



## II. PUBLIC HEARINGS

The Chair stated that he would open Public Hearings A and B simultaneously commenting that the Board would vote on them separately.

A. The application of **Raymond Ramsey**, owner, for property located off **Kearsarge Way** wherein an amendment to a previously approved Conditional Use Permit involving the treatment of stormwater runoff associated with the proposed construction of a 100 room hotel is requested. The amendment involves compliance with requests of the New Hampshire Wetlands Board for a Conservation Easement deed and planting plan. A gravel access road has also been introduced to delineate the limit of clearing. Said property is shown on Assessor Plan 218 as Lot 22 and lies within a General Business district.

B. The application of **Raymond Ramsey**, owner, for property located off **Kearsarge Way** wherein site plan approval is requested for the construction of a 63' x 231' four-story, 100 room hotel with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 218 as Lot 22 and lies within a General Business district. Said property was formerly shown on Assessor Plan 218 as Lots 22, 24, 25, 28, 29, 30, 32, 33, 34, 38 and 39.

### SPEAKING TO THE APPLICATIONS:

Attorney Charles Griffin addressed the Board and stated that he was representing Ray Ramsey. He went on to state that Mr. Ramsey was present together with John Chagnon, site engineer, Patrick Seekamp, soil scientist and Dermot Kelly, traffic engineer.

Attorney Griffin continued on by stating that in order to comply with certain requirements of the NH Wetlands Board, a gravel access road had been introduced so that the proposed detention area could be maintained.

As background for the Board, Attorney Griffin stated that back in 1998, the Rockingham County Superior Court issued an Order declaring the site in question to be located in a General Business zone for the sole purpose of constructing a hotel. He pointed out that copies of the decision were included in his packet submittal.

Attorney Griffin went on to state that after the decision, a series of meetings was held with City officials, Mr. Ramsey and himself regarding the siting of the hotel as far away as possible from the residences on Kearsarge Way. Subsequently, the Planning Board submitted a recommendation to the City Council calling for the abandonment of old Kearsarge Way in return for a Conservation Easement to the rear of the property. The Council adopted the Board's recommendation and deeds were exchanged. Again, Attorney Griffin referred to his packet submittal and stated that copies of the deeds were included therein.

Attorney Griffin stated that over 30% of the site in question would be burdened by Conservation Easements and, thusly, would provide a permanent buffer.

According to Attorney Griffin, meetings continued with the City as to exactly where the hotel would be located. In order to accomplish this goal, Board of Adjustment relief was requested and was received in July of last year for a series of setback Variances. In granting the Variances, the Board also attached a series of conditions which are contained on Sheet C-1 of the plans. Attorney Griffin went on to review the conditions and made reference to certain sheets contained in the plans.

With regard to the stipulation that refrigeration trucks not be allowed to run all night, Attorney Griffin stated that they did not anticipate that the hotel would attract refrigeration trucks.

Attorney Griffin went on to state that in February of this year, the Planning Board granted a Conditional Use Permit for a detention pond and V-notch weir with the condition recommended by the Conservation Commission that the upland treed buffer be preserved. During the review by the Wetlands Board, a requirement was made that the uplands be placed in a Conservation Easement and that plantings be done to enhance the recovery of the disturbed area.

Attorney Griffin informed the Board that they had met on a couple of occasions with the Atlantic Heights Neighborhood Association who expressed concerned about creeping commercialism.

Attorney Griffin commented that EPA regulations recommend roadways such as the proposed gravel roadway leading to the area necessary to maintain the V-notch weir; that by introducing the roadway, one would know exactly where to go to get in and out.

Attorney Griffin then spoke to the proposed 100 room hotel with indoor pool and a breakfast bar to be used by hotel patrons only. The structure will be fully sprinklered and 122 parking spaces will be provided with 5 spaces being handicapped accessible parking spaces.

Attorney Griffin then referred to a generic illustration of what the hotel might look like explaining that the goal is to hook up with a franchise; however, no final decision has been made. It is anticipated that there will be some 20 – 25 employees. Attorney Griffin mentioned that Mr. Ramsey has had twenty-two years in the hotel/motel field.

The lighting plan is shown on Sheet C-6. It was noted that the lights will shine in the parking lot not abutting residences.

The drainage will flow northwesterly, easterly, and southerly from a high point to a closed system. A 100' treatment swale and a V-notch Weir will control rate. It is anticipated that stormwater runoff will not affect neighbors.

Water service will come in from Kearsarge Way. The 10" main from Spinnaker Way will come down to Mangrove Street to the project. Permission has been requested for an independent analysis for an on-site domestic water storage that would not impact the existing system beyond capacity. The electric service will be underground.

A pedestrian walkway has been added to the plan to an existing walkway on Market Street. The snow storage location is shown on Sheet C-3.

It was noted that a question had been raised about the prevention of trucks from idling. It was felt this was similar to the stipulation regarding refrigeration trucks not being allowed. Attorney Griffin frankly doubted that any of these trucks would frequent the hotel adding that measures would be in place to ensure that trucks would not idle all night; such as, night watch persons. Furthermore, it was Attorney Griffin's contention that a guest would bring such a nuisance to the attention of someone adding that the proposal is not for a truck stop.

Attorney Griffin commented that the major concern is traffic and referred to the traffic study compiled by Dermot Kelly. Attorney Griffin expressed the opinion that the increase in traffic from the proposed hotel would not affect the current Levels of Service. Attorney Griffin referred to a letter from Bob Barry of NHDOT that stated that NHDOT did not feel that the project would have a significant impact on the existing situation.

Attorney Griffin spoke to a proposed series of improvements emanating from the Traffic/Safety Committee; such as, the restriping of the left turn and right turn lanes and that the radius be made safe for WD50 trucks thereby allowing Irving Oil trucks to get to and from their tank farm without crossing over the yellow line; that the traffic signals be interconnected and coordinated with the recommendation that these improvements be paid for by the applicant to the extent of \$100,000. Attorney Griffin stated that the applicant is willing to work with the City to solve these problems with his financial responsibility to be proportionate to the amount of traffic generated by his project.

Attorney Griffin then spoke to the time when the Marriott Hotel, across the street from the proposed project, went through the Site Review process in 1995 with the only traffic improvement requirement being a pedestrian sidewalk and pedestrian light with a recommendation from Traffic/Safety Committee that a bond be secured for future signalization. Attorney Griffin pointed out that in 1998, consideration was given to an addition to increase the capacity of the hotel with the only traffic improvement being the pedestrian light. This was done with three years of history to go by.

Attorney Griffin stated that, frankly, the situation had been evolving over the years; that some contribution should be made towards the traffic improvements; however, he asked that Mr. Ramsey be treated fairly in that regard.

In concluding his statements, Attorney Griffin stated that he never saw anyone as determined as Mr. Ramsey to become a member of the Atlantic Heights neighborhood.

John Chagnon of Ambit Engineering addressed the Committee and spoke to the complete drainage analysis submitted in the packets. It was Mr. Chagnon's opinion that the rate of stormwater runoff would be lessened post development due to the installation of a V notch weir and a detention pond in the easterly part of the property. Mr. Chagnon reported that a Site Specific Permit had been received for the design.

Mr. Chagnon then spoke to the proposed landscaping plan and the evergreen trees that would protect the residential neighborhood from views of the parking lot. He spoke to flower beds that would be low in height; that specimen trees would be planted along the perimeter with low bushes in the traffic islands.

Mr. Chagnon next spoke to the NH Wetlands Board permitting process that requires specific plantings in the drainage mitigation area. It was Mr. Chagnon's opinion that the NH Wetlands Board would be issuing its permit shortly.

Mr. Coker spoke to the proposed gravel road and the statement by Attorney Griffin that EPA regulations require such a road and asked for more specifics. Attorney Griffin pointed out that it was actually David Desfosses, an engineering technician with the Public Works Department, who brought up the EPA regulation during a Technical Advisory Committee (TAC) meeting and referred to the April 2<sup>nd</sup> TAC minutes.

Mr. Coker wondered if it would be reasonable to state that the intent is to maintain the system and the road is just an add on. Attorney Griffin replied that the road would ensure that someone could get there. Mr. Coker stated that he would prefer to not have the gravel road there.

Mr. Chagnon pointed out that the proposed Conservation Easement Deed placed on the area would prohibit the cutting of trees in the entire conservation area. He felt that by identifying the road, it would make it clear the path to be used to do the maintenance and would not leave it up to some future body to decide what trees get cut or don't get cut.

Mr. Coker stated that he was somewhat hesitant to support the gravel road; it being his feeling that the gravel road would become more than a gravel road over time adding that if it is there, they will come. He stated that he was personally not comfortable with the gravel road in there adding that the equipment should be able to get in there somehow, somewhere.

Mr. Will noted that a member of the Conservation Commission, Don Green, questioned the necessity of a gravel road. Attorney Griffin responded by presenting a worst case scenario. Suppose there is a problem with the weir; such as, a big rain on top of a lot of snow. That is not the time, in his opinion, to figure out how to get in there. He pointed out that the applicant is required to maintain the drainage structures that will be there for some period of time; that it makes sense to designate how one is going to get in there. He pointed out that access to the gravel road would be off the parking lot and Mr. Ramsey would have maintenance and watch persons available to monitor that; that one would have to traverse over a significant amount of parking lot to see the road.

Attorney Griffin thought that the Board needed to see the benefits of having the gravel road in place versus the potential; that on balance it makes very good sense, good planning, to provide the road now.

The question was asked as to the largest truck that would be needed to provide maintenance. Mr. Chagnon responded that the weir is poured concrete, so the largest truck would be a concrete truck.

Mr. Sullivan referred to a breakfast bar/continental bar with no cooking being done, just coffee and a microwave. Attorney Griffin responded that such was his understanding—similar to Comfort Inn.

Mr. Sullivan asked if the check-in and check-out times were considered in calculating the trip generation peak hours. Attorney Griffin felt that those times were taken into consideration. Mr. Sullivan felt that more traffic would occur than was portrayed. Discussion ensued between Dermot Kelly, traffic engineer, and Mr. Sullivan regarding peak hour traffic.

Mr. Lown commented that Attorney Griffin had stated that his client would be willing to pay his fair share. Mr. Lown wondered what that meant in terms of percentage of total cost. Attorney Griffin felt that the figure of \$20,000 would be appropriate based on the fact that it is anticipated that the hotel would be adding approximately 3% of the total amount of traffic in the area.

Mr. Coker stated that he uses Market Street and he can see with his two eyes how bad the traffic is; that it didn't take a rocket scientist to figure out that adding more cars to a bad situation is going to make it worse. He felt that traffic was considerably less when the Marriott Hotel was being proposed. He stated that he totally disagreed with Attorney Griffin's basis of fair share adding that the traffic is "awful". Attorney Griffin stated that the mitigation outlined is a product of the Traffic/Safety Committee.

Attorney Thomas Keane of the law firm Taylor and Keane located at 1000 Market Street, addressed the Board and stated that he was representing abutters, mostly residents of the Atlantic Heights neighborhood. Attorney Keane stated that traffic is a main issue and stated that there are a couple of studies out there, one done by Steve Pernaw for the Greenpages project and one done by Dermot Kelly. Attorney Keane submitted pictures of the Market Street/Kearsarge Way intersection taken at 3:00 p.m. (this date) pointing out that there was a very significant queuing problem at that time. He spoke to the difficulty of the Atlantic Heights neighborhood exiting Kearsarge Way and turning left to get downtown.

Attorney Keane went on to state that the situation has been the concern of the City for quite some time and referred to the 1999-2004 Capital Improvement Plan. He submitted an exhibit indicating that the City had identified the intersection as being a particular problem and in need of remedial action.

Attorney Keane then spoke to the development of the Tradeport and the creation of some 4,400 jobs. He spoke to the fact that some 22 accidents occurred last year at Market Street and the I-95 ramp north.

An independent traffic engineer who had been hired by Attorney Keane addressed the Board and stated that he had done a preliminary review of the Pernaw and Kelly studies. He stated that one

of the differences is the base line and the other is the Levels of Service. He stated that the hotel project would not only affect the Levels of Service but also queuing. He suggested that the traffic reports be referred out for an independent study.

Dermot Kelly stated that the difference in base lines came from the fact that some of the developments in the Pernaw report never occurred. He went on to state that all along from the beginning the project was about queuing adding that the lights are not coordinated.

Attorney Griffin pointed out that the mitigation that has been proposed is not something far in the future and referred to a poster he found in the Portsmouth Room mentioning the I-95/Market Street signal coordination for the 2002 construction season. Attorney Griffin referred to the draft minutes of the Traffic/Safety Committee meetings and John Burke's comments on Page 10.

Attorney Griffin also pointed out that Attorney Keane represents the Marriott Hotel who used Vanasse Hangen as the traffic engineers for their project who indicated that there would be no need for two through lanes until the year 2005. He stated that the Marriott is a competitor who does not want to see Mr. Ramsey in business.

Attorney Keane asked the Board to look at the pictures taken that very afternoon and to note that in one of the pictures the traffic light is green and there is still queuing. He wondered if signal coordination would be the remedy and asked for a peer review. He stated that he has not suggested that the project should not happen just that the traffic problem needs to be resolved.

Attorney Griffin stated that the City has its own traffic engineer; that Dermot Kelly did make reference to the signals in his report; that the City's traffic engineer indicated that this would work; that the Board needed to give that indication great weight. Attorney Griffin stated that the only issue here is what Mr. Ramsey's contribution should be.

There being no further speakers, the Chair declared the Public Hearing closed.

**DISCUSSION AND DECISION OF THE COMMITTEE:**

The Chair stated that he would call the first question, that of the Conditional Use Permit. Mr. Coker reiterated that he was hesitant to support the gravel road but he would. Mr. Carrier moved to approve. Mr. Will seconded the motion. The stipulation was made that the gate be locked and kept locked at all times except when it needs to be opened for maintenance purposes. John Chagnon indicated that such a stipulation would be agreeable to the applicant. Mr. Will stated that he appreciated why there was a need for a gravel road and would have to disagree with Mr. Green of the Conservation Commission. The motion passed unanimously.

Returning to the application for site plan approval, John Burke, the City's Parking and Transportation Engineer, addressed the Board. He stated that from a traffic perspective, there is very little mystery. Queuing is a problem as one can see any night one goes out there. He pointed out that on occasion, traffic backs all the way to K-Mart.

Mr. Burke spoke to the insufficient roadway capacity at the I-95 Interchange, northbound, left turns; that incredible poor signal timing pushes the queuing back.

Mr. Burke stated that acting on recommendations from previous studies, the City has submitted grant applications to physically interconnect the signals. This project will become eligible in the year 2003. Last year another application was made to widen the interchange. That project is not eligible until 2011.

It was Mr. Burke's opinion that it was the applicant's responsibility for traffic mitigation that would leave the corridor no worse than it is at the present time; that is equal to or better than when the hotel is built.

Mr. Burke stated that the intersection at Kearsarge Way needs to be widened and that the signals should be physically interconnected.

Mr. Burke continued on to state that the NHDOT did agree, although he would differ slightly from what Attorney Griffin represented, to approve the analysis. He stated that the analysis did not talk about the problem at Kearsarge Way and he would question the volumes presented.

However, having said all that, Mr. Burke stated that it was his professional opinion that by coordinating the signals, there should be an improvement to the queuing problem.

The Chair spoke to the existing conditions that are well known to the Board; that they drive Market Street every day. They live in Portsmouth. He stated that the aim is to have the project go forward without making the traffic situation worse than it is presently.

Mr. Burke commented that the recommendation to the Technical Advisory Committee was that the signals be coordinated at a cost not to exceed \$100,000. It may be that the coordination will be less money.

The Chair asked for the recommended stipulation. Mr. Holden repeated the recommendations from the Traffic/Safety Committee:

1. That Kearsarge Way be widened to accommodate separate left and right turn lanes as well as safe truck turning for a WB50 truck movement. This proposed improvement to be approved by the City Engineer; and,
2. That Kearsarge Way and the I-95 ramp traffic signals be physically interconnected and coordinated at a cost to the applicant not to exceed \$100,000 which is the estimate for this improvement.

Mr. Coker asked that with these improvements, the traffic situation should not be any worse. Mr. Burke stated that in his professional judgment there should be a dramatic improvement. Discussion ensued regarding Federal and State funding and traffic counts.



Mr. Lown moved to approve the request and the construction of the hotel with the conditions set by TAC and other conditions recommended by the Traffic/Safety Committee with the modification that the applicant pay his fair share of those two suggested improvements so that the traffic situation will be equal to or better than the current situation. Mr. Will seconded the motion for discussion purposes.

Mr. Holden reviewed the stipulations from the Traffic/Safety Committee. The Chair wondered what the fair share would be. Mr. Lown stated that he does not have enough facts to determine fair share and would like to pass it on to some future process.

Mr. Will commented that trying to make sure that conditions do not get worse is not outside of the purview of this Board.

Mr. Hopley spoke to a site plan issue and the fact that accessible parking spaces are on the other side of the lot which he felt did not make a lot of sense. Mr. Chagnon explained that the spaces closest to the building would be designated as high turnover spaces. He pointed out that two spaces (handicapped) are connected by a safe sidewalk; that other spaces are scattered around for long term parking. Mr. Hopley suggested the relocation of one or more spaces.

Mr. Sullivan expressed his dismay that the Marriott had not installed the pedestrian light. Mr. Holden indicated that the department would look into it and report back.

With regard to the issue of the water line, Mr. Holden recommended that the Water Department review the request and report back as to which alternative they prefer.

The Chair brought up the issue of idling trucks. Mr. Holden asked if the applicant would agree to policing such a nuisance. Attorney Griffin agreed.

Mr. Coker inquired as to who determines "better". The Chair responded that the City's traffic engineer would make that determination.

Mr. Carrier inquired if there would be an emergency generator on site. Mr. Sullivan indicated that an emergency generator would be a necessity. The Chair indicated that an amended site plan could be provided for the emergency generator.

Mr. Carrier inquired as to the type of air conditioning system the applicant was looking at. Mr. Chagnon indicated that it was yet to be determined. It was noted that such an item could be provided on an amended site plan.

An additional stipulation was included in the motion; that being, that all off site improvements be completed before a Building Permit is issued.

The motion passed unanimously.

Stipulations:

**From the Technical Advisory Committee:**

1. That an amended Conditional Use Permit be granted by the Planning Board as may be appropriate;
2. That the drainage swale be 2' above the water table; otherwise, under drains shall be installed;
3. That the gate for the gravel access road be moved toward the east; and,
4. That the 10" water main extension going up Mangrove Street tie into the existing 10" line on Spinnaker Way

**From the Traffic/Safety Committee:**

- That Kearsarge Way be widened to accommodate separate left and right turn lanes as well as safe turning movements for WD50 trucks with the improvements to be approved by the City Engineer; and,
- That the Kearsarge Way and I-95 ramp traffic signals be physically interconnected

with the modification that the applicant pay his fair share of those two suggested improvements so that the traffic situation is equal to or better than the current situation.

With regard to the issue of the water line, the Board stipulated that the Water Department review the request for an independent engineering analysis with a report back with the Board accepting the alternative the Water Department suggests.

A further stipulation from the Planing Board was that all off-site improvements be completed before a Building Permit is issued.

During the course of discussion, it was suggested that one handicapped accessible parking spot be moved closer to the building. Furthermore, it was noted that any plans for an emergency generator or air conditioning units should be reviewed by the Board as an amended site plan.

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Let the record show that the Board took a five minute recess at this juncture of the proceedings.

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C. Public comment and input is invited on a **City Council Referral** involving the request of **1950 LLC** to rezone a 27 acre parcel (to the rear of Ralph's Truck Sales) located off **Lang Road** from an Office Research designation to a Garden Apartment/Mobile Home designation. Said property is shown on Assessor Plan 291 as Lot 1-1.

**SPEAKING TO THE REQUEST:**

The Chair read the notice. Planning Director, David Holden, commented that this Public Hearing would allow the applicant an opportunity to speak and would also offer an opportunity for the Board to hear from the public.

Attorney Bernard W. Pelech addressed the Board and stated that he was present on behalf of the applicant, 1950 LLC. He reminded the Board that he had appeared before them at their last meeting. Subsequently meetings were held with the department and several department heads within the City in an attempt to narrow outstanding issues. It was Attorney Pelech's opinion that many of the issues are Site Review issues that can be adequately addressed. Attorney Pelech went on to state that the lot in question is located within an Office Research zone that presently begins 1,000' back from Lafayette Road. The site in question is located to the rear of Ralph's Truck Sales.

In 1995, the property was rezoned from Garden Apartment/Mobile Home to Office Research. Intense marketing of the lot followed to no fruition. It was Attorney Pelech's opinion that a return to the previous zone would be fairly consistent with surrounding properties.

Attorney Pelech felt that the request is an appropriate one for rezoning adding that there is a dire need for additional housing units in Portsmouth and the seacoast area. Attorney Pelech stated that he did not disagree with most of the issues raised by the department

Attorney Pelech went on to state that some tweaking of the *Zoning Ordinance* would be required in order to allow for parking to be contained within the buildings; such as, with the determination of height. By containing the parking within the building, the amount of impervious area would be decreased. He felt that such a concept merited a lot of consideration by the Board.

Attorney Pelech spoke to the surrounding multi-family projects in the area and felt that the site in question would be compatible.

Attorney Pelech spoke to the department's concerns about the use of the front property (Ralph's Truck Sales) and the impact those uses would have on a residential use. Attorney Pelech felt that most issues could be dealt with during the Site Review process. He stated that he was willing to work with the department on a Memorandum of Agreement.

Attorney Pelech commented that the Pease Tradeport flight line would have no affect on the suitability of the site for residential uses. He pointed out that at least 600 units of residential housing had been constructed within the past 15 years. He stated that no residential housing would be placed on site unless the site is environmentally sound. The proposal is for high-end apartment units. He stated that by using the appropriate construction techniques, by appropriately locating the units on site and by utilizing buffers, that surrounding uses should not impact the residential units.

With regards to demographics, Attorney Pelech stated that in 1990 the ratio of single family homes to rentals was 58 – 42; that in the past ten to twelve years, the ratio has changed to 50/50. He stated that what they are proposing to do would change the ratio by some six thousands of one per cent. He did not feel that such would be a major change at all.

Educational facilities are a major concern. Attorney Pelech stated that the formula contained in the *Site Review Regulations* is a pretty good predictor of what actually happens adding that the numbers provided by the School Department were practically identical to the numbers created by using the Site Review formula. He stated that 117 units would produce 21 school age children over three levels of the school system adding that they have had conversations with Peter Torrey of the School Department who felt that there would be sufficient capacity in all three levels to accept the students generated by this proposal: 10 –elementary; 5 in the middle school and 15 in the high school.

With regard to solid waste rubbish removal, Attorney Pelech stated that the applicant would take care of picking up the solid waste rubbish removal; that the City does not have to be concerned with such a service.

Attorney Pelech went on to state that they have met with various department heads, except Police and Fire, and were not told that there was insufficient capacity for sewer or water supply. It was his understanding that the Public Works Department would be conducting tests as to water availability. He went on to state that they know they can't build the units unless they bring sufficient water to the site.

Attorney Pelech stated that the issue of the sanitary sewer system would be taken up at the Site Review level.

He concluded his statements by stating that they believe the Board has the information necessary to make a reasoned and wise decision on the City Council's request for a recommendation.

Richard P. Millette of Millette, Sprague & Colwell addressed the Board and stated that a pre-TAC meeting had been held to discuss expected demands for sewer flow and water supply per day.

With regard to stormwater management, Mr. Millette stated that they would continue to use Best Management Practices. Detention areas that would meter out flow would be used so that the flow would be equal to or reduced from pre-development flows.

With regard to public safety, Fire and Police, Mr. Millette commented that those studies are now being created by those departments; such as, the number of calls from this type of housing.

Mr. Millette stated that transportation is a major issue adding that full traffic studies would be prepared and presented. He stated that a big advantage is that access out Longmeadow Road would bring one to a traffic signal. He estimated that an apartment proposal would create 776 trip ends per day whereas an Office Research proposal would result in 973 trip ends per day; that Office Research would have twice the impact in the morning and evening peak hours.

Mr. Coker asked if under land development, would allowing some increase in building height be site specific. Mr. Holden commented that, if appropriate, the department would offer an amendment to the *Zoning Ordinance* that would be applicable to other properties; that the amendment would not be site specific.

George Savramis addressed the Board and stated that he would like to speak as a neighbor (not as a Planning Board member) adding that his property is located within 1,000' of this site. He stated that if all the issues facing the City with this development are met, that he would support the rezoning to Garden Apartment. He went on to comment that if an exit or entrance were made available on Lang Road, he would strongly recommend a traffic light at the end of the road adding that is tough enough now getting in or getting out.

Beth Weaver of Eastwood Drive addressed the Board and stated that she was interested in the impact to the school system that would result from the proposed development. She stated that there seemed to be some confusion as to the location of the access ways and she spoke to the proximity of Berry's Brook and adjacent wetland areas to the site.

Mr. Millette stated that as one proceeds down Lang Road, almost directly across the street from Stonecroft and Beechstone, Berry's Brook moves underneath Lang Road. He stated that Berry's

Brook does run up and onto the property in question. He reminded the Board of the 100' wetland buffer zone and added that the proposed development would adhere to the 100' buffer.

With regard to the access points, he referred to two conceptual drawings. One shows an emergency access to Lang Road. The primary access will be from Longmeadow Road. It has not been determined, as yet, whether there would be a second access on Lang Road. Mr. Millette went on to state that the traffic engineer, Steve Pernaw, hopefully met with or will meet with John Burke, the City's Parking and Transportation Engineer to see whether it would be better to have two points of access or better to have one access on Longmeadow with an emergency access onto Lang Road.

As far as having a gated community, Mr. Millette stated that they are not overly concerned with cut through traffic to avoid the Lang Road intersection; however, they would do whatever the City deems to be in the best interests.

Mr. Holden spoke to anticipated revenues from the property. It was his opinion that an Office Research designation would provide more revenue to the City. Attorney Pelech responded that he hadn't looked at those figures that he assumed the department would do that. He stated that the project would be a new project and would certainly be evaluated as such. Attorney Pelech reminded the Board that a lot of time and effort had gone into marketing this piece with an Office Research designation including the efforts of the Economic Development Commission.

There being no further speakers, the Chair declared the Public Hearing closed.

#### **DISCUSSION AND DECISION OF THE BOARD:**

Mr. Will stated that he agreed with Attorney Pelech's statement that there is a need for residential components. Mr. Will did not think that an Office Research designation would be conducive realistically. He did not agree with the statement that some of the concerns are Site Review issues. He felt that the concerns should be addressed in the rezoning process.

Mr. Will spoke to his concern for affordable housing stating that he has yet to see any sort of affordable housing being built other than Section 8 vouchers for existing housing. Mr. Will stated that the Board has discussed the issue of smaller lots. He stated that a lot of high priced units are being built. He suggested that the department come back with an option for an overlay with certain units only having to be a certain square footage.

Mr. Sullivan stated that such a suggestion would be a good topic for the new Master Plan committee when they get together rather than to take time during a regular Board meeting.

Mr. Jankowski spoke to the problems created by condo conversions adding that it is difficult to find a multi-family home for sale. He commented that with the Mariner's Village overlay, the City was actually at the bankruptcy table as a landowner; that the site was not a privately owned piece of property; that the situation was a little bit different than the situation presently before the Board.

Mr. Holden interjected that what would be most helpful would be some sense of direction from the Board adding that it was encouraging that there seemed to be no general interest expressed at the Public Hearing which leaves the Board freer to look at the request. He stated that the draft report provides compelling reasons to maintain the existing zoning as well as compelling reasons to change it to allow residential garden apartments/mobiles homes in this area.

Mr. Holden suggested that the Board direct the department to go back and complete the draft report. He envisioned a favorable recommendation on the rezoning request.

Mr. Carrier stated that his major concern would be tax revenues for the City for the residential aspect vs. the R & D aspect. His other concern would be traffic commenting that Lafayette Road is "loaded". He stated that he would like to see a traffic report and proof of actual traffic counts.

Mr. Coker spoke to the Berry's Brook watershed. He asked that particular attention be paid to protecting the water shed over and above the 100' buffer zone. Mr. Holden commented that the Garden Apartment/Mobile Home district is one of the better districts to protect the site in question adding that a great deal of that land is protected.

The Chair pointed out that the parcel is over twenty acres in size and there are no buildings on the site currently. He strongly urged adherence to the 100' setback from the edge of wetlands.

Mr. Coker commented that Board members have their own areas of interest; that he likes to keep his eye on Berry's Brook. Mr. Jankowski spoke to the ongoing wetlands survey and the accuracy of the survey as to wetland boundaries..

Mr. Sullivan spoke to the cleaned-up junkyard. It was his opinion that it would be in the best interests of the City to protect the Berry's Brook watershed.

Mr. Sullivan moved to have the department go back and draft a final report. Mr. Will seconded the motion. The motion passed on a 9-0 vote. Mr. Will asked that information be provided on an overlay district. The Chair commented that such a district would be looked at during the Master Plan process.

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D. The application of **Tucker's Cove, LLC**, owner, for property located off **Odiorne Point Road** wherein Preliminary and Final Approval is requested for a lot line relocation whereby Lot 23 would have a lot area of 58,095 s.f. ± and Lot 24 would have a lot area of 46,860 s.f. ±. Said property is shown on Assessor Plan 224 as Lots 10-003 and 10-004 and lies within a Single Residence A district. Plat plans are recorded in the Planning Department office as 6.1-02.

**SPEAKING TO THE APPLICATION:**

The Chair read the notice. J. Corey Colwell of Millette, Sprague & Colwell addressed the Board and stated that he was present with Attorney Peter Loughlin.

The proposal involves two lots that are part of Phase III of the Tucker's Cove Subdivision and are located off Odiorne Point Road. The request is to re-apportion the frontage off Sagamore Creek where presently Lot 23 has 45' and Lot 24 has 200'. By relocating a lot line, Lot 23 would have 100' and Lot 24 would have 153'. The re-apportionment of the Creek frontage would make the lots more rectangular in shape. Mr. Colwell commented that such probably should have been done on the original subdivision plan.

Mr. Jankowski stated that it was his understanding that at one point in time there was going to be a sewer line running down to the Sagamore Mental Health property adding that they have a problem with their septic system and the City assists them in pumping.

Attorney Loughlin stated that it was his recollection that Bob Shaines has an agreement with Seacoast Mental Health that if and when he develops his back land, that he would bring the sewer line to the Seacoast Mental Health property.

Mr. Holden interjected that he thought the matter came up with the application for the pumping station. Attorney Loughlin stated that the agreement is of long standing with Bob Shaines and the Seacoast Mental Health Center.

Mr. Sullivan recalled discussing a few years back a proposed sewer line across Wentworth Road; however, that proposal never came into existence.

Mr. Holden suggested that if it is found that these lots are affected by any prior agreements, then the mylar would not be recorded.

**DISCUSSION AND DECISION OF THE BOARD:**

Mr. Lown moved that Preliminary and Final Approval of the lot line be granted subject to the stipulation that permanent boundary monuments be established as per the requirements of the Public Works Department and the additional stipulation that the approval is subject to a verification that the agreement between Seacoast Mental Health and Bob Shaines is not affected by this lot line relocation. Mr. Sullivan seconded the motion. The motion passed on a 9-0 vote.

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F. The application of **Gerald E. Eaton for Phyllis Martenson**, owner, for property located at **384 Lang Road** wherein Preliminary and Final Subdivision Approval is requested whereby an existing 10 acre lot ± would be subdivided into two lots with Lot A containing the existing two-story wood frame dwelling with garage and having a lot area of 1.135 acres ±; and, Lot B having a lot area of 9.471 acres ±. Said property is shown on Assessor Plan 289 as Lot 8 and lies within a Single Residence B district. Plat plans are recorded in the Planning Department Office as 8.1-02.

**SPEAKING TO THE APPLICATION:**

The Chair read the notice. James Verra from James Verra and Associates addressed the Board and stated that he was present with Gerald Eaton representing the Phyllis Martenson Revocable Trust and Attorney Jack McGee.

Mr. Verra stated that the site is located on the southerly side of Lang Road as one heads out to Rye. The proposal is for a two lot subdivision. There will be on-site water and on-site septic system. 7.6 acres of the site is wetlands. NHDES Subdivision Approval has been received. Proposed Lot 1 would contain 1.1 acres and the existing house. Lot B would be the remaining parcel. Mr. Verra stated that the plan does show the limit of wetlands; that there is room for a septic system and a house outside of the 100' wetlands buffer.

Mr. Verra concluded his presentation by asking that Preliminary and Final Approval be granted based on the department's memo.

There being no further speakers, the Chair declared the Public Hearing closed.

**DISCUSSION AND DECISION OF THE BOARD:**

Mr. Carrier inquired as to why the request requires Board of Adjustment approval. Mr. Holden referred to an abnormal lot configuration.

Mr. Carrier moved approval with the two stipulations contained in the department's memo. Mr. Lown seconded the motion. Mr. Coker asked that that NHDES permit be noted on the plan. Mr. Verra gave the number as 2002003275. The motion passed on a 9-0 vote. Mr. Holden interjected that he and Attorney McGee had reviewed the plans adding that they are good plans.

Stipulations:

1. That the Board of Adjustment review and approve this request relative to access and continuous street frontage; and,
2. That permanent boundary monuments be installed as per the requirements of the Public Works Department.

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The meeting was recessed at approximately 10:30 p.m. to April 25, 2002.

Respectfully submitted,

Barbara B. Driscoll  
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board at its June 20, 2002, meeting.