

**GROTON PLANNING BOARD
DECEMBER 12, 2002
MINUTES**

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

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

Members absent: Barringer

SPECIAL PERMIT DECISION – SPRINT/TABCOM

Attorney Scott Lacey, representing Sprint, was present because the Board was scheduled to vote on the special permit decision for Sprint's tower on the American Baptist Churches of Massachusetts property. However, Member Barringer was not present and two other members had not arrived yet so the Board could not act.

FIRST PARISH CHURCH DRAINAGE ISSUES

Chairman Degen reported that the Groton Highway Department and the contractor for the First Parish Church completed the work along Route 40 to correct the drainage problems resulting from the addition to the church and related site work.

ANR PLAN – WILLIAM CARSON, MAPLEWOOD AVENUE

The Board considered the Approval Not Required (ANR) plan submitted by William Carson to create two small parcels between Maplewood Avenue and the shore of Lost Lake to provide access to the water. The motion was made by Perkins to endorse as Approval Not Required the plan entitled, "Plan of Land in Groton, Mass. Prepared for William Carson," surveyed by Dillis and Mische, dated November 22, 2002. The motion was seconded and passed unanimously.

CARMICHAEL ESTATES II

The Board received a report dated December 11, 2002 from Judith Nitsch Engineering, Inc. (JNEI) regarding the final paving at the Carmichael Estates II subdivision. Members of the Board questioned why the report stated, "This work also appears to substantially conform to the approved definitive plan."

The motion was made by Perkins to first request clarification from JNEI on the meaning of the term "substantially conform" and then to notify the insurance company that the paving is complete. The motion was seconded and passed unanimously.

WOODLAND PARK BOND

The motion was made by Perkins to extend the triparty agreement for the Woodland Park subdivision to November 19, 2003. The motion was seconded and passed unanimously.

SITE PLAN REVIEW – SHAW'S SUPERMARKET

The Board voted unanimously to continue the review of Shaw's site plan on January 23, 2003 at 8:00 PM. Shaw's requested the continuation to allow time for the ZBA to consider the special permit application for more than 40% impervious surface in a Water Resource protection District. The ZBA will hold a public hearing some time in January to consider the application.

LOT 3 AFFORDABLE UNITS, CRANSTON CONSTRUCTION, SANDY POND ROAD

The Board received a report dated December 12, 2002 from JNEI stating all the drainage issues with Cranston Construction's affordable housing project on Sandy Pond Road have been resolved. The motion was made by Wilson to recommend that the Building Inspector grant a building permit. The motion was seconded and passed unanimously.

SPECIAL PERMIT DECISION – SPRINT/TABCOM

Mr. Lacey requested that the Board postpone voting on the special permit until all members are present. The motion was made by Perkins to postpone the vote on Sprint's special permit decision until December 19, 2002 at 7:30 PM. The motion was seconded and passed unanimously.

(Member Eliot arrived.)

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

There were only five members present at the time the Board opened the public hearing. Attorney Ray Lyons, representing the applicant, requested that the Board wait until Member Lewis arrived.

The motion was made by Wilson to continue the public hearing for the Gibbet Hill Orchard special permit applications until after the site plan review for the Groton Dunstable North Middle School. The motion was seconded and passed unanimously.

SITE PLAN REVIEW (con't) – GROTON-DUNSTABLE NORTH MIDDLE SCHOOL

The Board continued its review of the site plan submitted by the Groton Dunstable Regional School District for renovations to the existing high school that will be converted to the North Middle School. Building Committee Chairman Stephen Prendergast, Bill Murray and Mason Palmer of David E. Ross Associates, and architect Joel Nordberg were present.

Chairman Degen read the letter dated December 4, 2002 from the Police Chief and the comments from the Conservation Commission.

Mr. Murray said the design team had a long meeting with the Police Chief and Fire Chief since the last Planning Board meeting. All the changes recommended by the Police Chief have been added to the plan. The fire trucks will have complete access all around the building as requested by the Fire Chief.

Mr. Murray submitted a new lighting plan and photometric diagram to the Board along with the revised site plan. Three different types of fixtures will be used as shown on the plan. GELD will install new streetlights with new wiring and new fixtures.

(Member Lewis arrived.)

Mr. Murray submitted a phasing plan for construction as requested by the Planning Board. However, he noted that the school cannot dictate "means and methods" to the contractor. The Twomey Center will be fenced during construction and will not be in use during the summer months when construction is taking place.

Chairman Degen asked if the public safety officials have reviewed the phasing plan. Mr. Murray said, "no," but they will review it prior to commencement of construction.

Member Wilson asked if traffic would be one-way around the Twomey Center. Mr. Murray said, "yes," and there will be a time restriction on through traffic. Traffic will be able to go through only after school is not in session.

Member Clements asked about exterior lighting at night. Mr. Murray said the lights on the buildings will stay on all night, but the lights in the parking lot will be controlled by sensors and timers.

Chairman Degen asked what will happen with the construction-phasing plan if the work is not completed during the summer. Mr. Murray said the contract specifications may include penalties if the work is not completed by the deadline. Chairman Degen suggested that the school prepare a contingency plan just in case it is needed. Mr. Murray said if the work is not completed before school begins, the school can use nearby parking lots such as the Baptist Church and other small businesses in the area.

Carrie Kneeland asked if a portion of the access road will have two-way traffic. Mr. Murray said, "yes," the section of the road from the high school to the Twomey Center will be both ways. Ms. Kneeland asked why the entire access

road cannot be two-ways. Mr. Murray said the Police Chief does not want traffic in this area, and there is not enough room for a 24 ft wide access roadway.

The motion was made by Lewis that the Planning Board accept the proposed phasing plan contingent upon the approval of the public safety officials. The motion was seconded and passed unanimously.

The motion was made by Lewis to approve the Level II site plan entitled, "Groton Dunstable North Middle School," Groton, Massachusetts," Sheets C-0 through C-9, prepared by David E. Ross Associates and Burt Hill Kosar Rittelmann Associates Architects, dated October 25, 2002, with revisions through December 5, 2002, with the following conditions:

1. The Groton Dunstable Regional School District will make arrangements for overflow parking with nearby property owners. Written confirmation of the parking arrangements will be submitted to the Planning Board.
2. 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).
3. Lighting shall not intrude onto other properties or public ways as required in Section 218-25G(1)(h).
4. 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.
5. All signs must conform to the Sign By-Law, Chapter 196 of the Code of the Town of Groton.
6. The removal of any excess earth material from the site requires a Certificate of Exemption from the Earth Removal By-law, Chapter 134 of the Code of the Town of Groton. Chapter 134, Section 10 Exemptions.
7. An erosion and sedimentation control plan must be submitted to the Earth Removal Advisory Committee for its review and approval as required in Chapter 198 Soil Erosion and Sedimentation Control.
8. 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 unanimously.

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

The Planning Board continued the public hearings to consider the special permit applications submitted by Newbury Street Development under the provisions of Zoning By-law § 218-26.1 Major Residential Development, § 21826 Open Space Residential Development (Flexible), § 218-26 Open Space Residential Development (Cluster), and § 218-23D Shared Driveways. Applicant Joseph Falzone, Attorney Mark Johnson, Attorney Ray Lyons, design engineers Lawrence Beals and Donald Yonika of Beals Associates, Town Counsel Judith Cutler, and many abutters were present.

Chairman Degen read the letter dated December 11, 2002 from the Board of Health regarding soil testing and the proposed remediation plan.

Mr. Beals said they submitted the pilot study for the soil testing and remediation plan to the Board of Health. The Board of Health's consultant reviewed the plan, and the Board of Health approved the plan as stated in its letter to the Planning Board. The applicant would like to move forward with the determination of the Basic Number of Lots at this meeting.

Chairman Degen said the Board must determine the Basic Number of Lots in accordance with the provisions of § 218-26C. He asked if the land area contained in the ANR lots can be counted in the calculation of the Basic Number of Lots.

Town Counsel Judith Cutler said it does not matter whether number is based upon the smaller area without the ANR lots or the larger area including with the ANR lots because the end result is the same. According to the applicant's submission the Basic Number of Lots is 75 including the 11 ANR lots or 64 plus the 11 ANR lots. Chairman Degen agreed.

Mr. Beals submitted a memorandum dated December 12, 2002 summarizing the calculation of the Basic Number of Lots, the required affordable units, and incentive units for a total of 88 proposed units.

Member Lewis said if the Planning Board approves a plan with 88 lots and the Board of Health only approves 78 lots, there are only 78 buildable lots.

Town Counsel Judith Cutler said the applicant must demonstrate that the total number of lots is 75 including the ANR lots. The Planning Board's vote on the plan is subject to review and approval by the Board of health. In addition, the Planning Board must determine whether the creation of the lots involves "extraordinary engineering techniques."

Board of Health Member Matt Waterman said the Board of Health asked Dr. Susan Sundstrom, toxicologist, to review risk assessment prepared by MykroWaters on behalf of the applicant. She found no significant risks if the land is used for single-family development. If the orchard is left as open space, then the Board of Health needs a better plan to review. The soil can be roto-tilled and mixed with sand to dilute the arsenic to acceptable levels. The 72 soil samples showed the highest contamination to be in the top 6 inches of soil. 1500 cubic yards or 70 truckloads of sand will be added over a three-acre area to reduce the levels of contamination. This will raise the overall ground level approximately 4 inches.

Member Wilson asked if more loam is needed for lawns after this process is completed. Mr. Beals said soils will be a sandy-loam after the remediation. Mr. Falzone said the amount of fill needed for the remediation is similar to the amount required for construction of a sewage disposal system.

Mr. Beals added that the arsenic levels will be reduced to 11 pbm and the DEP standard is 30 pbm.

Member Eliot asked if the Board of Health tested the soil. Mr. Waterman said, "no," the applicant's Licensed Site Professional (LSP) tested the soil and the results were reviewed by the Board of Health's consultant, Dr. Susan Sundstrom.

Chairman Degen noted that, at the definitive plan stage, every lot must be scrutinized by the Board of Health. Mr. Waterman said, in addition, the Board of Health needs more information on what will happen with the open space.

Attorney Lyons said the orchard area can be divided into house lots or the orchard can be left as part of the preserved open space. Mr. Beals added if the orchard is active, it can be fenced so there is no public access. The applicant has demonstrated that contaminated areas can be remediated.

Member Perkins asked if the soil must be remediated in the open space area. If not, will the open space be able to be used by the public?

Chairman Degen said the Planning Board approved the preliminary plan with the condition:

"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."

He asked if the Board of Health is satisfied that the condition has been met. Mr. Waterman said, "yes."

Member Perkins said the Board must determine whether the open space is acceptable as agricultural land. If the land

is fenced and not used by the public, it may not meet the Town's needs. Chairman Degen agreed that the quality and quantity of open space are important considerations.

Attorney Johnson said Dr. Sundstrom looked at the possibility of children playing in the orchard area. The applicant is proposing that the open space be subject to a conservation restriction as part of a private lot. The orchard will be maintained as a working farm and public access will not be allowed.

Member Eliot said as part of the Board's determination of the Basic Number of Lots/Units, it must decide whether it is based upon "extraordinary engineering techniques."

Member Perkins asked if remediation of the soils throughout the site is extraordinary engineering. Mr. Beals responded by presenting a slide show detailing the methods used during the pilot-testing program. Mr. Beals said from an engineering perspective, the method is relatively simple.

Member Lewis said he does not consider the soil mixing to be extraordinary engineering. Chairman Degen and other Board members agreed.

The motion was made by Lewis to accept the Basic Number of Lots/Units as 75 on the 164.6 acres. The motion was seconded and passed unanimously.

Attorney Lyons requested that the Board also vote on the Major Residential Development special permit.

Carrie Kneeland asked what portion of the land has contaminated soils. Chairman Degen said the Board of Health will address this issue in more detail on a lot-by-lot basis at the definitive plan stage.

Abutter Jackie Butler asked if there is any risk to abutters from air-borne contaminants from dust during the soil mixing. The Planning Board responded that this concern will be addressed by the Board of Health and its consultant. Deborah Farnsworth of MykroWaters, Inc. said this concern was addressed in the risk assessment submitted to the Board of Health. Michael Murphy of MykroWaters said the risks are far below DEP limits. Mr. Murphy said Dr. Sundstrom reviewed the risk assessment and agreed.

Attorney Lyons reiterated his request that the Board act on the Major Residential Development special permit.

Member Perkins said she prefers an Open Space Residential Development plan rather than a conventional plan, but she would like to see a different configuration than the OSRD plan submitted with the application.

Member Lewis said he, too, prefers a cluster development plan, but not the plan submitted to the Board. Other members agreed that the proposed plan should be improved.

Town Counsel Judith Cutler said Major Residential Development requires that the applicant submit two plans for the Board's consideration. The Board must choose which plan is better. The Board can only deny the application if the plans are not submitted in good faith or do not comply with the by-law. She suggested that the Board continue to work with the developer to improve the OSRD plan before voting on the special permit. She said if the Board votes on the special permit for Major Residential Development based upon the plan as submitted, the developer could argue that the Board approved this plan. She recommended that the Board continue to work with the developer and identify changes in the cluster plan.

Member Clements said if the Board denies the special permit for Major Residential Development, then the developer is left with a "Footnote 1" plan which has much lower density.

Attorney Johnson said the special permit for Major Residential Development provisions would allow the Board and the developer to continue its discussion about the Open Space Residential Development plan that requires another special permit.

Member Eliot said the Board should keep the hearings open and continue working with the developer toward the goal of coming up with a better cluster plan. She suggested that the multifamily units be moved away from Farmers Row and located closer to Shirley Road where they will be less visible. She said she would like to see more housing diversity, including smaller houses on smaller lots.

Attorney Lyons said the applicant is willing to explore these options.

Member Clements expressed concern for the total number of lots in the development. He said he prefers smaller, two-bedroom houses for some of the units.

Member Wilson said he agreed that the development should be relocated to the southwest corner of the property as much as possible. He asked if the subdivision road off Farmers Row could be eliminated. He said he would like a tighter cluster to preserve the view shed. The area visible from Farmers Row should be left open. He also said the proposed houses should not be situated to look at other houses or back yards.

Member Eliot suggested that road be relocated to the area where the shared driveway is proposed. Member Perkins asked where the fencing around the orchard will be installed. Mr. Falzone said he does not want to fence in the orchard.

Member Perkins said she would prefer that all the traffic not go to Joy Lane. She would like to see the subdivision road relocated so it does not go through the orchard.

Member Lewis said the land along Farmers Row should be protected and the subdivision road should not be visible. The development should be located toward the rear of the property rather than near Farmers Row. He said he would like to see smaller, starter homes in the area near Shirley Road.

Chairman Degen agreed that the proposed subdivision road should be relocated to keep the land along Farmers Row open. He said Joy Lane can be used as a secondary access road. He suggested that the development be kept away from Amandrey Way in Ayer.

Carrie Kneeland asked about the conventional plan. Chairman Degen said the conventional, preliminary plan was reviewed by JNEI and it complies with zoning and the subdivision regulations.

Ms. Kneeland asked how many units will be in the proposed cluster development. Mr. Beals said there are 88 proposed units including seven affordable.

Marion Stoddart said she prefers more open space than the area shown on the plan. She encouraged the Board to look beyond our own town to connect open space and protect the river.

The Division of Fisheries and Wildlife manages the Ayer Pheasant Farm at the Ayer-Groton townline. She said she hopes the bridge over James Brook in Ayer will not be restored because this area contains important wildlife habitat including blanding's turtles. Restoring the bridge would result in a higher mortality rate for blanding's turtles. She asked the Board to consider the importance of protecting wildlife habitat in this area.

Member Wilson suggested the Board use a design consultant to assist in the planning process. He said he agreed that Shirley Road is a beautiful country land and the wildlife in this area should be protected.

Mr. Falzone said he would try to do many of the things the Board is asking him to do. However, he said he must use Shirley Road to access his land in Ayer.

The Board voted unanimously to extend the deadline to hold the public hearing to January 31, 2003 as requested by the applicant.

The Board voted unanimously to continue the public hearing on January 9, 2003 at 7:00 PM.

Meeting adjourned at 10:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

