

GROTON PLANNING BOARD

APRIL 23, 2003

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 (con't) – PROPOSED ZONING AMENDMENTS

The Board continued the public hearing to consider the proposed zoning amendments including:

- Water Resource Protection Districts
- Flexible Development
- Major Residential Development
- Development Rate Limitation
- New Open Space Agricultural District
- New Zoning Map

The Board had not received the latest revisions to the proposed amendments from Attorney Mark Bobrowski but did receive several editorial changes from Town Counsel David Doneski.

Flexible Development - The Board reviewed how the density bonus calculations would work under the proposed Flexible Development provisions. Bonuses will be available for providing additional open space, housing for people 55 and older, affordable housing, and for TDR's. The Board debated whether the 40% cap on density bonuses should include the required affordable units.

Member Perkins questioned the reference to a "design manual" since the Board does not have such a manual at the present time. Some members thought the reference should be removed and others wanted it to remain. The Board agreed to remove the reference to the design manual provided that the Board would continue to work on preparing a manual. The Board can propose an amendment in the future after the manual is adopted.

The Board debated the required open space requirements and whether or not wetlands should be included or excluded. The Board decided that the 35% required contiguous open space should not include wetlands. In addition, open space used to calculate bonuses cannot be wetlands.

Rate of Development - The Growth Management Advisory Committee (GMAC) requested more information on the proposed Rate of Development and Subdivision Phasing provisions. Member Wilson, who acts as the Board's representative on GMAC, said the Committee discussed whether or not Flexible Development projects should be exempted. GMAC is concerned that phasing Flexible Developments on a case-by-case basis will give the Planning Board too much latitude and may undermine the purpose of the Rate of Development provisions.

The Board expressed its satisfaction with the text of the Water Resource Protection Districts, Major Residential Development, the Open Space Agricultural District, and the new Zoning Map.

The Board voted unanimously to continue the public hearing on April 24, 2003 at 7:00 PM to review revisions to the Flexible Development and Rate of Development provisions.

PUBLIC HEARING (con't) – RESIDENTIAL COMPOUND REGULATIONS

The Board voted unanimously to continue the public hearing on April 24, 2003 at 7:05 PM.

SPECIAL PERMIT DECISION – NEXTEL EQUIPMENT ON GIBBET HILL TOWER

The motion was made by Barringer to GRANT a special permit to Nextel Communication to utilize the provisions of Groton Zoning By-law Section 218-25.1 Personal Wireless Services Facility to co-locate antenna and required ground equipment on Gibbet Hill Towers approved 150-foot monopole style telecommunications tower on land owned by Gibbet Hill Tower, LLC. The Planning granted the special permit based upon the following findings and with the

following conditions:

Findings:

1. Social, economic and community needs: The additional antennae array on the Gibbet Hill Tower, LLC approved 150-ft monopole telecommunication tower will serve the communications needs of the community by improving the quality of wireless communication within the Town of Groton and surrounding areas.
2. Traffic flow and safety: There are no traffic flow or safety issues associated with the addition of the antennae array on Gibbet Hill's approved tower.
3. Adequacy of utilities: The Groton Electric Light Department has indicated that it will be able to serve the proposed telecommunication facility and additional equipment as designed.
4. Neighborhood character: The additional antennae array will be installed at the 108 ft elevation AGL on Gibbet Hill's approved tower. The antennae will be an "optional modified full antennae array configuration" as offered in the letter dated April 10, 2003 from Nextel.
5. Impacts on the environment: The additional antennae array will have minimal impact on the natural environment and will have far less impact than construction of another tower.
6. Fiscal impact on the Town: The construction of an additional antennae array on the tower for the benefit of Nextel will not alter the fiscal impact on the town of this personal wireless facility. The applicant will pay personal property taxes to the Town of Groton for the value of the associated facilities.
7. The applicant demonstrated to the Planning Board's satisfaction that the location of the Nextel antennae array on the Gibbet Hill tower is necessary to provide coverage to the area.

Conditions:

1. Nextel's equipment will be installed at 108 feet elevation AGL on Gibbet Hill Tower, LLC's approved tower that is subject to conditions in Special Permit 2002-05 granted by the Planning Board on February 7, 2002. The antennae will be an "optional modified full antennae array configuration" as offered in the letter dated April 10, 2003 from Nextel to the Planning Board.
2. The telecommunication facility shall comply fully with all applicable requirements of Groton Zoning By-law § 218-25.
3. The telecommunications facility will comply with all applicable conditions enumerated in Special Permit 2002-05 granted to Gibbet Hill Tower LLC by the Planning Board on February 7, 2002.
4. On the annual anniversary date of the issuance of this special permit, the applicant shall submit to the Building Inspector evidence that the facility is in compliance with all state and federal requirements, including compliance with radio frequency emissions. The facility must cease operations if any emissions exceed these requirements.
5. The placement, construction and modification of a personal wireless services tower and its accessory structures, buildings and equipment shall be performed in accordance with all applicable local, state and federal requirements for the operation of such a facility.
6. The visual impact of any personal wireless services facility and any personal wireless services tower shall be minimized to the maximum extent possible. The additional antenna installed by Nextel shall be designed and constructed as a Modified Flush Mount antenna array as described and offered by the Applicant in the public hearing process. The additional antennae array installed on the tower by Nextel shall be the same color and finish as other approved carriers' equipment on the tower.

7. Night lighting of the personal wireless services tower (aside from security lighting at the base of a tower) shall be prohibited unless required by the Federal Aviation Administration. If the Federal Aviation Administration requires lighting, then the lighting used shall be the minimum lighting required.
8. There shall be a minimum of one parking space for each personal wireless services tower to be used in connection with the maintenance of a personal wireless services tower and the facility; however, the Planning Board may require additional parking spaces depending upon the number of providers and antennas and dishes that are to use the facility. The site shall not be used for overnight or permanent storage of vehicles.
9. Performance guaranty - The carrier shall provide a bond, in a form acceptable to the town, or shall place into escrow, the amount of \$15,000.00 to cover the costs of removing the facility from the subject property and, furthermore, said funds shall be held by an independent escrow agent to be appointed by the carrier and the Planning Board. The carrier shall authorize and, as necessary, shall provide the authorization of the owner of the property to allow the town or the escrow agent to enter upon the subject property to remove the facility when the facility has been abandoned or discontinued.
10. Annual certification shall be provided by the owner or operator of the personal wireless services facility to the Planning Board and the Building Commissioner demonstrating continuing compliance with the standards of the Federal Communications Commission, the Federal Aviation Administration and the American National Standards Institute.
11. This special permit shall not be in effect until a certified copy of the special permit decision is recorded at the Middlesex South Registry of Deeds as required in GL Chapter 40A, Section 11, and Groton Zoning By-Law Section 218-32.1. No construction or site alteration shall commence nor shall any necessary permits be issued by any Board or official until evidence of such recording is submitted to the Planning Board by the applicant.
12. This special permit shall lapse in 24 months, which shall not include such time required to pursue or await the determination of an appeal referred to in Chapter 40A, Section 17, from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. The recording of the special permit shall constitute commencement of substantial use.
13. This special permit runs with the land and applies to any successor in interest or successor in control.

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

COMMENTS TO THE ZBA – GROTON RESIDENTIAL GARDENS

The Board reviewed a draft of items to be included in its comments to the Zoning Board of Appeals on the Groton Residential Gardens comprehensive permit application. The Board will discuss the draft in detail at its meeting on May 5, 2003 prior to the Annual Town Meeting.

BREEZY HILL REALTY TRAIL EASEMENT

The Board received a letter dated April 17, 2003 from Town Counsel regarding the trail easement for the former Marsh property on Gratuity Road. Town Counsel advised that the easement should be accepted by a vote of Town Meeting. The Board will ask if a Town Meeting vote is still necessary if the easement is accepted by the Conservation Commission.

PUBLIC HEARING – ACADEMY HILL MODIFICATION

In accordance with the provisions of Chapter 41, Sections 81-U and 81-T, the Groton Planning Board held the continuation of a public hearing to consider the application submitted by Landwest, Inc. for modification of the definitive plan entitled, "Definitive Plan for the Subdivision of Land for Academy Hill in the Town of Groton, Massachusetts" prepared by Beals Associates, Inc., dated November 27, 2001, with revisions through February 7, 2003. The proposed subdivision is located on Assessors' Lots A-16 owned by Dennis & Helen Magee; A-16A and A-16B

owned by John & Roberta Lavalley; A-17, A-18 & A-19, B-1 & H-5 owned by Habitech, Inc.; A-20C owned by Lewis Trust; B-4, B-5 and H-1 owned by Groton Throne Hill Realty Trust; H-2 & H-11 owned by KernFamily Nominee Trust; H-8, H-9 and H-10 owned by George G. Hayes; and Pepperell Assessors Map and Parcel 37-30 owned by Charles & Robin McCann. The properties are located on the easterly side of Townsend Road and southerly side of the Old County Road in Groton and the northerly side of the Old County Road and southerly side of South Road (Route 119) in Pepperell.

Chairman Degen called the public hearing to order. Clerk Wilson read the notice published in the April 4 and 11, 2003 issues of the *Groton Herald*. Applicant Bruce Wheeler, Attorney Louis Levine, and Attorney Ray Lyons were present.

Chairman Degen stated that the Board received a letter dated April 11, 2003 from Beals Associates and a letter dated April 23, 2003 from Town Counsel Judith Cutler.

Attorney Levine reviewed the background of the definitive subdivision approved by the Planning Board on May 9, 2002 with 60% of the land as protected open space. The applicant filed an Environmental Impact Report with MEPA. The Natural Heritage and Endangered Species Program (NHESP) is looking for alternative design because the ten turtle tunnels shown on the plan are not acceptable. The applicant is requesting the Board's approval of a modification to the plan to allow that the through road be gated during the turtle's breeding season. The proposed gates will be used during the summer months to prevent regular traffic from using the road. Public safety vehicles and school buses will be able to access the road. The applicant will provide transponders to open the gates for public safety vehicles and school buses. There are no houses on either side of the proposed gated section of the through road.

Attorney Levine said the letter from Town Counsel does not change anything in the proposed modification. He agreed that the Board must grant a waiver of the subdivision regulations if it approves the proposed modification. The Board has the discretion to grant such a waiver to protect the turtles' habitat. He noted that the Police Chief and Fire Chief have approved the gates. The proposed plan sets aside 180 acres of open space and provides affordable housing. Attorney Levine said the applicant's request for waivers is reasonable.

Member Wilson said the Town has spent millions of dollars to protect the ecosystem in this area. He said the proposed plan subverts the Town's efforts in this area. He suggested that the applicant submit a new plan that reduces density and respects the limitations of the land.

Chairman Degen asked if the applicant had submitted a written request for waivers. Attorney Lyons said, "no," because they did not believe any waivers were necessary.

Member Eliot said out of all the options the Board explored, this plan accommodates what the Town is looking for in housing diversity and open space protection. She said the Board tried to approve the best plan for the Town.

Member Perkins agreed that it is not fair to ask the applicant to start the process all over again. However, the Board must think about the proposed gated access for emergency vehicles. She expressed concerns that a portion of the site will only be accessible through Pepperell when the road is gated. She said she agreed with Town Counsel that waiver of the regulations are required.

Member Lewis stated that the applicant did an excellent job responding to the Board's requests. He said he would like to discuss the matter with NHESP staff. He agreed that waivers are required. He said he would go along with the plan if the public safety officials approve the gates.

Member Eliot asked if any berms would be installed on the through road. She said the Board must modify the road design to protect the turtles.

Member Lewis said if the Board approves the gated road, it must be plowed and maintained for emergency vehicles.

Member Barringer commended the applicant for addressing the Board's concerns. He said he is also concerned about

the residents in the eastern portion of the site relying on the Town of Pepperell for services. He said if the road in Pepperell were blocked, the residents would have no way out. Attorney Levine said public safety officials would be able to open the gates in an emergency and let traffic go through. Attorney Lyons added that the gates would be controlled from the public safety building.

Member Clements said he never liked this development because of the area's ecological sensitivity, but he agreed that the Board approved the best plan it could. He said the applicant should have gone to NHESP prior to designing the definitive plan. He said the plan should comply with the Zoning By-law and Subdivision Regulations, including the required street connections. He said he would not vote in favor of the requested waivers. He said the NHESP would protect the turtles.

Attorney Levine said they did meet with NHESP before submitting the plan to the Planning Board. MEPA instructed the applicant to investigate alternatives. If the Board does not want the gates, they will go back to MEPA and continue analyzing alternatives. Member Clements suggested that the applicant consider reducing density as part of the alternatives analysis.

Chairman Degen said a traffic study must be submitted to the Board if gates are going to be installed. The traffic study will be a key consideration in the proposed modification. He said he was not in favor of a gated access and preferred a dirt road instead.

Member Clements said a supplemental EIR must be submitted to MEPA. If NHESP is satisfied with the proposed alternative plan, then he could vote to approve it. Member Clements said it is his understanding the applicant must demonstrate a net benefit to the species before NHESP will grant a permit.

Member Barringer asked about other mitigation measures. Attorney Levine said the turtles live for about 85 years and breed when they are in their 40's. He said the greatest danger is when the turtles are crossing Townsend Road. He said the applicant must find a way to help the turtle population or they will be gone. The turtles are threatened by the existing situation. Member Clements said if the applicant shows a net benefit, he will be in good shape.

Member Lewis said there are many pieces of this project that must be put together including NHESP concerns, Conservation Commission issues, etc. Attorney Levine said this is not a wetlands issue – the Conservation Commission already approved the project. The applicant is currently working with NHESP to resolve the issues.

Chairman Degen asked if there are any other changes to the plan. Attorney Levine said the road configuration is the same, but without the gates. Attorney Lyons said the modification to the definitive plan also eliminates the ten turtle tunnels. Chairman Degen said he would like to resolve issues so the plan works for the Town, the developer, and the future residents of the subdivision.

West Groton Water Supply District (WGWS) Superintendent Gordon Newell said he appreciates the Planning Board's concerns. The project will be a positive gain for the WGWS because it will provide infrastructure improvements, including a booster station and a loop to Rockwood Lane.

The Board voted unanimously to continue the public hearing on May 29, 2003 at 7:00 PM.

Meeting adjourned at 10:45 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

MC/lg

