

Town of Lincoln
Planning Board
100 Old River Road, Lincoln, RI
Minutes of October 30, 2023, Meeting

Special meeting/ workshop of the Planning Board was held on October 30, 2023. This meeting was at the Lincoln Senior Center, 150 Jenckes Hill Rd. Road, Lincoln, Rhode Island.

This was an in-person meeting. The public was able to view the meeting in person or by utilizing the web streaming available on <https://lincolnri.civicclerk.com/web/home.aspx>.

Application materials are available on the Planning Department's webpage:
<https://www.lincolnri.gov/181Planning>

Chairman Ken Bostic called the meeting to order at 6:30 p.m.

Present, Member Meagan Bellamy, Member Tom Salvatore, Member Jeff Almond, Member Mike Reilly, and Member Tom Tuytschaevers. Member Ned London was not in attendance.

Also in attendance: Town Planner Joshua Berry, Legal Counsel Mark Hartmann, and Attorney DeSisto, Members from the Zoning Board, Building Official/ Zoning Official Hervieux, and Consultant Ashley Sweet.

Town Planner Berry: Gives thanks to those who came out to the meeting tonight workshop focuses primarily on the ordinances, done working through that. The consultant is here to walk through the first draft of sub-division regulations. Introduced the concepts. Send recommendation to the TC, scheduled for November 20th and public hearing on the 21st. Note from clerk the numbers are one off, should be 08, 09, 10 and 11. We are starting with adopted re-use. These are all responses to State Laws being changed going to be effective January 1.

3. Zoning Ordinances

A- 2023-8 An amendment to Chapter 260 Zoning – Adaptive Reuse

Town Planner Berry: They have mandated all properties can be adaptively re-used as residential by right. Overrides all zoning codes. **Chapter 260-7 Definitions; word usage.** ADAPTIVE REUSE: The conversion of an existing structure from the use for which it was constructed to a new use by maintaining the elements of the structure and adapting such elements to a new use. Would this stay in this format?

Attorney DeSisto: It would stay in this format.

Question from Town Planner Berry to Building Official/ Zoning Official Hervieux: Is this the right place to insert this (in the Zoning Ordinance), or should it be changed?

Building Official/Zoning Official Hervieux: Will get back to him.

Town Planner Berry: Chapter 260-21 Adaptive Reuse Projects. A. Permitted Use. Adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed-use developments is a permitted use in all zoning districts, under the criteria described below under subsection B. Eligibility. Added in "all zoning districts", should this be added for clarity?

Attorney DeSisto: Is fine with this added.

Town Planner Berry: Eligibility-1 ~~Adaptive reuse development must include~~ At least 50% of the existing gross floor and 100% of any allowed additional gross floor area shall be developed into residential units.

I thought this wording was clearer. Can have mixed, commercial on first floor, residential on second floor. No concerns with the new wording. Density there are two categories footprint qualifications but in the next category doesn't say where it isn't- think we can allow for interpretation of some expansion of the footprint n but doesn't know if we have to.

Ashley Sweet: If you read number two it says essentially the same thing but uses different language. I think you can limit it to the existing structure, nothing here says otherwise. Only building codes would prohibit it.

Town Planner Berry: Discussion of policy, any expansion of the footprint. Adaptive re-use may be the only way to get to multi- family housing, affordable housing. How much flexibility do we want to have with this, or the bare minimum?

Member Almond: Give more flexibility, you could give more ability to grow where it would belong to be expanded or where it wouldn't fit or make sense to fit.

Town Planner Berry: Does mill overlay include affordable housing?

Building Official/ Zoning Official Hervieux: It would have to be modified.

Concerns from the board of the possibility of wrong fitting projects going through, but also right projects being denied.

Ashley Sweet: Wondering if we can come up with a criterion that the planning board could consider if the project meets them up to a 10% expansion of the building, add incentives what you would want to see. You would have some flexibility for both the good and the bad.

Town Planner Berry: In conclusion we will not allow expansion unless we get something in return? We will further discuss and suggest for next time. Eligibility 2- There are no environmental land use restrictions recorded on the property preventing the conversion to residential use by RIDEM or the US EPA. This is right out of state law. Density calculations. The density proposed for any adaptive reuse project shall meet all public health and safety standards 1- For projects that meet the following criteria, the maximum residential density shall be fifteen (15) dwelling units per acre.

Board discusses: Concerns with the concept; 15 units per acre. Large buildings could essentially have very large units within the building. Dwelling verses unit by definition is similar.

Ashley Sweet: Discusses minimum housing requirements. The minim that you have to put into a unit for it to be considered livable as a dwelling unit. The only way to figure out what that is to do a floor plan. Take the flood design it, and design units that meet minimum standards and then figure out what that density is. So going into this we don't know the density that will result. It very well could be 23 units per acre, we have no idea. It also could end up being 12 units per acre. We don't know until it is designed to figure that out. The problem with that is the potential of dis incentivizes the use of number one which is where you get your affordable units.

*Discussion of confusion on number one, minimal 15, verses if it will work. Doesn't mean you can expand until 15, it is we have to allow it if you can get to 15. *

Ashley Sweet: If a developer thinks they can get a higher density out of number 2, they'll go for that and won't provide LMI units- and will be straight market priced units.

Town Planner Berry: Reads each category under Density section Category A- Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded as authorized in this section and to accommodate upgrades related to the building fire code, and utility requirements. B- The development includes at least twenty percent (20%) low- and moderate-income housing. C- The development has access to public sewer and water service or has access to adequate private water, such as well and/or wastewater treatment systems approved by the relevant state agency for the entire development as applicable.

**Discussion of language, "shall be"- Ashley Sweet will double check specifics in the categories.

Town Planner Berry: Questions "public safety issues"- is this determined by who? Zoning official?

Building Official/ Zoning Official Hervieux: The appropriate authority, don't think it is put on any one person.

Town Planner Berry: Next, is all cut and paste from State Law. Dimensional requirements. 1- Notwithstanding any other provisions of this chapter, existing building setbacks shall remain, and the encroachments are considered legal nonconforming. 2- No additional encroachments shall be permitted into any nonconforming setback unless relief is granted by the permitting authority. 3- Notwithstanding other provisions of this chapter, the height of the structure shall be considered legal nonconforming if it exceeds the maximum height of the zoning district in which the structure is located. A- Any rooftop

construction necessary for building or fire code compliance, or utility infrastructure is included in the height exemption. Parking requirements. No discretion on parking. Parking requirements. 1- Adaptive reuse developments shall provide one parking space per dwelling unit. The applicant may propose additional parking in excess of one space per dwelling unit.

Ashley Sweet: It does mention design for parking lot, these projects would already have a parking lot. Whether it is big enough lot to accommodate one parking space for unit. We're trying to at least get the parking lot to meet the design standard for parking lots can't regulate number of spaces. You can at least ask for landscaping and other things you would normally ask for, for a parking lot. Distinction between commercial and residential parking.

Building Official/ Zoning Official Hervieux: How do you calculate parking if they come with a partial design, 50% of the building and don't have one for parking- how do you calculate?

Ashley Sweet: You would have to have them come back. They would have to return when they develop the other half.

Town Planner Berry: 2- The parking requirements and design standards in Article V. Chapter 260-31 shall apply to all uses proposed as part of the project unless otherwise approved by the applicable authority. The number of parking spaces required shall apply for all uses other than residential. Only applies to residential. Reads G Development and Design Standards. Site design shall be in accordance with Section 22 of the Land Development and Subdivision Regulations.

Ashley Sweet: We should take a look at what you have in section 22, to make sure it accurately accommodates for.

Town Planner Berry: I suspect we could improve that.

Ashley Sweet: In phase two we can look at section 22- adaptive re-use standards specific to non-residential zones.

Town Planner Berry: Procedural requirements. 1- Adaptive reuse projects shall be subject to the procedural requirements of the Land Development and Subdivision Regulations and undergo either Development Plan Review, Minor, or Major Land Development as determined in that section. Discusses development plan review- will explain later. This should be inserted here.

Ashley Sweet: It is up to the municipality.

Town Planner Berry: 2- In addition to the checklist requirements for the applicable review process, the applicant shall provide the following information: A- The proposed residential density and the square footage of nonresidential uses. Residential density under the provisions of section C(2) of this chapter shall be determined with require the submission of a detailed floor plan as described in subsection H(2)(b) of this chapter to the Planning Department as part of the application. B- A floor plan to scale for each building indicating, as applicable, the use of floor space, number of units, number of bedrooms, and the square footage of each room and each unit. I don't like applicant requirements here. Board discusses provision of modifying plans- you can request to modify master plan and would have to go to a public hearing and make decision of the plan.

B. 2023-9 An Amendment to Chapter 260-42- Inclusionary Zoning Provisions.

Town Planner Berry: Main mandate is not whether you have to do it, but every affordable housing unit the developer gets two market rate units. Density provision makes what would be an affordable housing towards 10%, the more you add market rates the less affordable housing.

Attorney DeSisto: Are you recommending they be deleted?

Town Planner Berry: Not quite, we added a section (section D). Applicability: This section shall not apply to any project filed on or after January 1, 2024. Ordinance would stay the same until January 1. Would change after that (section D).

Attorney DeSisto: Effective repeal after Jan 1, 2024?

Town Planner Berry: Yes. Changed language to "on or after January 1, 2024"

C. 2023-10 An Amendment to Chapter 260 Zoning- Special Use Permit

Town Planner Berry: Any use that is allowed with a Special Use Permit has to have specific criteria-standards. A use requiring a special use permit under the applicable provisions of this chapter may be permitted by the permitting authority following a public hearing only if, in the opinion of the ~~Board~~ permitting authority, such proposed use and its location on the site meets each of the following requirements, in addition to any other applicable requirements, criteria and/or standards enumerated in this chapter which may be applicable to the relief being sought. When a use is permitted by special use permit, the ~~Zoning Board~~ permitting authority may grant dimensional relief in conjunction with said special use permit if the special use could not exist without the dimensional variance. The ~~Zoning Board of Review~~ permitting authority shall consider the special use permit and the dimensional variance together to determine if granting the special use appropriate is based on both the special use criteria and the dimensional variance evidentiary standards below: ~~A- The special use is specifically authorized by this chapter, and setting forth the exact subsection of this chapter containing the jurisdictional authorization; B- The special use meets all the criteria set forth in this chapter authorizing such special use; C- The granting of the special use permit will not alter the general character of the surrounding area; and D- The granting of the special use permit will not impair the intent or purpose of this chapter, nor the Comprehensive Plan.~~ There's an abundance of Special Use Permit. Lots of communities have made categories of uses and made specific standards for those categories of uses- not every single use, general type categories. Need to move away from performance standards and move more towards criteria of approval. Don't want to confuse finding of facts with performance standards. The Town Planner and Building Official have tried to categorize by land usage and looking at decision making practices. Revised table of usage and will have to draft up and introduce to the Town Council. In the meantime, I think we should continue it or deny it and rewrite when we have a better understanding for which land usages need SUP and have a table of usage.

Zoning Board Chairman DeAngelis: SUP are probably the most publicly attendance Zoning application- more neighborly impact.

Town Planner Berry: we will also look at rewriting performance standards as well.

Claude Cote Public member: Questions about why this meeting wasn't noticed in website. Very good presentation but if had more knowledge and information could make more of a contribution to tonight's meeting- would have liked more access.

Town Planner Berry: Did try to make it available. Was in the Valley Breeze, SOS site. Limited access to website.

Claude Cote Public member: How does this affect as a micro level. Breakdown per zone?

Town Planner Berry: This would be better for me to prepare at the public hearing, this was intended as a Planning Board Workshop.

Discusses with the Board the lengthy process to go through the usage with the Town Planner and Building Official/ Zoning Official Hervieux- It will be a long process to go over. Recommending going through the easy ones that may not need SUP.

Ashley Sweet: You could get rid of Special Use Permits you don't use/ haven't seen in a while.

Member Salvatore: Questions, was this necessary for a public hearing?

Town Planner Berry: This is not a public hearing; this is a public meeting.

D. 2023-11 An Amendment to Chapter 260 Zoning- Land Development Projects: Development Plan Review; Dimensional Modification. Unified Development Review.

Town Planner Berry: This is pretty much all taken from state law- enables that these projects and points to subdivision regulations to handle it. Right from State Law.

Ashley Sweet: Some of these are not direct cut and paste, but it is essentially what the law said we developed language based on Lincoln ordinance

Town Planner Berry: A- and development projects shall be reviewed in accordance with the procedures established in the Land Development and Subdivision Regulations adopted by the Lincoln Planning Board, pursuant to R.I.G.L. §45-23. The Town recognizes that commercial and industrial construction has

~~the potential for impact on the Town. Therefore, according to the Town of Lincoln's Land Development and Subdivision Regulations, all proposed nonresidential land development projects shall be considered as major land development plans and shall be reviewed by the Planning Board.~~

~~B- No land development project shall be initiated until a plan of the project has been submitted and approval has been granted by the authorized permitting authority, as determined in the Land Development and Subdivision Regulations. All new construction or substantial alteration of a commercial or industrial site is required to submit to a development plan review as specified in §260-73. "Substantial alteration" is defined as an enlargement by 50% or more. This review shall be conducted by the Area of Planning Concern Committee prior to the Planning Board review. Questions the term "initiated", what does that mean there? "...shall be initiated" does that mean you cannot clear the trees off the site?~~

Ashley Sweet: That is what the language in the law states.

Town Planner Berry: You have the right to do some activity unless there are wetlands permits or such, I am not sure what that "initiated" means. Difficult for me to know exactly what that means. If we do want to clarify what that means.

Ashley Sweet: Previous language talks about construction and alteration, I agree with you the term could mean anything.

Town Planner Berry asks Attorney DeSisto if the language should be clarified.

Attorney DeSisto: I do think there is some flexibility that should be in there for the Board to have some discretion. I think you should leave it. There is a lot of leeway in statutes.

Town Planner Berry: Second question is, on words "...approval..." does that mean final approval? Should we just leave it like counsel said?

The board agrees yes.

Town Planner Berry: Reads section C In reviewing, hearing, and deciding upon a land development project, the ~~permitting authority~~ Planning Board is empowered to allow the following zoning incentives within the project: Height Density Parking reductions. Kept this loose, there are a lot of different ways to look at this. We are not mandated to provide incentives.

Ashley Sweet: This is for land developments, minor land developments and major, not comprehensive permit projects.

Town Planner Berry: That should be changed to Planning Board unless administrative power.

Ashley Sweet: Small non-controversial projects.

Town Planner Berry: Let's just put the Planning Board in there. Reads section D: The permitting authority is empowered to apply any special conditions and stipulations to the approval that may, in the opinion of the authorized permitting authority, be required to maintain harmony with neighboring uses and promote the objectives and purposes of the comprehensive plan and zoning ordinance. A project subject to a development plan review shall supply a total of nine copies of the site plans. The site plans shall include an overall site layout plan, a detailed parking layout, landscape plan, signage plan, and a lighting plan. I think that is fair. Reads Development Plan review section A. Development plan review established. There shall be a development plan review for uses that are permitted by right under the zoning ordinance as defined in the Land Development and Subdivision Regulations. Development plan review of applications for uses requiring a special use permit, a variance, a Zoning Ordinance amendment, and/or a Zoning Map change shall be required. The review shall be conducted by the Planning Board and shall be advisory to the permitting authority. Not clear here, but it will be in the Subdivision Regulations. Section B- C. B.- Permitting authority. The permitting authority shall be as defined in the Land Development and Subdivision Regulations. The Zoning Enforcement Officer may also submit an advisory comment to the permitting authority for applications requiring a special use permit, a variance, a Zoning Ordinance amendment, and/or Zoning Map change. The review by the Zoning Enforcement Officer shall be at the Officer's discretion. This comment shall be submitted before or simultaneously with the development plan review by the Planning Board. C.- Specific and objective guidelines. The design of all projects shall be consistent with the provisions of the Land Development and Subdivision Regulations. The applicant shall supply a site plan by a registered RI land surveyor or professional engineer, drawn to scale showing the accurate dimensions of the lot, all proposed

construction, all front, side and rear yard dimensions, proposed parking areas, and other such information as may be reasonably required by the Planning Board.

Section D- I think this is good, but I think this is in the wrong location, I think it should be in the Subdivision Regulations.

Ashley Sweet: Agrees.

Town Planner Berry: Reads Waivers and appeals. Waivers. The authorized permitting authority may grant waivers of design standards as set forth in the Land Development and Subdivision Regulations.

Appeal. The permitting authority's decision shall be appealable pursuant to R.I.G.L. §45-23-71. Moving on to Dimensional Modifications. We had this in effect, but State Law is making us modify it. We had it up to 10%, but now modified to 15%. The issuance of modifications from the literal dimensional requirements of the Zoning Ordinance in the instance of the construction, alteration, or structural modification of a structure or lot of record is allowed. The Zoning Enforcement Officer is authorized to grant modifications. The maximum percentage allowed for a modification shall not exceed up to and including 105% of any of the dimensional requirements specified in the Zoning Ordinance. A modification does not permit moving of lot lines. Within 10 days of the receipt of a request for a modification, the Zoning Enforcement Officer shall make a decision as to the suitability of the requested modification based on the following determinations: 1- The modification requested is reasonably necessary for the full enjoyment of the permitted use; (2) If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired; (3) ~~The modification requested is in harmony with the purposes and intent of the Comprehensive Plan and Zoning Ordinance of the city or Town; and;~~ The modification request does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations; and

B- Upon an affirmative determination, the Zoning Enforcement Officer shall notify the Technical Review Committee and, by first class mail, all property owners abutting the property which is the subject of the modification request and shall indicate the street address of the subject property in the notice and shall publish notice in a newspaper of local circulation that the modification shall be granted unless written objection is received within 14 days. If written objection is received within 30 14 days, or the Technical Review Committee recommends the application be referred to the Zoning Board, the request for a modification shall be denied scheduled for the next available hearing before the Zoning Board of Review on application for a dimensional variance

C- In the case of a modification of 5% or less, the Zoning Enforcement Officer shall have the authority to issue a permit approving the modification, without any public notice requirements under the same standards listed in subsection A.

Ashley Sweet: Think we should add something on request for DV are cumulative once you hit 16%, you're going to The Board.

Attorney DeSisto: Good point.

Discussion of if Planning Board denies, applicant can go to the Zoning Board for appeal.

Member Reilly: Questions about what this is for.

Attorney DeSisto: Town has setbacks, those have been reduced. That is the purpose of it. There are criteria the Zoning Official can look at, but if they say it wasn't met. That will go to court. This purpose is to relax setback requirements and to make it easier to get a building permit in the first instance, that is why the time limits are in there. The Zoning Official will have pressure to decide quicker.

Town Planner Berry: Moving on to Unified Development Review. The first sentence assumes issuance, but I think it should say review. Is that state law?

Attorney DeSisto: Keep it.

Town Planner Berry: Building Official/ Zoning Official Hervieux will read these and review. Reads section a- d. A- Public hearing. All land development and subdivision applications, and development plan review applications that include requests for variances and/or special-use permits submitted pursuant to this section, shall require a public hearing that meets the requirements of Article XVII and (R.I.G.L. §45-24-53). B- In granting requests for dimensional and use variances, the planning board shall be bound to the requirements as set forth in Article X §260-64 and §260-65 relative to entering evidence into the

record in satisfaction of the applicable standards. C- In reviewing requests for special use permits the planning board shall be bound to the conditions and procedures under which a special use permit may be issued and the criteria for the issuance of such permits, as found within the zoning ordinance Article XI §260-67, and shall be required to provide for the recording of findings of fact and written decisions as described in the zoning ordinance pursuant to §260-66(d). D Appeal. The permitting authority's decision shall be appealable pursuant to R.I.G.L. §45-23-71. Would decisions then be written by Attorney DeSisto since you do for Zoning?

Attorney DeSisto: No, I think under the statute we will continue to have the Planner to write them. Do you have the non-conforming lots?

Town Planner Berry: We are leaving for tier two.

Attorney DeSisto: How about provision on ADU?

Ashley Sweet: Our contract is 2023 general assembly session, ADU was not part of it.

Attorney DeSisto: Might want to have the existing ADU appealed and reintroduced.

4. Amendments to the Land Development and Subdivisions Regulations

Ashley Sweet: We amended several sections of the Subdivision regulations. We drafted section 6, and we changed section 14, because the definition of major and minor have changed. All changes we made here reflect state law. We changed the mailing requirements. We added a provision to add an appointed second person to administrative officer. If someone doesn't take this role and Town Planner isn't here and someone comes in, it's automatic approval. Someone needs to be there for unforeseen circumstances.

Discussion on who the second person should be

Ashley Sweet: Took some of the Technical Review Committee language out, because we added a TRC section- we moved a lot of the language down. Separated the administrative officer and the TRC section. We changed the appeal section to reflect state law. Changes to time period of final plan, they changed about 4-5 years ago, but these were not updated.

Town Planner Berry: Going forward we will have a Special Meeting, not a regularly scheduled meeting- these are dense. Appreciate feedback as we go.

5. Adjournment: Motion to adjourn at 8:49pm made by Member Salvatore, Second by Member Almond. All in favor.

Respectfully submitted,

Grace Gervais