot with a grinder pump system to ensure power during power outages.
3. RIDEM, RIDOT and NBC permits are required at the Preliminary Plan stage.

Respectfully submitted,

Joshua Berry, AICP

Joshua Berry, AICP

Town Planner

Administrative Officer to the Planning Board