

The Chair called the meeting to order at approximately 7:40 p.m. apologizing to those in the audience for the late start explaining that there had been a non-meeting with counsel for informational purposes and that previous to that, the Board had met with the Board of Adjustment and the Historic District Commission to discuss the Master Plan process. Having said that, the Chair invited the alternates to sit with the rest of the members at the dais.

I. OLD BUSINESS

A. The request of **John Bosa** for property located at **248 Peverly Hill Road** for an amendment to a previously approved site plan, more specifically, the roadway plan. Said property is shown on Assessor Plan 243 as Lot 54 and lies within a Single Residence B district. **(This Agenda item was tabled from the Board’s July 17, 2003, meeting to this meeting.)**

The Chair read the notice into the record. Mr. Jankowski moved to take the agenda item off the table. Mr. Sullivan seconded the motion. The motion passed unanimously.

SPEAKING TO THE REQUEST:

Attorney Bernard Pelech addressed the Board and stated that he was present on behalf of Mr. Bosa. Attorney Pelech reminded the Board that the request had been tabled at the last meeting and the prior meeting to allow the developer to work with the abutters in an attempt to work out a satisfactory arrangement. The amended site plan calls for a modification to the slope adjacent to the cul-de-sac on Moffatt Street. Attorney Pelech went on to explain that the neighbors were concerned about the original proposal for a 4 – 1 slope. The subsequent proposed slope was actually created in order to demonstrate what the slope would look like to the neighbors.

Attorney Pelech reported that the neighbors’ concerns have been satisfied; that they have no objection to the proposed and existing 2 ½ - 1 slope. He went on to explain that David Desfosses of the City’s Public Works Department was concerned about the swale created adjacent to the roadway. An agreement has been reached regarding fill and hydroseeding. The agreement that has been reached with the condo association has been submitted to the Planning Director, David Holden.

Mr. Holden agreed that the issue had been largely addressed and suggested that any motion to approve be subject to approval by the Public Works Department. Mr. Holden added that the City is holding a bond to ensure that the improvements are completed to the City’s satisfaction.

Councilor Lown moved to approve the amended site plan subject to the following stipulations:

1. That the 2 ½ to 1 slope that has been established be reviewed and approved by the Public Works Department; and,
2. That the agreement between the 248 Peverly Hill Condominium Association and John Bosa dated August 21, 2003, be reviewed by the City Attorney as to content and form and appropriately recorded.

Mr. Sullivan seconded the motion. The motion passed unanimously.

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B. The application of **Rick and Charlotte Maffei** for property located at **258 Buckminster Way** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* for the replacement of a previously existing hot top driveway and the installation of two to three inches of crushed stone (14' x 50') along the side of the garage on top of a processed gravel base within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 282 as Lot 6-20 and lies within a Single Residence B district. **(This application was tabled at the Board's July 17, 2003, meeting to this meeting.)**

The Chair read the notice into the record. Mr. Sullivan moved to take the application off the table. Mr. Will seconded the motion. The motion passed unanimously.

SPEAKING TO THE APPLICATION:

Lt. Col. Rick Maffei addressed the Board and reminded them that the application had been tabled due to the lack of a sufficient plan. The applicant stated that he had submitted a new map based upon the initial survey of the development that was done in 1992 by Millette, Sprague & Colwell. He went on to explain that the wetland had been surveyed in 1992 by NH Soil Consultants. In April of 2002, the wetland was verified by the placement of 4' orange stakes. Those stakes are still in place. He went on to explain that actual ground measurements are included on the smaller map.

In answer to an inquiry from Mr. Coker, Lt. Col. Maffei stated that the base of the 14' x 50' area next to the garage would have a base of processed gravel with 2" of crushed stone. The slope would be top soiled and seeded. The hot top that was destroyed when the fill was brought in will be replaced.

Mr. Coker inquired as to the height differential with the applicant responding that the highest point is 4'.

Mr. Jankowski stated that the asphalt had already been damaged by trucks and asked if there would be any more square feet that would be asphalt covered than before. The applicant explained that the hot top was irregularly shaped before and he would like to make it more eye appealing; so, there will be a little bit more asphalt than before.

The Chair made three calls for speakers. There being none, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

The Chair reminded the Board that Peter Britz, the City's Environmental Planner, was present and invited him to give the Board a brief overview.

Mr. Britz explained to the Board that the zoning officer happened to be out in the applicant's neighborhood and noticed that he was doing work in his yard. Subsequently, Mr. Britz notified Lt. Col. Maffei that he needed to file for a Conditional Use Permit. It was Mr. Britz's opinion that what was being proposed was best for the site pointing out that what was there was grass which, Mr. Britz stated, is not much better than pavement. He felt that the gravel area would allow for the stormwater runoff to drain better into the ground. It was his feeling that after grass is walked on/trampled on that it was probably a wash.

Mr. Coker asked if the vehicles were parked there (gravel area) at the present time with the response being in the negative. Mr. Coker asked Mr. Britz if it was his professional opinion that there would be enough room to filter out any gas/oil leaks. Mr. Britz stated that the

Conservation Commission felt that the proposed impervious surface was the best solution and recommended the granting of the Conditional Use Permit.

Ms. Roberts spoke to the huge change in topography; particularly, the area where gravel had been added. She felt that there would be a substantial impact on the wetlands. Mr. Britz pointed out that the area would be flat on top and would provide more infiltration.

Mr. Sullivan inquired if the 14' x 50' area would be hard surfaced with the response being in the negative. The area that tapers back to the street would be asphalt. Mr. Sullivan wondered if there was any way to funnel the stormwater runoff from the driveway into the storm drain as he didn't want the water coming off the roof or the salt from the driveway entering the wetland.

Mr. Britz felt that if the storm drain had an oil/water separator that the driveway could be sloped like a "v". Mr. Hopley wondered if it would be better to have the stormwater runoff go over the grass rather than going into the storm drain.

Mr. Jankowski moved acceptance of the plan as presented with the following stipulation:

- That a "V" notch be created in the driveway if it is determined that the catch basin (at the end of the driveway) has an oil/water separator; otherwise, the hot topping would be done as proposed.

Councilor Lown seconded the motion. Mr. Coker stated that he would not be supporting the motion and urged members of the Board to do the same for a number of reasons. He went on to state that the Board was talking about the Great Bog. He felt that there was a very large slope in the driveway and that water would runoff even if the driveway was permeable. It was also his feeling that the work that had already been done was totally irrelevant. He pointed out that the distance from the driveway to the edge of wet ranged from 31' to 37' adding that there is no parking there now. He felt that the Board would be granting permission for something that had great potential to result in leakage of all "sorts of stuff" (gas, oil, etc.) and would have a very significant encroachment.

Ms. Roberts stated that she would be voting against the application for essentially the same reasons Mr. Coker discussed. It was her feeling that the request was totally within the buffer severely exacerbating a situation. She expressed her concern about leakage from the large vehicle that would enter the wetland.

Mr. Jankowski stated that the second phase of the Buckminster Way development was never built adding that it was unfortunate that the City's zoning regulations allowed the subdivision to be built in the first place. He went on to state that almost every single house in that development encroaches upon the 100' setback. Mr. Jankowski continued on by stating that the applicant is desirous of making a change in the use of his property and in the permeable surface adding that the development never should have been built in the first place.

Councilor Lown referred to the fact that Peter Britz had indicated that the request would be an improvement pointing out that the applicant could go park his car on the grass with no gravel. It was Councilor Lown's opinion that it would be best to grant the application.

Mr. Holden interjected that the Board should take into account that the Conservation Commission was aware of the issues and had recommended approval. He went on to state that the situation is not ideal; however, the request is for a minimal change; otherwise, the applicant could park his vehicles on the grass.

Mr. Coker stated that he felt that the fact the second phase was never built was an irrelevant piece of information in that the Board was dealing with a very specific application. He stated that nothing is being parked there now and, subsequently, there will be something parked there. It was his opinion that Mr. Britz could not answer "yes or no" and that there were a lot of what ifs and maybes. He went on to state that the Conservation Commission is an advisory body and that this is an effort to address what already has been done. He stated that he was still against the application.

The Chair thought that the idea of a "V" notch was a good one. He further stated that Mr. Holden had made a good point when stating that the applicant could park the vehicles on his own lawn. The Chair went on to state that the Board had looked at a good many wetland issues over the years and that they hadn't found anything that is going to stop 100% grease or oil from flowing into the wetlands. He felt that the applicant had the right to repair his driveway and that the addition of crushed stone would protect the wetlands even more.

Mr. Coker stated that the driveway was damaged by activity that is not allowed by the City and was stopped by the City. He went on to stated that the applicant would be parking a very, very large and very nice RV on the gravel surface jokingly stating that it was half the size of peoples' homes. Lt. Col. Mafei explained that the vehicle is a 36' long motor home that is 8' wide and that the vehicle would be parked at the site from April 15th to the last week of August.

Councilor Lown felt that the additional two or three square feet of asphalt and the issue of runoff would be offset by the benefit of crushed stone as opposed to grass.

On a roll call vote the motion to grant the Conditional Use Permit, with the following stipulation, passed on a 5-4 vote with Councilor Lown, Messrs. Sullivan, Hopley, Jankowski and the Chair voting in the affirmative and Ms. Roberts, Messrs. Coker, Will and Savramis voting in the negative.

- That a "V" notch be created in the driveway if it is determined that the catch basin (at the end of the driveway) has an oil/water separator; otherwise, the hot topping would be done as proposed.

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III. PUBLIC HEARINGS

The following application was inadvertently taken out of order by the Chairman.

B. The application of **Richard P. Fusegni, DSP Shopping Center, LLC and Endicott Hotels** for property located at **1574 and 1600 Woodbury Avenue** wherein Preliminary and Final Approval is requested for a lot line relocation which would result in the following: 1574 Woodbury Avenue would have a lot area of one acre ± and 1600 Woodbury Avenue would have a lot area of 15.94 acres ±. Said property is shown on Assessor Plan 238 as Lots 16 and 17 and lies within a General Business district. Plat plans are recorded in the Planning Department office as 19.3-99. (Planning Board approvals for this request were granted on September 2, 1999 and August 16, 2001; however, the mylars for the lot line relocation were not recorded within a year of the approvals.)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard W. Pelech addressed the Board and stated that the Planning Department was absolutely correct in stating that prior approvals had been granted. He stated that he was under the impression that the most recent mylar had been recorded. He stated that nothing has changed; that the plan before the Board is the same.

At this point in the proceedings, Mr. Will asked for a point of order and moved that Public Hearing B be taken out of order. Councilor Lown seconded the motion. The motion passed unanimously.

Attorney Pelech continued on by stating that he could find nothing in the regulations about a lot line relocation approval lapsing. He stated that an amended site plan is tabled at the Technical Advisory Committee level. Attorney Pelech concluded his presentation by asking that the lot line relocation be approved once again.

Mr. Holden interjected that the department has worked closely with Attorney Pelech; however, the approvals had lapsed and the request was back before the Board in case there were any changes.

The Chair made three calls for speakers. There being none, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Sullivan moved approval with the following two stipulations as printed in the department memo. Councilor Lown seconded the motion. The motion passed with one member voting in the negative.

1. That permanent boundary monuments be established as per the requirements of the Public Works Department; and,
2. That the proposed driveway easement shall be reviewed by the City Attorney as to content and form.

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II. APPROVAL OF MINUTES

A. July 17, 2003, meeting

Mr. Will moved the approval of the minutes as presented. Mr. Coker seconded the motion. The motion passed unanimously.

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A. The application of the **John S. Evans and Margaret L. Evans Trust** for property located at **826 South Street and 1 Lookout Lane** wherein Preliminary and Final Approval is requested for a lot line relocation whereby 1,296 s.f. ± of lot area would be conveyed from property located at 826 South Street to property located at 1 Lookout Lane resulting in the following: Property located at 826 South Street would have a lot area of 33,955 s.f. ± and property located at 1 Lookout Lane would have a lot area of 22,872 s.f. ±. Said property is shown on Assessor Plan

132 as Lot 2 and Assessor Plan 221 as Lot 86 and lies within a General Residence A zone. Plat plans are recorded in the Planning Department office as 04.3-00. (This application was tabled at the Board's May 18, 2000, meeting to a time indefinite.)

The Chair read the notice into the record. A motion was made and seconded to take the application off the table. The motion passed unanimously.

SPEAKING TO THE APPLICATION:

J. Corey Colwell of Millette, Sprague & Colwell stated that he was representing Margaret Evans, owner and applicant. The request is for a simple lot line relocation for properties located on Lookout Lane and South Street. The purpose of the request is two-fold. The Lookout Lane lot has a very small back yard. By relocating the line, the setback goes from 16' to 50'. The two newly created points will have boundary monuments.

The Chair made three calls for speakers. There being none, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Councilor Lown moved to approve the lot line relocation with the stipulation that permanent boundary monuments would be established as per the requirements of the Public Works Department. Mr. Will seconded the motion. The motion passed unanimously.

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C. The application of **Edmund L. Price** for property located at **111 Newcastle Avenue** wherein Final Subdivision Approval is requested to create two lots from an existing lot. Proposed Lot 101/52-00 would have a lot area of 8,533 s.f. ± with street frontage off Newcastle Avenue and would contain the existing duplex and accessory structures. Proposed Lot 101/52-01 would have a lot area of 6,898 s.f. ± and adequate continuous street frontage off Marcy Street. Said property is shown on Assessor Plan 101 as Lot 53 and lies within a General Residence B district. Plat plans are recorded in the Planning Department Office as 13.2-02. (Preliminary Subdivision Approval was granted on September 19, 2002.)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Ed Price addressed the Board and stated that it had been eleven months since he had appeared before the Board. He stated that subsequent to that time, the Planning Department had determined that the request did not require Board of Adjustment approval. He spoke to a 1983 survey done by John Durgin & Associates and a new survey done by Jim Verra. Mr. Price commented that the lines came out the same.

Councilor Lown inquired if the Board of Adjustment issue had to do with a shed with Mr. Price responding in the negative.

Mr. Coker inquired if the vacant lot would be a buildable lot with Mr. Price responding in the affirmative. Ms. Roberts asked if there were any limitations on the lot. Mr. Price indicated that the proposed lot would be large enough to build a structure thereon.

Councilor Lown spoke to the department's memo and the fact that the 100' tidal buffer zone should be shown on the plan. Ms. Tillman explained that the permit process allows a principal structure to be 50'.

The Chair spoke to the Shoreland Protection Zone. The Chair made three calls for speakers. There being none, the Chair declared the Public Hearing closed and asked the pleasure of the Board.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Savramis moved to grant final approval. Ms. Roberts seconded the motion. The motion passed with a unanimous vote subject to the following stipulations:

1. That the following note be added to the subdivision plan: *That the use of fertilizers other than low phosphate, slow release nitrogen fertilizer is prohibited within the 250' Shoreland Protection Zone;*
2. That the 100' tidal buffer zone be indicated on the plan;
3. That the proposed lots be referred to on the plan as Lot 101/53-00 and Lot 101/53-01;
4. That the plan indicate the amount of structure coverage on proposed Lot 101/53-00 keeping in mind that the maximum structure coverage on a lot in the General Residence B district is 30%; and,
5. That permanent boundary monuments be established as per the requirements of the Public Works Department.

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The Chair opened Public Hearings D and E simultaneously with the understanding that the Board would vote separately on each application.

D. The application of **Michael Brigham** for property located at **487 Cutts Avenue** wherein site plan approval is requested for the creation of a seven lot subdivision ranging in lot size from 15,078 s.f. ± to 25,612 s.f. ± with five of the proposed lots having access off a proposed cul-de-sac off Cutts Avenue. One proposed lot will have access off Chase Drive and the remaining proposed lot will have access off Michael Succi Drive with related paving, utilities, landscaping, drainage and associated site improvements. The existing buildings will be removed. Said property is shown on Assessor Plan 210 as Lot 26 and lies within a Single Residence B district.

E. The application of **Michael Brigham** for property located at **487 Cutts Avenue** wherein Final Subdivision Approval is requested for the creation of a seven lot subdivision ranging in lot size from 15,078 s.f. ± to 25,612 s.f. ± with five of the proposed lots having access off a proposed cul-de-sac off Cutts Avenue. One proposed lot will have access off Chase Drive and the remaining proposed lot will have access off Michael Succi Drive. Included in this request are proposed conveyances to and from the property of Kelly Boston located at 465 Cutts Avenue resulting in a proposed lot area of 10,799 s.f. for the Boston lot. Said property is shown on Assessor Plan 210 as Lots 26 and 27 and lies within a Single Residence B district.

SPEAKING TO THE APPLICATIONS:

Attorney Bernard W. Pelech addressed the Board and stated that this was the tenth or eleventh conceptual plan that finally made it to the Board. He stated that they had worked closely with the Planning Department on the development of the plan. He reminded the Board that the site is the former site of the Benchmark Assisted Living proposal.

Attorney Pelech went on to state that the entire access had been revamped. He advised the Board that the Technical Advisory Committee had recommended approval of the site plan. It was Attorney Pelech's opinion that this was the best plan with the least impact upon the neighborhood. He continued on by stating that there is one outstanding issue; that being, the waiver request on the pavement width for the proposed cul-de-sac.

At this point in the proceedings, John Ricci recused himself from sitting on the applications.

Dennis Moulton, an engineer with Millette, Sprague & Colwell, addressed the Board and stated that the area in question is a 3 ½ acre site with a multi-family dwelling located thereon. Mr. Moulton thanked City staff for their input during the long process. The proposed seven lot subdivision will conform to the City's dimensional regulations. Five of the lots will have access from the proposed cul-de-sac off Cutts Avenue. One lot will have access from Michael Succi Drive, and the remaining lot will have access from Chase Drive.

Water service to the site will be from Cutts Avenue to the cul-de-sac. A water line easement will be provided for the lower two lots as well as an easement for underground utilities. There is no water or electric service on that part of Michael Succi Drive. The existing water service on Cutts Avenue will be upgraded to a 10" line in an attempt to improve water service. The sewer connection will be in the right-of-way coming off the cul-de-sac which avoids a "precipitous" drop to Chase Drive. In that way connections to the sewer can be accomplished without a series of drop manholes.

The stormwater runoff will be directed through the same right-of-way to the catch basins at the lower end and the existing stormwater drainage system on Chase Drive. A small portion of the runoff will flow to Cutts Avenue and across Cutts Avenue to the northwesterly side of the road.

Mr. Moulton noted that the previous proposal involved a tremendous amount of ledge removal. The proposal before the Board will require a lesser amount of ledge removal. The processing will be done onsite. It was Mr. Moulton's hope that not much would have to be removed from the site.

The proposal before the Board also minimizes the impact to the 100' tidal buffer. The driveway off Michael Succi Drive will be of a permeable material.

Mr. Moulton then proceeded to address the stipulations attached to the project by the Technical Advisory Committee:

1. That a letter be submitted to the Planning Department with a sketch attached thereto setting forth the rock/ledge crushing plan including the hours of operation and a start and finish time for the project; *A letter has been submitted that the decibel level 23' from the machine would be an 85-93 decibel level. Mr. Moulton went on to state that the sound would not be as pleasing as an orchestra would be but should be less bothersome. The machinery should be on site for one month at the lower end of the site in question. There will be no sale of ledge or crushed stone on site.*
2. That Cutts Avenue be video taped before construction takes place. It is understood that the developer agrees to provide an overlay to correct any damage; *Mr. Moulton indicated that they would certainly do the video taping.*
3. That it is understood that the Planning Department will make a recommendation to the Planning Board when it reviews this site plan; that final approval be tabled until all Federal and State Permits are in hand; *Mr. Moulton understood the stipulation but asked that rather than tabling that the item remain as a stipulation to be complied with before construction begins. He stated that it may take up to four months to receive the Site Specific Permit due to a huge back log; that the Wetlands Permit should be forthcoming soon. The Planning Director, David Holden, interjected that if the Board saw fit, that the item could be a stipulation of approval rather than the cause for tabling.*
4. That there will be no sale of crushed rock from this site; *Mr. Moulton reiterated that there would be no sale of crush rock on site.*
5. That the right-of-way shall be monumented in accordance with City standards; *Notes have been added to the plan.*
6. That the sewer line configuration shall be reviewed and approved by Peter Rice of the Public Works Department; *Mr. Moulton stated that he had worked with Peter Rice; that additional review comments were received from the Technical Advisory Committee and have been incorporated into the plans.*
7. That the applicant work with Tom Cravens of the City's Water Division regarding the replacement of the 6" and 8" water lines with a plan and profile of Cutts Avenue to be provided; *Mr. Moulton reported that he had met with Tom Cravens. The requested changes have been made.*
8. That a mechanical engineer confirm the water size servicing the lower two lots prior to the Planning Board meeting; *Mr. Moulton reported that in talking with the proponents of the project, that it was felt that a better solution would be to wait for the water lines to be actually placed to see how much improvement the 10" line would provide to the area. The water line size will be performed by a Mechanical Engineer at the time the new line is in and tested.*
9. That the Technical Advisory Committee recommends that the requests for waivers on the sidewalk and the width of the cul-de-sac be denied. However, a meeting will be scheduled before the next Planning Board meeting with administrative staff to see if it is possible to craft a standard that would be limited to residential streets. Such a standard would be shared with the applicant, his attorney, and the Planning Board with the indication that the proposed standard should be part of the Master Plan process; *This stipulation was dealt with at a later point in the meeting.*

10. That all monuments to be set shall be indicated on the subdivision plan; *Mr. Moulton indicated that such had been added to the plan.*
11. That the developer shall pay for the services of a private consultant, picked by the Department of Public Works, who will oversee the engineering aspect of this project; *Mr. Moulton indicated that there was no problem with that stipulation; that he would work with the City to ensure compliance with the stipulation.*
12. That the drop manhole detail be revised to conform with Department of Public Works standards; *The appropriate changes have been made.*
13. That a street name sign be provided as well as stop signs and a “No Outlet” sign; *Such have been indicated on the site plan.*
14. That a formal request for the name of the street be submitted to the Planning Board; *A letter stating such a request has been submitted..*
15. That the location of the sewer and drainage lines be reviewed with the Public Works Department; *Mr. Moulton stated that the plan had been revised in accordance with the Technical Advisory Committee review and that he has not heard anything further since the plans were submitted for review.*
16. That cross sections be provided for the new road with 50’ stations; *Cross sections have been provided at 25’ stations.*
17. That “as built” be submitted at the end of the project; *Mr. Moulton indicated that there was no problem complying with that stipulation.*
18. That the catch basin spec be changed from 420-4 to 420-3; *Mr. Moulton stated that the change had been made.*
19. That an easement be provided for the drain line crossing proposed Lot 7; *An additional five feet has been provided.*
20. That the proposed driveway for Lot 7 be relocated due to its proximity to the intersection; *The driveway has been moved away from the intersection.*
21. That the landscaping plan be reviewed by Lucy Tillman of the Planning Department; *This is a work in progress.*
22. That the number and location of gate valves at the intersection of Cutts Avenue and Chase Drive be reviewed with Tom Cravens of the Public Works Department; *Mr. Moulton indicated that the had talked with Mr. Cravens and such had been provided in accordance with his wishes.*
23. That there be two individual shut offs for the water services in the location of the railroad tracks; *So indicated.*
24. That temporary above-ground water lines be provided, to include hydrants as well, during the construction of the project; and, *Such a notation has been made to the water line replacement plan.*
25. That any existing septic system be abandoned in accordance with State standards. *Mr. Moulton wasn’t sure that one even exists and stated that he was unable to locate any State standards.*

Mr. Moulton then addressed the four stipulations attached to the Preliminary Subdivision Approval granted by the Planning Board.

1. That the reconfigured subdivision plan shall be subject to consideration by the City's Technical Advisory Committee (TAC) with the Committee reviewing the waiver request for a reduction in the width of pavement for the proposed cul-de-sac and the elimination of the proposed sidewalks; *This has been done.*
2. That boundary monuments shall be installed per the requirements of the Public Works Department prior to the filing for Final Subdivision Approval; *Mr. Moulton asked that this stipulation be satisfied with the posting of a bond for the monumentation (some \$3,100).*
3. That an application for Final Subdivision Approval be submitted to the Planning Department; and, *done*
4. That the neighbors be notified as to the construction route and schedule. *This will be done.*

The Chair noted that the proposed name of Brigham Lane has been cleared through 911 fire and safety.

Attorney Pelech then broached the subject of the waiver request for the reduction in the pavement width of the proposed cul-de-sac. He stated that the Planning Director had several meetings with the Public Works Director and personnel. It was Attorney Pelech's opinion that the request would preserve green space and natural features. Attorney Pelech could not see the wisdom of providing 32' width of pavement for a cul-de-sac when the roads leading up to the subdivision were 20 to 24' in width. He could see no benefit to the City to pave and maintain that amount. He felt that the residents would not need to park in the street as each house would have its own driveway and garage. He felt that emergency vehicles would have access and continued on by stating that a lot of streets in Portsmouth do not have 24' of pavement.

It was his understanding that in some instances 32' width of pavement is required because there is a possibility that a street could be continued through to another street. However, he did not feel that such was the case in this situation due to the topography of the area in question.

The Chair indicated that it was his understanding that just the pavement would be narrowed. The response was that the right-of-way would remain at 50'.

Mr. Moulton indicated that per the recommendation of the Technical Advisory Committee, the sidewalk would be on one side and people could cross the street to access it. There will be 4' between the roadway and the sidewalk. Granite curbing will be provided.

Mr. Coker stated that this is probably one of the first times he has ever agreed with Attorney Pelech. Mr. Coker thought that the request was a reasonable one.

Mr. Holden interjected that the Technical Advisory Committee does not have the authority to grant a waiver on street widths. He felt that the process was a chicken and egg process. He noted that the Master Plan process was not done. The subdivision rules have not been rewritten nor has a new zoning ordinance been enacted. He went on to suggest that if the Board saw merit in this approach, then they should explore it as an experiment subject to the approval of the Public Works Director. It was his further suggestion that the approach should be forwarded to the Master Plan consultant for inclusion in the Master Plan. He noted that waiver requirements are included in the subdivision rules.

Mr. Coker noted that the Board had approved an 8 ½' travel lane for Porter Street and further pointed out that the Fire Chief was okay with that. He stated that he felt that there was nothing wrong with Attorney Pelech's request and reiterated that he thought it was a reasonable request.

Mr. Sullivan stated that this particular topic had been the subject of discussion quite a few times in the course of his many years on the Board. One time involved the project behind St. James Church.

He went on to state that Attorney Peter Loughlin had, at one time, made a presentation to the Board in regards to streets. Mr. Sullivan spoke to the turn around on his street which, he indicated, was about the size of the Council Chambers. He felt that somebody could be paying taxes on it. He felt that the request had merit as long as the Fire Chief was satisfied. Mr. Sullivan went on to state that it was his opinion that granting the request would be a step in the right direction.

The Chair made a call for speakers.

Mary Lee Clark Karkota asked the Board to consider the effect of seven houses on a 3 ½ acre lot. She stated that the site is a beautiful piece of property but felt that seven house lots would be too dense. She also spoke to the accidents that occur on Michael Succi Drive on the curve that leads from the Gyp Plant. She stated that people coming down Chase Drive actually run into the trucks adding that there is truck traffic 24 hours a day.

Ms. Karkota went on to state that work has been done on Cutts Avenue so that it is like a brand new road and questioned whether the road would be repaved or repaired.

Kelly Boston asked that Cutts Avenue be returned to the way it is. She also asked that construction not start before 8:00 a.m.

John Ricci spoke to the cemetery located northerly of the site and spoke to the beautiful red pines and the prohibition against the cutting of trees in the cemetery buffer. He also made suggestions as to the erosion control notes. He further stated that he would be in support of granting the waiver.

Ms. Karkota re-addressed the Board and informed the Board that when the tide is high, Michael Succi Drive periodically floods (three times over the past twenty years). She went on to state that in the winter, the overflow will freeze.

Attorney Pelech stated that he disagreed with the interpretation of the language regarding the saving of trees in the cemetery buffer. Mr. Brigham, who had been sitting in the audience, offered that there were no "beautiful" trees and that the trees would be cut, if necessary.

Attorney Pelech went on to state that they had no problem with the erosion control notes as suggested by Mr. Ricci. With regard to the construction start time, Attorney Pelech stated that City ordinances allow construction to start at 7:00 p.m. He reminded the Board that a previous plan called for eight house lots. He did not feel that seven house lots could be classified as overintensification.

With regard to the paving of Cutts Avenue, he stated that it is being ripped up now by new residents. He went on to state that Cutts Avenue would be video taped prior to construction and would be replaced to that condition.

The Chair made two more calls for speakers. There being none, the Public Hearings were closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Will referred to the memo that was on the Board's desk regarding the request for street waivers. Mr. Holden stated that he would recommend a pavement width of 28' (not 26') subject to the approval of the Public Works Director. Discussion ensued on the possibility of tabling the request to a time when the Director of Public Works could be present. Discussion also arose over the rights and responsibilities of the Planning Board. Mr. Holden reminded the Board that it does not have the ability to accept streets.

The Chair reminded the Board that the pavement width should be 32' and the request was for 26'. Attorney Pelech interjected that they would accept any waiver. Mr. Sullivan inquired if the request had been discussed at the Technical Advisory Committee level. Ms. Roberts wondered if a pavement width of 24' would be appropriate. Mr. Holden offered that the Director of Public Works is not a member of the Technical Advisory Committee; that a committee was formed that recommended 28'.

The Chair then switched the subject to the issue of stormwater runoff and the catch basin filter system. Mr. Moulton spoke to a temporary system during construction and erosion control during construction. The Chair asked for an oil/water separator for the catch basin at the lower end of Cutts Avenue that connects into the system on Chase Drive. Mr. Moulton stated that he would be happy to provide such.

Discussion then turned to the issue of street lights with some Board members suggesting that the lighting be similar to that installed on Richards Avenue.

The Board did discuss the occasional flooding of Michael Succi Drive. It was noted that separate driveway permits would be required for each of the lots.

Mr. Will then brought the discussion back to the request for street waivers and felt that the waiver should be granted as recommended by the Planning Department staff. **Mr. Will moved** that that the pavement width of the proposed cul-de-sac be 28'; that future extensions or connections to the proposed cul-de-sac are not authorized unless either the street (cul-de-sac) is brought into conformance with relevant street standards of the time or the Planning Board so authorizes a continuation of this or some other waiver. This waiver is subject to the approval of the Director of Public Works; otherwise, the issue would revert back to the Planning Board for discussion. Documentation of this effort is to be included in the City's Master Plan Planning process. Mr. Savramis seconded the motion.

Councilor Lown wondered if the motion was appropriate at this time questioning whether the site plan and/or subdivision plan would be approved. Mr. Holden stated that he would defer to Councilor Lown's legal mind. Mr. Jankowski suggested considering the site plan first and tabling the motion to the next meeting when personnel from the Public Works and Fire Departments could be present.

Ms. Roberts stated that she appreciated the idea to table. It was her opinion that the smaller the road the better reiterating that she would like to see a pavement width of 24'.

Mr. Will moved to table the motion to the September 18, 2003, meeting of the Board. Mr. Jankowski seconded the motion. The motion passed with Mr. Sullivan voting in the negative.

Mr. Savramis moved to approve the site plan with all stipulations. Mr. Will seconded the motion for purposes of discussion. He went on to state that he was going to oppose the motion; however, he did want to commend the applicant for his hard work. Mr. Will stated that he was bothered by the slopes and bothered by erosion and drainage issues with the lower lots. The motion to approve the site plan, with the following stipulations, passed with Messrs. Will and Lown voting in the negative.

From the Technical Advisory Committee:

1. That a letter be submitted to the Planning Department with a sketch attached thereto setting forth the rock/ledge crushing plan including the hours of operation and a start and finish time for the project;
2. That Cutts Avenue be video taped before construction takes place. It is understood that the developer agrees to provide an overlay to correct any damage;
3. That it is understood that the Planning Department will make a recommendation to the Planning Board when it reviews this site plan; that final approval be tabled until all Federal and State Permits are in hand;
4. That there will be no sale of crushed rock from this site;
5. That the right-of-way shall be monumented in accordance with City standards;
6. That the sewer line configuration shall be reviewed and approved by Peter Rice of the Public Works Department;
7. That the applicant work with Tom Cravens of the City's Water Division regarding the replacement of the 6" and 8" water lines with a plan and profile of Cutts Avenue to be provided;
8. That a mechanical engineer confirm the water size servicing the lower two lots prior to the Planning Board meeting;
9. That the Technical Advisory Committee recommends that the requests for waivers on the sidewalk and the width of the cul-de-sac be denied. However, a meeting will be scheduled before the next Planning Board meeting with administrative staff to see if it is possible to craft a standard that would be limited to residential streets. Such a standard would be shared with the applicant, his attorney, and the Planning Board with the indication that the proposed standard should be part of the Master Plan process;
10. That all monuments to be set shall be indicated on the subdivision plan;
11. That the developer shall pay for the services of a private consultant, picked by the Department of Public Works, who will oversee the engineering aspect of this project;
12. That the drop manhole detail be revised to conform with Department of Public Works standards;
13. That a street name sign be provided as well as stop signs and a "No Outlet" sign;
14. That a formal request for the name of the street be submitted to the Planning Board;
15. That the location of the sewer and drainage lines be reviewed with the Public Works Department;
16. That cross sections be provided for the new road with 50' stations;
17. That "as built" be submitted at the end of the project;
18. That the catch basin spec be changed from 420-4 to 420-3;
19. That an easement be provided for the drain line crossing proposed Lot 7;
20. That the proposed driveway for Lot 7 be relocated due to its proximity to the intersection;
21. That the landscaping plan be reviewed by Lucy Tillman of the Planning Department;

- 22. That the number and location of gate valves at the intersection of Cutts Avenue and Chase Drive be reviewed with Tom Cravens of the Public Works Department;
- 23. That there be two individual shut offs for the water services in the location of the railroad tracks;
- 24. That temporary above-ground water lines be provided, to include hydrants as well, during the construction of the project; and,
- 25. That any existing septic system be abandoned in accordance with State standards.

From the Planning Board:

- 1. That the street lighting shall conform with residential street lighting standards;
- 2. That the catch basin at the lower end of Chase Drive be outfitted with a rubber snout;
- 3. That a note be added to the site plan regarding erosion control in the winter; and,
- 4. That a note be added to the site plan indicating that a separate driveway permit will be required for each of the lots.

Mr. Hopley moved to grant Final Subdivision Approval. The motion was seconded. The motion to approve, with the following stipulations, passed with Councilor Lown voting in the negative.

- 1. That all necessary State/Federal Permits be received and identified on the Final Plat before recording;
- 2. That the neighbors be notified as to the construction route and schedule;
- 3. That easements be approved as to content and form by the City Attorney; and,
- 4. That permanent boundary monuments be installed as per the requirements of the Public Works Department.

Let the record show that the Board will recommend the name of Brigham Lane for the proposed cul-de-sac to the City Council at the appropriate time. (Actual vote was taken under New Business.)

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IV. CITY COUNCIL REFERRALS/REQUESTS

A. Request of the NH Army National Guard to place an illuminated sign on City property off Market Street

Mr. Holden explained to the Board that the Army National Guard was thinking about using its access off Market Street and keeping the National Guard traffic away from the residential section of McGee Drive. This thinking brought about a request to the City Council for an illuminated sign on City property announcing the use of the access from Market Street. The department was recommending that a draft Memo of Understanding be forwarded to the City Council.

Mr. Coker wondered if the Guard, being a government agency, could do just as they wanted. Mr. Holden responded by stating that the benefit here is that the continued use of McGee Drive for National Guard purposes is inappropriate. However, he thought that some "damage" control would be better for the Guard and better for the City. The question he had was whether the Board wanted to see the Memo of Understanding.

Mr. Sullivan stated that he would like to see a representative from the National Guard make an appearance before the Board as he, Mr. Sullivan, had several questions; such as, whether the use of heavy equipment would tear up the asphalt and whether the turning radius would be sufficient to accommodate the turning movements. Mr. Sullivan felt that the Board should have a few answers at the very least, not that he wanted to put a “fly in the ointment”.

A motion was made and seconded that a draft Memorandum of Understanding be drafted and that a representative from the National Guard be present before a recommendation is made to the City Council. The motion passed unanimously.

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B. Request to purchase City-owned property off Barberrry Lane

Mr. Sullivan moved the department’s recommendation as contained in the department’s memo to the Board. Ms. Roberts seconded the motion. Mr. Holden emphasized that the City has been trying to contact the heirs for many a year and has been unsuccessful. The motion to forward the following recommendation to the City Council passed unanimously.

That the request to purchase this City-owned property should be denied.

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C. Request for re-conveyance of property

Mr. Holden indicated that he had reviewed the request with the Department of Public Works and the attorney representing the requestors. The Public Works Department strongly recommends that the City not relinquish any rights it has in the subject property due to its proximity to the Bellamy Reservoir.

Mr. Sullivan so moved. Mr. Coker seconded the motion. The motion passed unanimously.

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V. NEW BUSINESS

A. Master Plan Planning Process

Mr. Holden felt that the Board had a good discussion earlier in the evening with the Board of Adjustment and the Historic District Commission. He reminded the Board of its meeting with the Rockingham Planning Commission on September 10th. Mr. Sullivan wanted to be sure that the Planning Board would get a “whack” at the draft Master Plan before it was released.

With regard to affordable housing, it was Mr. Will’s feeling that the Salvation Army and CrossRoads House could offer input to the Master Plan process and should be invited to the work session on Affordable Housing. Mr. Holden suggested that Mr. Will write a letter requesting the same, and he, Mr. Holden, would discuss the matter with Cindy Hayden.

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B. Request to name proposed cul-de-sac off Cutts Avenue as Brigham Lane (not on Agenda)

Mr. Will so moved. Ms. Roberts seconded the motion. The motion passed unanimously.

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VII. ADJOURNMENT was had at approximately 10:30 p.m.

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Respectfully submitted,

Barbara B. Driscoll
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board at its September 18, 2003, meeting.