

PRESENT: Vadney, Chairman; Sorell, Vice Chairman; Kahn; Touhey; Worsman, Selectmen's Rep.; Dever, (Alternate); Edgar, Community Development Director; LaBrecque, Town Planner; Bill Edney, Code Enforcement Officer/Zoning Administrator; Harvey, Clerk

The amendments, 4 of them here tonight, in very short summary, the first is about roads and island lots; the second will be about the International Residential Code and adopting the 2006 edition, the third one will be on what we have called "Cluster" and is now going by the title "Conservation Subdivision Ordinance"; and the fourth one will be on shore frontage requirements on the lakes.

Edgar - Briefly, Mr. Chairman, there is a provision in the statute that the Courts have determined that apply. It's a statute dealing with frontage requirements and the Courts have determined that they apply to islands. There is a process in the statute that allows municipalities to seek Town Meeting approval to exempt islands from the frontage statute and we're basically here to hold a public hearing on the provision that would provide for that exemption and that's the short of it.

Bill Edney – Just one thing in addition to what John has said about the statute. There are actually two provisions, one of which is the Town Meeting which is the way this is drafted tonight; the other is for the Zoning Board to give exception in each and every case. We have 76 some odd undeveloped island lots throughout the community and I think it would be a little unreasonable to think that all 76 of those private landowners would need to go to the Zoning Board for an exception so we're suggesting that this be something adopted through Town Meeting.

Amend Article III, General Provisions, to add new section to except certain island lots from the requirements of RSA 674:41, I and II. This exception will allow building permits to be issued for lots on islands served exclusively by boat without requiring that the landowner must either comply with road access requirements of RSA 674:41, or must apply to the Zoning Board of Adjustment for relief from the road access requirements on a case-by-case basis.

Vadney – For those who don't know, this became an issue a year or so ago when we dealt with some island property on Lake Wicwas and the State law requires a Class V road and on islands that have no roads at all, it doesn't apply very much and that's why we're asking for this blanket exception to get the Town of that endless loop of ZBA activity.

Public Comment: Dean Dexter, New Hampton Road, Meredith, representing the Lake Wicwas Association Board of Directors – The Lake Wicwas Association respectfully requests to be recorded in opposition to a proposal to accept island lots for islands served exclusively by boats from Sections I and II of NHRSA 674:41-2a. The Association's position is that the adoption of such an article would effectively give up a significant element of a Town's authority through its Zoning Board of Adjustment to evaluate individually proposals for building lots on such islands as well as remove an

important opportunity for abutters and other interested parties in the Town to be heard on such proposals on a case-by-case basis. The Lake Wicwas Association believes it is not in the best interest of the community to provide a blanket exception to all islands in the Town under NHRSA 674:41 because of the diversity of the size and nature of islands and bodies of water in which they are situated in the Town of Meredith. All islands and bodies of water in the town of Meredith are important resources to the citizens of the Town and to the many visitors from afar who come to Meredith to enjoy these and other resources throughout the four seasons. While some islands and waters in the Town are conducive to commercial and residential development, others are not. By legislating a policy to except all islands in the Town of Meredith from the review under the special exception process, the people of Meredith would unwisely relinquish an important tool under the law to balance a multitude of needs and issues specific to island development. These include but are not limited to matters of safety, financial impact on town services, the preservation of water quality, wildlife habitat, natural resources and quality of life for residents and visitors alike. Because of advances in technology and modern building techniques and practices, the pressure on islands in the Town of Meredith and elsewhere to be developed for commercial or residential uses has increased significantly in recent years. All islands are not created equal, nor are all lakes the same. It would be a mistake to create a blanket exception under RSA 674:41 to except all islands from the additional scrutiny the people of Meredith currently enjoy under the law. David Larson, Taxpayer in Town of Meredith – My family is the owner of a large undeveloped island in Wicwas which is subdivided into 3 lots. I am a member of the Executive Board of the Wicwas Association but I'm not speaking for them, I'm speaking for myself. Basically I would agree with the Lake Wicwas Association that the Planning Board should withdraw this warrant article. Basically, it seems to me that this article opens the door for more litigation. The Town has been litigating Bryant Island and continues to litigate Bryant Island to taxpayers dismay and taxpayers expense and the Town I think was forced into this litigation, I don't think anybody wanted it, I think the Town was between the devil and the deep blue sea and had to choose one side and then had to proceed to litigate it. The Town isn't being forced now into litigation but if the Town accepts this warrant, I think it will be. I think the Town will be walking into another lawsuit. There's language in the article which exempts building permits on certain island lots, a certain collective bunch of island lots from requiring the review of the ZBA and it's not clear that that's consistent with the language of 674 which only allows exemption of any lot not a collection of lots. I'm not a lawyer so to me this seems like splitting hairs but I spoke to two lawyers who are familiar with the statute, one of them said he thought the Town would win if that point were litigated, the other one said he wasn't sure whether the Town would win but that a legitimate case could be made. I bet you dollars to donuts that this point will be litigated because the Town is dealing with a very litigious adversary as you well know and you can be sure that if the Town tries to enforce the language of the warrant article, it would find itself again in Court, I'm quite certain of that. It seems to me the Town has little to gain, it's an administrative convenience to have this warrant article passed but it's likely going to cost thousands of taxpayers dollars to in the case the Town wants to enforce this article so I think that the payoff is too small for the Town for an administrative convenience to go into court again for years and years. I urge the

Planning Board to withdraw this article. Tom Crane, 390 Route 104 – I can certainly understand the Board's rationale for considering this article. I was at a lot of those hearings on the Wicwas situation and I was here the other night because I knew the Board was going to talk about this article. My hat's off to all of you people on this Board and all the Boards in this Town. Having gone through this and see what you guys do, it's a great thing for this Town and I really appreciate that and I mean that sincerely. However, on this point I think there seems to be in my view from what I've heard and seen of this a misconception that because small islands don't have roads, it doesn't apply. I know that was your original interpretation of this rule but I think what the intent of this law is and it seems well founded is if you don't have proper access whether it be because you don't have proper road frontage on a road or because you don't have access because you're not accessed by a road, i.e., an island, then you have to prove that you're not going to meet those certain circumstances. You're not going to do the Town map, you're not going to subvert the Master Plan but most importantly, you're not going to create a future hardship for future owners or for the municipality and I think all of you who were at those Wicwas meetings, all of you spoke about concerns with access to that lot to the point where the petitioners wanted to withdraw their petition and then you came up with a compromise which I full understand and again you're trying to be Solomon out there trying to split the hairs, but the point is I think there were an awful lot of legitimate points that you needed to consider and certainly I think should be considered before you allow building on a lot that doesn't have proper access and again that's what this law says, its proper access and islands don't have proper access and if a builder or developer can say I've got this or that and this is going to give you proper access, you're not going to have to come back. I saw the headline of an article for the Town of Moultonboro a couple of months ago, "islanders demand parking", that's the type of thing that you're going to run into. This winter the developers of Bryant Island had to push their boat out of the mud to take their docks out at the end of November or beginning of December which is fine for them but you get a couple from New York, New Jersey, Rhode Island, Connecticut, wherever that have paid hundreds or a million dollars for a house out there, they are probably not going to be as quick to do that and that's the type that this law forces us to take a look at as a Town before we give an approval for saying yes go ahead and build. I think this is a completely rational law. I know Judge Smukler in his decision said that there could be an absurd outcome. I think he was talking about it would be an absurd outcome to say there has to be a road on every island but its not an absurd outcome to say that people who don't have good access to a lot, have to prove that its not going to do all those things, it's not going to create a future hardship and a future concern for this Town and I think we're being penny wise and pound foolish to make this change. Like I said in the beginning I can understand your wanting to do this, I wouldn't want to fight 73 or whatever islands, I can understand that. The other thing is don't forget a lot of that fight with Bryant came on the interpretation of this law. We now have a very clear ruling of what this law says. I think future people will come in knowing what the ground rules are so I understand the rationale behind it but I think you're throwing the baby out with the bath water. Bob Dietz – I have a summer camp on Lake Wicwas and I'm a resident of Laconia. The only point I wanted to add is that I think its entirely legitimate and appropriate if the Board and the Town wanted to split which islands are covered by this statute and which

ones are not. For example, Lake Winnepesaukee, you certainly have a long history of having a lot of different construction, a lot of different approvals and what you would be approving on a lake like Winnepesaukee is different than if its Winona or Wicwas and you have smaller islands, less development, less commercial activity and less resources and it may make sense if you wanted to do something to kind of split it in some way between those that already have a history of construction and those that don't and those that have bigger issues which may be the smaller lakes and islands. Public portion of hearing closed at 7:19 p.m.

Board Comments: Kahn – The issue is not access to islands, the issue is whether or not an island lot has to have frontage on a road and what Judge Smukler was saying is it's ridiculous to think that an island lot has to have frontage on a road when there's no road on the island and so what we're trying to avoid is the ridiculous situation where, but Judge Smukler also said there's a statute that says you either have to get the Town Meeting to accept it or you have to get a special exception from the Zoning Board and I think if the Zoning Board were to turn down an island lot on the basis that it didn't have a road, the Zoning Board would lose in litigation and the Town is trying to get out of the litigation business. Clearly, any time you have to go to the ZBA or the Planning Board there's always something that can be litigated so this just eliminates one ridiculous issue that has cost the Town a lot of money so I am in favor of applying it to all island lots and I am in favor of this proposal. I think we ought to vote on them 1-by-1 in case the people here are interested in one thing and not the whole package. Edgar – For the public's benefit, Bill had conferred with Town Counsel in the crafting of the language so essentially the language came from Tim. The reference to certain island lots is in the summary and at the first of the text, it's a header and the actual text that will be inserted in the ordinance doesn't refer to certain islands, it makes reference to all lots and islands served exclusively by boats which I believe tracks the statutory language. The certain islands in my opinion is eluding to those that are only served by boats because there are islands in the State of New Hampshire that do have roads on them so there are certain islands that Tim is eluding to certain language is not in the actual text, the text I believe tracks the actual statute. Vadney – Recalling discussions we had 2 years ago or so when that was on the docket a number of meetings through the winter, my recollection of it is I think the points you all have made tonight are referring more to does there have to be frontage owned on the mainland where they can park and get their boats in the water and things like that. Granted Wicwas is a little bit different because of the limited amount of infrastructure out there but I always read this article to be is there a road on the island and from that standpoint and I suspect that's where Judge Smukler had made his decision is a bit foolish. I think for us to interpret it any other way would probably get us into more litigation than it would by approving this and thinking the litigation would come from the other side so I understand your comments and I certainly appreciate the passion and the thinking you've put into them but from our standpoint, it seems pretty clear and from our Town Attorney, Tim Bates, who has advised us on this, I'm afraid we should go ahead with this. Edgar – Mr. Chairman, I would like to add too that none of this negates the Planning Board's authority to review subdivisions. The reference to 60-70 some odd lots that are vacant that are on various islands are individual lots that this has to deal with in the first instance, pulling building

permits on those properties but I don't believe that this necessarily boxes you in in terms of any of your subdivision authority. Vadney – Had we known this some years ago, we probably would have many, many other cases going to the ZBA that didn't because we didn't really interpret it this way. Many of the islands are nearly fully developed now and those would have required trips to the ZBA had we really understood the intent of the law. With that being said, I await comment or a motion.

Kahn moved, Sorell seconded, MR. CHAIRMAN, I MOVE THAT WE GO FORWARD WITH THIS ARTICLE. Voted 6-0 in favor of the motion.

Vadney – I really do appreciate your comments on that and let me tell you the impact the Board can have on these issues comes more from the other negotiations we do than changing or not changing this law would have given us. We still would look at all the issues we looked at on Wicwas and more so I personally think this is one that is more of a cleanup of the law than it is a change in the way we would treat you folks as taxpayers.

Amend Article VI, International Residential Code/Enforcement, to adopt the 2006 Edition of the International Residential Code as the town's basic building code in place of the 2000 Edition; and to update an obsolete statutory reference in Section A, and to delete Section C of Article VI which is also obsolete due to change in State law.

Bill Edney – The State of New Hampshire has recently adopted the most recent version of the International Residential Codes. Those became effective August 17th. Unfortunately, the language in our Ordinance does not allow the Town of Meredith to automatically go to the more recent codes. We have a little bit of a conflict in that the State of New Hampshire is now in a statewide fashion on the 2006 most recent version of the Code and the Town of Meredith is still dealing with the 2000 version. There are conflicting opinions about whether or not we're going to enforce that Code but the reason this is on the warrant this year is that the language we have currently in our Ordinance does not allow us to do that. There was a change in State statute eliminating the provision that would allow that to happen so that's why we're on the docket for that update.

Vadney – John, you may recall when we discussed this, I've forgotten but there were some reasons why we do this every few years to update, but there are some reasons why we don't go to just always use the latest version automatically. Edgar – The legal answer to that was that several years ago there was a statute that allowed communities to adopt language that would provide for automatic updates and I think about 2 years ago or so that specific law was repealed and so Tim's advised that the intent of the Legislature at least up to this point is to not provide for that automatic process. There are different people in different agencies that probably have different opinions of all of these kinds of things as you can imagine but when we were looking at this, we were wondering if we could insert that language so we don't have to do this every 3 or 4 years and we were advised that probably would be inappropriate given the fact that the Legislature purposely deleted enabling authority to do that.

No public comments.

Touhey moved, Worsman seconded, MR. CHAIRMAN, I WILL PROPOSE THAT WE MOVE FORWARD WITH OUR DESIRE TO AMEND ARTICLE VI TO THE POINT THAT WE WILL ADOPT THE 2006 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE. Voted 6-0 in favor of the motion.

Amend Articles III, General Provisions, Article IV, Establishment of Districts and District Regulations and Article VIII, Definitions, to delete all provisions and references relating to cluster development, and add a new Article entitled "Conservation Subdivision Ordinance" to replace the deleted cluster provisions. The Conservation Subdivision Ordinance includes, but is not limited to provisions dealing with Conditional Use Permits, yield plans, subdivision layout, open space requirements, density incentives, preliminary design review and standards for approval.

Edgar – Just a couple introductory comments to put some context to this. In recent years the Board has had experience with several cluster proposals coming before us. We have one on Parade Road, we had one out in the F/C District on New Road, Corliss Hill Road, Hatch Corner Road and so through that experience I think we started to gain some insight as to some of the things we probably thought needed to be in regulatory fashion that kind of made some sense but they weren't spelled out in regulation anywhere. We also had a petitioned amendment last year that would have repealed cluster and at the time, it was the Board's public commitment that it did not favor the repeal of the cluster until such time it could promulgate a comprehensive rewrite of the ordinance and made a public commitment a year ago this January towards that effect. There were several constructive criticisms of the current ordinance we heard at that public hearing. To click off a few of them, one of the concerns is that the current ordinance has the potential of resulting in more development than otherwise might be accommodated on a piece of property if it were developed conventionally. In other words, how do we know that this isn't creating a windfall of development. We had concerns that were expressed about how do we ensure that the open space that comes with these projects is in fact protected and is in perpetuity left as open space. We had concerns about the qualities of the open space. We had concerns, one of the more poignant ones that we have worked very hard at in this draft is to address what I call the issue of the locational context, how do we tailor a project so that it can fit in with its setting recognizing that every street, every district, every neighborhood in the community has different characteristics. We have different on-site characteristics and we have different neighboring characteristics and the concern in some cases its visibility and in some cases, there may be other concerns, all of which were very valid constructive criticisms of the current ordinance so towards that end we wanted to develop and ordinance that if an applicant wished to go down that road, we would provide for a much improved process and a lot more clarity in a lot of these areas where concerns had been expressed. We essentially have left cluster in all of the districts that it is currently provided for, we've increased in a couple instances the minimum tract sizes necessary, we've increased in a couple instances the minimum tract sizes

necessary to even have a cluster under the premise that we thought the open spaces probable needed to be a little bit bigger in some of the smaller projects. We've required additional setbacks for lots within the cluster at the same time providing for flexibility for the Board to adjust those setbacks so that we can tailor the fit of the project to the property and location. We've established minimum lot sizes in these clusters whereas we had none before. We've put a cap on the fact that even with bonuses, the resulting density would not exceed what's allowed in the zoning district. Currently, the density provision is basically what the district allows and possibly 10% on top of that. We do have a bonus provision in the ordinance but it is capped at not exceeding zoning so it has actually become more restrictive in that regard. We've maintained the perimeter buffer but have provided for flexibility here again in trying to tailor whether or not that buffer is effective or not. One of the most significant elements in the new proposal is a yield plan or as some call it, a proof plan and essentially this is a preliminary design of a subdivision that would be done conventionally and it requires a meeting with the Planning Board to review that plan and that's kind of the straight face test where we have to see what realistically can the property yield conventionally recognizing road issues, wetland issues and the like and then that becomes something the Board makes a determination on and at that point that becomes a design figure around which the cluster layout could proceed. In the past, we would look at the Design Review phase as being optional and the statutes allow us to require that for this particular form of subdivision which we've incorporated in the ordinance. There's a lot of weight that's placed on the preliminary design review, we can evaluate the locational context of the project, we can evaluate the open space features of the property, we can determine whether or not any of the requested density bonuses pass the straight-face test and give feedback to an applicant as to whether or not they ought to proceed or are they off the mark in terms of the purposes of the ordinance so we do have a required preliminary review process with abutter notification for any of these projects so way up front in the process before any engineering is taken place, we would get into the discussion of the yield plan and a review of the open space layout and all of the items in a checklist that we've now provided to try to identify what might be the relevant open space features in a given area. Finally, Mr. Chairman, is the checklist itself and it's meant to be a guide where an applicant would come in under preliminary review and have to indicate whether certain features are present or not present in both the on-site condition as well as the surrounding area and that would be a discussion point from which we would evaluate the open space plan and move forward or in the alternative to advise someone that it doesn't look as though the layout might meet the intent of the ordinance. In summary, there were a very substantial number of constructive criticisms, both externally from the public as well as from our own experience in dealing with our ordinance. We've tried to provide guidance in those areas while still maintaining this at a reasonable level of attractiveness so we can view it as a tool to protect open space. One of the features that is probably most significant in terms of a change, currently the ordinance provides for a 10% density bonus for good planning or words to that effect. What we've done in this proposal is articulated about and this would be in Section 7 about 4 or 5 criteria that you'd have to incorporate in the open space in order to be eligible for bonuses and then we've capped it out at 20% which probably sounds dramatic which probably sounds dramatic going from 10% to 20% but elsewhere in the

ordinance we've built in a cap that says even with bonuses included, you're not going to exceed the density allowed in the zoning district so we've tried to provide a little bit of incentives to get development off hilltops, we've provided incentives to get substantially greater amounts of open space, we've provided incentive that if everyone is in agreement that public access is a reasonable element of the open space, that would be taken into consideration and try to cross reference this back to our Natural Resource Inventory looking at our most cherished, high valued co-occurrence areas. Each of those categories is theoretically eligible for a 10% bonus but then you've capped it at 20% total and you've further capped it by not allowing, even with bonuses included, that the number would exceed the zoning which is actually a reduction of sorts to what is currently on the books. There were concerns about the permanent protection of open space so we have clauses in here that spell out ownership issues, clauses in here that spell out stewardship, clauses that spell out enforcement; these are all things that the current ordinance is silent on. I think we've gone a long way to address the weaknesses in the ordinance and our hope is by strengthening it, we haven't completely deterred people from using it. We think we've got hopefully a good balance, we've plugged a lot of holes, provided a lot of good guidance but hopefully it will be considered in the appropriate circumstances as an option that would have the effect of a good quality subdivision while at the same time protecting open space.

Board comments: Touhey – We have worked very hard to look at that Master Plan we have as a Town and now also the Natural Resources Inventory that we now have access to that is complete and additional information really gives us an opportunity to look at the beauty of the Town, the natural resources of the Town and to craft the formerly called Cluster Development and we're changing that to the Conservation Subdivision Design in an effort to put the emphasis on conservation, on preserving all of those items that have been brought up in the Natural Resources inventory so we don't overdevelop. I think there was always a message kind of that people got that cluster development meant more development and this is not about that at all. It would be a limit to development with this new proposal. Worsman – The last two provisions that we passed are very simple and they are a single line and its very important that this Board be allowed your permission to the entire community to vote on each of these articles. This one is a little bit more encompassing. As I've sat here and listened to developers bring before this Board some cluster developments, we've struggled with how to not impinge upon the developer's right and the landowners' right to develop their property but I also hear in the other ear the residents of this Town are saying we've had enough development. This Board's job is to work with developments and make them the best they can be. We can't stop development, we can't curb it, all we can do is try to do it right and the one piece that we've have had come before us is this cluster provision. Our hands have been so tied on a couple of developments that there was nothing we could do, we had not teeth to hold this developer to some logistical ways of putting his development together and on a couple of them they got a windfall, because we had no teeth. We are hoping that the voters will approve this and give us the tools we need to do it right. We are looking for your support on this one and really need the support of the community. Vadney – I agree with the comments that these folks have just made and I'll say if you're absolutely sure where you're going, it's fairly easy to lay

out a path to get there. We don't know what the Town will look like in 50-100 years, we're quite sure it won't look like it does today although we probably would all like it to. Things do change and we are hoping that this new conservation space ordinance will give us a tool to help manage the development. We didn't just restrict it to the western part of Town, we've got it pretty much town wide because there are parts around the Town that it could apply to and with a little encouragement, we can use it to do things a little bit better. One thing, and John eluded to this a little bit, you have to be constantly aware of is if you make the cluster too strict nobody will do it so then you really haven't won any battles at all so you have to make it a reasonable approach and we've tried to do that. The primary bonus is probably for the developer in reduced road costs, grading costs and other infrastructure costs in putting in a development. We do have the 10% up to a 20% bonus as John explained for us to use somewhat judiciously and a little better defined than the previous ordinance allowed us to do.

Public Comments: Mark Abear – 39 Higgins Road – I would like to make a few points if I might. One of the points I'd like to start with is the bonus section. I understand the capping of the lots to be equal to or less than would be allowed under the current conventional subdivision rules. My question to the Board would be if you do that, aren't you telling the developers first come, first serve on the bonus? Vadney – No, it would go by lot. Are you implying that it covers the zone? Abear – I'm saying if the total zone, let's say the total zone is 600 lots, the total bonus would be 20% of that 600 lots. Vadney – We have intended all bonuses to be applied to the specific lot of 10 acres, 20 acres, 30 acres or whatever. We're not talking about the 6,000 acres of Chemung. Abear – If you're going to have 25 different lots in a zone that are brought before the Board for subdivision, each one could get up to 20% bonus. Vadney – Only based on his or her own acreage. If each of them is 100 acres, they would have 10% under conventional and would then be eligible for a bonus of 20% assuming they meet the other criteria. Vadney – Their particular bonus would be capped, they couldn't go above the 10 units if they had 100 acres in a 10 acre zone, they couldn't exceed that. However, when we do a yield plan, if because of wetlands and steep slopes and stuff, they could only get 6 lots on a yield plan, we could give them a bonus if they really gave us some good conservation value or something like that. Edgar – I think that's pretty well stated. One of the debates that we had in drafting this, Mark, was this whole bonus issue, keeping in mind that we have right now a bonus on the books, we've not pulled the trigger on it because quite frankly we didn't really know what it meant because of the lack of any clarity. It just said for good planning, but there is a 10% on the books, 10% on top of the zoning because you have to apply it to some number and there's no other methodology spelled out so what we've done is we've spelled out the methodology to get to a yield number what would be conventionally determinable for a project to support with a straight face, the straight-face test if you will, and that number typically in our experiences have been in most cases less than what the zoning allows. We had one project where you divide by 3 and it was 50 some odd lots and the soils and slopes knocked it down to 40 something and we sort of saw a yield plan although we couldn't require one because we didn't have the enabling authority, was somewhere in the 30's and so if we just use as an example, it's the 30 figure that the bonus would be applied to but what we've said is elsewhere in the ordinance we've said even

including bonuses we're not going to exceed the density provided for in the district so if you have, for example, a hundred acre lot and it could by zoning yield 10 lots, nothing is going to take it over that figure even with this ordinance. That's the bottom line. Nothing can take it over the 10-acre density. That was a safety net the Chairman wanted to build into the ordinance, it's about better design, it's not necessarily about having numbers that would otherwise exceed the zoning so that is in black and white in the ordinance under the density section which basically reads as follows: "Under no circumstances shall the number of lots or units including incentive bonuses resulting from this ordinance exceed the maximum number of lots or units permitted in the district. We have the yield plan process. Vadney – Maybe we should say, permitted for that particular lot within the district. Edgar – Well, it's the district. Vadney – I think he read the district to mean all of it. Edgar – We have not done a district wide allocation of how many bonuses there are, it's done on a case-by-case basis and the ordinance caps out the ability for the Board to engage in any of those bonuses, it does not enable the Board to go beyond what's allowed for in the district. Abear – I'm just trying to point at a quibble here and I think it's an important one. Vadney – I think it's a good one, the fact that Mr. Abear had that question kind of shows that our wording isn't as good as it could be so I think maybe we need to put another operative word in there to say that based on that lot within the district or something that would be more definitive so you couldn't make that assumption. Nobody's going to go out there and use their 50 acres and then add 3 more lots because of what you could have done. Abear – I'm just concerned that if there is a Master Plan out there that already has a zoning yield. Vadney – It's an excellent point, I'm glad you made it and I think we do need to take a look at our words. Abear – Conditional Use Permit – Can you tell me why the change from Special Exception to Conditional Use? Edgar – The cluster provisions date back to the 70's and 80's and subsequent to the original adoption of our paragraph, there is a statute 674:21 titled Innovative Land Use Control that specifically addresses cluster as well as other types of innovative zoning and the Conditional Use Permit language is language that stems from that statute. Abear – Under Section 3. Purposes, it seems to me that Paragraphs 1 and 2 are somewhat in conflict in that I think everybody's goal with this change to the ordinance is to encourage more open space and a better quality of development within the community and that's a good thing but it just seems to me that those two paragraphs are almost opposing, one begins to encourage permanent protection and the second says to create attractive living environments. If you're protecting open space, you're not creating attractive living environments and I'm not understanding the conflict that's there on its face. Vadney – I think our intent is captured here because I read these differently. We're saying in the first paragraph, encourage permanent protection, that's kind of the major thrust of the whole idea and we're also saying create attractive living environments, we're saying you can still develop out there, but if you do it in a way where there are proper buffers and you haven't dug out the side of a hill or something to rape the land in order to get 3 more units or whatever, you can still live out there in an attractive living environment at the same time you're protecting it. If we can't do that, I guess we don't need to talk about it. I don't see that those are in conflict. Kahn – Herb, if you read beyond create attractive living environments in Paragraph 2, it goes on about preservation of open space, I don't see there's any conflict there whatsoever. Vadney – I don't mean to pick

on you because if you read it that way, we probably wrote it wrong, but the way I still read it, it seems to me that its relatively straightforward. Abear – I'd like to ask the Board to at least review the ownership provisions for the open space. There are 3 listed, common ownership by the owners of the lots, transfer with permanent deed restrictions and transfer with deed restrictions or conservation easement to the Town and I'd like to encourage the Board to eliminate #1. I think that would be a very difficult one for the Town to police and enforce and I think its an area that leaves itself open to abuse down the road. Edgar – That's Page 2 of Section 6, Mr. Chairman. Kahn – I think the concern is taking. We did struggle over that trying to figure out the best way, our question to each other was now we have permanently or potentially protected an area so what's going to keep it permanently protected, who's going to monitor it, how do we know it stays permanent protected and as a Board, we probably spent a whole just about talking on this issue. You've got better words? We're open to listen to what you have to say. Abear – I want to delete just that section. The reason is I don't see a way, I've been in a lot of homeowner associations during the course of my journey here and each time with each new generation of people that come into an association, the amount of monies they are willing to spend to control and do the upkeep on the common areas becomes more problematic. If the Board here, the Town is not diligent about policing the open space requirement, my fear is that the Town will give up the right to have that open space be a public access or have that public access maintained. I know there would be authority there legally, but the question is effectively do you accomplish what you intend if you leave ownership residing or unencumbered other than in a more formal and structured manner. I think the transfer to a 3rd party agent rather than leaving it with the homeowner. My fear is if you have a large piece that gets subdivided and the developer retains a large portion of the land, they may come back at some future date and want to do something different. There are provisions that can be applied that can address this, the question is, are we likely to do it? Vadney – I think we can answer all those to a large degree. One of the problems is there aren't charitable organizations or whatever you want to call them to take all of these. Granted if there's a piece of property out that's a few hundred acres and we can set aside 150 or 200 acres out of it as conservation, those are the kind of places that are attractive to the New Hampshire Society for the Protection of NH Forests and the Conservation Land Trust and some of those. If we get down to some of the smaller ones where there may only be 20 acres or something set aside, it's a little harder to get people to want to take that on as a project because it's not big enough for the visibility they want or whatever and the other thing is the smaller ones wouldn't be too hard for the residents to police. As far as further development, there will be strong statements on the deeds and site plans that will say no further subdivision and delineate it now whether somebody goes out there and cuts some wood or something, I'm not going to be out there watching and that could happen but I don't think we want the Town to get saddled with many, many of these and require 8 or 10 Bill Edney's to go out there. Edgar – Mr. Chairman, if I could just echo some of that and I understand what you're saying, Mark, but I also agree with Herb that there are many examples that probably wouldn't rise to the level of a big conservation entity or the Town of Meredith for that matter for weighing in with a conservation easement so with that in mind there are several things that are built into this ordinance. A lot of this is from experiences we've had on other projects that

actually have nothing to do with your district, one of which is that the open space cannot be used to satisfy a regulatory requirement once its created so it satisfies an open space requirement, it can't be deeded to someone that then can use it for density for their own project, for example. We have clauses in here that do not allow the conveyance of exclusive use easements, in other words once its created as open space, you can't then deed an easement right for the exclusive of someone else to use some component of the open space. We have clauses that have come up repeatedly in these projects that clearly are permitted and prohibited uses. We have no further subdivision, we have no development, we have a legal section clause that requires the coordination of these restrictions into the declaration that gets recorded and so nothing is going to be 100% as well as adding stewardship clauses and reporting provisions to make sure that the association has responsibilities just like they have responsibilities to maintain their roads, they have responsibilities to inspect their open space and so we've tried to build those responsibilities into the program to encourage the accountability recognizing though that not every one of these is going to have an easement. It's not a perfect world but we try to create the provisions that would allow us to encourage accountability and if we found ourselves need to enforce something, we have something to work with. Abear – Again in Section 7, almost at the end there's a paragraph that speaks to fractional, additional lots under the bonus section, I'd ask the Board to consider where it says where the final number of additional lots awarded under the section is .5 or greater, all its doing is saying for half a lot or more you round up and half a lot or less, you round down. Edgar – So your intent would be that if you reached the whole number great, but if you haven't then you don't round up. Abear – There's no rounding just simply truncating. Vadney – We did discuss that at great length and let me give you a rough example, somebody in Chemung has 100 acres, in rough numbers they could get 10 units, but when you go out and look at the wetlands and slopes it turns out they can only get 5 units but they are willing to cluster and it sets aside 50-60 acres of good conservation land in pretty setting that we would like to preserve, to round up for that fellow would only be a bonus of one. He would get 6 units instead of 5 justified by soils, slopes and wetlands and things. If it turns out he can only get 4 units, he would get no bonus at all and actually the bonus we're proposing here sounds more generous than it turns out to be because for many people they probably wouldn't qualify because they wouldn't make it to that first unit. If we give them a 10% bonus, you just don't get very many units because there aren't that many pieces of land out there that have 700 acres so this is far less generous than it might appear. We discussed it and we're willing to change it depending on the discussion and other input. Abear – I'd like to thank the Board for their efforts and thank you very much for listening to my comments. Tom Crane, Route 104 – Just a quick question and I'm really glad to see the Board tackling this. Removing cluster development last year was a wrong move and I think this is much better one but just quickly on the no more than 50% of the minimum designated open space shall be wetlands or slopes greater than 25%, I love the spirit of this of trying to maintain open spaces, how does that compare with other towns? Where did you come up with that number? Edgar – We've looked at a lot of other towns and had some pier review from another consultant and some others. A lot of other towns would have a greater percentage. We were trying to hold to what we had as much as we could with the ordinance so the more we ventured out into 75%, we

would just antagonize folks needlessly. Fifty percent (50%) seemed to be a pretty common denominator but the concern was that we have nothing, Tom, that qualifies the nature of the open space so in theory an applicant could come in and the open space could be strictly all the land they couldn't develop and to our way of thinking, as important as wetlands are and slopes and things like that, its also for purposes of forestry, potential forest management, its also for purposes of passive recreation and the feeling was there probably should be some upland component other than steep slopes that is factored into the qualitative aspect of the open space and so we built that in so that is an increase where right now the current provision is unspecified and we built in that 25% figure so that there's at least a developable component that's in the open space and its not meant to be punitive saying to a developer we're going to pull away your developable land, it's not meant to be that as much as its meant to add a qualitative aspect to the open space so its more than just simply ledge outcrops and wetlands. With that said when you look at the checklist that's when we start talking about the particulars that might be applicable on a given site and a given setting recognizing that you can't conserve everything. You're not going to conserve every forest and every field so we get the inventory up front we apply the 50% numbers and we would have this abutter noticed design review where we start evaluating the effectiveness of a preliminary layout to see if its achieving the purposes or not so it was meant to tighten up a loophole on the nature of the open space so it can't just be 100% undevelopable land that's put into restriction. Crane – Which seemed to be the problem with our old ordinance. Edgar – One of many problems. Jim Freeman - My comments that I had prepared have gone straight to pot. I take it from what I've been hearing that the ordinance that I've just seen is pretty much of a done deal except for the minor changes. Vadney – I don't know how to define done deal, that's certainly up to the Town's voters at Town Meeting. As far as we go, we're saying this is our best shot after a few months of working on this, we'll take your comments tonight. The ones I've heard so far on this particular issue I'd say there's not a lot of controversy really and I think we may be able to handle some of those right here tonight. If we make those changes tonight and they are minor, we probably could or could not, we'll vote on whether or not we need to go forward with an additional public hearing. If we change what we presented in any substantive way, we have to have a second public hearing advertised and so far I don't think we've seen anything. Edgar – Not yet, we have to talk about one reference in the existing ordinance that needs to be deleted possibly two that were not in the initial publication so we'll talk about that a little bit later. Freeman – My question to the Board, is public opinion of interest? Vadney – Yes. Freeman – It really is, tell me Lou. Vadney – That doesn't mean I can agree with everybody in the audience. Kahn – You know we've been at this for months and you had an opportunity to and you have in fact fed us things for months so if you have ideas, let's hear them. Freeman – Basically, I have sent out 40 letters to large property owners within the Forestry and Conservation District. All of the stuff that came back to me, 100% were for preservation and protection of it just the way it is. They love it. Vadney – I say this, buy it all up and put it into conservation. Freeman – OK, indeed they should but perhaps this is something that should be tried then, should I go ahead and inquire how many of you will accept a 20-acre site for each building instead of 10, less than all of us I can guarantee that. Freeman – Less than all here but I'm telling you there probably

are a lot of people out there that own 50 acres or more that would say sure that don't want 5 houses on their plots, that's not the way they think of it. Vadney – Are you suggesting we should go to 20-acre zoning out there? Freeman – If I went ahead then and I send out more letters to these large property owners and I find out from them, how many houses do you want to put on your lot and it comes out to be like 1 in 20 acres or even less, then can we work out another deal that does protect this zone that's important to a lot of us. I've been here for 54 years and it's very important to a lot of us and I just don't know whether this meeting, in this meeting it does look like a done deal. That's all the conversation I've heard. There hasn't been any interest. If you go back and look at the original zoning ordinance which says basically its meant to be low density development plus agriculture, forestry and other light uses, that's what this district is meant to be. It is a conservation and a Forestry District, now it's becoming heavily occupied and is what you all want and I don't think that's what the rest of the people want. Sorell – I don't see how you think it's heavily populated, 10 acres is a lot of land for one house. Freeman – Of course it is, 1 in 10 is the lightest density that the Town has but the Town relies a lot on this land. You've got fresh air this way, you've got wildlife preserves, you've got everything it's something that the Town enjoys I submit not just the people that live there, it's for you. Vadney – I don't mean to pick on your basic thought of changing the zoning, we did look at different size by going to bigger lot size, but we do have to keep in mind this doesn't just have to get passed by the people who live west of the Meredith Center Fire Station, it's got to be passed by the Town and 10-acre zoning is pretty good sized lot zoning. When you start going to the bigger lots, you need some justification for doing it other than we're just trying to isolate this area and not let anybody in, that's not a very popular approach to just say this is exclusive, do not enter. I think you do have to say, what is the true density out there, I don't know how many live out there now and I don't know the actual existing density, 10-acre zoning first it's a pretty good sized lot and second you probably can't get that many. Most of the lots when you look at soils and slopes, you will not get 10-acre lots. Freeman – I think it certainly could be included in a 20-acre lot, unbuildable land it certainly could be because basically that's part of the enjoyment of the Forestry/Conservation District, is its natural beauty. Vadney – We felt that the 10-acre gave us the option on a 100-acre lot, 50 acres set aside and then clustering the houses on 2-acre lots and then with some roads and other stuff thrown in, we could do that with buffers and these all vary because some are uphill and some are downhill and things but if we can manage that properly, yes there would be more people living out there but would it look like Route 101A in Nashua, we certainly don't think so. I think we can manage that but it is not a done deal, we're open to suggestions. I don't know that that suggestion will get very far but I'm willing to listen to the Board. Kahn – I would point out that last year when we were considering the zoning petition to abolish cluster zoning, we were told by the proponents that they had considered petitioning to change the zoning from 10 acres to 20 acres and had concluded they didn't want to do that so Jim you're here saying we should go to 20 acres but there are apparently some people around who don't agree with you and what we're dealing with is revising our cluster provisions that apply throughout the Town and you're talking about a different creature where I don't think you necessarily have that backing. Freeman – All I'm saying is that I did go through the exercise of contacting large property owners throughout the District

and I'd like to continue that. Kahn – You're free to continue it, I just don't think we're prepared to scrap the work we've done in favor of that. Freeman – You basically would welcome my doing so it really junks the idea if I fail because I'm pleased to do it. Kahn – We can't make a commitment. Vadney – If everybody in Chemung raised their hand right now and said we want 20-acre zoning that doesn't mean we can get it past the Town vote. We wouldn't have done you any favors if we go to a Town vote and lose. Freeman – That's true, I do understand that. Kahn – I think we would be much better off if you confined your comments to any problems that you have with this particular ordinance which we've been working on for months because I don't see that tonight we are going to go to 20-acre zoning, we're just not going to do it. Freeman – No, I don't think you are either. Kahn – That's something for next year if you can get the support, next year we could go to 20-acre zoning. Freeman – There are advantages to it, it means you could have a cluster of 3, lead to it with a driveway that's all you need and restrict your sites to a yard of 10-20,000 sq. ft. and you could have a residual lot combined lot of the 3 of over 50 acres which does support good forestry practices. Freeman – I was going to suggest if you went to something like this is perhaps tax help counted as no taxation on your income from forestry stewardship if you are good stewardship for your forest. Vadney – This is not a tax policy Board. Kahn – That's something you have to take to the State Legislature, Jim, we don't have that power and neither do the Selectmen. Vadney – And neither does the Governor as much as he wishes he did. Freeman – I can pursue what I'm doing but it doesn't need to bother you. Vadney – We're always open to, I think at this point Lou's right, for us to say OK let's stop working on this, I think some of these people would probably be upset with that thought and some would probably like it too but some would be upset by it if we said we are going to stop and not do this this year and start talking 20-acre zoning. Freeman - I should not have mentioned it, you don't have to have it with what I'm doing and what I'm suggesting. I'm suggesting it might be a voluntary thing that people would find useful and they could change it over into good forestry practices and could turn it over to agriculture which is what the original use of this land was intended for and it sure isn't going there now. Kahn – I point out Jim that you're the only one out there who has put his land in conservation easement and that is something voluntary, people can rezone their own lots with conservation easements, I don't see your neighbors flocking to do it. Freeman – I think you're right. I do know that you've done it so there are other people. Edgar – Mr. Chairman, could I make a suggestion that we spend the rest of our time focusing on the proposal in front of us and if Jim wants to pursue a change in density sometime in 2008 we'll have the refined NRI and it's a dialogue for another night but what's noticed for tonight is this proposed ordinance and I just suggest that we try to focus any comments on that. Lynne Hart, Chemung Road – I'd like to speak in support of the work that the Planning Board has done. I was here at a hearing last year about this time when some people were suggesting we axe the whole cluster development ordinance and I think Herb put it most eloquently when he said, It's a tool, it's not a very sharp tool but its one that we want to keep and I want to commend the Board for sharpening the tool tonight and over the last couple of months I support it and I think they've done a nice job. Because I'm not familiar with the conventional subdivision ordinances and rules, how laborious is this in comparison with someone trying to get a conventional subdivision through? Vadney – To a degree not much more because if a

person is going to go conventional, he has to do a yield plan and that would be the trickiest part of doing this because you have to do a yield plan before you can really see how many units you're going to get so considering the yield plan has to be done, it may be a little more pressing in order to get into the cluster stuff but the yield plan has to be done either way. That being said, there might be a few legal hurdles as far as establishing conservation easements. Edgar – When an applicant looking at a bigger project is contemplating whether to do this or to go conventional, the practical side of this is they ask the surveyor how many lots can I get? They are going to want to know that anyway before they go down any road so essentially what the yield plan does, its based upon perimeter survey, its based upon 2' topo, we'd have wetlands delineated, we'd have tree lines and those kinds of things mapped so an existing conditions plan of a lot layout and a ROW are basically things they would task a surveyor to do anyway to satisfy their own interest so for us to add some of the open space features, the checklist and things like that to really focus on the streetscape, the salient features of the property is not onerous in that regard at least our hope is that. There are a lot of features built into this ordinance that we're hoping we still end up with an attractive open space subdivision. The premise is that people can live on decent sized lots that are tailored to fit the landscape of a given area and want to live from a quality of life point of view want to live next to some protected open space and so we have built in provisions dealing with steep slopes and whole bunch of other things to make sure we don't push something here and it pops out there. Our hope is that we've built in these safeguards where necessary but not to the point where it becomes so counter productive that people don't even pull the trigger. We think we've got a good balance; we aren't going to know to be perfectly honest until we get it going. We have had Dave Dolan, for example, give us some good feedback and the like in terms of some of the practical aspects of it so we don't think its overly burdensome, we did contemplate whether to make it mandatory or not and this is optional and so if an applicant sees that they can embrace the philosophy that's embedded in all of this and come up with a better design and they attack it that way, it probably would have a very good outcome but it is optional and as I've said to the Board, that's where the purpose statement's important and all the rest of it because we have standards for approval built into the ordinance and if someone doesn't like the Board's reaction in the very front end of this process, the Board can say this just doesn't look like its going fly, you just haven't embraced it and someone would know that before they engage in all the engineering. We think we've struck a good balance in a development ordinance that could be applicable town wide but allows us to zero in on a given street or given district and really not have any trucks going through loopholes but recognizing that there needs to be flexibility to make that happen. Was there some discussion about making this mandatory for lots over a certain size? Vadney – Yes, we did look at it. Edgar – We looked at several triggers, one of which could be lots over a certain size, other ones could have been lots in high value co-occurrence areas, things of that sort and it was the decision of the majority of the Board to keep it optional. I didn't object in some limited instances of it being mandatory. There is actually another benefit to it being optional, if we're forcing something on somebody and then there's a quirk or problem down the way, we forced them into a quirk or problem but in this case, it's pretty clear what we're trying to accomplish. The emphasis as Ed said is on open space and if we give someone the

signal based upon the discretion that the Board has in this ordinance that you're barking up the wrong tree by trying to go this way, that signal can be sent early on and we can do that forcefully and without apology if need be because its optional and its not like we mandate it and then finds themselves in a pickle. If someone finds themselves in a pickle with this ordinance, it's probably their own doing. There was discussion that way and it was the wisdom of the Board, its optional today and to keep it optional.

Vadney – Do keep in mind that every piece of land is different. On the one hand it says, we'll make this mandatory and for some pieces of land it would be downright foolish and I don't know what those conditions would be but I think we would probably doing an error if we said mandatory. Edgar – One other thing too that was not said but something I just thought of is that this is a comprehensive rewrite, we went from a paragraph to 9 pages and to be perfectly honest with you, I would rather have some experience with it and work with the provisions we've laid out to get a better feel for how its going to play out and have that experience and if and when we have 20-acre zoning or if and when the discussion says this thing's working great but maybe we could have required this in certain circumstances, we would then have some experience behind us and have a little more comfort level going down that road which would be a big step but at least we would have some experience at that time.

Freeman - How is the Natural Resources Inventory (inaudible). Edgar – The high value co-occurrence areas are identified as one area for a density bonus, that's correct. We've also identified the ridge lines in Tom Kokx's report as also being an opportunity for a bonus so on one hand we've tried to build a guidance component and incentive component in the ordinance in those two areas but the flip side of that is we also then kind of pull things back and said no bonuses can take you beyond the zoning density. We don't know exactly how that's going to play out until we start getting some real life experience with it as to whether or not the bonuses are even meaningful or not the way this is written but the intent is to provide the incentive if you are in one of those high value co-occurrence areas, we could try to guide development away from those areas and if you're on a ridge line, for example, one of the critical ridge lines in the community, we could guide development likewise away with that incentive so that's built in there.

Mrs. Freeman – (inaudible) Edgar - The conservation subdivision or open space option for purposes of that bonus they would have to respect that. With that said though, the checklist, someone is going to address those features so even if they are not achieving requesting a bonus, we're going to know what the relationship is between that project and our highly valued natural resources. If you go to the very end of the document, you'll see a checklist in there of things that an applicant has to come back with for purposes of this very preliminary discussion are the critical viewed areas and the significant viewpoints, that's referring to the Kokx report and then the proximity to high value co-occurrence areas described in the NRI so that forces that to be a front-end discussion as to how we look at the layout of the open space in relationship to these very significant natural resources. The difficulty in all of this in your District or some other district is you can't prescribe, you can't pre-determine how projects lay out. Every property has different characteristics, every street has a different flavor, every district has a different intent so we put a very comprehensive checklist here to make sure we're talking about these open space characteristics both as it relates to the site and the neighborhood and one of those that's specifically referred to here is the relationship of a piece of property to

the best of the best that we've inventoried in our Natural Resource Inventory as well as a standalone, the scenic view considerations that were studied as part of our community planning exercise. Bill Lee, Leavitt Mountain Road – In the area of stewardship in Section 6, what's the reasoning for the frequency of inspections not being less than 1 per 3 years, that seems like a pretty long period of time. Edgar – There's nothing absolute about that number and some of the concepts that we have built into this ordinance kind of track what you might otherwise find if it were a conservation easement so these stewardship clauses are things you would typically find in an easement where the steward whoever that steward is, the easement holder, would go out on the property and inspect the property looking for any violations and I think our Conservation Commission on Town properties inspect annually. Some of the very, very large land trusts, land stewards with thousands and thousands of acres may go out very irregularly and they do a lot of aerial photo work which would be kind of the other complete end of the spectrum so we picked an interval we thought was reasonable so that a steward would have to go out there periodically to inspect the property but whether its annually, every two years, etc., there's no kind of a text book or guide that says how you should do it, its just kind of a judgment call. Bill Lee – I personally would encourage a shorter period of time. I think if somebody is abusing the land and it goes for several years and that's not caught, that's a shame and it's not a big deal to insist that it might be every year. Vadney – I go just the opposite of that because as a matter of fact I'm surprised to see the 3 because I'm fairly certain we had agreed on 5. First, we don't want too many code enforcement officers or police officers or anybody else out there checking this all the time. We haven't had a lot of cases where people are stealing trees. If its 3 years or 5 years, how many people are going to build a building knowing its going to be caught in another couple years. I don't foresee there's going to be a gang of people up there trying to rape the land in between inspections. I personally would like to try to keep this as unobtrusive as we can. Bill Lee – It's just different opinions. Public Hearing closed at 8:41 p.m.

Board Comments: Vadney – When did we add 3 years on that? (inaudible) Touhey – I'll just comment to the gentleman just to let the gentleman know the range of opinion that we had when we discussed that point. I wanted written notification that the inspection by the steward had been done and for that notification to somehow come back to the Town Office and someone there would have to log in on a two-year basis or something like that. I tried to encourage the Board to do that and I didn't get any support for that. Just to point out it really was hashed over and we did have differences of opinion. Kahn – There was one provision Mr. Abear raised where there was some question as to whether or not we had to clarify some language and other than that everything here is a compromise and I'm not necessarily happy with all of it but it's a compromise and I think you have to understand we didn't do anything revolutionary here, what we did was bring our proposal to the standard that people are following. Everyone in zoning reads from the same book, they were all written by one guy and his name is Randall Allen and everybody follows what he has shown. You've got little modifications here and there but this proposed ordinance is not a heck of a lot different from ordinances in other New Hampshire towns. It varies here and there because in each case we had to make a decision as to what we thought was a good way to handle

something so something that could have been mandatory isn't mandatory. We could have had an inspection every year by the Code Enforcement Officer becomes a self inspection every 3 years, there are a number of compromises. Don't think you're going to see an enormous amount of clusters, I don't think this ordinance is designed to encourage people running out and doing clusters. This will be used to develop difficult to develop lots but it will be used under very different circumstances and with a lot more control so there will be a lot less development and probably people will go more to conventional subdivision and this ordinance which replaces the cluster ordinance in my judgment will not get used a lot but its not a revolutionary thing, its just bringing the Town up-to-date. With that one provision which was (inaudible), we've got to change somehow the maximum number of lots or units permitted in the district and somehow zero that into the acreage requirement (square footage). Vadney – We need to add a word just before it gets to in the district to saying something like units permitted.. Edgar – As applicable to the property or something to that affect. Vadney – So it ties it to the lot. Edgar – To the property as you apply the zoning to that lot. We can wordsmith that, essentially I understand what the intent there is to avoid the potential for that confusion. Kahn – Couldn't you just add after district "density restrictions", "permitted by the district density restrictions". Edgar – That would do it. You certainly would not think there was an allocation of density to the district under that thinking. Kahn – I would change the word "in" to "permitted by the district density restrictions". Edgar – Essentially, when you look at the text document, we had to go back throughout the whole ordinance and identify where the cluster references are and delete those and replace that with this comprehensive ordinance and Lou had picked up 2 deletions that we had missed and needed to add to the list so the only thing I would say to you that if the motion is to move this forward, I would just add the qualifier there that I'd like to bounce that by Tim to determine whether or not those 2 deletions are substantive enough to require a second hearing. If the motion could be worded that you vote to move it forward but somehow provide me the administrative opportunity to check with Tim regarding the 3 deletions.

Kahn moved, Worsman seconded, I MOVE THAT WE GO FORWARD WITH THIS PROPOSED ORDINANCE AND IF IN THE OPINION OF TOWN COUNSEL A SECOND HEARING IS REQUIRED, THERE SHOULD BE A SECOND HEARING. Voted 6-0 in favor of the motion.

Article III, Section K, Waterfront Right-of-Way, Subsection 2-A, 1, to change the shore frontage requirement for each additional right of access to a water body through or by means of waterfront land, from 25' per dwelling unit to 50' per dwelling unit.

Edgar – Mr. Chairman, we have a provision in our zoning ordinance which is often referred to as a funnel clause. Essentially, what it does is it regulates how much deeded right activity can be funneled from back land property down to the waterfront. We've been approached by some residents who are here this evening and have several discussions with the Board about the intent of the ordinance and how it relates actually to the formula that's in the ordinance. Essentially the ordinance establishes a formula as to how many rights can be attached to back land property under the premise of trying

to lessen through regulation the impact to shoreline properties. The research that Dave did looked at about 16 or so communities that have similar provisions and we looked at a series of possible changes to the provisions in terms of the formula and we also looked at the possibility of more substantive changes to the text. What we have before us is a very limited proposal and its basically changing the formula from 25' to 50' so essentially when back land is benefiting deeded access to waterfront, the formula is there shall be 100' for the first unit and 25' for every unit thereafter, that's what is on the books and what this provision does is it leaves the 100' intact but changes the amount of frontage required for each subsequent deeded access from 25' to 50'. Dave was good enough to put the graphic together that you have and you can see the effect that if you had a hypothetical 150' lot and you applied 100' to the first unit under the current ordinance, you could get 2 more units of access for a total of 3 and as you increase the frontage requirement for those subsequent rights of access, we would end up with a total of 2. Vadney – I'm confused by this word dwelling unit, I thought we had used right of access. Edgar – That's correct. Vadney – Where did the dwelling unit come from? Edgar – This isn't the ordinance, this is an illustration but it is a right of access. Vadney – I'm looking at the summary we have. Edgar – For each additional right of access. Kahn – The term dwelling unit, Herb, is the existing ordinance. That term comes out of the existing ordinance. You recall that we had a discussion about other problems in this portion of the ordinance and how complicated they were and how we had to work them out. In the end, we ended up saying we're not going to deal with those right now, all we're going to deal with is the shore frontage for each additional unit so we didn't change any of the language of the ordinance, we just substituted 50 for 25. Edgar – Starting with the cover page, if you go 3 pages in, Herb, and you look for #4 that is the text excerpt from the ordinance. Kahn – So your issue is to whether or not a dwelling unit is equivalent to a right of access. We haven't solved that question. Edgar – We recognize there needs to be a more comprehensive rewrite of this entire section but the discussion that we've had was recognizing how important the shorelines are and over time there will be a greater amount of pressure placed on some of the medium to small size lakes and ponds that this was an appropriate step in the right direction. It is not the end of the line in terms of the rewrite of this section but it hopefully would have the affect of maybe easing some pressure if we have a waterfront funnel provision come in front of us. I do know the Thorpes and some others are here hopefully to ask us some questions or give us their opinions on the proposal. Edgar – I had asked Dave to run the same numbers based upon the proposal in front us without changing the 100 and went simply from 25 to 50, what is the net effect on the number of units you might get. Vadney – So its tutorial but as far as what we're voting on is simply the change in frontage. I asked Dave to do it so we would have the consistency between everything you've been talking about with the Thorpe's in the past so you finally had the numbers in front of you of what the affect would be if you actually voted this forward and if it were voted at Town Meeting. Dave Thorpe, Wicwood Shores Road – Obviously, I'm speaking very much in favor of this proposal. The only other questions I had, your provision on your conservation subdivision ordinance, does remove the cluster language from this section and transfers it to the ordinance. The only other question would be and I know you don't want to tackle any complicated changes in wording is under that #4, swimming only, that is a confusing thing because it makes you wonder if

this requirement only applies if you're having swimming or does it require that you can only use that access for swimming and if you would see your way clear to removing the "swimming only", I think you would have a much clearer requirement. I don't care how you go, but I just think "swimming only" adds to confusion. Kahn – Part of the problem is this is buried in a cluster provision and until you can tell me whether or not the Conservation Subdivision Ordinance is approved, I can't tell you whether a lot of the stuff that's in there is going to come out. Thorpe – The simplest thing is to leave it the way it is. Edgar – I'd like to think, Dave, that given our collective meetings and discussions on this that we would be making a concerted effort and commitment to the rewrite of this provision. We know it has issues, at least from my point of view I would advocate that to the Board. They don't have to make that commitment tonight but I recognize as you and I've chatted that we need to think more broadly about this provision but for the time being, this might be an appropriate stopgap of sorts. I'd certainly be ready, willing and able to continue to work with you to come back the next cycle with something that addresses that and other issues.

Touhey moved, Kahn seconded, I PROPOSE THAT WE PROCEED WITH THE AMENDED ARTICLE III, SECTION K., WATERFRONT RIGHT-OF-WAY AS PROPOSED. Voted 6-0 in favor of the motion.

Meeting adjourned at 9:03 p.m.

Respectfully submitted,

Mary Lee Harvey
Administrative Assistant
Planning/Zoning Department

The above Minutes were read and approved at a regular meeting of the Meredith Planning Board held on 1/8/08.

William Bayard, Secretary