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**LINCOLN SUBDIVISION BY-LAW  
PROVIDENCE COUNTY  
TOWN OF LINCOLN**

**LAND DEVELOPMENT AND SUBDIVISION REGULATIONS**

**SECTION 1. GENERAL**

**Article A. Enactment, Authority and Purpose**

The following regulations governing the subdivision of land are hereby adopted by the Lincoln Planning Board in accordance with Title 45, Chapter 23 of the General Laws of Rhode Island, entitled The Land Development and Subdivision Review Enabling Act of 1992 and in accordance with article 15 of the charter of the Town of Lincoln and are declared effective as of December 28, 1995, and as amended on May 25, 2005. All regulations and amendments or parts of regulations and amendments that are inconsistent herewith are hereby repealed and withdrawn.

These regulations are designed to make adequate provisions for traffic; to lessen traffic accidents; to promote safety from fire, flood, and other damages; to provide adequate light and air; to prevent overcrowding of land; to prevent the development of unsanitary areas for housing purposes; to secure a well articulated street and highway system; to secure adequate drainage and the provision of erosion controls to mitigate storm water runoff; to promote a coordinated development of unbuilt area; to secure an appropriate allotment of land area in developments for all the requirements for community life; to conserve natural beauty and other natural resources; to conform to the town's Comprehensive Plan; to furnish guidance for the wise and efficient expenditure of funds for public works; and to facilitate the adequate, efficient, and economic provision of transportation, water supply, sewerage, recreation, and other public utilities and requisites.

**FINDINGS AND INTENT:**

The Lincoln Planning Board finds that:

- (1) The previous subdivision regulations enacted in accordance with sections 45-23-1 through 45-23-24 of the General Laws of the State of Rhode Island & Providence Plantations, have been enacted in a series of separate actions over many years and do not provide for all the elements presently necessary for proper municipal review and approval of land development and subdivision projects;
- (2) The character of land development and subdivision, and the related public and private services

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has changed substantially in recent years;

- (3) The responsibilities of local governments in regulating land development and subdivision have changed, increased in complexity, and expanded to include additional areas of concern;
- (4) Federal and State laws increasingly require the interaction of local land development regulatory authorities with those of the Federal and state agencies and adjacent municipalities;
- (5) Not all instances of land development or subdivision are sufficiently reviewed prior to recording or construction, resulting in unwarranted environmental impacts, financial impacts on private individuals and communities, and inappropriate design;
- (6) Upon learning of the insufficiency of designs and the unanticipated failure of subdivision improvements, the Town and its citizens are often left without sufficient liquid guarantees to effectuate the appropriate and efficient remediation or completion of such failed projects;
- (7) At present, the cities and towns throughout the state each establish their own procedures for review, approval, recording, and enforcement of land development and subdivision projects;
- (8) It is necessary to provide for review and approval of land development projects within the subdivision review and approval procedures, as specified in the Zoning Enabling Act of 1991 (45-24-27 et seq.);
- (9) It is necessary to require that the regulations and standards for all land development projects and subdivisions be sufficiently definite to provide clear direction for development design and construction and to satisfy the requirements for due process for all applicants for development approval; and,
- (10) It is necessary to require the satisfactory completion of all public improvements prior to the recording or sale of lots, or the issuance of building permits within a subdivision or land development project to protect the public health, safety and welfare.

Therefore it is hereby found by the Town of Lincoln, acting by and through the Lincoln Planning Board:

- (1) That the land development and subdivision enabling authority contained in RIGL 45-23-30 provides the community with the ability to adequately address the present and future needs of the community;
- (2) That the land development and subdivision enabling authority contained in RIGL 45-23 requires the creation of land development and subdivision regulations in accordance with the Lincoln Comprehensive Plan and the Lincoln Zoning Ordinance and to ensure the consistency of all development regulations of the town;
- (3) That certain local procedures for review and approval of land development and subdivisions

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shall be consistent between abutting communities to the Town of Lincoln;

- (4) That the local procedure for integrating the approvals of state regulatory agencies into the local review and approval process for land development and subdivision shall be consistent and uniform between one community and another;
- (5) That all proposed land development and subdivisions will be reviewed by local officials, following a standard process; prior to recording in local land evidence records as required by law; and,
- (6) That all proposed public improvements to the land as required hereinafter are completed prior to the recording of any instrument of transfer of said lots within the subdivision or land development project, and/or the issuance of building permits.

#### General Purpose of Land Development and Subdivision Review Rules and Regulations.

The following land development and subdivision review regulations have been developed and will be maintained in accordance with RIGL 45-23 and the Lincoln Comprehensive Plan (which complies with RIGL 45.22.2) and the Lincoln Zoning Ordinance (which complies with RIGL 45.24- 27 et seq.)

These regulations are intended to address the following purposes:

- (1) Provide for the orderly, thorough and expeditious review and approval of land development and subdivisions;
- (2) Promote high quality and appropriate design and construction of land development and subdivision;
- (3) Promote the protection of the existing natural and built environment and the mitigation of all significant negative impacts of any proposed development on the existing environment;
- (4) Promote design of land development and subdivisions that are well-integrated with the surrounding neighborhoods with regard to natural and built features, and which concentrate development in areas which can allow the best support for the appropriate uses by reason of natural characteristics and existing infrastructure;
- (5) Encourage local design and improvement standards to reflect the intent of the Lincoln Comprehensive Plan with regard to the physical character of the various neighborhoods and districts of the town;
- (6) Promote thorough technical review of all proposed land development and subdivisions by appropriate local officials;
- (7) Encourage local requirements for dedication of public land, impact mitigation and

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payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered;

- (8) Encourage the establishment and consistent application of procedures for record-keeping on all matters of land development and subdivision review, approval and construction; and,
- (9) To protect land values and the public welfare by requiring successful completion of all improvements before the sale of lots and/or building permits are authorized, allowed or granted, and by requiring sufficient post construction remediation guarantees to guard against latent deficiencies and failures in the design and completion of said improvements.

## **Article B. Definitions**

The words and phrases defined in R.I. Gen. Laws §45-23-32 shall control the meaning of terms used in these regulations. Where words or phrases used in these regulations are defined in the definition section of either the "Rhode Island Comprehensive Planning and Land Use Regulations Act," (Section 45-22.2-4), or the "Zoning Enabling Act of 1991," (Section 45-24-31) they shall have the meanings stated therein. Additional words and phrases used in these regulations shall have the following meanings:

- (1) Abutter. Owner of land within two hundred feet (200') perimeter of the subdivision as determined from the most recent public records. Land separated from proposed subdivisions by a street right-of-way or easement is considered as abutting land.
- (2) Adjusted Gross Square Footage. That area of a project that is used to determine the density of a proposed subdivision or land development project under a rural protection-zoning project. In no case shall the total number of dwelling units to be permitted on any site proposed for development under the rules and regulations of Rural Protection Zoning exceed the number allowed under conventional zoning and subdivision regulations. The adjusted gross square footage of the tract or parcel shall mean the area suitable for development under conventional zoning and subdivision regulations, and shall not include land or lands that due to environmental, physical or other restrictions either under federal, state, or local regulations would not be allowed to be developed as a matter of right, nor shall the areas required for streets, roads, rights-of-way and/or other required improvements be included in the calculations of the total number of dwelling units.
- (3) Administrative Officer. The municipal official designated by the local regulations to administer the land development and subdivision regulations and to coordinate with local boards and commissions, municipal staff and state agencies. The Town Planner shall be the administrative officer.
- (4) Administrative Subdivision. Re-subdivision of existing lots that yield no additional lots for development, and involve no creation or extension of streets. Such re-subdivision shall only involve divisions, mergers, mergers and division, or adjustments of boundaries of existing lots.

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(5) Board of Appeal. The local review authority for appeals of actions of the Administrative Officer and/or the Planning Board on matters of land development or subdivision, shall be the Lincoln Zoning Board of Review.

(6) Bond. See definition (31) improvement guarantee and definition (55) remediation guarantee.

(7) Bridge. Shall mean a structure having a clear span of ten feet (10') or more, measured along the centerline of roadway, spanning a watercourse or other opening or obstruction.

(8) Building. Any structure built for the support, enclosure or shelter of persons, animals, chattel or movable property of any kind and includes structures.

(9) Buildable lot. A lot where construction for the use(s) permitted on the site under the local zoning ordinance is considered practical by the Planning Board, considering the physical constraints to development of the site as well as the requirements of the pertinent federal, state and local regulations.

(10) Buildable lot area. A lot where construction for the use(s) permitted on the site under the local zoning ordinance is considered practical by the Planning Board, considering the physical constraints to development of the site as well as the requirements of the pertinent federal, state and local regulations. In residential zoning districts, the buildable lot area shall not include marshes, swamps, bogs, brooks, ponds, rivers, river and stream flood plains and banks, and areas with average slope greater than 15%, and shall meet all other dimensional requirements of this ordinance.

(11) Building setback line. A line parallel to a property line that establishes the minimum distance buildings must be constructed from the property line as determined by the local zoning ordinance.

(12) Certificate of completeness. A notice issued by Administrative Officer informing an applicant that the application is complete and meets the requirements of the town's regulations and that the applicant may proceed with the approval process. This does not indicate project approval status.

(13) Common Facilities. All the real property and improvements set aside for the common use and enjoyment of the residents, including, but not limited to, buildings, open land, private roads, parking areas, walkways, recreation areas, landscaped areas, drainage easements, and any utilities that service more than one unit.

(14) Concept plan. A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings and early discussions, and classification of the project within the approval process.

(15) Condominium Association. A community association combining individual home ownership with shared use or ownership of common property and facilities organized in accordance with RI General Laws. The association is responsible for maintaining the property and delivering common

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services, but does not own the common property. Condominium is a legal form of ownership, not a specific building type.

(16) Consistency with the Comprehensive Plan. A requirement of all land use regulations, which means that all the regulations and subsequent actions shall be in accordance with the public policies arrived at through detailed study and analysis and adopted by the town as the Lincoln Comprehensive Plan.

(17) Cul-de-sac. A local street having only one (1) outlet, and having an appropriate terminal for the safe and convenient reversal of traffic, either temporary or permanent, at the closed “bulb” end.

(18) Dedication, fee-in-lieu of. Payments of cash, to be utilized for the acquisition of open space, and which are authorized in the case where the requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons. The conditions under which such payments will be allowed and all formulas for calculating the amount shall be specified in advance in the local regulations.

(19) Development regulations. Zoning, subdivision, land development plan, development plan review, historic district, official map, flood plain regulations, soil erosion control, or any other governmental regulations of the use and development of land.

(20) Division of land. A subdivision.

(21) Easement. The authorization by a property owner for the use by another, and for a specific purpose, of any designated part of the owner's property.

(22) Environmental constraints. Natural features, resources, or land characteristics that are sensitive to change and may require conservation measures or the application of special development techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. See also definition (49) physical constraints to development.

(23) Estate Lot. A large, privately-owned lot comprising all or part of an area of open land. The purpose of the estate lot is to provide surrounding residents with visual access to open land, while keeping the land under private ownership and maintenance. Only a small portion of the estate lot may be developed; the remainder may be farmed or left in its natural state. Public access to estate lots is not required.

(24) Final plan. The final stage of land development and subdivision review.

(25) Final plat. The final drawing(s) of all or a portion of a subdivision to be recorded after approval by the Planning Board and any accompanying materials as described in Section 22.

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(26) Flood plain or flood hazard area. An area that has a one percent (1%) or greater chance of inundation in any given year, as delineated by the Federal Emergency Management Agency (FEMA) pursuant to the National Flood Insurance Act of 1968, as amended.

(27) Floor area, gross. Gross Leasable Floor Area (GLFA) The total floor area of a commercial or industrial building designed for occupancy and exclusive use by tenant, including mezzanines and upper floors, if any, and excluding stairs, elevator shafts, air shafts, public toilets, utility and mechanical equipment areas that are used solely for the maintenance of the building.

(28) Governing body. The body of local government, (the Lincoln Town Council), having the power to adopt ordinances, accept public improvements and dedication, release public improvement guarantees, and collect fees.

(29) Homeowner's Association (HOA). A community association combining individual home ownership with shared use or ownership of common property and facilities. The homeowner owns the lot, including the interior and exterior of the individual home, while the association owns and maintains the common facilities.

(30) Improvements. Any natural or built item that becomes part of, is placed upon, or is affixed to, real estate.

(31) Improvement guarantee. A security instrument accepted by the town to ensure that all improvements, facilities, or work required by the land development and subdivision regulations, or required by the town as a condition of approval, will be completed in compliance with the approved plan and specifications of a development.

(32) Local regulations. The land development and subdivision review regulations adopted by the Lincoln Planning Board pursuant to RIGL 45-23.

(33) Lot. A smaller portion of land into which a larger tract or parcel of land is subdivided.

(34) Lot depth. The greatest linear distance of a lot lying between, and generally measured perpendicular, to a street right-of-way and a rear lot line.

(35) Lot width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line. In the case of a lot fronting on more than one street, the lot line with the shortest frontage on a street shall be the front lot line. Reported in feet.

(36) Maintenance guarantee. Any security instrument that may be required and accepted by the town to ensure that necessary improvements will function as required for a specific period of time.

(37) Major land development. Any land development not classified as a minor land development plan.

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(38) Major subdivision. Any subdivision not classified as either an administrative subdivision or a minor subdivision.

(39) Master plan. An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. Required in major land development or subdivision review.

(40) Minor land development plan. A development plan for a residential project provided that such development does not require waivers or modifications as specified in these regulations. All proposed nonresidential land development projects shall be considered as major land development plans.

(41) Minor subdivision. A plan for a subdivision of land consisting of five (5) or fewer lots, provided that such subdivision does not require waivers or modification as specified in these regulations.

(42) Modifications of requirements. The Planning Board shall have the power to grant such waivers and/or modifications from the requirements for land development and subdivision approval as may be reasonable and within the general purpose and intent of the regulations; a waiver.

(43) Neighborhood. A development consisting of between 5 and 25 single-family detached dwellings, surrounded by open land that comprises at least 60% of the tract.

(44) Open Land. That portion of a tract (at least 60%) that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Open land may be accessible to the residents of the development and/or the Town of Lincoln, or it may contain areas of farming or estate lots that are not accessible to the public.

(45) Parcel. A lot, or contiguous group of lots, in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.

(46) Parking area or lot. All that portion of a development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.

(47) Permitting authority. The local agency of government specifically empowered by state enabling law and local ordinance to hear and decide specific matters pertaining to local land use.

(48) Phased development. Development, usually for large scale projects, where construction of public or private improvements proceeds by section(s) subsequent to approval of a master plan for the entire site.

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(49) Physical constraints to development. Characteristics of a site or area, either natural or manmade, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods. See also (22) environmental constraints.

(50) Planning Board. The Planning Board of the Town of Lincoln, Rhode Island.

(51) Plat. A drawing or drawings of a land development or subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified in these regulations.

(52) Pre-application conference. An initial meeting between developers and municipal representatives that affords developers the opportunity to present their proposal informally and to receive comments and directions from the municipal officials and others.

(53) Public improvements. Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature, or other facility for which the local government or other governmental entity either is presently responsible, or will ultimately assume the responsibility for maintenance and operation upon municipal acceptance.

(54) Public informational meeting. A meeting of the Planning Board or governing body preceded by a notice, open to the public and at which the public is heard.

(55) Remediation guarantee. A security instrument accepted by the town to ensure that all improvements, facilities, or work required by the land development and subdivision regulations, or required by the town as a condition of approval, will be completed in compliance with the approved plan and specifications of a development.

(56) Re-subdivision. Any change of an approved or recorded subdivision plat or in a lot recorded in the municipal land evidence records, or that affects the lot lines of any areas reserved for public use, or that affects any map or plan legally recorded prior to the adoption of the local development and subdivision regulations. For the purposes of this act such action shall constitute a subdivision and be subject hereto.

(57) R.I. Standards. Where the term ‘R.I. Standards’ are used in these regulations, such term refers to the appropriate section of the Standard Specifications for Roads & Bridge Construction as published by the State of Rhode Island, Department of Transportation, Division of Public Works, and any amendments, changes, or additions thereto.

(58) Storm water detention. A provision for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm.

(59) Storm water retention. A provision for the storage of storm water runoff.

(60) Street. A public or private thoroughfare used, or intended to be used, for the passage or travel by motor vehicles. Streets are further classified by the function they perform. See definition

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(68) street classifications.

(61) Street, access to. An adequate and permanent way of entering a lot. All lots of record shall have access to a public street for all vehicles normally associated with the uses permitted for that lot.

(62) Street, alley. A public or private thoroughfare primarily designed to serve secondary access to a public street for all vehicles normally associated with the uses permitted for that lot.

(63) Street, cul-de-sac. A local street with only one outlet and having an appropriate vehicle turnaround either temporary or permanent, at the closed end.

(64) Street, limited access highway. A freeway or expressway providing for through traffic. Owners or occupants of abutting property on lands and other persons have no legal right to access, except at such point and in such manner as may be determined by the public authority having jurisdiction over the highway.

(65) Street, private. A thoroughfare established as a separate tract for the benefit of multiple adjacent properties and meeting specific municipal improvement standards. This definition shall not apply to driveways.

(66) Street, public. All public property reserved or dedicated for street traffic.

(67) Street, stub. A portion of a street reserved to provide access to future development, which may provide for utility connections.

(68) Street classifications. A method of roadway organization which identifies a street hierarchy according to functions within a road system, that is, types of vehicles served and anticipated volumes of traffic, for the purpose of promoting safety, efficient land use and the design of neighborhoods and districts. Local classifications shall use the following as major categories:

- (a) Arterial. A major street that serves as an avenue for the circulation of traffic into, out of, or around the municipality and carries high volumes of traffic.
- (b) Collector. A street whose principal function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties.
- (c) Local. Streets whose primary function is to provide access to abutting properties.

(69) Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel, site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot,

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parcel, site, unit, or plat in a subdivision.

(70) Subdivision. The division or re-division, of a lot, tract or parcel of land into two or more lots, tracts, or parcels. Any adjustment to existing lot lines of a recorded lot by any means shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.

(71) Technical Review Committee. A committee appointed by the Planning Board for the purpose of reviewing, commenting, and making recommendations to the Planning Board with respect to approval of land development, subdivision applications and zoning applications.

(72) Temporary Improvements. Improvements built and maintained by a developer during construction of a development project prior to a release of the improvement guarantee, but not intended to be permanent.

(73) Watersheds. The region or natural drainage areas that contribute to drinking water supply within or adjacent to the Town of Lincoln.

(74) Wetlands. Fresh water wetlands, not including areas subject to storm flowage (ASSF), but including that area of perimeter wetlands within fifty (50) feet of the edge of any bog, marsh, swamp or pond; or any applicable 100 or 200-foot riverbank wetlands, as defined by RI general Laws Section 2-10-20 (1987), as amended.

(75) Vested rights. The right to initiate or continue the development of an approved project for a specific period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.

(76) Waiver of requirements. See definition (42) modifications of requirements.

## **SECTION 2. LOCAL REGULATIONS - AUTHORITY TO CREATE AND ADMINISTER**

### **Article A. Empowerment**

The Lincoln Planning Board is empowered pursuant to Article 15 of the Home Rule Charter of the Town of Lincoln, Rhode Island, to develop, enact, amend, repeal or modify rules and regulations for the review and approval of land development projects and subdivision projects within the Town of Lincoln. In addition, the Planning Board is designated by the Charter and by subsequent ordinance as the local authority charged with the control and approval of land development projects and subdivision projects pursuant to those regulations and acts.

### **Article B. Public Hearing**

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## **(A) Public Hearing Notice and Requirement**

These regulations shall be adopted, repealed, or amended after a public hearing has been held upon the question before the Planning Board. The Planning Board shall first give notice of the public hearing by publication of notice in a newspaper of general circulation within the Town of Lincoln at least once each week for three (3) consecutive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held. At this hearing, opportunity shall be given to all persons interested to be heard upon the matter of the proposed regulations. Written notice, which may be a copy of the newspaper notice, shall be mailed to the Associate Director of the Division of Planning of the Rhode Island Department of Administration at least two (2) weeks prior to the hearing. The newspaper notice shall be published as a display ad, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:

- (1) Specify the place of said hearing and the date and time of its commencement;
- (2) Indicate that adoption, amendment or repeal of local regulations is under consideration;
- (3) Contain a statement of the proposed amendments to the regulations that may be printed once in its entirety, or may summarize or describe the matter under consideration;
- (4) Advise those interested where and when a copy of the matter under consideration may be obtained or examined or copied; and
- (5) State that the proposal shown therein may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any such alterations or amendments must be presented for comment in the course of said hearing.

## **(B) Notice**

Notice of the public hearing shall be sent by first class mail to the city or town Planning Boards of any municipality where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, located within two thousand (2000) feet of the Town of Lincoln.

Notice shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable to be used as a public water source located within the Town of Lincoln or two thousand (2000) feet of the Town, provided, however, that a map survey has been filed with the building official as specified in RIGL Section 45-24-53 (E).

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No defect in the form of any notice under this section shall render any regulations invalid, unless such defect is found to be intentional or misleading.

The above requirements are to be construed as minimum requirements.

**(C) Publication and Availability**

- (1) Printed copies of these regulations shall be available to the general public and shall be revised to include all amendments. Any appendices shall also be available. A reasonable charge may be made for copies pursuant to RIGL 38-2-4.
- (2) Upon publication of these regulations and amendments hereto, the Town shall send a copy to the Rhode Island Department of Administration's Division of Planning and the state law library.

**(D) Administration**

- (1) Local administration of these regulations shall be under the direction of the Administrative Officer, who shall report to the Planning Board.
- (2) The Administrative Officer shall oversee and coordinate the review, approval, recording and enforcement of the provisions of these regulations, and serve as the chair of the Technical Review Committee.
- (3) The Administrative Officer shall be responsible for coordinating reviews of proposed land development projects and subdivisions with adjacent municipalities as is necessary to be consistent with applicable federal, state and local laws as directed by the Planning Board.
- (4) Enforcement of the local regulations shall be under the direction of the Administrative Officer who shall be responsible for coordinating the enforcement efforts of the zoning enforcement officer, the building official, the department of public works and other local officials responsible for the enforcement or carrying out of the elements of these regulations.
- (5) There is hereby established a committee appointed by the Planning Board, to be known as the Technical Review Committee (TRC), which is established to conduct technical reviews of all applications for subdivisions and land development projects and other matters subject to Planning Board jurisdiction. All such reviews shall be advisory in nature, and in no case shall the recommendations of the TRC be binding on the Planning Board in its activities or decisions. Reports of the TRC to the Planning Board shall be in writing and shall be kept as part of the permanent documentation of the development application.

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(6) Membership in the TRC shall consist of the Administrative Officer, a Town Engineer, the Zoning Official, a member of the Planning Board, and any other municipal staff deemed necessary by the chairman either to a particular subdivision or development project or monthly for all projects being heard on the agenda of the TRC.

(7) The application types listed below shall be reviewed by the TRC subject to the confirmation by the Planning Board.

- Minor subdivision involving no street creation or extension
- Development Plan Review
- Pre-application review of minor subdivisions (if requested)
- Setting, reducing or releasing of improvement or remediation guarantees
- Requests for reinstatement or extension of applications
- Recommendations to the Town Council on matters other than zoning amendments and zone changes
- Zoning applications

For all such items, the TRC shall conduct the full review for vote by Consent Agenda of the Planning Board. The TRC shall forward its recommendation, along with all other essential project information to the Planning Board prior to the Planning Board meeting at which the application is scheduled.

(8) Consent Agenda items are considered to be routine by the Planning Board and will be enacted by one (1) motion. There will be no separate discussion of these items unless any member of the Planning Board, at the time of the consideration of the Consent Agenda items, requests that an item be removed from the Consent Agenda. In this event the item shall be discussed and voted on by the Planning Board in the normal course of the agenda.

### **(E) Appeals**

The Zoning Board of Review of the Town of Lincoln shall serve as the Board of Appeals to hear appeals of decisions of the Planning Board or the Administrative Officer on matters of review and approval of land development and subdivision projects. Appeals from a decision granting or denying approval of a final plan shall be limited to elements of the approval or disapproval not contained in the decision reached by the Planning Board at the preliminary stage, providing that a public hearing has been held on the plan pursuant to Section 19.

### **F) Process of Appeals**

(1) An appeal to the Board of Appeals from a decision or action of the Planning Board or Administrative Officer may be taken by an aggrieved party. Such appeal must be taken within twenty (20) days after the decision has been recorded and posted in the office

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of the town clerk.

- (2) The appeal shall be in writing and shall state clearly and unambiguously the issue or decision that is being appealed, the reason for the appeal, and the relief sought. The appeal shall be either sent by certified mail, with a return receipt requested, or shall be hand-delivered to the Board of Appeals. The town clerk shall accept delivery of an appeal on behalf of the Board of Appeal.
- (3) Upon receipt of an appeal, the Board of Appeals shall require the Planning Board or Administrative Officer to transmit forthwith to the Board of Appeals, all papers, documents and plans, or a certified copy thereof, constituting the record of action which is being appealed.
- (4) An appeal, when duly received, shall stay all proceedings in furtherance of the action being appealed.

**(G) Board of Appeals, Public Hearing**

- (1) The Board of Appeals shall hold a public hearing on the appeal within forty-five (45) days of receipt of the appeal, give public notice thereof, as well as due notice to the parties of interest. At the hearing any party may appear in person, or be represented by an agent or attorney. The board shall render a decision within ten (10) days of the close of the public hearing. The cost of any notice required for the hearing shall be borne by the applicant.
- (2) The Board of Appeals shall only hear appeals of the actions of the Planning Board or Administrative Officer at a meeting called especially for the purpose of hearing such appeals and which has been so advertised.
- (3) The hearing, which may be held on the same date and at the same place as a meeting of the Zoning Board of Appeals must be held as a separate meeting from any Zoning Board of Review meeting. Separate minutes and records of votes as required by Section 2(H) shall be maintained by the Board of Appeals.

**(H) Appeals - Standards of Review**

- (1) As established by Rhode Island General Law 45-23, in instances of a Board of Appeal's review of a Planning Board or Administrative Officer decision on matters subject to these regulations, the Board of Appeals shall consider the issue upon the findings and record of the Planning Board or Administrative Officer and may reverse a decision of the Planning Board or Administrative Officer only on findings of prejudicial procedural error, clear error, or lack of support by the weight of evidence in the record.

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- (2) The concurring vote of three (3) of the five (5) members of the Board of Appeals sitting at a hearing shall be necessary to reverse any decision of the Planning Board or Administrative Officer.
  - (3) In the instance where the Board of Appeals overturns a decision of the Planning Board or Administrative Officer, the proposed project application shall be remanded to the Planning Board or Administrative Officer, at the stage in processing from which the appeal was taken, for further proceedings before the Planning Board or Administrative Officer and/or for the final disposition, which shall be consistent with the Board of Appeal's decision.
  - (4) The Board of Appeals shall keep complete records of all proceedings including a record of all votes taken, and shall put all decisions on appeals in writing. The Board of Appeals shall include in the written record the reasons for each decision.

### **(I) Appeals to the Superior Court**

- (1) An aggrieved party may appeal a decision of the Board of Appeals, to the Superior Court of Providence County in accordance with the Rhode Island General Laws.

### **Article C. Vested Rights - Continuation of Prior Regulations**

The review of subdivisions that have been submitted to the Planning Board for approval under the provisions of the Regulations in effect prior to May 25, 2005, may proceed through the approval process under those regulations in accordance with the following:

- (1) Final Approvals. Any subdivision which, at the time of adoption of these regulations, has received final approval, or final approval with conditions, from the Planning Board, may initiate or construct any part of the development, or record said plans in accordance with the Subdivision Regulations in effect at the time of final approval as granted. The Planning Board, may, in its discretion, grant extensions to any such final approval in accordance with the procedure for such extensions as set forth in the Regulations in effect at the time of final approval.
- (2) Preliminary Approvals. Any subdivision which, at the time of adoption of these regulations, has received preliminary approval, or preliminary approval with conditions, from the Planning Board, may continue to be reviewed by the Planning Board in accordance with the Subdivision Regulations in effect at the time preliminary approval was granted provided that the following conditions are met:
  - a. The applicant proves to the satisfaction of the Planning Board that the applicant has acted in good faith reliance on the regulations in effect; and,
  - b. The applicant has expended significant funds in the preparation of preliminary subdivision plans in an amount that, if preliminary approval were to become void

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and re-application under the new subdivision regulations were to be required, a significant economic hardship would result. The Planning Board shall not consider land acquisition and maintenance costs, or architectural, engineering, legal or consultant fees incurred in aid of usual preparatory or prefatory planning in determining whether significant funds have been expended as has been stated above. The Planning Board shall after hearing and in the exercise of its discretion on a case by case basis determine what constitutes "significant economic hardship", and;

1. The final plat, including all material required in the Final Plat Check-list, is filed with the Administrative Officer within one (1) year from the date of preliminary approval; or,
  2. The subdivision is located within an area, and is of a nature to be, within the jurisdiction of the Rhode Island Department of Environmental Management (RIDEM) and the preliminary plans as approved by the Planning Board have been filed with RIDEM for approval as required by the Freshwater Wetlands Act.
- (3) Other Status. Any subdivision which, at the time of adoption of these regulations, has not received final or preliminary approval; or has been reviewed by the Planning Board for preliminary review but no approval therefore has been granted; or has received preliminary approval more than one year prior to the date of adoption of these regulations; or for which only Pre-application approval or approval with conditions, has been granted shall be required to be reviewed under the Subdivision and Land Development Regulations adopted on May 25, 2005 pursuant to the Rhode Island Land Development and Subdivision Review Enabling Act of 1992.

The Planning Board shall determine vested rights for subdivisions submitted for approval prior to May 25, 2005. Appeals from a decision regarding the application status and vested rights of any subdivision shall be made to the Planning Board of Appeals as herein provided.

- (4) Additional Vesting Guidelines. The following guidelines shall be used in determining whether rights have vested prior to the May 25, 2005 or subsequent amendment of these regulations. Vesting is triggered by the issuance of a "Certificate of Completeness" by the Administrative Officer.
- a. Pre-application meetings and concept review do not require formal action of the Planning Board. Furthermore, pre-application discussions are intended for the guidance of the applicant when a project is in its formative stages. Submissions in accordance with the Checklist for Pre-application Meetings do not constitute an application for Planning Board approval; therefore, "vesting" is not triggered by Pre-application and Concept Review.

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- b. When an Administrative Subdivision application is certified as complete by the Administrative Officer, vesting is triggered.
  - c. An applicant for a Minor Land Development Project or Minor Subdivision shall have rights vested in the Zoning Ordinance and Subdivision Regulations in effect when the Administrative Officer certifies that a Preliminary Plan application is complete.
  - d. An application for a Major Land Development Project or Major Subdivision shall have rights vested in the Zoning Ordinance and Subdivision Regulations in effect when the Administrative Officer certifies that a Master Plan application is complete.

### **SECTION 3. ADMINISTRATIVE FEES**

A fee schedule is hereby established in Appendix A, attached hereto and made a part hereof by reference. The Planning Board may from time to time amend these regulations. The Administrative Officer shall cause such fee schedule to be published and disseminated as appropriate.

### **SECTION 4. VIOLATIONS AND PENALTIES**

(A) Any person, firm, corporation or association who is the owner of land within the Town of Lincoln, whether in a land development project or subdivision, who shall transfer, sell, offer or negotiate to sell any land by reference to or exhibition of, or by any use of such plat of such land development project or subdivision project before such plan has been approved by the Administrative Officer or the Planning Board, as appropriate, and recorded in the Land Evidence Records shall be in violation of these regulations, and the description of such lots or property by metes and bounds in the instrument of transfer shall not exempt the transfer from the provisions hereof.

The Town of Lincoln may petition the Superior Court for the County of Providence to enjoin any transfer or sale as set forth in the preceding paragraph.

(B) Avoidance of Unlawful Sale. Recovery of Damages. Any sale of land subdivided in violation of the provisions of these regulations shall be voidable at the option of the purchaser thereof and shall subject the seller thereof to the forfeiture of any and all consideration received or pledged therefore together with any damages sustained by such purchaser, who may maintain an action of the case, to recover any amount due him under the provisions of this section.

(C) Any person who fails to adhere to all of the terms and conditions of any subdivision of land or

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development plan that has been approved by the Planning Board or the Administrative Officer shall be in violation of these regulations.

- (D) Any person who, having submitted an application for subdivision or development approval, begins construction of the subdivision or development, or constructs any structure or improvement on the parcel, without having first received final approval by the Planning Board or the Administrative Officer, shall be in violation of these regulations. The phrase “beginning construction of the subdivision” shall mean construction of improvements required by these regulations as a condition of subdivision approval, but specifically excluding preparatory work such as ground water level testing, soil/water percolation testing, surveying and mapping, and clearing of vegetation.
- (E) Any person adjudged in violation of these regulations shall be liable for penalties not to exceed five hundred dollars (\$500.00) per day, and each day of existence of a violation shall be deemed a separate offense.
- (F) The Town of Lincoln shall have the authority to bring suit in Providence County Superior Court to restrain the violation of, or compel compliance with, the provisions of these regulations. An action for injunctive relief brought by the Town in the Superior Court may be consolidated with an action seeking penalties for violations of these regulations.

## **SECTION 5. PROCEDURES - REQUIRED FINDINGS**

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

- (1) The proposed development is consistent with the Lincoln Comprehensive Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
- (2) The proposed development is in compliance with the standards and provisions of the Lincoln Zoning Ordinance.
- (3) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions of approval.
- (4) Subdivisions, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be unpractical. (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,

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recorded plans.

- (5) All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.
- (6) Each lot in the subdivision conforms to the standards and provisions of the Lincoln Zoning Ordinance. Provided, however, that lots not being created for the purpose of present or future development need not meet the area and other dimensional requirements of the Zoning Ordinance provided that (a) a notation is shown on the recorded plat that the lot being created is not a buildable lot; and (b) a conservation or preservation restriction pursuant to Title 34, Chapter 39 of the Rhode Island General Laws, as amended, is granted to the Town of Lincoln prohibiting any such present or future development.
- (7) Each subdivision shall provide for safe circulation of pedestrian and vehicular traffic, for adequate surface water run-off, for suitable building sites, and for the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.
- (8) The design and location of streets, building lots, utilities, drainage improvements and other improvements in each subdivision shall minimize flooding and soil erosion.

## **SECTION 6. PRECEDENCE OF APPROVALS BETWEEN PLANNING BOARD AND OTHER LOCAL PERMITTING AUTHORITIES**

### **(A) Zoning Board.**

- (1) Where an applicant requires both a variance from the zoning ordinance and Planning Board approval, the applicant shall first obtain an advisory recommendation from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous; then obtain conditional zoning relief, then return to the Planning Board for subsequent required approval(s).
- (2) Where an applicant requires both a special use permit under the zoning ordinance and Planning Board approval, the applicant shall first obtain an advisory recommendation from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous; then obtain conditional zoning relief; then return to the Planning Board for subsequent required approval(s).

### **(B) Town Council.**

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- (1) Where an applicant requires both Planning Board approval and Town Council approval for a zoning ordinance or zoning map change, the applicant shall first obtain an advisory recommendation for the zoning change from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional zoning change from the Council, and then return to the Planning Board for subsequent required approval(s).

## **SECTION 7. WAIVERS - MODIFICATIONS AND REINSTATEMENTS OF PLANS**

- (A) Waiver and/or Modification of Standards. The Planning Board shall have the power to grant waivers and/or modifications from the requirements for land development and subdivision approval as may be reasonable and within the general purposes and intent of the provisions of these regulations. The only grounds for such waivers and/or modifications shall be where the literal enforcement of one (1) or more provisions of the regulations is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question or where such waiver or modification is in the best interest of good planning practices as evidenced by consistency with the Lincoln Comprehensive Plan and the Lincoln Zoning Ordinance.
- (B) Reinstatement. Whenever reinstatement of a development application occurs, the original deadline for each step as outlined in these regulations shall apply to the stage of approval under reconsideration or modification.
- (C) Decision. The Planning Board shall approve, approve with conditions, or deny the request for either a waiver or modifications as described in (A) above, according to the requirements of Section 8 (D) herein.

## **SECTION 8. PROCEDURES: MEETINGS, VOTES, DECISIONS AND RECORDS**

- (A) All records of the Planning Board proceedings and decisions shall be written and kept permanently available for public review. Completed applications for proposed land development and subdivision projects under review by the Planning Board, shall be available for public review.
- (B) Participation in a Planning Board meeting or other proceedings by any party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.

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- (C) All final written comments to the Planning Board from the Administrative Officer, municipal departments, state and federal agencies, and local commissions shall be part of the permanent record of the development application.
- (D) All votes of the Planning Board shall be made part of the permanent record and shall show the members present and their votes. A decision by the Planning Board to approve any land development or subdivision application shall require a vote of approval by a majority of the current Planning Board membership (i.e. a majority of the full board's membership regardless of the numbers of members present at any meeting.) Failure to obtain a majority vote on the approval of any application shall be an automatic denial.

## **SECTION 9. SIGNING AND RECORDING OF PLATS AND PLANS**

- (A) Approved final plans and plats for land development and subdivision projects shall be signed by the chairperson or his or her designee attesting to the approval of the Planning Board with the date of approval. Plans and plats for major land development projects and subdivisions shall be signed by the Planning Board chairperson or his or her designee attesting to the approval of the Planning Board. All minor land development or subdivision plans and plats and administrative plats shall be signed by the Planning Board chairperson or the board's designated agent.
- (B) Upon signature, all plans, plats, and deeds shall be submitted to the Administrative Officer prior to recording and filing in the Town Clerk's land evidence records. The materials to be recorded for all plats and plans shall include all pertinent plans with notes thereon concerning all the essential aspects of the approved project design, metes and bounds deeds for all new and reconfigured lots with reference to the approved plans, the implementation schedule, special conditions placed on the development by the Planning Board, permits and agreements with state and federal reviewing agencies, and other information as required by the Planning Board.
- (C) Other parts of the application record for subdivision and land development projects, including all meeting records, approved master plan and preliminary plans, site analysis, impact analyses, all legal agreements, records of the public hearings and the entire final approval set of drawings shall be kept permanently by the Administrative Officer.
- (D) The Administrative Officer shall notify the Town's "E911" liaison and the Town Police and appropriate fire district servicing the new plat with the information required by each of these authorities.
- (E) The developer and/or subdivider shall provide the Administrative Officer with a minimum of seven (7) copies of the approved plat or plans for recording purposes; one (1) copy shall be a certified archival Mylar suitable for recording, one (1) shall be black ink on Mylar, five (5)

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copies shall be on heavy white paper.

- (F) The developer and/or subdivider shall provide the Administrative Officer with an electronic copy of the final plan. It shall be reviewed and accepted by the Administrative Officer or his or her designee prior to signing of final plans.

## **SECTION 10. CHANGES TO RECORDED PLATS AND PLANS**

- (A) For all changes to the approved plans of land development projects or subdivisions subject to these regulations, an amendment of the final development plans is required prior to the issuance of any building permit. Any changes approved in the final plan shall be recorded as amendments of the final plan in accordance with the procedures established for recording plats in Section 9 herein.
- (B) Minor changes to a land development or subdivision plans may be approved administratively, by the Administrative Officer, whereupon a permit may be issued. Such changes may be authorized without additional public hearings, at the discretion of the Administrative Officer. All such changes shall be made part of the permanent record of the project application. This provision shall not prohibit the Administrative Officer from requesting a recommendation from the Technical Review Committee or the Planning Board. Denial of the proposed change(s) shall be referred to the Planning Board for review as a major change.

For the purpose of these regulations, the term “minor changes” shall mean any change that, in the opinion of the Administrative Officer, is consistent with the intent of the original approval. Such minor changes shall include, but are not necessarily limited to the following:

- (1) Amendments to utility plans that are acceptable to the Town’s Engineer or to the appropriate utility company;
- (2) Lot line revisions that can be reviewed and approved as an administrative subdivision according to the provisions of these regulations;
- (3) Amendments to grading plans or drainage plans which are acceptable to the Town’s Engineer and which do not require approval of any state or federal reviewing authority;
- (4) Amendments to construction plans which are required because of unforeseen physical conditions on the parcel being subdivided;
- (5) Modifications to any construction plans for off-site improvements which are acceptable to the Town’s Engineering Department; or,

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(6) Modifications that are required by outside permitting agencies such as, but not limited to RIDEM and RIDOT.

(C) Major changes to a land development or subdivision plan may be approved only by the Planning Board and must follow the same review and public hearing process required for approval of preliminary plans as described herein.

For the purpose of these regulations, the term “major changes” shall mean any change that, in the opinion of the Administrative Officer, is clearly contrary to the intent of the original approval. Such major changes shall include, but are not necessarily limited to the following:

- (1) Changes that would have the effect of creating additional lots for development or dwelling units;
- (2) Changes which would be contrary to any applicable provision of the Zoning Ordinance or which would require a variance or special use permit from the Zoning Board of Review; or,
- (3) Changes which may have significant negative impacts on abutting property or property in the vicinity of the proposed subdivision or land development project.

(D) Rescission Procedure. The Planning Board, only upon application by all landowners of the plat to be affected, may determine that the application for the plat is not consistent with the Lincoln Comprehensive Plan and is not in compliance with the standards and provisions of the Lincoln Zoning Ordinance and/or these regulations and shall hold a public hearing which adheres to the requirements for notice described in Section 19 herein. The Planning Board shall approve, approve with conditions or modifications, or deny the application for rescission of the plat according to the requirements of Section 8. If it is necessary to abandon any street covered under Chapter 6 of Title 24 of Rhode Island General Laws, the Planning Board shall submit to the Town Council, the documents necessary for the abandonment process. Once the required process for rescission or for the rescission and abandonment has been completed, the revised plat shall be signed and recorded as specified in Section 9.

## **SECTION 11. PRE-APPLICATION MEETINGS AND CONCEPT REVIEW**

(A) One or more pre-application meetings shall be held for all major land development or subdivision applications. Pre-application meetings may be held for administrative and minor applications upon request of either the Planning Board or the applicant. Pre-application meetings shall allow the applicant to meet appropriate local officials, boards and/or commissions, planning staff, and, where appropriate, state agencies for advice as to the required steps in the approval process, the pertinent local plans, ordinances, regulations, rules and procedures and standards which may bear upon the proposed development project.

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- (B) At the pre-application stage, the applicant may request from the Planning Board or the Technical Review Committee an informal concept review for a development. The purpose of the concept plan review is also to provide Planning Board or Technical Review Committee input in the formative stages of major subdivisions and land development concept designs.
- (C) Applicants seeking a pre-application meeting or an informal concept review shall submit all general, conceptual materials outlined in Section 22(A) and (B) in advance of the meeting(s).
- (D) Pre-application meetings shall aim to encourage information sharing and discussion of project concepts among the participants. Pre-application discussions are intended for the guidance of the applicant and shall not be considered approval of a project or its elements.
- (E) Provided that at least one (1) pre-application meeting has been held for major land development or subdivision application or sixty (60) days has elapsed from the filing of the pre-application submission and no pre-application meeting has been scheduled to occur within those sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for a land development or subdivision project in accordance with Section 12.

## **SECTION 12. APPLICATION FOR DEVELOPMENT & CERTIFICATION OF COMPLETENESS**

- (A) Classification. The Administrative Officer shall advise the applicant as to which approvals are required and the appropriate board for hearing of an application for land development or subdivision project. The following types of applications, as herein defined, may be filed:
- (1) Administrative subdivision.
  - (2) Minor subdivision or minor land development plan.
  - (3) Major subdivision or major land development plan.
- (B) Certification of completeness. An application shall be complete for purposes of commencing the application time period for action when so certified by the Administrative Officer. In the event such certification of the application is not made within the time specified in this section for the type of plan, the application shall be deemed complete for purposes of commencing the review period unless the application lacks information required for such applications as specified in Section 22 and the Administrative Officer has notified the applicant, in writing, of the deficiencies in the application. The running of the time period set forth in this section will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the re-submission of a corrected application by the applicant. However, in no event will the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after

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its re-submission.

- (C) Notwithstanding subsection (A) and (B) above, the Planning Board may subsequently require correction of any information found to be in error and submission of additional information specific in the regulations but not required by the Administrative Officer prior to certification, as is necessary to make an informed decision.
- (D) Where the review is postponed with the consent of the applicant, pending further information or revision of information, the time period for review shall be stayed and shall resume when the Administrative Officer or the Planning Board determines that the required application information is complete.

### **SECTION 13. ADMINISTRATIVE SUBDIVISION**

- (A) Any applicant requesting approval of a proposed administrative subdivision, as defined in these regulations, shall submit to the Administrative Officer plans and supporting materials provided in the Administrative Subdivision Checklist and the items required in Section 22.
- (B) The application shall be certified as complete or incomplete by the Administrative Officer within a fifteen (15) day period from the date of its submission according to the provisions of Section 12B above.
- (C) Review process.
  - (1) Within fifteen (15) days of certification of completeness, the Administrative Officer or the Technical Review Committee shall review the application and approve, deny or refer it to the Planning Board with recommendations. The Administrative Officer or Technical Review Committee shall report his/her actions to the Planning Board at its next regularly scheduled meeting, to become part of the record.
  - (2) If no action is taken by the Administrative Officer or Technical Review Committee within the fifteen (15) days, the application shall be placed on the agenda of the next regularly scheduled meeting of the Planning Board.
- (D) If referred to the Planning Board, the board shall consider the application and the recommendation of the Administrative Officer and/or Technical Review Committee and shall either approve, approve with conditions, or deny the application within sixty-five (65) days of certification of completeness. Failure of the Planning Board to act within the prescribed period shall constitute approval of the administrative subdivision plan and a certification of the Administrative Officer as to the failure of the Planning Board to act within the required time period and the resulting approval shall be issued upon a written request of the applicant.

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- (E) Denial of an application by the Administrative Officer or Technical Review Committee shall not be appealable and shall require the plan to be submitted as a minor subdivision application.
  - (F) Any approval of an administrative subdivision shall be evidenced by a written decision that shall be filed and posted in the office of the Town Clerk.
  - (G) Approval of an administrative subdivision shall expire ninety (90) days from the date of approval unless within such period a plat in conformity with such approval is submitted for signature and recorded as specified in Section 9.

#### **SECTION 14. MINOR LAND DEVELOPMENT AND MINOR SUBDIVISION REVIEW**

- (A) Review stages. Minor subdivision plan review shall consist of two stages, preliminary and final, provided that if a street creation or extension is involved, a public hearing is required. The Planning Board may combine the approval stages, providing the requirements for both stages have been met by the applicant to the satisfaction of planning officials.
- (B) Submission requirements. Any applicant requesting approval of a minor land development or minor subdivision, as defined in these regulations, shall submit to the Administrative Officer, plans and supporting materials provided in the Minor Land Development/Minor Subdivision Preliminary Checklist and the items identified hereinafter in Section 22(D).
- (C) Certification. The applicant shall be certified complete or incomplete by the Administrative Officer within twenty-five (25) days, or within fifteen (15) days if no street creation or extension is required, according to provisions of Section 12(B) above. The running of the time period set forth in this section will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its resubmission.
- (D) Administrative review. The Administrative Officer shall review the application and shall comment and make recommendations to the Technical Review Committee. The application shall be referred to the Technical Review Committee.
- (E) Technical Review Committee. The Technical Review Committee will review the application and will comment and make recommendations to the Planning Board. The application will be referred to the Planning Board as a whole if there is no Technical Review Committee. When reviewed by the Technical Review Committee:

- (1) If the land development or subdivision plan is approved by a majority of the committee

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members, the application is forwarded to the Planning Board with a recommendation for preliminary plan approval without further review.

- (2) If the plan is not approved by a majority vote of the committee members, the minor land development and subdivision application is referred to the Planning Board.
- (F) Re-assignment to major review. The Planning Board may re-assign a proposed minor project to major review when the Planning Board is unable to make the positive finding required in Section 5 above.
- (G) Decision. If no street creation or extension is required, the Planning Board shall approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within such further time as is agreed to by the applicant and the Board, according to the requirements of Section 8 herein. If a street extension or creation is required, the Planning Board shall hold a public hearing prior to approval according to the requirements of these regulations at Section 18(c) & (d) and shall approve, deny, or approve with conditions, the preliminary plan with conditions within ninety-five (95) days of certification of completeness, or within such further time as is agreed to by the applicant and the Board, according to the requirements of Section 27.
- (H) Failure to act. Failure of the Planning Board to act within the period prescribed shall constitute approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time period and the resulting approval shall be issued on the written request of the applicant.
- (I) Final Plan. The Planning Board may delegate final plan review and approval to the Administrative Officer. In such a case, the Administrative Officer shall report his/her findings to the Planning Board at its next regularly scheduled meeting, to be made part of the record. The Administrative Officer may be authorized to sign (endorse) the final plat or plans for recording. Endorsement of the final plat or plans by the Administrative Officer or Planning Board Chairman shall constitute an act of final approval.
- (J) Vesting. Approval of a minor land development or subdivision plan shall expire ninety (90) days from the date of approval unless within such period a plat or plan is submitted for signature and recording, in conformity with such approval, and as defined in these regulations in Section 9. Validity may be extended for a longer period, for cause shown if requested by the applicant in writing prior to the expiration of the period, and approved by the Planning Board.
- (K) Completion of Required Improvements. All required improvements shall be completed within one (1) year of the date of final approval. The Planning Board may, for good cause shown, and subject to the provisions of regulations for the reinstatement or extension of applications, extend the period of time for completion of all required improvements, if requested by the applicant in writing.

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## **SECTION 15. MAJOR LAND DEVELOPMENT AND MAJOR SUBDIVISION REVIEW STAGES**

- (A) Major plan review shall be required of all applications for land development and subdivision approval subject to these regulations, unless classified as an administrative subdivision or as a minor land development or a minor subdivision.
- (B) Major plan review shall consist of three stages of review: master plan, preliminary plan, and final plan, following the Pre-application meeting(s) specified in Section 11 hereinabove.
- (C) The Planning Board may vote to combine review stages and to modify and/or waive requirements as specified in these regulations. Review stages may be combined only after the Planning Board determines that all necessary requirements have been met by the applicant.

## **SECTION 16. MAJOR LAND DEVELOPMENT AND MAJOR SUBDIVISIONS - MASTER PLAN**

- (A) Submission requirements:

- (1) The applicant shall first submit to the Administrative Officer the plans and supporting materials provided in the Major Land Development/ Major Subdivision Master Plan Checklist and the items required in Section 22(C) below.
- (2) Requirements for the master plan and supporting materials for this phase of review shall include, but not be limited to; information on the natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including topographic features, the freshwater wetland boundaries if applicable, the floodplain, as well as the proposed design concept, proposed public improvements and dedications, tentative construction phasing, and potential neighborhood impacts.
- (3) Initial comments shall be solicited from (a) local agencies including, but not limited to, the Town Administrator, the Town Engineer, the public works, fire and police departments, the conservation and recreation commissions, the school committee; (b) adjacent communities; (c) state agencies as appropriate including the R.I. Department of Environmental Management (RIDEM) and the R.I. Department of Transportation (RIDOT); and federal agencies as appropriate. The Administrative Officer shall coordinate review and comment by local officials, adjacent communities, and the state and federal agencies.

- (B) Certification. The application shall be certified complete or incomplete by the Administrative Officer within sixty (60) days, in accordance with 12(B) above. The running of the time period

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set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the re-submission of a corrected application by the applicant. However, in no event will the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its re-submission.

(C) Technical Review Committee. The Technical Review Committee shall review the application and shall comment and make recommendations to the Planning Board.

(D) Public Informational Meeting. A public informational meeting shall be held prior to the Planning Board decision on the master plan, unless the master plan and preliminary plan approvals are being combined, in which case the public informational meeting shall be optional, based upon Planning Board determination.

(1) Public notice for the informational meeting is required and shall be given at least seven (7) days prior to the date of the meeting in a newspaper of general circulation in the Town. Postcard notice shall be mailed to the applicant and to include all property owners within the notice area (that is to all owners of abutting property within two hundred (200) feet of the property perimeter).

(2) At the public informational meeting, the applicant shall present the proposed development project. The Planning Board shall allow oral and written comments from the general public. All public comment shall be made part of the public record of the project application.

(E) Decision. The Planning Board shall, within one hundred twenty (120) days of certification of completeness, or within such further time as may be consented to by the applicant, approve the master plan as submitted, approve with changes and/or conditions, or deny the applicant, according to the requirements of Section 8.

(F) Failure to act. Failure of the Planning Board to act within the period prescribed shall constitute approval of the master plan and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued on the written request of the applicant.

(G) Vesting. The approved master plan shall be vested for a period of one (1) year from the master plan approval date. The vested master plan approval can be extended for one additional year upon the written request of the applicant, who must appear before the Planning Board for an annual review. Vesting may be extended for a longer period, for good cause shown, if requested by the applicant prior to the expiration of the approval date, in writing, and approved by the Planning Board. Master plan vesting shall include the zoning requirements, conceptual layout and all conditions shown on the approved plan drawing and supporting material.

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## **SECTION 17. MAJOR LAND DEVELOPMENT AND MAJOR SUBDIVISION - PRELIMINARY PLAN**

(A) Submission requirements;

- (1) The applicant shall first submit to the Administrative Officer the plans and supporting materials provided in the Major Land Development/Major Subdivision Preliminary Checklist and items required in Section 22 (D) for preliminary plan.
- (2) Requirements for the preliminary plan and supporting materials for this phase of review shall include, but not be limited to, engineering plans depicting the existing site conditions, engineering plans depicting the proposed development project, a perimeter survey by a registered land surveyor, all permits required by federal and state agencies prior to commencement of construction, including permits related to freshwater wetlands, floodplains, public water systems, and connections to state or town roads.
- (3) The Administrative Officer shall solicit written comments and/or approvals of the Town of Lincoln's Department of Public Works, the Town Engineer, the Town Solicitor, other local governmental departments, commissions, or authorities as appropriate.
- (4) Prior to approval of the preliminary plan, copies of all legal documents describing the property, proposed easements and rights-of-way shall be submitted.

(B) Certification. The application shall be certified as complete or incomplete by the Administrative Officer within thirty (30) days, according to the provisions of Section 12 (B). The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its re-submission.

(C) Public Hearing. Prior to a Planning Board decision on the preliminary plan, a public hearing, which adheres to the requirements for notice described in Section 19 below, must be held.

(D) Public improvement guarantees. Proposed arrangements for completion of the required public improvements, including the construction schedule and/or financial guarantees, shall be reviewed and conditionally approved by the Planning Board at the preliminary plan approval.

(E) Decision. A complete application for a major subdivision or major land development plan shall be approved, approved with conditions or denied within one hundred and twenty (120) days of the date when it is certified complete, or within such further times as may be consented to by the developer.

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- (F) Failure to act. Failure of the Planning Board to act within the period prescribed shall constitute approval of the preliminary plan and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued on the written request of the applicant.
- (G) Vesting. The approved preliminary plan shall be vested for a period of one (1) year from the preliminary plan approval date. The vested preliminary plan approval can be extended for one additional year upon the written request and vesting may be extended for a longer period, for good cause shown, if requested in writing by the applicant prior to the expiration of the deadline, and approved by the Planning Board. The vesting of the preliminary plan approval shall include all general and specific conditions as shown on the approved preliminary plan drawings and supporting materials.

## **SECTION 18. MAJOR LAND DEVELOPMENT AND MAJOR SUBDIVISION - PUBLIC HEARING AND NOTICE**

- (A) A public hearing shall be required on the preliminary plan for a major land development or major subdivision or where a street extension or creation requires a public hearing for a minor land development or minor subdivision project.
- (C) Notice requirements. Public notice of the hearing shall be given at least fourteen (14) days prior to the hearing in a newspaper of general circulation within the town following the town's customary practices for such advertising. Notice shall be sent to the applicant and to each owner of property within two hundred (200) feet of the perimeter of the property, by certified mail, return receipt requested, of the time and place of the hearing not less than ten (10) days prior to the date of the hearing. Such notice shall also include the street address of the subject property, or if no street address is available, the distance from the nearest intersection in tenths (1/10) of a mile. The board may require a supplemental notice that an application for development approval is under consideration be posted at the location in question. Such posting shall be for informational purposes only and shall not constitute required notice of a public hearing.
- (C) Notice Area.
- (1) The distance for notice of the public hearing shall be to all owners of property within two hundred (200) feet of the perimeter of the entire property under consideration. Intervening streets, highways, roadways, easements or rights-of-way shall not nullify the intention of this notice area.
  - (2) Lincoln Water Commission. Notice shall be given to the Lincoln Water Commission for its review and recommendations with regards to potential impacts on current or future public,

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quasi-public water sources, or private water sources that are to be used or is suitable for use as a public water source.

- (3) Watersheds. Additional notice within watersheds shall also be sent by first class mail to the city or town's Planning Board of any municipality where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, located within two thousand (2000) feet of the municipal boundaries. Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to surface water resource and/or surface watershed that is used or is suitable for use as a public water source located within either the Town, or two thousand (2000) feet of the municipal boundaries, provided, however, that a map survey has been filed with the building inspector as specified in Section 45-24-53 (E) of the General Laws of Rhode Island.
- (4) Adjacent municipalities. Notice of the public hearing shall be sent by the Administrative Officer to the Administrative Officer of an adjacent municipality if (1) the notice area extends into the adjacent municipality, or (2) the development site extends into the adjacent municipality, or (3) there is a potential for significant negative impact on the adjacent municipality.

(D) Notice costs. The cost of all such notices and advertisement shall be borne by the applicant.

## **SECTION 19. MAJOR LAND DEVELOPMENT AND MAJOR SUBDIVISIONS - FINAL PLAN**

(A) Submission requirements:

- (1) The applicant shall submit to the Administrative Officer the plans and supporting materials provided in the Major Land Development/Major Subdivision Final Checklist and items required for final plan in Section 22 (E), as well as all materials required by the Planning Board when the application was given preliminary approval.
- (2) Certification of completion of the required public improvements, including any maintenance/remediation guarantees.
- (3) Certification by tax collector that all property taxes are current.
- (4) For phased projects, the final plan for phases following the first phase shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.

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- (B) Certification. The application for final plan approval shall be certified complete or incomplete by the Administrative Officer within twenty-five (25) days, according to the provisions of Section 12(B) above. This time period may be extended to forty-five (45) days by written notice from the Administrative Officer to the applicant where the final plans contain changes to or elements not included in the preliminary plan approval. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the Administrative Officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its resubmission. If the Administrative Officer certifies the application as complete and does not require submission to the Planning Board as per subsection (C) below, the final plan shall be considered approved, subject to successful completion of the post construction warranty period or the posting of adequate guarantees as required herein.
- (C) Referral to the Planning Board. If the Administrative Officer determines that an application for final approval does not meet the requirements set by the regulations or by the Planning Board at the preliminary approval, the Administrative Officer shall refer the final plans to the Planning Board for review. The Planning Board shall, within forty-five (45) days after the certification of completeness, or within such further time as may be consented to by the applicant, approve or deny the final plan as submitted.
- (D) Failure to act. Failure of the Planning Board to act within the period prescribed shall constitute approval of the final plan subject to post completion guarantees and periods and a certificate of the Administrative Officer as to the failure of the Planning Board to act within the required time and the resulting approval shall be issued upon the written request of the applicant.
- (E) Recording. The final approval of a major land development or major subdivision project shall expire one (1) year from the date of approval unless, within that period, the plat or plan shall have been submitted for signature and recording as specified in these regulations. The Planning Board may, for good cause shown, extend the period for recording an additional period not to exceed one (1) year.
- (F) Acceptance of public improvements. Signature and recording as specified in these regulations shall constitute acceptance by the Town of any street or other public improvements or other land intended for dedication. Final plan approval shall not impose any duty upon the town to maintain or improve those dedicated areas until the Town Council accepts the completed improvements as constructed and guaranteed in compliance with the final plans and the terms of these regulations.
- (G) Validity of recorded plans. The approved final plan, once recorded, shall remain valid as the approved plan for the site unless an amendment to the plan is approved under the procedures set forth in these regulations, or a new plan is approved by the Planning Board.

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(H) Sale of lots and building permits. Only after obtaining a certificate of final plan approval shall the developer or subdivider or their heirs or assigns sell or transfer any lot in the subdivision or land development project. No person shall be entitled to building permits unless and until all subdivision or land development improvements have been completed and final construction approval has been certified by the Administrative Officer.

## **SECTION 20. LAND DEVELOPMENT PROJECTS - RURAL PROTECTION ZONING**

Rural Protection Zoning (RPZ) land development projects filed under the provisions of these regulations shall be considered under the authority of Article XII - Special Provisions of the Lincoln Zoning Ordinance (November 15, 1994, as amended). Submissions shall comply with the provisions of these regulations.

### **Article A. Intent**

The primary purpose of the Rural Protection Zoning district (RPZ) is to preserve open land, sensitive natural areas, and rural community character that would be lost under conventional development. In addition, the intent of this district is to permit a reasonable amount of residential development in the form of small, compact neighborhoods of single-family detached homes in an open setting, located and designed to reduce the perceived intensity of development, preserve natural features and farmland, and provide privacy and neighborhood identity with no increase in overall densities. Specific objectives are as follows:

- (1) To preserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development.
- (2) To preserve scenic views and elements of the Town of Lincoln's rural character, and to minimize perceived density, by minimizing views of new developments from existing roads.
- (3) To provide greater design flexibility and efficiency in the siting of services and infrastructure, by reducing the road length, utility runs, and the amount of paving required for residential development.
- (4) To create compact neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
- (5) To implement the goals of the Town of Lincoln's Comprehensive Plan and Open Space/Recreation Plan (SCORP).

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- (6) To reduce erosion and sediments by the retention of existing vegetation and the minimization of development on steep slopes.
  - (7) To create new woodlands through natural succession and reforestation where appropriate, and to encourage the preservation and improvement of habitats for various forms of wildlife.
  - (8) To preserve areas of the Town of Lincoln with productive agricultural soils for continued or future agricultural use where allowed by zoning, by preserving blocks of land large enough to allow for efficient farm operations.
  - (9) To provide for the preservation and maintenance of open space within the Town of Lincoln to achieve the above-mentioned goals and those goals as outlined in the Comprehensive Plan of the Town of Lincoln and for active or passive recreational use by residents.
  - (10) To assure that the herein objectives are accomplished without increasing the overall density which could be achieved under the subdivision, zoning and other applicable state and federal regulations.

#### **Article B. Permitted Uses (RA-40)**

Land in a RPZ may be used for the following purposes: Land currently zoned RA-40 (residential/agricultural 40,000 sq. ft. minimum);

(A) Single-family detached dwelling:

- (1) On tracts of five acres or more, the following dwelling types are permitted under the neighborhood design standards herein, at a maximum density of one unit per 40,000 adjusted gross sq. ft., with at least 60% of the tract in open land.
- (2) On tracts of less than five acres in size existing as of the date of adoption of these regulations there shall be a maximum of one dwelling unit per 40,000 adjusted gross sq. ft., with no required common open land, although a portion of the tract may be set-aside as open land, if desired. No more than one dwelling is permitted per individual lot.

(B) Open land comprising a portion of a residential development, as specified above and according to the requirements of Article F.

(C) The following non-residential uses, on lots of 10 acres or more, according to the standards of Article H:

- (1) Accessory uses as allowed in the existing RA-40 zones.

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- (2) Open space uses, primarily passive in nature, including wildlife sanctuary, forest preserve, nature center, and similar uses.
  - (3) Parks and recreation areas for non-intensive uses, hiking, bicycling or bridle trails, picnic areas, playing fields, and similar uses.

(D) Accessory uses on the same lot with and customarily incidental to any permitted use.

### **Article C. Permitted Uses (RS-20)**

Land in a RPZ may be used for the following purposes: Land currently zoned RS-20 (single family residential 20,000 sq. ft. minimum);

(A) Single-family detached dwelling:

- (1) On tracts of five acres or more, the following dwelling types are permitted under the neighborhood design standards herein at a maximum density of one unit per 20,000 adjusted gross sq. ft., with at least 60% of the tract in open land .
- (2) On tracts of less than five acres in size, existing as of the date of adoption of these regulations there shall be a maximum of one dwelling unit per 20,000 adjusted gross sq. ft., with no required common open land, although a portion of the tract may be set-aside as open land, if desired. No more than one dwelling unit is permitted per individual lot.

(B) Open land comprising a portion of a residential development, as specified above and according to the requirements of Article F.

(C) The following non-residential uses, on lots of 10 acres or more, according to the standards of Article H:

- (1) Open space uses, primarily passive in nature, including wildlife sanctuary, forest preserve, nature center, and similar uses.
- (2) Parks and recreation areas for non-intensive uses, hiking, bicycling or bridle trails, picnic areas, playing fields, and similar uses.

(D) Accessory uses on the same lot with and customarily incidental to any permitted use.

### **Article D. Inventory and Analysis**

The initial application for any development shall include an inventory and analysis of the site. The following site elements shall be inventoried and mapped in sufficient detail to allow evaluation of the plan by the Planning Board relative to the intent of these regulations.

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(A) Physical Resources. Identification of resources associated with the natural environment of the tract, including geology, topography, soils, hydrology, and vegetation. These features shall be mapped at a scale no smaller than one inch equals 100 feet, and shall be briefly described. The maps shall include:

- (1) Topographic contours at ten-foot intervals showing rock outcrops and slopes of more than 15 percent.
- (2) Soil type locations and a table identifying soil characteristics relating to agriculture capability, verified seasonal high water table, and depth to bedrock.
- (3) Hydrologic characteristics of the site including surface water bodies, floodplains, and hydric soils.
- (4) Vegetation of the site, defining location and boundaries of woodland areas, and vegetation associations in terms of species and size.
- (5) Flagged and verified determination of the edge of wetlands and their corresponding buffers or perimeter wetlands as defined and governed by the RI Department of Environmental Management, Division of Water Resources.

(B) Land Use. Current land use and land cover (cultivated areas, paved areas, pastures, etc.), all buildings and structures on the land, and all encumbrances, such as easements or covenants.

(C) Visual Resources. Scenic views onto the tract from surrounding roads and public areas, as well as views of scenic features from within the tract.

(D) Cultural and Historic Resources. Brief description of historic character of buildings and structures, if applicable.

(E) Context. General outlines of buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no smaller than one inch equals 400 feet.

## **Article E. Neighborhood Design Standards**

The following minimum standards apply to all residential developments in the RPZ.

(A) All lots shall be grouped into neighborhoods that shall contain at least five (5), but not more than twenty-five (25) lots, and are surrounded by open land.

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- (B) The maximum or minimum number of lots in a neighborhood may be increased or decreased, and neighborhoods may be assembled into larger groupings with the approval of the Planning Board. However, the applicant must demonstrate that such an alternative plan is more appropriate for the tract in question, and will meet both the general intent of Section I and design standards of these regulations, rather than being intended solely for economic savings. Provided however that in computing the maximum number of lots allowable in any subdivision, unbuildable areas due to wetlands or other applicable restrictive requirements is not to be utilized to compute the maximum allowable number of lots.
- (C) Neighborhoods are defined by the outer perimeter of contiguous lotted areas or abutting roads, and may contain lots, roads and neighborhood open space.
- (D) A plan may contain one or more neighborhoods.
- (E) The outer boundaries of each neighborhood shall meet the setback requirements specified in Section 14, Article H, Density and Dimensional Standards.
- (F) Neighborhoods shall be located on areas of the tract that are relatively free of sensitive environmental features. At a minimum, neighborhoods shall not encroach upon:
- (1) Floodplains or wetlands,
  - (2) Lands designated for open space in the Town of Lincoln Comprehensive Plan.
- (G) Disturbance to woodlands, hedgerows, mature trees or other significant vegetation shall be minimized.
- (H) Prime farmland soils and large tracts of continuous land suitable for agricultural use, shall be preserved.
- (I) Neighborhoods shall be defined and separated by open land in order to provide direct access to open space and privacy to individual yard areas. Neighborhoods may be separated by roads if the road rights-of-way is designed as a parkway and meets the setback requirements in Section 14, Article H.
- (J) Views of neighborhoods from exterior roads shall be minimized by the use of changes in topography, existing vegetation or additional landscaping.
- (K) All lots in a neighborhood shall face neighborhood open space or other open land within the development (directly across a road) to either the front or the rear for a distance of not less than 30 feet.
- (L) All lots in a neighborhood shall take access from interior roads rather than roads exterior to the tract.

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(M) Neighborhood Open Space Standards. A neighborhood with ten or more residential lots must provide neighborhood open space at a minimum rate of 1,000 square feet per lot, in compliance with the following standards:

- (1) The open space shall be central to the neighborhood it serves.
- (2) The open space shall have a minimum of 100 feet of road frontage and a minimum average width of 35 feet.
- (3) It shall be configured as a green or parkway.
  - a. A green shall be located in a central position in the neighborhood, and shall be surrounded by streets and/or building lots on at least three sides. It shall be designed and landscaped as a space for common neighborhood use.
  - b. A parkway is a narrow strip of open space surrounded by streets on all sides, and generally intended for a smaller neighborhood use.
- (4) Deeded development rights.
- (5) It may not contain storm water detention basins unless in common ownership by the neighborhood. It may contain parking areas, but these parking areas shall not be included in the required 1,000 square feet per lot.
- (6) Neighborhood open space shall count towards meeting the 60% open land requirements of the RPZ, but shall not exceed 5% of the 60% open land requirement.
- (7) In special instances upon review and approval by the Planning Board the requirement for land dedication may be substituted by a donation to the Lincoln Open Space fund in an amount established by the Town of Lincoln's Administration and approved by the Planning Board.

## **Article F. Open Land Standards**

Under the open land standards, 60% of each tract is required to be set aside as protected open land. This open land shall be privately owned by an established neighborhood association with an option for public ownership available. This open land area shall meet the following standards:

(A) The following uses are permitted in open land areas:

- (1) Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
- (2) Agricultural uses, (only in a currently zoned RA-40 district) including raising of crops or livestock, and farm buildings.

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- (3) Neighborhood open space as specified in Section 14, Article E, Subsection M.
  - (4) Passive recreation including, but not limited to, trails, picnic areas, community gardens, and lawn areas.
  - (5) Active recreation areas such as playing fields, playgrounds and courts, meeting the setback requirements in Section 14, Article H.
  - (6) Easements for water, sewer, drainage, access or other public purposes.
  - (7) Parking areas of ten or fewer spaces where necessary to serve active recreation facilities.
  - (8) Above-ground utility and road rights-of-way except that the land areas shall not count toward the required 60% minimum total open land requirement.
  - (9) Estate lots meeting the following standards:
    - a. A minimum size 2 to 10 acres, of which a maximum of one half acre may be developed with a single-family detached dwelling and customary accessory uses. Only the undeveloped portion of the estate lot may be used to meet the 60% open land requirement (see Section 14, Article H, Density and Dimensional Standards).
    - b. The one half acre of the estate lot that may be developed shall include any portion of the site left in its natural state or used for agricultural purposes: all dwellings, accessory buildings and structures, paved areas, lawns, and gardens, etc.
    - c. The developed area of the estate lot shall meet the Neighborhood Setback standards listed in Article H sub-section C with the exception of Article H sub-section C, paragraph 4 and 5.
    - d. Estate lots shall be protected by permanent easement against further subdivision.
    - e. Dwellings on estate lots shall be counted toward the maximum density permitted on a track.
    - f. Dwellings on estate lots shall be sited according to the same principals as neighborhoods, as per Section 14, Article E, Neighborhood Design Standards. Specifically, dwellings shall not encroach on environmentally sensitive areas, and should not infringe upon scenic views from exterior roads or

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neighborhoods.

(B) Open land areas shall be located and designed to:

(1) Protect site features identified in the inventory and analysis as having particular value, in compliance with the intent of these regulations.

(2) Comply conceptually with the recommendations of the Town of Lincoln's SCORP and/or Comprehensive Plan, where specified.

(3) Maximize common boundaries with open land on adjacent tracts, as shown in the Comprehensive Plan, or as otherwise required by the Town of Lincoln Planning Board in the interest of good planning and design.

(4) Add to, and not diminish, the inventory of open space which would otherwise be obtained under traditional subdivision and land development regulations.

(C) Safe and convenient pedestrian and maintenance access shall be provided to open land areas.

(1) Each neighborhood shall provide one centrally located access point per 25 lots, a minimum of one lot wide.

(2) Access to open land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.

(3) Public access to estate lots is not required.

(D) The following uses are prohibited in open land areas:

(1) Use of motorized vehicles except within approved driveways and parking areas. Maintenance, law enforcement, emergency, and farm vehicles are permitted, as needed.

(2) Cutting of healthy trees, regrading, topsoil removal, altering, diverting, or modifying water courses or bodies, except in compliance with a land management plan for the tract in question, conforming to customary standards of forestry, erosion control, and engineering, and permitted by the proper authorities.

(3) Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, functioning, or overall condition, as recommended by experts in the particular area being modified. Permitted modifications may include:

- a. Reforestation
- b. Woodland management

- c. Meadow management
- d. Buffer area landscaping
- e. Stream bank protection
- f. Wetlands management

**Article G. Ownership and Maintenance of Common Facilities and Open Land**

- (A) Ownership and maintenance of common facilities and open land shall be provided for. All open land shall be permanently restricted from future development.
- (B) The following methods of ownership, with the approval of the Planning Board, may be used either individually or in combination;
- (1) Fee simple dedication to the Town of Lincoln, although the town need not accept the offer of dedication.
  - (2) A homeowners association.
  - (3) Dedication of easements to the Town of Lincoln.
  - (4) Transfer to a private conservation organization.
  - (5) Deed restrictions on estate lots.
- (C) Maintenance. Unless otherwise agreed to by the Town of Lincoln, the cost and responsibility of maintaining common facilities shall be borne by the property owner or homeowners association. If the facilities are not properly maintained, the Town of Lincoln may assume responsibility of maintenance and charge the property owner or homeowners association a fee which covers maintenance costs, administrative costs and penalties.

**Article H. Density and Dimensional Standards**

Article H (A) of the following standards applies to standard single-family detached lots. Article H (B) applies to estate lots.

(A) Standard Single-family Detached Dwellings.

	CURRENT RA-40 ZONE	CURRENT RS-20 ZONE
1. Minimum tract size	5 acres	5 acres
2. Min. common open space (% of adj. gross acreage)	60 %	60 %
3. Maximum density (based on adj. gross acreage)	1 du*40,000 sq.ft.	1 du*20,000 sq.ft.
4. Minimum lot size	12,000 sq.ft.	8,000 sq.ft.

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5. Maximum lot size	2 acres	2 acres
6. Minimum lot width	100 ft.	75 ft.
7. Minimum front yard	25 ft.	20 ft.
8. Minimum side yard	15 ft.	15 ft.
9. Minimum rear yard	45 ft.	40 ft.
10. Maximum bldg. coverage 20% (% of lot area)		25%

(\*du -Dwelling Unit - A structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.)

(B) Estate Lot and Non-residential Standards. The following standards apply to single-family detached dwellings on estate lots located in open land areas in conjunction with neighborhood development. (See Article F, Subsection A, #9). These standards also apply to non-residential uses under Article B, subsection C.

- (1) Minimum lot size:
  - a. On tracts of 5 - 9 acres 2 acres
  - b. On tracts of 10 - 19 acres 5 acres
  - c. On tracts of 20 acres or more 10 acres
- (2) Maximum developed area 0.5 acres  
(Setbacks pertain to developed area of lot)
- (3) Minimum lot width 100 feet
- (4) Minimum front yard 40 feet
- (5) Minimum side yard 20 feet
- (6) Minimum rear yard 40 feet
- (7) Maximum building coverage 5% of developed area  
(see #2 above)

(C) Neighborhood Setbacks. The outer boundaries of all neighborhoods shall meet the following setbacks. The boundary is defined as the outer edge of lots abutting open land or of roads adjacent to the fronts of those lots.

- (1) From external arterial road ultimate rights-of-ways, 200 feet (including limited access roads) or scenic roads, if defined in the Town of Lincoln's Comprehensive Plan, or listed in the Inventory of Scenic Highways.
- (2) From all other external road ultimate rights-of-way - 100 feet
- (3) From all tract boundaries - 100 feet
- (4) From cropland or pasture land - 100 feet

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- (5) From other residential neighborhoods - 100 feet
  - (6) From wetlands, floodplains or watercourses - 25 feet
  - (7) From active recreation areas such as courts or playing fields - 150 feet
  - (8) All setback areas along roads shall be landscaped in order to preserve scenic views and integrate the neighborhood into the surrounding landscape.
  - (9) The Planning Board may allow these setback standards to be reduced under the following circumstances:
    - a. Setbacks from roads may be reduced to a minimum of 50 feet if the applicant can demonstrate that existing vegetation and/or topography form an effective visual buffer along these roads.
    - b. All other setbacks may be reduced to half of the requirement specified above if the applicant can demonstrate that reduced setbacks improve the plan's compliance with Section 14, Article E, the intent of these regulations, and other goals of the Town of Lincoln's Comprehensive Plan.

#### **Article I. Public Utilities**

- (A) All development within the RPZ shall be provided with adequate public sewage facilities in conformance with the Town of Lincoln's Sewer Ordinance.
- (B) All development shall be served by a centralized water system of adequate capacity and design and shall be subject to the approval of the Lincoln Water Commission.
- (C) All electric wires, telephone wires, cable T.V., or other similar services, shall be placed underground as per requirements of the appropriate utilities and regulations pertaining to underground utility installation.

#### **Article J. Phasing**

Development under the standards of these regulations may be phased and estate lots may be subdivided prior to neighborhood development in accordance with a unified development plan for the entire tract and the following requirements:

- (A) An inventory and analysis of the entire tract shall be completed in accordance with Section 14, Article D, Inventory and Analysis.
- (B) The unified development plan for the tract shall be approved as a Master Plan, and shall be made a part of a binding development agreement between the applicant and the Town of Lincoln.

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(C) When estate lots are subdivided prior to neighborhood development, the following standards shall apply:

- (1) If neighborhood development is desired in the future, the plan must be designed so that sufficient land area is set-aside in a suitable configuration for that purpose.
- (2) The maximum density permitted with the neighborhood development shall be based upon the acreage of the original tract, minus the dwelling units on the estate lots.
- (3) The estate lots shall be restricted from further subdivision by permanent easement when they are created.
- (4) Any future neighborhood development shall be consistent with the approved Master Plan and development agreement.

(D) Prior to subdividing estate lots, completion of all required public improvements will be required in accordance with Section 24 of these regulations. No building permits shall be issued and no sales of subdivision lots shall occur until completion of all improvements as provided by these regulations.

#### **Article K. Maintenance and/or Remediation Guaranties**

Pursuant to Rhode Island General Laws, Chapter 45-23, no building permits shall be issued, nor shall any subdivider and/or developer or their heirs or assigns, transfer any lot within a proposed subdivision or land development project until all public improvements are certified to be complete and an acceptable maintenance/remediation bond has been provided.

#### **Article L. Improvements**

All improvement standards and regulations pertaining to the required improvements for public use shall be as outlined in Section 23. The Planning Board has the right to review and modify any and all improvement standards as they see fit to facilitate the neighborhood development.

#### **Article M. Definitions**

Adjusted Gross Square Footage - that area of a project that is used to determine the density of a proposed subdivision or land development project under a Rural Protection Zoning project. In no case shall the total number of dwelling units to be permitted on any site proposed for development under the rules and regulations of Rural Protection Zoning exceed the number allowed under conventional zoning and subdivision regulations. The adjusted gross square footage of the tract or parcel shall mean the area suitable for development under conventional zoning and subdivision regulations, and shall not include land or lands that, due to environmental, physical, topographical, and/or other limitations or restrictions either under federal, state, or local regulations, would not

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be allowed to be developed as a matter of right, nor shall the areas required for streets, roads, rights-of-way, and/or other required improvements be included in the calculations for total number of dwelling units.

Condominium Association - A community association combining individual home ownership with shared use or ownership of common property and facilities organized in accordance with RI General Laws. The association is responsible for maintaining the property and delivering common services, but does not own the common property. Condominium is a legal form of ownership, not a specific building type.

Common Facilities - All the real property and improvements set aside for the common use and enjoyment of the residents, including, but not limited to, buildings, open land, private roads, parking areas, walkways, recreation areas, landscaped areas, drainage easements, and any utilities that service more than one unit.

Estate Lot - A large, privately-owned lot comprising of all or part of an area of open land. The purpose of the estate lot is to provide surrounding residents with visual access to open land, while keeping the land under private ownership and maintenance. Only a small portion of the estate lot may be developed; the remainder may be fanned or left in its natural state. Public access to estate lots is not required.

Homeowners Association (HOA) - A community association combining individual home ownership with shared use or ownership of common property and facilities. The homeowner owns the lot, including the interior and exterior of the individual home, while the association owns and maintains the common facilities.

Neighborhood - A development consisting of between 5 and 25 single-family detached dwellings, surrounded by open land that comprises at least 60% of the tract.

Open Land - that portion of a tract (at least 60%) that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Open land may be accessible to the residents of the development and/or the Town of Lincoln, or it may contain areas of farming or estate lots that are not accessible to the public.

## **Article N. Land Unsuitable for Development**

(A) When calculating the number of residential building lots or units permitted on any parcel, land included in any of the following categories shall be considered unsuitable for development and shall be deducted from the minimum building acreage of the parcel;

- (1) Fresh water wetlands and appropriate perimeter wetlands as defined by Rhode Island General Laws Section 2-1-20 (1987) as amended.
- (2) Areas within a Flood Hazard.

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- (3) Land within any publicly or privately held easement on which above-ground utilities, including but not limited to electrical transmission lines, are constructed.

## **SECTION 21. PHASING OF PROJECTS**

- (L) The Planning Board may provide for preliminary and final stage, and for the construction of major land developments and subdivisions, to be divided into reasonable phases.
- (M) When considering a phased development project, the Planning Board shall consider the following:
- (1) Approval of the entire site design first as a master plan. Thereafter, the development plans may be submitted for preliminary and/or final review and/or approval of phase(s).
  - (4) Standards and Guidelines for determining the physical limits of phases, completion schedules, and guarantees, for allowing progression to additional phases, for allowing two (2) or more phases to proceed in review or construction simultaneously, for interim public improvements or construction conditions, for changes to master or preliminary plans which shall be agreed to prior to any project moving through negotiations between the Planning Board and the developer and/or subdivider as necessitated by local conditions.
  - (5) The master plan documents shall contain information on the physical limits of the phases, the schedule and sequence of public improvement installation, remediation/maintenance guarantees, and the work and completion schedules for approvals and construction of the phases.
- (N) Vesting. The master plan shall remain vested as long as it can be proved, to the satisfaction of the Planning Board that work is preceding on either the approval stages or on the construction of the development as shown in the approved master plan documents. Vesting shall extend to all information shown on the approved master plan documents.

## **SECTION 22. SPECIFICATIONS AND SUBMISSIONS FOR PLANS AND PLATS**

### **Article A. General Requirements for all Submissions**

- (1) Title Block: Include the following information:
- a. Name of land development/subdivision project; assessor's plat number and lot number(s).

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- b. Name and address of subdivider/developer, name and address of property owner.
  - c. Name and Rhode Island registration number of professional engineer or land surveyor, as required by law, responsible for the plan(s) submitted.
  - d. Date plan was prepared.
  - e. Revision box identifying all changes from previous submissions.
  - f. Scale of drawing (also include graphic scale adjacent to the title box).

(2) General notes: Include the following notes as applicable.

- a. Zoning classification.
- b. Total area of land development or subdivision project.
- c. Total length and area of proposed roadways.
- d. Minimum lot area
- e. Minimum lot width.
- f. True North arrow.
- g. All abutting street names and abutting property owners' names and addresses within the title block area.
- h. Class of Survey.
- i. All applicable floodplain/flood hazard information.
- j. Proposed lots buildable area
- k. Locus detail

(3) Legend. Symbols for all items designated on the plans, as applicable, including:

- a. Existing property lines.
- b. Proposed lot lines.
- c. Existing utilities, manholes, catch basins, pits, etc.
- d. Proposed utilities, manholes, catch basins, pits, etc.
- e. Existing structures and site features.
- f. Wetlands and applicable buffer zones.
- g. Easements.

(4) Drawing size: Plan scale shall be no smaller than one inch (1") equals forty (40) feet, and no larger than one inch (1") equals two hundred (200) feet unless otherwise approved by the Administrative Officer. Drawings for submission shall be one of the following sizes.

18" x 24" or 24" x 36"

Profile scale shall be horizontal scale of one-inch (1") equals forty feet (40') and a vertical scale of one inch (1") equals four feet (4'). Scale of details shall be optional.

## **Article B. Pre-application Sketch Plans**

(1) The subdivider and/or land developer shall file with the Administrative Officer in accordance

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with the scheduled enumerated in the regulations, but no less than thirty (30) days in advance of the regularly scheduled meeting of the Planning Board.

- a. A fully completed application together with the appropriate fee as shown on the fee schedule in Appendix A.
- b. A minimum of eleven (11) legible black line or blue line prints of the application sketch plan containing at a minimum the items identified in Article B (2) below.

(2) The Pre-application sketch plan shall encompass the entire tract of land in contiguous ownership by the subdivider or land developer and shall contain the following:

- a. All information required in Article A above.
- b. All topographic conditions detailed by 2 ft contours as well as relevant site features.
- c. Approximate street and lot layout of the entire area.
- d. Approximate dimensions of streets and lots.
- e. Approximate number and area of lots.
- f. Existing and proposed underground utilities to include the size and approximate location of lines.
- g. Land proposed for public dedication.
- h. Any existing or proposed deed or plat restrictions or protective covenants.
- i. Reservoirs and their tributaries, water bodies, watercourses and wetlands.
- j. Location of private wells within two hundred (200) feet of the subdivision of land or development project and location and exterior edge of all public wells within four hundred (400) feet.
- k. Any other information or data that is relevant to good land planning and design, or as requested by the Planning Board or Technical Review Committee.
- l. Any existing or proposed easements and their purpose.

The number of copies may change from time to time depending on the needs of the board and the level of the development. Please consult with the Administrative Officer.

### **Article C. Master Plans**

The master plan shall be submitted in accordance with the provisions of Section 17 of these regulations. The master plan or master plat shall encompass the entire tract of land in continuous ownership by the subdivider or developer and abutting property and shall contain the following:

- (1) All information required in Articles A and B above.
- (2) Proposed design conceptualization plan.
- (3) Tentative construction phasing schedule.

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- (4) Analysis of potential neighborhood/district impacts.
  - (5) The appropriate fee identified on the fee schedule in Appendix A.
  - (6) Topographical conditions such as ledge outcroppings and including the high water location of all brooks, streams, ponds, lakes, wetland areas, and other waterways within two hundred (200) feet of the proposed subdivision or land development project.

#### **Article D. Preliminary Plats & Plans**

- (1) The subdivider or developer shall file with the Administrative Officer in accordance with the regulations, but under no conditions less than thirty (30) days in advance of the Planning Board's regularly scheduled meeting.
  - a. A fully completed preliminary plan application and the appropriate fee for such submission from the fee schedule in Appendix A.
  - b. A minimum of eleven (11) legible black line or blue line prints of the preliminary plat containing all the information required by the regulations and especially Article D (2) hereinafter.
  - c. A minimum of eleven (11) black line or blue line prints of centerline profiles of proposed streets.
  - d. Preliminary subdivision suitability determinations by the R.I. Department of Environmental Management as to the suitability of the soils within the plat boundaries for the safe and proper operation of individual sewerage disposal systems, if such systems are planned.
  - e. Certification by the Superintendent of the Lincoln Water Commission that the proposed water system is acceptable and that water can be provided to the proposed project. Location of fire hydrants shall be determined by the Lincoln Water Commission.
  - f. Groundwater elevations during the wet season or as determined by RIDEM or as evaluated by a certified soil evaluator, the standards required for certification for individual sewerage disposal systems, and in all areas proposed for detention and/or retention basins, proposed locations and elevations of foundations, and/or all other areas that may be deemed necessary by the Town Engineer or the Planning Board.
  - g. Certification by the Lincoln Public Works Department that the proposed sewer system layout is acceptable and can accept the effluent load of the proposed project.

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- h. An advisory opinion from the Lincoln Public Works Department as to the need for and the location of traffic control signs or other traffic control devices as well as any required ordinances deemed necessary for traffic control.
  - i. A notarized statement from the property owner(s) authorizing the submission of his/her(s) land to the subdivision and/or land development procedures if they are not the subdivider.
  - j. Ground elevation data referenced to North American Vertical Datum of 1988 (NAVD88) mean sea level and the subdivision's relationship with current Federal Flood Insurance maps and reports.
  - k. Written confirmation from the RI Department of Environmental Management pursuant to the RIDEM Rules and Regulations Governing the Enforcement of the Freshwater Wetland Act, as amended, that the proposed subdivision, and any off-site construction, have been reviewed and that the Wetlands Act either does not apply to the proposed site alteration or that approval has been granted for the proposed site alteration.
  - l. A stamped electrical plan, accepted by the local electrical utility company, showing locations of conduits and street lighting devices to be accepted by the Town of Lincoln.
  - m. Written certification by a registered professional engineer licensed in the State of Rhode Island that all drainage structures and facilities will accommodate a twenty-five (25) year design frequency rainfall. The detention or retention areas shall be designed to accommodate a one hundred (100) year storm. The drainage plan shall consist of a plan showing existing and proposed drainage structures, the drainage basin areas and the drainage flow paths. Also required, shall be a report summarizing drainage calculations. The rational method, SES TR 20, SES TR 55, or accepted approved method shall be used for runoff calculations. Calculations shall include predevelopment and post development conditions. This design standard may be increased by the Planning Board upon request by the Town Engineer, or in such case as deemed warranted by the Planning Board.
  - n. Certification that all curb cuts and/or drainage proposals to be made onto state highways have been approved by the Rhode Island Department of Transportation.
- (2) The preliminary plat/plan shall encompass the entire tract of land in continuous ownership by the subdivider or developer and abutting property and shall contain the following:
- a. All information required in Articles A, B, and C above.
  - b. Location and ownership of cemeteries on or immediately adjacent to the subdivision parcel if applicable.

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- c. Dimensions, angles, and areas of streets and lots of the actual development or subdivision.
  - d. Proposed areas for public dedication.
  - e. Existing and proposed streets with the name of each. Street names shall not be a duplicate or of close resemblance to any existing street name.
  - f. Existing and proposed utility, drainage or other easements, with each clearly identified.
  - g. Contours at two (2) foot intervals. Spot elevations shall also be shown and at least two benchmarks shall be referenced.
  - h. Any existing or proposed deed or plat restrictions or covenants.
  - i. Lot lines and building setback lines.
  - j. Existing and proposed curb lines, with curb cuts for each lot clearly indicated.
  - k. Existing and proposed water line, drainage line, and sewer line, and other utilities whether publicly or privately owned, locations and diameter, grades, and direction of flow of each. All proposed utilities shall conform with the applicable requirements and standards of the Town and/or the appropriate utility. Final approved plans of the appropriate utility authority shall be required.
  - l. Location and name of each abutter.
  - m. Location of existing and proposed permanent monuments.
  - n. Location of existing and proposed fire hydrants.
  - o. Location of all existing structures including those on abutting lots. Each existing structure shall be identified with its existing use, and all setbacks from existing and proposed property lines shall be indicated on the plan.
  - p. Location of existing private wells within two hundred (200) feet of the proposed project, location of wells within the project, and the location, exterior edge, and type of public wells within four hundred (400) feet of the subdivision or land development project.
  - q. Location of existing cesspools, septic systems, seepage pits, or other sewerage disposal systems.

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- r. A sedimentation and erosion control plan.
  - s. Identification of flood areas in accordance with the flood hazard regulations in Article F below.
  - t. Identification of any land located within the watershed areas as determined by the Town of Lincoln.
  - u. Identification of storm water controls.
  - v. Any other data that is relevant to good land planning and design.
  - w. Centerline profiles of proposed streets containing the following:
    - 1. Existing and proposed street grades.
    - 2. Sewer mains.
    - 3. Water mains.
    - 4. Underground utilities.
    - 5. Drainage facilities.
    - 6. Street light locations as accepted by local power company and Town Engineer.
    - 7. Other information as required by the Planning Board.
  - x. All means of vehicular access to and from the site onto public roads as well as other offsite traffic improvements necessary to insure public safety and convenience.

#### **Article E. Final Plats**

- (1) The subdivider and/or developer shall file with the Administrative Officer in accordance with these regulations, but no less than thirty (30) days in advance of the regularly scheduled meeting of the Planning Board, the following:
  - a. A fully completed final plat application together with the appropriate fee identified in Appendix A hereinafter.
  - b. A minimum of eleven (11) legible black line or blue line prints.
  - c. Certificate of the tax collector of the Town of Lincoln that all the taxes due on the land described in the plat have been paid for five (5) years preceding the date of filing and that there are no outstanding tax liens thereon.
  - d. Names and addresses as prescribed.
  - e. A quitclaims deed conveying all street rights-of-way and other open areas that may be deeded to the Town of Lincoln as a result of these proceedings.

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- f. A statement in duplicate describing any easements and the conditions thereof.
  - g. Two (2) copies of existing and proposed deed restrictions and protective covenants to run with the land in the development, if such exist or are proposed.
  - h. A minimum of four (4) black line or blue line copies of the proposed street profiles.
  - i. All final plat documents shall include all modifications directed by the Planning Board during the preliminary stages. Also all changes or modifications shall be clearly shown on all materials submitted.
  - j. Deed descriptions, by metes and bounds, for all new lots to be created and the revised deed description of the lot being divided.

(2) The final plat shall contain the following:

- a. All information required under articles A, B, C, and D.
- b. Dimensions as follows: Width of street rights-of-way; all angles and dimensions of lot lines; rights-of-way lines and project boundaries; areas of lots and street rights of way; curve data to include lengths of radii, central angles and tangent curb line.
- c. Location and character of all permanent monuments existing and proposed. A definite bearing or angle and distance tie shall be shown between permanent monuments on the existing boundary of the subdivision or land development project and existing street intersections or other existing permanent monuments where possible and reasonably convenient.
- d. Certification of a registered land surveyor that the plat is correct and certification by a registered professional engineer that the underground utilities and storm drainage provisions are satisfactory.
- e. Profiles of proposed streets.
- f. If wetlands are located within the subdivision or land development project, a written determination from the Rhode Island Department of Environmental Management that:
  - 1. The Fresh Water Wetlands Act does not apply or,
  - 2. The proposed project will result in an insignificant alteration of wetlands, or,
  - 3. The project will result in a significant alteration of wetlands. In such a case, copies of permits approved by the Rhode Island Department of Environmental

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Management along with a list of any conditions for such a permit shall be submitted.

Additionally, a certification by a title attorney or comparable legal professional that no notice of violation of the Wetlands Act is on file in the land evidence records of the Town of Lincoln pertaining to the lot or lots being considered for subdivision or land development.

- (3) A clearly displayed disclaimer indicating that no lot shall be sold or conveyed and no building permits shall be issued until completion of all improvements shown on the final plan pursuant to these regulations, R.I.G.L. 45-23-45 (A), and R.I.G.L. 45-23-46 (B).

#### **Article F. Flood Hazard Provisions.**

Reference is hereby made to special Flood Hazard Zones A1-A30 as identified on Flood Insurance Rate Maps 1-4 inclusive in community number 445400A issued by the Federal Insurance Administration of the Federal Emergency Management Agency. Approval of the proposed subdivision or land development project wholly or partly in those zones shall be conditioned upon the following:

- (1) That a notation is entered on the preliminary and final plat indicating that the land development or subdivision project is located within zones A1-A30. Where the proposed subdivision or land development project is partly located within zones A1-A30 the boundary between these zones shall be indicated. Where a proposal provides for the alteration of a floodplain area the Planning Board shall notify adjacent communities and the Rhode Island Statewide Planning Program and forward a copy of said notice to the Office of the Federal Insurance Administration.
- (2) Submission of evidence of the subdivider or developer that all necessary permits and approval have been received from all government agencies from which approval is required by federal or state law.
- (3) That a notation is entered on the preliminary and final plat indicating the maximum and minimum elevation above NAVD 88 of each lot.
- (4) The minimum standards must conform to the National Flood Insurance Program regulations.
- (5) The finding of fact by the Planning Board with regard to the following:
  - a. That the proposed land development or subdivision project is consistent with the need to minimize damage from flooding.
  - b. That all utilities, water and "on-site" sewerage disposal facilities are located and constructed so as to minimize damage from flooding.

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- c. Adequate drainage is provided so as not to increase the exposure to flood hazards of adjacent lands.
  - d. Adequate drainage is provided so as to reduce exposure to flood hazards.
  - e. That any earth removal, filling, alteration or construction within said flood hazard "A" zones will not increase base flood level more than one (1) foot.
  - f. All subdivision or land development proposals shall include the base flood (100-year flood) elevation data. If the proposed subdivision or land development is not located within a flood hazard zone, so note on plan.

## **SECTION 23. DESIGN STANDARDS**

The Planning Board will require any project to conform to the following design standards.

### **Article A. General**

- (1) Land deemed unsuitable for building purposes, in accordance with the Town of Lincoln's Zoning Ordinances or in the judgment as it specifically relates to good planning/land development practices of the Planning Board, will not be approved for land development or subdivision.
- (2) All land development or subdivisions shall conform to and be in harmony with these regulations, the Town of Lincoln's Zoning Ordinance and the Town of Lincoln's Comprehensive Plan.
- (3) The layout of streets shall be considered in relation to the existing street system and any official highway plan of the Town of Lincoln.
  - a. The arrangement of streets shall, where practical, provide for continuation or appropriate projection of existing principal streets into surrounding areas.
  - b. The use of grid street patterns, or similar designs, will not be permitted.
  - c. Streets shall fit the topographic conditions where such is practical.
  - d. Care shall be exercised to ensure that all streets in a subdivision or land development project are functional, i.e. to provide service to lots or to enhance the internal traffic circulation system. Excessive streets are usually an unnecessary expense and their net result is to increase the cost of services and maintenance by the Town.
  - e. The developer shall avoid, where possible the layout of streets in such a manner as to

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radically change the natural drainage pattern.

- (4) The design of the subdivision or land development project will complement the site and be compatible with the natural surroundings.
- (5) All subdivision and land development projects shall submit a Storm Water Pollution Prevention Plan (SWPPP) at the preliminary stage as described by the Lincoln construction site runoff control ordinance and prior to any clearing of land.

### **Article B. Easements**

The Planning Board may require the provision of easements for installation and maintenance of utilities and for drainage facilities. Such easements shall be a minimum of twenty (20) feet wide and shall be labeled accordingly on all plans.

### **Article C. Streets**

- (1) Street rights-of-way, both existing and proposed shall be continued with at least the same width throughout the subdivision.
- (2) Street intersection centerlines shall coincide precisely with or be offset by at least one hundred fifty (150) feet on the centerlines.
- (3) Street centerlines shall intersect as nearly at right angles as practicable; no intersection shall contain an angle less than sixty (60) degrees.
- (4) Private streets shall not be allowed nor shown on a plat.
- (5) Street rights-of-way shall not be less than fifty (50) feet, and street pavements measured between faces of curbing and centered within the property lines shall not be less than thirty (30) feet in width. (See Detail 23.1)
- (6) The Planning Board may require additional width for streets subject to heavy traffic volumes and if other conditions warrant such a requirement.
- (7) Street grades of residential streets shall not be less than one half percent (0.5%) or more than eight percent (8.0%). Arterial streets shall not exceed five percent (5%) except, however that when a minor residential street intersects with a collector street, the maximum grade of the minor residential street may not exceed one percent (1%) for a distance of thirty (30') feet from the intersection of said collector street. The grade within a cul-de-sac, and for a distance of thirty (30) feet prior to it, shall not exceed one percent (1%).
- (8) Cul-de-sac streets shall not be more than six hundred (600') feet in length in an area zoned a density less than or equal to RS-12, seven hundred and twenty feet (720') in an area zoned a

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density equal to RS-20, and nine hundred feet (900') in an area zoned a density of RA-40, and shall have at their terminus an appropriate means of reversing direction with a minimum outside curb radius of forty (40') feet and a rights-of-way radius of fifty (50') feet. Where the cul-de-sac street is to provide access to adjacent property, the Planning Board may waive requirements for the temporary turn around until such time as the adjacent tract is developed and the street is extended. (See Detail 23.1)

- (9) Reservations of strips of land by the developer or subdivider, or any physical barrier, controlling access to a street, shall not be permitted. This requirement shall not be subject to the provisions of Article G-Modifications of Standards.
- (10) Where a deflection angle of ten (10) degrees or more occurs along the centerline of a street, a centerline curve having a radius of not less than one hundred fifty (150) feet shall be introduced.
- (11) Intersecting street rights-of-way lines shall be rounded by an arc having a radius of not less than twenty-five (25) feet. Where intersections with state highways are involved, the curb radius shall be fifteen (15) feet, or as shall be required by the appropriate governing regulations.
- (12) Where street rights-of-way grades require two (2) feet or more cut or fill, retaining walls will be required along abutting property lines or the abutting property will be graded to a maximum 1:3 at the street rights-of-way line.
- (13) An extension of an existing street shall have the same name as the existing street. Names of other proposed streets shall be substantially different from any existing street name in the Town of Lincoln as certified by the E911 Liaison. The Administrative Officer must approve all proposed street names.
- (14) Superelevation: All roadway curves shall be superelevated in accordance with the design requirements of the State of Rhode Island and the American Association of State Highway Transportation Officers (AASHTO) Policy of Geometric Design of Rural Highways, except that superelevations shall not exceed .08 feet per foot width of roadway. (.08 X 30.0 = 2.4 feet)
- (15) Intersection site distances. All roadway intersections shall be designed to have the corner site distance as recommended for the particular level of service per AASHTO standards traffic design criteria. Corner sight distance is measured from a point on the minor road at least fifteen (15) feet from the edge of the major road pavement and measured at an eye height of 3.75 feet on the minor road to a height of object of 4.5 feet on the major road.
- (16) The design of intersecting roadway surfaces shall have a paved transition area at all corners to accommodate turning movements.

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- (17) Bridges. All bridges shall be as wide as the required pavement for that class road plus four feet minimum and shall conform to Standard Specifications for Road and Bridge construction of the State of Rhode Island, Department of Public Works and Highways and as approved by the Town Engineer.
- (18) Two shade and/or flowering trees shall be planted on the street frontage of all new residential lots according to the following standards:
- a. Trees shall be planted subject to the location of driveways, cross streets, and walks. Street trees shall be located in such a manner as to avoid shading the most southerly side of the proposed dwelling locations in order to secure and protect solar access.
  - b. The diameter of trees shall be approximately two inches for shade and one and one-half inches for flowering trees.
  - c. Trees shall be planted in such locations as to least interfere with overhead power lines.
  - d. The size, kind, and location of such trees shall be subject to the approval of the Town Tree Warden and shall be selected, taking into account their compatibility to the area.
  - e. Planting Season: Unless otherwise shown on the plans or directed by the Administrative Officer, the planting seasons shall be those recommended by the Rhode Island Nurserymen's Association. No planting shall be done in frozen ground, when snow covers the ground, or when the soil is otherwise in an unsatisfactory condition for planting.

#### **Article D. Blocks**

- (1) In residential subdivisions, blocks shall not be greater than one thousand (1,000) feet in length. (See Detail 23.2)
- (2) Where it is deemed appropriate to the design, the Planning Board may require provisions for pedestrian rights-of-way. All such rights-of-way shall be at least ten (10) feet in width and shall be conveyed to the Town of Lincoln.
- (3) Blocks in land development projects, group housing, commercial or industrial developments, shall be designed to allow traffic to move with ease and to provide inherent safety to pedestrians and inhabitants.

#### **Article E. Lots**

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- (1) Lots shall front on a mapped and existing or proposed public street. All lots shall have the minimum lot width as shown in the appropriate zoning category of the Town of Lincoln's Zoning Ordinance. All lots shall have access to said mapped and existing or proposed public street.
  - (2) Lots shall not extend through a block to another existing or proposed residential street.
  - (3) Except on those sides bordering a street, lots shall not have interior angles greater than two hundred (200) degrees.
  - (4) The proportion of average lot depth to average lot width shall not exceed the ratio of 2.5:1.
  - (5) All side lot lines shall be as near to right angles to a street rights-of-way line as practical or they shall be radial in arrangement when the street rights-of-way line is a curve.

#### **Article F. Dedication of Land for Public Purposes and Fees**

A subdivider may be required as a condition of approval for a subdivision or land development project, to dedicate land to the public, and/or to provide public improvements, and/or construction of improvements and/or payment-in-lieu of dedication. In so doing, the Planning Board shall consider the following:

- (1) All required public improvements must reflect the character defined for that neighborhood or district by the Town of Lincoln's Comprehensive Plan.
- (2) All payments-in-lieu of dedication shall be kept in the restricted open space account and shall only be spent on the acquisition or improvement of appropriate sites.
- (3) Impact Fees may be required if the need for such are identified and documented by the Town of Lincoln.

Calculation of Fees: Where in the view of the Planning Board, in its sole discretion, a payment-in-lieu of dedication is warranted instead of dedication of land or construction of public improvements, the amount of said payment shall be calculated on obtaining a value of ten (10) percent of the value of the proposed lots. If the property is to be held in a condominium or apartment form of ownership, the amount of said payment shall be calculated on obtaining a value of ten (10) percent of the value of the proposed buildings. Calculation of impact fees shall be based on the actual cost associated with the percentage of contribution of the project to the negative impact.

#### **Article G. Modifications of Standards**

Where strict adherence to these design standards is not feasible due to special conditions of the land or the features of the subdivision or land development project, or where in the board's

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opinion such adherence would not allow for the best design, the Planning Board may vote to modify the requirements in Section 23, provided that such modification is not contrary to the general intent of these Regulations. Such modifications shall not include the reduction of lot standards below the requirements of the Town of Lincoln's Zoning Ordinance.

## **SECTION 24. PUBLIC DESIGN AND IMPROVEMENT STANDARDS**

### **Article A. Specifications for Construction of Required Improvements**

As a condition of approval, the subdivider or developer shall at his/her own expense, construct improvements to the land in accordance with the specifications of these regulations or as otherwise designated by town officials in accordance with R.I.G.L. 45-23-46 (A) and 45-23-46 (B).

- (1) Street rights-of-way shall be cleared, cleaned and graded for the entire width in accordance with the specifications in Section 26 Article B below following the erosion control plan.
- (2) Streets shall be graded, graveled and paved in accordance with the specifications in Section 26 Article B below.
- (3) Street and traffic safety signs shall be installed immediately. Street and traffic signs shall be of the size, type, number, and location specified by the Town Engineer. In lieu of actual emplacement, the subdivider or developer may reimburse the Town of Lincoln the cost of providing and installing such street and traffic safety signs. (See Detail 24.1 and 24.2)
- (4) Curbs shall be installed in conformance with the specifications in Section 26 Article B.6.b.
- (5) Concrete sidewalks are required to be installed on at least one side of all mapped and existing or proposed public streets and shall be installed in accordance with Section 26 Article B.6.d.
- (6) Storm drainage structures and facilities shall be installed, connected to catch basins, watercourses or to the public storm sewer system if such connection is feasible. Such installation shall conform to the specifications in Section 26 and Standard Specifications for Road and Bridge Construction published by the State of Rhode Island Department of Transportation. No connection to said storm drain system shall be made without written approval of said connection by the town Engineer.
- (7) Installation of water mains shall be in conformance to the specifications of the Lincoln Water Commission.
- (8) Sanitary sewers shall be installed where required by the Town of Lincoln's Sewer Ordinance in any subdivision or land development project.

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- (9) Permanent granite monuments shall be placed at all corners in the exterior boundary of any subdivision or land development project, except at such corners which are inaccessible due to topography or non-development; and at such locations as the Planning Board may designate. Permanent markers shall be installed and be of the type of materials as specified Section 26 Article D.
- (10) All electric wires, telephone wires, cable T.V., or other similar services, shall be placed underground as per requirements of the appropriate utilities and regulations pertaining to underground utility installation and be installed by a Rhode Island Licensed Electrical Contractor.

## **SECTION 25. GUARANTEES FOR THE COMPLETION OF IMPROVEMENTS**

- (A) Improvement guarantees shall be provided to insure the proper installation and maintenance of required street(s), utilities and other physical improvements and to insure compliance with other nonstructural conditions of final plan approval (if any). The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the subdivider and the Town.
- (B) General Procedures. Before any land development or subdivision plan is endorsed by the Planning Board, and before the recording of any subdivision plans, the Planning Board shall be required to approve agreements for the completion of all required improvements. Such agreements may, at the option of the subdivider, take the form of (1) completion of actual construction of all improvements; or (2) improvement guarantees.

All construction shall be inspected and approved under the direction of the Engineering Division. The Planning Board may require the developer to engage the services of a professional engineer to perform inspections during construction of the improvements to ensure compliance with approved plans and specifications. Upon completion of all required improvements, the Town Engineer shall certify in writing of such completion or accept the professional engineer's certification, and a copy shall be provided to the subdivider upon request.

At the preliminary plan review stage, the subdivider shall submit either of the following: (1) a letter to the Planning Board indicating his/her intent to complete the required improvements prior to the Planning Board's approval of the final plan, in this case, a remediation guarantee would be required; or (2) a letter requesting that a guarantee sufficient to cover the cost of required improvements be established by the Board, in this case, an improvement guarantee would be required.

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1. Remediation Guarantee. If improvements are to be constructed prior to the Planning Board's approval of the final plan without an improvement guarantee; all work shall be completed prior to final plan endorsement and recording. A remediation guarantee shall be required. Inspections shall be made by the Engineering Department at all required stages of construction. The subdivider shall then be required to supply the Town with a maintenance guarantee. Following the Town's acceptance of the maintenance guarantee, the final plan shall be endorsed by the Planning Board or its designee and recorded by the subdivider. At this stage, the lots within the subdivision may be transferred or sold.
  
  2. Improvement Guarantee. If improvements are to be guaranteed and final plan endorsed by the Planning Board, the improvement guarantee shall be in an amount established by the Board. This amount shall include the actual construction and complete installation of all of the required improvements and all necessary conditions to secure for the Town, and the satisfactory completion of all conditions of final approval within the time period required for completion. The amount shall be based upon cost estimates which would be required for the Town to complete all improvements required as a condition of final plan approval. The Board may set the guarantee in a reasonable amount in excess of the estimated costs in order to anticipate for increases in economic or construction conditions. However, the amount of such increase shall not exceed 125 percent of the estimated cost of improvements as recommended by the Engineering Department.

At the expiration of the final plan approval period, if all required improvements are not complete, the Planning Board shall review the status of improvements and may (1) require the subdivider to extend the duration of the entire improvement guarantee; (2) reduce the amount of the improvement guarantee to cover the estimated costs of remaining improvements; or (3) authorize the Administrative Officer to take the steps necessary to ensure completion of the remaining work by using improvement guarantee funds.

If at any time during the guarantee period the procedures, implementation measures, methods, materials and/or schedules of the construction are determined by the Planning Board not to be in compliance with the approved plan, the Board may, after proper notification to the subdivider, authorize the use of improvement guarantee funds to insure proper compliance.

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

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- a. Security Bond – the subdivider may obtain a security bond from a surety bonding company holding a certificate of authority as acceptable surety on federal bonds as published in the Federal Register.
  - b. Cash – the subdivider may deposit cash in the form of a bank check, cashier’s check or certified check into an appropriate account held in the name of the Town. Interest accrued will be returned to the developer at the time(s) of reduction or release.
  - c. Letter of Credit – the subdivider may obtain an irrevocable letter of credit in a format acceptable to the Finance Director through a bank or other financial institution licensed to do business in the State of Rhode Island and possessing a satisfactory bond rating.
4. Releases. At or before the expiration of the final plan approval period, if all required improvements are complete to the Town’s satisfaction, any improvement guarantee shall be returned to the subdivider. Partial releases or reductions in the guarantee amount may also be authorized at any time prior to the expiration of final approval. For each such reduction or release, a written request shall be made to the Administrative Officer, who shall refer such request to the Engineering Department. All requests from developers for bond reduction or bond release shall be accompanied by a certificate from the design engineer that all improvements comply with plans and specifications. Final release of the developer’s bond shall not occur until all improvements have been accepted and until all “as-built” drawings have been reviewed and accepted by the Engineering Department.
  5. Phased Subdivisions – In the case of land development projects or subdivisions which are approved and constructed in phases, the Planning Board shall specify improvement guarantees related to each particular phase. If any off-site improvements or other improvements or conditions which are not directly related to a particular phase are required as a condition of approval, the Board shall, in setting the guarantee amount to each phase, clearly specify when such guarantees are to be provided.
  6. Maintenance Guarantees – At the conclusion of the remediation or improvement guarantee, the Planning Board shall require that a maintenance guarantee be provided by the subdivider for all improvements which are being dedicated to the town for public acceptance and maintenance. The amount of the maintenance guarantee shall be based on the type of improvements for that specific subdivision as determined by the Engineering Department. The initial period for such maintenance guarantee shall be one (1) year. At the end of the one-year maintenance period, the Town Engineer shall inspect all improvements subject to the guarantee and shall certify in writing to the Administrative Officer as to their condition. If found to be unacceptable, the Administrative Officer shall recommend an extension of the guarantee period to the Finance Director and the original funds shall not be returned to the subdivider. If public improvements are in good condition and have not been damaged due to the

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fault of the subdivider, or through faulty workmanship or design, the maintenance guarantee shall be returned to the subdivider.

In cases where the Planning Board in its sole discretion finds there are extenuating circumstances, the initial maintenance period may be established for a period longer than one year. The reasons for establishing a longer maintenance period and the nature of the extenuating circumstances shall be made a part of the record.

7. Restrictions – The Board shall not reduce an improvement guarantee below twenty-five (25%) percent of the original amount until such time as the road improvements are 100% complete. Under certain conditions, and upon the recommendation of the Engineering Department, the Board may reduce the bond below twenty-five (25%) percent, but in no case below ten (10%) percent until all improvements are 100% complete.
8. Default.
  - a. Conditions of Default. The Town of Lincoln shall hold the subdivider or developer and surety in default of guarantee should any of the following occur:
    1. Failure to meet all specifications for construction of required improvements to the land;
    2. Failure to properly notify the Town Engineer of the beginning and completion of all phases of construction of required maintenance and/or remediation improvements to the land;
    3. Failure to protect existing improvements and/or properly repair such improvements should damage occur during construction of the subdivision or during the post construction remediation and maintenance period;
    4. Failure to clean debris from the site and adjacent areas upon and after completion of construction within the subdivision;
    5. Failure to complete required maintenance and remediation improvements to the land within the time prescribed in Section 25, subsection C. 3 & 4.
    6. Failure to correct improvements and design deficiencies evidenced within one (1) year of the completion of said improvements.
9. Certificate of Default.
  - a. Should any of the conditions cited in Section 25, sub-section A above occurs, the Town Engineer shall certify in writing to the Planning Board that the

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subdivider has not complied with the requirements of either Section 24 or 26, or both, of the regulations. The Town Engineer shall further certify the extent of non-compliance and the conditions thereof.

- b. The Planning Board shall submit in writing to the Town Council its concurrence with or disapproval of the determination of the Town Engineer.

10. Execution on Guarantee. The Town Council may under the provisions of Title 45, Chapter 23 of the General Laws of Rhode Island, 1956, execute upon only that portion of the guarantee that shall be necessary to correct the deficiency for which the subdivider and surety are held in default.

11. Payment by Surety. Upon notification to the surety by the Town Council that the subdivider or developer has been held in default of guarantee, the surety shall promptly pay to the Town of Lincoln that portion of the guarantee upon which demand shall be made. All surplus funds shall be returned to the subdivider or developer upon completion of the post completion maintenance and guarantee period.

## **SECTION 26. SPECIFICATIONS FOR CONSTRUCTION OF REQUIRED IMPROVEMENTS**

### **Article A. General**

- (1) Construction Plans. One complete set of construction plans, cross sections or other working drawings of required improvements to the land shall be submitted to the Town Engineer or his/her designee and approved by the Town Engineer prior to any construction start.
- (2) Notification. No phase(s) or step(s) in the construction of required improvements to the land shall commence until the Town Engineer, or his/her authorized representative, has been notified in writing at least forty-eight (48) hours prior thereto, exclusive of Saturday, Sunday and holidays.
- (3) Inspection fees. Inspection fees shall be paid in the amount established in Appendix A, Fee Schedule, and shall be paid in full before construction begins of any improvements requiring inspection.
- (4) Pre-Construction meeting. A pre-construction meeting shall be held with the Town Engineer at least seven days prior to the start of any development improvements. The developer (or his duly authorized representative) and the onsite project manager shall be required to attend this meeting.
- (5) Inspection of improvements.

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- a. Each phase or step in the construction of required improvements to the land shall be inspected and approved in writing, on the job, by the Town Engineer or his/her authorized representative. No further phase or step shall commence until such inspection and approval has been completed.
  - b. The Town Engineer, or his/her authorized representative, upon proper notification of commencement of a phase or stage in construction shall not impede such construction by delaying inspection and approval without just cause.
  - c. Construction inspections, shall include, but not be limited to, the following:
    1. Sanitary sewers must meet pressure test requirements.
    2. Trenches for sanitary and storm sewers must be inspected while in the process of backfilling and compacting. (See Detail 26.1).
    3. Sanitary and storm sewers must pass visual inspection for alignment and cleanliness.
    4. Water mains, services and hydrants shall be installed in accordance with the policies and practices of the Lincoln Water Commission, and must be inspected by such department personnel as directed by the superintendent.
    5. Storm drains shall have a minimum of three (3) feet of cover.
    6. The setting and compacting of drainage and sanitary sewer structures must be inspected.
    7. Catch basins shall conform to R.I. Standard 3.4.0 and 4.4.0.
    8. Catch basin grates shall conform to R.I. Standard 6.3.1.
    9. Manholes shall conform to R.I. Standard 3.2.0.
    10. Manhole covers shall conform to the Town of Lincoln standards. (See Detail 26.2).
    11. Street Construction:
      - a. Granite curbing shall conform to R.I. Std. 7.3.0 and be neatly aligned. (See Detail 26.3 and RI Standards 7.3.0)
      - b. Gravel base material, course depth and completion.
      - c. Sidewalk areas shall be graded to a true cross section. (See Detail 26.4)
      - d. Bituminous base course with a compacted thickness of two and one-half (2 1/2) inches, and shall be smooth with a neat surface free of defects. (See Detail 26.4)
      - e. Bituminous wearing course with a compacted thickness of one and one-half (1 1/2) inches, and shall be smooth with a neat surface free from defects. (See Detail 26.4)
    12. The contractor or developer shall bear the expense of any test necessary in quality control as determined by the Town Engineer.

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(6) Post Construction requirements.

- a. The developer shall furnish and erect necessary street and traffic safety signs at his expense, of a kind approved by the Town Engineer or her/his designee.
- b. Permanent monuments shall be provided by the developer and set by a Registered Land Surveyor. The location and elevation of the starting bench mark shall be set and located on the plan. The bench mark must be within or adjacent to the development. All elevations must refer to the North American Vertical Datum 1988.
- c. On the completion of construction and installation of all required improvements to the land, the subdivider or developer, shall furnish two (2) sets of as-built drawings and one electronic copy of such improvements to the Town Engineer or his/her designee. One copy of such improvements shall be a "Mylar" copy. As-built drawings shall be revised copies of the recorded plat and such additional drawings as are required, all of which are clearly marked as "as-built drawings" and at a minimum indicate the location of all services, the actual location and depth of all underground utilities, all drainage and water quality structures, the pavement alignment and grade, and permanent monument locations. Such "as-built" conditions shall be signed by the subdivider or developer and the contractor or contractors responsible for such changes certifying the "as-built" conditions indicated thereon. Plans must contain a RI Professional Land Surveyor's certification that all horizontal and vertical locations are accurate.
- d. Such reports and certifications that may be required by the Town Engineer to show that all improvements have been installed as required by the Planning Board and the Town of Lincoln.

**Article B. Street Construction**

- (1) Dimensions. All streets constructed within a subdivision or land development project shall conform to all applicable requirements in Section 23 of these regulations. (See Detail 26.4 for configurations)
- (2) Clearing and grubbing. The entire rights-of-way as shown on the plat shall be cleared and grubbed. All root systems, trees, stumps, bushes, and other objectionable material shall be removed and disposed of properly. No stumps shall be buried on site, but shall be disposed properly off site. Healthy trees within the rights-of-way may be left standing provided they are not more than five (5) feet from the rights-of-way line, with the written approval of the Town Engineer. Every effort should be made to preserve and protect as many trees as possible within the subdivision or land development project.
- (3) Earth excavation. Earth excavation shall include, but not be limited to, the removal of clay, sand, gravel, loam, soft or disintegrated rock which can be removed without blasting boulders of less than one-half (1/2) cubic yard in volume and other unacceptable materials within the

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limits of the roadway, drainage or other excavation. Earth excavation also includes backfilling of all stump holes and other surface irregularities with suitable fill materials properly compacted. All excavations shall be of a depth and width as shown on the accepted plans, profiles and cross sections.

- (4) Rock and ledge excavation. Rock and ledge excavation shall include removal and disposal of all boulders one-half (1/2) cubic yard or more in volume and all hard ledge rock which can be removed only by drilling and splitting mechanically by hand or by blasting. Such excavation shall be at least six (6) inches below subgrade and, where appropriate, ledge side slopes shall be four (4) feet vertical to one (1) foot horizontal.
- (5) Subsurface water. Where free water is encountered within three (3) feet of furnished grade, adequate drainage shall be constructed at a depth of at least four (4) feet below finished grade.
- (6) Description of street construction.
  - a. Gravel base course. A gravel base meeting the gradation requirements of column 1, subsection M.01.09 of the Standard Specifications for Roads and Bridge Construction, published by the State of Rhode Island, Department of Transportation shall be placed on the subgrade and compacted to a depth of twelve (12) inches rolled in two (2) six (6) inch courses with a ten ton roller or equivalent. If, in the opinion of the Town Engineer, the gravel base course is not of acceptable quality, crushed stone or crushed gravel meeting the gradation requirements of column 1, table 2, subsection M.01.09 of the R.I. Standard Specifications may be required as directed by the Town Engineer.
  - b. Curbs. Granite curbing shall meet the requirements of R.I. Standard 7.3.0 Granite Curb Quarry Split and Town of Lincoln Curbing Detail 26.3 and shall be set on a thoroughly compacted base of a minimum of three (3) inches of gravel and in good alignment with roadway. Backfilling shall be done with suitable material and thoroughly compacted. Should the binder coat of asphalt not be placed immediately following the placement of curbing, the curb shall be fixed with concrete as directed by the Town Engineer.
  - c. Bituminous surface. On an approved gravel base, a four (4) inch bituminous concrete pavement consisting of a separate binder course of two and one half (2-1/2) inches and surface course with one and one-half (1 1/2) inches in compacted thickness. The surface course shall not be placed until such time as the warranty period for street construction has been established and met, or at such time as directed by the Town Engineer.
  - d. Sidewalk areas and pedestrian rights-of-way. Sidewalks shall meet the standards of section 905 of the R.I. Standard specifications. If no paved or concrete sidewalks are to be constructed, the area between the curb and the street sideline shall be graded to a true cross section across the entire width. If the subdivider or developer installs a

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concrete sidewalk or pedestrian rights-of-way, the materials for construction, the dimensions and the location of such walk shall be approved in advance by the Planning Board or its agent.

- e. Drainage, culverts and bridges. All necessary drainage structures, culverts and bridges shall conform to the State of R.I. Department of Transportation Standard Specifications for Roads and Bridge Construction. All storm sewer pipes shall be laid with watertight joints true to line and grade as shown on the plans and in conformance with requirements established by the Town Engineer. When rock, shale, or other nonuniform material is encountered, a minimum of six (6) inches of material shall be provided below the bottom of the pipe. This material shall be properly compacted and shaped to the contour of the pipe. Trenches shall be backfilled with suitable materials, properly placed and compacted. Backfill material shall be free of rocks, frozen materials, or other objectionable materials larger than three (3) inches within one (1) foot of the top of the pipe. Where underdrain pipe is to be installed, it shall be properly laid and provided with suitable material in the vicinity of the pipe and backfilled with suitable material to prevent clogging. All such drainage structures, culverts and bridges shall be installed and approved by the Town Engineer before covering.
- f. Traffic limitations. Traffic passing over newly constructed streets shall be limited to wheeled vehicles only, and no tracked equipment shall be allowed to pass.

### **Article C. Installation of Utilities**

- (1) All utility lines, curb stops, laterals and/or other subsurface facilities within the street rights-of-way shall be installed and the backfill allowed to settle for a minimum of thirty (30) days prior to the preparation of the street subbase and be installed by a Rhode Island Licensed Contractor.
- (2) Electrical utilities shall be installed by a RI Licensed Electrical Contractor.
- (3) Installation of water mains, hydrants, service laterals and/or other water facilities shall be in accordance with the specifications of the Lincoln Water Commission and be installed by a Rhode Island Licensed Plumbing Contractor.
- (4) Installation of sewer mains, lines laterals and/or other sewer facilities shall be in conformance with the Town of Lincoln Sewer Ordinance, and as approved by the Director of Public Works and be installed by a Rhode Island Licensed Drainlayer Contractor.
- (5) Storm drainage structures. Manholes shall be located on all storm sewer trunk lines less than thirty (36) inches in diameter, and:
  - a. At a maximum distance of three hundred (300) feet,
  - b. At all angles in the storm sewer line,
  - c. At street intersections and other points where catch basins, inlets or lateral are to be

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- connected,
- d. At points where pipe sizes change.
  - e. All catch basins shall conform to R.I. Standard 4.4.0, 3.4.0 or approved modifications by the Town Engineer.
  - f. Catch basin and manhole covers shall conform to R.I. Standard 6.3.1 and Town of Lincoln standard (See Detail 26.2) respectively or approved equals. High capacity frames per R.I. Standard 5.16 shall be required in all situations where deemed necessary and so directed by the Planning Board or Town Engineer.
- (6) Minimum cover. All subsurface utility structures and facilities within street rights-of-way shall have a minimum cover of three (3) feet. All such structures and facilities shall be inspected and approved by the Town Engineer or other responsible party prior to backfilling according to the applicable regulations.
- (7) Settling of Backfill. No paving shall be constructed over pipe installations within street rights-of-way until the backfill has been allowed to settle for a minimum of thirty (30) days or has been suitably compacted. All soil erosion and sediment control requirements per the Town of Lincoln Soil Erosion and Sedimentation Control Ordinance shall remain in full force and effect during this settlement period. The subdivider or developer shall install and maintain the require facilities to the satisfaction and direction of the Town Engineer. Any damage downstream, or to existing facilities and or improvements on adjacent property due to the failure of any said facilities shall be immediately restored to pre-construction conditions by the subdivider or developer as directed by the Town Engineer.

#### **Article D. Permanent Monuments**

- (1) Materials. Permanent monuments shall be granite, which shall conform in size and shape to the specifications in (2) below. (See Detail 26.5)
- (2) Dimensions.
- a. Monuments shall be thirty (30) inches in length and four (4) inches square.
  - b. A drill hole one-half (1/2) inch in diameter and three-fourths (3/4) of an inch in depth shall be placed and centered on the top surface of the monument.
  - c. Setting monuments. All monuments shall be set flush with the finished grade.

#### **SECTION 27. SEVERABILITY**

If any portion of these rules, regulations or determinations made hereunder, or the application thereof to any person, agency or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the rules, regulations or determination and the application of such provisions shall not be affected thereby. The invalidity of any section or sections of these regulations shall not affect the validity of the remainder.

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## **APPENDIX A.**

### ***FEE SCHEDULE***

#### **Application Review Fees.**

Each application for subdivision or land development approval must be accompanied by the

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appropriate application fee payable to the Town of Lincoln as set forth below.

- Administrative Subdivision Review. Fifty dollars (\$50.00) per lot for each lot involved in the proposed administrative subdivision.
  
- Minor Subdivision and Minor Land Development Review.
  - A. Pre-application Meeting and Concept Review: \$200.00
  - B. Preliminary Plan Review. \$400.00
  - C. Final Plan Review. \$200.00
  
- Major Subdivision and Major Land Development Review.
  - A. Pre-application Meeting and Concept Review: \$200.00.
  - B. Master Plan Review. \$800.00 for up to five lots plus \$100.00 per each additional lot.
  - C. Preliminary Plan Review. \$800.00 for up to five lots plus \$100.00 per each additional lot.
  - D. Final Plan Review. \$800.00 for up to five lots plus \$100.00 per each additional lot.

Inspection fees shall be paid in full before construction begins of any improvements requiring inspection. Inspection fees shall be charged at a flat fee of \$2000.00 for up to five lots plus \$300.00 per each additional lot. If any improvements fail inspection, an additional inspection fee shall be collected prior to re-inspection.