

**GROTON PLANNING BOARD
JANUARY 26, 2006
MINUTES**

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

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

Members absent: Wilson

MILL RUN PLAZA MODIFICATION

The Planning Board met with Attorney Robert Collins, representing Ryan Development, to discuss requested parking waivers and outstanding engineering issues at Mill Run Plaza. The Board's consulting engineers, John Schmid and William Maher of Judith Nitsch Engineering, Inc. (JNEI), and many Mill Run Plaza unit owners were present.

The Board received a report dated January 26, 2006 from JNEI evaluating the as-built plans and listing all outstanding items. Attorney Collins said LandTech, the design engineer, would address all the items in the JNEI report.

John Schmid summarized the following report:

“SITE CONDITIONS

The site improvements appear to be constructed in substantial compliance with the approved Plan except for the following:

1. The Applicant has placed a bituminous concrete sidewalk along Main Street. The endorsed site plan indicates a concrete sidewalk. The Applicant should construct concrete sidewalks or request a Site Plan modification from the Planning Board.
2. The traffic directional arrows, crosswalks, and pavement striping have faded. The Applicant should repaint the traffic directional pavement markings.
3. The directional pavement marking for Building #5 is not complete. Mr. Maher observed that Building #5 was under construction during his site visit, and, therefore, not yet occupied.
4. During Mr. Maher's site visit, some of the plantings around the perimeter of the site and at the top of the detention basins appeared to be dead or dying. The Applicant should evaluate these plantings in Spring 2006 and replace as necessary.
5. The endorsed Site Plan indicates concrete sidewalks to be placed throughout the site. Mr. Maher observed bituminous concrete sidewalks placed throughout the site. The Applicant should construct concrete sidewalks or request a Site Plan modification from the Planning Board.
6. The endorsed Site Plan indicates that the number of proposed parking spaces was calculated at a rate of 1 space per 250 square feet for retail use. During Mr. Maher's site visit, he noted that the development of the site has a mixed use that consists of medical offices, offices, bank, and restaurant uses. JNEI recommends that the Applicant review the required parking space requirements based on the current use of the site and confirm to the Planning Board that the total number of parking spaces is sufficient to handle the parking for the site. It should also be noted that there are still a few vacancies in the existing buildings.
7. Mr. Maher observed that the bituminous concrete sidewalk that abuts Detention Basin #1 is separating from the vertical granite curb and bituminous concrete curb. JNEI anticipates corrective measures will be warranted.

“AS-BUILT PLAN

The As-Built Plan should be revised to indicate all utility services, site grading, and the outstanding site improvements as noted below and resubmitted with the professional engineer's certification of substantial compliance. Until all the site work is complete, a final As Built Plan cannot be submitted.

1. The location of the gas main is not indicated on the Plan. The Plan should be revised to indicate the gas main as well as any gas services.
2. The Plan does not indicate the location of all of the electric, telephone, and cable boxes. The Plan should be revised to indicate the locations of all of the electric, telephone, and cable boxes.
3. The Plan does not indicate tie locations for the water main and services. The Plan should be revised to indicate tie locations for the water main and services.
4. The endorsed Site Plan indicates a mixed use of vertical concrete curbing and cape cod berm in front of the buildings. During Mr. Maher's site visit, vertical granite curbing was observed in front of the buildings where parking spaces abut the buildings only. All other locations around the buildings indicate a mixed use of cape cod berm and vertical bituminous concrete curb where it abuts the sidewalk. It should be noted that vertical bituminous concrete curb was not identified to be used on the endorsed Site Plan. The Applicant should construct the appropriate curbing at the locations identified on the endorsed site plan or request a Site Plan modification from the Planning Board.
5. In addition, the As-Built Plan indicates granite curbing along the edge of the parking area near Detention Basin #2 in front of Building #4. Mr. Maher observed cape cod berm at this location. The Applicant should review and revise accordingly.
6. The endorsed Site Plan indicates a 6-inch soil cement liner at the bottom of the sediment forebay for Detention Basin #1. The 6-inch soil cement liner at the bottom of the sediment forebay for Detention Basin #1 has not been installed. The Applicant should construct the 6-inch soil cement liner at the bottom of the sediment forebay for Detention Basin #1 as identified on the endorsed site plan or request a Site Plan modification from the Planning Board. Mr. Maher notified the Contractor of this discrepancy in Spring 2005.
7. The As-Built Plan does not indicate the location(s) of drywells installed on the site to handle stormwater runoff from roofs. The Plan should be revised to indicate the location(s) of drywells.
8. The As-Built Plan does not indicate the existing landscaping around Building #5. The Plan should be revised to indicate the landscaping around Building #5.
9. The As-Built Plan indicates 203 parking spaces of which 10 spaces are designated for handicap parking. The endorsed Site Plan indicates that 205 parking spaces were proposed of which 9 spaces were designated for handicap parking. This represents a reduction of two (2) parking spaces.

DRAINAGE COMMENTS

The stormwater runoff from Mill Street and Mill Run Plaza discharges into Retention Basin #3. As such, JNEI observed the existing conditions of the Basin #3 and offers our comments below.

1. The Stormwater Pollution Prevention Plan (SWPPP) indicates that the catch basins are to be cleaned each Spring and Fall. The Applicant should provide documentation such as a copy of receipt, for any cleaning of the catch basins previously done. The Applicant should clean the catch basins and remove the accumulated sand in the parking lots.
2. Mr. Maher observed some soil erosion around two (2) wooden guardrail posts installed on the southerly side of Mill Street. JNEI recommends that the sideslope in the vicinity of the wood posts be stabilized to prevent further erosion.

3. Mr. Maher observed erosion on the sideslopes of Retention Basin #3. The sideslopes should be repaired by Spring 2006 or earlier, weather permitting. During previous site visits, JNEI observed accumulated fines at the bottom of the Retention Basin that are clogging the basin and appear to be preventing exfiltration of the stormwater through the basin. JNEI recommends that the Applicant dredge the bottom of the basin to ensure that the sediment is removed to enable the basin to function as designed.
4. JNEI understands that the detention/retention basin drainage system was to store stormwater runoff for a 48-72 hour period while it infiltrates into the ground. During the numerous site visits conducted by JNEI during the construction of the Mill Run Plaza and Groton Residential Gardens sites, we observed that the basins were only dry during a portion of the summer season, when the estimated seasonal groundwater is not at its highest elevation. It appears that one (1) boring test identified as MW-102 on the Plan, was performed in Retention Basin #3 and indicates wet material at elevation 212.6'. Because of the method used to conduct the boring test, soil mottling was not observed to confirm the estimated seasonal high groundwater. According to the inconclusive soil tests submission, the current design of the retention basin does not confirm that there is a minimum 2-foot separation between the retention basin bottom (bottom elevation 215) and the groundwater level. JNEI recommends that the Applicant conduct soil testing in or next to the retention basin and witnessed by JNEI to confirm the estimated seasonal high groundwater. This will also confirm that there is a 2-foot separation between the bottom of the basin and the estimated seasonal high groundwater.
5. JNEI previously requested and still do not have any percolation test results conducted within Retention Basin #3 to confirm the infiltration rate. The Applicant should provide copies of percolation tests that have been conducted to JNEI for review and comment. If no percolation tests have been conducted, JNEI recommends that the Applicant conduct percolation testing in or next to Retention Basin #3 and witnessed by JNEI to confirm the infiltration rate.
6. JNEI recommends that the Applicant continue to seek permission from the Massachusetts Highway Department (MHD) to construct an overflow connection from Retention Basin #3 to the existing drainage system in Main Street.
7. JNEI previously requested that the Applicant install a drywell within Retention Basin #3 to allow recharge in frost conditions. JNEI still suggests that a drywell be constructed within Retention Basin #3 to allow recharge in frost conditions."

Mr. Schmid noted that the original approved site plan showed 207 parking spaces and the as-built plan shows only 203 spaces. This should be taken into account when the Board considers the requested waivers. In addition, the soil logs are inconclusive and do not meet licensed soil evaluator standards. The locations of the tests pits performed by Matt Waterman of LandTech in March 2004 are not shown on the site plan. New testing should be done and witnessed by an independent party. He said JNEI recommends the overflow tie-in to the MassHighway for events greater than the 100-year storm. JNEI also recommends that a dry well be installed in the detention basin, depending upon the high groundwater elevation.

Mr. Collins said he will convey this information back to LandTech and Ryan Development and ask them to respond to the JNEI report.

Member Lewis asked if JNEI measured the building footprints. Mr. Maher said, "no," they based the report on the as-built plans.

Member Lewis said he did not understand how the site lost four parking spaces. Mr. Collins said he would confirm the accuracy of the plan with the design engineer.

Member Perkins expressed serious concerns about the continuous flooding at 10 Anthony Drive. The yard may have been wet in the past, but the situation is much worse than it was prior to construction.

Member Degen said many of the issues in the JNEI report go back to June 2005 and have not been resolved to date. Mr. Collins said he was contacted by Ryan Development less than one month ago. He said he was not involved in June 2005.

Member Perkins said she is concerned that Basin #3 is not functioning. She asked what the developer intends to do to correct the matter. Mr. Collins said they need more engineering information and noted that Basin #3 is also part of the Groton Residential Gardens site. The appeal of the Comprehensive Permit modification is now before the Housing Appeals Committee.

Member Perkins noted that the Board has been requesting the soil logs and other information for a very long period of time. She asked why the design engineer was not present at the meeting.

Member Degen stated that the design engineer said Basin #3 should be dry within 48 to 72 hours after a storm. He said that Town Counsel agrees that Basin #3 is under the Planning Board's jurisdiction because it is part of the Mill Run Plaza site plan.

Member Degen said he does not agree with the proposed overflow to the MassHighway system. He said the regulations require no net increase in runoff from the site. He said he would like to see the basin enlarged and that the side slopes should be 3:1 as required in the regulations, rather than 2:1 as shown on the as-built plan.

Member Eliot asked what measures could be taken without the tie-in to the MassHighway system. Mr. Schmid said the developer offered to increase the elevation of the berm around Basin #3 to 219 ft. However, the developer did not submit any plans or calculations to support the proposed solution. Member Eliot asked if raising the berm would solve the problem. Mr. Schmid said it is still unknown without the soil data.

Member Eliot asked if there are any other options. Mr. Schmid said the outlets for Basins 1 & 2 could be modified to hold more water upstream. The runoff from Route 119 will not flow into Basin #3 once the sidewalks are constructed. Water is flowing past the catch basin at the intersection of Mill Street and Route 119 and contributing to the problem.

Member Eliot asked if the design of the drainage system accounted for displaced groundwater on the Mill Run and Groton Residential Gardens sites. Mr. Schmid said displaced groundwater is not significant because this is slab on grade construction.

Member Barringer noted that the catch basin at the intersection of Mill Street and Route 119 is part of the problem. He said the catch basin was full and overflowing during the October storm and asked if tying into the MassHighway system would be effective. Member Lewis said it is not uncommon for this area to be inundated during a storm. Mr. Schmid said the tie-in to the MassHighway system would be at another catch basin downstream. The connection could be designed to accommodate any back flow of storm water.

Member Barringer said Mr. Maher had suggested installing a dry well in the basin in the past, but the design engineer said it would not work because the groundwater is too high. Mr. Schmid said the developer could install a crushed stone trench around the basin to facilitate drainage.

Chairman Clements said the Board must also consider the request for parking waivers.

Mr. Collins said there are still five vacant units on the site with no parking spaces because parking spaces were assigned to the medical facilities. The Nashoba Valley Medical Center has 4800 sq ft but there are only two doctors present at any time. Member Perkins asked about the total number of doctors at the facility. Ralph Hulslander said there are five doctors who work at this office. Mr. Collins said the by-law is based upon an estimate of the anticipated number of parking spaces, but this site contains a mix of different uses including retail and professional office space. Mr. Collins said the Board approved the site plan with 207 parking spaces and with a condition that the site be reviewed one year after the grant of the first occupancy permit to see how things are working. The site may be shy a few parking spaces, but the parking is working.

Member Degen said the Site Plan Review regulations say a temporary occupancy permit can be granted if security is posted for the outstanding work. He said a bond should be posted to cover all the outstanding issues before an occupancy permit can be granted to the North Middlesex Savings Bank.

Member Perkins noted that the parking lot has a shortage of about 50 spaces with a minimum of five spaces required for each business and 44 for the Bank according to 218-23B. Mr. Collins said the Bank may not need 44 parking spaces.

Member Degen said the applicant should have requested waivers for the parking spaces for the medical and other non-retail uses.

Member Perkins asked the applicant to provide the number of employees who will work at the Bank so the Board could make its determination.

Mr. Collins said Ryan Development owns the Nashoba Valley Medical Center unit so the Board could grant a waiver for parking for this unit and assign the spaces to allow others to get a building permit.

Member Perkins said the Board must consider the entire plan and not look at piecemeal solutions. All the parking issues should be addressed for the entire development.

Member Barringer said there are seven vacant units. He asked how many units the applicant still owns. Mr. Collins said four of the seven have been sold, and Ryan still owns three units.

Chairman Clements asked for comments from the public and requested that the comments be concise and address issues at Mill Run Plaza and not Groton Residential Gardens.

Attorney Robert Casey, representing Churchill Properties, requested a waiver for the five parking spaces needed to serve Unit 2C as requested in his letter dated January 12, 2006. He asked how much more information the Board needed to make a decision. Member Perkins said the Board is looking for an overall solution to the problem.

Scott Viscarello asked if basins 1 and 2 could be redesigned to provide more infiltration. He also noted that the Board granted parking waivers to the Emerson Hospital Medical Center. Planning Administrator Michelle Collette said there are a total of 122 spaces at the Emerson-CVS site, and the Board waived 20 spaces to accommodate additional medical office space. Board members noted that the Board did not grant the waiver until the site was occupied and working satisfactorily.

Mr. Viscarello said there are always 100 empty spaces at the site – forty are for the Bank and there will be sixty remaining for other uses. He said he would provide more data on the Bank's parking requirements.

Attorney Tom Gibbons, representing the North Middlesex Savings Bank, asked that the Board not put the Bank in an adversarial position. Holding up the Bank's occupancy permit will have no impact on Ryan Development. Member Degen responded that a bond should be in place to protect everyone.

Member Perkins expressed concern that Ryan Development may sell the remaining units to others.

Highway Surveyor Tom Delaney suggested sending notice about the parking problems to the real estate broker by certified mail. Elizabeth Holwech of Century 21 said she is the listing broker. She said she must disclose and she does.

Attorney Connie Sullivan, unit owner, said the unit owners will work toward a global solution, but they are looking to the Planning Board to hold Ryan Development responsible. He asked what happen with the "bogus" bond posted by

the developer.

Abutter Carrie Kneeland submitted a letter, signed by five residents, describing the flooding problems they have experienced since construction of Mill Run and Groton Residential Gardens.

Chairman Clements said the flooding has more to do with Groton Residential Gardens than Mill Run Plaza. Other members of the Board disagreed, noting that Basin #3 is part of the Mill Run Plaza site.

Member Eliot said runoff should have been detained in Basin #3, but it overflowed onto abutting properties. Member Degen said there may also be a problem with hydrostatic pressure on the water table that may be causing flooding problems.

Member Degen said the Town had a bond that the Selectmen agreed not to release without the Planning Board's approval. The Town since learned that the bond was not good. He said the Board received a new estimate in the amount of \$72,000 from JNEI for the completion of the relocation of Mill Street and the drainage system. He said the Board should require a cash bond that covers all the outstanding issues.

Attorney Sheila Harrington, representing Ray Capes and Monica Hinojos of 10 Anthony Drive, submitted photographs depicting the flooding around the house at 10 Anthony Drive. She said this is an urgent situation that requires swift, decisive action. She said the Board must be able to take some enforcement action.

Member Degen said the Board must request that the Building Inspector take action as Zoning Enforcement Officer. If the Board is not satisfied, it can appeal the Building Inspector's decision to the ZBA. Attorney Harrington requested that the Board take action to resolve the flooding problems. She said the JNEI report documents that the system is not working. Mr. Schmid agreed that the system is not working as designed.

The motion was made by Eliot that the Board make a finding that there is a zoning violation at Mill Run Plaza. Specifically, detention basin #3 is not functioning properly because it is not draining within 48 to 72 hours as designed. Since the basin is not functioning, there is a significant increase in runoff and flooding on abutting properties located on Anthony Drive, above and beyond any historical precedent. The Board requests that the Building Inspector take immediate enforcement action and require that the developer correct the problem. ***The motion was seconded and passed unanimously.***

Roger Goscombe of Century 21 said the units were sold on the basis of one parking space per every 250 sq ft floor area. He said there are solutions to the parking issue. Many owners are willing to relinquish spaces they do not need to help solve the problem. The unit owners are confident that they will find a workable solution.

Member Lewis said the formula of one space per 250 sq ft floor area is not consistent with the Zoning By-law. Mr. Goscombe said the original concept for this development was brought forward by the Groton Business Association to provide space for small, local businesses.

Member Perkins said the Board will consider waivers as part of a written proposal for the entire site. The site is short more than 50 parking spaces. The Board is willing to consider waivers but not in a piecemeal manner. She said the unit owners must provide the Board with more information to support the request for waivers.

Member Barringer asked if each unit has assigned parking spaces. Mr. Goscombe said, "no" but spaces were allocated on the basis of one for every 250 sq ft floor area.

Dan Locapo noted that the pavement only has binder and a seal coat. The finish coat of pavement was never installed. Street lights are located too close to the berm, and there are other outstanding issues.

Member Eliot said the Board does have three written waiver requests from Ryan Development, Churchill Properties and Chella Jegananthan. Attorney Gibbons said the Bank would like to request a waiver of five additional spaces at this time.

Attorney Connie Sullivan urged the Board to put a notice on record at the Registry of Deeds regarding the lack of parking.

Member Eliot asked how the impact on the groundwater level could be calculated. Mr. Schmid suggested installing monitoring wells and performing soil tests in compliance with Title Five requirements.

The motion was made by Eliot to request that Ryan Development perform soil testing at Mill Run Plaza Basins 1, 2, and 3 and at the property line between Basin #3 and 10 Anthony Drive. The testing should be done in accordance with Title Five, 310 CMR 15.00, for seasonal high ground water soil mottling and infiltration rates. The testing must be witnessed by the Board's representative. Groundwater monitoring wells should be installed and left in place. If Ryan does not do the soil testing within two (2) weeks, the Town will perform the testing, witnessed by the Board of Health, with test holes located within the public right of way. ***The motion was seconded and passed unanimously.***

Attorney Collins asked if the testing would be necessary if the appropriate soil logs are submitted. Mr. Schmid said soil borings are not acceptable and the soil logs submitted by the applicant were not located on the plan. Soil logs should be submitted in compliance with Licensed Soil Evaluator requirements.

Planning Administrator Michelle Collette asked Attorney Collins if he would record a document with a marginal reference at the Registry of Deeds regarding parking spaces. Attorney Collins said, "no," but agreed that the Board has the ability to do so.

The motion was made by Lewis to grant a waiver approving a reduction of 16 parking spaces allocated to Mill Run Plaza Building #497, Units B, C & D, owned by Ryan Development. Five (5) of the 16 parking spaces will be credited to Unit Building 493, Unit C, owned by Churchill Groton Property Management. Six (6) of the 16 parking spaces will be credited to Building #497, Unit F, owned by Chella Jeganathan. . Five of the 16 parking spaces will be credited to Building #489 owned by the North Middlesex Savings Bank with the following condition:

1. The Board will record notice at the Registry of Deeds with a marginal reference to the Master Deed regarding the lack of available parking spaces.

The motion was not seconded and Member Lewis left the meeting.

Paul Amato of the North Middlesex Savings Bank said they would demonstrate why they need fewer parking spaces.

The Bank would like have an occupancy permit by March 1, 2006. He said the Bank would work with other owners and come back to the Board with an overall parking plan. Member Perkins agreed that an overall solution is required for the Board to grant the waivers. The owners must put the plan in writing for Board's consideration. Mr. Gibbons said if the Bank does not need all its spaces, it will give some up for other unit owners.

The motion was made by Degen to send a letter to the Building Inspector to grant a waiver approving a reduction of 16 parking spaces allocated to Mill Run Plaza Building #497, Units B, C & D, owned by Ryan Development. Five (5) of the 16 parking spaces will be credited to Unit Building 493, Unit C, owned by Churchill Groton Property Management. Six (6) of the 16 parking spaces will be credited to Building #497, Unit F, owned by Chella Jeganathan. Five (5) of the 16 parking spaces will be credited to Building #489 owned by the North Middlesex Savings Bank. The grant of the waiver is based upon the following conditions:

1. The applicant and unit owners will present a comprehensive plan showing resolution of parking at the overall site to the Planning Board at its meeting on February 16, 2006.
2. The Board will record notice at the Registry of Deeds with a marginal reference to the Master Deed regarding the lack of available parking spaces. [\[1\]](#)
3. No temporary or permanent occupancy permits shall be granted for units at Mill Run Plaza until the parking

resolution plan, proposed by a majority of the unit owners, is approved by the Planning Board.

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

The Board voted unanimously to continue its review of the Mill Run Plaza site plan modification on February 16, 2006 at 8:00 PM.

EXECUTIVE SESSION

The motion was made by Eliot to enter into executive session to discuss litigation and that the Board would not return to open session. ***The motion was seconded and passed by roll call vote with Barringer, Clements, Degen, Eliot, and Perkins in favor.***

The motion was made by Eliot to end executive session and adjourn the meeting. ***The motion was seconded and passed by roll call vote with Barringer, Clements, Degen, Eliot, and Perkins in favor.***

Meeting adjourned at 11:45 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

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Please note: Town Counsel recommends that the Board not record such a notice at the Registry of Deeds.