

**GROTON PLANNING BOARD
FEBRUARY 26, 2009
MINUTES**

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

Members present: Perkins, Barringer Burke, Capes Giger, Hess and Wilson

SPECIAL PERMIT DECISIONS – CRYSTAL SPRINGS ESTATES

Major Residential Development - The motion was made by Wilson, seconded by Barringer, to grant a special permit to High Oaks Realty Trust to utilize the provisions of Groton Zoning By-law Section 218-26.1 Major Residential Development to create nine (9) lots as shown on the plan entitled, "Preliminary Subdivision Plan in Groton - Crystal Springs Estates," prepared by Ducharme & Dillis Civil Design Group, Inc., dated July 11, 2008, revised December 30, 2008.

Findings:

Preferred Development Alternative: The Board determined that the Flexible Development plan best promotes the objectives of §218-26.1 G:

1. **Traffic and pedestrian safety:** The proposed flexible development plan, with access on Old Dunstable Road, will not have a negative impact on traffic safety. The subdivision road will be located where sight distances on Old Dunstable Road are optimum. There will be no vehicular traffic on Bridge Street from the flexible development plan. A walking path will be constructed to provide pedestrian access and connection to the trail system on the open space parcels.
2. **Economic impact:** The economic impact of the Flexible Development plan is slightly less than the conventional plan because the subdivision road is slightly shorter and will require less maintenance.
3. **Preservation of recreational facilities, open spaces, agricultural resources, and unique natural features:** The flexible development plan is superior to the conventional plan because more than 55% of the parcel will be permanently protected as open space. The open space is adjacent to large tracts of protected open space in the vicinity. A common area for neighbors to gather will be provided at the end of the cul de sac. The plan was designed to protect endangered species and complies with the requirements of the Natural Heritage and Endangered Species Program (NHESP). A Low Impact Development drainage system will be utilized to reduce impact for stormwater runoff.
4. **Housing for persons or households over the age of 55, for persons with disabilities, or for low-or moderate-income households, as defined by the Commonwealth's Department of Housing and Community Development:** This item is not applicable because there are fewer than ten units in the development.
5. **Groton 2020: Planning Directions, Groton's Comprehensive Plan.** The Flexible Development plan better meets the goals and objectives of the Comprehensive Plan by protecting open space, natural woodlands, and the scenic character of Old Dunstable Road and Bridge Street.

Conditions

1. The subdivision road will be located where sight distances on Old Dunstable Road are the optimum. Sight distance information shall be measured by the design engineer and submitted with the definitive plan.

2. The landowner shall mark significant specimen trees on the property. The trees shall be shown on the definitive plan.
3. The easement for abutter Brian Stevenson shall be shown on the definitive plan.
4. The Planning Board encourages the Applicant to cluster the homes closer together to minimize vegetation clearing and land disturbance. Building envelopes and limits of clearing will be shown on the definitive plan as offered by the Applicant.
5. The Planning Board encourages the Applicant to utilize shared driveways to access lots at the end of the cul de sac in order to minimize disturbance to the common area and natural landscape.
6. The Applicant shall not construct any structures within the area shown as "CR Area" on the plan. This restricted area shall remain in its natural condition as required by the NHESP.
7. As offered by the Applicant, the 13.4 acre open space parcel shall be deeded to the Town to be managed by the Conservation Commission or made subject to a permanent conservation restriction held by the Town pursuant to MGL Chapter 184, §§ 31 to 33. The conservation restriction or deed must be recorded at the Registry of Deeds and evidence of recording submitted to the Planning Board and Building Inspector prior to the release of any lots from the covenant.
8. This special permit shall not be in effect until certified copies of the special permit decision and the subsequently endorsed definitive plan are 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.
9. 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 and subsequently approved ANR plan shall constitute commencement of substantial use.
10. 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 Members Perkins, Barringer, Capes, Eliot, Giger, and Wilson in favor; Member Hess abstaining.

Flexible Development - The motion was made by Barringer, seconded by Burke, to approve the preliminary plan and to grant a special permit to High Oaks Realty Trust to utilize the provisions of Groton Zoning By-law Section 218-26.1 Major Residential Development to create nine (9) lots as shown on the plan entitled, "Preliminary Subdivision Plan in Groton - Crystal Springs Estates," prepared by Ducharme & Dillis Civil Design Group, Inc., dated July 11, 2008, revised December 30, 2008.

Findings:

The Planning Board made the following findings based upon the criterion set forth in Zoning By-Law § 218-32.1:

1. **Social, economic and community needs:** The proposed Flexible Development plan with nine lots clustered on eight acres results in less disturbance to the neighborhood and surrounding woodlands than nine larger lots on 23 acres as shown on the conventional plan. The proposed 13.4 acres of open space on the Flexible Development plan will provide an important link between existing conservation properties in the vicinity.
2. **Traffic flow and safety:** The proposed special permit plan with access on Old Dunstable Road will not have a negative impact on traffic safety. The subdivision road will be located where sight distances on Old Dunstable Road are optimum.
3. **Adequacy of utilities:** Utilities will be provided with on-site sewage disposal system and private wells. Other utilities are available to serve the proposed lots.
4. **Neighborhood character:** The neighborhood character will be not be impacted by the proposed residential use.
5. **Impacts on the environment:** Clustering the lots will result in less environmental impact because less roadway will be required and there will be less disturbance to the land. The 50 ft "CR Area" surrounding the lots, required by the Natural Heritage and Endangered Species Program (NHESP) will help protect rare and endangered species habitat.
6. **Fiscal impact on the Town:** The fiscal impact to the Town is not greater from the Flexible Development plan than from the conventional, two-acre plan.

Conditions

11. The subdivision road will be located where sight distances on Old Dunstable Road are the optimum. Sight distance information shall be measured by the design engineer and submitted with the definitive plan.
12. The landowner shall mark significant specimen trees on the property. The trees shall be shown on the definitive plan.
13. The easement for abutter Brian Stevenson shall be shown on the definitive plan.
14. The Planning Board encourages the Applicant to cluster the homes closer together to minimize vegetation clearing and land disturbance. Building envelopes and limits of clearing will be shown on the definitive plan as offered by the Applicant.
15. The Planning Board encourages the Applicant to utilize shared driveways to access lots at the end of the cul de sac in order to minimize disturbance to the common area and natural landscape.
16. The Applicant shall not construct any structures within the area shown as "CR Area" on the plan. This restricted area shall remain in its natural condition as required by the NHESP.

17. As offered by the Applicant, the 13.4 acre open space parcel shall be deeded to the Town to be managed by the Conservation Commission or made subject to a permanent conservation restriction held by the Town pursuant to MGL Chapter 184, §§ 31 to 33. The conservation restriction or deed must be recorded at the Registry of Deeds and evidence of recording submitted to the Planning Board and Building Inspector prior to the release of any lots from the covenant.
18. This special permit shall not be in effect until certified copies of the special permit decision and the subsequently endorsed definitive plan are 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.
19. 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 and subsequently approved ANR plan shall constitute commencement of substantial use.
20. 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 Members Perkins, Barringer, Capes, Eliot, Giger, and Wilson in favor; Member Hess abstaining.

Preliminary Plan - The motion was made by Burke to approve the preliminary plan entitled, "Preliminary Subdivision Plan in Groton - Crystal Springs Estates," prepared by Ducharme & Dillis Civil Design Group, Inc., dated July 11, 2008, revised December 30, 2008. ***The motion was seconded and passed with Members Perkins, Barringer, Capes, Eliot, Giger, and Wilson in favor; Member Hess abstaining.***

Member Hess stated, for the record, that he did not vote to grant the special permits or approve the plan because he had too many place making and design concerns with the proposed plan. The land could be developed in a manner that would result in a better neighborhood and much more valuable properties.

SITE PLAN REVIEW – GROTON SCHOOL PHOSPHOROUS REMOVAL FACILITY

The Board reviewed the site plan submitted by Groton School to construct a phosphorous removal system at the existing waste water treatment facility adjacent to the Nashua River. Attorney Robert Collins and engineer Kelly Whalen presented the revised plan.

Attorney Collins said the proposed building has been relocated so it is outside the wetlands buffer zone. It will be located in a previously disturbed area. He said he has not been able to meet with the Fire Chief because the Chief is on vacation. The applicant will present the plans to the Board of Health on March 2, 2009 and Conservation Commission on March 10, 2009.

Chairman Perkins read the comments from the Water Department and the Conservation Commission.

Member Giger asked if the water from the on-site well would be potable. Attorney Collins said the water would comply with drinking water standards.

Member Giger asked about lights on the building and expressed concern that flashing lights could mean different things to people. He would not want to see anyone enter the building if there is a chemical spill. Attorney Collins said there would be a sign on the building stating that the door should not be opened without first checking with the Buildings and Grounds Office. Member Giger suggested that the applicant resolve these issues with the Fire chief. Member Barringer asked about floor drains. Mr. Whalen said a sump and secondary containment system would be installed. The sump would discharge to the waste water treatment system. An alarm system will be installed to notify someone if there is a chemical spill.

Member Capes asked about water supply issues. Attorney Collins said they would work out the details with the Groton Water Department and the Board of Health.

The motion was made by Giger, seconded by Barringer, to approve the site plan entitled "Groton School Phosphorous Removal System," prepared by NewFields, dated January 8, 2009, with the following conditions:

1. The applicant shall comply with the requirements of the Fire Chief regarding access to the site, construction of the building, and handling of hazardous materials.
2. The applicant shall obtain all required permits from the Board of Health and Conservation Commission.
3. The applicant shall submit a revised plan to the Planning Board prior to the issuance of a building permit.

The motion passed unanimously.

COMMENTS TO SELECTMEN – GROTON WELLNESS CENTER

(Members Capes and Wilson stepped down and did not participate.)

The Planning Board discussed its comments to the Board of Selectmen on the application submitted by the Groton Wellness Center for a Common Victualler's License.

Member Giger said he was at the Selectmen's meeting when the matter was discussed. He noted that the Mill Run Plaza Condominium Association had not signed off on the application yet. The abutting unit owner was concerned about the availability of parking spaces.

Selectman Anna Eliot said there is a question of seating capacity. The application to the Selectmen said there would be 10 seats and the application to the Board of Health said there would be no seats.

Member Giger said during the Site Plan Review proceedings, the applicant stated that food would only be served to clients and not to the public. He expressed concern about the outdoor, patio seating.

Member Hess said the Board would like to support the expansion of local businesses, but the proposal is not consistent with what was presented to the Planning Board.

PUBLIC HEARING (con't) – PROPOSED ZONING AMENDMENT

The Board continued the public hearing to consider the proposed Wind Energy Conversion Facilities amendment. A revised version of the text included the following changes in setback requirements and new paragraph on height requirements:

b. General Siting Standards

(1) Height.

~~Large Scale Wind Energy Conversion facilities shall not be higher than required to make the project economically feasible. The Planning Board must determine that the height of the facility will not derogate from the intent of this chapter or be detrimental or injurious to the public.~~

The height of a large scale wind energy facility will be proposed by the applicant and shall be determined by the Planning Board, after consulting with the Board's engineer, along with a finding that the height of the facility will not derogate from the intent of this chapter or be detrimental or injurious to the public.

(2) Setbacks

~~Large scale wind energy conversion devices shall be set back a distance equal to at least 1.5 times the overall height of the wind energy conversion facility from the nearest property line and from the nearest private or public way street line.~~

Large scale wind energy conversion devices shall be set back a distance equal to the overall height of the wind energy conversion facility plus twenty-five (25) feet from the nearest property line and from the nearest private or public way street line. Any supporting structure including guy wires shall not be located closer to any property line or street line than the distance equal to the minimum building setback required for the zoning district in which the facility is located.

The Planning Board may reduce the above minimum setback distances, as appropriate based on site-specific considerations, if the project satisfies all other criteria for the granting of a special permit under the provisions of this Section.

Member Barringer asked what the rationale is for the proposed changes to the text. Member Burke said the model by-law included a setback of 1.5 times the height of the tower. However, other by-laws have a setback equal to the height of the tower. The working group did not find any adopted by-laws with a 1.5 times the height setback requirement.

Member Barringer expressed concern about the possibility of blades falling from a spinning turbine. Member Giger noted that the setback for small scale towers is still 1.5 times the height of the tower. Small scale towers are not engineered, but large scale towers must be designed by engineers with risk assessments and mitigation to be considered by the Planning Board during the special permit process.

Steve Webber said a 1.5 times the height setback would prohibit installation of a wind turbine on the best site in Groton. A blade falling off a turbine is a very rare event. Turbines are designed so they do not brake in hurricanes.

Member Giger said if the by-law is too restrictive, it may discourage the interest of applicants.

Bob Pine said there are not many parcels that could accommodate the 1.5 times the height setback. He said he agreed that a set back equal to the height plus 25 feet is reasonable.

Member Burke said in addition to the change in setback, the Board removed the "economically feasible" language in the paragraph on height. The new language is based upon technical issues to be reviewed by the Planning Board and its consulting engineer.

Mr. Webber said the amount of energy is dependent upon the wind speed. The wind velocity is much better at higher elevation with current technology. The power generated is based upon the cube of the wind velocity. The height of the turbine can never be greater than 500 ft under FAA regulations.

Member Burke added that the conservation restrictions on Gibbet Hill or Surrenden Farms would prevent wind turbines in these locations.

Chairman Perkins said there is value in supporting wind energy. The Planning Board must provide education on why height limitations do not make sense based upon scientific information.

Mr. Pine suggested that the Board consider separating large scale facilities into two parts: facilities less than 200 ft should be subject to Planning Board special permit and facilities greater than 200 ft subject to concept plan approval at Town Meeting.

Mr. Pine spoke about the perception of height relative to the landscape. Groton's drumlins are very small and intricate so a 400 ft tower would be out of scale with the landscape. Mr. Pine submitted photo simulations showing towers on Groton's hills. He said he is very opposed to allowing towers over 200 ft without a Town Meeting vote.

Mr. Webber said wind towers are not an intrusion on the landscape. It shows that Groton is a forward-thinking community.

Gary Hoglund said requiring a Town Meeting vote for towers over 200 ft would be a prohibition and Groton would be considered an anti-wind town. The proposed by-law says the Planning Board will determine the height after consultation with its engineer based upon technical information submitted by the applicant. The Planning Board must consider the impacts and benefits to Groton residents. A 200 ft height limit will not work with today's technology.

Member Burke agreed that a 2/3 vote of Town Meeting would amount to a prohibition on wind towers. Town Meeting is not the proper forum to conduct site plan review or grant a special permit.

Member Hess said he appreciates the aesthetic concerns, but asked if this is really a "not in my back yard" attitude.

Mr. Pine said he is a strong advocate of wind power. Groton's by-law requires a 2/3 vote of Town Meeting for large-scale projects such as multifamily housing and commercial developments with a footprint greater than 10,000 SF. Groton's drumlin swarm is a very unique landscape that can be viewed from Groton Center. Other areas in Town may be more suitable.

Mr. Webber said he looked at all potential locations in Groton. Gibbet Hill has the best wind velocity, but it is protected open space. The next best location is at the top of Chestnut Hills (Brooks Orchard).

Mr. Hoglund said the siting of wind towers is a complex matter. In addition to wind velocity, access to the substation and power grid must be considered. The decision should be left to a knowledgeable body such as the Planning Board rather than a vote of Town Meeting.

Member Hess said the photo-simulations submitted by Mr. Pine are out of scale. Objects look different in an open, flat area rather than in an area with hills, trees, and houses in the foreground. It makes sense to have applicants present their case and technical information to the Planning Board.

Selectman Anna Eliot said it is onerous to require a Town Meeting vote. The Economic Development Committee is concerned that businesses do not want to locate in Groton if a Town Meeting vote is required.

Member Barringer said scale and aesthetics are an important consideration. The wind towers must be sited in the right place. Wind velocities are marginal in Groton.

Mr. Webber said the technology is evolving and the ability to produce power will be improved in the future. The height of the tower must be greater due to the cube of the wind velocity. He said he is not sure if there is sufficient wind at Brooks Orchard. If there is, a wind turbine would be good for Groton.

Member Burke said there is a 270 ft tower at the Holy Name School in Worcester. He offered to take photographs of the tower. Chairman Perkins offered to take photographs of towers in Hull and Newburyport. Member Giger said he will be presenting the slide show at the Groton Public Library on March 29 and April 19, 2009 as part of the public education effort.

The motion was made by Wilson, seconded by Burke, to file the revisions of the WECF by-law dated February 26, 2009 with the Town Clerk. ***The motion passed unanimously.***

The Board voted unanimously to continue the public hearing on March 26, 2009 at 7:30 PM.

COMMENTS TO SELECTMEN – GROTON WELLNESS CENTER

(Members Capes and Wilson stepped down and did not participate.)

The Board continued its discussion about the Groton Wellness Center's application for a common victualler's license.

Mr. Capes said the Economic Development Committee is working on making Groton a more business-friendly community by informing people about the permitting process.

Member Hess noted that Northampton allows special circumstances and exceptions to the rules when it is appropriate. Member Barringer said the Board must be even-handed and treat all applicants fairly.

Chairman Perkins said the applicant must go through the site plan review process for a change of use.

The motion was made by Burke, seconded by Hess, to send the following comments to the Board of Selectmen:

If the applicant would like to open the bistro to the public, the Planning Board considers this to be a change of use. Therefore, the applicant must submit an application, signed by the Mill Run Plaza Condominium Association, to modify the site plan approval for the allocation of parking spaces.

Chapter 218 Zoning of the Code of the Town of Groton, Section 218-26 Site Plan Review states:

B. Applicability.

- (1) Any application for a building permit, special permit or certificate of occupancy (for a change of use) involving a commercial, office, industrial, institutional, or multifamily use, or structure for such use shall be subject to site plan review.

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- (2) In addition, any site changes to an existing commercial, office, industrial, or institutional use, or structure for such use involving the following alterations shall be subject to site plan review in accordance with the threshold levels established in Subsection C below:
 - (a) Any required increase or proposed change to the number of parking spaces either for customers, employees or visitors. (Refer to § 218-23, Off-street parking and loading, for parking requirements.)

Meeting adjourned at 10:15 PM

Respectfully submitted,

Michelle Collette
Town Planner