

**PLANNING BOARD
DECEMBER 17, 2015
MINUTES**

Chairman Perkins called the meeting to order at 7:00 PM at the Town Hall

Members present: Perkins, Barringer (participating remotely), Burke, Giger, Svarczkopf, Vega and Wilson

SPECIAL PERMIT/SITE PLAN REVIEW DECISION - GROTON INN, 128 MAIN STREET

The Planning Board discussed the draft special permit modification decision for the Groton Inn. The Board received a letter dated December 11, 2015, an email dated December 15, 2015 from design engineer Rob Oliva of David E. Ross Associates with attached sketches SK-1 and SK-2, an email response for the Fire Chief on sketches showing access/egress over the easement with 134 Main Street, and a "Revised Supplemental Traffic Analysis," prepared by MDM Transportation Consultants.

Attorney Robert Anctil, on behalf of the applicant, sent the Board an email expressing concern on the following draft condition:

1. The Board determined that it is important that the site be operated as one entity. As represented by the applicant at the public hearing, the Groton Inn and the Groton Inn Restaurant shall be owned and/or managed by the same business enterprise. If there is a proposed change in this arrangement in the future, the owner shall submit a request to the Planning Board for its review and approval.

Member Burke said at the public hearing, the applicant represented that the Groton Inn and restaurant would be in one, coordinated ownership. He said if management of the Inn and restaurant are not coordinated, there may be conflict in the future. He said the site should operate as one, rather than two, entities. There should be some mechanism in place.

Chairman Perkins asked Attorney Anctil to clarify his concerns about the condition.

Mr. Anctil said there is an agreement with the Migis Group on the ownership and operation of the Inn and the restaurant. However, the lender said Condition #1 would be a "deal-breaker" for the project. The applicant is not looking to divide the property. It will function as a single entity, but financing is in jeopardy with Condition #1.

Member Burke asked about the lender's concerns. Mr. Anctil said the commercial lender is concerned about any restrictions on the property because restrictions increase risk and take away value. He said the Migis owners are a partner in the equity, but the Migis Hotel Group is not.

Applicant John Amaral said they are in this project to make it work, which is why they have worked for 18 months on modifying the plans.

Member Burke said this is a critical property in downtown Groton and there should be coordinated operation of the property.

Mr. Amaral said Migis is part owner of the real estate with a separate management contract. He said all the site plan review issues have been addressed. The applicant will not do anything that will hurt the Inn. They are not looking to lease to a chain restaurant.

Member Burke asked if the restaurant could be non-transferable to a new owner. Attorney Anctil said that would leave them in the same position with the bank.

Chairman Perkins said if the applicant sells the restaurant as a condominium, it would impact parking and would have to come back to the Board for Site Plan Review. Attorney Anctil said the restaurant could be sold as a condominium or kept as a shared ownership.

Member Barringer said if the management of the restaurant is separate, there would not be enough parking for the 120-seat function hall in the Inn along with the 100 seat restaurant. If the properties are separated, there would be a parking issue. Attorney Anctil said the condominium agreement could include shared parking provisions.

Member Burke suggested including a statement in the decision that the Planning Board's approval is predicated on the application as submitted and the representations of the applicant at the hearing. Members all agreed.

Attorney Anctil agreed and said he is still concerned with Condition #1. The Board agreed to address the issue in the findings and to remove Condition #1.

The motion was made by Burke, seconded by Wilson, to GRANT a modification of Special Permits 2014-02 & 2014-06, as shown on the plan entitled, "Site Plan of Land in Groton, Massachusetts, 128 Main Street," prepared by David E. Ross Associates, with revisions through December 10, 2015, including the sketch plans SK-1 and SK-2, dated December 14, 2015. The Planning Board's approval of the special permit modification and grant of waivers is predicated on the application as submitted and representations by 128 Main Street, LLC, with the findings and conditions contained herein. This special permit modification supersedes Special Permits 2014-02 and 2014-06.

Findings:

Section 218-18 Major Projects

The Planning Board determined that the proposed Special Permit Modification is consistent with the concept plan approved at the 2013 Fall Town Meeting.

Section 218-24B Promotion of Harmonious Development

The Planning Board reviewed the architectural elevations of the Groton Inn and the elevations of the Groton Inn Restaurant, prepared by Pitman & Wardley, dated December 7, 2015. In accordance with the provisions of Section 218-24B Promotion of Harmonious Development, the Board determined that the proposed buildings are harmonious with the architectural integrity of Town Center.

Section 218-32.1C Special Permit Criteria

1. **Social, economic and community needs:** The proposed development will enhance the vitality of the Groton Center by recreating the historic Groton Inn, which burned in a fire on August 2, 2011. The location of the Groton Inn and Groton Inn Restaurant at 128 Main Street will enhance a sense of place in the historic Groton Center.
2. **Traffic flow and safety:** The MDM supplemental reports, submitted by the applicant, concluded that the proposed redevelopment of the site will have no material impact on the operation of Main Street. The driveway and site design will facilitate pedestrian safety and will improve the existing

sidewalk on Main Street. The emergency vehicle access over the easement with 134 Main Street will enhance public safety for both sites.

3. **Adequacy of utilities:** The Planning Board received comments from Town Departments. The Water and Sewer Departments have no issues or concerns provided that the project meets all the required specifications. The proposed stormwater management system will be connected to the municipal separate storm sewer system (MS4) as approved by the DPW Director and Stormwater Advisory Committee.
4. **Neighborhood character:** The reconstruction of the Groton Inn is a benefit to the Town's historic and cultural resources. The Board determined that it is important that the site be operated as one entity. The applicant represented at the public hearing that the Groton inn and the Groton Inn Restaurant will be owned and/or managed by the same management company as one coordinated enterprise. The Groton Center neighborhood will be improved because the Groton Inn will be restored in a historically appropriate manner. The views of Gibbet Hill from Main Street will be preserved. The scenic vista is a significant feature of Groton's Main Street.
5. **Impacts on the environment:** The installation of the stormwater system with minimal work in the 100 ft wetlands buffer zone and the remediation of the former on-site trash disposal area will minimize environmental impacts.
6. **Fiscal impact on the Town:** The redevelopment of the site with a project of substantial value will have a positive fiscal impact on the Town.

WAIVERS

The Planning Board voted to grant the waivers, as requested by the applicant, when it granted the previous special permit. The following waivers are still in effect and are applicable to the proposed modification of the plan:

1. Section 218-25G(3)(c) requiring submission of a scale model.
2. Section 218-18.D.1.(c)[2] – Topographic change will not result in cuts or fills exceeding 7 feet.

The proposed excavations exceeding 7 feet are required to mitigate the fill/trash mixture on the site.

3. Section 218-25.H.(1)(a) – Preserve trees 12-inch caliper or larger unless it can be demonstrated that such removal is necessary and that there are no alternatives to said removal.

The site is proposed to be re-graded within the limit of work as shown on the site plans. All vegetation within those limits, regardless of size, will have to be removed in order to establish grades and install infrastructure.

4. Section 218-27.C.(4).(d) – States that no parking associated with a multifamily proposal shall be within 100 feet of any property line.

The applicant requested waiver is for a reduction to 26 feet from a property line to a parking area. The Board granted a waiver to modify that to a reduction of 24 feet.

CONDITIONS

1. The proposed cooling tower shall be located and screened as shown on the sketches entitled, "The Groton Inn 128 Main Street, Groton, Sketch Plan SK-1 and SK-2," prepared by David E. Ross Associates, dated December 14, 2015. The cooling tower and associated equipment shall comply with the provisions of the Massachusetts Department of Environmental Protection's ("DEP") Division of Air Quality Noise Regulations (310 CMR 7.10).
2. Parking for the disabled and access to the buildings shall comply with the requirements of the Architectural Access Board Regulations, 521 CMR, and the Americans with Disabilities Act.
3. The bicycle rack shown on the plan shall be installed in the best location to accommodate guests at the Inn. The location of the bicycle rack shall be determined by the applicant.
4. The pedestrian walking trail at the rear of the property will connect with the trail from the adjacent lot (Map 113, parcel 9). The location of the trailhead posts shall be determined in consultation with the Conservation Commission.
5. A pedestrian access and emergency vehicle access to Boynton Meadows, 134 Main Street, shall be established as shown on the sketches entitled, "The Groton Inn 128 Main Street, Groton, Sketch Plan SK-1 and SK-2," prepared by David E. Ross Associates, dated December 14, 2015. The entire width and length of the "18' Wide Access Easement," as shown on the sketch plans SK-1 and SK-2, shall be maintained and passable year-round.
6. Snow banks and stockpiles shall not exceed a height of three (3) feet at any time. Snow in excess of three feet in height shall be removed from the site and disposed of properly within 48 hours of a storm.
7. The Historic Districts Commission and Planning Board shall review the specifications of features, including but not limited to the following, prior to installation:
 - Signage
 - Lighting
 - Fences
 - Bicycle racks
8. Site lighting shall be allowed in accordance with the following schedule. Changes in the lighting schedule shall not be permitted without prior approval of the Planning Board.
9. Dusk - closing: All commercial lighting shall be allowed on from dusk to one-half hour after closing time of the restaurant and spaces open to the general public.
10. Dusk – dawn: 30% of the lighting fixtures throughout the site shall be allowed to remain on overnight.
11. The height of new Groton Inn buildings shall not exceed 39 ft as permitted in the variance granted by the ZBA.
12. The installation of the public water and sewer systems shall conform to the specifications of the Groton Water and Sewer Departments.

13. The applicant agreed to grant a "Stormwater Management Easement" to the Town to allow the Town and its agents to have access to the stormwater management system to maintain, or repair the system due to the failure of the developer or condominium association or any agent thereof to adequately operate, maintain, or repair the same. The developer or condominium association or any agent thereof shall be required to reimburse the Town for any expenses the Town incurs in such operations, maintenance or repair.
14. The Planning Board and Town Counsel shall review and approve all easements prior to the recording of said easements at the Registry of Deeds addendum including:
15. "Grant of Conservation Trail Easement" including the pedestrian trail to the adjacent property line (Map 113, Parcel 9)
16. Pedestrian and emergency vehicle access to connecting to the adjacent property line (Map 113, Parcel 9)
17. "Stormwater Management Easement" as referenced in Condition #16.
18. Three copies of the final site plan approved by the Planning Board shall be submitted to the Board for endorsement as required in Section 218-25G(3).
19. The applicant must submit any proposed change in the above referenced plans to the Planning Board for its review and approval before the change is implemented.
20. The Planning Board shall review the project one year after the granting of the occupancy permit to assure compliance with the Special Permit and to determine if any reasonable modifications are warranted.
21. This special permit shall not be in effect until certified copies of the special permit decision and plans 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 and Building Commissioner by the Applicant.
22. This special permit shall lapse in 24 months (from the date the decision is filed with the Town Clerk and the 20-day appeal period expires), 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.
23. This special permit runs with the land and applies to any successor in interest or successor in control.

The motion passed unanimously by roll call vote with Perkins – yes, Barringer – yes, Burke – yes, Giger – yes, Svarczkopf – yes, Vega – yes, and Wilson – yes.

PUBLIC HEARING – SPECIAL PERMIT, GELD SOLAR INSTALLATION, 600 COW POND BROOK ROAD

In accordance with the provisions of Chapter 40A, Sections 9 and 11, the Groton Planning Board will hold a public hearing on December 17, 2015 to consider the application submitted by the Groton Electric Light Department (GELD) for a Special Permit to utilize the provisions of Chapter 218-25.3 to install 2.93 megawatt (MW) Solar Photovoltaic Installation Project as shown on the plan entitled, "Groton Landfill Solar PV Development, Groton, Massachusetts," prepared by AMEC Foster Wheeler, dated November 23,

2015. The proposed project is located on land owned by the Town of Groton, Assessors' Map 248, Parcel 41, located on the easterly side of Cow Pond Brook Road.

Chairman Perkins called the public hearing to order. Clerk Vega read the notice posted with the Town Clerk on November 23, 2015 and published in the November 27 and December 4, 2015 issues of the *Groton Herald*. GELD Manager Kevin Kelly, design engineer Robert Bubowski of AMEC Foster Wheeler, Geri Kantor of Ameresco, and Selectman Peter Cunningham were present.

Mr. Bubowski described the project to install solar, photovoltaic fields on the site of the closed landfill on Cow Pond Brook Road. The project requires approval by the Department of Environmental Protection (DEP). A stormwater management analysis was submitted as required by the DEP. The local Earth Removal Stormwater Advisory Committee issued a Limited Stormwater Permit for the project. The geo-technical analysis has been completed. A new access road will be constructed off Cow Pond Brook Road. The Natural Heritage and Endangered Species Program (NHESP) permit requires that all work must be done between November 1 and March 31 to protect Blanding's turtle habitat.

Member Wilson thanked the applicant for submitting photo-simulations that help the Board visualize what the project will look like when it is completed. He asked about the impact on the closed landfill. Member Burke said AMEC will work with the DEP on issues related to the closed landfill.

Member Giger asked if soil testing was done. Mr. Bubowski said test pits were done as part of the design phase. The closed landfill has a liner, a sand layer and gas vents as required in the landfill closure plans approved by the DEP.

Member Giger asked if there are similar designs elsewhere. Mr. Bubowski said, "Yes," in many locations such as Acton, Sudbury, Concord, Weston, and Framingham.

Chairman Perkins read the letter dated November 10, 2015 from the DEP. She asked if there is a weight limit on the roads that cross over the landfill. Mr. Bubowski said the DEP conditions limit weight to less than 7 psi. Trucks must stay on the gravel access road and only track vehicles are permitted on the landfill.

Selectman Peter Cunningham said the Town has been working closely with DEP for many months on the approval of this project. The Town is very supportive of renewal resources. Similar projects have been done in many other communities.

Land Use Director Michelle Collette said the applicant is requesting a waiver of the 50 ft setback requirements from Cow Pond Brook Road and from the southerly property line.

Member Giger asked if the abutter to the south constructed something, would it interfere with sun exposure on the solar field. Mr. Kelly said it is not a concern because the height limit is 35 ft. He said he is more concerned about the NHESP deadline to complete construction by March 31, 2016.

Member Giger asked about DEP approval. Mr. Bubowski said he was confident that DEP would approve the project.

The Board voted unanimously to close the public hearing.

DECISION

The motion was made by Burke, seconded by Wilson, to GRANT for a Special Permit to construct ground-mounted solar photovoltaic facilities as shown on the plans entitled, "Groton Landfill Solar PV Development, Groton, Massachusetts," prepared by AMEC Foster Wheeler, dated November 23, 2015, with the following waivers, findings and conditions:

Waiver:

The Board voted unanimously to waive the setbacks required in Section 218-25.3, subsection 1.9.1, in two locations:

- Southern property line in the location of the proposed solar array east of and adjacent to the southern landfill.
- Western property line along Cow Pond Brook Road in the location of the solar array on the southern landfill.

Findings:

The Planning Board made the following findings based upon the criteria set forth in Chapter 218 Zoning of the Code of the Town of Groton, §218-32.1:

1. **Social, economic and community needs:** The proposed photovoltaic solar facilities will enhance the "green" energy-generating capacity for the benefit of the Groton Electric Light Department rate payers and community at large.
2. **Traffic flow and safety:** There will be no traffic flow or safety issues associated with the use of the proposed access road. The Board determined that Cow Pond Brook Road and the proposed access road will provide adequate access for construction and emergency vehicles.
3. **Adequacy of utilities:** The Groton Electric Light Department indicated utilities are adequate to serve the proposed facility.
4. **Neighborhood character:** The proposed facilities will have minimal impact on the neighborhood character because the location is surrounded by the transfer station and DPW garages.
5. **Impacts on the environment:** The impact on the environment will be minimal as documented in the Stormwater Management calculations submitted with the application as well as the extensive review and conditions by the Natural Heritage and Endangered Species Program.
6. **Fiscal impact on the Town:** There is financial benefit to the community and ratepayers by the generation and sale of solar energy from the proposed facilities.

Conditions

1. The construction and operation of the large-scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

2. The applicant shall comply with the Fire Chief's request for training for police and fire in case of any incidents on site as stated in his response dated November 30, 2015 to the Form of Intent.
3. The applicant must obtain final sign-off from the Building Commissioner and a Certificate of Use and Occupancy, pursuant to 780 CMR of the Massachusetts State Building Code, prior to energizing the facility and any associated equipment.
4. The applicant shall comply with Section 218-25.3B1.13 Abandonment or Decommissioning which states:
 - 1.13 Abandonment or decommissioning.
 - 1.13.1 Removal requirements. Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Subsection 1.13.2 of this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - (a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - (c) Stabilization or revegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
 - 1.13.2 Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
5. This special permit shall not be in effect until a certified copy of the special permit decision is recorded at the Middlesex South Registry of Deeds as required in MGL 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 and Building Commissioner by the applicant.
6. This special permit shall lapse in 24 months (from the date the decision is filed with the Town Clerk and the 20-day appeal period expires), 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.

7. This special permit runs with the land and applies to any successor in interest or successor in control.

The motion passed unanimously.

NESSP TEMPLE CONSTRUCTION ISSUES

The Board received a letter dated December 14, 2015 from Stephen Gentile and Russ Arena, abutters to the NESSP Temple project at 1003 Boston Road on the Groton-Littleton town line. Mahender Singh of the NESSP Temple, general contractors Nalin Mistry and Scott Nelson of NM Construction, and site construction contractor Lewis Lunn of LL&S Development were present.

Mr. Gentile (15 Ernies Drive, Littleton) presented the concerns stated in his and Mr. Arena's letter. He said they want to be good neighbors and would like a response from the NESSP Temple regarding their concerns. The removal and deterioration of vegetation in the buffer zone between their yards and the construction site is a major concern. He requested that dense plantings be installed to maintain the buffer.

Mr. Arena (17 Ernies Drive, Littleton) thanked Town officials for being very responsive to their concerns. He said his swimming pool is only 60 ft away from the parking lot for the Temple. He described the dust problems that occurred in the late summer. He said his daughter has asthma that was aggravated by the dust. He said he had to close his swimming pool a month early because the filter was so clogged.

Mr. Arena expressed concern about lack of proper notice for blasting and ATV's riding through the construction site.

Mr. Gentile said the contractor is not supposed to work on Saturdays, but had done so recently. He said he called Scott Nelson on a Saturday morning and Mr. Nelson did shut down the construction right away. Land Use Director Michelle Collette said the hours of operation are only controlled by Chapter 134 Earth Removal which limits construction to 7 AM to 5 PM on weekdays only.

Mr. Gentile and Mr. Arena submitted photographs showing dead and dying trees that have fallen down in the buffer near their properties.

Abutter Leslie Lathrop, 55 Sunset Drive, said the jack-hammering noise was intolerable during the summer. She asked about the impact of vegetation removal on the vernal pool. The Board suggested that Ms. Lathrop asked the Conservation Commission about the vernal pool.

Chairman Perkins noted that the Planning Board did approve the site plan in June 2014. She asked the applicant to address the construction impact issues.

Mr. Mistry said they have plans to complete the project. He said they are trying to keep communication open with the Town and the neighbors. They will try to minimize noise and impact on abutters.

Chairman Perkins asked about the hours of operation. Mr. Mistry said they work from 7:30 AM to 3:30 PM on weekdays. They did have issues on two Saturdays, but stopped working when they were asked to do so.

Mr. Nelson said they did work late one evening to prepare for blasting for the water line from Monarch Path. No excavation was done at night and only tree cutting was done on Saturday.

Member Giger asked who is supervising the blasting. Mr. Nelson said NM Construction uses a subcontractor for blasting. Some call abutters, some do not. He said they usually knock on doors and talk with homeowners when they do the pre-blast survey. Member Giger asked Mr. Nelson to do a better job communicating with abutters about blasting.

Chairman Perkins asked what the contractor could do about ATV's. Mr. Nelson said they will put a chain across the construction entrance, but ATV's are everywhere so it is difficult to keep them out. The Board suggested that the applicant post signs to keep ATV's and snowmobiles off the property.

Chairman Perkins summarized the conditions of the Board's Site Plan Approval dated June 12, 2014 including approval of a final landscaping plan and Planning Board review one year after the occupancy permit is issued. She said the final landscaping will help restore the vegetative buffer and screening.

Ms. Lathrop asked about notice of blasting. Land Use Director Michelle Collette said blasting is under the Fire Chief's jurisdiction. She suggested that Ms. Lathrop contact the Fire Chief about the requirements. The Fire Chief sends notice to the Planning Board before blasting takes place.

Mr. Mistry said they would submit a modified site plan and a landscaping plan to the Board for its approval.

Mr. Singh said they met with Town boards and committees many times for approval of the project. They would like to minimize disturbance to the neighborhood and will work on improving communication with the abutters.

The Board thanked all parties for attending the meeting and working toward better communication.

Meeting adjourned at 9:15 PM

Respectfully submitted,

Michelle Collette, AICP
Land Use Director/Town Planner