

# MINUTES OF THE PLANNING BOARD

January 25, 2022

## ZOOM MEETING

**PRESENT:** Margaret Olson (Chair), Lynn DeLisi (Vice-Chair) Stephen Gladstone, Robert Domnitz, Gary Taylor

**STAFF:** Paula Vaughn-MacKenzie, Jennifer Curtin

**7:00 PM**     **Minor Modification to a Special Permit: ND Lincoln LLC, 1 Mary's Way, Parcels 111-10-0 and 111-11-0.** Request for administrative approval to transfer the special permit for Oriole Landing to new owners National Development. Vote Expected.

PVM presented the report for the request.

Civico Oriole Development LLC, the owner of Oriole Landing notified the Town of its intent to sell Oriole Landing to ND Lincoln LLC on December 24, 2021.

The Town's Role is as follows:

- The restrictions and agreements that the Town put in place as part of the permitting process require that Civico Oriole development LLC, as a precondition to transferring ownership of the property, obtain the Town's prior written consent, as well as the approval of DHCD.
- DHCD approval has been granted.
- The Select Board is the approval-granting authority on behalf of the Town, under the terms of the Regulatory Agreement. The Town's consent cannot be unreasonably withheld.
- Related to the Regulatory Agreement, the Seller also requested that the Select Board certify separately that the Seller is currently in compliance with all Town and DHCD housing requirements. The Town asked the Regional Housing Services Office to conduct a review and to submit a compliance recommendation. RHSO concluded that the present developer is in compliance with the affordability requirements of the Regulatory Agreement.

On January 18, 2022, the Select Board voted to approve the transfer. Tim Higgins executed the requested certification on behalf of the Select Board. The Select Board's role is now complete.

Separate and apart from the Select Board's proceedings, the Planning Board's Special Permit General Condition 5 requires the Planning Board to give permission for the transfer of the special permit. While the Assignment and Assumption of the Regulatory Agreement with DHCD, the Town and now the new owner preserves the affordable units in perpetuity, the Special Permit provides an additional layer of protection as it also requires the units to stay affordable in perpetuity.

Therefore, it is in the Town's interest to transfer the special permit to the new owner so that all of the terms and conditions under the special permit now apply to the new owner. There has never been a

separate Town Regulatory Agreement signed by Civico. The only Regulatory Agreement is between the Town, Civico, and DHCD, as indicated above.

Submissions:

1. Application Cover form dated January 7, 2022
2. E-mail from James Murphy, attorney for Civico date January 4, 2022.
3. E-mail from James Murphy, attorney for Civico date January 7, 2022.
4. Notice of Intent to Transfer dated December 24, 2021.
5. Special Permit of the Planning Board dated July 10, 2018
6. E-mail from Shirin Everett, KP Law, dated January 4, 2022.

In addition, James Murphy, attorney for CIVICO, asked for the Planning Board to provide a written acknowledgement that the obligation to enter into a Town Regulatory Agreement (as such term is defined in the project special permit) as referenced in Housing Condition Numbers 1.d and 1.e of the project special permit, has effectively been satisfied by Seller's execution of that certain perpetual Regulatory Agreement with DHCD and the Town.

Town Counsel reviewed this request on behalf of the town and advised that the Special Permit states, under Housing Condition # 1(d), that Civico enter into a Regulatory Agreement (RA) in form and substance satisfactory to the Lincoln Affordable Housing Trust, which RA will come into effect once DHCD is no longer a subsidizing agency under the RA. There is a Regulatory Agreement between the Town, Civico, and DHCD on record (Book 72059, Page 551), that runs with the property and is binding in perpetuity. The RA does not state that the Town will have rights after DHCD terminates the RA, but the RA expressly gives the Town the right to enforce the terms of the RA.

GT asked if the Town could enforce the regulatory agreement separately.

PVM responded that Town Counsel has advised that since there is a perpetual restriction on record, which will bind the new owner/buyer, there is no need for a separate affordable housing restriction, as the Town can designate the Lincoln Affordable Housing Trust to enforce the RA as its designee.

PVM added that all of the terms and conditions of the special permit will apply to the new buyer/owner.

Mr. Murphy introduced himself and asked the Planning Board for favorable action on the two votes.

LD asked Pat McAneny to introduce National Development (ND).

Mr. McAneny said that ND has been based in Newton Lower Falls for 40 years. They acquire and develop commercial real estate in the greater Boston area. They own and manage 3,000 residential units and manage 340 affordable units over 14 properties. They have their own management team called ND Communities which manages all their residential properties.

BD asked why CIVICO is selling the property.

Andrew Consigli, from CIVICO, said it was driven by market forces. They wanted to transfer to a developer of high quality in the area who had a good reputation. CIVICO is proud of the project and appreciates the work done by the Town in collaborative partnership to bring the project to completion. They will stay in contact with ND on how the transfer is going.

BD asked about the continuing viability of the project.

Mr. Consigli said that it has a positive value which speaks to the community and amenities of the Town. They are leaving on good terms.

BD asked if ND would hold the title or if it will be a new LLC specific to this project.

Mr. McAneny said that they are setting up a new entity, ND Lincoln LLC.

BD asked whether the Town would be a party in case there is a bankruptcy proceeding.

GT said it would be interesting to talk to Town counsel about the Town's role in the case of bankruptcy because the Town needs to maintain the project as it is important to the town.

MO moved to transfer the Special Permit to ND Lincoln LLC contingent on all terms and conditions contained in the special permit remain in place and run with the property in perpetuity. LD seconded. Roll Call: LD aye, SG aye, BD aye, MO aye, GT aye.

MO moved to duly acknowledge that the obligation to enter into a Town Regulatory Agreement (as such term is defined in the project special permit) as referenced in Housing Condition Numbers 1.d and 1.e of the project special permit, has effectively been satisfied by the Seller's execution and ND Lincoln LLC's assumption of that certain perpetual Regulatory Agreement with DHCD and the Town and recorded in the Middlesex South Registry of Deeds in Book 72059, Page 551 that runs with the property and is binding in perpetuity. LD seconded. Roll Call: LD aye, SG aye, BD aye, MO aye, GT aye.

**7:15 PM Eligible Facilities Request: Verizon Wireless, 295 Cambridge Turnpike, Parcel 132-25-0.** Eligible Facilities Request to replace and add antennas, radio units, safety equipment, and cables. Vote expected.

Ms. Curtin presented the project as submitted by the applicant.

The Special Permit associated with this equipment was issued on June 27, 2017, for a term of five years and is currently valid. Timothy Greene of TerraSearch is duly authorized to act as the Applicant's agent.

### **The Project:**

- Verizon's proposed modification involves the replacement of 6 antennas with the addition of 3 antennas, replacement of 6 remote radio heads, replacement of an existing mount, installation of a 1 1/4" hybrid cable, and the installation of an overvoltage protection unit as shown on the plans.
- No additional lighting will be installed.
- The Tower is 75' tall and the equipment change will be made at the existing equipment location at 75'.

- The proposed modifications will not result in increasing the height above ground level of the existing Tower.
- The equipment will not protrude horizontally from the edge of the Tower by more than 20 feet.
- There will be no excavation or placement of new equipment outside the existing Tower site or lease area.
- The proposed modification will not involve the installation of more than four new equipment cabinets. There will be no cabinets installed, this is boilerplate language from the Eligible Facilities Request Certification
- The proposed modification will not defeat the existing concealment elements of the Tower.
- The proposed modification will comply with the conditions of approval imposed on the Tower.

All required documents have been submitted to show that the proposal meets the requirements of an Eligible Facilities Request.

Submissions:

- Planning Board Cover Form dated January 10, 2022.
- Copy of Planning Board's Notice of Decision dated June 27, 2017.
- Authorization from Crown Castle dated January 10, 2022.
- FCC licenses.
- Structural Analysis Report by Tower Engineering Professionals dated March 20, 2021, stating the tower has sufficient capacity for the existing and proposed equipment.
- Radio Frequency Site Compliance Report by SiteSafe dated July 7, 2021.
- Eligible Facilities Request Certification dated January 10, 2022.
- Notarized Statement signed by Timothy W. Greene stating that all material contained in the submittal is materially accurate, true, complete, and verifiable dated January 10, 2022.
- Plans including sheets T-1, T-2, C-1, C-2, C-3, C-4, C-5, C6, C7, G-1, G-2 dated August 30, 2021.

PVM said that this Special Permit will expire in June of this year and asked Mr. Greene if they plan to come back ahead of the expiration date for renewal.

Mr. Greene stated in the chat that they are working on it and that it was a timing issue.

MO moved to approve the Eligible Facilities Request as submitted. SG seconded. LD aye, SG aye, BD aye, MO aye, GT aye.

**7:30 PM Site Plan Review, Section 17.7: Liu Yanping, 22 Lincoln Road, Parcel 152-2-0.** Site Plan Review for the construction of additions to a single-family residence with associated sitework. Vote Expected. This hearing was postponed to February 8, 2022.

Members of the Board expressed interest in conducting a site visit at the subject property. Ms. Curtin will set that up.

**Business**

**Liaison Reports**

MO reported that BPAC has been working with a MAPC consultant to develop a comprehensive bicycle and pedestrian plan. They are working on a prioritization list of projects with the goal of enabling every resident of Lincoln to walk or bicycle to the core of town and recreational areas safely. Many of the projects are easy to accomplish in the near-term. They will be finalizing the master plan to take to Town Meeting for approval noting that it is a long-range multi-year plan. We have historically prioritized car convenience over pedestrian safety. The plan considers the environmental concern of decreasing use of cars. The Route 2A repaving project will include crosswalks and splitter islands to allow for safe passage across the road for pedestrians and bicyclists. The draft 100% design plans have been released by MassDOT.

GT said there has been feedback that some of the requests made by Lincoln have not been included in the plan such as the crosswalk from Brooks Road.

BD said that, according to MassDOT, the 100% plan is a draft so it is fully developed but is not final. They still need to go through Historic Commission reviews in the four towns within the byway.

MO said that BPAC feels strongly that the addition of traffic calming measures will slow down cars to be more appropriate for the rural town and the national park. She disagrees with the feelings by some that structures in the road of any kind are bad. The goal of MassDOT is to get the project done by 2025, so they have to reach a final draft soon.

PVM said that they plan to go out to bid in the spring.

BD attended a recent BPAC meeting as a representative from the Battle Road Scenic Byway Committee as they are a stakeholder in this discussion. Lincoln wants pedestrian and bicycle amenities. The BRSBC representatives from Concord and Lexington are not enthusiastic about crosswalks but want slower speeds. The BRSBC working group held a meeting. Members have differing opinions, and it is difficult to come to an agreement. The National Park, Mass Highway, and Lincoln want pedestrian amenities so he believes that they will stay in the plan. The National Park expressed concerns about the Bedford Road crosswalk being unsafe because of speeds.

GT asked if the argument is that people will not obey the law.

BD said that is correct, some feel that pedestrians should be more cautious than they will be with crosswalks in place. The National Park committed to creating a pathway parallel to 2A from Bedford Road to Bedford Lane to allow for safe crossing in order to remove the crosswalk at Bedford Road. The BRSBC is meeting on Thursday morning, February 10th. They will lose their position of stakeholder if they do not come to an agreement.

PVM said that the Town of Lexington is in favor of Lincoln's position and supported that with a letter to MassDOT. The Lexington Rep on the BRSBC is the one who is not in support.

PVM said that there will be a briefing on the Housing Choice Legislation on Monday, January 31<sup>st</sup> with SLPAC, Planning Board, and the Select Board. There will be a presentation of the legislation and the draft guidance, and it will be an opportunity to collect feedback to submit to DHCD.

GT said that it is extremely difficult for small towns like Lincoln because of the minimum burden set in the guidance. He asked if we should contact other small Towns to come together on their objections.

MO said that rezoning the land 0.5 miles around the train station would be technically doable. We would have to rezone single family housing. The issue is percentage increase in housing units. The 750 unit minimum would be a 30% increase in housing units. That would create a large burden on infrastructure, police, and schools and would create instant problems.

LD said that things are better pushed back by a group and getting other towns together would be helpful. We could hold a meeting with reps from other towns to discuss a response.

PVM said that none of the small towns are happy about this, and the first step is to clarify the requirements and see what other information comes forward. The discussion Monday night will review some of the inconsistencies in the guidance. The town has until March 31st to provide feedback to DHCD.

BD said that DHCD has said that we do not have to build any new housing, we just have to rezone for it.

MO said that she believes it is intended to remove regulatory barriers to housing production.

### **Lincoln Visitor Brochures**

BD asked if Planning staff could start a project on ideas for tourism and visitor maps.

MO said that there is a map on the sign at the pocket park and we could reproduce that map.

GT said that there was a wayfinding group subset of SLPIC that has done this kind of work before so it may be time to reconstitute that group.

LD said that there was a graphic designer on that group.

Craig Nicholson said that he was on that group and Christina Van Vleck was the graphic designer on that project.

PVM said this may be a good project to work on over the summer.

BD said that we could contact Lexington and Concord who both have tourist maps.

### **Approve January 11, 2022, Planning Board Minutes**

SG moved to approve the minutes as amended. MO seconded. LD aye, SG aye, BD aye, MO aye, GT aye.

MO moved to adjourn. GT seconded. LD aye, SG aye, BD aye, MO aye, GT aye.

Approved February 8, 2022.