

**Motion by JM Lord to approve the amendment to the Breakers Condominiums, 824 Ocean Boulevard, Tax Map 23.1, Lot 29-01, to raze the building and construct new within the same footprint with the following conditions;**

- 1) Replacing the existing non-native grasses in the 75sf garden with native grasses or plants;
- 2) Relocate the rosa rugosa bushes and trees as/where possible;
- 3) Construction will be limited to the period between Labor Day to Memorial Day, Monday through Friday, 7:00 a.m. to 5:00 p.m., for exterior construction. Once exterior is completed, the construction will extend to Saturday, 7:00 a.m. to 5:00 p.m., for interior work.
- 4) Compliance with the notes on Sheet C-2 of the Site & Utility Plan;
- 5) Attorney Donovan's fees for legal review of various documents and HOA documents are to be paid; not to exceed \$500.00;
- 6) Driveway to be 100% permeable pavers on subject property;
- 7) Driveway to be maintained seasonally;
- 8) No roof on decks; and
- 9) Note added to Sheets C-2, A1.01, and A2.0 that subject property is above sea rise elevation.

**Seconded by Bill Epperson.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes; Bill Epperson – Yes; JM Lord – Yes; Patricia Losik – Yes  
Motion passed.**

**Note: The following 'Old Business' was taken out of posted agenda order.**

- a. **Update on the 421 South Road Subdivision**
- b. **Review of haul road restoration plan, Lots 8 & 9**
- c. **Issuance of Certificate of Occupancy for Lot 9**

Chair Losik stated there are six components before the Planning Board in regards to the 421 South Road Subdivision. The board has received a field report from Sebago Technics dated June 2<sup>nd</sup>. That is the most global analysis of all the issues that were raised on the site walk earlier in the spring. As a result of that field report, it is determined that it would be a positive outcome of this to somewhat change the process of the issuance of the building permits; whereby, an engineering review performed by Sebago would take place. That would include confirming impervious surface areas, drainage characteristics, that the lot is being developed in the manner of the development plans that were approved in February 2018, compliance of the actual home and driveway design plans. Once that information comes back from the engineers, there is a thought about whether there is another interim step with the Technical Review Committee sitting with the building department to make this process a little more fluid and make sure everybody is on the same page, with respect to the other six lots that are going to be active. There is also the notice of violation that was issued on Lot 9 in May. The board has Sebago's comments on Lot 8. There is also a concern that involves both of those lots, which is the haul road question on Lots 8 and 9. There has been a good suggestion put forward by Joe Falzone and his team on how to amend that. In support of these, there was also a visit by Joe Noel with a report from May 25, 2020 which speaks to the newly created wetland on Lot 7. There is also a June 4<sup>th</sup> report from Truslow Consulting regarding Lots 4, 5, 6, 7 and 8, in regards to hydrology. Chair Losik suggested they start with discussing Lots 8 and 9 and the haul road.

**Christian Smith, Beals and Associates,** stated that he and Steve Harding spent quite a bit of time going over Lots 8 and 9. That was actually subsequent to putting together the haul road restoration plan.

Chair Losik suggested that they start with Lot 9. She noted that the Planning Board has received Steve Harding's report, which is dated June 9, 2020. She asked Mr. Harding to summarize his findings for Lot 9.

**Steve Harding, Sebago Technics**, stated that the lot development plan (LDP) that was approved by the Planning Board some time ago, showed a house and septic system in a cleared wooded area of that lot. Essentially, it was found that the pervious area was a little bigger. There is some discrepancy between how Sebago measured the roof area and how Christian Smith measured it. Sebago took the overhang area and included the runoff from that to be consistent with the rest of the roof. He thinks Mr. Smith's group is looking at the building walls as the footprint area and that the area underneath the overhangs as pervious. So, there is a discrepancy there, along with a discrepancy of a few hundred feet on the paved area. The end result is that Sebago has calculated more impervious area than what the ordinal LDP showed. Also, it is based on a drainage calculation that was on the LDP. That area was based on the percentage of the lot buildout and the impervious area exceeds that as well. Mr. Harding continued that most of the impervious area seems to be from the roof area. The drip edge along the roof is intended to mitigate the effect of the runoff from the roof. The rest of the lot was built out more than what was depicted on the LDP. There is an area in the front that was originally shown on the drainage plans for runoff to go across Lots 10 and 11 and make its way to the open space without going to the retention pond off Signature Drive. That area looks like it is going to predominately drain back to the drainage swale along Signature Drive and go into the retention basin, which seems like it can handle that flow. That retention basin does not seem to get a robust amount of flow. There is also an area on the front and to the side that will drain more so to the lot to the left (Lot 14). That area is shown to drain back to the swale in the roads and head back towards Woodland Road and be discharged there. He does not think that runoff is actually going to make it. On the field walk, he noted a number of low areas where it is going to get captured and eventually infiltrate. Mr. Harding stated there is also the area in the back that sheetflows more so towards the lot and will eventually drain through Lots 7 and 6 to get to the open space, rather than how it was shown on the drainage plans to cross Lots 10 and 11 and making it to the open space. The runoff is intended to get to the open space. It just travels in a different direction.

Chair Losik stated she is reading about the greater surface area on the southwest side of the lot that will drain on to Lot 14. She noted that there is also an area on the west side of Lot 9 that flows towards Lot 14 in the forward area, but it does not make it to that ditch. Chair Losik noted that 507.2 (old ordinance section) in the zoning addresses drainage on to adjacent properties; *"No use of land; no construction, reconstruction, alterations... no grading of the land... shall increase the surface water drainage flowing onto an adjacent property unless a drainage easement allowing such flowage in perpetuity is recorded."* She commented that this may seem like a small and minor matter; however, everyone who lives here knows what happens in significant rain events. Everyone knows what happens with sheetflow. She is concerned there may have been an unintended consequence created for Lot 14. She wants to be sure that Lot 14 does not end up having a problem in a significant storm.

Mr. Harding stated that it looks like the original design intent was to have the house closer to the road with the septic system behind the house. Later, it got pushed back and the septic system ended up being more on the side. Grading was done on that side, which directed the sheetflow to runoff towards Lot 14. He would refer to Attorney Donovan on this case. He pointed out it is a relatively small area, but there are pockets there that are probably incrementally a lot more so than they would have been if Lot 9 had not been developed. There may be ways to redirect the surface water coming towards that area to go back towards the roadside swale and have that make its way to either the retention basin or the drainage system that goes under South Road to Woodland Road. He pointed out there are some opportunities to fix some things. He is not sure how substantial an issue it is.

Chair Losik replied it might not be. It might be very minor. She has seen the house next door that abuts Lot 14 and it always has a huge flow onto South Road. She wants to be sure that they are not unintentionally creating an issue for Lot 14.

Attorney Donovan stated if there is an increase in flow over Lot 14, there is only two ways to deal with it. One way would be to find a way to direct the drainage away from Lot 14. The other way is to get an easement from Lot 14. He pointed out that he has submitted a confidential memorandum to the board in regards to the drainage issues on Lot 9. The problem is Lot 14 has been sold so it would not be dealt with by the developer. If the concern was on the other side (Lot 10), that lot is still owned by the developer. In that case, there could be an easement to deal with any change. In the future, as the last six lots come in for building permits, that is going to have to be managed. If it looks like the grading is going to increase the runoff onto the adjacent lot, it needs to be dealt with before the building permit is issued and before the site plan is approved. That is why a procedure was established to get Sebago involved at that point. With respect to what should be done with Lot 9, first it is not really known if there is going to be a problem, but it is thought that there probably is. If the board wants to address it, an engineering solution will have to be found that redirects the drainage or obtain an easement that the zoning ordinance requires.

Chair Losik commented that it sounds like exploring an engineering solution may be a better answer, since the house has already been sold.

Mr. Harding noted there is a possibility of berming. Instead of pushing the runoff onto the abutting property, it could be trapped on Lot 9 in a low pocket area. He continued it could be a raingarden or could simply be a raised berm that would not allow the rain water to sheetflow onto Lot 14. He commented that it would take someone looking at the issue. If an easement could not be obtained then exploring engineering solutions could certainly happen.

Attorney Donovan explained that Mr. and Mrs. Gemellaro have been waiting for a certificate of occupancy (CO). He does not think the board wants to get into a situation where someone has to wait for a month for a planning board meeting to determine whether they can get a CO or not. He thinks the board needs to deal with whether or not these folks are going to get a CO, or at least a temporary CO. He noted that he made a recommendation, two weeks ago, that they receive a temporary CO. The CO would be conditioned on things, such as, the haul road plan being acceptable and restored. He thinks the board could authorize a temporary CO with some conditions.

Member Durkin asked if a temporary CO is under the purview of the Planning Board.

Attorney Donovan explained the building inspector issues the CO's; however, the Planning Board is raising these issues and suggesting that the CO's not be issued until this is resolved.

Selectman Epperson stated that when this subdivision was started, the building inspector was under a lot of pressure to make sure these site plans were adhered to specifically. Obviously, there are some issues out there. He read Attorney Donovan's memo and he does not think they can hold up a CO for an owner, based on what is being heard tonight. However, a conditioned CO can be done. He thinks that has to be done tonight.

Chair Losik stated they can look at conditioning a temporary CO. The haul road is an issue and people may feel that Lot 14 should be part of it. Now, because of the additional work, there is also the reimbursement of expenses for both the planning board engineer and town counsel's time spent on this matter. She asked Attorney Donovan if there are other conditions to consider.

Attorney Donovan asked if there are similar concerns about the flow to the north (Lot 10). He thinks that is a lot that could still have a flowage easement granted.

Chair Losik stated there were three other items. Mr. Harding's comments note that the change in impervious, he does not feel, is a significant amount that would adversely affect the drainage systems in place or the receiving areas. There was also the point of the foundation drain on Lot 9 which is close to Lot 8.

Referring to the foundation drain on Lot 9, Mr. Harding explained it was originally shown on the LDP going to the northeast, which would eventually have it drain onto Lot 10. It is more so going to the north now and maybe even to the northwest, which would indicate that it is going to drain onto Lot 8. Those are areas that are wooded and the groundwater is a seasonal flow, so it is probably not going to be a big issue. He pointed out it is definitely different than what the LDP indicated.

Chair Losik commented there could be a condition to relocate the outlet according to the original plan, which was over towards Lot 10 and Lot 7. This is something that Danna Truslow has not yet weighed-in on.

Mr. Harding pointed out that the one comment Danna Truslow made that is common to all the lots and the foundations drains, is to have some sort of riprap apron or stone basin at the end of the pipe so it doesn't erode. That could certainly apply here and would not be a difficult thing to do.

Regarding the drainage to Lot 10, Chair Losik stated that at the walk on site, it was noted that there is a trapped water area on Lot 10.

Mr. Harding commented there is a lot of material that has been stockpiled on Lot 10. Some of that material is blocking the natural path for the drainage. Originally, the back of Lot 9 was shown on the drainage plan as going across the back of Lot 10, which a portion probably will. He thinks it is more likely to head onto Lots 7 and 6 to make its way to the open space, rather than Lots 10 and 11.

With respect to Lot 10, Attorney Donovan stated it has not had a building permit pulled yet. He is not sure if the developer still owns the lot or if it has been sold to Persimmon. He continued there is the ability to require a flow easement about 20ft along the southern boundary of Lot 10 to cover the zoning ordinance provision. That might be the simplest solution.

Chair Losik stated the conditions would be; (1) reimbursement of expenses; (2) the haul road; and (3) foundation drain on Lot 9 being treated with riprap.

Attorney Donovan suggested wording for a condition addressing Lot 14 for the issuance of a temporary CO:

- (4) Review of drainage onto Lot 14 and development of a plan by developer and/or builder to eliminate flow onto Lot 14 for review by the TRC.

Attorney Donovan noted that this would place the onus, not on the Gemellaros, but on the people who created the problem; the developer or builder. He continued the only condition that would hold back the issuance of the CO itself would be the condition for reimbursement for legal fees and the engineer's fees. The three parties involved can figure out who will pay that before the temporary CO is issued. The other conditions become conditions of the temporary CO before it turns into a permanent CO.

**Joseph Falzone, developer,** stated he is in agreement with the fees.

Chair Losik suggested that they discuss the haul road.

Vice-Chair Lord stated that Mr. Harding sent out some memorandums regarding Lots 8 and 9. In looking at Lot 8, the tree clearing was at 59% at .9-acres and now it is at 76% at 1.16-acres. Lot 9 was 1.2-acres and now it is 1.34-acres, so it goes from 70% to 78%. In putting those two together, it is four-tenths of an acre of treeing line area that has been added, just between these two lots. He can understand the need for the haul road. This is a great way to move rock, stone and stumps between Autumn and Signature without going onto South Road. It allowed for off-road haul trucks to do that work. In looking at the as-built for Lot 8, it looks like the haul road came between Lots 8 and 9, but was also used to get down to Lots 7 and 6. In thinking about the tens of thousands of dollars this has saved in construction costs and in looking at the proposed buffer, he sees a discrepancy. There should be a more robust buffer for the total impact that occurred there.

Mr. Falzone pointed out that on the Chisholm property all the trees were clear cut. The trees were gone before he purchased the property. The prior owner is willing to give an affidavit confirming this. He noted that there was a lawsuit brought by the first house coming in to Autumn Lane on the right. When the tree cutter was out there, trees were cut on that lot. This went to court and went to a settlement. He commented that his point is that the road was cut from the logging operation. Trees did get cut for building the house, but not for the haul road. That was the skidder road that was already there.

Mr. Smith stated that he spoke with Mark from Persimmon Homes. The owner of Lot 8 does not want all that lawn space. Mark said that he raked and seeded approximately half of the lawn area. The homeowner's intention is to let the rest go back to natural state. He clarified that the homeowner does not want as large a lawn as what could be prepared there. From what he understands, they are only going to loam and seed half the back area. (He presented a plan on the screen showing Lot 8 and pointed out the area that will be maintained as lawn area, along with the area that will go back to its natural state.)

Chair Losik asked how they are going to stabilize the soil.

Mr. Smith replied that this is a valid question. He commented that there is certainly not going to be any erosion, from what he saw during his visit to investigate options for the haul road.

**Mark Perlowski, Persimmon Homes, resident at 39 Signature Dr.,** stated that he spoke with the homeowners at Lot 8. Their intention is to only rake and seed half the back yard and let the second half, towards the logging road, go back to its natural state. They are currently working with a landscaper to see if he would suggest any type of seeding in that area to help it go back to a natural state.

Chair Losik commented that the current owner of Lot 8 could be satisfied with this. In the future, a different owner may come in and want all of that area restored to lawn. She thinks the board can only focus on the haul road area. To the point of whether there were trees there or not; the board knows that it was logged and have seen the logging permit, and are familiar with that. She continued that there was an opening and the stones that were put back in were not representative of the early stonewalls that were there and seen at the site walks. She would like the board to keep the focus on the haul road. If the property owner of Lot 8 wants to do something different with their lawn, that is up to them.

Mr. Smith explained the rocks that were removed to allow the vehicles to get back and forth, between Autumn and Signature, are really strewn about at each end of the break in the wall. The instructions are to repair that to its original state to look like the original wall with the native stones.

Regarding the trees, Chair Losik pointed out that there are not too many birch trees. There are oak, hickory, ash, and pine trees; certainly, spruce and fir are great choices. She commented that she is hesitating on just six trees.

Mr. Falzone stated the opening to the haul road is 15ft wide. The memo that came in from the building inspector, and in communications with Attorney Donovan, said they'd like to see a few trees on each side of the break in the wall. He is not sure that white birch was the best selection. Four evergreen trees and some white birch were chosen. He does not have a problem with changing the type of trees.

Chair Losik replied that the note says four white spruce, 6 to 8ft in height, and two white birch, 8 to 10ft in height. She pointed out that it is a large area. She thinks it can support a greater planting.

Mr. Falzone pointed out that there were no trees in that area to begin with.

Vice-Chair Lord commented the LDP shows trees.

Mr. Falzone commented that it shows a tree line.

Vice-Chair Lord replied if there is a dense tree line on Lots 8 and 9, the assumption is there are probably trees in between the tree line.

Mr. Falzone commented that the 15ft path was there.

Vice-Chair Lord noted that the 15ft path is about 50ft to the south of where the haul road is today. It can be seen where the stonewall has been gone over by equipment and never put back. This haul road is in a very different location than from the information that was given to the board regarding the location of the haul road. In walking the field, it can be seen where the haul road was. It is still there. It is way closer to the south.

Speaking to Mr. Falzone, Chair Losik asked if he could have the guy from Stratham Circle Nursery come out and take a look, as he would have a sense of what would be a good blend.

Mr. Falzone agreed.

Chair Losik stated there has been such a change from the lot development plans to what is seen now. In all the lots that have been developed heretofore, the limits of clearing have been different and the trees have been reduced. There is degradation to the forest already. The board does not want to have a situation where that continues.

Referring to the plan that Mr. Smith presented with regards to the haul road and the trees, Mr. Falzone noted that the loam has already been laid. There is around 8 to 10 inches of gravel that would have to be removed. He would rather not disturb that whole area and put the money towards more trees, if that is something the board would be open to.

Vice-Chair Lord stated he would agree with Mr. Falzone. That area has been so disturbed now, and taking out 8 to 10 inches of gravel is probably useless. He thinks they should go with the grading that is there and work on the buffer.

Planning Administrator Reed suggested that the TRC be engaged on this issue and the recommendations from Stratham Circle Nursery, so Mr. Falzone does not have to wait another month for a decision of the Planning Board.

Chair Losik agreed. She also agreed that the money should be put into the trees with the topography being left as it is.

Attorney Donovan suggested that the Planning Board recommend to the Building Inspector that a temporary CO be issued on Lot 9 subject to the following conditions;

- 1) **Prior to the issuance of the temporary CO, the town should be reimbursed for the expense of the planning board engineer and town counsel's time spent on this matter.**
- 2) **Haul road restoration plan approve to be developed and reviewed and approved by TRC.**
- 3) **Haul road restoration to be completed within thirty days of approval by TRC.**
- 4) **Review of drainage onto Lot 14 with a development of a plan by the developer and/or builder to eliminate potential flow onto Lot 14 for approval by TRC.**
- 5) **Riprap to be place at outlet to foundation drain.**
- 6) **Flowage easement for the 20ft wide strip of land along the boundary of Lot 10, which will be reviewed by town counsel.**

The board and Mr. Falzone agreed that both the haul road restoration and drainage work would be completed within thirty days of TRC approval.

**Motion by JM Lord to authorize the issuance of a temporary Certificate of Occupancy for Lot 9 with the conditions, as outlined by Attorney Donovan. Seconded by Bill Epperson.**

**Roll Call Vote: Katy Sherman – Yes; Steve Carter – Yes; Jim Finn – Yes; Tim Durkin – Yes;**

**Bill Epperson – Yes; JM Lord – Yes; Patricia Losik – Yes**

**Motion passed.**

Chair Losik suggested that discussion move on to Lots 7 and 8. She read Danna Truslow's recommendations regarding Lots 7 and 8. She also referred to Joe Noel's letter regarding his concerns. She asked Mr. Noel to speak to his concerns.

**Joe Noel, Wetland Scientist**, stated that the area about 10ft on either side of the monitoring well up to the foundation drain on Lot 8, has all the indicators that it is a recently created wetland. Downslope from that is where the driveway is proposed for Lot 7. That area has soil compaction that basically inhibits the water from moving through from the created wetland area to the natural wetland system. This contributed to holding the water up slope and causing that wetland to form. It would be a matter of putting the culvert in. An additional recommendation would be to have the created wetland added to the plan at some point, so the future owner of Lot 7 will realize this is an area now designated as wetland. It would be important for the future owners to know this is an area that cannot be filled in.

Speaking to Mr. Noel, Chair Losik asked if he agrees with Danna Truslow's recommendation of the riprap at the culvert drain on the downstream side where it goes into the larger wetland between Lots 7 and 6.

Mr. Noel replied that is probably a good spot because there is a pretty good slope there. The riprap would be a good idea along that stretch to slow the water down.

Chair Losik asked if this would be sufficient.

Mr. Noel stated that he looked at the wetland between the driveway on Lot 6 and the proposed driveway for Lot 7. He reflagged that wetland and looked at that area. He did not really go downslope. He commented that they placed it, at what he thought, was an accurate elevation. The water is not draining out of that wetland any quicker than it actually would have.

Chair Losik asked if he is referring to the culvert on the Lot 6 driveway.

Mr. Noel confirmed. He does not think there is a need for any riprap on the driveway for Lot 7. Just a little at the outlet to the culvert is all that would be needed there.

Speaking to Mr. Noel, **Jim Gove, Gove Environmental**, asked if the hydrology will be maintained for that newly created area, once the culvert for the driveway is put in. He asked if it could eventually revert back to uplands.

Mr. Noel replied this is a good question. Right now, the hydrology is there. He pointed out that he was at the site during a good time to observe the hydrology. The day he was there the water was on the surface upslope from the area that was deemed a compacted area where the driveway is going to be. He thinks it is probably not going to revert back to upland. The driveway is going to serve as some sort of an impoundment, like it is doing now with the compaction area. His thought is that it will remain a small created wetland. He thinks the hydrology is going to be there; unless, there was some ditching on the upslope of the driveway that would get it to channel quicker to the culvert.

Mr. Falzone stated that he read Danna Truslow's report as her wanting riprap where the two foundation drains come out.

Chair Losik noted that her report says the downstream side of the culvert drain completed with riprap. The side toward the north of the Lot 7 driveway.

Mr. Falzone stated that Christian Smith and Steve Harding should go out to the site and come up with a plan, so the work can be done before there is a buyer for that lot to avoid any water issue moving forward.

Mr. Noel stated it is a good idea to put the segment of the driveway in from Autumn Lane across the culverted area that is needed, even if it was to just stop after that. That way it wouldn't all potentially revert to the wetland condition. It would not take too long for the wetland to expand in that area.

Attorney Donovan clarified that Danna Truslow has recommended that there be riprap under each of the foundation drains.

Mr. Falzone agreed.

Attorney Donovan continued that Danna Truslow has also recommended riprap on the downstream end of the culvert. There are two foundation drains on the downstream end of the culvert. He pointed out that Lot 8 has already been sold. He asked who is going to be responsible for putting riprap on Lot 8 under those foundation drains. Is something that can be worked out with the homeowner?

Mr. Falzone confirmed that he will work with the homeowner of Lot 8.

Chair Losik stated that Mr. Harding had one other comment in regards to whether a shallow swale could be introduced upgradient of the Autumn Drive roadside ditch to divert runoff from the front lawn area to Lot 7. She asked Mr. Harding if he thinks this is necessary.

Mr. Harding presented the plan of Lot 8 and explained his concern. He explained the way the lot is graded now; the runoff goes into the roadside swale and eventually makes it way to the cul-de-sac and gravel wetland. Originally, it was supposed to go into the wetland between Lots 8 and 7. He didn't know if there was a way to put in a channel swale to get it to go back into the area that was intended. He would like to try to keep the drainage pattern as it was originally approved.

After some review of the plan, Vice-Chair Lord suggested having Christian Smith do a sketch to show how the drainage might go, since a culvert is being put in. It might need to change or it might not. However, it would help the board visualize what is happening in that area and how to address it in the future.



Mr. Smith agreed to come up with a sketch to review with Steve Harding.

Speaking to Attorney Donovan, Chair Losik asked if there are any other issues that need to be discussed concerning Lot 7.

Attorney Donovan replied no. He does not think a motion is needed for Lot 7 because a building permit has not yet been pulled. He thinks there is an understanding amongst the relevant parties as to Lot 7.

Chair Losik noted there is also an agreement for the building process with regard to the remaining lots.

Mr. Falzone noted there is the issue about the driveway access to the forebay behind Lot 4, which needs to be resolved. He asked if Mr. Smith and Mr. Harding could look at that so something can be presented in the future.

The board agreed.

Mr. Smith asked if this would go to TRC for review.

Chair Losik confirmed. She asked if anything is happening with the access on Autumn Lane to the open space, which seemed like it was going to involve Lot 6.

Attorney Donovan stated that Mr. Harding suggested in his report that if the driveway to Lot 6 was allowed to be partially in that paper street, the Conservation Commission and Lot 6 could share the way through there. The original plan showed the driveway to Lot 6 swinging out into the paper street, which would also be the access to the conservation land. That would have worked, except at the time, the Conservation Commission did not want to do that. They wanted the access to be strictly on Lot 6. Attorney Donovan stated that Mr. Harding's report has a solution but it goes back to the original plan. The Conservation Commission wanted the driveway to be moved out of the paper street and onto Lot 6. That still leaves a question of feasible access into the conservation land.

Mr. Falzone asked if an easement would be needed.

Attorney Donovan replied that if it goes back to the original plan, there would need to be some kind of easement. He would have to think this through.

Mr. Falzone suggested that Mr. Smith and Mr. Harding work on a plan.

Attorney Donovan replied that unless the Conservation Commission has changed their mind, they don't want to share the paper street with the driveway for Lot 6.

Mr. Falzone commented that maybe the engineers can come up with a plan so the Conservation Commission can get what they want. He does not have an issue with this.

Mr. Smith agreed to work on a plan for this with Mr. Harding.

Referring to the access from Lot 11 into the open space, Chair Losik read from Mr. Harding's report noting that there appears to be an encroachment into the accessway by the expansion of the lawn area. Mr. Harding recommended that the area of the lawn encroachment should be removed and the public access restored.

Planning Administrator Reed noted this lot is owned by someone.

Mr. Falzone confirmed. The property owner is the one that did this.

Planning Administrator Reed asked Attorney Donovan if this should be a notice of violation to the homeowner to restore that access.

Attorney Donovan noted that he has really not been involved in the issues with Lot 11. He also noted that the Conservation Commission has been working with the Building Inspector and Town Administrator on this.

After some brief discussion, Chair Losik commented that it sounds like this is out of the Planning Board's business.

Vice-Chair Lord agreed.

Mr. Falzone stated that in moving forward, the letter he received from the Building Inspector said that procedurally the plans for the building permit with the septic permit are going to be reviewed by Sebago, not the building department.

Chair Losik confirmed.

Mr. Falzone continued that provided there is no substantial change, the building department can issue a building permit.

Chair Losik confirmed.

Attorney Donovan pointed out that the site plans are going to have to be a lot closer to the approved lot development plan than the ones that have been discussed here tonight. If Sebago's review finds that the plan is basically consistent with the lot development plan, then there is no need to get the Planning Board involved. The Building Inspector will be advised to issue the building permit.

**Gregg Richard, Attorney for Joe Falzone,** commented that Mr. Falzone's concern is that the certificate of occupancy be issued as well, if all the parameters are consistent when the as-built plans are filed. He wants to be sure that it does not have to come back to the Planning Board for the issuance of the CO moving forward.

Attorney Donovan replied that nothing is certain. The reason everyone is here is because members of the Planning Board have gone out and looked at what has been happening and raised a lot of serious concerns. If somehow that happens again, it is not to say that some other lot may get tossed back into the purview of the Planning Board. It cannot be guaranteed that this won't happen; however, he thinks a system has been set up to minimize the possibility of that happening.

Referring to the lots still to be developed, Chair Losik pointed out that Danna Truslow's letter talks about her observations for Lots 4 and 5. There has been comment from Mr. Noel in regards to Lot 7. She thinks they are ahead of the game with that information. It is also known that Lots 1 and 3 are next to the Lot 2 vernal pool, so fill is going to be an issue. If the lot development plans vary significantly, the Planning Board may come back with questions. She agrees with Attorney Donovan that there is no certainty; however, there is now a better process.

No further comments or questions were heard from the group regarding this discussion.