

GROTON CONSERVATION COMMISSION and PLANNING BOARD

Minutes

June 21, 2011

The joint meeting was called to order at 6:30 p.m. in the Selectmen's Meeting Room at Town Hall. The following individuals were present:

Conservation Commission: Chairman Nadia Madden, Vice Chairman David Pitkin, Clerk Bruce Easom, Marshall Giguere, and Craig Auman

Planning Board: Chairman Russell Burke, Clerk Jason Parent, Scott Wilson, John Giger, and George Barringer

Design Review Committee: Tim Hess, Halsey Platt, and Faye Raynam

Applicant and consultants: Bob France, Rob Antcil, David Valletta, Bruce Ringwall, Steve Wychorski (Maugel Associates), Lorraine Black

Owner: Mike Rasmussen/North Middlesex Savings Bank

Press: Connie Sartini, Pierre Comtois

Staff: Michelle Collette (Land Use Director) and Barbara Ganem (Conservation Administrator)

General: Chairwoman of the Board of Selectmen, Anna Eliot, Jeff Gordon, Berta Erickson,

Land Use Director/Town Planner Michelle Collette announced this was a joint meeting of the Planning Board and Conservation Commission to talk about common ground in the anticipated application for a project at 134 Main St. proposed by Mount Laurel Development. She explained we are still in the pre-application phase, and this is not a public hearing. Members of the Design Review Committee were present to learn more about the project as well. The meeting will be limited to one hour due to a previously scheduled meeting in the conference room and a meeting of the applicants with the Historic Districts Commission to follow.

Planning Board Chairman Russ Burke said this will be a discussion of what is expected from both boards so that we do not keep the applicant ping-ponging between boards. Nadia Madden, Chairman of the Conservation Commission, agreed this is a good opportunity to coordinate efforts. Mr. Burke urged that the presentation focus on those issues that form a nexus between Planning Board and Conservation Commission jurisdictions.

Engineer Bruce Ringwall stated the mixed use project will consist of both retail and residential units, generally the retail in front and the residential in back. He reported Mr. France recently filed an Abbreviated Notice of Resource Area Delineation (ANRAD) and has a final Order of

Resource Area Delineation from the Conservation Commission. The most recent concept plan has changed slightly from that presented at Town Meeting. One unit is within the 50-ft. buffer zone to wetlands. Portions of two other structures and driveways also intrude into the 100-ft. buffer zone. In addition there will be some drainage and grading involved such as leaching galleries and water quality swales. Mr. Ringwall indicated his client wishes to improve wildlife habitat by eradicating invasive plant material within the 50-ft. buffer zone. This would help to make the area more productive for wildlife and improve aesthetics. The multiflora rose provides an almost impenetrable barrier to the wetland resource area. The remainder of the 50-ft. buffer consists of existing lawn.

Mr. Ringwall anticipates the project will have a public viewing area that would provide access to the wetlands within the 50-ft. buffer zone. This could involve something like a stone patio that would be similar to a trail on conservation land adjacent to a pond or stream. This would provide a scenic vista over the wetland toward Gibbet Hill. T. Hess asked why the public would be drawn in to visit this public viewing area, and B. Ringwall replied "At some point there will be connections between the properties at the back." The property on the south (the Groton Inn) is now thickly wooded while the property to the north has a cleared field.

Stormwater would be cleansed and recharged on site to assure the wetlands continue to survive and thrive. Oxbow Consultants is looking at the preparation of a remediation planting plan to replace the invasive plants. Mr. Ringwall added the multiflora is unsuitable for most nesting birds although they like the rosehips.

M. Collette asked if he was absolutely confident that no state permits would be triggered by this filing, and B. Ringwall responded he had talked with Amy at Natural Heritage who indicated a Massachusetts Endangered Species Act (MESA) filing is not likely to be required because the only work in the priority habitat area would involve invasives removal, vista pruning, drainage, and the viewing patio. No bulldozers would enter the area.

G. Barringer asked if it would be possible to shrink the driveway or the oval to pull things further from the wetland. B. Ringwall indicated it would be difficult because one of the other concerns is the preservation of a viewshed. He showed a plan with no incursion into the buffer zone which he felt would result in the viewer seeing a bank of garage doors. With the current concept plan, the viewshed from points on Main St. would be preserved. S. Wilson noted the topography slopes from Main St. toward the wetland.

B. Ringwall said they know there is high groundwater. There may be a retaining wall along the side and under drains throughout the development. It is likely they will have to add earth from a drainage recharge point of view. Commissioner C. Auman said he had a list of items he would like to go through with the applicant:

- In its current state the buffer zone will do a better job of protecting the interests of the Wetlands Protection Act and Bylaw than the concrete, asphalt and permanent structures that will result from the proposed development. B. Ringwall said invasives dominate this area.

- It's not just the buildings and roadways that are a concern but also the grading and other improvements to the land that result from a residential development which will consume additional space in the buffer zone. Mr. Auman and Mr. Burke stressed that it is important to see everything on a plan.
- The applicant has the burden of proof for demonstrating that the proposed work in the buffer zone is necessary and that reasonable alternatives including reducing the scale or scope of the project do not exist.
- Burden of Proof [215-12] the applicant shall have the burden of providing by a preponderance of credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource. It is up to the applicant to demonstrate how the interests are protected.
- What we decide for 134 Main Street could have a larger even more significant consequence as the two abutting properties are for sale. The outcome for 134 Main Street will address not only this property, but could be precedent setting for how future development is addressed for the others.
- Purpose and Intent [215.1] These protected interests are: protection of public and private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife and wildlife habitat, rare plant or animal species and habitat...
- Presumptions [215-7 A] – Adjacent upland areas are presumed significant to the protection of wetland resources and interests because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetlands or other resources, including erosion, siltation, loss of groundwater recharge, degradation of water quality and loss of wildlife habitat.
- Therefore the adjacent upland area, within 100 ft. of a wetland is deemed a valuable resource, and the bylaw strictly prohibits activity or uses. Including:
 - 50 ft. no disturb zone except for removal of invasive plants,
 - 100 ft. no structures, including parking lots
- Consultant Fees [215.4 D 2] – The Commission may require the applicant to pay for expenses borne by the commission for consulting services to assist the commission in reaching a final decision on the application. Services may include analyzing resource area functions and values, wildlife habitat evaluations, hydrogeology and drainage analysis. Mr. Auman said he does not have the expertise to judge whether the proposed project meets the interests of the Act and the Bylaw.

M. Collette noted the 43D process involves a variety of consultants for all the committees that need to review the project. These consultant fees must be paid as part of the expedited filing process. B. Easom said the project needs to meet the requirements of the Bylaw as the opinion from Town Counsel indicated, in addition to meeting the standards in the Wetlands Protection

Act. C. Auman pointed out the Act does not prohibit work, but all activities must protect the interests of the Act.

Members asked attorney Rob Antcil if he felt Town Counsel's opinion was correct and he replied "No." He added he would proceed as though it were correct, however, because he did not want to see an appeal go to DEP on the exemption provision. M. Giguere pointed out any challenge of the Bylaw would have to go to Superior Court, not DEP. Mr. Antcil said it is his goal to do this project as cooperatively as possible. Acknowledging there are competing land use interests, he expressed a desire for some direction from the boards.

T. Hess asked the setback distances on the condos, and Mr. Ringwall answered "15 ft." for each condo or single unit. Plant material may bump it out a little more. J. Giger commented the area is to transition from highly pervious to a great deal of impervious surfacing, all sloping toward the wetlands at the back. He expressed concern about the management of any stormwater infrastructure, noting they are likely to need to be maintained by a front-end loader at some point. He stressed the Planning Board would need to see where the proposed low impact development BMPs are to be placed and how they would be maintained in the future. Machinery would end up creating more disturbances in the buffer zone.

B. Ringwall stated they would not use conventional drainage systems such as a detention basin. Plan details will be provided as part of their final submission. Their plan is to use small treatment areas built into the site, but they would barely be noticeable. He understood the need to have the project reviewed by consultants.

R. Burke said the statutory jurisdiction of the Wetlands Protection Act, doing no harm essentially, while performing design considerations with respect to the massing of the buildings to lessen visual impacts can be a balancing act. The dynamics of the process should assure all interests are addressed. T. Hess asked if they had modeled the site, and B. Ringwall said they would submit cross sections. Mr. Hess suggested 3-D digital modeling would accommodate a number of different perspectives. D. Pitkin mentioned the Bylaw regulations (Ch.344-22) are fairly specific about the burden of proof falling on the applicant for any significant disturbance of the buffer zone.

R. Antcil asked if his client provides the 3-D modeling, will they be allowed to do work in the 100-ft. buffer zone. R. Burke said the modeling may be very persuasive to the Commission, and he highly recommended it. Mr. Antcil retracted his remark and maintained the goal is to produce an esthetically better project. He went on to say "If the Conservation Commission is not open to those ideas or opposes where we are heading, it could impact the project." The goal could be to provide the 3-D modeling and prove the interests will be protected, and the Commission will evaluate. R. Burke commented the two boards are trying to get additional information, but have not made up their minds.

B. Easom asked how the views from the higher elevation of Gibbet Hill would be affected by this project. Architect Steve Wychorski estimated the trees on the adjacent site were between 75 and 80 ft. high and the buildings will be a little less than that. The Groton Inn property is heavily wooded at the back so you don't see buildings on that site. He demonstrated what the vista looks

like and how it would change with the new development by displaying a landscape photograph of the site from Gibbet Hill. F. Raynham said that modeling is an excellent tool to help residents visualize how the project will fit into the land.

M. Collette reminded attendees that we are still in the pre-submission phase of the expedited permitting process. She thanked everyone for providing feedback and understanding to help with the submittal process.

The Montachusett Regional Planning Commission has received a grant to prepare a walkability assessment of the towns of Groton and Westminster. The task will focus on ways to improve pedestrian circulation in the downtown area. Upon a motion by S. Wilson, seconded by Russ Burke, the Planning Board

VOTED: to support the walkability study proposed by MRPC.

Upon a motion by B. Easom, seconded by N. Madden, the Conservation Commission

VOTED: to support the walkability study proposed by MRPC.

Both votes were unanimous.

Members of both boards indicated they were willing to convene jointly again if the need arises.

There being no further business, the meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Barbara Ganem, Conservation Administrator
Michelle Collette, Land Use Director

Approved by the Conservation Commission 6/28/11.

EXHIBITS

Document	Source	Date
Email 134 Main St.	Craig Auman	6/21/11