

**GROTON PLANNING BOARD****APRIL 7, 2005****MINUTES**

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

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

**PUBLIC HEARING (con't) – BLACK SPECIAL PERMIT**

*(Note: Chairman Eliot stepped down and did not participate.)*

Vice Chairman Barringer opened the public hearing to consider the application for a special permit submitted by Bennett Black Jr. to construct a shared driveway serving three lots on Burnt Meadow Road.

At the request of the applicant, the Board voted unanimously to continue the public hearing on May 5, 2005 at 8:30 PM.

**ROCKY HILL SPECIAL PERMITS AND DEFINITIVE PLAN DECISIONS**

The Board discussed the draft special permit and definitive plan decisions for the Rocky Hill subdivision. Applicant David Moulton and Attorney Robert Collins were present.

Member Degen asked whether the applicant had a permit from the Natural Heritage and Endangered Species Program (NHESP). Mr. Collins said, "Not yet," but all the details have been worked out and the permit is in draft form. Parcel A will be deeded to the Town with a conservation restriction enforceable by NHESP. Mr. Collins said Parcels B-1, B-2, C and D will be owned by the Homeowners Association, subject to a conservation restriction. The plan will be revised to show the accurate location of these parcels.

Member Degen said the Board must be sure the definitive plan complies with the NHESP permit before voting on the plan.

The Board briefly discussed the proposed street names and the landscaping plan.

Attorney Collins requested that the Board not vote on the decisions until April 28, 2005. He also requested an extension of the Board's deadline to act on the definitive plan to May 10, 2005.

The Board voted unanimously to extend the deadline on the definitive plan to May 10, 2005 as requested by the applicant.

**PUBLIC HEARING – REZONING PETITION, BARRY CUNNINGHAM & OTHERS**

In accordance with the provisions of Chapter 40A, § 5, M. G. L., the Planning Board held a public hearing to consider the following Citizens' Petition submitted by Barry Cunningham and others:

**ARTICLE** - To see if the Town will vote to rezone from R-A (Residential-Agricultural) to B-1 (Business) certain premises situated at 48 Boston Road owned by Creed Realty Trust, consisting of approximately 13,500+ square feet or 0.31 acres of area which premises is the land described in a deed recorded with Middlesex South Registry of Deeds in Book 39242, Page 577, being shown as Parcel 36 on Assessors' Map 115 and to approve a concept plan entitled "Concept Plan," existing Tax and Real Estate Office, in the Town of Groton, Massachusetts, certain premises situated at 40 Boston Road owned by John E. Murphy, consisting of approximately 29,185+ square feet or 0.67 acres of area which premises is the land described in a deed recorded with Middlesex South Registry of Deeds in Book 14792, Page 471, being shown as Parcel 37 on Assessors' Map 115 and to approve a concept plan entitled "Concept Plan," existing Plumbing Office and Supply Facility, in the Town of Groton, Massachusetts, certain premises situated at 28 Boston Road owned by Beth Rea Nominee Trust, consisting of approximately 23,522+ square feet or 0.54 acres of area which premises is the land described in a deed recorded with Middlesex South Registry of Deeds in Book 23617, Page 283, being shown as Parcel 38 on Assessors' Map 115 and to approve a concept plan entitled "Concept

Plan,” existing Real Estate Office in the Town of Groton, Massachusetts, certain premises situated at 26 Boston Road owned by Stoneybrook Realty Trust, consisting of approximately 29,988 square feet or 0.91 acres of area which premises is the land described in a deed recorded with Middlesex South Registry of Deeds in Book 15301, Page 206, being shown as Parcel 39 on Assessors’ Map 115 and to approve a concept plan entitled “Concept Plan,” existing Real Estate Office in the Town of Groton, Massachusetts, certain premises situation at 6 Boston Road, owned by Peterborough Oil Company, Inc., consisting of approximately 62,421+ square feet or 1.43 acres of area which premises is the land described in a deed recorded with Middlesex South Registry of Deeds in Book 38554, Page 010, being shown as Parcel 40 on Assessors’ Map 115 and to approve a concept plan entitled “Concept Plan,” existing gas station, in the Town of Groton, Massachusetts, prepared by Richard G. Barry, said plan being on file with the Town Clerk, or take any action thereon.”

Chairman Eliot called the public hearing to order. Member Degen read the notice published in the March 18 and 25, 2005 issues of *The Groton Herald*. The petitioners, many abutters and Town residents were present.

Barry Cunningham said all the lots to be rezoned, except one, are presently being used for business. It is difficult for owners to obtain financing for non-conforming uses. Mr. Cunningham said the Board of Assessors would like the rezoning to go forward because the properties would have a higher value if they are zoned business.

Member Clements disclosed that Richard Barry prepares his income taxes. The Board did not believe it is a conflict for Member Clements to participate. Chairman Eliot recommended that Member Clements write a disclosure letter to the Town Clerk.

Member Lewis said if the Board of Assessors wants the land to be rezoned, then the Assessors should let the Planning Board know directly. He said he was not in favor of the proposed rezoning from R-A to B-1.

Member Degen said there is plenty of B-1 zoned land in Groton today, and businesses are functioning now. He said he did not want to see a change of use on these parcels.

Member Perkins asked if there is only one house included in the proposed rezoning petition. Mr. Barry said, “yes.”

Member Perkins asked if the Peterborough Oil gas station is included in the rezoning petition. Mr. Cunningham said it makes sense to include the gas station because it is also non-conforming, Member Perkins said she was reluctant to support the rezoning of the gas station but did not have a problem with rezoning the other existing businesses. Richard Barry said it could be construed as spot zoning without the gas station. Member Perkins noted that rezoning the gas station has been rejected a number of times.

Member Clements said he is opposed to the proposed rezoning for environmental reasons associated with the nearby wetlands. He said he did not want to see the gas station expand.

Member Wilson said the Growth Management Advisory Committee (GMAC) recently met with the Board of Assessors. At the present time, 95% of the tax rate is based upon residential use and 5% is business use. Historically, the ratio has been 90:10. At the GMAC meeting, the Assessors said they had not taken a position on the proposed rezoning.

Member Wilson asked whether the proposed rezoning would change anything. Mr. Cunningham said, “no,” the concept plan shows existing uses.

Member Wilson noted that if the area is rezoned, then a number of other uses would be allowed by-right with site plan review. This area is an important corridor at the entrance to the Town Center. There is a residential character maintained by the existing non-conforming uses. Serious environmental impact may result from the proposed rezoning.

Member Barringer asked why the petitioners excluded one parcel between the parcels to be rezoned and the existing B-1 District. He stated his concerns about adverse impact on the environment if the gas station is rezoned. He asked if

the owners of all five properties to be rezoned were represented by the petition. Mr. Cunningham said, "no," the gas station and residence owners were not part of the petition.

Chairman Eliot said the purpose of the concept plan requirements is to show potential future uses. She said she has concerns with the petition because it does not address future use.

Chairman Eliot read the comments from the Water Department, the Board of Health, the Sewer Department, and the Police Chief.

Mr. Cunningham said he understands that the article can be amended to remove the gas station and the residential property. Chairman Eliot reiterated that she would still like to see potential future uses.

Abutter Edward Strachan said he agrees with comments made by the Planning Board members. He expressed concerns that an amended petition with a more narrow focus may create pressure to rezone other adjacent lots.

Robert Pine said he is not an abutter, but the Charles Eliot Master Plan, adopted in 1963, explains the reasons the original zoning districts were established. There are no large blocks of non-residential districts, but many smaller areas. The Town is zoned for mixed residential and business uses. The nearby area with CVS and Emerson was zoned business based upon a proposed by-pass that was never constructed. The creation of a strip mall along Boston Road would change the entrance and character of the Town Center.

Abutter Mary Ann McCarthy said she is concerned about future business development and its impact on wetlands in this area.

Harlan Fitch objected to the proposed rezoning because it would extend the Town Center. He said he is not in favor of converting residential uses to business uses.

Abutter Michael Weinberg said he agrees with the Planning Board members' concerns because rezoning this area would destroy the character of Groton Center.

Assessor Edward Kopec said there is not enough B-1 zoned land in Groton, and it is all "spot" zoning. Several business uses are still located in the R-A district even though they have been businesses for 100 years. It is a factor in the valuation of the lots. Mr. Kopec said he supports the proposed rezoning.

Member Perkins asked how the land is assessed. Assistant Assessor Rena Swezey explained how land zoned B-1 is assessed at a higher value than land zoned R-A.

Member Barringer asked if a business use in an R-A District is more valuable than residential use. Assessor Hugh McLaughlin said land values are based upon location and zoning, and the building value is based upon use. Rezoning the land to B-1 would result in an incremental increase in assessed value.

Member Degen said this area is considered a gateway to the Town Center. At the present time, there is a tremendous amount of non-residential development taking place at the Four Corners, Mill Run Plaza, and Seven Hills Extended Care Center. He recommended that the Assessors consider adopting a two-tier tax rate. Assistant Assessor Rena Swezey noted that Seven Hills Extended care is tax exempt.

Arthur Blackman said in 1963, Charles Eliot and the Planning Board looked at Massachusetts Avenue (Route 2A) in Cambridge, Arlington, Lexington, Acton and other communities. Lexington used zoning to protect its center, while Acton allowed numerous strip developments. Groton has a nice balance of residential and business uses. It is important to protect that balance and integrity of the Town's residential character.

Planning Administrator Michelle Collette said she received many telephone calls from abutters who could not attend the hearing who wanted the Board to know that they were opposed to the proposed rezoning petition.

Assessor Sylvia Sangiolo said she is very pleased with the commercial development at the Four Corners. She said she would like to see more new office space provided rather than converting older homes for lawyers and other professional offices.

The Board voted unanimously to close the public hearing. The Board announced that it would vote on its report to Town Meeting at its meeting on April 14, 2005.

### **PUBLIC HEARING – REZONING PETITION, ROBERT ANCTIL OTHERS**

In accordance with the provisions of Chapter 40A, § 5, M. G. L., the Groton Planning Board held a public hearing to consider the following Citizens' Petition submitted by Robert Anctil and others:

ARTICLE: To see if the Town will vote to rezone from R-A (Residential-Agricultural) to B-1 (Business) certain premise located at 536 Main Street, Groton, owned by Groton Development Corp., consisting of approximately .95 acres of land, more or less, which premises is described in a deed recorded with the Middlesex South District Registry of Deeds in Book 32598, Page 475, being shown on a conceptual schematic development plan as Map I, Block 77 Lot C., Map I Block 80, Lot 0 and Map I, Block 79, Lot 0, in the Town of Groton, Massachusetts, prepared by Goldsmith, Prest & Ringwall, Inc., said plan being on file with the Town Clerk, or take any action thereon.

Chairman Eliot called the public hearing to order. Member Degen read the notice published in the March 18 and 25, 2005 issues of *The Groton Herald*. The petitioners, many abutters and Town residents were present.

Attorney Robert Anctil said he represents Steve Gillis of Groton Development Corporation, the owner of the property to be rezoned. The one-acre site is located on Route 119 adjacent to land owned by New England Business Service, Inc. (NEBS). Mr. Gillis purchased the site to construct an apartment house under the provisions of Chapter 40B. However, the Town is overwhelmed with 40B projects at the present time so Mr. Gillis would like to have property rezoned so he can construct an office building. The proposed rezoning would extend the existing business district and is consistent with other uses in this area.

Mr. Gillis said he is going to build a two-story office building with an elevator for retail and professional offices. There will not be any banks or donut shops. There will be 50 parking spaces, and the lot is served by Town water and sewer.

Member Degen said this site is located near NEBS, Mill Run Plaza, and Groton Collision so it is an appropriate location for the proposed rezoning.

Member Degen asked if the use would include retail or restaurant. Mr. Anctil said the applicant would like to leave the proposed uses as broad as possible. There will be offices on the second floor and retail space on the first floor.

Member Perkins noted that the proposed use must meet all the Site Plan Review regulations for parking, impervious surface, etc. She said there should be sufficient screening to protect nearby residences. She expressed concern that a restaurant may be open late in the evening and have negative impact on abutting residents. She also expressed concern about the style of architectural design shown in the concept plan. Mr. Gillis said it is not his intention to have a restaurant at the site, although it is allowed by-right in a B-1 District. He said they are willing to provide screening for the neighbors.

Member Clements asked if there are any wetlands on or near the site. Mr. Anctil said, "No." Member Clements said he thinks the project looks worthwhile.

Member Wilson said he believes this is an appropriate site to rezone to B-1, but shares other members concerns with the architectural design of the building.

Chairman Eliot supported the proposed rezoning. However, she shared other members' concerns about the proposed architecture shown on the concept plan. She requested that applicant submit a different style of architectural design and that the applicant work with the Board's landscape architect.

Mr. Anctil said this is only a concept plan for presentation to Town Meeting. It is not the final plan.

Chairman Eliot read the comments from the Board of Health, the Police Chief, the Water Department and the Sewer Department.

Member Lewis expressed his opposition to the proposed rezoning located close to NEBS, Conductorlab and Inco. He said if the land is rezoned, the area will look like the other side of the river in Pepperell. Member Lewis said Westford thought commercial development would pay its way, but Westford's tax rate is similar to Groton's.

Assessor Hugh McLaughlin stated that the Board of Assessors supports the proposed rezoning.

Harlan Fitch said he is against the proposed rezoning because it is an extension of Mill Run Plaza and other businesses. It is another encroachment on the residences in the area.

Alan Hoch asked about sewer capacity. Mr. Anctil said the applicant met with the Sewer Commission two years ago to request capacity for 24, two-bedroom units on this site. If necessary, an on-site sewage disposal system can be constructed, but the applicant would prefer to connect to the public sewer system.

Member Wilson noted that the Town must address capacity issues to be sure there is enough reserve capacity for the Station Avenue development.

Reporter Connie Sartini asked about the housing proposal. Mr. Anctil said the housing plan is not on the table, but the sewer application is still active. Sewer Commissioner Harlan Fitch said the Sewer Commission must review any request for additional capacity based upon proposed use. They cannot reserve additional capacity ahead of time and exclude other applicants.

The Board voted unanimously to close the public hearing. The Board announced that it would vote on its report to Town Meeting at its meeting on April 14, 2005.

#### **GMAC REPORT**

Member Wilson, the Board's representative to GMAC, reported that GMAC would like to meet with other Town departments to discuss rezoning land for commercial development on the first Wednesday in June, if possible.

Meeting adjourned at 10:00 PM

Respectfully submitted,

Michelle Collette  
Planning Administrator

