



100 Old River Road
P.O. Box 100
Lincoln, RI 02865
(401) 333.8433

OFFICE OF THE
TOWN PLANNER

April 20, 2023

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

Re: TRC Variance Recommendations (Consent Agenda Items)

Dear Honorable Planning Board Members,

Technical Review Committee (TRC) met to review and make recommendations on the variance applications for the April 26, 2023 meeting of the Planning Board. The TRC recommendations are below, respectively.

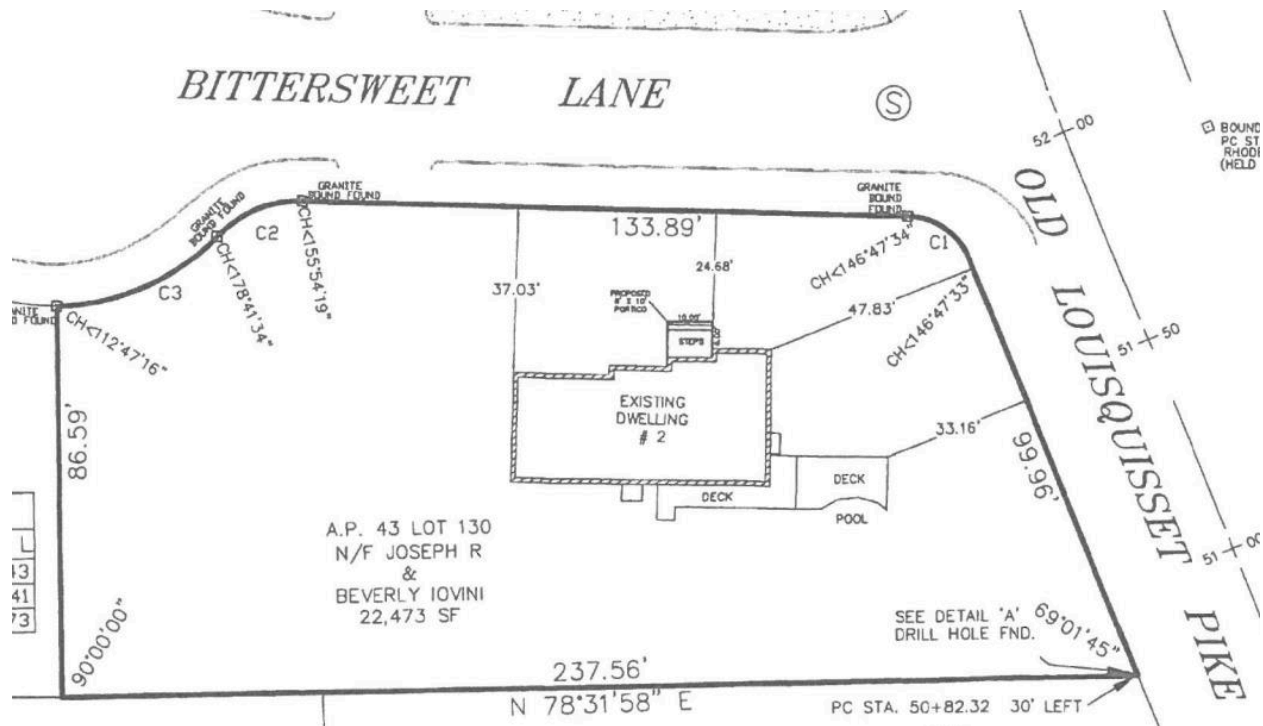
The purpose of this report is to provide technical comments and recommendations on the projects listed below based on the Town of Lincoln's Zoning Ordinance, Comprehensive Plan and Land Development and Subdivision Regulations. The TRC review is advisory in nature, and in no case shall the recommendations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

I. Joseph & Beverly Iovini	AP 43 Lot 130	Dimensional Variance
	2 Bittersweet Lane	Front Setback

Summary:

Application for dimensional relief to allow a front door overhang/portico over the front steps to encroach 5.32' into the 30' front setback in a RS-20 zone.

Site Plan



Analysis:

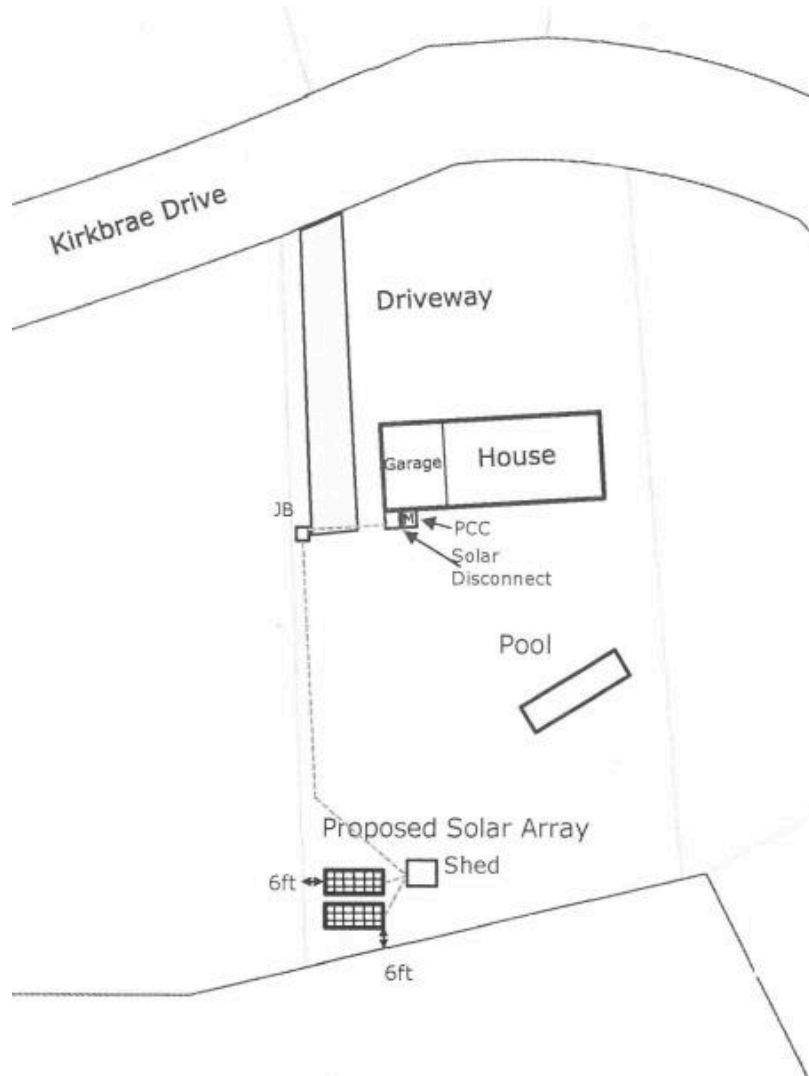
The subject property is one of four single-family homes on Bittersweet Lane, a small cul-de sac off of Old Louisquisset Pike in an RS-20 zone. The primary residential structure complies with the 30' front setback, but the front steps do not. The applicant is seeking relief to allow an 8' deep by 10' wide overhang/portico to cover the concrete front entryway. The TRC felt that this is a modest encroachment and would not have a negative impact on the neighborhood. The relief sought is consistent with the single-family uses and does not undermine the intent of the zoning ordinance. The primary use is still residential, consistent with the Comprehensive Plan FLUM and the relief is not in conflict with any goals or policies in the Comprehensive Plan.

Recommendation:

Finding that the relief requested is a minor encroachment that is in keeping with and will not have a negative impact on the residential neighborhood, and finding that the application is consistent with the Comprehensive Plan and does not undermine the intent of the Zoning Code, the TRC unanimously (6-0) recommends that the Planning Board make a **positive recommendation** on this application to the Zoning Board of Review.

Summary:

Application for a special use permit to allow a ground mount residential solar installation in an RS-20 zone.

Site Plan**Analysis:**

The subject property is a single-family residence in an RS-20 zone, which requires a special use permit for ground mounted solar arrays that can generate up to 125% of the total energy used on site. Lincoln Zoning Code §260-19 BB(1) establishes performance standards for residential scale solar. The application materials demonstrated compliance with the height and setback requirements, but do not demonstrate compliance with the standard that the installation “be designed to prevent unauthorized access, including, but not necessarily limited to, protective

fencing” or the standard that it “shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts.” The TRC discussed that the fencing would not need to enclose the solar arrays to meet the condition, nor would there be any reason to screen the installation from the south because it is state-owned right of way for I-295, but that the applicant would need to comply with the performance standards to the satisfaction of the Zoning Board.

The TRC noted that the shade cast by the existing trees may be an issue, particularly as the trees to the south are not on the subject site and the applicant may not clear them. Without the applicant present, it was unclear why the panels were not on the roof or how the shade issue would be resolved, but these concerns did not raise to the level of a negative recommendation. There was a question as to whether the approval of the Special Use Permit would grant the applicant the right to install more panels than what are shown, but the TRC determined that it would not and that the applicant is limited to generate 125% of the energy consumed on site.

DPW Director Mike Gagnon voiced opposition to supporting any ground-mounted solar arrays in residential areas on the basis that they should be on roofs and are not appropriate on the ground in residential neighborhoods. Town Planner Joshua Berry pushed back on the idea that the TRC should include such opinions into their review and recommendations, asserting that whether a use is allowed or requires a special use permit is the decision of the Town Council and is not within the purview of the TRC. The Town Planner suggested that if the application meets the codified requirements, then the TRC should recommend approval. The renewable energy installation is accessory to the primary residential use, and is therefore consistent with the Comprehensive Plan.

Recommendation:

Finding that the special use permit is consistent with the Comprehensive Plan, and with the condition that the applicant demonstrate compliance with the performance standards for ground mounted residential solar photovoltaic installations in Zoning Code §260-19 to mitigate any safety and visual concerns, the TRC voted (5-1, Mr. Gagnon voted nay) to recommend that the Planning Board make a **positive recommendation** on this application to the Zoning Board of Review.

Respectfully submitted,

Joshua Berry, AICP

Joshua Berry, *AICP*

Town Planner

Administrative Officer to the Planning Board



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Re: Whipple Cullen Farm Condominiums - AP 29 Lot 150 - TRC Bond Recommendation

Dear Honorable Members,

On Tuesday, April 18, 2023, the Technical Review Committee (TRC) met to review and make recommendations on the bond calculations for the Whipple Cullen Farm Condominium project which is scheduled for the April 26, 2023 meeting of the Planning Board. TRC members in attendance were Joshua Berry, Jeffrey Almond, Leslie Quish, Francine Jackson, Mike Gagnon and Mike Reilly. Below are the Committee's recommendations.

The purpose of this report is to provide technical comments and recommendations 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.

Summary:

On March 22, 2023, the Planning Board granted a conditional Final Plan approval on a comprehensive permit application to Old River Road Development, LLC for their project "Whipple Cullen Farm Condominiums." Condition #15 of the approval requires that the Town Engineer "calculate an improvement bond to be presented to the Planning Board at their next available meeting."

There are two factors that set this particular bond calculation apart from the typical course: 1) the project and all of the improvements therein are all privately owned and are not intended to be owned by the Town, and 2) that the project is actively under construction, creating a moving target for what

exists and which would require bonding. For these reasons, the Town Engineer, in coordination with the DPW Director and Town Planner, thought it appropriate in this instance to present 2 bonds for the Planning Board to consider, one for all of the improvements that would typically be bonded for a public project, and one specifically tailored to the remediation and drainage concerns. The two options are intended to give the Planning Board the final call on what they believe is the best course of action for the Town. The Planning Board certainly *can* require the improvement bond under Lincoln Land Development and Subdivision Regulations, but the question in this case is whether they *should*.

Analysis:

The **Improvement** Bond calculation (rounded up to the nearest \$1,000) came to total of **\$2,666,000**. This is a relatively large figure, but only because it is a large project. With the exception of constructing the duplexes themselves, this bond covers essentially all of the other improvements that have not already been constructed. The bond was difficult to calculate, in part due to the fact that the site is actively under construction. The Engineer had to set a point in time where a snapshot of the project was assessed to determine what was constructed and what would be included in the bond. This is problematic because many of the items will be constructed before the time that the bond could be approved, applied for, granted, submitted and processed. The applicant/developer spoke to this fact during the TRC meeting, and testified that many of the improvements will be completed in a matter of months.

The **Stabilization** Bond calculation came to a total of **\$544,295**. The bond includes loaming and seeding of Phase 3 & 4, loaming and seeding basin 1 & 2, earthwork for temporary basins, fencing around detention basin 1, downstream wattles, and temporary swales. Please know that the Town already has a remediation bond in the amount of \$182,106 through the Town's Soil Erosion and Sediment Control ordinance, set to expire in August. The proposed Stabilization Bond is intended to supersede the current bond in terms of function and value. The items included in the bond give the Town the resources it would need in the event that it would need to intervene in stabilizing the site.

Considering the two bonds, the key question that the TRC sought to answer is *what position does the Town want to be in should the developer walk away and the bonds need to be activated?* The DPW Director stated that the Town would not want to complete the improvements for this or any other private project. The Town would not want to go in and complete the project and noted that this would add liability to the Town. The Town Engineer and Town Planner supported these sentiments. The TRC believed that the Stabilization Bond would be sufficient to accomplish the scope of intervention that the Town would want to take in the event that it were ever necessary. For this reason, the TRC did not support the Improvement Bond, but believes the Stabilization Bond is the best course of action for this project at this time.

Recommendation:

The TRC unanimously voted to recommend that the Planning Board **approve** the Stabilization Bond for the Whipple Cullen Farm Condominiums project in the amount of \$544,295.

In the same motion, the TRC unanimously voted to recommend that the Planning Board **NOT** approve the Improvement Bond for the Whipple Cullen Farm Condominiums project calculated at the amount of \$2,666,000.

Respectfully submitted,

Joshua Berry, AICP

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Town Planner

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Edgewood Estates – Master Plan
Staff Report for the April 26, 2023 Planning Board Meeting

Project Name:	Edgewood Estates	TRC Meeting: 4/18/2023
Application Type:	Major Subdivision	
Review Phase:	Master Plan	
Project Address:	0 New River Road	
Plat and Lot:	AP 34 Lot 460	
Zone:	RS-20	
Land Area:	2.46-acres	
Future Land Use:	Residential Medium (1/4 – 1 acre)	
Owner/Applicant:	Edgewood Developer, LLC	

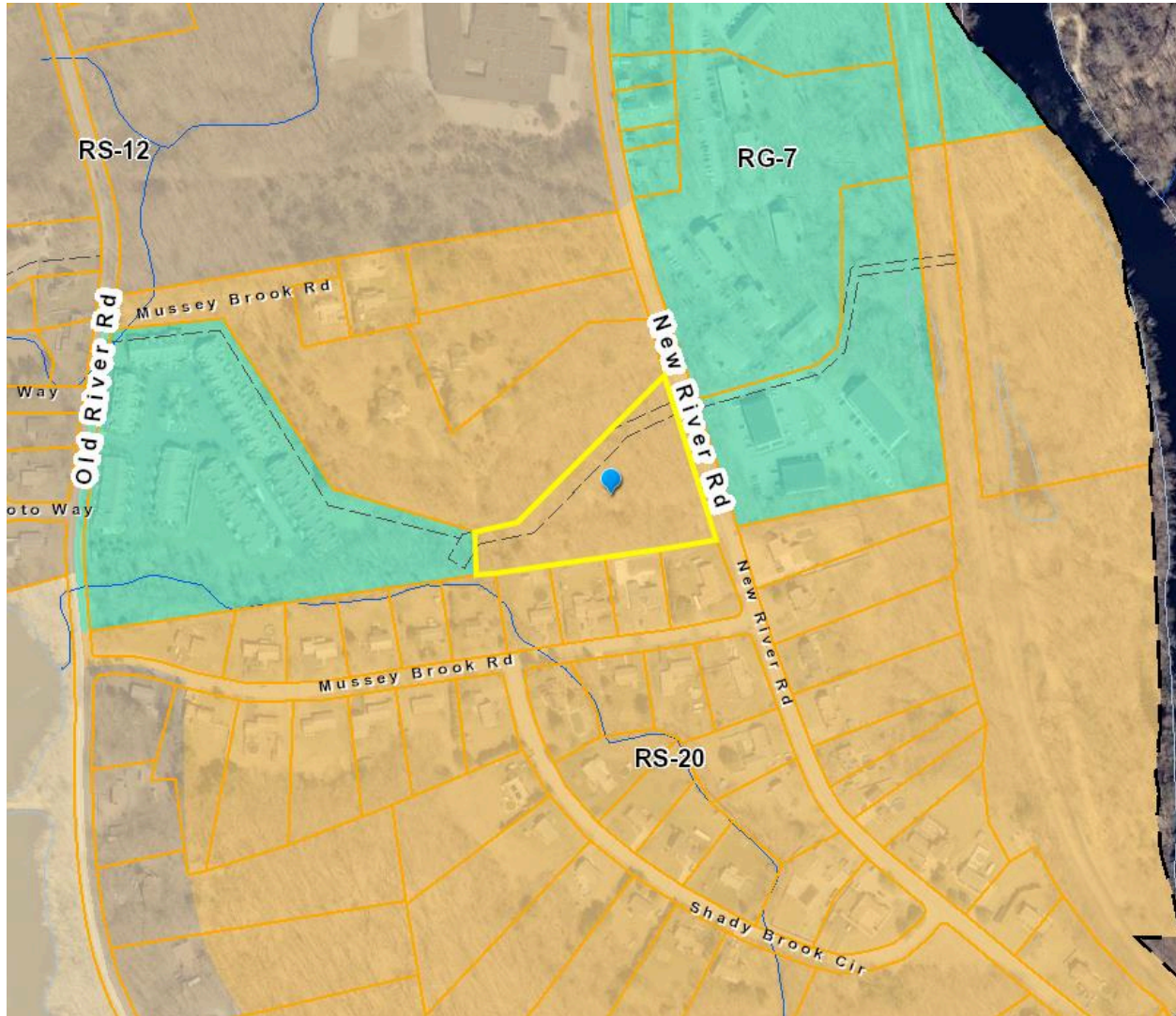
Proposal Summary:

This Major Subdivision Master Plan application proposes the subdivision and development of a 2.46-acre site into three (3) lots for single-family development. All three proposed lots have frontage on New River Road and no new roadway is required. Public water and sewer are proposed. A waiver is requested for the interior lot angle on proposed Lot 3 as well as zoning relief is required for substandard lot width for proposed Lot 3. Waivers may also be required for curbing and sidewalks requirements on New River Road.

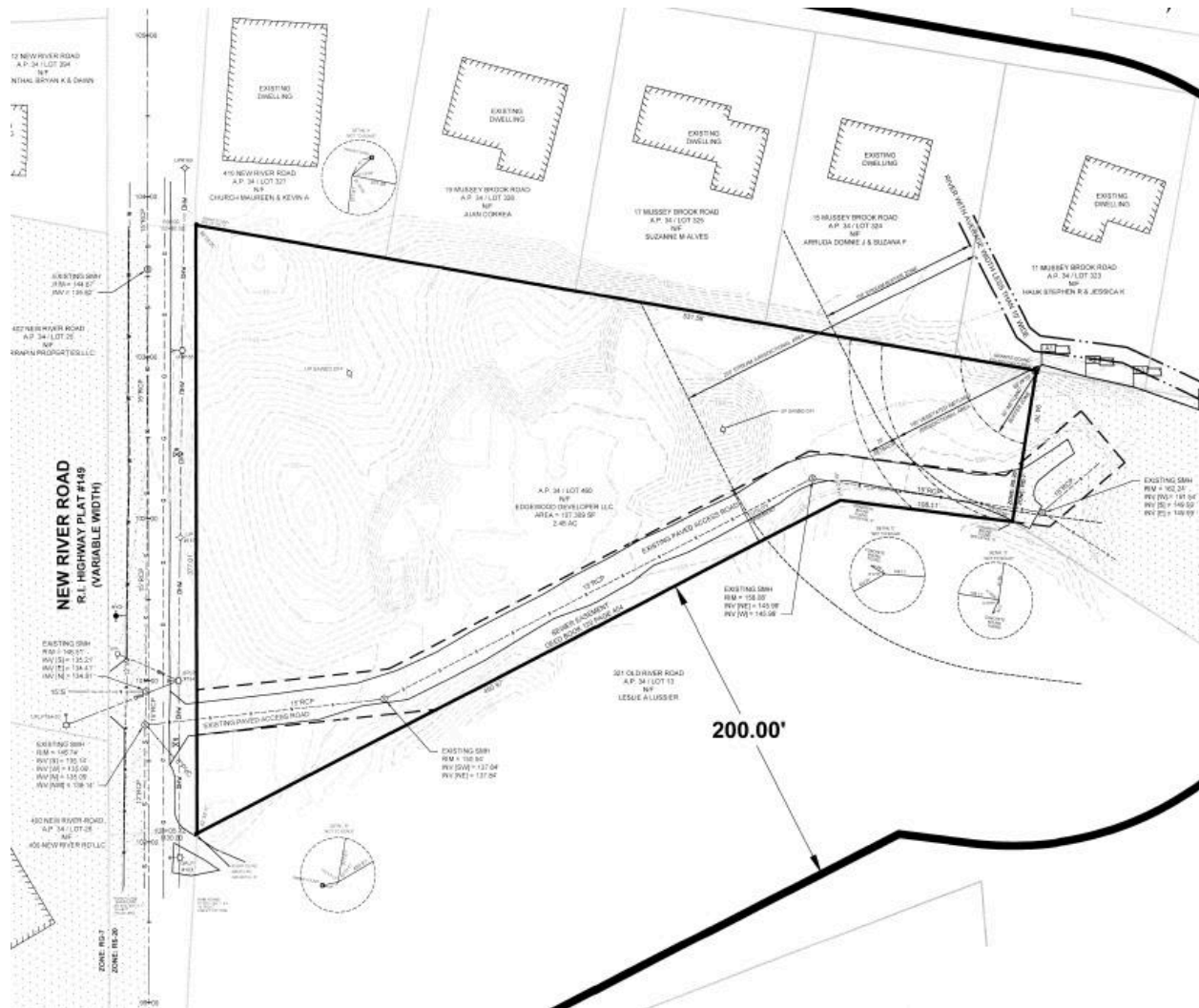
The submission included the following plans and reports:

- *Edgewood Estates Subdivision, Major Subdivision – Master Plan Submission*, prepared by Ronald Cataldo of RA Cataldo & Associates, Inc. dated 3/20/23, last revised 4/6/23.
- *'Edgewood Estates Subdivision' – Three Lot Residential Development Analysis – Major Subdivision and Dimensional Variance Application*, dated 4/12/23 prepared for Edgewood Developer, LLC, prepared by Pimentel Consulting, Inc.
- *Freshwater Wetland Delineation* report for AP 34 Lot 460 dated 1/17/22 by Scott Rabideau, PWS of Natural Resource Services, Inc. addressed to Armand Ferland.

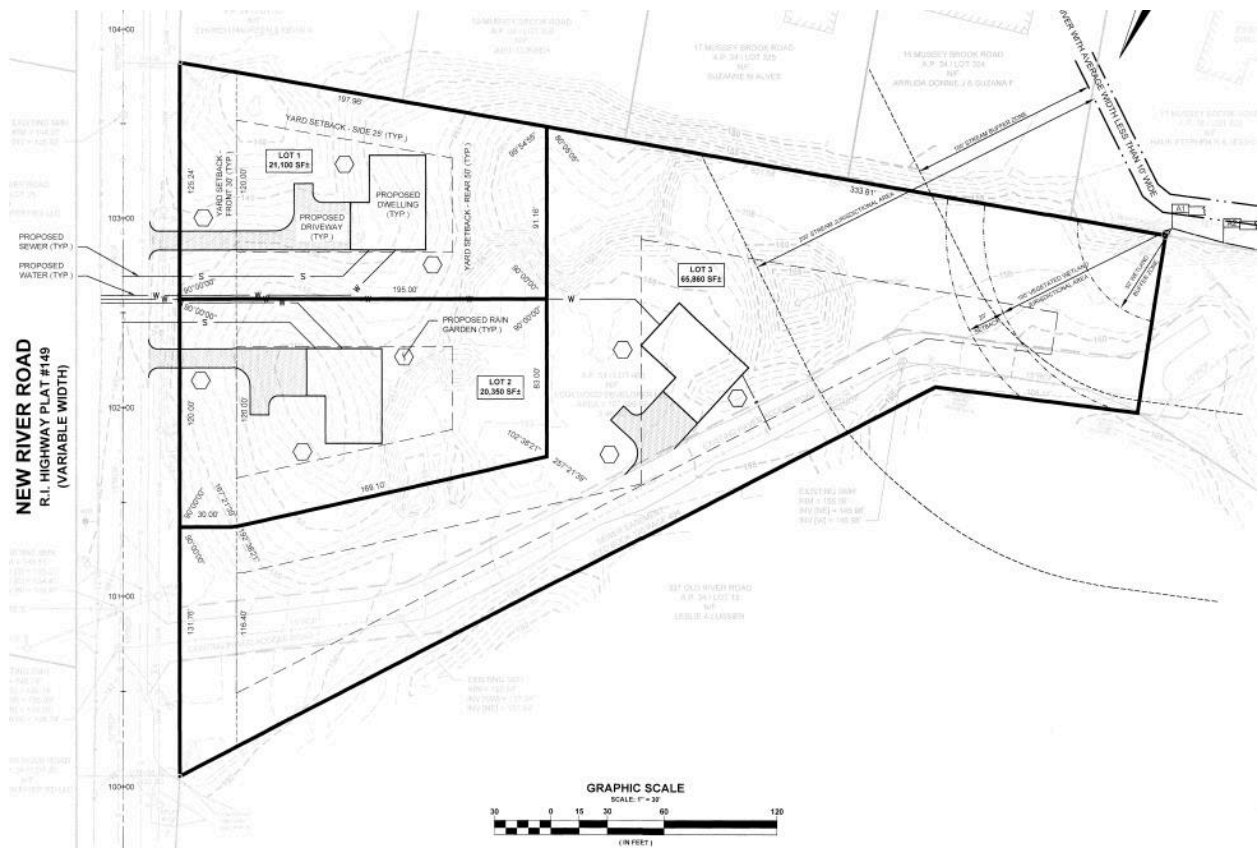
Zoning Map



Existing Conditions



Site Plan



Street View (on New River Road facing North)



Site Layout:

The site layout is designed to accommodate the irregular shape of the existing lot and the existing sewer easement owned by the Town. The triangular shape and easement restrict the buildable area of Lot 3, so the applicant proposes to include the lot area to the rear (west) of the property to create a buildable area for the home on lot 3. There is an existing paved access road over the sewer easement that will provide the majority of the access to the home on Lot 3, only a small portion of new driveway is needed. The other two homes will have new driveways onto New River Road. Each driveway has a turnaround so no cars will have to back out onto the state road.

Waivers:

The applicant is requesting a waiver from Section 22(E) of the Subdivision Regulations to allow proposed lot 3 to have an interior angle greater than 200 degrees. The angle is proposed at 257 degrees.

The purpose of the regulation is to prevent flag lots from being created. However, in this instance, the combination of the irregular shape of the lot and the existing sewer easement running along the norther property line in Lot 3 restrict the buildable area for lot 3 to be near New River Road. Therefore, to create sufficient buildable area, the site layout must create one interior lot angle to exceed the maximum. It should be noted that Lot 3 is more than 3 times the required lot area, at almost 66,000 SF where 20,000 SF is required. Due to these circumstances, the TRC supports the waiver request.

Although not itemized in the application, the proposal may also require waivers for sidewalks and curbing. Recently, the Administrative Officer has been interpreting the Subdivision Regulations such that curbing and sidewalks are required even on subdivisions where no new street is required, but this hasn't always been the way it has been interpreted. This issue can be clarified and the outcome conveyed to the applicant prior to submittal of the Preliminary Plan application. The waivers need not be approved at the Master Plan stage of review.

Zoning:

Lots 1 and 2 meet all of the dimensional requirements in RS-20 zoning, but Lot 3 is just shy of the 120' lot width requirement. The zoning application is not currently available for review and is anticipated to be before the TRC and Planning Board in May. Further review of the relief will be conducted at that time. The Zoning Official has signaled that he is not in favor of relief for lot width for any new subdivisions. However, other members of the TRC, including the Town Planner, believe that the irregularly shaped lot creates a hardship that could justify the relief. Furthermore, the applicant has well over the 120' at the street frontage. It is only because the ordinance requires that the measurement be taken at the front setback line that the applicant is 3.6' short. This shortfall constitutes 3% of the 120' or 1% of the total 360' of width required over

the 3 lots. The TRC will discuss the relief at their May meeting and will forward their analysis and recommendation to the Planning Board ahead of the May Planning Board meeting.

Utilities:

The applicant proposed public water and sewer for all three (3) lots. A sewer availability letter has been issued. Lots 1 and 2 will tie in directly to the sewer main in New River Road. Lot 3 will tie in to the sewer line running through the property under the access road.

A water availability letter was issued for a previous iteration of the plan, but an updated letter will be required based on the current layout and number of lots. The applicant has submitted plans to the Lincoln Water Department which are currently under review. LWC approval will be required at the Preliminary Plan phase.

One issue that was discussed by the TRC was whether the water line for Lot 3 should run through Lots 1 and 2 as proposed, or whether it should connect directly through Lot 3 only. The applicant is likely attempting to keep the road disturbance to a minimum due to the cost of repaving the road curb to curb. The DPW Director would prefer to avoid any future issue with the line as the maintenance of the line would cause disturbance for the owners of Lot 1 and 2. Ultimately, the TRC defers to the Water Department on this issue. If the connection is approved as proposed, an easement will be required for the portion of the line for Lot 3 that crossed Lot 1 and 2.

Grading

There are 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 roads and driveways will have to meet the slope maximums in the Subdivision Regulations. When a detailed grading plan is devised, the limits of disturbance will be illuminated in greater detail.

Stormwater

At this conceptual phase, rain gardens are proposed adjacent to each driveway and new home respectively. The stormwater systems and drainage calculations will be reviewed as part of the Preliminary Plan review process.

Wetlands

There is a wetland (Mussey Brook) located due southwest of the property. The wetlands were flagged and a report was issued by Scott Rabideau of Natural Resource Services, Inc. All of the improvements are proposed outside of the wetlands and wetland buffer, so the project is not

anticipated to have any negative impacts to the wetlands. This issue will be reviewed in further detail during the preliminary plan review process.

Affordable Housing

This project is only three (3) lots and therefore does NOT trigger the Town's inclusionary zoning requirement. There are no affordable homes proposed as part of this project.

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 0.82 units/acre is consistent with the Future Land Use Map designation as *Residential Medium (1/4 – 1 unit/acre)*. The single-family housing development is 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 0.82 units/acre is consistent with the Future Land Use Map designation as *Residential Medium (1/4 – 1 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 this area of Manville.

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

- c. All of the three (3) proposed lots meet or exceed the required lot area. Lots 1 and 2 also meet the required 120' of lot width. Relief from the Lincoln Zoning Ordinance is required for 3.6' of width for Lot 3.

(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. There are wetlands buffers on Lot 3 but all of the proposed improvements are shown outside of the buffer area. The proposed improvements will be reviewed for compliance with the buffers again 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 three (3) 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 three (3) proposed lots will have adequate and permanent physical access to New River 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. Lots 1 and 2 conform to the standards and provisions of the Lincoln Zoning Ordinance and relief is required for lot width for Lot 3. Each lot exceeds the minimum upland area, 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, and will be reviewed in further detail as part of the Preliminary Plan review.
- 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.

(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 April 18th 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. **The TRC unanimously voted to recommend the Planning Board APPROVE the Edgewood Estates Major Subdivision Master Plan application subject to the following conditions:**

1. The applicant shall obtain relief for the substandard lot width on proposed Lot 3 from the Zoning Board of Review.
2. The access road for proposed Lot 3 will be owned and maintained privately and the Town will not be responsible for it in any way.

Respectfully submitted,

Joshua Berry, AICP

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Town Planner

Administrative Officer to the Planning Board