

GROTON PLANNING BOARD
SEPTEMBER 5, 2002
MINUTES

Chairman Degen called the meeting to order at 7:00 PM in the Town Hall

Members present: Degen, Barringer, Clements, Eliot, Lewis, Perkins and Wilson

PUBLIC HEARING (con't) – BROOKS ORCHARD CONCEPT PLAN

(Note: Members Degen and Wilson did not participate.)

Vice Chairman Barringer called to order the continuation of the public hearing to consider the Brooks Orchard Concept Plan submitted by the Groton Land Foundation (GLF). Robert Pine and Marion Stoddart of the GLF, landowners Steven and Joshua Webber, and many abutters were present.

Mr. Pine submitted a letter dated September 5, 2002 with additional information. He said the GLF will work with the abutters to resolve drainage problems. The traffic issues will be addressed during the final design phase. There may be some changes to the plan, but there will not be any more than 18 units on the site.

Member Eliot said the intersection of Chestnut Hill Road, Martins Pond Road, and Orchard Lane must be addressed. Mr. Pine agreed and said the GLF will work with the Planning Board and its engineer on traffic circulation issues.

Vice Chairman Barringer explained the concept plan process including the required 2/3 vote of Town Meeting, special permit and site plan review. He said at this phase, the Board must vote on its recommendation to Town Meeting. The Board is not voting to approve or disapprove the plan at this time.

Abutter Bruce Easom asked why the previous plan was limited to 12 lots on a dead-end street. Mr. Pine said the Subdivision Regulations state the dead-end road can serve up to ten lots. If duplexes are constructed on each lot, the road may serve up to twenty units. The plan will comply with the Subdivision Regulations. Mr. Pine said the multifamily by-law allows up to ten dwelling units on a common driveway.

Abutter Lynn Mueller said the Board should go out and look at the intersection of Martins Pond Road, Orchard Lane, and Chestnut Hill Road.

Abutter Edna White said the GLF should be commended for its effort to preserve the land. She asked how the Town, the Planning Board, and the abutters can buy into the proposed density with the road configuration still up in the air. She said 17 units clustered in the forest could be dangerous if there is a fire. She said she hopes the Town and others will raise funds so this level of density is not needed.

Mr. Pine said the plan could have fewer lots if the houses were more expensive, but the GLF wanted to keep the price of the units in the moderate range. The clustering of units creates more of a sense of community and belonging.

Vice Chairman Barringer said if Town Meeting approves the concept plan, there cannot be more than 17 new units. Joshua Webber said the proposed concept plan is part of a larger plan to save Gibbet Hill and Angus Hills. This plan enables the placement of a conservation restriction on more land through state and town funding.

Abutter Rick McCollough asked why a traffic study was required for the Hannaford's concept plan and not for this concept plan. Planning Administrator Michelle Collette said Hannaford's plan comes under § 218-18 Major Project for non-residential projects. The Brooks Orchard concept plan comes under § 218-27 Planned Multifamily Residential Development.

Member Clements said he would like more detail on environmental issues at a later date. Mr. Pine said the GLF is meeting with the Board of Health on Monday, September 9, 2002 to discuss remediation of the contaminated soils. A Risk Assessment will be done, and remediation will meet both DEP and Board of Health standards.

Edna White said the contamination issues are still a concern. She added that she hoped “trophy” homes would not be constructed in the neighborhood.

The Board voted unanimously to close the public hearing.

The motion was made by Perkins to recommend that Town Meeting approve the Brooks Orchard Concept Plan. The Planning Board's recommendation is based upon information provided by the applicant through the close of the public hearing. The reasons for the Board's recommendations are as follows:

1. The development of the land as described in the proposed concept plan will result in a minimum of 160 acres being permanently protected as agricultural land and open space.
2. The type of housing to be constructed will provide diversity in the Town’s housing stock. As offered by the applicant, one unit will qualify as “affordable.”
3. The proposed development will provide valuable linkage between other existing conservation areas thereby protecting wildlife corridors.
4. The applicant has offered to work with the Water Commissioners on the potential siting of a water storage facility on this parcel.
5. The proposed concept plan is consistent with the recommendations of the Comprehensive Master Plan sections on Agriculture, Housing, Natural Environment, Open Space and Recreation.

The motion was seconded and passed unanimously.

PUBLIC HEARING – GIBBET HILL ORCHARD SPECIAL PERMITS

The Board continued the public hearings to consider the four special permit applications and preliminary plan submitted by Newbury Street Development for the Gibbet Hill Orchard subdivision located on Farmers Row. Attorney Mark Johnson, design engineers Larry Beals and Don Yonika of Beals Associates, and Bill Conley of the Marion D. Campbell Trust (landowner) were present.

Mr. Beals said the Conservation Commission confirmed the wetlands delineation as flagged.

Mr. Beals said the applicant submitted four special permit applications for 1) Major Residential Development; 2) Open Space Residential Development (flexible); 3) Open Space Residential Development (cluster); and 4) Shared Driveway. The Board must first decide whether it wants a conventional “footnote 1” plan or Open Space Residential Development plan. The subdivision is located on two large parcels – the parcel to the east is owned by the Marion D. Campbell Trust and the parcel to the west is owned by the Strachan Family Trust. The special permit application for cluster development is for the parcel to the east and the application for flexible development is for the parcel to the west. An application for the special permit to utilize a shared driveway to serve the ANR lots is also under consideration at this hearing.

Mr. Beals requested that the Board make a decision on the special permit for Major Residential Development.

Member Lewis asked how the Board can deny a conventional plan if it meets all the rules and regulations. Chairman Degen responded that the applicant must submit two plans as required in Major Residential Development. The Board must decide which of the two plans better serves the Town. The Board must also determine the Basic Number of Lots as part of the process.

Attorney Mark Johnson said no definitive plan has been submitted to the Board. The applicant would prefer to create a cluster development rather than using a conventional plan.

Chairman Degen asked if the proposed Basic Number of Lots is 75. Mr. Beals said, “yes”, subject to review by Judith

Nitsch Engineering, Inc. (JNEI).

Member Eliot said the Board must determine if the two plans are substantially different in its special permit deliberations.

Mr. Johnson said the applicant is not asking for a final lot count at this time. Chairman Degen said the Board must wait for JNEI's report and the letter from Town Counsel on soil contamination before determining the Basic Number of Lots.

Member Eliot asked about the proposed density. Mr. Yonika said the Basic Number of Lots is 75 plus seven affordable units. The additional incentive lots for open space brings the total number of proposed lots to 117. Mr. Yonika said the lots have been downsized from 40,000 sq ft to 30,000 sq ft to save more open space.

Member Wilson said, as an advocate of conservation subdivisions, he preferred the cluster development plan from the beginning.

Member Perkins reminded the applicant that incentive lots are capped at 20% of the Basic Number of Lots under § 218-26F(1)(g). In addition, 50% of the lots should be single-family. Mr. Yonika said the Board can waive the percentage of single-family units.

Member Perkins said she, too, prefers the cluster development but must hear from JNEI and Town Counsel before voting on the special permit.

Member Clements said he believes that building the minimum number of dwelling units is in the Town's best interest. The conventional plan results in fewer units than the cluster development. However, he said he likes the cluster design better provided that the number of units is the same as the Basic Number of Lots. Mr. Yonika noted that the Zoning By-law permits duplexes by right on conventional lots. If the Basic Number of Lots is 75, then 150 units can be constructed by right. Member Clements said he never saw a developer build all duplexes and does not think it will happen here.

Member Clements asked how many acres will be set aside as open space. Mr. Yonika said they did not know at this time. Member Clements asked if the open space will be fields or woods. Mr. Yonika said it will be all the open fields and some woodlands. Member Clements stated that the field habitat is valuable, but the woodlands are more valuable. He added that the orchard is not profitable and it is not in the Town's best interest to preserve the orchard. He said he must see the results of the soil testing in the orchard area before making a decision.

Member Barringer said he would like to hear from JNEI prior to voting. However, he said he philosophically prefers the cluster plan. He asked when the final calculations would be submitted. Mr. Beals said if they submit a "green" plan, they will prepare a definitive plan with all the calculations and engineering details in the near future.

Chairman Degen said he prefers the cluster plan, but he is not ready to vote until the Board receives the JNEI report and the letter from Town Counsel. He asked if the applicants have had any discussions with the Groton-Dunstable Regional School District about land for an elementary school. Mr. Beals said, "no," a school site would be very difficult if not impossible in this location.

Chairman Degen asked if they could eliminate one of the lots along Farmers Row to keep the vista open. Mr. Beals said he believes this lot is outside the view shed.

Member Wilson said if the applicant's goal is to keep the orchard working, the Board may want to hire an expert to determine whether the orchard is viable. Mr. Beals said the applicant is hoping to sell the land as a "hobby" farm and not as a commercial orchard.

Hale Smith of Groton School asked if the land is still owned by the Trust and has not been sold to the developer yet. Mr. Beals said that is correct.

Mr. Smith asked if the ANR lots are included in the 75 Basic Number of Lots. Mr. Yonika said, "yes," the ANR lots were included in the calculations. Mr. Smith asked what the ratio of single-family to multifamily units will be. Mr. Yonika said of the 117 total units, 45 will be single family.

Marion Stoddart said she prefers that no houses be built on this gorgeous land. This area is a significant gateway to the Town with open fields, orchards, and woods. Land in active agricultural use is being lost. This land is very visible and important to the Town's character. She said it is very important to have contiguous open space in this area and to preserve the trails.

Abutter Ann Luther said they would prefer that no houses be constructed. Her house is 300 years old and it a very special, historic home. She said Groton's distinctive look should be preserved. She said the houses to be clustered behind her house would be very visible.

Laurie Heron asked how the 72 multifamily units will be separated. Mr. Yonika said they do not know yet. This plan is conceptual only. The configuration of the roads and houses may change. Ms. Heron said she prefers more contiguous open space.

Larry Harrington said a traffic study should be done for Farmers Row which is very busy. Chairman Degen said the plan is still at the preliminary stage. Traffic studies are usually done at the definitive plan stage.

John Ott expressed concern about the historical integrity of the gateway to Groton. This view shed is a gateway to the Town and makes Groton different than other towns.

Mr. Heron asked if multifamily units can be constructed on ANR lots. He said he also prefers more contiguous open space.

Member Eliot said the Board would like to work with the applicant to erase the ANR lots as shown on the plan. Mr. Beals said the ANR lots will remain on the plan.

Member Lewis said he would prefer to see the multifamily development moved toward the rear of the site in the wooded area.

Member Perkins asked the applicant to consider more multifamily and less single-family detached units so the development can be more concentrated to preserve more open space.

Chairman Degen asked if the applicant could consider using TDR's to develop the adjoining parcel instead of the orchard on Farmers Row. He said he would prefer to see a true cluster development plan for this area.

Member Clements said the Board is trying to preserve the character of the Town and would like the developer to consider the impact of the project on the Town as a whole.

Member Eliot said when the ANR lots were shown to the Planning Board, the Board was told that they were only for financing purposes. She cited § 218-26B which states:

"Applicability. Any creation of lots, whether a subdivision or not, from a parcel or contiguous parcels held in common ownership in existence as of October 15, 1990, may proceed under this section pursuant to issuance of a special permit by the Planning Board. No parcel created after October 15, 1990, pursuant to endorsement under MGL C. 41, ~ 81P (Plan Not Requiring Approval Under the Subdivision Control Law) or MGL C. 41, ~ 81U (Definitive Plan) shall be eligible for open space residential development, unless the Planning Board determines that the development upon said parcel(s) does not substantially derogate from the purposes of Subsection A. Owners of contiguous parcels may submit joint applications for open space residential development, provided that the parcels were created before October 15, 1990, or provided that such parcels are deemed suitable for open space residential development as set forth above. Such special permits shall be acted upon in accordance with the

following provisions.”

Mr. Beals said it makes sense to create ANR lots in these locations. Chairman Degen said the applicant may want to review § 218-26B.

Member Lewis said he prefers the cluster plan if JNEI and Town Counsel’s letters are incorporated into the Board’s decision.

Member Eliot said she would not vote at this time. Other members agreed that they did not want to vote until the JNEI report and Town Counsel’s letter were received.

The Board voted unanimously to continue the public hearing on September 26, 2002 at 8:30 PM.

PUBLIC HEARING (con’t) – SPRINT/TABCOM SPECIAL PERMIT

The Board continued the public hearing to consider the application for a special permit submitted by Sprint to construct a 120 ft monopole telecommunication tower on land owned by the American Baptist Churches of Massachusetts.

The Board received a letter from Sprint’s attorney, Scott Lacey, requesting a continuation of the public hearing to October 3, 2002.

David Maxson of Broadcast Signal Labs, the Board’s consulting engineer, was present. Mr. Maxson said he observed Sprint’s balloon test and the VHB studies. He said he was satisfied with the report and will send a letter to the Planning Board on the applicant’s visual impact report.

The Board voted unanimously to continue the public hearing on October 3, 2002 at 9:00 PM.

PRELIMINARY PLAN – HUNT CLUB MEADOWS

The Board consider the preliminary subdivision plan submitted by the Strachan Family Trust for land off Shirley Road. Design engineers Larry Beals and Don Yonika of Beals Associates, Bill Conley of the Strachan Family Trust, and Attorney Robert Orsi were present.

Mr. Beals presented the plan to create two large lots on a short cul de sac. The plan complies with the subdivision regulations. The Trust is submitting the preliminary plan to protect the land from any zoning amendment such as the contemplated change in the Development Rate By-law.

Member Barringer asked if the Town owns the adjacent land along the Nashua River. Mr. Beals said, “yes,” the Marion Campbell Trust conveyed this parcel to the Groton Water Department a few years ago.

Member Clements expressed his aversion to the tactic of grandfathering land from potential zoning changes. He asked if this is a plan for two lots or will the plan be modified in the future. Planning Administrator Michelle Collette said if the definitive plan is submitted within seven months and subsequently approved and endorsed by the Planning Board, the land shown on the plan is protected for eight years from the date of endorsement. The definitive plan can be modified and more lots created under the zoning provisions in effect the date of preliminary plan submission.

Member Perkins asked the length of Shirley Road from Farmers Row to the proposed cul de sac. Mr. Beals said it is 1500 ft long, but it is a public way. Member Perkins said Shirley Road must be improved to the cul de sac to provide adequate access to the lots.

Chairman Degen asked how many lots would be served by Shirley Road. Mr. Beals said seven lots including the recently endorsed ANR plans. Chairman Degen asked the acreage of the proposed lots. Mr. Beals said one lot has 160 acres and the other lot has 30 acres for a total of 190 acres.

Chairman Degen asked the name of the proposed cul de sac. Mr. Beals said “Fox Hound Lane”. The Board suggested

that the applicant check with the enhanced 9-1-1 liaison on the names of the road because it may conflict with “Fox Run.”

Marion Stoddart asked if any new houses are proposed. Mr. Beals said, “no,” this plan only creates two new lots. Ms. Stoddart stated that she is interested in protecting the Nashua River and its greenway. At the present time, over 90 miles of the 112-mile greenway have been permanently protected.

Member Lewis asked how the Water Department accesses its land along the river. Mr. Beals said there is access over the AT&T easement.

The motion was made by Lewis to approve the preliminary plan entitled, “Hunt Club Meadows”, prepared by Beals Associates, dated August 1, 2002, with the following recommendations:

1. The proposed cul de sac and Shirley Road will provide adequate access for the two lots shown on the plan.
2. The cul de sac must be designed and constructed to “lane” standards.
3. Any additional development on the land shown on the plan will require improvements to Shirley Road.
4. The name of the cul de sac must be approved by the Town’s 9-1-1 liaison.
5. The 300 ft greenway along the Nashua River shall be protected and a public access trail shall be provided to the abutting DEM property.

The motion was seconded and passed unanimously.

ANR PLANS

Kobrin, Skyfields Drive

(Note: Member Clements did not participate.)

The Board considered the Approval Not Required plan submitted by Robert Kobrin and Elizabeth Rodeno to create two hammerhead lots off Skyfields Drive. Attorney June Johnson presented the plan. She said the Board granted a special permit for the hammerhead lots on November 15, 2001. The motion was made by Eliot to endorse the plan entitled, “Plan of Land in Groton, Mass. Prepared for Robert Kobrin and Elizabeth Rodeno,” prepared by David Ross Associates, dated August 2001. The motion was seconded and passed unanimously.

Kirk, Wyman Road

The Board considered the Approval Not Required plan submitted by George and Deborah Kirk to create two lots on Wyman Road and Nashua Road. The motion was made by Eliot to endorse the plan entitled, “Plan of Land in Groton, Mass. Owner/Applicant: George and Deborah Kirk,” prepared by R. Wilson & Associates, dated August 2, 2002. The motion was seconded and passed unanimously.

COMMENTS TO SELECTMEN – CHAPTER 61 RIGHT OF FIRST REFUSAL

The Board discussed its comments to the Board of Selectmen on the right of first refusal under Chapter 61 for land owned by Edward and Jean Mason on Old Dunstable Road. June Johnson of the Groton Land Foundation explained that the GLF will purchase the 140 acres, create two hammerhead lots, and place the remaining 130 acres in conservation.

The motion was made by Perkins to recommend that the Board of Selectmen not exercise the Town’s right of first refusal for 143 acres of land, owned by Edward and Jean Mason, located on Old Dunstable Road. The Board understands that the Groton Land Foundation will purchase the land and only two hammerhead lots will be created. The remaining 130 acres will be permanently protected open space. The motion was seconded and passed unanimously.

FST CONTRACT

The Board reviewed the proposal dated August 22, 2002 submitted by Gary Hebert of Fay, Spoffard and Thorndike for review of Shaw's site plan and traffic studies. The Board voted unanimously to execute the contract.

EXECUTIVE SESSSION

The motion was made by Lewis to enter into executive session to discuss on-going litigation with Sprint and that the Board would not return to open session. The motion was seconded and passed by roll call vote with Members Degen, Barringer, Clements, Eliot, Lewis, Perkins and Wilson in favor.

The motion was made by Perkins to end executive session. The motion was seconded and passed by roll call vote with Members Degen, Barringer, Clements, Eliot, Lewis, Perkins and Wilson in favor.

Meeting adjourned at 10:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator