



April 22, 2022

From: Michael M. O'Connor
830 Elder hill Rd.
Lincoln, Vt.

To: The Lincoln Zoning Board of Adjustment

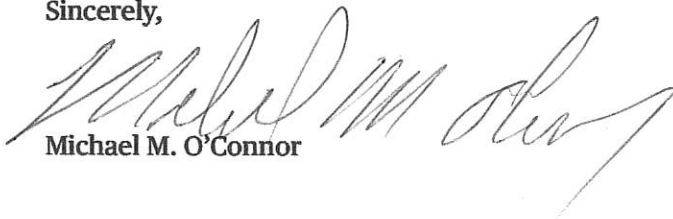
Subject: Talking Paper: Opposition to a Permit for a Restricted Landing Strip at 432 Orchard Rd. North.

Encl: (1) Talking Paper

To the Board,

1. I would like to thank the Board for addressing the Appeal of the subject permit and allowing the public to voice their issues and concerns. Unfortunately, due to a previously scheduled trip I cannot attend the May 9th meeting.
2. The enclosed Talking Paper explains my reasons why I feel that the permit should not be approved. In lieu of my absence, I would ask that the Board accept this letter for inclusion in the record and consider the contents of the letter in their decision making process.
3. Your attention to these matters and the personal time you all have dedicated to this issue is greatly appreciated. Hopefully, the content of the letter along with the public discussion will assist you in resolving the issue hand.

Sincerely,



Michael M. O'Connor

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Reasons why I am in opposed to the issuance of a permit to allow for the operation of a Restricted Landing Strip at 432 Orchard Rd. North, in the town of Lincoln, Vermont.

1. I believe that the construction and operation of a Restricted Landing Strip is contrary too and violates the sprit and intent of the Lincoln Town Plan 2018.
2. I believe that the Permit process that resulted in the issuance of the permit was flawed and that the Zoning Administrator did not have the authority to issue a permit on a subject that is not defined in either the town plan or the town zoning regulations, especially without the consent of the Zoning Board of Adjustments' notice and subsequent approval. Additionally the Zoning Administrator did not do an on site inspection prior to issuing the permit as required by the Zoning regulations.

A. Discussion: When I ask myself why I am opposed to the proposed landing strip at 432 Orchard Rd. North. I find that the answer is that I have come to truly enjoy the quiet, serene, ambiance of the Town of Lincoln. I enjoy the rural, rustic nature of the town and the beauty of the unobstructed views of forested covered mountains. The landscape and the sky combine to form a truly majestic, magical view that epitomizes Vermont Country Living. The thought of aircraft landing and taking off and flying through this picturesque, what some might refer to as "heaven on earth" landscape, on a daily basis, just does not fit in. Having said that, I believe that Lincoln already has one landing strip and one helipad. I suppose one could ask, how many more do we need?" Never the less, the idea, concept of another airstrip in the middle of Lincoln seems to me to be in contrast to the whole rustic, secluded, mountain town idea that is what makes Lincoln; Lincoln.

Now, some might say that my reasons for opposition to the airstrip are somewhat arbitrary and at best represent a somewhat short sighted vision of the future. I suppose others might say that my position is just stubborn and self centered. And of course there are those few that will say that change is inevitable....OK, while I would admit that change is more or less inevitable ... I would submit that change, pretty much always comes at a

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cost.....then I guess the question becomes what is that cost and how much are we willing to pay?

The Lincoln Town Plan 2018 states that “The purpose of the plan is to maintain the best elements-**rural, diverse, close-knit community- of Lincoln’s past while providing for the needs and desire of the Town’s residents in the future.**” The terms rustic and rural are mentioned throughout the plan with reference to “the preservation of” the rural, rustic concept that is Lincoln. Based on this repeated theme of Lincoln, I would submit that the “arbitrary” nature of my opposition is not arbitrary at all but in concert with the intent and spirit of the Lincoln Town Plan 2018. The Lincoln Town Plan 2018 includes Special Protection Areas that “are designed to protect special features within the town”. One of those Special Protection Areas is titled the “Viewshed”. “The Viewshed Overlay Area encompassing the entire Town preserves the communal views of Lincoln....” . Additionally, one of the 6 major Goals as set by the Town Plan talks of maintaining “the qualities of “working landscape” and “rural character” **valued by Lincoln Residents**. Maybe my arbitrary, self centered view is not so self centered after all. The plan goes on in a subparagraph to “Discourage costly infrastructure improvements such as paved roads, electrical line extensions, water and sewer improvements to currently inaccessible areas,” (why), “to maintain the current low-density, rural character of outlying areas.” Also, a follow on sub paragraph talks of “protecting the quality of life for the residents of Lincoln,” with reference to noise levels and “artificial outdoor lighting.”

Interestingly, the Lincoln Town Plan 2018 and the Lincoln Zoning Regulations do not mention the phrase “Restricted Landing Strip” or for that matter “landing strip “ or “Helipad” or even the term “aircraft.” They cannot be found. Why? Apparently the town approved an air strip back in the 1980’s and a helipad in 2016. Could it be that the reason the aforementioned terms are not addressed in the plan is because the “Planners” felt that two aircraft landing areas were enough or simply, they just omitted them from the plan because another private landing strip just did not fit in to the rural, rustic picture they had of the future Lincoln. Additionally, the “Planners” may have taken the phrase “the needs and desires of the Town’s residents” to mean the entire town not just the needs and desires of one individual.

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The Lincoln Town Plan 2018 states that “It is intended both to protect the Town’s most important community assets and to **assure an individual’s freedom to control his or her own property in ways that do not infringe on the rights of his or her neighbors.**” A building or structure or even a level grassy area maybe built or constructed on an individual’s own land (that complies with Local, State and Federal Building and Environmental Rules and Regulations) as long as it is constructed and used in such a way that does not “infringe on the rights of his or her neighbors.” Yes, while the landing strip itself may not impact anyone, the very idea that operating a Restricted Landing Strip with aircraft flying in and out of the airstrip must certainly qualify as an infringement of ones neighbors rights. Never mind ones neighbors, how about the whole town! As a resident of Lincoln for many years, I believe I have a right to view the landscapes around Lincoln unimpeded by an aircraft popping up in the middle of the “picture” and distorting/polluting the view via its presence and/or its’ noise. It is the same right that is protected when a neighbor improperly or illegally constructs a sewerage system on his property that eventually leaks. The leak may cause an odor which eventually affects the neighbors. As one of those neighbors, your “right” as a resident has been infringed on. If the improper construction pollutes a town brook or stream that you or the whole town happen to swim in, well then the “rights” of the Town residents are also impinged on. What about the right to privacy? Does the concept of regular low flying aircraft in and around (and occasionally over) your property violate your privacy rights? In my opinion the answer is yes; so much for infringing, “**on the rights of his or her neighbors.**”

B. I believe that the permit process was flawed and should result in the permit being revoked. As mentioned in the paragraphs above, neither the Town Plan or the Town Zoning Regulations mention anything about “landing strips, “aircraft”, helipads .etc Nothing , NADA!. So what gives the Zoning Administrator the right to issue a permit without at least consulting the zoning Board and receiving town specific (priority/official) guidance to correctly address the issue? Omission is not permission! Just because the town documents do not specially address the issue of permitting a landing strip does not automatically mean, it can or should be effected. I am not sure how it was done back in the 1980’s or in 2016 for the Helipad, but in my mind, in the absence of any written guidance, especially on something that affects the whole town, the Zoning

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Administrator should have queried the Zoning Board and in my opinion the entire Town. At the very least, the permit should have been addressed as a conditional permit thus triggering Zoning Board intervention.

Additionally, the Zoning Administrator is required by Article VII: ADMINISTRATION AND ENFORCEMENT of the Town zoning regulations, SECTION 700, para. 702 DUTIES, subpara. 3. INSPECTIONS; to “inspect structures and land of the development before the permit is issued to ensure site plan application is accurate as it relates to the development project...” When I queried the Zoning Administrator (April 20, 2022 at 1:27PM) as to the site survey documentation, the Zoning Administrator replied that she did not conduct an on site inspection because she “was familiar with the property and what the applicant was planning to do.” I suppose a “familiarization” of the property maybe acceptable to some but according to ARTICLE VII, SECTION 700, para. 702 DUTIES. “The Zoning Administrator shall enforce the provisions of these Regulations **literally** and in so doing shall inspect developments, maintain records...etc.” “The **Officer shall not have the power to permit** any land development which is not in conformance with this Regulation or any other regulation or ordinance.”

Perhaps a more thorough review would have revealed a host of issues, many of which have been brought to light by concerned citizens. Some that may not have been looked at might be... Has anyone on the Zoning Board heard or seen the aircraft that will operate in and out of this proposed airstrip? The permit in question lists one of the conditions as “Pipestrel Alpha Electro planes and occasional others.” The Alpha Electro at least according to my research, is all electric and “quiet”. However to date, the State of Vermont has never approved a permit for a Restricted Air Strip for electric aircraft. These “occasional others” mentioned in the permit are not listed by type and could be anything. Does anyone know how much noise these “occasional others” really make? According to an article in the Addison Independent dated April 14 2022, written by Christopher Ross, Mr. Ross identified a posting written by the applicant that states “I currently have a Helio 391B, an A-1A Husky, and an AN-2 for off airport fun, but all are pretty loud.” “Pretty loud”, I am sure we will not be subject to these occasional “pretty loud” aircraft, right. How many aircraft will be allowed to operate from/to the airstrip. One at a time, two, three...the permit does not specify? The permit also mentions condition 6. as “Calm wind/pref. app and dep from/to west.” So the preferred aircraft routing for take off and landing is to the West, thus

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avoiding (condition 8.) "Overflight of equine areas avoided." What route, should we, as residents expect, if the prevailing winds, which by the way are not always calm, are in fact not calm? The permitting process in this case was severely lacking in specificity and thoroughness. Two other major concerns I have are **Safety and Town Policing/Regulatory Authority.**

Safety. I am concerned that no one from the Town Fire department was ever approached prior to the permit approval. Is the Town of Lincoln Fire Department properly trained and equipped to handle an aircraft emergency such as, god forbid, an airplane crash or fire caused by an aircraft malfunction? What of Lithium battery fires? What special equipment and training are needed. Safety, is again mentioned throughout the Lincoln Town Plan, but somehow escaped the permit process.

Town Policing/Regulatory Authority. Ok, the permit says that the operating hours for the landing strip are from 7AM to 9PM. When an aircraft takes off at 6:45, who does a concerned Lincolnite call or complain to that the operating hours have been violated? The existing permit says approaches and departures will avoid overflight of houses, equine areas, etc.. when an aircraft strays from the intended flight path on approach or departure due to weather, winds, aircraft issues or whatever; again who does the concerned Lincolnite turn to in the town to adjudicate his or her complaint. I know, too benign for petty complaints, right. Well here is one, when an aircraft crash lands into neighbor's house, to who in the town does the neighbor need to talk too! Exactly who in the town is in charge of receiving complaints/violations and in turn acting on these issues to ensure that the landing strip is being operated in accordance with the conditions outlined in the permit? What about waivers for say hours of operation or new types of aircraft? Who or what approves the waiver request? How are the towns folks notified of approved changes? What are the penalties for violations? How many violations or complaints generate a cease and desist order from the town. In other words what is the threshold, for the town that triggers a permit temporary restriction, temporary closure or a permanent closer of the landing strip. To put it bluntly, if there is an aircraft crash within the first two weeks of the landing strip opening does that trigger a permit review? What about two crashes in a six month window? Is that enough to say "enough" and revoke the permit. **Once issued, can the town even revoke the permit if in the eyes of the town (Town Counsel/Zoning Board /Who?) the landing**

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strip is operated in such a manner as to warrant review/closure? The regulatory process for policing a restricted landing strip within the Town of Lincoln does not exist? Yes, the FAA and State will play a major role in aircraft incidents involving crashes or emergency landings off runway. They can be very helpful in adjudicating other conditioned based "violations" on a case by case basis. But again who in the town or what agency within the town is the airstrip policing authority and liaison with State and Federal Authorities. The fact that the town has no policing and or regulatory control over operation of the landing strip should give the Zoning Board pause before approving a permit of this nature.