



Fairhaven Planning & Economic Development
40 Center Street, Fairhaven, Massachusetts 02719

Definitive Subdivision 2023-01: Lincoln & Jason (Rita's Way)
Staff Report: April 19, 2023

1. DESCRIPTION

- 1.1 Applicant:** Seaport Homes LLC represented by Farland Engineering Corp.
- 1.2 Property Owners:** Roger and Jeanine Jason
- 1.3 Project Location:** Map 30A, Lots 85N and 85M. The site is near the terminus of Route 240 north of Route 6 at the end of Lincoln Drive (accepted street) and Jason Terrace (an unaccepted street).
- 1.4 Proposal:** The proposal is to create two buildable lots and create a road standard by connecting the paper street between Lincoln Drive and Jason Terrace to be known as Rita's Way.
- 1.5 Zoning:** Single Residence District (RA). 15,000 sf minimum lot size with 100 feet of frontage.
- 1.6 Surrounding Land Uses:** Highway, Commercial and Residential.
- 1.7 Project History:**
- The subject property was farm land until the 1960's. It has never been developed but was used for staging during construction of Route 240 in the 1970's with some paving.
 - 1958 – Lincoln and Jason area subdivided (Bristol Registry of Deeds Plan Book 57, Page 23). Lots 12 & 16 (now lot 85M) were set aside for drainage “not to fill-in, sell, convey, grant or otherwise dispose of by deed...”
 - 1971 – Lots 5 & 6 (now Lots 85N and part of 85L) were made the drainage lots instead of 12 & 16 (now 85M). Bristol Registry of Deeds Plan Book 1631, Pages 164-165. State laid out Route 240 around this time.
 - 1976 – Around the time of construction of Router 240 the Lots were reconfigured and renamed 85N and 85M with 85N and part of Paper Street and 85L becoming the drainage (ponding) lots.
 - 1985 - The Town Planner and head of the DPW made stipulations for drainage and a roadway that would be required to make these 85N and 85M buildable. However, the Select Board required the property owner to have the official documents drawn up and approved by Town Counsel. DPW required 4-6 catch basins connected to the State drainage ditch (with 15' maintenance easement), paving and curbing of Paper Street connecting Lincoln and Jason (proposed Rita's Way), landscaping, a drainage system, connecting the 6" water main from Lincoln to Jason. Fire should determine if a hydrant is necessary. Jason Terrace is an unaccepted street and should be brought up to Town Standards required for acceptance at Town Meeting.
 - 1987 – An Environmental Assessment was performed on Lot 85M by Olde Boston Environmental Associates including installation of groundwater monitoring wells and gas vapor probes. Petroleum odor was detected. During percolation tests petroleum was detected 10 feet below the surface. A strong petroleum smell was detected during the installation of the second ground water monitoring well. It was found that the plume of gasoline and trace elements of fuel oil and lubricating oil had likely migrated from 200 Huttleston Avenue, approximately 100 feet to the west that had been discovered to have a leaking Underground Storage Tank in 1981. The UST was pumped dry, the fill above excavated and the interior of the tank sprayed with fiberglass. That property has an Activity Use Limitation (AUL) to not penetrate the paved site.
 - 2023 – A representative at the DEP told the Town Planner that with old Environmental Assessments such as this without follow-up studies they recommend a condition to state “Before

any activity may take place on the site, a Licensed Site Professional (LSP) must render an opinion with regard to historical reports of contamination to see if any conditions warrant notification to the Department of Environmental Protection (DEP).”

1.8 Project Summary:

- To create two buildable lots and create a road standard by connecting the paper street between Lincoln Drive and Jason Terrace to be known as Rita’s Way.
- The proposed road does not appear to meet the minimum standard required by the 1985 documents whereby the Town tried to make the lots buildable rather than “ponding” lots.
- Environmental safety of developing Lot 85M is not clear.

2. ADMINISTRATIVE SUMMARY

2.1 Complete Filing Received: March 27, 2023

2.2 Advertisement: FNN April 6 and April 13, 2023

2.3 Routing Sent: April 14, 2023

2.4 Public Hearing: April 25, 2023

3. PLANNING CONCERNS

3.1 Comments from other Town Departments:

3.1.1 Fire Department (Chief Correia): The fire department has no issues and no knowledge of the environmental study.

3.1.2 Police Department (Chief Meyers): No concerns.

3.1.3 Public Works Department: Preconstruction meeting is required. Full- time town hired inspector to be present during and BPW utilities and paving being installed. The inspector services and as-built plans will be paid by the developer.

3.1.4 Highway Department (Josh Crabb):

1. Highway would like a plan and profile sheet provided and recommends the PB deny the Waiver request to not supply the plan and profile sheet.
2. Highway would like a paved HMA surface and recommends the PB deny Waiver for streets and roadways.
3. No objection to waiver requests for lights, sidewalks, or curbing
4. Proposed width needs to be 20 foot minimum - Street name signs if warranted need to be provided on plan and must meet town standard formatting.
5. Contour lines/ spot elevations provided do not clearly show where storm water runoff will go or collect. Profiles are requested to supplement.
6. Lines coming off recharge system are not identified, no detail provided on sheet 6 of 6 - Yard lights shown with no detail or information.
7. No notes relative to dust control or other measures to minimize impacts to abutters.
8. No details on backfill material provided for pipe work or adjacent to structures
9. Recharge system is not specified or detailed here, more information is needed.
10. No details for proposed tree line or misc. plantings as indicated on sheet 5 of 6.
11. No detail provided for water connection or hydrant install.
12. Gravel road request denied, remove gravel roadway cross section.
13. Roadway cross section showing grass strip pitching towards the roadway, this contradicts the waiver request for curbing as water is requested to sheet flow off the roadway. Revised and update accordingly.
14. Permanent trenching detail not provided for utility work. Permanent utility patch must be 3.5” minimum or match thickness of the existing asphalt plus 1 inch.

15. 1987 Environmental assessment – Considering how long ago this assessment was completed, is there no requirement to update this report?
16. Was informed that perk tests of the site have been recently performed or have been ongoing, will this information be available for review as well?
- 3.1.5 Sewer: Sewer personnel must witness concrete ballast installed in the field at time of pump installation. Flushing connection port must have a 12" sewer frame and cover installed over that for safety and access. E-one pumps must be tested by the pump rep on-site with a sewer inspection person to witness. Passing forms to be sent to the Fairhaven Board of Public Works to keep on file
- 3.1.6 Water: The water department would like to have service at the end of Jason relocated so it does not cross under the driveway. They would also like the location of the water main on Rita's way verified of its location to make sure it is in the right of way.
- 3.1.7 Conservation & Sustainability (Bruce Webb): These lots are not jurisdictional. There was a small area of ponding visible following a rain event during the Conservation Commission's site visit. However hydric soils were not observed in soil samples taken with a hand held soil auger. Conservation has no information on hydrocarbons on the lots, although we did observe what appeared to be a monitoring well on the southerly lot.
- 3.1.8 Finance/Treasurer/Collector ():
- 3.1.9 Board of Health: No issue
- 3.1.10 Planning Concerns:
 1. Environmental status of Lot 85M should be reviewed by an LSP and their opinion rendered and followed before anything is done including digging, cutting or development.
 2. Possible water monitoring well on Lot 85M needs to be identified on dealt with.
 3. Roadway and drainage standards of 1985 Town letters and/or current Highway Superintendent need to be met and easement for drainage maintenance provided.
 4. Engineer must submit documentation, stamp and certify that the design meets the DEP Stormwater Management Regulations per § 322-26.B(1).
 5. Proximity to terminus of Route 240 and removal of vegetation will expose these houses and neighborhood to noise. At a minimum a solid 6' tall fence should be installed at the back of the properties and Street Trees should be planted along Rita's Way every 30' to minimize sight of, and noise from, Route 240. Additional vegetative screening should be added as well.
 6. Northerly lot 85N is mapped as a hydrologic connection. An NOI was filed with Conservation and found not to be a jurisdictional property.
 7. It would appear that these lots have not been developed for a reason but that sufficient time has passed for some of the records to be lost or forgotten.

3.2 Environment

- **Vegetation**: The site is former farmland that has been disturbed with fill and invasive species. There is a stone wall along the rear of the property and a few mature trees. Plans do not indicate whether stone wall or mature trees will be retained.
- **Habitat**: The site is in an NHESP Priority Habitat
- **Lighting**: Plans show only a yard light for each prospective house.
- **Landscaping**: 2 Red Maples are shown on the plan.
- **Noise**: Houses will be 100 feet from the terminus of Route 240 where vehicles are braking.
- **Open Space**: None shown.
- **Bicycle/Pedestrian/Trails**: Sidewalks are not proposed as neither Lincoln nor Jason have any.

- **Waste Management:** Road should be widened and paved to accommodate fire, delivery, and waste management trucks.
- **Water/Wastewater/Stormwater:**
 - **Water Source:** Town Water. Need to install water line along proposed Rita’s Way.
 - **Watershed:** Water on the site flows to the east into the State drainage ditch and under Route 240 to the Nasketucket River and Bay.
 - **Storm water:** § 322-26.B(1) For subdivisions of three lots or less, the applicant's engineer shall submit documentation, stamp and certify that the design meets the DEP Stormwater Management Regulations

3.3 Transportation

- **Access:** The Planning Board recommended that Lincoln Drive and Jason Terrace be connected. They have been for the Definitive but the connection is substandard and does not meet the minimum requirements of the 1985 Town letters or current requirements.
- **Sight Lines:** Adequate.
- **Safety/Accidents:** Not an issue.
- **Trip Generation:** 2 Single family houses can be expected to generate 10 trips per day each.
- **Vehicular Circulation:** Rita’s Way should be sized and built to convey fire, delivery and waste management trucks.
- **Mass Transit:** SRTA Route 11 stops nearby.

3.4 Local Impact/Abutters

- Proximity to terminus of Route 240 and removal of vegetation will expose the neighborhood to more noise.

4. CORRESPONDENCE – NONE AT THIS TIME

4.1 Town Officials/Organizations:

4.2 Public:

5. Issues relative to Zoning and the Rules and Regulations of Subdivision of Land

- § 198-2. Purpose of Zoning: How does the proposal adhere to the following purposes of § 198:
 - Does the design promote the health, safety, convenience and general welfare of Fairhaven?
 - Does the design lessen the danger from fire, flood, panic and other natural or manmade disasters?
 - Does the design improve and beautify the town?
 - Does the design prevent overcrowding of land?
 - Does the design avoid undue concentration of population?
 - Does the design facilitate the adequate needs of water, water supply, drainage, sewerage, schools, parks, open space and other public requirements?
 - Does the design conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment?
 - Does the design encourage the most appropriate use of land throughout the town?
 - Does the design preserve and increase amenities by the promulgation of the regulations to fulfill said objectives.

▪ **Chapter 322 – Subdivision of Land**

Waivers Requested:

- § 322-14.D. Waiver of additional subdivision submittal requirements.
- § 322-17. Waiver of sidewalks.
- § 322-25. Waiver of street trees.
- § 322-26. Waiver of stormwater management.
- § 322-27.A. Waiver of water main and hydrants.
- § 322-J0.D. Waiver of Class I bituminous concrete paving.
- § 322-32. Waiver of curbing and Cape Cod berm.
- § 322-33.A. Waiver of driveway approach areas from the edge of the roadway to the edge of the right of way shall be cement concrete.

§ 322-15 Section 7 Design Standards – Relevant Sections

- **§ 322-15.B:** Are the streets, sidewalks, water systems, sanitary sewers, storm drain systems, public and private utilities and other infrastructure constructed in accordance with this chapter and the Board of Public Works requirements?
- **§ 322-15.C:** Does the design make: Reasonable precautions against possible natural disasters; Provisions for traffic safety and convenience; Assurance of adequate sanitary conditions; Consideration of amenities;
- **§ 322-15.D:** No land shall be divided for residential use if it is of such a character that it cannot be used for building purposes without danger to health.
- **§ 322-16 Streets:**
- **§ 322-16.A(3):** Does the design provide for the proper projection of the streets, or for access to adjoining property which is not subdivided or developed?
- **§ 322-18:** Adequate access from public way:
 - A. Does the street system have adequate vehicular, pedestrian, and/or bicycle access from a Town, county or state public way or private way?
 - B. Is the public way adequate to provide for emergency services and carry the traffic that is expected?
 - C. Is the existing surrounding municipal infrastructure (e.g., street width and construction, sanitary sewer, public water, storm sewer, etc.) sufficient and/or capable of handling the additional volumes (e.g., traffic, sewage, stormwater, etc.) anticipated to be generated by the project?
- **§ 322-20:** Easements
- **§ 322-21:** Open space.
- **§ 322-23:** Guardrails.
- **§ 322-25:** Landscaping; street trees and tree belts. Tree Belts and Street Shade Trees
- **§ 322-26:** Stormwater management.
 - **§ 322-26.B(1)** For subdivisions of three lots or less, the applicant's engineer shall submit documentation, stamp and certify that the design meets the DEP Stormwater Management Regulations
- **§ 322-27:** Utilities.
- **§ 322-28:** Lots limited to one dwelling.
- **Part 8: Required Improvements for Approved Subdivision**
- **§ 322-32** Curbing.
- **§ 322-33** Driveway approach areas and aprons.
- **§ 322-34** Side slopes.
- **§ 322-35** Street names and signs.