



late '60s on, only service vehicles accessed the property from Livermore Street. Ms. Scagliotti stated that they had every reason to believe that they had vehicular access to their property.

However, she pointed out that there was no all weather surface on that access. She commented that the plan included in the Board's packet indicates the installation of cobblestone or other approved surface. She went on to state that their first preference for surface material would be hard top to match the existing pavement of Livermore Street adding that they would be amenable to any other surface that the City thought appropriate.

Ms. Scagliotti continued on by stating that they are thrilled to be in Portsmouth but have suffered a painful experience as a result of the circulation of rumors and misinformation adding that not one of the people (circulating petition) had ever contacted them (the Scagliottis) to verify the information they thought they had. She stated that they were very grateful to be present to answer any questions the Board or the neighbors might have.

Bob Scagliotti addressed the Board and stated that the request was very simple, that they were present for one reason only and that was to ask for approval of an all weather surface to enter their side yard. It was his opinion that the request would be of potential benefit to Livermore Street pointing out that the house next to theirs, a mid-18<sup>th</sup> century home, has off-street parking. He added that the request might benefit the people using the street to see the home at 46 Livermore Street; that they want the people walking Haven Park and Livermore Street to view their (the Scagliottis) home without vehicles parked in front. He stated that they just want to use their half of Livermore Street to enter their rear and side yards, an occurrence he felt had been happening for many, many years; reiterating that they are just requesting an all-weather surface.

Mr. Scagliotti went on to state that for two months during construction a dumpster was situated in their side yard as per the request of the Planning Department. Sometime in January, the dumpster truck driver had a difficult time removing the dumpster from the side yard and left deep mud ruts just beyond Livermore Street. It was Mr. Scagliotti's opinion that an all-weather surface would prevent that from happening again.

Mr. Scagliotti also spoke to the benefit to the street of off-street parking; that being, the snow plow being able to continue on down.

Mr. Scagliotti went on to state that the engineer had depicted a 12' wide entrance; however the request has been reduced to 10' to avoid any removal of any trees/arborvitae in that area.

Mr. Holden commented that at the risk of taking some of Attorney Loughlin's thunder, the City Council referral speaks to the use and disposition of a paper street. Mr. Holden informed the Board that City Attorney Sullivan could not be present, but Attorney Suzanne Woodland was present from the City Attorney's office and would be available should the Board need her assistance.

Attorney Peter Loughlin addressed the Board and stated that he was present with Nackey and Bob Scagliotti regarding their request to pave 577 s.f. section of Livermore Street to provide year round access to their property at 46 Livermore Street. He emphasized that the Scagliottis are not seeking a temporary or permanent use of any part of Haven Park and were not seeking any easement or any property interest in Livermore Street, Haven Park or any City-owned land or asking the City to give up any rights in any paper street or any other street or a Class VI highway. In other words, the Scagliottis are not asking the City to give them anything.

Attorney Loughlin then went on to speak about the development of Livermore Street and Haven Park. He referred to certain exhibits on boards 1, (sketch of proposed driveway) 2 and 3.

concerning the development of Livermore Street; that he has tried to provide a history of the development of Livermore Street and Haven Park from 1800 to 2002. He stated that Livermore Street has an entirely different history from that of Haven Park; that Livermore Street was in existence for some 100 years before Haven Park came into existence.

Attorney Loughlin referred to exhibits on boards 4 and 5 and stated that the 1809 subdivision by Edward St. Loe Livermore is shown on every map produced since that time throughout the entire 19<sup>th</sup> century; through every Sanborn Map; that Livermore Street has been shown as extending to the water and is more specifically described in Brewster's *Rambles* ... there is no street more spacious, level, and refreshing to the eye of the Rambler, than Livermore. It was named of him who owned the site long before the later street was opened. Attorney Loughlin stated that Brewster's *Rambles* goes on to describe the Scagliottis' home as the brick residence of Capt. Thomas Tarlton built by the South Parish for the Rev. Dr. Parker soon after the street was opened to the water ...

Attorney Loughlin went on to state that every City Directory from the mid 1800s to the 1980s lists Livermore Street as running from Pleasant Street to the South Mill Pond adding that it has been described in every deed that he found in the area as running to the water. He commented that if one physically went out to the site, one could see a level sloping plain down to the water adding that on the westerly side is a small elevation indicative of a sidewalk that ran the entire length of Livermore Street down to the water. He referred to a May 3, 2000 aerial photo done by AT&T for the City. Attorney Loughlin, prior to the meeting, submitted to the Board plastic sandwich bags with remnants of a cinder sidewalk.

Attorney Loughlin stated that they would not question that the lower end of Livermore had been greened over for several years. However, he went on to state that it was his opinion that Livermore Street had been open to the Mill Pond for over a century.

Attorney Loughlin then went on to talk about a gift to the City from the Haven family. He stated that at one time there were three homes on that site. One was torn down piece by piece. The Livermore house was moved from the park to the other side of Livermore Street (the General Porter condos) and another home was removed.

Attorney Loughlin then spoke to the 1899 deed to the City for Haven Park which describes the land to be used as a public park as bounded southeasterly by Livermore Street.

Attorney Loughlin continued his presentation by speaking to the status of Livermore Street. It was his opinion that Livermore Street is not a paper street as a paper street is a street shown on a plan but was never built. He went on to state that Livermore Street was built and was opened; that it was his opinion that Livermore Street is a Class VI highway. In other words, a street that has not been maintained which he stated is a very rare occurrence in the City of Portsmouth.

Attorney Loughlin reiterated that the Scagliottis are not asking the City to give up any rights in a paper street.

Attorney Loughlin then went on to discuss whether the lower end of Livermore Street had lost its status as a public way. He referred to a 1976 case, *Davenhall v. Cameron*, 116 N.H. 694, 696-697 in which it is stated that ...

Once a highway is established, it is presumed to exist until discontinued, and discontinuance is not favored in the law. Discontinuance is a fact that must be proved and the burden is upon the party who asserts discontinuance to prove it by clear and satisfactory evidence. Because public roads are discontinued by town vote, and such

actions are recorded in the town report, the best evidence of discontinuance is the official record.

Attorney Loughlin contended that there is no record in City hall that the lower end of Livermore Street had been discontinued by selectmen, mayor and alderman or the City Council.

Attorney Loughlin then spoke to the ownership rights and reminded the Board that City Attorney Sullivan had to deal with such an issue in 1998 regarding Fernald Court and Attorney Loughlin referred to the Planning Board minutes wherein City Attorney Sullivan stated that Fernald Court was not owned by the City. Attorney Loughlin went on to state that the Supreme Court said in 1961 in *Luneau v. MacDonald*

that a conveyance of land bounded by a roadway is presumed to run to the center of the roadway unless a contrary intention is plainly disclosed...the intent that the soil in a street would be owned by someone other than an abutting landowner is so improbable that it would require an express exception in the grant or some clear unequivocal declaration, or certain and immemorial usage, to limit the title of the grantee to the edge of the street.

Attorney Loughlin commented that our deeds generally describe a property as bounded by, say, Livermore Street, Thaxter Road, Sewall Road. Attorney Loughlin referred to the New Hampshire Supreme Court opinion, *Hartford v. Gilmanton*, 101 N.H. 424, 426 (1958)

The soil and freehold belong to the landowner, subject only to the public easement for travel, and ... (the landowner) may use the land in any manner not inconsistent with the public convenience ....

It was Attorney Loughlin's opinion that the public had the right to pass and repass over Livermore Street (the entire width).

Attorney Loughlin then spoke to the issue of the rights of the Scagliottis to build a driveway. He referred to the *Capital Plumbing* case.

The owner of land abutting on a street or highway has a private right of access in that street or highway, which includes not only the right to go to and from the land but also the right to have those premises accessible to others. Although this right of access may be limited by regulation, it cannot be taken without adequate compensation.

The Supreme Court cited *Tilton v. Sharp*

An abutting owner, subject to municipal regulation, has the right to construct driveway from his property to the traveled portion of the highway, provided of course he does not unreasonably interfere with the public use of the street.

Attorney Loughlin commented that the Scagliottis have the right to a driveway with a license from the City to regulate it (to avoid chaos in the creation of curb cuts).

Attorney Loughlin emphasized that the statement that was made that the Scagliottis knew there was no driveway when they purchased the property is just not true. Attorney Loughlin reiterated that the Scagliottis saw the driveway opening and understood from the previous owner that there had been a driveway. Attorney Loughlin stated that a driveway always existed even though it was not used extensively over the past twenty years. He mentioned an affidavit in the Board's

packet regarding the carriage houses to the rear of the property which, at one time, housed large carriages.

Attorney Loughlin then went on to explain that the wooden posts were installed by the City at the request of Mary Mills when her vehicle either rolled down or was pushed down to the Mill Pond. He asked, rhetorically, if it was just coincidental that they were placed just beyond the driveway.

Attorney Loughlin commented that although Livermore Street is currently not maintained to Mill Pond, it has never been discontinued and, therefore, remains as a public way. As abutters, the Scagliottis own to the center of the street. Attorney Loughlin went on to state that the type of pavement and whether or not Livermore Street is paved the full width or just 14 ½' is up to City staff.

He continued on by stating that whether or not parking is permitted on Livermore Street in front of the Scagliotti home is up to the City. He reminded the Board that they (the Scagliottis) are trying to create off-street parking.

In concluding his statements, Attorney Loughlin stated that the Scagliottis are not asking the City for any type of easement, or for the City to give up any rights in a paper street or to share in any financial responsibility. It was Attorney Loughlin's opinion that the request was a reasonable one and he asked that the Board send a favorable recommendation to the City Council.

Mr. Will commented that it was his understanding that the lot line goes to the center of the street with the response being in the affirmative. He noted that the Scagliottis own property to the water and wondered why it was necessary for them to appear before the Planning Board for a 10' driveway to the right of the structure. It was explained that the request is for a Driveway Permit with the issues being the status of the driveway and paper streets.

Councilor Lown inquired as to who put in the posts at the end of Livermore Street. Attorney Loughlin reiterated that after her car rolled or was pushed into the Mill Pond, Mary Mills asked and the City put them in. Discussion ensued on RSA 236:9.

It was Attorney Lown's contention that but for the all-weather surface, the Scagliottis would not have to be before the City in any capacity. Attorney Loughlin agreed that the Scagliottis have the right to drive down to their back yard.

Mr. Coker thanked Attorney Loughlin for a job very well done. Mr. Coker went on to state that it was his understanding that the City is starting from a position that it does not relinquish any rights in a paper street. Mr. Coker stated that he did not get the same impression as Attorney Loughlin did from some of the cases that have been cited. However, having said that, Mr. Coker asked if he was correct in assuming that if this request goes forward for an approach to the driveway, that the public would still have an absolute right to pass over the pavement. Attorney Loughlin responded by stating, "yes, definitely".

Fred Gray, Jr. of 808 Sagamore Avenue addressed the Board and informed them that he owns property at 303 Pleasant Street. It was his feeling that Livermore Street to the pond still exists; that to allow the Scagliottis 37' or less would get their vehicles off the street and allow them access to their own side and back yards and would enhance the appearance of Livermore Street; that by approving the request, there would be fewer vehicles parking on the street. He wondered what was wrong with allowing people street access to their own yard.

Lee Roberts of 40 Howard Street addressed the Board and spoke in support of the request of the Scagliottis stating that it was her opinion that it would be a win/win situation. It was also her opinion that the Scagliottis have every right to have access into their property. She stated that the area down to the pond is a portion of Livermore Street.

She felt that the area in question is not a portion of the park that people spend time on and is not a very attractive area of the park compared to other areas which are so wonderful. It was her opinion that the access should be asphalt. She suggested that the granite slab be moved down in front of the posts making that area more aesthetically pleasing. She spoke to the demarcation of the end of the street and providing enough room for snow storage.

Ms. Roberts spoke to the need for parking commenting that some of her neighbors and friends do not have off-street parking. She wondered why there would not be parking in front of the Scagliotti house.

Joan T. Jones of 32 Livermore Street addressed the Board and stated that anyone who has delved into history and read books on Portsmouth realizes that Brewster's *Rambles* is not historically accurate. She did not think that the use of the City Directories could be taken as an absolute truth that Livermore Street went to the Mill Pond.

She referred to the fact that the park was created in the early 1900s and that the land and money was left to the City for such a purpose. She pointed out that at some point all the green space is maintained by the City down to the South Mill Pond which the City calls a paper street. She referred to page 5 of Attorney Loughlin's letter of March 27<sup>th</sup> which states that the southerly end of Livermore Street, is a Class VI highway because it has not been maintained by the City in a suitable condition for travel. Ms. Jones commented, however, that it has been maintained as a park and is suitable for access to the Mill Pond by foot.

Ms. Jones pointed out that the City has incorporated the Portsmouth Cultural Plan into the Master Plan; that the Cultural Plan expresses a need to preserve open spaces contributing to the unique character of Portsmouth

Ms. Jones referred to a recent action of the City Council stating that the City would not give away paper streets preserving any public interest that might exist.

Ms. Jones then spoke to the Supreme Court opinion that the intent that the soil in a street would be owned by someone other than an abutting landowner is so improbable that it would require an express exception in the grant or some clear unequivocal declaration or certain and immemorial usage, to limit the title of the grantee to the edge of the street. Ms. Jones wondered if "immemorial usage" could not be interpreted as a park maintained by the City of Portsmouth. She went on to state that immemorial is defined in Black's Law Dictionary, Seventh Edition as a use that has existed for a very long time; longstanding custom.

Elizabeth Binnie of 294 Pleasant Street addressed the Board and stated that she was opposed to the application. It was her opinion that the Scagliottis knew that there was no off-street parking when they purchased the property at 46 Livermore Street. She commented that the proposal would eliminate three parking spaces on Livermore Street and spoke to the limited amount of available parking spaces. She asked that Haven Park be kept the way it is. Ms. Binnie submitted a petition signed by 370 people in opposition to the request. She commented that most of them were walking in the park when they signed the petition.

Jane Porter addressed the Board and referred to a written statement that she had previously submitted to the Planning Department. She stated that the early owners of the house at 46

Livermore Street had a carriage barn to the rear of the house off Livermore Street. She spoke in favor of the request adding that no one has shown her that the section in question had ever been discontinued or had been incorporated into Haven Park. She felt that the City should take care of paving Livermore Street the full width of the street. She suggested that the City consider incorporating the remainder of Livermore Street into Haven Park.

John Wychoff of 135 Sparhawk Street addressed the Board and expressed his opinion that the Scagliottis have a right to access their property. He informed the Board that he has been working at the site for the past six months. It was his opinion that the problem is parking. He stated that the house in question requires parking and was previously a duplex and actually had a third apartment in it for rooming house purposes.

He stated that the Scagliottis will be using the house as a single family home commenting that they have done some substantial improvements. He stated that unfortunately a number of service vehicles; such as, electricians and plumbers, drove down Livermore Street daily which might have helped to further fuel the "little hornet's nest".

He stated that he parallel parked on Livermore Street and more often than not was off the pavement in the right-of-way. He went on to state that it is virtually impossible to get out (of Livermore Street) especially with a pick-up truck.

The Chair asked if there was anyone else wishing to speak to, for or against the request.

Ms. Scagliotti stated that the reason the bollards were moved further down was because of snow removal. She went on to state that their (the Scagliottis) cars would be parked in the back yard and other people would park in front of the house.

With regard to the note on the plan concerning driveway specifications, (Mrs. Binnie had questioned that part of the sketch) Jim Verra explained that the note on the driveway application sketch indicates that the driveway would be designed in accordance with City specifications adding that the City has a driveway manual.

With regard to the granite slabs, Ms. Scagliotti stated that it would be entirely up to the City, that they are amenable to any design the City suggests. It was Attorney Loughlin's thought that the slabs were put in when the street was all mud so that one would not go out to a carriage and step into mud but would step on stone. He expressed the opinion that there might be some other way to make it clear that it is still a City street.

Mr. Coker inquired if Attorney Loughlin's clients would be adverse to completing Livermore Street down to the water commenting that every street off Pleasant Street literally goes down to the water. The Scagliottis indicated that they would not be opposed. Mr. Scagliotti brought up the fact that they had removed the fences that went into the Mill Pond so that people could walk around.

The question was asked as to how the Scagliottis would feel if the rest of the street was incorporated into the park. Ms. Scagliotti commented that such an action would not directly affect them and stated that they would be amenable to anything that makes sense for the entire City.

Mr. Jankowski jokingly asked Attorney Loughlin, on the basis of what was passed out earlier (sidewalk remains), if that could be construed as a "theft". (laughter)

Richard Adams of 75 Gates Street stated that he hoped that the City would not pave the entire length of Livermore Street to the water. He asked that the Scagliottis be given their all weather access and that the remainder of Livermore Street be discontinued and incorporated into the park.

The Chair asked if there was anyone else in the public wishing to speak to, for or against the request. Seeing none, the Chair declared the Public Hearing closed.

**DISCUSSION AND DECISION OF THE BOARD:**

Mr. Will wondered what rights the City would have to incorporate the lower end of Livermore Street into the park noting that the Scagliottis have some 200' of frontage on Livermore Street pointing out that the site could be subdivided in the future.

Mr. Lown was ready to make a motion. Mr. Holden interjected that the purpose of holding the public hearing had been accomplished; i.e, information was received from both sides of the issue. He spoke to the flexibility of handling the issue and felt that the Legal, Planning and Public Works Departments should continue to review the request and come back with a recommendation or work session at the next meeting.

Mr. Lown moved to refer the application first to the City Attorney to read the cases cited by Attorney Loughlin and verify the propositions stated and to the Planning Department for their input and for further discussion on the type of all weather surface that would be acceptable to the City and also to consider the possibility of discontinuing the Class VI road and incorporating the remaining portion of Livermore into the park and requesting that the applicant perhaps considering deeding their half interest or fee-simple interest to the City in the event the City wants to do that

Mr. Coker spoke to the point about deeding half interest in Livermore Street and also wondered who really owns the soils. He went on to state that this was a hard one; that it seems too simple, seems too easy. He thought it needed detailed review by the City Attorney's office. Mr. Coker stated that he would support the motion wholeheartedly.

Ms. Roberts inquired if the property had been surveyed particularly in relationship to Livermore Street with the response being in the negative. Mr. Verra did clarify that the property was surveyed on the ground in March – enough for the edge of the right-of-way; however, a surveyed plan had not been completed.

Mr. Sullivan stated that he thought a couple of things should be said. It was his opinion that Attorney Loughlin had done an outstanding job describing the piece of property in question. It was Mr. Sullivan's belief that Livermore Street did go all the way to the water; that the sidewalk on the right-hand side was made out of cinders referring to a cinder path that went right along the South Mill Pond to what is now the causeway.

With regard to Brewster's *Rambles*, Mr. Sullivan did not feel that his (Brewster's) accuracy should be questioned whatsoever. He stated that the elder Brewster came over in the Mayflower adding that the Brewster family is an old Portsmouth family that used to live on Islington Street right across from Brewster Street.

Mr. Sullivan stated that he realized that the lower end of Livermore Street has been grassed over by the City of Portsmouth. He remarked that the property runs to the water and that a marvelous house could be sited there sometime in the future. His advice was not to take the street away.



Mr. Sullivan went on to state that he didn't mind the Planning Department and City Attorney looking at it. It was Mr. Sullivan's opinion that the applicants certainly have a right to get into their yard adding that he did not believe that Livermore Street was a paper street.

The motion passed on a 9-0 vote.

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B. The application of **325 State Street, LLC**, owner, for property located off **Porter Street** wherein site plan approval is requested for the construction of a four-story building with an 8,926 s.f. ± footprint for the purpose of providing eleven attached condominium units with individual garages on the first floor with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 117 as Lots 38-2 and 46 (lots to be combined) and lies within the Central Business B and Historic A districts. **(This application was tabled from the Board's April 25, 2002, meeting to this meeting.)**

**DECISION OF THE BOARD:**

Let the record show that Mr. Coker stepped down from sitting on this application. Mr. Lown moved to take the application off the table. The motion was seconded, and the motion passed on an 8-0 vote.

Mr. Holden advised the Board that the application has been scheduled for a work session with the Traffic/Safety Committee; that the applicant and the department would request that the application be tabled to the Board's next meeting (June 20, 2002) for a report back.

Mr. Hopley so moved. Mr. Will seconded the motion. The motion passed on an 8-0 vote.

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C. The application of the **City of Portsmouth Department of Public Works** for property located off **Islington Street** and **Andrew H. and Edward W. Sherburne** for property located at **1821 Islington Street** wherein Preliminary and Final Approval is requested for a lot line relocation whereby the property owned by the City of Portsmouth would increase in lot area to 5.69 acres, more or less and the property located at 1821 Islington Street would decrease in lot area to 4.48 acres, more or less. Said property is shown on Assessor Plan 241 as Lots 18 and 20 and lies within the Municipal and Single Residence B districts. Plat plans are recorded in the Planning Department Office as 05.1-02. **(This application was tabled from the Board's April 25, 2002, meeting to this meeting.)**

**DECISION OF THE BOARD:**

Mr. Holden recommended that the Board take the application off the table and re-table it to a time indefinite to allow for negotiations between the parties to continue. Mr. Will so moved. Mr. Lown seconded the motion. The motion passed on a 9-0 vote.

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D. The application of **Tucker's Cove, LLC** for property located at **1177 and 1179 Sagamore Avenue** and off **Odiorne Point Road** wherein Preliminary Approval is requested for a lot line relocation whereby Lot 10-001 would have a lot area of 127,572 s.f. ±, property located at 1177 Sagamore Avenue would have a lot area of 32,737 s.f. ±, and property located at 1179 Sagamore Avenue would have a lot area of 17,890 s.f. ±. Said property is shown on Assessor Plan 224 as Lots 12, 13 and 10-001 and lies within a Single Residence A district. Plat plans are recorded in the Planning Department office as 7.1-02. **(This application was tabled at the Board's April 18, 2002, meeting to this meeting.)**

**DECISION OF THE BOARD:**

Mr. Holden advised the Board that the applicants have met and are still resolving some differences; that it may be necessary to file a new application.

Mr. Lown moved to take the application off the table and to re-table it to the next meeting of the Board (June 20, 2002). Mr. Will seconded the motion.

Mr. Sullivan asked if the Planning Department could get together with the developer and avoid the piecemeal resurveying of lots. It was Mr. Holden's opinion that this would be the last application for a lot line relocation. Mr. Sullivan stated that the Board had warned the developer(s) that they would have difficulty siting houses on these lots.

The motion passed on a 9-0 vote.

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E. The application of the **Eleanor Hodgdon Revocable Trust**, owner and applicant, for property located at **430 Lafayette Road** wherein Preliminary and Final Subdivision Approval is requested whereby two lots would be created from an existing lot. Proposed Lot A would have a lot area of 15,002 s.f. with adequate continuous street frontage off Lafayette Road and would contain an existing 1 ½ story wood frame structure and detached garage. Proposed Lot B would have a lot area of 16,325 s.f. with adequate continuous street frontage off Greenleaf Avenue. Said property is shown on Assessor Plan 231 as Lot 4 and lies within a Single Residence B district.

**SPEAKING TO THE APPLICATION:**

The Chair read the notice. Mr. Holden interjected that there was a representative from Ambit Engineering present to make a presentation. He stated, however, that some concerns have arisen and he would ask that the application be tabled for thirty days.

Karen Lovejoy of Ambit Engineering addressed the Board and stated that the property in question has frontage off Lafayette Road and Greenleaf Avenue. The proposal is to subdivide a rather large lot into two completely conforming lots. Proposed Lot A would contain the existing home and would have adequate frontage off Lafayette Road. Proposed Lot B would have adequate road frontage on Greenleaf Avenue. Ms. Lovejoy went on to state that the setback requirements would be met as well as lot area requirements. She stated that the final plot plan would indicate the elimination of the curb cut on Lafayette Road (Lot A) that runs all the way through to Greenleaf Avenue explaining that the existing homeowners do not use that entrance.

Ms. Lovejoy continued on by stating that a Greenleaf Avenue address for proposed Lot B would be desirable adding that there would be no Lafayette Road access for Lot B. As far as the width of the existing driveway off Greenleaf Avenue, Ms. Lovejoy explained that such had developed

with use over time and that her clients have indicated a willingness to reduce the driveway width as necessary.

Ms. Lovejoy concluded her statements by indicating that the applicant's representatives were joining in the Planning Department's recommendation that the application be tabled for thirty days.

The Chair asked if there was anyone else in the public wishing to speak to, for or against. There being none the Chair declared the Public Hearing closed.

**DECISION OF THE BOARD:**

Mr. Sullivan moved that the application be tabled to the Board's June 20, 2002 meeting. Mr. Will seconded the motion. The motion passed on a 9-0 vote.

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F. The application of the **Estate of Mary Yager** for property located at **2200 Lafayette Road** and **2236 Lafayette Road** wherein Final Approval is requested for a lot line relocation which would result in the following: Property at 2200 Lafayette Road would have a lot area of 36,446 s.f. Property at 2236 Lafayette Road, being used as a Meineke Muffler facility, would have a lot area of 22,453 s.f. Said property is shown on Assessor Plan 267 as Lots 1 and 2 and lies within a General Business district

**SPEAKING TO THE APPLICATION:**

The Chair read the notice. Attorney Bernard W. Pelech addressed the Board and stated that he was representing Mr. and Mrs. Kovit and the Yager Estate. He reminded the Board that this was the third time before them on this application adding that the application was tabled the first time pending the necessary approval from the Board of Adjustment. The Variances were obtained from the Board of Adjustment and the application was back before the Planning Board in April when Preliminary Approval was granted subject to Attorney Pelech meeting with the Planning Department to discuss the future uses of the property to be known as 267/1. Attorney Pelech indicated that there would be no interrelation between the two lots; that 267/1 was under agreement to a third party. Attorney Pelech stated that with the 105' setback requirement and the lot being only 90' deep that it was obvious that relief would be needed from the Board of Adjustment.

Attorney Pelech went on to state that the house on the Yager lot would be demolished as part of the subdivision. He stated that he had received a letter from the NHDOT that indicated that the driveway could be relocated; that there are now two curb cuts and there would be two curb cuts in the future. He went on to state that the NHDOT was very pleased to learn that the house would be removed due to aesthetics and sight distance.

Attorney Pelech stated that an easement would be granted to NHDOT for the future widening of Lafayette Road.

Mr. Will inquired as to the curb cuts. Attorney Pelech stated that the existing curb cut on the Yager lot would be relocated further down from the existing. At this point in the proceedings, Attorney Pelech read Mr. Garland's letter into the record:

Regarding the abandoned house at 2200 Lafayette Road in Portsmouth. This Department would be supportive of the removal of this house.

The existing drive can be moved to a new location on a newly created lot provided 400 feet of sight distance can be attained.

It was Attorney Pelech’s feeling that over 400’ of sight distance could be obtained and that there would be some four or five hundred feet from the entrance to Water Country to the new curb cut.

The Chair asked if there was anyone else in the audience wishing to speak to, for or against. There being none, the Public Hearing was closed.

**DECISION OF THE BOARD:**

The Chair asked the Board’s pleasure. Councilor Lown rhetorically asked where the Board would be if the application were denied. On the other hand, he stated that if the Board grants the application, then any subsequent developer could go ahead and apply for a Variance. Mr. Holden stated that although he has tried to find a way to recommend denial of the request; such as, suggesting having one lot and using the condominium process, that he is satisfied that the request is for the minimal relief necessary to allow these lots to go forward. He referred to the poor way the lots were created many years ago. He did reiterate that he felt there would be less impact as one lot.

Mr. Holden stated that if a future developer succeeds in getting the necessary Variances, then the Board would probably see the lot again in a Site Review process.

Mr. Sullivan expressed his opinion that the request would make a bad situation better.

Discussion ensued on the necessary relief required for future development.

Mr. Hopley moved to grant Final Approval of the lot line relocation subject to the stipulation that permanent boundary monuments be established as per the requirements of the Public Works Department. Mr. Will seconded the motion. The motion passed on a 9-0 vote.

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Let the record show that the Board took a five minute recess at this point in the proceedings.

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G. The application of **Wren’s Nest Motel Corp.**, owner, for property located at **3548 Lafayette Road** wherein site plan approval is requested for the construction of a 180’ x 50’ parking area to accommodate twenty-eight spaces in conjunction with a proposed 60 seat restaurant with a bar area and dance floor within an existing building with associated site improvements. Said property is shown on Assessor Plan 297 as Lot 6 and lies within a Single Residence A district.

**SPEAKING TO THE APPLICATION:**

The Chair read the notice. Gary Bowmar of the Wren’s Nest Motel addressed the Board stating that the request had received the necessary Board of Adjustment approvals and a favorable recommendation from the Technical Advisory Committee. It was explained that there had been issues with driveway width, some one-way issues, an issue with the distance from a fire hydrant; that there were no issues with drainage of the parking lot and there is room for snow storage. It

was stated that one-way signs in and out of the parking area would be installed. Mr. Bowmar explained that trees were taken down to widen the corner of the driveway entrance.

Mr. Will inquired if the restaurant building would be sprinklered with the response being in the negative. Mr. Bowmar explained that he has been talking with Fire Marshal Charlie Jones and pointed out that there is a fire hydrant within 500' of the building. Mr. Bowmar went on to explain that the hydrant is located southerly on Route 1 across the street. Mr. Bowmar understood that if additional buildings were constructed in the future, then he would have to install a fire hydrant on site.

Mr. Will had concerns with the possibility of having to stop traffic on Route 1 to run a fire hose across to Mr. Bowmar's property. Mr. Holden explained that the request is for limited development; that subsequent development would require the placement of utilities under Route One.

Mr. Coker inquired as to the threshold for sprinklering a building. Mr. Hopley responded that it is a multi-faceted threshold contained in the Building Code; such as, size and type of construction and occupancy load. Mr. Hopley commented that the building in question was constructed within the last year and contains three rental motel type units on the second floor. The first floor is a function hall. That use does not change with a restaurant classification. Mr. Hopley stated that the kitchen would be upgraded; that the building is a relatively small building well under the threshold regarding fire suppression.

The Chair asked if there was anyone else in the public wishing to speak to, for or against. Seeing none, the Chair declared the Public Hearing closed.

#### **DECISION OF THE BOARD:**

Mr. Holden indicated that the department had enjoyed working with Mr. Bowmar over the past several months and had basically taken a site that had no engineered plans to a point where the City now knows what is out there adding that the Technical Advisory Committee had recommended approval.

The Chair suggested a concrete pad for motorcycle parking. Mr. Bowmar responded by stating that he rides a motorcycle and thought that a pad could be located next to the electrical shed. The Chair asked that the shed be indicated on the plan with the stone wall around it also indicated on the plan. With regard to the recycling shed, Mr. Bowmar indicated that it has a salt box roof. The Chair inquired as to the number of required handicapped spaces. That issue will be checked into. With regard to an outside grease interceptor, Mr. Bowmar reported that one is already on site. With regard to lighting, Mr. Bowmar indicated that lighting would be of low voltage and any glare would remain within the property line.

Mr. Sullivan moved approval of the site plan. Mr. Hopley seconded the motion. The motion passed on a 9-0 vote.

Stipulations:

**From the Technical Advisory Committee:**

- That internal parking and traffic signs be established as per the request of John Burke, the City’s Parking and Traffic Engineer.

**From the Planning Board:**

- That the site plan indicate the location of a concrete pad for the parking of motorcycles; and,
- That the site plan indicate the stone wall to be installed around the electrical shed

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H. The application of **J. Tyler Rohrer, owner, and John W. Rohrer, applicant**, for property located at **46-48 Columbia Street** wherein site plan approval is requested for the construction of a three-story 2,660 s.f. (footprint) structure (the previous structure having been destroyed by fire) for use as a six unit apartment building with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 156 as Lot 16 and lies within an Apartment district.

**SPEAKING TO THE APPLICATION:**

The Chair read the notice. Mr. John Rohrer addressed the Board and stated that he was acting as applicant representing his son, Tyler Rohrer. He stated that the property in question had burned to near total destruction on February 19<sup>th</sup> adding that the site is a block in from Islington Street on the corner of Columbia Street and Columbia Court.

Mr. Rohrer went on to state that the building was a flat roof, four unit apartment building with three bedrooms per unit adding that the building was not particularly attractive. The proposal is for a more attractive building with a pitched roof creating a third floor under the eaves. The building would have a large footprint – 42’ wide x 60’ long. Mr. Rohrer commented that not to use that space would be difficult. The proposal calls for six apartments with two bedrooms. It was Mr. Rohrer’s opinion that the character of the tenants would improve with less of a rooming house situation and more of a professional occupancy; thus, upgrading the neighborhood.

Mr. Rohrer went on to state that the plan indicated nine parking spaces; that the Board of Adjustment had granted the necessary approval to reconstruct the building as a six unit building and to square up the footprint.

Mr. Rohrer explained that the entrance would be moved from Columbia Street to the side facing the parking lot. According to Mr. Rohrer, the modifications suggested by the Technical Advisory Committee have been noted on the plan.

Mr. Rohrer went on to state that there would be a new water line for a sprinkler system adding that the existing water service was troublesome, so a new domestic line will be brought in. The building is currently oil fired. Gas units will be brought in across Columbia Court. The first floor will be handicapped accessible with larger doorways, larger kitchen areas and larger bathrooms. A wheelchair ramp will provide access to the first floor. A handicapped accessible parking space will be provided.

Mr. Rohrer went on to inform the Board that based on comments by some people in the area that the site has a low water table, it was felt that it would be prudent to install sump pumps. A perforated drain will be installed.

Lighting will be shielded so that there will be no direct shine onto abutting properties.

Mr. Rohrer stated that an attempt will be made to find the drains from the rear property (the Ross property) and have them drain into the catch basin on site. The drain on the Rohrer site will be perforated to accommodate any snow melt.

The Chair spoke to underground service of electric and asked that the snow storage area be indicated on the plan. The Chair also asked the Rohrers to think about providing a small concrete pad for motorcycle parking.

The Chair asked if there was anyone else in the public wishing to speak to, for or against. Seeing no one rise, the Chair closed the Public Hearing.

**DECISION OF THE BOARD:**

Councilor Lown inquired as to how many parking spaces are required with Mr. Holden responding by stating one and one-half per unit for a total of nine. The Chair asked if he heard a motion.

Councilor Lown moved to approve the site plan with stipulations. Mr. Savramis seconded the motion. The motion passed on a 9-0 vote. Mr. Hopley reminded the Rohrers that the next step in the process is the execution of a Site Review Agreement and the providing of a bond to cover site improvements. He urged the Rohrers to talk to the Planning Department about that process.

Stipulations:

**From the Technical Advisory Committee:**

1. That a note be added to the plan that all work in the street shall be done in accordance with the Excavation Permit process;
2. That the domestic water service be sized by a plumber or a mechanical engineer and be installed in accordance with City standards;
3. That the first floor shall be handicapped accessible;
4. That if sump pumps are installed, they shall be tied into the drain line;
5. That exterior lighting shall not shine onto adjacent properties;
6. That the drains from the adjacent rear property be tied into the drain for this site;
7. That the drain lines shall be perforated to pick up any ground water caused by melting snow;  
and
8. That the site plan indicate the appropriate number of handicapped parking spaces.

**From the Planning Board:**

1. That the site plan indicate the snow storage area.

I. The application of **Raymond Grasso, owner, and Kevin Ravenelle, applicant**, for property located at **2859 Lafayette Road** wherein site plan approval is requested for the construction of a 60' x 40' one-story car wash facility with related paving, utilities, landscaping, drainage and associated site improvements. The existing structure will be demolished. Said property is shown on Assessor Plan 286 as Lot 20 and lies within a General Business district.

**SPEAKING TO THE APPLICATION:**

The Chair read the notice. Attorney Bernard W. Pelech addressed the Board and stated that he was representing the owner, Mr. Grasso, and the applicant, Mr. Ravenelle. Attorney Pelech reminded the Board that it had recently granted a Conditional Use Permit for the site in question. He went on to state that the Technical Advisory Committee had granted a favorable recommendation and that the plan had been before the Traffic/Safety Committee on this date and received a favorable recommendation.

Attorney Pelech commented that changes had been made to the site plan as a result of a letter received from Attorney Gerald Giles in an attempt to accommodate Attorney Giles' concerns adding that three 2,500 gallon underground storage runoff tanks had been incorporated into the plan. The result would be a reduction in stormwater runoff onto the Giles property.

The second change to the plan is the indication that there will be no left-hand turning movements out of the site onto Lafayette Road. Traffic will have to turn right.

Attorney Pelech informed the Board that Steve Pernaw, traffic engineer, was present as well as a representative from Car Wash Services of New England and Wayne Morrill of Jones and Beach Engineers.

Mr. Morrill addressed the Board and stated that a vacuum island and some parking spaces had been removed from the southeasterly corner of the lot to alleviate concerns that pavement was too close to the wetlands. Mr. Morrill went on to state that concrete pads would tip drainage back into the building for recycling purposes. He added that the plan before the Board mimics the old Dunkin' Donuts proposal. He spoke to a 2" force main underneath Route 1, a 1 1/2" gas service and new 2" K copper water service. Sheet C-4 covers lighting and landscaping.

Erik Saari from Jones & Beach discussed the drainage plan. He reiterated that the water used in washing the cars would be recycled and would be separate from any stormwater runoff.

The runoff from the parking lot will enter a drainage system consisting of three catch basins and a drain manhole to the rear of the site. The opinion was expressed that the Vortechs system would be more than adequate in treating the stormwater runoff. It was felt that there would be a decrease in peak rate runoff. The drainage plan was designed for a 50 year storm and greater. It was stated that the actual ponding situation would be lowered by approximately 1/2". It was felt that the runoff would be as clean as it is going to get. The statement was made that the Vortechs system would be inspected annually.

Mr. Jankowski noted that the car wash would be a 24/7 operation and would be unattended.

Kevin McFee of Vortech presented a Power Point program that explained the mechanics of the system. It was stated that the system would be inspected twice during the first year and then annually or every other year depending how much sand is used during winter operations.

Mr. Coker spoke to the 11% to 20% inefficiency rate of the Vortech system and expressed his concern about untreated stormwater runoff entering the wetland noting that there would be no



treatment swale. It was reiterated that the car wash area itself would have a concrete pad tipping the water back into the area. It was further stated by the applicant's engineers that regulatory bodies allow for 80% removal efficiency.

The representative from the Car Wash Services stated that nobody would have the ability to apply a solution and rinse it off in the driveway; that everything would be done in controllable areas.

Mr. Saari stated that a treatment swale is less efficient than a Vortechs system; that the Vortechs system is superior to any other treatment.

Mr. Will inquired as to the mechanics of the car wash. It was stated that one would enter a bay. The car would be in the park position and the machinery would move around the car; that one would not get out of the car; that the system is fully automated. It was noted by Board members that there would be vacuum islands and the opportunity for some solution to wash across the parking lot and attach to sand. It was stated by the representative from the Car Wash Service that there is a system in place for the owner to be paged if there is a mechanical breakdown.

Attorney Pelech interjected that the Conservation Commission was unanimous in its favorable recommendation of this proposal and that they had stipulated the use of the Vortechs system. He reminded the Board that it had approved the Dunkin' Donuts plan for this site with the Vortechs system.

The Chair inquired as to the maintenance schedule. Mr. McFee stated that they could provide such a service or the owner could subcontract out to someone else; such as, a professional engineer who could do it every year and submit a report. Attorney Pelech recommended that the maintenance schedule be part of the Site Review Agreement.

The question was asked as to the schedule of maintenance on site; say, for trash removal. The response was that maintenance; such as, picking up trash, cleaning the bays, washing the walls, and emptying the money, would be done twice a day.

The Chair reminded the applicant that the sound from the dryers drying the cars should remain within the property line. The Board was informed that the decibel level at 30' would be 58; at 45' it would be 55 and at 60' it would be 52.

The Chair asked if the glare from any lighting would stay within the property line. It was stated that such was correct and the Board was referred to Sheet C-4.

The question was asked if all the stipulations from the Technical Advisory Committee had been met with Attorney Pelech responding in the affirmative.

Councilor Lown asked if Attorney Giles was satisfied with the inclusion of three 2,500 gallon tanks. Attorney Pelech responded by stating that Attorney Giles is out of town adding that the drainage plan meets requirements. The question was asked as to what happens to the water after it goes to the tank with the response being that it is discharged out into the wetlands at a controlled rate. It was further stated that with the Vortechs system, clean water would be entering the tanks.

The Chair asked if there was anyone else in the public wishing to speak to, for or against the application. There being none, the Chair declared the Public Hearing closed.

**DECISION OF THE BOARD:**

The Chair asked the Board's pleasure. Mr. Holden interjected that Attorney Giles' concerns were reviewed with David Desfosses, an engineering technician with the Public Works Department. The applicant has attempted to address those concerns. Mr. Holden went on to state that if any legal action was taken by Attorney Giles, that it would not be the City defending the action. He asked if Attorney Pelech concurred. Attorney Pelech stated that such is the way it is and always has been and the way it will be on this one.

Mr. Hopley moved to approve the site plan. Mr. Sullivan seconded the motion. Councilor Lown stated that he would be supporting the motion adding that the Vortechs system is a new technology for the City and was very well presented. He thought that it was at least worth a try adding that the applicant has done what the Board has asked him to do.

Mr. Coker stated that while he agreed with Councilor Lown, he would not be supporting the motion adding that the reason was very simple; that 11 to 20% of the discharge would be entering the wetlands untreated. He went on to state that as a member of the Board, he is protective of wetlands. He stated that he was not opposed to the project; however, he could not support pollutants directly entering the wetlands.

The Chair commented that the Vortechs system is a great new technology. It was his opinion that it could be used in a lot of different applications in the City; that the discharge would be cleaner than that traveling through a treatment swale.

The motion passed on a 7-2 vote with Messrs. Will and Coker voting in the negative.

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Let the record show that at this point in the proceedings, the Chair reminded the Board of its rule that no new business would be taken up after 10:30 p.m. without a suspension of the rules. Mr. Sullivan suggested that the Board follow its rules reminding them of a similar situation a few months back when Mr. Sullivan wanted to complete the Agenda, but was voted down. He did not feel the Board should change month in and month out.

Councilor Lown stated that the Lang Road rezoning request is the last item on the Agenda and he would prefer not to address that issue at a late hour.

Mr. Coker moved that the Board complete the Agenda at this sitting. Mr. Hopley seconded the motion. The motion failed.

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J. The application of **Kelly Warren Revocable Trust, owner, and Scott Warren, applicant**, for property located at **132 Chapel Street** wherein site plan approval is requested for the following: 1) a 10' x 22' two story addition to the rear of an existing structure; 2) a 14.5' x 22' two and one-half story addition to the front of an existing structure that includes the removal of the existing front porch; and, a 4.5' x 17' one-story porch addition on the northerly side with associated site improvements. Said property is shown on Assessor Plan 106 as Lot 6 and lies within the Central Business B and Historic A districts.

**SPEAKING TO THE APPLICATION:**

Anne Whitney, architect, addressed the Board and reminded them that she had appeared before them in January of 2000 for an addition to the structure at this site; that subsequently the Historic District Commission approval was contested. The judge requested that the applicant go through the entire Planning Board approval process. She went on to state that last spring, her client and the concerned abutter came up with a settlement design. That design was approved by the Historic District Commission in July of 2001.

The proposal before the Board reduces the size of the back addition and adds on to the front of the building. Ms. Whitney informed the Board that the Technical Advisory Committee had a couple of issues; such as, delineating the location of the sewer easement and making sure that the water line is 5' away from other utilities. Also that the applicant work with the City in its installation of brick sidewalks.

The Chair brought up the issue of overhead wires as opposed to underground. Ms. Whitney explained that they are not changing that service to the building; that the service comes in over the addition adding that it would be quite a job to bring them underground.

The Chair asked if there was anyone else in the public who wanted to speak to, for or against. There being none, the Chair declared the Public Hearing closed.

**DISCUSSION AND DECISION OF THE BOARD:**

The Chair asked the Board's pleasure. Mr. Hopley moved approval of the site plan. Mr. Coker seconded the motion. Councilor Lown asked if there would be any issues with parking with the response from Planning Department staff being that this application would be paying into the parking fund. The motion passed on a 9-0 vote.

Stipulations:

**From the Technical Advisory Committee:**

1. That the existing sewer easement be indicated on the plan;
2. That there should be more than five feet of separation between the new fire service line and existing utilities; and,
3. That the timing of the installation of the water line be coordinated with Tom Richter, Engineering Technician, Public Works Department (as a new brick sidewalk is scheduled for Chapel Street).

The Board voted to exempt this project from the regulation concerning underground utilities. In other words, the Board felt that the electrical and communications lines could remain above ground.

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K. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 500 of the Pease Development Authority Subdivision Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **The Kane Company** for property located at the corner of Oak Avenue and Corporate Drive to be known as **230 Corporate Drive** wherein Preliminary and Final Subdivision Approval is requested to create a five acre lot with adequate continuous frontage off Corporate Drive. Said property is shown on Assessor Plan 315 and lies within an Airport/Business/Commercial district.

L. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 400 of the Pease Development Authority Site Review Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **The Kane Company** for property located at the corner of Corporate Drive and Oak Avenue to be known as **230 Corporate Drive** wherein site plan approval is requested for the construction of a 45,000 s.f. one-story building for office and light industrial use to be constructed in two phases: 30,000 s.f. in Phase 1 and 15,000 s.f. in Phase 2 with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 315 and lies within an Airport/Business/Commercial district.

Let the record show that the Chair opened both public hearings simultaneously.

#### **SPEAKING TO THE APPLICATIONS:**

Bob Duval, an engineer with Kimball Chase, addressed the Board and stated that he was present on behalf of the applicant, the Kane Company, regarding a proposal for a 45,000 s.f. industrial facility in two phases. 30,000 s.f. in Phase I and 15,000 s.f. in Phase 2. Mr. Duval stated that they were asking for approval of both phases at this time.

The proposal calls for the creation of a five acre leased lot that conforms with the Business/Commercial district at Pease.

Seventy parking spaces would be provided during Phase 1 with the remainder to be provided during Phase 2. The original width of the aisle has been reduced. A refuge island is indicated in the middle of the driveway. The reduction of the aisle width results in less total impervious space and an improvement to the design.

Mr. Duval spoke to the stormwater runoff as being sheet flow and traveling through a treatment swale before it enters into the existing closed system. He referred to a very long treatment swale and a small detention pond out to a new culvert and a closed system across the street.

Mr. Duval spoke to the existing pavement on site; such as, two cul-de-sacs. The site in question was the site of military housing which was razed a year or two ago. The cul-de-sacs remain. It was Mr. Duval's opinion that there would be less run off post development.

Mr. Duval stated that utility services would be coming in from Corporate Drive. The electric service would be underground from an existing overhead service. The dumpster will be screened.

Mr. Duval commented that there is a good amount of existing mature trees that would be supplemented with similar species. He spoke to a park like setting.

Mr. Duval stated that traffic improvements would be coordinated with the Pease Development Authority. He indicated that the site plan has sidewalk details, and he referred to a copper water

service. He reported that the stormwater maintenance plan was acceptable to the Public Works Department.

Mr. Will expressed his concern as to whether there were any utilities left onsite from the military housing. Mr. Holden felt that the Pease Development Authority would be on top of such a concern and referred to the Base closure procedures.

Mr. Holden asked that the maintenance schedule be added to the plan. Mr. Holden stated that he had talked with the City's Engineering Division and asked that a note be added to the construction sequence that hay bales shall be installed at the inlets of the City drainage system until all disturbed areas are stabilized.

Mr. Holden interjected that it was his understanding that the applicant would work with the Pease Development Authority and the City regarding the Tradeport Traffic Master Plan. Mr. Duval nodded concurrence. Mr. Holden spoke to the need for each developer to be responsible for infrastructure improvements regarding traffic.

The Chair asked if there would be a cafeteria or food preparation. Mr. Duval responded in the negative stating that there would be an employee break room adding that there would not be a lot of employees with this building; that there would probably be a microwave and a sink.

Mr. Hopley spoke to the possibility of a future need for exits not shown on the drawing; that it should be noted that those exits would need to discharge onto a maintainable surface to a public way; such as sidewalks.

The Chair inquired as to what type of industry would be utilizing the buildings with Mr. Duval explaining that SMC assembles, packages and distributes valves. The question was asked if any hazardous materials would be involved with the response being in the negative; that there would be no processed waste; that there would be a domestic service only.

The Chair asked if there was anyone in the public wishing to speak to, for or against. There being none, the Chair declared the Public Hearings closed.

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

With regard to the subdivision request, Mr. Hopley moved approval. Mr. Will seconded the motion. The motion passed on a 9-0 vote with the stipulation that permanent boundary monuments be established as per the requirements of the Pease Development Authority.

With regard to the site review request, Mr. Jankowski moved to approve with stipulations. Councilor Lown seconded the motion which passed on a 9-0 vote.

Stipulations:

#### **From the Technical Advisory Committee:**

1. That the site plan indicate that a maintenance schedule and reports from clean outs of the drainage structure(s) be submitted to the Engineering Division of the Public Works Department;
2. That the drainage study be reviewed by David Desfosses, Engineering Technician, with comments to the Planning Board;

- 3. That the applicant shall continue to work with the Pease Development Authority (PDA) and the City of Portsmouth in the preparation of the Tradeport Traffic Master Plan with the applicant contributing to traffic improvements in an amount to be determined by the PDA;
- 4. That the applicant consider installing a "safe refuge" island in the middle of the entranceway;
- 5. That the site plan shall conform to the parking island regulations contained in the PDA regulations;
- 6. That the applicant shall enter into an appropriate agreement between the City and the PDA regarding sewer service;
- 7. That as utilities are provided underground, any superfluous rights-of-way or easements be abandoned;
- 8. That the site plan contain a sidewalk detail;
- 9. That the landscaping plan be subject to the approval of Planning Department staff; and
- 10. That the site plan indicate that the water service be 2" type K soft copper.

**From the Planning Board:**

- 1. That the maintenance schedule for the drainage structure(s) be added to the site plan;
- 2. That a note be added to the construction sequence that hay bales shall be installed at the inlets of the City drainage system until all disturbed areas are stabilized; and
- 3. That a note be added to the site plan that in the event during the construction of Phase 1 or Phase 2, that additional exits are installed that the exits shall discharge onto a maintainable surface; such as, sidewalks to a public way

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**II. CITY COUNCIL REFERRALS/REQUESTS**

A. Request of **1950LLC** to rezone property **off Lang Road** from Office Research to Garden Apartment/Mobile Home

It being passed the 10:30 p.m. bewitching hour, the Board tabled this request to a special meeting to be held on Thursday, May 30, 2002, at 7:00 p.m.

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**III. ADJOURNMENT** was had at approximately 10:45 p.m.

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.