

FIRST READING:

ORD. NO. #60-30

2ND & FINAL READING:

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER XXVI, FLOOD DAMAGE PROTECTION, OF AN ORDINANCE ENTITLED, "AN ORDINANCE ADOPTING AND ENACTING THE REVISED GENERAL ORDINANCES OF THE CITY OF LINDEN, 1999," PASSED NOVEMBER 23, 1999 AND APPROVED NOVEMBER 24, 1999, AND AS AMENDED AND SUPPLEMENTED

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LINDEN:

Section 1. That Chapter XXVI, Flood Damage Protection, shall be and the same is

hereby amended as follows:

ADD:

ARTICLE IV

§26-21 - LOT GRADING PLANS.

§26-21-1. Applicability.

In order to provide against the adverse consequences of uncontrolled surface water drainage, prevent the increase in stormwater runoff from a site and to prevent soil erosion and control sediment deposition associated with land disturbance including but not limited to construction activities, a lot grading plan shall be submitted and approved prior to the issuance of a construction/zoning permit for the following activities:

A. The erection of any new structure, any addition, repair or renovation to an existing structure involving an extension of the foundation of the existing structure, any of which is not shown upon an approved site plan; or

B. Any of the following activities, if not shown upon an approved site plan:

(1) Land disturbance, except for the purposes of turf replacement, of five thousand (5,000) square feet, or greater;

(2) Placement of more than ten (10) cubic yards of fill, excluding mulching, or

(3) Land disturbance of less than five thousand (5,000) square feet or placement of less than twenty (20) cubic yards of material if the project affects any critical areas, or

(4) Land disturbance within five (5) feet of the property line that impacts drainage.

(5) Removal of more than three (3) trees.

§26-21-2. Waiver.

A. Notwithstanding the foregoing, the City Construction Official may grant a waiver from the requirements of this subsection with respect to an addition to a single-family dwelling if the City Construction Official determines that the project involves less than one thousand (1,000) square feet of impervious coverage, does not affect any drainage or critical areas, and does not require any significant changes in the existing grading of the lot. Any such determination shall be made upon the basis of the construction plans and such further information as may be requested from the owner of the property by the City Construction Official.

§26-21-3. Lot Grading Plan Details.

A lot grading plan showing the proposed final grading of the lot shall be reviewed and approved by the City Engineer in accordance with the provisions of this subsection and more specifically as follows:

A. The lot grading plan shall be approved by the City Engineer prior to the issuance of a construction permit.

B. Upon construction of the foundation, and prior to framing or other further construction, the

Delete Meeting

applicant shall submit an "as-built" foundation survey confirming that the first floor elevation of the building is within the twelve (12) inches of the first floor elevation as shown on said approved subdivision plat. If the property is not the subject of a grading plan on an approved subdivision plat, the "as-built" foundation survey shall confirm that the first floor elevation is located within eighteen (18) inches of the elevation as shown on the lot grading plan.

C. Following the completion of construction, the owner shall provide an as-built survey of the site for approval by the City Engineer, except as exempted in Section 26-21.2.

D. The plan shall be prepared by a professional engineer and/or land surveyor licensed in New Jersey and shall be drawn to a scale of not less than one (1) inch equals fifty (50) feet, but may be supplemented by a key map of smaller scale, and shall be prepared in sufficient detail to show the following:

- (1) The existing surface drainage pattern as it affects the subject property and all abutting land;
- (2) The elevation of the street at each limit of the frontage of the subject property and a permanent feature such as a manhole rim or set corner or similar structure;
- (3) The location of any existing streams, watercourses, ponds, storm sewers or drainage facilities which relate to drainage of surface waters from the subject property;
- (4) Any proposed storm sewers, ditches or other drainage facilities which will receive surface waters from the subject property;
- (5) The proposed location of the structure for which a construction permit is being sought;
- (6) The elevation of the finished garage floor, top of foundation, first floor of the structure, and top of finished roof ridge proposed for the subject property, and the proposed lowest elevation within fifteen (15) feet of the proposed structure;
- (7) The proposed location of all roof leader drains, driveways, dry wells, utility lines below ground and any individual sewage disposal system;
- (8) The outer limits of all areas in which any grading or filling is proposed on the subject property;
- (9) Any proposed changes in the existing surface drainage pattern which will result from the construction proposed for the subject property including any proposed changes on abutting lands;
- (10) All existing trees with trunks exceeding four (4) inches in diameter measured at a point four (4) feet above the existing ground level, which trees are located within the outer limits of the areas mentioned in paragraph (h) above as well as within ten (10) feet of the outer limits of any such areas.
- (11) Topography reflecting contours at two (2) foot intervals.
- (12) Top of wall and toe of wall elevations of all proposed retaining walls shall be clearly delineated at regular intervals on the plan.

§26-21-4. Fees.

Three (3) copies of each required lot grading plan shall be filed with the City Construction Official, together with an application fee as determined below:

A. Grading Permit Application for Engineering Review of Individual Plot House Location/Grading Plans for Fill Over Ten (10) Cubic Yards.

- | | | |
|----|--|----------|
| 1. | Lot area less than 7,500 square feet | \$100.00 |
| 2. | Lot area of 7,500 square feet, but less than 1.5 acres | \$150.00 |
| 3. | Lot area of 1.5 acres or greater | \$500.00 |
| 4. | If original submission is not approved, each subsequent resubmission will require payment of an additional fee, as set forth above. If original submission is approved conditionally, no additional fee is required. | |

B. Grading Permit Application for Engineering Review of Non-residential Location/Grading

Plans for Fill Over Ten (10) Cubic Yards.

1. Lot area less than 7,500 square feet \$300.00
2. Lot area of 7,500 square feet, but less than 1.5 acres \$400.00
3. Lot area of 1.5 acres or greater \$600.00
4. If original submission is not approved, each subsequent resubmission will require payment of an additional fee, as set forth above. If original submission is approved conditionally, no additional fee is required.

§26-21-5. Review by City Engineer.

The lot grading plan shall be filed with the Construction Official and shall be reviewed by the Zoning Officer for zoning compliance. Upon the filing of a lot grading plan, the receipt of the required fee, and completion of Zoning Officer review, the City Construction Official shall submit one (1) copy of the plan to the City Engineer.

§26-21-6. Standards for Approval.

The City Engineer shall not approve a lot grading plan or revised plan unless he determines that the plan is designed to control surface waters in a manner that will minimize the adverse effects of such waters upon the subject property and abutting lands. In addition, a lot grading plan shall not be approved unless the following conditions are met:

A. Driveway grades shall not exceed fifteen (15%) percent, except that under unusual conditions and for short distances the City Engineer may approve grades not exceeding eighteen (18%) percent, provided the average centerline grade of the driveway does not exceed fifteen (15%) percent.

B. There shall be no change in existing grade that raises the elevation of the lot within five (5) feet of a property line. Furthermore, there shall be no change in existing grade, which raises any portion of the lot within fifteen (15) feet of a property line to an elevation that is more than four (4) feet above the existing ground level at the property line. Any new grade shall be at an even slope with the toe of the slope at the ground level which exists at five (5) feet inside the property line, provided, however, that, when necessary, swales shall be created in order to control surface waters in a manner that will protect abutting lands. Retaining walls shall not exceed six (6) feet in height provided that for each six (6) inches in height above the pre- or post- construction grade at the toe of the wall, a retaining wall shall be set back one (1) foot from the property line to which it is adjacent. Distances from property lines shall be measured at right angles to straight portions and radial to curved portions.

C. Grades steeper than 1 (vertical) to 3 (horizontal) should be avoided. In cases where these grades are unavoidable, provisions for soil stabilization, access and maintenance of those areas must be provided to the City Engineer for approval.

D. An area of at least ten (10) feet in width around the foundation of any building shall be graded downward, away from the foundation, in accordance with the requirements of the New Jersey Uniform Construction Code.

E. Roof runoff from any roofed area shall be in accordance with the New Jersey Uniform Construction Code.

F. Dry wells, or other infiltration facilities acceptable to the City Engineer, are required for all new structures and for additions to structures involving a roof area greater than one thousand (1,000) square feet and/or a total of one thousand (1,000) square feet of additional impervious cover. The design of the infiltration facilities must, at a minimum, be for three (3) inches of rainfall over the area of the roof of the new structure or addition to a structure. Design of these facilities must be based on appropriate site specific tests certified by the applicant's engineer and submitted and approved by the City Engineer. Should site specific conditions obviate the use of infiltration facilities, an alternative means, acceptable to the City Engineer, for management of stormwater runoff must be provided.

G. If the lot grading plan contains a structural retaining wall, a copy of the structural calculations, signed and sealed by an engineer or architect licensed in the State of New Jersey shall accompany the plans.

§26-21-7. Temporary Measures.

Whenever the City Engineer considers it necessary or appropriate, he may require that a lot grading plan include temporary measures to be taken during the performance of any construction work to prevent adverse effects upon abutting lands.

§26-21-8. Violations.

The failure of an owner of property to comply with an approved lot grading plan for such property, including any temporary measures to be taken during the performance of construction work, shall subject the owner to a maximum fine of \$500.00 per violation.

§26-21-9. Soil Erosion and Sediment Control Standards.

The project shall be designed in accordance with the New Jersey Soil Erosion and Sediment Control Standards.

§26-21-10. Escrow to Complete Work.

Notwithstanding any other provision of this chapter, the Zoning Officer may issue an occupancy/zoning permit prior to full compliance with a lot grading plan if the Zoning Officer received written evidence of the existence of a cash escrow deposit in the amount of the estimated cost effecting full compliance with the plan as determined by the City Engineer, and if the Zoning Officer receives a written statement from any contract-purchaser requesting the issuance of a certificate of occupancy pursuant to the provisions of this section.

If a certificate of occupancy is issued for a property prior to full compliance with a lot grading plan and full compliance is not effected by the date set forth in the report of the City Engineer, then continued occupancy of such property after such date shall constitute a use of such property in violation of this chapter.

§26-21-11. Inspections.

Neither an occupancy/zoning permit nor a certificate of occupancy shall be issued until the City Engineer certifies in writing that the property conforms to the lot grading plan. The City Engineer shall make an inspection and issue a report within five (5) days after notification from the Construction Official of an application for a certificate of occupancy.

§26-21-12. Additional Inspections.

In the event that more than two (2) inspections of a property are required to be made by the City Engineer either by reason of a provision for temporary measures to prevent adverse effects upon abutting lands or by reason of a failure to comply with an approved lot grading plan, then the owner of the property shall pay to the City an inspection fee for each additional inspection which fee shall be calculated in accordance with the schedule of inspection fees established and from time to time amended by the City Council pursuant to the provisions of the Zoning Ordinance of the City. All fees for any such additional inspections shall be paid to the City prior to the issuance of a certificate of occupancy for the new structure or addition.

§26-21-13. Definitions.

CRITICAL AREA shall mean an area consisting of wetlands, flood hazard areas, areas of shallow water table soils, recharge soils or steep slopes.

Section 2. That Chapter XXIX, Land Development, shall be and the same is hereby amended as follows:

DESIGN STANDARDS

Note – Delete Section 31-26.1 Site Plan to be approved and replace with Section 29-5.9.

Note that proposed section 29-5.9 B-11 is currently in the City’s code with in Section 31-26.1.

§ 29-5.9 Site Plan Approval.

Except as herein exempted, no building permit shall be issued for the construction, structural alteration or relocation of any building or structure unless a site plan is first submitted and approved in accordance with Chapter 29, Land Development, and no certificate of occupancy shall be issued unless all construction conforms to the approved plan.

B. No site plan approval shall be required prior to issuance of a building permit or other required permit for any of the following:

(1) Single-family and two-family dwellings.

(2) Accessory structures, such as private garages, swimming pools, storage sheds, etc., which are incidental to single-family and two-family dwellings.

(3) Fences, provided that said fence does not violate a condition of prior variance approval, and further provided that if the proposed fence is to be located on a site developed for nonresidential use, said fence shall not alter the means of ingress and egress as approved by the Board.

(4) Paving of an unpaved driveway on property developed for single-family or two-family dwellings, provided that said paving shall not violate a condition of a prior variance approval.

(5) Interior alterations or work on exterior building facades, windows or roofing. However, issuance of a building permit for said work in no way limits the City's authority to require future site plan approval based upon the proposed use of the building.

(6) Building additions.

(a) Building additions which are less than 500 square feet, provided that said addition meets the following criteria:

[1] It will not require any additional parking spaces.

[2] It will not violate zoning regulations nor increase the extent of nonconformance with existing zoning regulations.

[3] There will be no loading bay proposed as part of the addition.

[4] There will be no chemicals or hazardous substances stored in the addition.

(b) An affidavit stating compliance with Subsection B(6)(a)[4] shall be required to be submitted to the City Zoning Officer prior to issuance of a building permit. There shall be no more than one addition constructed under this provision within any two-year period without first requiring site plan approval.

(7) Request for approval by the City Zoning Officer for issuance of a motor vehicle dealership license as required by the State of New Jersey, provided that said license is required for an operation which is accessory to a principal permitted use, and further provided that a certification shall be signed by the applicant agreeing that he will not use the dealership license for the display of more than three vehicles.

(8) Any change of occupancy which does not meet the criteria established in § 29-5.9 for classification as a change of use.

(9) Overnight storage of no more than four motor vehicles as defined in N.J.S. 39:1-1, excluding equipment, truck tractors and trailers, used by the approved business owning or leasing the property upon which such vehicles are stored; provided, however, that such motor vehicles must be removed for daily use during the regular business hours and days of such approved business.

(10) Home occupations which meet the requirements of Section 31-19.14.

(11) The replacement and modernization of large sophisticated, specialized production and processing equipment essential to existing uses in the H-I Zones, no site plan shall be required for the construction, reconstruction and replacement of such equipment located more than three hundred fifty (350) feet from a property line other than a right-of-way line of a freight railroad or public utility use, except that and notwithstanding the above, if in the opinion of the City Building Subcode Official the use is a major expansion of an existing operation, the Building Subcode Official shall be empowered and authorized to notify the applicant that site plan approval shall be required.

§ 29-5.10 Determination of change of use.

A. A change in the occupancy of a building or the utilization of a building or land which meets any of the following criteria shall be determined to be a change of use under this chapter:

(1) The proposed use requires more off-street parking spaces than the previous use, based upon parking requirements in Chapter 31, Zoning;

- (2) The proposed use has significantly different hours of operation than the previous use;
- (3) The proposed use has special pickup and discharge or loading and unloading requirements which affect either on-site or off-site circulation; or
- (4) The proposed use involves the storage or handling of chemicals or hazardous substances.

B. All such changes of use shall require site plan approval prior to issuance of any required municipal permits.

C. A signed affidavit stating that the proposed use does not meet any of the above criteria must be submitted to the City Zoning Officer prior to issuance of a certificate of occupancy.

ADD:

§ 29-10.6. Community Impact Statement.

The Planning Board or Zoning Board of Adjustment, whichever is appropriate, in its sole discretion, may, as a condition of preliminary major subdivision or site plan approval, require the applicant to prepare, at his own expense, a Community Impact Statement prepared by a licensed professional planner in the State of New Jersey who is also a member of the American Institute of Certified Planners (AICP) describing and explaining the impact and effect of the proposed land development upon the City's educational system and other municipal facilities. The Board shall retain the right to select a qualified consultant to review the Community Impact Statement. In determining whether or not such a statement shall be required, the Board in question shall give consideration to the character and size of the development and the recommendations of the City's Board of Education, if any.

§ 29-10.7. Traffic Impact Statement.

- a. The Planning Board, Zoning Board of Adjustment, whichever is appropriate, in its sole discretion, may require the applicant to prepare, at his own expense, a Traffic Impact Statement describing and explaining the impact and effect of the proposed land development upon all roads which are adjacent to or immediately affected by traffic. The Board shall retain the right to select a qualified consultant to review a Traffic Impact Statement. Such report shall be a requirement for all proposed developments generating 100 or more peak hour trips during the morning and evening as analyzed using the most recent edition of the Trip Generation Handbook of the Institute of Transportation Engineers, or as otherwise required by the reviewing Board.
- b. The Traffic Impact Statement shall be prepared by a licensed professional engineer in the State of New Jersey who is also certified as a Professional Traffic Operations Engineer (PTOE), and shall identify all relevant sources of information used in the preparation of said statement and shall, at a minimum, address the following:
 - 1. Existing/Background conditions in the vicinity of the proposed project including:
 - a) Roadway network.
 - b) Representative Traffic Count, not during holiday or summer periods.
 - c) Traffic Accident Statistics.
 - d) Availability of public transportation.
 - e) Level of Service of adjacent roadway.
 - 2. Traffic Generated by the proposed development including:
 - a) Trip Generation.
 - b) Trip Distribution.
 - c) Modal Split.
 - d) Trip Assignment.
 - e) Level of Service under proposed conditions.
 - 3. Traffic impacts caused by the proposed development as per change in existing conditions.
 - 4. Explanation of Traffic Reduction/Traffic Management Plans necessary pursuant to any current Federal, State or County requirements, and, where applicable, proposed interaction with appropriate County Transportation Management Areas (TMA).
 - 5. Recommendations for alleviating or diminishing any possible congestion or disruption to the established traffic pattern.

6. Any other information requested by the appropriate board reasonably required to make an informed assessment of potential traffic impacts of a proposed development.

7. Disposition. The Board shall not approve any submission unless it determines and finds that the proposed development will not result in appreciable harmful effects to traffic.

§ 29-11.6 Shade Trees and Planting Strips.

- a. Shade trees shall be provided in all residential and non-residential subdivisions. Trees shall be planted within the subdivision along each side of the street at proper intervals and in types, sizes and locations conducive to healthy growth with graded and seeded or sodded planting strips and according to any standards adopted by the City Council or City Shade Tree Commission so as not to interfere with street paving, sidewalks, or utilities.
- b. All trees should be of nursery stock of an approved species grown under the same climatic conditions as at the location of the development. They shall be of symmetrical growth, free of insect pests and disease, suitable for street use, durable under the maintenance contemplated, and approved by the City Shade Tree Commission.

Section 3. The remaining provisions of the chapter hereby amended and supplemented shall continue in full force and effect to the same extent as if herein fully repeated.

Section 4. If any section, subsection, provision, clause, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such adjudication shall not affect the remaining sections, subsections, provisions, clauses, or portions, which shall be deemed severable therefrom.

Section 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 6. This Ordinance shall take effect in the manner provided by law.

PASSED:

APPROVED:

ATTEST:

President of Council

Mayor

City Clerk

amdlinden zoning changes