

**GROTON PLANNING BOARD  
OCTOBER 16, 2003  
MINUTES**

Chairman Barringer called the meeting to order at 7:00 PM in the Town Hall  
Members present: Barringer, Clements, Degen, Eliot, Lewis, and Perkins  
Member absent: Wilson

**PUBLIC HEARING – PROPOSED REZONING, SANDY POND ROAD**

In accordance with the provisions of Chapter 40A, § 5, M. G. L., the Groton Planning Board held a public hearing to consider the rezoning petition submitted by the Groton Electric Light Department and Groton Water Department to see if the Town will vote to amend Chapter 218 of the Code of the Town of Groton by rezoning from Residential Agricultural (R-A) to Public Use District (P) a parcel of land containing 11.93 acres, situated on Sandy Pond Road, shown as Assessors' Map 119, Parcel 10, and a parcel of land containing 4.45 acres, shown as Assessors' Map 120, Parcel 2, or take any action thereon.

Chairman Barringer called the public hearing to order. Clerk Perkins read the notice published in the September 26 and October 3, 2003 issues of the *Groton Herald*. Groton Electric Light Department (GELD) Manager Doris Chojnowski was present.

Mrs. Chojnowski explained that GELD plans to move its office and operations facilities to a parcel of land on Sandy Pond Road. The Water Department also plans to relocate its office and construct a storage tank off Sandy Pond Road. The Public Use (P) District was established for municipal uses so the departments are requesting that the land be rezoned from the R-A to the P District.

Member Perkins asked whether access to the Water Department's land is through GELD's parcel. Mrs. Chojnowski said, "yes."

Selectman Virginia Wood said she prepared a "cost-benefit" analysis for the Town Meeting warrant articles. The proposed rezoning will benefit the Town by enabling the relocation of GELD to Sandy Pond Road. GELD's land on Station Avenue will be available for redevelopment as recommended by the Station Avenue Directions Advisory Committee.

Chairman Barringer asked if GELD's new site is land donated by developers Robert Lacombe and David Moulton. Mrs. Chojnowski said, "yes," but site development may be very costly. Chairman Barringer said there would probably be less financial impact to develop this site than purchasing another parcel of land.

Member Lewis said GELD has no room to expand its facilities on Station Avenue. Therefore, he supports the proposed move to Sandy Pond Road.

Selectman George Dillon asked what would happen to the land on Sandy Pond Road if GELD decides not to use it. Mrs. Chojnowski said if GELD does not need the property, it might turn it over to the Town.

***The Board voted unanimously to close the public hearing.***

The motion was made by Perkins to recommend that the Town Meeting vote to rezone the Parcels 119-10 and 120-2 on Sandy Pond Road to "Public Use District." The purpose of the district, adopted in 2001, is for land in public or semi-public use including the construction of municipal buildings and other facilities. If the land is not rezoned, it will continue to be in the Residential-Agricultural District. A special permit from the Zoning Board of Appeals is required for buildings in municipal use in the R-A District.

***The motion was seconded and passed unanimously.***

**CARMICHAEL ESTATES II STREET LIGHT**

The Board met with GELD Manager Doris Chojnowski to discuss installation of streetlights in the Carmichael Estates II subdivision. Mrs. Chojnowski said, until a year ago, the only option for streetlights was a standard wooden pole. At the request of Sawtell Drive residents, GELD agreed to offer an alternate, decorative-style streetlight. However, GELD will only provide this one alternative and does not want to stock several different styles.

Chairman Barringer said the Carmichael Estates II neighborhood requested a different style streetlight with three lamps and the street sign attached. Mrs. Chojnowski said GELD would not install anything other than a standard light or the one decorative alternative light.

Member Degen said people could still purchase their own yard lights and pay the electric bill at no cost to the Town. Mrs. Chojnowski said, "yes."

The motion was made by Perkins that the Planning Board notify GELD that the Board supports its position of offering only one alternate streetlight as stated in the Subdivision Regulations and that the Board notify the Carmichael Estates II neighbors that they must select either the standard or alternate streetlight. *The motion was seconded and passed unanimously.*

Chairman Barringer asked if GELD would look at the alternative light to see if a different globe would provide more coverage and not as much glare to the night sky. Mrs. Chojnowski said she would be happy to do so.

James Patierno noted that the developers install streetlights, but they are not turned on by the Town. He said it does not make sense to pay for something that is never used. Mrs. Chojnowski said developers could install private yard lights at the end of every driveway rather than streetlights. The Board agreed to consider revising its Subdivision Regulations to allow yard lights rather than streetlights.

**PUBLIC HEARING – PROPOSED ZONING AMENDMENT**

In accordance with the provisions of Chapter 40A, § 5, M. G. L., the Groton Planning Board held a public hearing to consider the following proposed zoning amendment:

**ARTICLE \_\_\_\_.** To see if the town will vote to amend Chapter 218, Zoning, of the Code of the Town of Groton, by deleting existing section 218-28 and by substituting the following therefor:

**“SECTION 218-28 RATE OF DEVELOPMENT**

A. Purpose. The purpose of this section, "Rate of Development," is to promote orderly growth in the Town, consistent with the rate of residential growth over a rolling five (5) calendar year period, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time, and capacity to incorporate such growth into the Master Plan for the community, and to preserve and enhance existing community character and the value of property.

B General. Beginning on the date of adoption of this section, the number of building permits for the construction of new residential dwellings issued in any calendar year shall not exceed the average number of building permits for the construction of new residential dwellings issued in the previous five (5) calendar years (hereinafter, the "annual rate of development"). For example, in 2004, the number of such building permits issued shall not exceed the average number of such building permits issued in the period 1999-2003, inclusive. For the purposes of this section, a duplex shall constitute two dwelling units a multifamily shall constitute the number of dwelling units contained therein.

C. Exemptions. The issuance of building permits in any of the following circumstances is exempt from the annual rate of development and the issuance of such building permits shall not be used in any of the computation of the annual rate of development:

1. The alteration, enlargement, restoration, or reconstruction of a dwelling existing on a lot as of the date of adoption of this section; provided, however, that this section shall apply to the conversion of a single-family to a two-family dwelling.
2. The construction of one (1) new dwelling on a lot in existence as of the date of adoption of this section where such lot was held in separate ownership from any adjacent land. The burden of proof shall be upon the applicant for such permit to demonstrate that the lot in question (a) was in existence as of such date, and (b) that no adjacent land

was held in common ownership or control.

3. Housing restricted by deed for persons or households over the age of fifty-five (55).
  4. Housing restricted by deed to persons or households of low or moderate income, as defined by the Commonwealth's Department of Housing and Community Development.
- D. Special Permit Exemption. The Planning Board may, by the grant of a special permit, determine that the issuance of building permits for any tract of land divided or subdivided pursuant to any provision of G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Law, is exempt from the annual rate of development and the issuance of such building permits shall not be used in the computation of the annual rate of development. Such special permit shall be granted only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on
1. schools and other public facilities;
  2. traffic and pedestrian safety;
  3. recreational facilities, open spaces, agricultural resources, and unique natural features; and
  4. conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. c. 41, s. 81D.

Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more. The Planning Board may engage a qualified economic analyst, at the expense of the applicant, to assist the Board in making its required finding.

E. Procedures. Any building permits issued shall be issued in accordance with the following procedures:

1. The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal.
2. The Building Inspector shall mark each application with the time and date of submittal, and shall act on each application in a timely manner.
3. Any building permits not issued in any calendar year shall not be available for issuance in any subsequent year.
4. At the end of the calendar year in which this by-law is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the tenth of January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector shall so deem said application.

F. Time Limitation and Extension. This section shall expire on \_\_\_\_\_, 2\_\_\_\_; provided, however, that this section may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to such date.

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### **SECTION 218-28.1. SUBDIVISION PHASING**

A. Purpose. The purpose of this section, "Subdivision Phasing," is to ensure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services; to avoid disturbance of the social fabric of the community; to maintain the community's desired rate of growth; and to provide the town an opportunity to study growth and plan accordingly.

B. Applicability. Any tract of land divided or subdivided pursuant to any provision of G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Law, after the effective date of this Section shall be subject to the provisions of this Section (hereinafter, the "Subject Property"). Any proposed division or subdivision of a single tract or a combination of adjacent tracts which were in the same ownership as of the date of the adoption of this section shall be deemed a Subject Property.

C. Phasing. The issuance of building permits in any calendar year for a Subject Property shall not exceed twenty (20%) percent of the total number of building permits to be issued in that year as established in the annual rate of development set forth in Section 218.18.B (hereinafter, the "annual phasing quota").

D. Special Permit for Relief from Annual Phasing Quota. The Planning Board, by grant of a special permit, may authorize the issuance of building permits to a Subject Property in excess of the annual phasing quota, or, in the alternative, exempt the Subject Property from the annual phasing quota. The Planning Board may grant such special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on

- a. schools and other public facilities;
- b. traffic and pedestrian safety;
- c. recreational facilities, open spaces, agricultural resources, and unique natural features;
- d. conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. c. 41, s. 81D.

Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more. The Planning Board may engage a qualified economic analyst, at the expense of the applicant, to assist the Board in making its required finding.

E. Special Permit for Larger Land Divisions. Where the tract of land will be divided into more than the number of lots in the annual rate of development, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year.

F. Zoning Change Protection. The protection against subsequent zoning change granted by G.L. c. 40A, §6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section beyond eight (8) years, be extended to ten years.

G. Relation to Real Estate Assessment. Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G.L. c. 59, §59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.”

Chairman Barringer called the public hearing to order. Clerk Perkins read the notice published in the September 26 and October 10, 2003 issues of the *Groton Herald*.

Chairman Barringer explained that the proposed amendment is an attempt to bring together development forces and the need to limit development. It is a modernization and update of the by-law that has been in effect since 1980.

Chairman Barringer read a letter dated October 15, 2003 from Harlan Fitch, a letter dated October 16, 2003 from GMAC member Susan Horowitz, and a letter dated October 15, 2003 from the Building Inspector.

Member Lewis said every department has a budget and capital plan. He said he could not support the proposed amendment unless planning for Town Departments’ infrastructure needs is clear.

Member Eliot said she supports the proposed by-law.

Member Clements asked if the by-law applies to the number of units, not buildings. Chairman Barringer said the by-law refers to units.

Member Degen said he is supportive of the proposed amendment because the Town cannot support growth. The Town should hire a consultant to review the infrastructure needs and impact of growth.

Chairman Barringer agreed that the proposed by-law is not a moratorium, but it is a way for the Town to control growth for the next five years.

Connie Sartini asked if the by-law will result in the number of Chapter 40B applications. Chairman Barringer said, “yes,” that is one of the potential downsides of adopting the by-law.

Member Eliot said the current rules require only 25% affordable units in Chapter 40B developments. The proposed by-law will not prevent or encourage 40B applications. The State must change its 40B requirements first.

Member Perkins noted that the by-law has a sunset clause and can be re-evaluated.

Chairman Barringer said this is not an instant decrease in the number of permits issued because it is based upon a five-year average.

Member Degen said changes to Chapter 40B are being discussed at the State level. If the changes are adopted, the Town may only have to increase its affordable units by ½% a year. The Town will have more design control.

Developer James Patierno said the Town of Tyngsborough permitted 700 units at one time to reach its 10% requirement. He asked how the proposed amendment will impact infrastructure. Can a developer construct age-restricted units without any limitation even though such developments still impact infrastructure? He said if the by-law is too restrictive, developers will submit 40B applications.

Member Degen said the Planning Board did not support a growth cap with a fixed number of forty permits per year. The proposed by-law is based upon an average of permits issued over the previous five years.

Member Lewis said the article should be postponed until the Town has hard numbers on the infrastructure improvement costs.

Member Perkins said the Board should address the concerns about administration expressed by the Building Inspector.

Selectman Virginia Wood said she spoke with the Building Inspector about the costs and benefits of the by-law. She said the Board should work closely with the Building Inspector who must administer the by-law. Member Lewis agreed that the Board should not advocate for adoption of the by-law unless it works with the people who have to enforce it.

Mr. Patierno asked about transfer lots (TDRs). Chairman Barringer said the proposed amendment does not address TDRs and stated that this is a valid issue.

The Board decided to post a special meeting to meet with the Building Inspector when he has late office hours on Monday. The Board voted unanimously to continue the public hearing on Monday, October 20, 2003 at 6:00 PM.

#### **SITE PLAN REVIEW – BULLDOG REALTY TRUST, 14 STATION AVENUE**

The Board considered the site plan submitted by Bulldog Realty Trust to convert an existing five-unit apartment building to five condominium units. Mr. Bushnell of Bulldog Realty Trust, Attorney Aleta Manugian and design engineer Bert Hamil were present.

Mr. Hamil said the applicant received a variance from the Zoning Board of Appeals to move the building forward nine feet so there is 35 ft in the rear of the building available for parking. The plan includes a full drainage system and infiltration trench. A catch basin will be installed resulting in the removal of 97% of the total suspended solids (TSS). The infiltration trench will be connected to a manhole in Station Avenue.

Chairman Barringer read the comments from the Water Department, the Board of Health, and the Highway Surveyor.

The letter from the Highway Surveyor stated that he did not approve the proposed connection to the Town's stormwater system in Station Avenue. Attorney Manugian said she would discuss the matter with the Highway Surveyor.

Mr. Hamil said the drainage flows into the street from the parking lot today. The new drainage system will provide 97% TSS removal and a great improvement of the existing condition.

Member Degen said the Board must receive a report from its consulting engineer in order to evaluate the plan. He asked about the increase in impervious surface. Mr. Hamil said the new plan has 5441 sq ft of impervious surface and the existing condition is 2415 sq ft.

Member Degen noted that post-development runoff must not exceed pre-development conditions. Mr. Hamil said the proposed plan meets this requirement.

Member Degen asked if any of the units will be affordable. Attorney Manugian said the Housing Authority could not afford to purchase any of the units.

Member Clements asked if additional sewer capacity is required. Mr. Hamil said, "no."

Member Perkins asked about landscaping. Mr. Hamil said Arborvitaes will be planted and there will be a lawn area. However, there is not much room for landscaping. Member Perkins asked if plantings will be added to the rear of the site. Mr. Hamil said the existing vegetation will be trimmed.

Member Perkins asked if there will be five units and nine bedrooms. Mr. Hamil said, "yes."

Member Perkins asked the distance between the parking lot and the rear property line. Mr. Hamil said there is about 3 – 5 ft from the edge of the parking lot to the lot line.

Member Perkins expressed concern about waiving granite curbing. She asked what would happen if the bituminous berm is destroyed. Mr. Hamil said it is very expensive to install vertical granite curbing. Mr. Bushnell said asphalt berm will last if it is installed correctly.

Member Lewis said the Board has experienced many failures of asphalt curbing. He said he prefers granite curbing rather than asphalt.

Member Lewis asked if a dumpster would be used. Mr. Hamil said there will be barrels in the garages.

Member Lewis asked about the HVAC system. Mr. Bushnell said the HVAC unit will be on the ground. Member Lewis said it is very important to be sure the cabinet is locked so children will not be able to access it.

Member Degen said he would like to see the off-site topography and drainage catchment area shown on the plan.

Member Eliot asked if there will be room to turn vehicles around in the parking area. Mr. Hamel said, "yes."

Member Perkins suggested that the applicant check with the Fire Chief to be sure there is enough room for fire truck access.

Member Degen agreed that granite curbing should be installed because snowplows will destroy asphalt berms.

The Board voted unanimously to continue the site plan review on October 30, 2003 at 8:30 PM.

#### **PUBLIC HEARING (con't) – VERIZON-GIBBET HILL TOWER SPECIAL PERMIT**

The Board continued the public hearing to consider the special permit application submitted by Verizon to add telecommunication equipment to the tower on Gibbet Hill. Attorney James Valeriani, representing Verizon, and David Maxson, the Board's radio-frequency engineer, were present.

Mr. Valeriani requested that the Board continue the hearing to a time when all Board members would be present. The Board voted unanimously to continue the public hearing on November 6, 2003 at 9:00 PM.

#### **PUBLIC HEARING (con't) – SPECIAL PERMIT, HIGH OAKS REALTY**

The Board held the continuation of the public hearing to consider the application submitted by High Oaks Realty Trust to modify the shared driveway serving two lots on Old Dunstable Road. Applicant Robert Kiley was present.

Mr. Kiley agreed to post a performance bond on the shared driveway and informed the Board that he had submitted a check in the amount of \$10,000.00 to the Town that day.

The motion was made by Lewis to accept the performance bond in the amount off \$10,000.00 for a period of two years from the issuance of the final occupancy permit. ***The motion was seconded and passed with Barringer, Clements, Eliot, Lewis and Perkins in favor; Degen abstaining.***

The motion was made by Perkins to close the public hearing. ***The motion was seconded and passed with Barringer, Clements, Eliot, Lewis and Perkins in favor; Degen abstaining.***

Meeting adjourned at 9:30 PM

Respectfully submitted,

Michelle Collette  
Planning Administrator

MC/lg