

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Bayard, Secretary; Worsman, Selectmen's Rep.; Finer; Kahn; Bliss; Touhey, Alternate (not sitting); Edgar, Town Planner; Harvey, Clerk

ADDENDUM TO MINUTES OF PUBLIC HEARING ON ZONING PETITIONS

Herb Vadney - Testimony at Planning Board hearing to review petitioned warrant articles and at the end of the meeting the Board will vote. We do not have the right to stop or modify, that warrant article is written, that's the way it will go to the voters. The question here tonight is first for you to air pluses, minuses, pros and cons as you like and then for the Board to decide whether to recommend passage of those or recommend not passing those. That's our mission as a Board, it is not to make any final judgments on that proposal.

Marc Abear – Mr. Chairman, members of the Board, thank you for the opportunity to speak on behalf of the proponents of the changes before you tonight. Tonight we're here to discuss two warrant articles containing 3 proposed changes to the existing zoning ordinance. It is important to understand two things, first the process used to determine what to change and how to change it and second, what those changes are and what they do. As we all know, there is increasing development pressure on the Forestry/Conservation District. We have just completed the first process of subdivision approval. As we worked through the process, everyone involved has become aware of aspects of the Zoning Ordinance that were either not clearly understood or properly applied. We the residents of the district are before you tonight to discuss what we want changed in the existing ordinance. The changes are the result of consultation, public meeting and debate. In November all of the Forestry and Conservation District property owners listed on the Meredith Assessor's property list that show as Meredith residents were invited to a meeting held at the Inn at Mills Falls. There are about 90 landowners in the Forestry and Conservation District who are listed on the Assessor's roles as Meredith residents as determined by his mailing list. There were about 24 people present at the November meeting and at that meeting, John Rogers and I debated opposing views of the Ordinance. By the end of the meeting, everyone present was able to agree on the 3 changes before you tonight. Following the meeting, the proposed changes were written up and subjected to two separate legal reviews. We come before you tonight with the majority support of landowners of the district affected. We are prepared to do what is necessary to pass the proposed warrants. The first petition before you removes the "cluster provision" from the ordinance in the Forestry and Conservation District. This is desirable because, as written, the ordinance is unclear and contradictory. Cluster is a tool of development. Its promotion of development in the F/C District is an oxymoron. The existing cluster provision promotes development by codifying a 10% bonus in the number of lots available in a subdivision. Stated differently 10% more building lots are available under cluster than are available with conventional methods of development. Further, cluster promotes development by allowing development of lots smaller in size than would be allowed under conventional methods. We object to the promotion of development in the Forestry and Conservation District. The incongruity here is that the district is the Forestry and Conservation

District; it is not to promote the area for development district. From the existing ordinance's general purpose, "The Forestry and Conservation District provides an area for customary rural land uses such as forestry, agriculture, conservation and other non-intensive uses. This district is characterized by forests, rugged terrain, steep slopes, ledges, etc., scenic beauty, important wildlife areas, large tracts of land in single ownership and poor road conditions. The area is far from town facilities and services, making it both difficult and expensive for the town to provide them. Premature development of land in this area should be discouraged." Let me say that again, premature development of land in this area should be discouraged. Do not misunderstand, we are not opposed to cluster for the sake of opposing cluster, cluster is an option. Rather we believe the ordinance, as written, is unacceptable because as written it fails to perform its intended function. It does nothing to prevent developers from scooping the choice sites and leaving only the steep slopes, ledges and swamps for common area. The existing ordinance also does not require the 50 percent of property as green open area to be permanently protected. The ordinance as written does not ensure public access to the green or open areas. The current ordinance does not address building location. The existing ordinance fails to address ridge line development; it makes no attempt to address the impacts on the area of additional lighting. The existing ordinance is so vague as to be impossible to administer it fails to allow full equity to the current landowners or potential developers. There are significant flaws in the existing ordinance rendering the existing provision unacceptable. All attendees at the November meeting agreed that the existing cluster provision is fatally flawed. We ask your support in removal of this section from the ordinance. The second petition before you makes two changes to the ordinance for the Forestry and Conservation District. The first change is addition to the General Purpose of the ordinance, the following line: "Development undertaken will be in concert with the guidance derived from the Natural Resources Inventory and the Meredith Community Plan." We believe in the planning process, we feel specific reference to the planning tools of the Town is appropriate. Such specific reference only strengthens and reinforces the intent of the ordinance. The second change in this petition moves the minimum lot size in the district from 10 acres to 12 acres minimum. By changing the last line in the general purpose of the ordinance to read, "A minimum lot size of 12 acres is required in this District". This change is undertaken to provide consistency from the Meredith Community Plan through the current use provision of the tax code to the Zoning Ordinance. As currently written, allowing 10 acre minimum lot size, voids the possibility of current use because once a home site and driveway are subtracted from the total lot size, it makes current use no longer available to the property owner. This change makes it far more likely that land will be placed in current use increasing the amount of land left as open space. The two petitions before you tonight are written by those impacted by the change. They have been considered by the residents of the District and they are supported by the majority of those impacted by the change. We ask that the Board find favorably and recommend these changes to the voters of Meredith when the petitions are placed on the ballot. Dean Eastman, 35 Pinnacle Ridge Road – I just want to echo what Marc said. I think when you have a Conservation District or a Forestry District, you want to promote outdoor activities, protection of watersheds and I think the cluster housing while it has a good ability for subdivisions

and has a useful use for the Town of Meredith, the Conservation and Forestry District is not a good use for it. It does kind of go against what you're trying to do there and I think with any kind of planning, it's always difficult to do this but I think you really need to look out 50 years and look at what we're going to be dealing with and obviously the kind of growth we're going to see in this community and realize what the impact will be if you allow cluster housing out there. Lynn Hart, 299 Chemung Road – There are many points that Mr. Abear made that I agree with and that our cluster development ordinance as written is not adequate and not useful as an open space planning tool that it is designed to be. I don't look at cluster development as an opportunity for people or developers to come in and create subdivisions in Rural and Forestry/Conservation lands. I look at it as a planning tool to provide open space where there are development pressures currently and going to be within 50 years. Fifty years from now when I look down the road, I see no open space. I see houses perhaps chinked off in increments of less than 10 acres and I see driveways here, here, here and here. I see fragmentation, I don't see wildlife corridors, I don't see large lots open for timber management, I don't see large lots open for woodlot management, I do not see wildlife habitat protected, I see houses, houses and houses and some of you may feel that 10 acres is an adequate amount of land to protect our Forestry and Conservation resources and I would suggest it is not. It is not an environmentally or ecologically significant amount of land to protect our resources and I think cluster development can be if written correctly and modified with the times can be a very effective planning tool to maintain open space in our Forestry and Conservation District. I'm looking at the glass half full and not half empty here; I'm looking at it as a tool to help us, not a tool to undermine us. The other thing that I disagree with in terms of and maybe I need some clarification here, do we have a Natural Resource Inventory currently, Herb? Vadney – Yes, it is done but its being redone. Edgar - Mr. Chairman, if I could speak to that. The Town of Meredith Planning Department and the Conservation Commission have published a Natural Resource Inventory, it's been on our web site. It was a first phase document; I think it came out last year. A lot of that was done through remote mapping, in other words, satellite imagery, that kind of thing. The Conservation Commission has commissioned a second phase which is basically a lot of field verification. In speaking with the consultant who's doing that work, we've finished about 95% of the field work for the second phase of the project and there's likely to be a presentation in February of the findings of that refinement over the first phase and according to his contract, the final report and presentation would be delivered somewhere around the end of April, very possibly the beginning of May so we do have a published NRI. By design it's going into its follow-up steps which were recommended in the first phase so we're now implementing some of those follow-up steps to refine the NRI and that work will be completed in the spring of this year. Hart – So it's still a work in progress. Edgar – We have a published Phase I and the finished product if you will is still in process. Hart - The other thing I'd like to speak to and I do not support and I encourage the Planning Board not to support it is the change from a minimum lot size of 10 acres to 12 acres. I think that change does little in terms of identifying, qualifying or quantifying ecologically significant land in the Forestry/Conservation District. It does not guarantee environmentally significant protection for timber management, woodlot management, wildlife habitat, wildlife corridors or preservation of farm land or agriculturally valuable

soils. It does not change the size of future land division into ecologically significant sizes. Ten (10) acres is not a magic number. It's not something that someone came up with that was scientifically significant and I think we need to look at larger lots, preserving large open spaces, trying to condense what development that may happen into a little bit smaller space so we have room for everyone and everything in the future. Aesthetically speaking and I know that's been a concern for a lot of folks out in the Chemung areas, how do things look, am I going to have to look at houses and are they going to be the wrong color, are they going to have a lot of lighting? Changing the lot sizes is going to do nothing in terms of how people are going to use their land. They are not obligated to put it in current use. They don't have to keep it open if it's twelve acres. The other thing that we need to remember is that no one is mandated when they subdivide their land right now to subdivide it into 10 acres. If you wanted to subdivide it into 12 now, you can. If you want to subdivide it into 50, you can, if you don't want to subdivide it all, you can. This 10-acre zoning is not a mandate. I think the only thing that changing 10-acre zoning to 12 acres does is actually guarantee it's going to limit a landowner's property rights. I don't think it guarantees environmentally, ecologically, socially or economic significance to the neighborhood. If people wish to put their land in current use, they will if they have that amount. There are certainly people out there that have parcels of land that are greater than 10 acres that choose not to and that's their prerogative. I'd like to see the land stay open; I'd like to see things preserved. There's been an enormous amount of growth taking place since I first moved out into the Chemung area over 20 years ago. It's all changed, we all impact but I don't think that the proposals before us tonight are significant to curb some of the fears people have or curb growth or make what people believe inappropriate growth stop. I think it's noteworthy, one thing I wanted to mention to the Board is that I did look at the petitions, I did look at the signatures on the petitions, I know most of them, most of them are my neighbors, but I did note that about 2/3 of them currently that signed the petition do not own land that's going to be affected by this change in the ordinance. They either have homes and own property that's less than 10 acres or less than 20 or they own parcels of land that will still be able to be subdivided in the same number of increments as in 10 acres. For example, like Mr. Abear owns 24 acres so he'll still be able to subdivide his land into two lots, that won't impact. I think that's important to note and I will note that this doesn't affect my ability to subdivide land if I choose to do it. I'm not looking to benefit myself, I think this impacts landowners without significantly offering environmental protections that we think we may be offering. I would encourage the Board to not support this, but I would encourage the Board also to work with interested people and work with the Town Planner to fine tune the existing cluster development ordinance so it fits into the be it the Master Plan or into the scheme of things for the Forestry and Conservation District. I think it does have a role, it has a huge role in open space planning and I would like to suggest to my neighbors that we also have a role in open space planning. There are tools that we can use in the form of conservation easements albeit we own 5 acres or we own 500. We can put conservation easements on our land and if we feel so strongly that we do not want further development, we should do that in perpetuity and not rely on the Town to mandate that for us. John, can you tell me if there are any conservation easements on any of the land in the Forestry and Conservation District that have been initiated by any of the petitioners on

that petition? Edgar – I have not acquainted myself with everybody on the list but I know the Freemans up on Saddle Hill, what we refer to in our data base is the Veale easement on Edgerly School Road, Dean Eastman's property, either side of the road was encumbered by an easement held by the New England Forestry Foundation so the New England Forestry Foundation owns easements, Dean owns the fee interest up on that road. We have some other easements that were associated with the subdivision when Waldron Bay went in down in that neck of the woods. We have a series of Town Forests, the smaller Town Forests that you're aware of that the Town owns in fee. I pretty much think that the easement side of it would be Saddle Hill Road and the Eastman property. Vadney – You might add a couple more numbers to that. In rough terms, there's about just over 6,000 acres in this zone that we're dealing with that disregards a little bit of small edge property for all intents and purposes here tonight, 6,000 acres and there's right around 800 acres that is in some type of conservation region. Maybe 12% or something in that range has been protected. Edgar – Those conservation figures that Herb's eluding to, that would include Town Forests which aren't necessarily protected in perpetuity, they have a designation at Town Meeting that in theory could be undone at Town Meeting but for purposes of our database, we include Town Forests as conservation properties with that footnote. Lynn Hart – You don't have that broken down into the percentage of private landowners that... Edgar – We could get that, we have a pretty detailed database on all the conservation land. Vadney – We did do a couple of other numbers that I'll put out just so we'll all know roughly what the figures are. We had them check the computers for number of lots greater than 20 acres but less than 25 acres, there are only 8 lots out there right now. Over 20 acres they could be subdivided into but under the new rules wouldn't make the 24 acre. Edgar – The purpose of that, we tried to anticipate the question that we are affecting to varying degrees property rights, there's no question about that and so we tried to anticipate the question, How many properties in the district could there be today that at least could be cut in half into two lots with 12 acre zoning, the answer is 8 parcels. There's a bigger delta between 12 acres and 10 acres that's distributed amongst a whole broader set of and we can run through that data if you want, Mr. Chairman, but there's 8 parcels that would and this is based upon assessment data, it's not survey data nor is it a build out analysis but just by the numeric's of it, there would be 8 properties between the acreage of 20 and 23.99 that could be subdivided today that wouldn't have the opportunity. That's just kind of a small subset. Vadney – If you look at the total number of parcels out there today, then you look at the gross land, 6,000 acres, divide it by 10, divide it by 12 to get those numbers and then you've also got to figure that there's already 294 lots out there that either have a house on them or have the ability to just pull a building permit and put a house on them so when you net those out, you end up with about a 66-unit delta between 10 acre and 12 acre zoning, that's what it would mean. In a full build out 100 years from now under the zoning if it were 10 versus 12, would be 66 living units. We can go into a lot of detail if you want, but I think that's the ballpark kind of thing so other than that, we'll come back to that if you wish, but we need to hear from the public as much as possible. John Sherman, 44 Blueberry Hill Road – I'm representing the Conservation Commission. Those that know me will be delighted and not believe how short a period of time I'll be here. I have a statement that was banged out at our meeting last Thursday by the Conservation

Commission. We spent about an hour on it and every word is important and if any word is not recorded the way they told me to say it, I'm in serious trouble and will probably be disowned. Statement of Meredith Conservation Commission – 1/30/07:

“The Meredith Conservation Commission advises that Cluster Development can facilitate and promote protection of open space and preservation of natural resources.” This was discussed and voted on at the MCC meeting of 1/18/07 and the vote was unanimous of our 7-member Board.

Scott Higgins, I'm not a resident but I welcome the opportunity as a property owner in the Town of Meredith to put a little bit of feedback into this process. I have co-ownership in one piece of property that would be at least indirectly affected by the change in the regulation. I have a 40-acre lot; it was subdivided under the 10-acre provision. If it were to go to a 12-acre provision, I would lose a certain opportunity to develop that property into smaller lots. When I looked at the proposal and I looked at the information that was presented, I'm acceptable to that tradeoff in going to the 12 acres. I think that the benefit that's derived by going to that number offsets the relative cost of not losing that opportunity to go 4 lots instead of 3 lots. That's never been a focus of my family, it's never been a main reason that we own that property up in Meredith. We have another lot that's over 130 acres, there again that's been owned by the family, we expect to continue to own by the family. We do it for the enjoyment of the property and enjoyment of the area. I'm willing to incur that loss of going from 10 to 12 for the benefit that I see that we derive in it because it kind of codifies or makes people aware of that responsibility or that opportunity to responsibly develop a piece of property and do such a thing in a way that is minimizing the impact on the area, minimizes the visual impact to the neighbors which is important and also minimizes the impact on the Town as far as what we see. The larger the lot size, especially if it's done correctly, I think does a very good job of doing that. We all have just experienced the potential of what can happen with a cluster development. I agree cluster developments can be a tremendous resource for a town, unfortunately the way cluster developments typically are driven, they are not driven as a benefit process, they are driven as a development tool and we've seen that and we'll see it again I can almost guarantee you. In Chemung with it's relief, with it's scenic aspects, a developer that comes into that area is going to look at a cluster development as a way of putting a lot of houses into a small area, that small area will tend to be an area that will be maximum impact on the neighbors. You're going to put it either where everybody in Meredith is going to see it on a ridgeline or you're going to put it on the slope of a hill so that it looks out at Mt. Carigan or one of the other mountains out to the west and everybody in the neighborhood's going to look at it. It's a great goal and if there was a way to try to regulate that such you couldn't do that then I think it would be a worthy goal. Unfortunately, the way the process is set up, the developer gets to kind of pick where he sticks it and as long as he goes by the cluster development rules and as long as he sets aside a certain amount of space which he doesn't have to let anybody but his invited guests on, he can meet the cluster development requirements. By getting rid of that provision, you're taking that development tool away from them. If we could find another way to codify it down line, then maybe it's something to think about in the future but the way it is right now, it's not

working. We just spent over a year before the petition was withdrawn showing how it cannot work so just look at it from that perspective, recognize there are at least some property owners that may not be residents right now that are willing to incur the potential economic costs of the change in the lot size in hopes that when people buy a larger lot or that tend to develop their pieces into larger pieces of property would recognize that I can put something in here and still maintain the way that Chemung is supposed to be, the way it's been, it's evolved over the years, it's going to continue to evolve and the most we can hope for is to control that growth and plan that growth and get the neighbors involved the way they have been involved in this process and I think that's a major step forward and I think it's something that should be rewarded, hopefully, the Board will consider that when making your recommendation. Fred Hatch, Pease Road – I'm obviously not a resident of Chemung but I have learned a lot about Chemung from Harold and Esther Wyatt and have spent a great deal of time there either driving around or walking in certain parts of the area. I appreciate the analysis that the first speaker gave about the possible defects of at least arguable points in the present cluster development zoning and I think that it brings up the point quite strongly that some revision of that cluster development wording and intent and so on would be much more valuable than tying the Planning Department's hands in making it impossible for cluster development. As a number of people have pointed out, it is an important tool for managing development and contributing to open space preservation as well. That's its main purpose actually, not just to cram more houses into a smaller space, it's to reserve some open space on a sort of mathematical algorithm to match the cluster that has been developed. What I did not hear in the original speaker's statement was the realization that development is going to occur in Chemung, they have this great 6,000 acres, they have a lot of interesting terrain and a lot of potential open space that could be quite valuable for public use and of course for private enjoyment. They are also only a few miles from I-93 and I look at that as an invitation to development almost forcing it upon us as time goes on. As you know, there are already major projects to bring six (6) lanes of I-93 from Massachusetts to Manchester, serious planning is going on to bring it to Concord and in some of your lifetimes, it will probably get to Littleton so people can rapidly commute from here to most anywhere plus they can use the internet and stay home but more people will move than stay home I think so I don't know quite how to recommend here, it's unfortunate I think tying the Planning Department's hands will be very detrimental in eliminating the cluster development but I think if we could perhaps get the Board to agree that they will not recommend the specific proposals but they will undertake the serious analysis with public input particularly from Chemung residents, they will undertake serious analysis of the zoning ordinance and try to make it more acceptable and still preserve a good planning tool. I guess the last thing I want to address is the 10 acre to 12 acre size point that hasn't been mentioned but I have been the beneficiary of it or I was for a time, if it is true that a 10-acre lot with a house and driveway, etc., on it is probably not eligible for current use but if it were slightly larger so that there was 10 acres beyond say 2 acres for the actual house area the land could be in current use and this would have major tax implication for the landowner. My lot on Pease Road originally our house was considered to be on 2 acres while we had much more than the rest of 10 there, which is now all in a conservation easement, we were literally only assessed on the land for 2 acres at market price and the rest of the land

was allowed to be in current use so I think again one might consider changing the lot size mandate slightly if it otherwise was a reasonable thing to do. Vadney – The Planning Board's not normally in the business of giving tax cuts to residents of a particular zone and that's effectively all that would amount to because the critters living out there don't care if you've got a house on 2 acres and 10 acres in current use or if you've got some other combination, it's not going to amount to a hoot as far as the conservation value goes, to go from 10 to 12. I don't think that is a reasonable reason to go from 10 to 12 acres. There are a number of other things that Dr. Hatch mentioned and a couple of others as well. The Planning Board doesn't have a lot of sharp tools disregarding the Board itself and the cluster as it currently exists isn't a particularly sharp tool but it's better than no tool at all and we recognize probably 6 or 7 years ago there were problems with it. We have made a couple of attempts to do some modification to it, we got as close 6 or 8 months calling together some people and having some meetings on it. We do intend to modify that and try to put some teeth into it. One trouble when you try to put teeth into any ordinance is you run into another public hearing and kind of a buzz saw so I guess I would beg of you if we start working on that, please lend a hand in improving the cluster regulations and also give us political backing out on the street so something could carry a vote. There's no question, it needs to be worked on. At the same time, I would hesitate to throw out the baby with the bath water as they say, if we throw this cluster portion out at this time, I believe you won't see it back in edited or not in your lifetimes. Once you get something out of the code, it's hard to get it back into the code so I think it would be much safer to let it be this year, work on a modification to it and an improvement and then go from there. There are a couple of things that I'm going to be fairly pointed on this because I don't want anybody to go away with pretenses or false beliefs, it was mentioned a couple of times what I'll refer to as the Ducharme property and even said we almost ended up with a cluster there. I was fairly close to that process for a year and a half or something like that and indeed I could point out a lot of differences but to the average citizen or a bird flying over, he won't recognize their current approval which is non-cluster from what was originally proposed as a cluster. The big difference is you ended up with no large lot in a conservation easement of any type so in my estimation, it was a step backward to go from the cluster to a system which is a normal subdivision allowed by right and we've seen it, we see it monthly on this Board, surveyors are quite inventive at gerrymandering how they shape lots to get a lot of lots on a piece of land and I think that's something you need to consider. With a cluster you do keep the houses, admittedly more crowded than I'd like to see them, but I also don't want to see the whole forest fragmented into 10, 15 or 20 acre lots with no management of any type on the woodlands. I'd like to turn to the Board for any thoughts you want to put on the record. Kahn – Picking up where Lynn Hart was, I noticed with respect to the signatories on the petition that really only 5 families of those who signed had land that would be subject to clustering. You don't put a cluster on 40 acres with 10-acre zoning, it doesn't make any sense but when you're talking 80 acres, 100 acres or 130 acres, that's land where you can cluster so I don't think we should be protecting these people against themselves, I think they have to protect themselves in how they are going to have their land developed. I don't think we should delete the cluster provision, I think that our cluster ordinance is basically faulty; I think with Herb that we would have been

better off if the Ducharme development had proceeded as a cluster rather than as a conventional subdivision, it wouldn't be a pretty cluster, it's not a pretty subdivision, the problem really is that the land was scalped by the loggers and so you've got a naked hillside where everybody can see it. Some clusters might be hidden behind stands of trees, indeed the current cluster ordinance requires a 50' buffer and if we were to modify the cluster ordinance, we might be able to do some things with that. I do think our cluster ordinance does need modification, I think that to go way out on a limb and watch Herb turn purple; I think it should be mandatory and not voluntary. I think it should be mandatory in the Forestry and Conservation District and I would think that it might be mandatory in the F/R District. I think we should start working right away this year, on improving that ordinance; I would not in the meantime though pull the existing ordinance. I think we need to fix it and I think we need your help in doing and I think that if we leave the current ordinance in, you'll be encouraged to help us fix it and you will be encouraged to vote for it when it comes up because we had the experience last year of tinkering with our zoning in a lot of different places and it was an omnibus ordinance and it got voted down not by a large number but it did get voted down and I think the reason was that a lot of different people, small groups, had different problems with it and I think probably the people in Forestry and Conservation didn't like what we were doing with the lead in paragraph and somebody else over here didn't like this and somebody else didn't like that and the sum total of it was it lost so I think if we bring forward a new cluster ordinance that you help us prepare, you will vote for it and so we're going to hold you hostage to get you to vote for it and to get your help so that's my views on cluster. Turning to the other petition, I've got kind of a legal problem with the lead-in about the affects of the Master Plan and the Natural Resources Inventory. I think John has told me that down the road, we'll fit the NRI in as part of the Master Plan. In that case it will get covered by the statute which says that the Master Plan is to give us guidance in structuring our ordinances and to give us guidance in applying them. When it says that it means to give us guidance, I think it's quite clear and the legal experts that write the treatises make it quite clear that means we can work with a developer and say, oh no, we think you ought to stay clear of that deer yard or as we did with Bryant Island, where we just lost on another technicality, but we had a no-cut zone so that the development on the island couldn't be seen from 104 and that's the sort of thing where the Master Plan, the Community Plan, gives us guidance and where we can fit the Natural Resources Inventory into that guidance but if anyone thinks that by saying that it's to give guidance that it's going to overrule the density, think again. All you're going to do is get the Town, the Planning Board into litigation, you're going to run up the Town's litigation budget and the Town's going to lose so we basically have to work with the statutory framework which is that the Planning Board gets guidance from the Community Plan and if we structure it properly, we can get guidance from the Natural Resources Inventory but it's not going to be a governing document, it's not part of the ordinance and it never will be. The statute doesn't provide for it to be. The other problem I have is that provision would be peculiar only to Forestry and Conservation whereas the statute in terms of the guidance that we get from the Master Plan and could get from the Natural Resources Inventory ought to flow to all the districts. We shouldn't have one provision in one district that's different from all of the others, but I don't think it's a necessary provision and I think that it's a troublesome provision to the

extent that anyone would argue that it takes away from other provisions of the ordinance. The other thing I have is with respect to the 10 to 12, I really see that as a raid on the Town treasury. The argument is that if you have 12-acre zoning, only 2 acres will be the house and other development and then 10 acres will be free. If you have 10-acre zoning, do people pave over all 10 acres? No, it's going to be 2 acres and 8 acres will be free and if the developer insists on going to the minimum of 10 acres, the Town will get a current use change tax which is 10% of the fair market value and the homeowner will pay real estate taxes at the regular rate for the life of the property. To turn it into a 12-acre lot, let's take a 100-acre parcel and develop it in 10 acres. Some of it's going to be roads and improvements and things like that so maybe you'll get 8 or 9 houses in, I'm assuming that in a 10-acre zone, our experience is you're going to be able to get a septic field somewhere there so unless it's a cliff or a swamp, there's going to be a house every 10 acres so you're going to get 8 or 9 houses on 100 acres, but what if you go to 12 acres, you're going to get 7 or 8 houses. Now let's put those 7 or 8 houses or those 8 or 9 houses in the middle of somebody's hayfield, it isn't going to be pretty and when you look out at it, you're not going to notice any difference between 8 or 9 houses or 7 or 8 houses, it's just going to be sprawl and we've got to get away from sprawl so I don't think you're improving the situation by turning it from 10 acres to 12 acres, I think all you're doing is raiding the treasury so I will oppose both of these proposals. Bayard – I'm very glad to see we have people saying we need to change that because I agree but I don't want to get rid of it, I think it has the potential, especially in the forestry and rural areas to take some of these large parcels and if they do get divided up rather than having houses all over them, admittedly 10 or 12 or 15 acres, put it in one area, obviously the developer's going to put it in an area that's better for development, but on the other hand it could preserve a fairly substantial amount of the property into open space or perhaps conservation so I think with some tweaking I think there's a lot of potential for the cluster zoning. I'm really ambivalent about the other one. I probably will vote against it, not because I'm concerned about the 12 versus 10. Given what we've got out there and the fact that it is going to be subject to a lot of development pressure, maybe 12 might make some sense, it would slightly alleviate the number in either a cluster or in hodgepodge development but I do share with Lou a little bit of concern about some of the language of just putting in about doing the master plan and all, it is something we are supposed to be looking at but I look at it with some concern that it is being put there just so the people can legally challenge anything we do is not in keeping with the Master Plan. There's a lot of regulations we have to sometimes put up with, there's decisions that we've made that we're not real happy to make but they are rights that people have for land use so you can't just because you don't think the neighbors would like to have a couple more houses near them, say they can't subdivide their land. If it's legal, they usually can but I think the cluster's a good tool to allow us to make the development as best we can. Vadney – I would add one thing to what Bill said. We've seen this many times over the years, just recently right in the very year we're talking about, we had a case of 29 ½ acres and a person living there wanted to split off a couple of units and ended up doing a boundary line adjustment with a neighbor so if you go to 10 or 12, you may think you've won the battle but if you still need half an acre, you'll probably buy it from a neighbor so you may not get the advantage you originally thought you would. Edgar – I'd like to address some of the

points that Lou is making relative to the purposes and intent of the Master Plan. After you close tonight's proceeding, we won't know which way the Town Meeting is going to vote on the article and so I wanted to back up for a moment to make sure the record is clear and maybe to elaborate a little bit on what Lou was getting at. By way of background, when the petition was filed initially with the Board of Selectmen, there was a review by our legal counsel that basically had expressed a general concern with the language in the ordinance; I'm dealing with the reference to the Community Plan, as basically looking at it as guidance relative to development. That can probably be interpreted in a couple different ways and the legal treatises that Lou had referred to are important to provide for a clarification. If that preamble meant that the Master Plan would guide the development of regulations, that when applied to a proposal would have the affect of guiding development, that's one thing but the concern that our counsel's raised is that if it were interpreted by this Board or a subsequent board that the Master Plan in and of itself could be viewed as a reason to deny a specific development proposal, that's where he's made a distinction and he's raised a flag and I want to elaborate on a couple of things. If you refer to the actual statutes in the annotated part of the statute under 674:2, it reads as follows: A master plan is merely a general guide to aid Planning Boards in making zoning decisions and it need not and indeed cannot be particularly detailed in describing future land uses. So it's flagging the fact that it's primarily intended to guide the promulgation of the zoning, but and less so as it relates to very specific land uses. Another treatise that we often refer to is something that is put out by the Nighswander Law Firm a few years ago and on Page 69 of their publication there's a reference to the effects of a master plan and I'll paraphrase as follows: Master Plans are merely advisory and cannot be used directly to regulate land use. Instead, the master plan is the foundation on which a Planning Board or local legislative body enacts zoning, subdivision, site plan or other types of regulations. So it's a springboard from which we would enact the regulations that would then have the direct affect on how development is guided. And then the third one and probably the most commonly cited treatise is Loughlin's treatise entitled, New Hampshire Practice Land Use Planning and Zoning, and on Page 52 of that document reads again as follows. Here again I'll paraphrase: It should be noted that even though a Planning Board has adopted a Master Plan with appropriate analysis, it cannot use the Master Plan alone in place of growth legislation to regulate growth. In other states, and this is a really important distinction, Master Plans are adopted by the Legislative body and may have the force of law. In New Hampshire, however, Master Plans are adopted only by Planning Boards, not the legislative body and therefore are not subject to as much public or judicial scrutiny as would be law. In other words, Master Plans should function as a guide in the land use planning process and not as a means in and of itself in regulating land use. That's the distinction, the Master Plan in terms of its generic cooperation in this petition to guide development, it has some validity. If it were constructed by a Board or proponents of a project or opponents of a project as a direct reasoning to deny or perhaps to approve a project, I think that's when we could run afoul. It's meant to guide the zoning and other regulations that would have by extension the effect on actual land use development proposals so the attorneys raised that flag that there is case law that's cited behind these phrases that I gave that illustrate the caution that's been expressed by the courts. These just aren't individual

lawyers spouting their own opinions, they are a consolidation of some of the case law that the Supreme Court has handed down so that's the caution and I say that not knowing which way the Town Meeting will go. You guys have to take an opinion one way or the other but at the end of the day, I don't know which way the Town Meeting's going to go and I think it's important to be able to make the distinction that our lawyer was hinting at is if we're looking at the Master Plan and/or the NRI but particularly the Master Plan to provide guidance to development, if we look at that in the context of providing guidance to us as to how we create regulations, that's one thing. If we're looking at it to form a basis to act specifically on an application, that's when we would get into trouble so I just wanted to make that clarification. With respect to a couple of the other points, I would like to speak to the issue of cluster and I've had a very productive opportunity to speak with Marc and a few other people about the importance of cluster and I too echo the sentiments that several of you have expressed that it needs work, it's a recommendation in the master plan that the cluster provisions basically be rewritten and that there be more thoughtful emphasis placed on the conservation of open spaces as we subdivide so that is a recommendation in the Master Plan and not specific to this district but I think across the Board that effort needs to be undertaken. I think it has been very productive to bring this to light and to get some of this discussion going because as you know from past discussions I've had with you, I've advocated that before that the cluster does need to be addressed. I think one of the things, try to look at the cup being half full on the Ducharme prior applications and the discussions of cluster and one thing that certainly helped me is that all clusters aren't the same, all districts aren't the same and there very well could be provisions in a cluster that speak to some of the nuances and idiosyncrasies of the Forestry/Conservation District that may be altogether different than if we're dealing with a cluster in a 1-acre density zone. There may be different considerations and maybe you don't need a buffer in a 1-acre zone whereas maybe you do or maybe there's different types of open spaces worthy of protection so I think that has been a productive aspect of the dialogue is that all the districts aren't the same and perhaps all the clusters aren't the same either at the end of the day. I also think it's productive if we do have a commitment to move forward regardless of the outcome of this article, that we move forward to rewrite those provisions because one thing I think is a very positive aspect of these petitions and this dialogue is I think we're all evolving to a greater understanding of the districts, I think we're evolving to a greater understanding of the importance of our natural resources. We are under the gun with development pressure which you're obviously aware of and so basically our response to that, we have to be ahead of that curve and do a better job of guiding some of the development and cluster is an important tool relative to how we do that so I think that I would also appreciate the opportunity with the Board's direction and with the support of the general public to work on our open space provisions as it relates to all the districts and then look for those particulars that might distinguish one district from another so that we actually get a good fit in each district. With respect to the Natural Resource Inventory, that too is included in the Master Plan and the Master Plan suggests when that is finished, it should be incorporated into the Master Plan so it has the benefit of having that guidance value. That work as I indicated before will be concluded in April or May and at that time when you have a chance look at that document and get a feel for that, obviously, you have a feel for Phase I so it will

basically be a refinement of that work but I think that too can be instrumental in many different ways, ways that we haven't even talked about yet but not the least of which would be the cluster provisions and whether we go so far as to mandate it or not, the fact that if we have that document incorporated by reference in the Master Plan and then we use that as is intended by the statute to promulgate regulations to provide for the proper guidance, think the NRI will be an incredibly powerful tool towards that end to find the right balance in the areas where we have the greatest amount of environmental concern so I look forward to that and I think this discussion also, whether the petition flies or not, the fact that we're increasing the public dialogue on that planning tool and its possible applications is very, very important. As it relates to the numbers, I would just like to have a chance to explain very briefly where some of those came from. I had asked the Town Assessor and our GIS person to give me some real basic analysis on the implications of going from 10 to 12 and it's not a build out analysis. The numbers that Herb was mentioning before are just strictly divide by 10 or divide by 12 kinds of density numbers. A true build out analysis would be much more intense, it would factor in land capability, it would factor in some allowances for ROW's and a bunch of other things so these numbers are conservatively high in that regard so these numbers are not a build out analysis. At the end of the day, we looked at the land that is not considered conservation on a line item basis, the assessing department looked at the acreage that we're taxing and on a line item level, those acreages were divided by either 10 or by 12 to get a hypothetical yield strictly on a density numerical basis and as Herb had indicated, the net additional, if you factor in we already have one lot of record, how many net additional lots could we get. The aggregate under the divide by 10 scenario was 278 additional lots; the aggregate under the divide by 12 was 212 giving you a change of 66. What's right, 10 acres versus 12 acres? I would agree with Lynn Hart that in and of itself that is not some big environmental tool, that is not going to result in large lines of conservation, it would mean up to 66 less houses, it would mean that much less traffic and so there are certainly some implications there that would be a little bit less of everything by that order of magnitude so I guess there's something to be said for that but I would agree that's not the end all that there's certainly other ways that we, whether it's in addition to that density change or in lieu of that density change, there's other things that we could and should be working on, not the least of which are the cluster provisions. The NRI will open up a lot of opportunities for us to take a whole different look at our natural resources on a town wide basis and it won't be limited to the Forestry/Conservation District, but I did want to point out that in the Forestry/Conservation District at least as it relates to the first phase which here again is under some revision, as part of that process, we identify 9 or 10 super high value environmental areas spread out throughout the Town and in the Forestry/Conservation District there are portions of 4 of those high valued areas. The simple point is that there are very significant natural and cultural resources in that district that make it very distinctive and we have to continue to find ways to balance property rights but try to promote that public objective and that would be to really try to find a way to treasure some of these special parts of the community. So Chemung is an important aspect in the NRI and I'm sure with the refinement work that Rick's doing, that will continue to be the case so the fact that they are referred to in this petition in and of itself doesn't create a problem, the problem if we have one, would come and how it might be applied or

misunderstood and so for purposes of longevity and for the record, I wanted to make that distinction. Vadney – I did want to make sure everybody understood this will not be done at a Town Meeting; it will be at the ballot voting, the day before Town Meeting when you vote in the ballot box. John is right, the Master Plan is a philosophy document and it's where we spell out broad ideas. One specific example, we say in there that we want to maintain the rural character as you enter Town on the major thoroughfares, Route 3, Route 104, Route 25 and the like. How do we do that partly by the rest of the ordinance that's already in effect and buffers. For example, when you ride by Vutek or Inkwere on the south side of the road, the buffer there you can sometimes not even notice there's a building out there. In contrast to that, it could have been a wide open cut. We hope to use that in redoing the sign ordinance soon. We made an attempt at that and didn't make it so we're going to make another attempt but the sign ordinance is something, it has to go into an ordinance to become part of the Town laws but to help us get it in the Town ordinance, we need to have philosophical statements in the Master Plan saying that we want to guard that approach to Town. I would give you one last summary idea and this is rounded off gross numbers just to give you a feel for what can happen in that area we frequently call Chemung. In rough terms there's 6,000 acres out there that would support roughly 600 living units at 10 acres. If you were to cluster everything, you get a 10% bonus, you could jump that up to maybe 660. If you were to go to 12-acre zoning and no cluster, you might save 60 units and that would drop you down to 540. I would submit a hundred years from now when we're all gone, it would be a more pleasant place if you have 660 units done right than 540 units done wrong so that's kind of the big picture way I would look at it. I think trying to eliminate the option of allowing the tool of clustering out there and to change to the 12-acre zoning, it would be of very little use and it could be quite damaging to the way things would go. Edgar – Mr. Chairman, if I could make just one other additional point in terms of process. When the hearing is concluded, the Board will have to make a determination as to whether it recommends approval or disapproval and obviously there's a lot of complication to what we're talking about, it's not something the average person would just initially gravitate to so they're certainly going to look to see how these proceedings were reported on, they are going to look to try to find what were the views of the Board members as you went into it so I think it's going to be helpful for the record and for our citizenry to have a flavor for how all the Board members feel. I'm not trying to put anybody in the hot spot but we've heard from a couple of the Board members and at the end of the day before you call for a vote, I think it's important to have some deliberation if you will so that the public understands the views of the different Board members that led up to a vote because they are going to be looking to the Board's guidance one way or the other and rather than have two members express their opinion and have a 7-person vote, I think the more discussion you have in terms of varieties of opinions, the better off the general public will be. Vadney – John makes a good point but I did want to open it up for the comments that Lou and myself and Bill made just so that you'd know where some of our thinking is. We'll now go into deliberation but typically the way I run meetings and now that you've heard some of us give some ideas, I would open it up to you if you want to modify, change or in any way add additional comments here at the public hearing. Does anybody want to add, subtract or anything else, if not I'll totally close the public hearing portion and turn to the Board for some

deliberation and see if any of the Board members want to comment. Marc Abear – One of the main reasons that the petition for the deletion of the cluster subdivision was felt to be in need is because we felt that the Board needs to be motivated. It's not that we feel that cluster has no value, the Board needs to be cognizant or at least you need to be apprised that is not what's being said to you. What's being said to you is what is there or what has been produced does not work satisfactorily and the feeling was that the Board is far more likely to be motivated to actually make a workable change by deleting what is there and non-functional now than if we leave that provision flawed and in place. The fear being that inertia being a natural force, it's very easy once you're out of the spotlight to let it slide. We do not wish to do that. Vadney – I agree with Mr. Abear that it would be great to eliminate this and put pressure on the Board to come up with a new one, I just think it would then be very hard to get the new one through the Town vote so you're better off with what we have and modifying it than starting from zero that would be my opinion. Hearing closed at 8:15 p.m.

Colette Worsman – I arrived here fairly convinced that I was going to vote in favor of each of these provisions. I didn't live in that district though its pretty close to my neighborhood but felt pretty strongly that if the neighbors in that district really wanted this then who was I to interfere with that and I still to a strong degree believe that but listening to all of the deliberation that we've heard here tonight, the benefits and I've sat up here and listened to the proposals for clusters and my stomach is turned, but there is a benefit to some clusters in some areas and eliminating that part of it again may take a tool away that this Board has right now. The 10-acre versus the 12-acre, there's a lot that goes to, as Lou was saying, it will take or potentially could take a fair amount off the table as far as the tax roles. That's an important piece that each of us needs to pay attention to, that 6,000 acres is a lot of acreage. Finally, some of the notes that I heard is that each of you are the property owners of that area and you each have the right to do what it is you want to do and if restricting your growth in that area is what you want to do, I strongly support putting some in conservation but it is truly in your hands to do what it is you want to do in that district so tying the Board's hands right now I have to say that I will be voting against these provisions but I strongly hope that you will help us to write the regulations or to change the regulations for cluster subdivisions because it would feel a whole lot better to be up here when that's what we're facing if we had a lot more teeth to put into any of our decisions than we have and right now we don't have a lot of teeth so I would encourage each of you to truly get involved and help us put teeth in it. Bliss – I also don't support either one of these amendments and for a lot of the reasons that have already been stated so I'm not going to go over those again but one of the strongest things I say is we definitely need public support. I have to say as a Board member I'm a little shy and apprehensive as far as bringing any zoning changes before any of the voters because we have gotten shot down and we've gotten shot down after we have spent a lot of time, a lot of extra meetings and it's very frustrating. We are volunteers; we don't get paid for this. We come out and do this because we care about Meredith and all about Meredith not just the conservation district area out there but Meredith as a whole and when we make decisions, we try to take all of that into consideration. With that said, I won't be supporting these petitions. Vadney – Bill Finer says it's all been said and I don't know but what he's right. Bliss – Mr. Chairman,

do you want a motion or how are you going to vote on this. Edgar - If we could have separate votes on each petition and the particular petitions are in front of you, we need to treat them separately.

Bliss moved, Kahn seconded, I MOVE THAT WE AS A PLANNING BOARD NOT SUPPORT THE PROPOSED ZONING AMENDMENTS BY PETITION, THE FIRST ONE BEING TO AMEND ARTICLE V, SECTION D-1, DELETING CLUSTER DEVELOPMENT FROM SECTION B, SUCH THAT CLUSTER DEVELOPMENT WILL NO LONGER BE PERMITTED IN THE FORESTRY AND CONSERVATION DISTRICT. WE DO NOT SUPPORT THIS ARTICLE. Voted 7-0 in favor of the motion.

Bliss moved, Kahn seconded, MR. CHAIRMAN, I MOVE THAT WE AS A PLANNING BOARD RECOMMEND DISAPPROVAL OF PROPOSED ZONING AMENDMENT BY PETITION TO AMEND ARTICLE V, SECTION D-1, GENERAL PURPOSE, SUCH THAT DEVELOPMENT UNDERTAKEN WILL BE IN CONCERT WITH GUIDANCE DERIVED FROM THE NATURAL RESOURCES INVENTORY AND THE MEREDITH COMMUNITY PLAN AND A MINIMUM LOT SIZE OF 12 ACRES BE REQUIRED IN THIS DISTRICT. Voted 7-0 in favor of the motion.

THE PLANNING BOARD VOTED TO RECOMMEND DISAPPROVAL OF BOTH PETITIONS.

Vadney – I would like to make one additional comment to what Pam said. She used the words about how people have not supported some of the zoning proposals we've made. One of the more common statements that people make to me on the street when they stop to complain about the Planning Board or some local development in their neighborhood, is they say I want Meredith just like it is now. Well, so do I but you know what in 20 or 30 years, it's not going to be just like it is now so what we're faced with is can we guide it to be a little better than it might be even though it's not going to be just like it is right now and that's the dilemma we face here. We are here a couple times a month and you're always welcome. Thank you very much for coming.

Lou Kahn – I know one gentleman at the back of the room said he was putting his land in a conservation easement. I'm in the process of doing that myself. Landowners in the Forestry and Conservation District or for that matter anywhere else in the Town have the ability to zone themselves and Congress will subsidize you in this effort but you've got to get it done right away because the provisions expire December 31 of this year and it takes a long time and John Sherman will testify that he and I have been at this now for I think over 2 years. It moves with glacial speed but I think we're going to get it done and I would urge anyone with significant land holdings out there, zone yourself into large-lot zoning. You don't have to completely eliminate the possibility that any of your land can be sold and developed but what you can do is cut it up into pieces and decide that instead of 10-acre zoning or 12-acre zoning, you're going to have 30-acre zoning or 40-acre zoning or whatever you want to do and put an easement on the land such that it can't be developed and chopped up and turned into sprawl. You may feel you're not going to do it yourself, but don't trust your children, don't trust your heirs,

don't trust the guy you sell the land to so that's my preaching for today. Edgar – Mr. Chairman, one thing in kind of closing that I would like to add is as painful as a lot of the regulatory development review has been, not only in this district, but in other parts of the community, one thing I think that's special that's evolving here and that is there has been a lot of articulation by the Board and by the residents as to what makes the Forestry/Conservation District special and there is an opportunity of sorts with the NRI being completed and with hopefully a commitment out of this Board to look at the cluster provisions as a priority for '07. Those are my words, I don't think that was part of anybody's motion, but I'd like to come away tonight while it's front and center as to whether or not the Board thinks cluster should be a priority in '07 to come back in '08 because we've gained a lot of ground with the dialogue, regardless of how Town Meeting votes on the petitions, there is an opportunity to do a better job of guiding the nature and location of growth in all our districts, not the least of which is F/C and so the open space provisions coupled with landowner decisions relative to permanent protection, those two need to be complimentary strategies and so I'd like to know if there's a consensus on the Board for us to move forward with the cluster overhaul and rewrite regardless of the outcome of Town Meeting because it's somewhat of an independent issue and then in the spring when the NRI is completed, I'd like us to certainly give very serious consideration to have a public hearing to incorporate that by reference as part of the Master Plan (Community Plan). I think those are two very important outcomes that will lead to a better district regardless of the outcome of these petitions. I'd like a little bit of feedback. Vadney – I think there was enough discussion here already to say it is definitely on our list of things to do. I don't think we need to set a date that we're going to complete it or anything like that. Bliss – Mr. Chairman, I think it's a very good idea that we do cluster but what I don't want to see us do as a Board is we need to narrow it down to 2 or maybe 3 things that we try to change next year. I don't want to come back in and try to go for 5 to 8 different changes. That's too much, too fast. I would support changing the cluster, I don't recall right off what else is out there but I just don't want to do too much at once. Vadney – And we will have a meeting soon I would guess where we talk about what to propose for next year. I would think this is pretty high on everybody's list but until we know what else is on it, I don't know that we should make that decision. Bayard – If the Town Planner is looking for any guidance to go forward on this issue, I think he should feel that the majority of the Board here, at least myself, thinks that the cluster is something that critically needs to be reviewed and strengthened. I think it's a great tool as long as it's able to be done right. As far as the Natural Resource Inventory goes, I want to take a look at it before I recommend it but that certainly is an option we have to incorporate it into the Master Plan. Kahn – The Natural Resources Inventory is something we can do on our own, we don't have to target it for a Town Meeting but I think that we ought to get going on the cluster provision and target it for the 2008 Town Meeting. Vadney – I don't disagree with that at all. Kahn – Coming back to Pam's question, I would ask John to let us know if he thinks that there are other issues that rise to that level of importance that we ought to be dealing with this year because otherwise let's deal with clusters and let the rest stay behind. Edgar – In light of the subdivision pressure that we've been under and in all likelihood will continue to be under, I think this is critically important. The menu of areas where there's opportunity to improve the ordinance as we all know from

our past failures is from cover-to-cover, the ordinance can be improved so in theory you could pick any element of the ordinance and suggest that it should be amended but I think the practical side of really putting cluster at the top has to do with the fact that we are under a lot of subdivision pressure and will continue to be and the sooner we get, not that it needs to be rushed, but the sooner we get a good well thought out cluster provision in place, the better. Bayard – I'd like to thank the petitioners for moving this discussion along some.

Meeting adjourned at 8:30 p.m.

Respectfully submitted,

Mary Lee Harvey
Administrative Assistant

The minutes were reviewed and approved at a regular meeting of the Planning Board held on _____.

William Bayard, Secretary