

**GROTON PLANNING BOARD
SEPTEMBER 26, 2002
MINUTES**

Chairman Degen called the meeting to order at 7:30 PM in the Town Hall

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

PUBLIC HEARING – ROCKY HILL DEFINITIVE PLAN

The motion was made by Clements to continue the public hearing on the Rocky Hill (Whip-O-Will Lane) definitive plan at 8:30 PM. The motion was seconded and passed unanimously.

PUBLIC HEARING – SPECIAL PERMIT, MASON “BACK 100”

In accordance with the provisions of Chapter 40A, Sections 9 and 11, the Groton Planning Board held a public hearing to consider the applications submitted by the Groton Land Foundation for a special permit to utilize the provisions of Groton Zoning By-law Section 218-23.1 Hammerhead Lots to create two hammerhead lots and a special permit to utilize the provisions of Section 218-23D Shared Driveways to construct a shared driveway serving Lots 1 and 2 as shown on the plan entitled, “Mason Back 100 Land – Hammerhead Lot Layout, prepared for Groton Land Foundation,” prepared by Pine and Swallow Associates, Inc, dated September 2002. The proposed lots are located on land owned by Edward & Jean Mason, Assessors Lots 247-2, 247-3, 247-6 and 247-12, on the westerly side of Old Dunstable Road.

Chairman Degen called the hearing to order. Clerk Wilson read the notice published in the September 13 and 20, 2002 issues of *The Groton Herald*. Robert Pine, June Johnson, and Marion Stoddart of the Groton Land Foundation, and several abutters were present.

Mr. Pine said the Groton Land Foundation (GLF) has a Purchase and Sales Agreement on 140+ acres of land owned by Edward and Jean Mason. The GLF is proposing two hammerhead lots, one with five acres and the other with eight acres. The lots will be served by a shared driveway. The remaining 130 acres will be protected open space. The land abuts Blood Road, owned by Robert Gamlin. Blood Road does not provide legal access to the proposed lots. Mr. Pine described the special qualities of the land, which abuts the 700-acre Wharton Plantation owned by the New England Forestry Foundation, and 13 acres of land owned by the Conservation Commission in the Whispering Brook subdivision.

Member Perkins asked the length of the shared driveway. Mr. Pine said it will be about 1500 ft, but emergency vehicles can also use Blood Road as access. Access to the lots will be over the shared driveway, and the GLF is hoping to obtain an easement from Mr. Gamlin to use Blood Road for public access to the open space.

Member Perkins asked if the terrain is very steep. Mr. Pine said, “no,” it is gentle with the steepest area being about 10% in one location.

Member Eliot asked if building envelopes would be shown on the plan. Mr. Pine said building envelopes are not on the plan today, but the GLF will control the amount of clearing in the agreements on the sale of the lots.

Member Wilson expressed his support of the plan because it maximizes open space, minimizes development, and the protected land will connect with abutting open space. The plan meets the goals and objectives of the Comprehensive Master Plan.

Chairman Degen agreed that the plan is consistent with the Comprehensive Master Plan and said he appreciates the efforts of the landowner and the GLF. He asked about access for fire trucks in the area of the driveway with a very sharp turn. Mr. Pine said the driveway would be accessible for emergency vehicles. Chairman Degen said the Board must have a recommendation from the Fire Chief before voting on the special permit.

Abutter David Carpenter, 571 Old Dunstable Road, said he appreciates the Mason’s generosity. It is a good plan, but it could be better. He suggested using Blood Road to access the lots rather than constructing a new shared driveway.

He said there is no evidence that Blood Road was ever discontinued as a public way.

Mr. Carpenter said the proposed hammerhead lots would result in housing that is “three-deep” because the proposed lots abut other hammerhead lots on Old Dunstable Road.

Mr. Carpenter noted that the area provides habitat for blundings turtles that are being studied by students from the University of Massachusetts. Mr. Carpenter said the turtles nest in his yard in May and June.

Member Wilson asked why Blood Road will not be used as access. Mr. Pine said there is public benefit to having Blood Road used as the public access to the open land rather than as a private driveway to the lots.

Member Wilson asked if the proposed shared driveway will be paved. Mr. Pine said only if the homeowners want to pave it.

Member Lewis said since Blood Road is a straight shot off Old Dunstable Road, using it as a driveway could be problematic because it may cause confusion for traffic on Old Dunstable Road

Abutter James Cowie, 58 Whispering Brook, expressed full support of the proposed plan because it minimizes impact on the land. He said he appreciates the possibility of public access over Blood Road. He asked about the access easement from Whispering Brook Road.

Mr. Pine said the easement from Whispering Brook was established when the subdivision was approved to provide future access to the Mason property.

Roland Ungerer, 498 Old Dunstable Road, stated his support for the plan. He said he has walked and cross-country skied on this land and appreciates that it will remain open.

Member Clements asked if there is a priority habitat in this area. Mr. Pine said not on the lots, but there is around the bog on the protected open space.

Chairman Degen read the comments from the Conservation Commission.

Abutter Jeff Bradburn, 569 Old Dunstable Road, said he lives on the hammerhead lot next to Mr. Carpenter. He expressed concern about headlight glare shining into his bedroom from cars using the shared driveway. He noted that there is a stonewall in this location that should not be disturbed. Blundings turtles nest on his land, too.

The Board will conduct a site walk on Sunday, September 29, 2002, at 8:00 AM. The Board voted unanimously to continue the public hearing on October 10, 2002 at 7:45 PM.

SITE PLAN REVIEW (con't) – LAWRENCE ACADEMY

The Board continued its review of the site plan submitted by Lawrence Academy for the classroom building and new dormitory. Larry Leisure of Lawrence Academy, design engineer Stephen Mullaney of David Ross Associates, and contractor David Mullaney of Mullaney Corporation were present.

Chairman Degen read comments from the Fire Chief and the Water Department. In addition, the Board received a letter dated September 23, 2002 from David Ross Associates and a report dated September 26, 2002 from Judith Nitsch Engineering, Inc. (JNEI).

Engineer Stephen Mullaney said no new parking is required, but they will replace any parking spaces removed by construction. Mr. Mullaney confirmed that Powderhouse Road is a public way as confirmed in a letter from the Town Clerk in 1973. Calculations for cut and fill show that approximately 2000 cubic yards of earth material must be removed from the site. Sand and gravel fill will be brought onto the site. The Historic Districts Commission is currently reviewing the proposal. The Fire Chief's concerns about access will be addressed. The applicant is requesting a waiver of the vertical granite curbing requirements because there is no vertical granite curbing on the

campus today. Mr. Mullaney said water quality and stormwater management issues are addressed in the David Ross Associates report dated September 26, 2002, and the Earth Removal Advisory Committee has issued an Erosion Control Permit.

Member Barringer asked about the lights on the athletic building. Mr. Mullaney said the existing lights will be removed and replaced with lights on poles. Member Barringer asked if there will be new plantings in this area. Mr. Mullaney said, "yes," along the wall of the athletic center.

Member Eliot asked if the area near the athletic center could be used for the access road. Mr. Mullaney said they could look into it, but they must consult with the Fire Chief first.

Member Perkins asked if the existing drainage area will be restored and maintained. Mr. Mullaney said the Earth Removal Advisory Committee included maintenance of the drainage basin in the conditions of the Erosion Control Permit.

Chairman Degen requested that the applicant submit a written list of waivers being requested. Mr. Mullaney said under Chapter 40A, § 3, and the Dover Amendment, this is an educational use and exempt from zoning. However, waivers were listed in the David Ross Associates letters dated June 21, 2002 and September 23, 2002.

The motion was made by Perkins to approve the Level II plan entitled, "Definitive Level II Site Plan of Land in Groton, Mass. Prepared for Construction by Mullaney Corporation at Lawrence Academy" prepared by David E. Ross Associates, dated August 8, 2002, with the following waivers and conditions:

Waivers:

1. The Planning Board voted to grant all the waivers requested in the letters dated June 21, 2002 and September 23, 2002 from David Ross Associates.

Conditions:

1. The applicant shall address all the outstanding issues in the report dated September 26, 2002 from Judith Nitsch Engineering, Inc. (JNEI), the Board's consulting engineer, prior to the issuance of any building permits.
2. The applicant shall install three additional fire hydrants as requested by the Fire Chief in his memorandum dated September 26, 2002 to the Planning Board.
3. As offered by the applicant, six to eight crabapple trees shall be planted along the wall of the athletic center to provide visual screening.
4. The Board recommends that the existing retention basin near the athletic center be cleaned out and maintained to improve its stormwater management capacity.
5. The applicant shall explore alternative access from the athletic center parking lot to the proposed new dormitory.
6. There shall be no net increase in the rate or volume of storm water runoff from the site as required in Section 218-25G(1)(c).
7. Parking for the disabled and access to the building shall comply with the requirements of the Architectural Access Board Regulations, 521 CMR, and the Americans with Disabilities Act.
8. The project must receive a Certificate of Appropriateness from the Historic Districts Commission.
9. All signs must conform to the Sign By-Law, Chapter 196 of the Code of the Town of Groton.

10. Three copies of the final site plan approved by the Planning Board shall be submitted to the Board for endorsement as required in Section 218-25G(3).

The motion was seconded and passed with Barringer, Clements, Eliot, Lewis, Perkins, and Wilson in favor; Degen abstaining.

GROTON DUNSTALBE MIDDLE SCHOOL PRE-SUBMISSION REVIEW

The Board met with Steven Prendergast and Charles Vander Linden of the Groton Dunstable School District Building Committee, William Murray and Mason Palmer of David Ross Associates, and architect Robert Juusola of HMFH to discuss the proposed renovation of the existing high school to a new middle school.

Mr. Murray submitted new calculations for parking requirements at the school campus. The entrance will be changed to reduce stacking at the intersection. The parking lot will be reconfigured to clarify traffic circulation. The revised parking calculations are based upon use when school is in session or when all of the places of public assembly are in use. Mr. Murray asked the Board if this is reasonable. The by-law requires 883 spaces, and 409 spaces are shown on the plan.

Member Lewis said there may still be problems when there are events at the schools if buses do not have enough room to park for pick up and drop off. He also requested that the schools address the lighting problems for the neighbors by toning the lights down.

Member Perkins asked if there would be additional parking behind the high school. Mr. Murray said there would not be any changes in this area. Member Perkins asked how many spaces are there today. Mr. Murray said there are 398 spaces now and 409 are proposed.

Member Barringer said the applicant should take adult education classes into consideration when calculating the number of spaces required in the evening. Mr. Murray said the schools cannot provide any additional parking unless they remove one of the playing fields.

Chairman Degen said the Board appreciates the constraints with the site and the budget. There will be 409 parking spaces unless the schools decide to give up valuable playing fields. He stressed that access for buses and traffic circulation must be made clear by installed signage. He asked how many parking spaces for the disabled are required. Mr. Murray said 14 spaces are needed, but he will confirm this number.

PUBLIC HEARING (con't) – GIBBET HILL ORCHARD SPECIAL PERMITS

The Board continued the public hearing to consider the special permit applications submitted by Newbury Street Development for Major Residential Development, Cluster Development, Flexible Development, and Shared Driveway for the Gibbet Hill Orchard preliminary plan to subdivide land located on Farmers Row. Applicant Joseph Falzone, Lawrence Beals and Donald Yonika of Beals Associates, Attorneys Mark Johnson and Ray Lyons, Town Counsel Judith Cutler and abutters were present.

Mr. Beals described the Major Residential Development process and stated that the applicant prefers the cluster development approach. More information will be submitted to the Board as soon as all the engineering issues have been resolved.

Chairman Degen asked Town Counsel Judith Cutler to summarize her letter dated September 4, 2002. Attorney Cutler said the calculation of the Basic Number of Lots could be impacted if the lots shown on the conventional plan could not be approved by the Board of Health because it determined those lots are not safe for public health reasons or if the Planning Board determines that extraordinary engineering techniques are required. She said the Planning Board and Board of Health can talk to the developer about the results of soil testing in the orchard area. The Boards must have more information to determine whether the soils are contaminated in that area.

Chairman Degen asked if the applicant met with the Board of Health to discuss this matter. Mr. Beals said they have not done so yet, but the testing and mitigation plans will be discussed with the Board of Health at the definitive plan

stage.

Chairman Degen said there are about 30 acres of land near Shirley Road that may not qualify as house lots, but other areas of the site have old apple trees. He asked how the Boards would know what was orchard land in the past. Mr. Beals said if the developer submits a conventional plan, each lot would have to be mitigated to meet DEP standards.

Member Barringer asked if any testing has been done to date. Mr. Beals said only background testing which indicates that the situation is manageable. Mr. Beals said the applicant knows the Board of Health must approve the plan before the lots can be developed. He said the plan will comply with the Subdivision Regulations. The JNEI report did not mention any concerns about extraordinary engineering.

Member Clements said the letter from Town Counsel is very clear, The applicant must demonstrate what lots can be built upon on this land, what the levels of contamination are, and what is required to mitigate the contamination.. The applicant must meet with the Board of Health first to determine what must be done.

Member Lewis said there are many different ways to develop land including subdivisions and ANR lots. He said there is no guarantee that any lot is buildable. The applicant must submit plans to the Board of Health to determine if the lots are buildable.

Attorney Cutler said the intent of the Basic Number of Lots calculation is to establish the number of lots that could be developed with a conventional plan. Even if the Board determines the Basic Number of Lots, the applicant must still go before the Board of Health. The Planning Board has discretion in granting a special permit.

Member Clements said it is prudent for the Board to decide if the subdivision and apple orchards are compatible uses.

Chairman Degen noted that the Board received a letter dated July 24, 2002 from the Board of Health on the proposed preliminary plan and special permit applications. Member Lewis noted that the preliminary plan is a working plan; it is not a definitive plan.

Member Eliot expressed concern about the creation of ANR lots and the conflict with §218-26B. She said she does not believe the Board should act on the special permit until the testing information has been submitted and reviewed by the Board of Health.

Board of Health Chairman Susan Horowitz said the Board of Health will work with the applicant to where to test. The Board of Health will rely upon advice from experts in this matter. Mr. Beals said the Licensed Site Professional (LSP) must be registered by the State to do testing. The testing program must follow established protocols under Chapter 21E.

Member Wilson asked when this process will take place. Mr. Beals said it is too early in the process at this stage. The applicant is looking for guidance from the Planning Board on whether it prefers a conventional plan or Open Space Residential Development plan. Member Wilson said the testing must be done to determine whether or not the land is buildable. Mr. Beals said the JNEI report stated that the road can be constructed without extraordinary engineering. The applicant is taking a calculated risk on the arsenic levels. He said they do not want to test the entire site and would prefer to wait until they know if this will be a conventional plan or a special permit plan.

Member Wilson asked if the soil testing program could be designed now to give the Board picture of the soil conditions.

Attorney Mark Johnson said there are three different questions:

- 1) Is the soil remediation an “extraordinary engineering technique?”
- 2) Is the land safe?
- 3) Will the Board of Health allow it?

Attorney Johnson said ultimately, the granting of the special permit is the Planning Board’s decision – not the Board of

Health's. He requested the Planning Board's opinion on what constitutes an "extraordinary engineering technique." He added that the Planning Board should not be involved in lot development. I should look at roadway standards, but not the development of individual lots. He asked for the Board's interpretation of §218-26C Basic Number of Units.

Chairman Degen said the lots are developed off the roadway network. He asked if the applicant will test the soils in the proposed road right-of-way throughout the subdivision.

Attorney Cutler said the preliminary plan was submitted to the Planning Board and the Board of Health under the provisions of the Subdivision Control Law. The Board of Health makes a recommendation to the Planning Board before the Planning Board makes its decision. Perhaps the Planning Board should deal with the Major Residential Development special permit with a condition that the special permit for flexible development shall include a plan for soil testing approved by the Board of Health. She stressed that the applicant must meet with the Board of Health before going forward with a testing program.

Member Wilson asked if there is a definition of "extraordinary engineering" in the Zoning Bylaw. Planning Administrator Michelle Collette said, "no." Board of Health Chairman Susan Horowitz said the Board of Health would like the term defined as well.

Attorney Cutler said the Board must consider what constitutes "extraordinary engineering" when considers a special permit application. Chairman Degen said the Board must know the levels of contamination in the soil in order to determine if removal of the soil is extraordinary engineering.

Attorney Johnson stated that the term "extraordinary engineering" only applies to applications submitted under Open Space Residential Development.

Attorney Ray Lyons requested that the Board determine the Basic Number of Lots so the plan can move forward. If cleaning the soils is required, it is not "extraordinary engineering."

Member Eliot said the Board does not know the extent of the soil contamination at this time. Member Wilson agreed that the Planning Board cannot make a determination on the Basic Number of Lots is if there is an adverse recommendation from the Board of Health.

Attorney Cutler said under the Subdivision Control Law, the Board of Health must make a recommendation to the Planning Board. If the Board of Health recommends that the Planning Board disapprove the plan, the Board cannot approve the plan. However, when acting on the special permit, the Planning Board has discretion. The Board cannot determine the Basic Number of Lots without the results of the soil testing.

Chairman asked if the applicant would withdraw the special permit applications if the Board voted on the preliminary plan. Attorney Lyons said, "no," withdraw the applications would serve no purpose.

Abutter Jackie Butler asked if the entire site would be tested so there would be no questions about the safety of the site in the future. Chairman Degen said the testing program must be overseen by the Board of Health. Mr. Beals said the LSP will determine the testing protocol.

The motion was made by Barringer to extend the deadlines for the Major Residential Development and OSRD/Cluster public hearings to November 15, 2002 as requested by the applicant. The motion was seconded and passed unanimously.

The motion was made by Barringer to extend the deadlines for the Shared Driveway and Residential Development and OSRD/Flexible public hearings to November 15, 2002 as requested by the applicant. The motion was seconded and passed unanimously.

The motion was made by Perkins to approve the preliminary plan entitled, "Preliminary Plan for the Subdivision of Land for Wildflower Meadows (formerly Gibbet Hill Orchard) in the Town of Groton, Massachusetts", prepared by Beals Associates, dated July 25, 2002 with revisions through August 5, 2002, with the following recommendations:

1. The approval of the above-referenced preliminary plan does not constitute a determination of the Basic Number of Lots under Groton Zoning By-law § 218-26C Basic Number of Units.
2. As recommended by the Board of Health in its July 24, 2002 memorandum to the Planning Board, the applicant shall conduct soil testing of the areas that are or were used as orchards. The soil testing must be conducted by a Licensed Site Professional, and the results of the testing must be submitted to the Board of Health for its review and approval.
3. All outstanding issues in the Judith Nitsch Engineering, Inc. (JNEI) report dated September 23, 2002 shall be addressed by the applicant at the definitive plan stage.
4. The name of the subdivision and subdivision roads shall be submitted to the Police Department's 9-1-1 Liaison for review and approval.

The motion was seconded and passed with Barringer, Lewis, Perkins and Wilson in favor; Clements and Degen opposed; Eliot abstaining.

The Board voted unanimously to continue the public hearings on the special permit applications on November 7, 2002 at 7:30 PM.

ANR PLAN – MARY ALLEN, WHARTON ROW

The Board considered the Approval Not Required plan submitted by Mary Allen and Meeting Way to create two new lots on Wharton Row, an approved subdivision road. The motion was made by Eliot to endorse as Approval Not Required the plan entitled, "Plan of Land in Groton, Massachusetts," prepared by Doucette Survey, Inc., dated September 20, 2002. The motion was seconded and passed unanimously.

ARTICLE 16 – PROPERTY ON STATION AVENUE

The motion was made by Wilson to support Article 16 to purchase the MacGregor property on Station Avenue because the parcels abut land presently owned by the Groton Electric Light Department. The acquisition of Parcels 53 & 54 will enhance the value of GELD's land. The proposed redevelopment of this area is consistent with the goals and objectives of the Comprehensive Master Plan.

Meeting adjourned at 11:45 PM

Respectfully submitted,

Michelle Collette
Planning Administrator