

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Bayard, Secretary; Kahn; Finer; Bliss; Worsman; Touhey, Alternate; Edgar, Town Planner; Harvey, Clerk

Finer moved, Kahn seconded, THAT WE APPROVE THE MINUTES OF OCTOBER 10, 2006, AS PRESENTED. Voted unanimously.

### APPLICATION SUBMISSIONS

1. **1<sup>ST</sup> T DEVELOPMENT, LLC** – Proposed Major Subdivision of Tax Map R04, Lot 5, into forty-three (43) single-family, clustered condominium units located on Pease Road in the Forestry/Rural District.

Applicant proposes to subdivide 169 acres into 43 single-family, detached condominiums. The units would be clustered under the Special Exception provisions of the zoning ordinance. The property is vacant. The application, subdivision plan and abutters list are on file. Filing fees have been paid. Technical review fees have been paid. This is considered a “major” subdivision by virtue of the number of proposed lots, therefore, acceptance and the public hearing must occur at separate meetings. Applicant has requested waivers set forth in correspondence dated 10/9/06 (attached for reference). It has been the Board’s practice that most of these items need not be submitted at the outset of the review process, recognizing however that all of them will be required as the hearing process proceeds, will be reviewed by staff and the Board, and will be available for public inspection and comment during the public hearing phase. For these reasons I recommend the waivers be granted and the application be accepted as complete for purposes of proceeding to public hearing. I further recommend that the Board establish a hearing date to begin formal consideration of the application. The public hearing will necessitate separate abutter notification and finally, I would also recommend that the Board conduct a site inspection prior to the hearing date set forth by the Board.

Vadney – We’ve heard John’s details, it’s up to you if you want to accept this as presented in light of the waivers that have been asked for. Bayard – When will this be scheduled? Edgar - That’s the Board’s decision. It seems to me there’s an awful lot of exceptions requested in this one and I think we should put it off for 2 cycles. Edgar – The acceptance is merely to invoke the Board’s jurisdiction enabling the Board to then proceed to public hearing, it’s not a vote on the merits of the application. Bayard – I understand, I just want to make sure you have adequate time to.. Edgar – We’ve reviewed the filing very, very carefully. The kinds of things that are being considered for waivers are like a Letter of Credit for example which we historically wait until the end of the process to determine what that amount would be. Similarly, the Condominium Documents come later in the process once we’ve gotten further along. That’s historically how we’ve handled projects and these waivers are consistent with that practice. Vadney – So we can accept this and if they don’t come in as we expect them.. Edgar – They will all come in, there’s no representation by anybody that they won’t be addressed, it’s just that these are

things that you typically don't do the unit cost estimates until we've completed the engineering review for those types of things. Vadney – These are things that are knowable, but not knowable yet. Edgar – This is all stuff as I indicated that would be filed or would be staffed or would be available for public comment. Vadney – Are you recommending just a two-week cycle to pick this up. Edgar – The waivers are irrelevant to when you set the hearing date. We have plenty of information sufficient to proceed to public hearing so the recommendation that I've made is not a commentary on when you want to set the hearing date, you can set it for the next cycle or the cycle after that, whatever your pleasure. As far as agendas go, the next regular meeting would be November 14<sup>th</sup>. We do have the Harris Cove/Happy Homes subdivision on for public hearing that evening and we have one minor 3-lot subdivision out in Chemung being continued to that evening, that's the only thing on for that particular cycle. The following meeting would be the 28<sup>th</sup> of November and we have 2 continuances from the last meeting, one was the Pelczar project on Foundry Avenue, the other being the Annalee Dolls relocation of their retail shop.

Finer moved, MR. CHAIRMAN, I MAKE A MOTION WE SET THE HEARING DATE FOR 11/28/06 WITH NOVEMBER 4<sup>th</sup> FOR A SITE INSPECTION. Bayard seconded. Voted unanimously.

Bayard – Don't we already have a site walk that day? Edgar – As far site walks go, we have one scheduled for this coming Saturday, the Happy Homes/Harris Cove project and on the 4<sup>th</sup> you do have the site inspection at 8:30 scheduled for the Annalee Dolls property. There will be abutter notification of the public hearing. Kahn – With respect to the site walk for this one, we're going to be like the children of Israel wandering around in the wilderness on this. I think it is essential that a representative of the developer be present and that the roads be marked out because as I recall from preliminary versions of this, there are some significant wetland crossings involved and we ought to be able to see where those are and how they affect the layout so I think it ought to be staked out so that we can see it and that there ought to be a representative of the developer present. Vadney – I certainly agree with that. Edgar – The necessity of centerline staking has already been shared with them as well as the possibility of having somebody from the environmental company that could at least allude to the location of the significant wetlands. That information has already been conveyed to the applicant. Edgar – Mr. Chairman, if I could, just for the benefit of any of the public that is here that is considering attending on the 4<sup>th</sup>. The purpose of the Board's site inspection is for the Board to become familiar with the site and the surrounding area in relationship to those plans. The site inspection will be a public meeting and therefore will be posted and the public may attend the meeting. However, the site inspection is not a public hearing so neither should the Board engage in taking testimony from either the applicant or abutters regarding the merits of the proposal nor should the Board take any action at this meeting.

2. **CLIFF ANTONELL FOR BLUE SKY MANAGEMENT, LLC.** – Architectural Design Review of proposed changes to an existing commercial building (aka Meredith Car Wash), Tax Map U02, Lot 30, located at 246 Daniel Webster Highway in the Central Business District.

The applicant proposes to reconfigure elements of the building façade at the Meredith Car Wash to include: (1) one of the five open bays would be closed in with a door and two windows and (2) and the windows on the north end of the building would be reconfigured. These changes to the façade are part of a comprehensive upgrading of the facility which includes a reshingled roof, clapboard siding, replacement of a retaining wall and the replacement of existing signage which already has been permitted. The application, site photographs and abutters list are on file. Filing fees have been paid. I would recommend the application be accepted as complete for purposes of proceeding to hearing later this evening.

Bliss moved, Sorell seconded, MR. CHAIRMAN, I MOVE THAT WE ACCEPT THE APPLICATION OF BLUE SKY MANAGEMENT, LLC FOR ARCHITECTURAL DESIGN REVIEW FOR HEARING TONIGHT. Voted unanimously.

3. **REAL GREEN LAWN AND LAND CARE, LLC.** – Architectural Design Review of a proposed warehouse/office building, Tax Map S15, Lot 31, located at 470 Daniel Webster Highway in the Central Business District.

The applicant proposes to construct an office and storage building initially to relocate the Real Green Lawn Care business from Waukegan Street. We have already reviewed, accepted and initiated the hearing process for the site plan application. This is the architectural component that would go with that. The application for architectural design review, building elevations and abutters list are on file. Filing fees have been paid. I would recommend the application be accepted as complete for purposes of proceeding to hearing this evening in conjunction with the site plan application.

Finer moved, Bliss seconded, THAT WE ACCEPT THE APPLICATION FOR ARCHITECTURAL DESIGN REVIEW FOR REAL GREEN LAWN AND LAND CARE, LLC. Voted unanimously.

### **PUBLIC HEARINGS**

1. **ALBERT AND DONNA DUCHARME:** (Rep. Carl Johnson) Continuation of Public Hearings held on July 11, 2006 and August 22, 2006, for a proposed Major Subdivision of Tax Map R30, Lots 3 & 4, into 9 lots (10.00 ac. – 104.17 ac.) located on New Road in the Forestry/Conservation District. Application accepted June 27, 2006.

By now you are fairly familiar with the project, a 9-lot subdivision in the Forestry/Conservation District on New Road. I won't go into the details of the lot configuration or the interior road configuration because we have come to a resolution on the layout of the lots and the design and configuration of the interior road. At the last meeting, the primary focus of the discussion was on off-site road improvements. Mike Faller from the Department of Public Works had identified some areas that he felt were in need of improvement in conjunction with the approval of the project, the Ducharmes as you know had hired Steve Pernaw from Pernaw & Associates to do a traffic study and in looking at the traffic study and in looking at the off-site road improvements that were defined by Mr. Faller, the Board directed the applicant to produce engineering analysis and plan of the Y Corner intersection which is the intersection of Chemung Road, Carleton Road and Higgins Road. One of the other things that has happened subsequent to the last Planning Board meeting was that we did receive a series of special exceptions from the Zoning Board of Adjustment appealing the placement of the road crossing, the driveway crossing and a water impoundment area within the buffer to undesignated wetlands. The engineering plan prepared by Mr. Fluet is in front of you, I have a copy on the Board here. It's probably easier for you to see in front of you, I'll just put this up so the public may see it. Associated Surveyors conducted a field mapping on the surface that the existing ditchways, the utility areas and the limits of the ROW as defined by subdivision plan prepared by Dave Dolan Associates which was prepared for abutter Higgins. Mr. Dolan provided us the information necessary to be able to tie in so we would be duplicating information that appears on his recorded plan of land for Higgins property which is the abutter to the south of the intersection. That information was forwarded to Mr. Fluet and he conducted his engineering analysis staying within the limits of the ROW and from a practical sense increased the ramping up into the intersection and shaved off a little portion at the intersection to increase the safety sight distance in both directions of the intersection. This plan has been reviewed by Mike Faller, essentially Mike, from a practical standpoint, has accepted Mr. Fluet's recommended improvements to the intersection as presented on the plans in front of you. I have not spoken to Mr. Faller directly, I know John has and John has also spoken in detail with Mr. Fluet regarding his plan. Mr. Fluet is recovering from eye surgery and was not able to make it tonight so perhaps any of the detail questions you may have about the vertical or horizontal alignment to the improvements, John would be able to address those based on discussions with Mr. Fluet. In addition to the analysis of the intersection, we, Associated Surveyors, measured the existing width of gravel surface for the lengths of Higgins Road and New Road and produced an analysis that basically says with the addition of gravel, you could meet the 18' travel surface within both of those roadways. In some places it already exists, in some other places it doesn't, but we did not provide detailed engineering or surveying information for those two ways, it was basically just whether or not the roadway could be increased in width and that the amount of gravel could

be increased along Higgins Road and New Road extending all the way to the Sanbornton town line. In addition to providing the engineering work, a unit cost estimate was developed by Mr. Fluett for his improvements to Y Corner and we also obtained construction estimates from Ambrose Brothers for the improvements to Y Corner and also to the improvements of Higgins Road and New Road. Those unit cost estimates were provided in the packet and I know in John's staff review he has an analysis of those numbers and what they mean and also talks about the issue of determining an adequate and fair proportionality for those improvements. The applicant would like to receive from the Board tonight an indication as to their appropriate proportionate share of the cost of the improvements to the roads and the numbers to which those proportions would apply. It's a little bit like a tax rate and an assessment, if you have one and not the other, it's a meaningless number. If we do not have the proportion of the number that we're applying to, it's rather meaningless to us if we do not have the number that the proportion's applying to is rather meaningless so we need to have a proportionate share of the improvements applying to another so that we can come to some resolution as to the contribution that the applicant would make towards off-site road improvements. Edgar – As Carl indicated, the Board at the last meeting had requested the applicant to prepare the survey and profile work for the Y Corner intersection upgrade as well as cost estimates for that project and the addition of gravel to Higgins and New Road. Earlier today we had received an e-mail from the Town of Sanbornton and it is from their Planner and the long and short of it is the Planner indicates that on August 17<sup>th</sup> the Sanbornton Planning Board at a regular meeting reviewed and discussed the impact of this proposal and they go on to indicate their concerns regarding the condition of the roads over the Sanbornton line and in conclusion the Sanbornton Planning Board respectfully suggests that the Town of Meredith consider improving it's own roads in the vicinity of the proposed subdivision in order to provide both emergency vehicles and other vehicular traffic with more adequate accessibility to the proposed subdivision via the Town of Meredith town road system. With respect to the wetland issues that have been discussed previously, as Carl indicated the special exception was heard, in essence, a reapplication to the ZBA hearing occurred on the 12<sup>th</sup> of October, a special exception was granted. There is a necessity for a State permit relative to wetland impacts as well. The Site Specific permit has been issued; there is also an outstanding dam permit for the drainage pond. There are at least two waivers relative to road standards that will need to be addressed by the Board of Selectmen, one dealing with the length of the road and the second dealing with the typical cross section. The proposed road name would need to be approved by the Board of Selectmen in relationship to the Town's 911 numbering system and that road name should appear on the final plans. With respect to the off-site improvements, at the August 22<sup>nd</sup> meeting, the Board discussed the scope of the 4 or 5 site improvements that were recommended by Mike and the consensus of the Board at the time was to narrow that focus down to 2 improvements basically those 2 improvements

that Carl had alluded to earlier. The applicant has submitted the requested information and it has been reviewed by Mike. With respect to the Y Corner intersection plan, some of the highlights from my point of view would be as follows:

1. The Chemung Road approach to the intersection would be regraded and raised over a length of approximately 280 feet.
2. Turning movements and sight distances are improved at the intersection.
3. The maximum depth of fill on the Chemung Road approach would be 4-5' (reference sta. #'s 6+50 to 7+50 +/-).
4. The width of the new approach would be 22' to 22.5' of travel surface. This is slightly wider than what is there at present, yet is consistent with the existing width immediately to the east.
5. Fill slope extensions remain inside the existing ROW.
6. The plans indicate two trees would be removed and notes that the minimum # of trees should be removed as necessary to construct the improvements. Mike in his review of the plans has estimated that as many as 3-5 trees might be impacted.
7. The engineer calls for two signs to be placed on Higgins Road as traffic enters the intersection; one being a speed limit sign, the second being an intersection symbol indicating that traffic is entering the intersection.
8. Paul Fluet estimates the construction cost at \$33,443. with allowances for mobilization, contingency and inflation, the project total is estimated at **\$44,246.**
9. Mike has reviewed the plans and estimate for this limited improvement and Mike is comfortable with the improvement as presented (see correspondence dated 10/20/06 for reference).
10. This portion of Chemung Road is designated a Scenic Road. The proposed tree removal will trigger the provisions of RSA 231:158 which requires prior written consent from the Planning Board after a duly noticed public hearing.
11. The engineering plans do rely on survey data provided by Associated Surveyors and final plans need to be stamped by the surveyor.

With respect to additional gravel to Higgins Road and New Road:

1. Applicant has submitted a proposal from Ambrose Bros. to add 1 1/2 in. crushed gravel to Higgins Road and New Road through to the Sanbornton town line.
2. The estimate covers a total length of 5560 lf.
3. There are two estimates, one estimate is for a thickness of approximately 2-3" with an estimated cost of \$18,540. The second estimate is provided for the 6" of thickness which is what was specified by DPW for a total cost of \$45,900.

4. Ambrose Bros. indicates in their opinion that the existing crushed gravel appears to be adequate and that adding 6" could cause problems such as soft shoulders and deeper ruts during mud season.
5. Mike has reviewed the Ambrose Bros. proposal and is requiring the 6" of crushed gravel (see Mike's correspondence dated 10/20/06 for reference). According to Mike, when the roads are graded, DPW gets into the 3"- 6" base gravel. The additional gravel will help with drainage and limit ruts during mud season. Mike has expressed his concern over the negative effect that nine additional homes will have given these limited upgrades that are being proposed. Mike further notes that these are gravel roads and that mud season, potholes and thru road traffic will continue to exist especially as a result of the subdivision.

So here we are, we're left with the traffic study, we're left with the improvements that you have directed to be looked at and priced and then the fundamental question is where do you go from here and how do you proceed. What I've tried to lay out on pages 57 and the top half of 58 are two ends of the spectrum.

#### **DISCUSSION.**

IF the Board were to find that the existing infrastructure cannot bear the impacts associated with the proposed 9-lot subdivision without posing an undo threat to public health or safety, THEN either one or both of the proposed improvements would need to be funded by the applicant at 100%, otherwise, it could be considered scattered and premature. If we assume the Board concurs with Mike's recommendation of 6" of gravel as noted above, then the total cost of both improvements is **\$90,146**.

On the other end of the spectrum, IF the Board finds that the existing infrastructure can bear the impacts associated with the proposed 9 lots without posing undo threat to public health and safety, THEN either one or both of the improvements could be viewed as "desirable" as opposed to a strict necessity. In this context, the Board could accept some proportionate share. The Pernaw proportionate share analysis suggests the developer's share for the Y Corner upgrade (referred to in his memorandum as Area C) should be at 24% and the developer's share of improvements to Higgins Road and New Road (referred to as Area D in the report) should be at 50%. If we use the cost estimates provided by the applicant, and apply the Pernaw percentages (from the 7/21/06 update), the developers' 24% share of the Y Corner upgrade would be \$10,619 and the developers' 50% share of the gravel upgrade (assuming the 6" thickness) would be \$22,950. The combined value of these two proportionate shares is **\$33,569**. For the Board's information, I point out that the May 2nd Pernaw report states that the total contribution (initially from the four project areas that were discussed back at that time) could be used to fund one or more of the projects in their entirety. However, based on the Board's revised downward scope to include only the two areas and estimates recently

submitted, the \$33,569 would be insufficient to complete either of the two improvements as was seemingly suggested by Mr. Pernaw recognizing that the scenario was different back in June. Under this scenario, the Board could grant an approval, however, not knowing whether the town meeting would appropriate the municipal share within the 6-yr window that is provided for in State statute. If the appropriation at town meeting within that 6-year window does not occur, improvements would not be made and the funds would be returned to the applicant with interest as is provided for in State law. The Board under this scenario would need to be willing to accept the possibility that the subdivision could potentially proceed without improvements being made. These are two of the extremes as I understand it. The proportionate share figures as identified in the Pernaw report on the one hand and 100% of the two improvements on the other. Finer – Is there a burden of proof placed on either the applicant or the Town? Do we need to prove that they need to fund it 100% or do they need to prove that they don't need to fund it 100% or is it entirely up to us to figure out. Edgar – You'll open it up to public comment in a minute so you'll have that piece of it, but I think at the end of the day it's your call. You have to decide whether or not improvements are warranted and if so what is the reasonable, fair and appropriate contribution that would be provided by the applicant. So at the end of the day, it's a decision that you have to make. The statutes require reasonableness, in prior public hearings and in briefings with counsel we've reviewed issues regarding proportionate share so I think as a Board, you should be up to speed with that legal issue and how it may apply here or may not apply here as the case may be so I think you should have a sense of those issues and we also have spent considerable time talking about the law on exactions and the issues associated with proportionate share and so you have been briefed on those issues in the past and we now have numbers to put to those concepts. Vadney – When you say, not knowing whether the town meeting will appropriate the municipal share, it's my belief that doesn't have to be a separate warrant issue, that could be folded in as part of road maintenance but the Town would approve in a way by approving the general budget but it does not have to be a specific warrant article. Edgar – That would be my understanding, the ordinance doesn't say it has to be a separate article. Basically, it refers to the town meeting because that's where appropriations occur. I'd also like to point out, as a practical matter, the Planning Board does have the authority to require proportionate off-site improvements that are necessitated by development as an element of a conditional approval and I'm saying this as a general matter. But also the governing body, that being the Board of Selectmen, is ultimately the custodian of public roads and therefore concurrent approval from the Board of Selectmen authorizing improvements to public ROW's that are required pursuant to a Planning board decision is also a necessary condition precedent to final action on the part of the Planning Board. That's a general statement, it will have applicability to another application tonight and on of the 14<sup>th</sup> as well. That's the best I can do in terms of putting some kind of context to the off-site improvements. Bayard – I just want to verify that the Town Selectmen



basically are responsible for deciding whether the recommended improvements are appropriate or not. Would they weigh in on whatever share or lack thereof or whatever is decided? Edgar – To the best of my knowledge, the issue of proportionate share is the determination made by the Planning Board and further, the Selectmen have the custodial responsibilities for public rights-of-way. My assumption is that they are not going to second guess the Planning Board. The Planning Board has the authority and the responsibility to prescribe off-site improvements if they are warranted but it will be up to them to weigh in and they need to have a level of concurrence with this Board. They are not all of a sudden going to assume subdivision authority but given their custodial responsibilities, there will need to be some level of concurrence demonstrated by the Board of Selectmen when one of your projects has implications relative to physical improvements to a ROW over which you do not have specific jurisdiction to authorize that improvement so you can require it for purposes of getting to your final approval but at the end of the day, we need a green light from the Board of Selectmen relative to the improvements to the public ROW. That has been reviewed by LGC as well as Town Counsel and I'm very comfortable with that statement. With respect to a couple of the other ancillary issues, there has been discussion in past hearings about lighting. We do have language in the Covenants relative to private residential lighting. One of the comments that was made at a prior meeting was that they would agree not to install street lights up the length of the road and I think that agreed-to stipulation would need to get memorialized in some fashion as a plan note or something to that effect. The typical requirements for performance guarantees would come into play. They are enumerated on Page 58 of the report. In essence the bottom line is that the Planning Board will need to determine the amount of the guarantee following a compliance hearing. The form of that guarantee would either be cash or letter of credit. We would approve the format of the guarantee instrument. The scope of the guarantee would include the internal road construction, drainage improvements, erosion control, site stabilization and possibly the off-site improvements, depending on if they are required and how that issue plays itself out. The amount of the guarantee ultimately provided to the town would be dependent in part on whether the applicant chooses to either build the road under conditional approval after all other conditions have been met, or provide the full guarantee up front then and then proceed to record the final plans. In either event, these issues will need to be addressed at a subsequent compliance hearing. We did get a slightly revised set of restrictions, easements and covenants. There is one, I believe it to be either something I missed the last time or possibly a new provision and that is where there would be a 20' easement right reserved on either side of the road for the length of the internal road in part for the purposes of planting trees to enhance the appearance of the roadway so it's an easement right that's been reserved on the individual lots to potentially plant additional trees in the roadway section. There was one outstanding very minor comment that I had picked up the last time around and that is that Section 9-a deals with assessments and also refers to and makes reference to signs, gates and

community lighting as being part of what the folks are collectively responsible for and I've raised the question, are any of these items proposed to try to determine whether that's just boilerplate language or are we in fact planning to have gates, signs and community lighting and if they are proposed, they should be identified on the plans so that they could be evaluated and discussed. Several lots will be encumbered by electrical and utility easements. This should be noted on the subdivision plan so that the subdivision plan and the utility plan are generally consistent. Lots 8 and 9 would be served by a common driveway so there would be an easement over Lot 8 benefiting Lot 9 and that would also require specific easement language regarding private shared maintenance responsibilities. Similarly, Lot 5 would require an easement over Lot 6 potentially. Our practice is that the applicant's attorney would submit draft language for review. The proposed subdivision does involve two existing lots of record. The subdivision plan, or perhaps an existing conditions plan, should identify the parcels, acreages, assessors references and deed references and eventually these would get merged prior to final plans. I think that may have been done on one of the prior subdivision plans. At the end of the day, the two parcels will need to be merged prior to the recording of the subdivision plan with standard language regarding pins and a couple miscellaneous items. Based on the potential to resubdivide the one large lot, the Board should consider adding a stipulation in the covenants as a condition of approval that any lots created subsequent to the original subdivision with frontage on New Road would have access only via the subdivision road. One item that I brought to Carl's attention recently that was not in any of the prior staff reviews, it's kind of a quirk we've run into on some projects regarding mail delivery. The United States Postal Service won't deliver mail to the best of my knowledge to individual houses on private roads and so they prefer to have some kind of a gang mailbox that can be established a short distance in on the private road so that the delivery person can make one drop-off as opposed to delivering mail to individual homes on private roads and so I've flagged that and just ask that the applicant consider contacting the Post Office to address that issue. Finally, it has been brought to my attention recently by the Finance Office that we will need to replenish our technical review escrow on the engineering account and square that up with the applicant before the project's finalized. Kahn – In coming up with these numbers, what is the definition of cost? Is it materials, labor and machinery? Edgar – My understanding is that these costs are in place prices. In other words, they are total costs. One of the concerns that we had before was that some of Mike's earlier estimates were for materials only so when the engineer, for example, on the intersection project as a unit price takeoff, it's in place pricing and on top of that we factor in mobilization for example that would cover any administrative costs to administer it if we would not do it with in-house forces, we would contract it out, perhaps bid it and the mobilization fees and contingencies cover what the Town's cost would be to administer that project so my understanding is that the prices are in-place pricing. The proposal on the gravel is from a company to do the work so that may be a little

more straightforward so it is my understanding these are not materials only, that this is in-place pricing. Worsman – John, did Mike have any of these roads on his horizon within the next 5 years? Edgar – I know for a fact that none of this work is in the Capital Improvements Program and to the best of my knowledge; it's not in his work plan schedule. Kahn – I don't think that the Town ought to get into having a responsibility to pay for these improvements. We've kind of negotiated with ourselves and at the suggestion of the applicant's engineer giving up some projects that Mike wanted to do because we didn't feel that it was reasonable, we accepted the applicants engineer's position that it wasn't reasonable to require the applicant to pay for projects at such a distance from their development so we backed off and now we're back to Y Corner and to New Road and I find again that we're negotiating with ourselves but if you take the position that the \$90,000, as to ?? the other numbers I've already given my views on the traffic engineer's study and that is that his statistics are so thin, they should not be given any weight whatsoever. But I have a couple of other problems with that study and that is with respect to Y Corner, the problem with Y Corner is not vehicles passing from Chemung Road to Carleton and vice versa, the problem with Y Corner is Higgins Road and this development is going to access Chemung and Carleton through Higgins Road so to take traffic that just passes by Higgins Road and add that into the base for determining what is a fair share for the Town and a fair share for the developer strikes me as not appropriate. If you threw out traffic passing from Chemung to Carleton and vice versa and only took into account the traffic turning into Higgins or out of Higgins plus the traffic that the traffic engineer assumes will come from the development, I think you'll find that Higgins Road and New Road share for the developer gets up to something close to 60% on Y Corner. Similarly, with respect to Higgins Road, the traffic engineer (I was out there the same day and time and didn't see him but they counted me), they also assume they did all their counting at Y Corner. They have no idea what happened to traffic once it turned into Higgins Road, or where traffic coming out of Higgins Road came from. There are houses on Higgins Road, I think 3. In January the traffic engineer assumed that every car coming in or out of Higgins Road went down New Road. I don't see there's any basis for that, some of that traffic came from Higgins Road so I can't tell you what the effect of that would be but it seems to me that even if you assume that all traffic turning in and out of Higgins Road came into or went down New Road, the developer's share really is about 64-65%, but we're negotiating with ourselves. Why can't we make up our minds that there isn't going be a development here unless those two projects at a minimum get done and not at town expense. That's my view. You have to put it in sort of the legalese that unless those two projects get done, this development is scattered and premature and therefore there ought to be on the developer's ticket to pay for upgrading Y Corner so that you eliminate the safety hazard of traffic turning in and out of Higgins Road which is the only real safety hazard there. Traffic moving back and forth from Chemung to Carleton, they've got to be careful not to head-on each other, but that's a problem with our little dirt roads all over the place. The real issue

at Y Corner is traffic turning in and out of Higgins and it seems to me that's the developer's responsibility if the developer wants to have a development up there and with respect to New Road, there aren't any houses on New Road. There's a little bit of traffic that goes through there from time to time but it's hard to say exactly how much, certainly the amount that the traffic engineer found in January was actually greater than the amount he found in July. I think that New Road should be entirely the developer's problem and if we approve, I'm prepared to approve the development at this point, but I don't think that this Town should have this ongoing problem as to where are we going to fund the rest of it. Worsman – I guess I have to weigh in with Lou. I also am concerned that the Town of Sanbornton has said, Meredith make sure those roads are accessible because you're not going to get emergency vehicles up through the Town of Sanbornton. That means no matter what, that's what we have and if we've got 3 houses there and we're adding 9 to that, that means a fairly sizeable amount of vehicles and I happen to live up in that area so I know what those roads are like? I'm with Lou. Bliss – Mr. Chairman, a couple questions. Mike's request for 6" of gravel. Do we know what's on the rest of Chemung roads out there and is there 6" on the rest of the roads or is this just something he's asking for this particular piece? I guess my feeling as far as the road updates because we did put it down so far, I would favor the developer paying for the whole piece for these two pieces, but I would like us to figure out is it the 2-3" of thickness or is it the 6" because I don't think it's fair if we ask them to put 6" down if the rest only has 2-3". As far as the property restrictions, easements and covenants, one of the questions was as far as this section refers to signs, gates and community lighting, is there a gate proposed at the end of the road? Vadney – John, do you have the answer to the gate one? Edgar – No, I was raising the question so we'd get that addressed one way or the other. Gates, signs and community lighting were the 3 things that were included in the document. Johnson – If we could respond to that later, I'd like to respond to a couple of things that came up which I believe are significantly germane to the discussion. I think it's important for the Board and the public to remember that none of the improvements from day one off-site that were identified by Mr. Faller were improvements that were going to be caused by the development. They were issues with Chemung Road, Y intersection and New Road that existed then, but now will exist whether the development adds 7 lots or not and Mr. Pernaw points out in his report and I'm quoting from it. In our view, implementation of any of the four improvements is desirable based on existing conditions that were observed regardless of the traffic volume using these facilities. We all recognize that the Y Corner needed to be improved and the other improvements initially noted were identified as existing situations based on existing traffic levels. And Mr. Pernaw goes on to say, "these improvements are not mandated by the small increase in peak hour traffic from the proposed subdivision. If no improvements were completed at these locations, the prevailing traffic operations, capacity and safety conditions would not change significantly due to the small increase in traffic anticipated from the proposed subdivision. Nevertheless, the proposed subdivision will create

some impact; therefore, it's reasonable to participate proportionately towards improvements to these areas that are currently of concern. So when the Town or the Planning Board starts talking about requiring a developer to participate in the 100% improvement of an existing traffic condition, I believe it's totally unfair. I believe the burden of proof was provided by the applicant by the hiring of a traffic engineer. It's not our opinion, my opinion or the Ducharme's opinion, we hired a professional, perhaps Mr. Kahn doesn't happen to agree with the professional, but we hired a professional and produced a document from his office that details the traffic situation based on his calculations. That is something that the applicant provided to the Planning Board, that's the document that we believe offers up a fair and proportionate share to the improvements based on some impact that the development will cause to those existing traffic situations. Vadney – Carl, I agree and I suspect most of the Board agrees with the basic thought that those 4 locations have been a problem for many years, they were probably on Harold Wyatt's list of things to do when he was the Road Agent. That being said, the Town had no immediate plans to do them. In other words, they were willing to put up with them for another 50 years. I think what Lou and Pam and Colette have said here is, they are looking at this as the \_\_\_\_\_. There's no question, those situations existed, but they are saying the Town had already accepted putting up with the situation except for these 7 additional, 9 total, so I think that needs to be clarified a little bit. I guess my response to that, Mr. Chairman, would be going back to Mr. Pernaw's statement that if no improvements were completed at these locations, the prevailing traffic operations capacity and safety conditions would not change significantly. That's his observation based on the development. If no improvements were completed at these locations, meaning nothing was done for off-site road improvements, the prevailing traffic operations capacity and safety conditions would not change significantly due to the small increase in traffic anticipated from the proposed subdivision. Vadney – To a degree that says the danger out there right now is so low that if you double it, it will still be pretty low and I'm not sure that's an argument that we want to get into. Johnson – The other thing I would mention is that based on the observation of Mr. Kahn, if the Town were to issue 7 building permits for 7 currently non-built on lots that were serviced by Chemung Road and the Y intersection, there would be some major increase in the safety hazard to that intersection and I think again that's not the case and Mr. Pernaw makes that clear in his calculations and his observations. Vadney – I want to comment on something that Pam said as far as the thickness of the gravel. I don't know that it's our job and we shouldn't get into engineering it, my concern is the same one but for a different reason. Trying to defend some of the abutters who were opponents of this project, one of their major reasons to oppose it was the change in the ambience of the neighborhood and Pam questioned how much gravel was on some of the other roads up there, one answer is too much and the other answer is not enough but when you put more and more gravel on an existing road, it doesn't all go up, it starts to go out and over time, if we put 2' of gravel on that road, it wouldn't be too long before traffic and

plowing would make that road about 5' wider and that's not the kind of thing the neighbors were looking for so I'm a little concerned that the 6" amount, I don't care about the price of it, I'm more worried about whether that is a step in the wrong direction as far as the scenic qualities of that road would be a slight overbuild. That would be my point on it. Johnson – One important reminder for the Board is that along with the unit cost estimate that was provided to the Town by the engineering firm. Mr. Ambrose took Paul Fluet's plan and provided in the packet a real cost estimate for doing those improvements to Y Corner which is significantly less than the unit cost estimates. As we all know, unit cost estimates are based on other estimates for gravel, labor, contingencies, surveying, engineering and so forth and other elements that are added to that number that would apply to real world situations in terms of hiring a contractor to go and actually do the improvements that are identified in the plan so I think it's important not to disregard the number that Ambrose Brothers gave for the Y Corner improvements which is \$20,400.00. Worsman – That is for the 3", correct? Johnson, there are two separate issues. The improvements to Y Corner intersection are based on Mr. Fluet's plans and are \$20,400.00. Mr. Ambrose provided two separate estimates for the improvements of Higgins Road and New Road, one would be the 2-3" thickness of \$18,540.00 and then the full 6" thickness of \$45,900.00 so the thickness of the gravel applies to Higgins Road and New Road, the \$20,400.00 applies to the improvements at Y Corner. Worsman – John, can we ask Mike what the gravel level is feeding into those roads. I know my gravel road when it's graded; they do go down quite a bit so that might make a difference in our decision. Is there 3" of gravel on the roads feeding to the Higgins/New Road and Y Corner section or is it 6" that feeds into this area. Bliss – Just a clarification if I'm understanding Carl correctly, what you're saying for the Y Corner intersection that \$44,246.00 number is not correct and it goes by the Ambrose estimate cost which is \$20,460.00. Johnson – I would not say it's not correct, there are two separate numbers that are provided, one is a unit cost estimate developed by the engineer for the improvements coinciding with his engineering design and what he does, because he doesn't call up the dirt company and ask them specifically what the yardage will be, he has numbers that he uses from other projects that basically are an insurance number to guarantee that the number that he's representing will fully cover the extent of his services. In addition to the numbers of the gravel, the drainage and so forth, he's got contingencies for mobilization which is \$1,600.00, engineering, legal and construction contingencies are \$7,000.00, cost inflation of 5% of sub-total 3, which is \$2,000.00, there are a lot of contingencies built into the unit cost estimate. That's how he gets to the \$44,246.00. Mr. Ambrose's estimate is based on taking Paul Fluet's plan, seeing what has to be done, knowing how much he has to buy the dirt for and how many man hours it would take to complete the work and he provided the estimate. That estimate provided to the Ducharmes and submitted with the papers is \$20,400.00 so it's less than the unit cost estimate by Mr. Fluet. Neither one of them are correct or incorrect, they are two separate numbers. Vadney – Are you suggesting the

\$24,000.00 reduction could be the Town's portion that it won't have to pay? That's not what I'm suggesting, but that was a good try. Finer – It's actually map related to the roads they're on. In their restrictions and covenants under exterior fuel tanks, it says no exterior tank for the storage of fuel may be maintained on any home site unless buried or housed in a structure approved by the Building Committee. I want to make sure that doesn't supersede the Fire Chief and there's somewhere in there, the Building Committee has to go through the Fire Chief. Johnson – I believe the Certificate of Occupancy process covers the sources of fuel and Mr. Edney and Chief Palm coordinate on Certificates of Occupancy before buildings are occupied. There's no way a Building Committee can override the Code Enforcement Officer or the Fire Chief. Marc Abear – As you know I'm an abutter and I'm not in favor of the proposal. I'd like to thank Mr. Johnson for bringing up the traffic study. I think it does have a very salient point in it, that being that the road network that exists in the area is so substandard that it really doesn't make a difference, the 7 or 8 or 9 houses really don't make a difference. The Town's going to be on the hook to develop those roads, the question is to what level, at what cost, at what time? Scattered and premature is based on having the infrastructure in place before you do the development. The question for the Board is going to be when, at what cost and who's going to pay? It's been the issue since the beginning, it's really the issue before the Board, how are you going to develop Meredith? Are you going to put a patchwork of subdivisions out there and then hope to connect them. How are you going to find out what impact that is going to have on the area? What does the Master Plan really give us for guidance? Are you going to follow it? They're all the issues that have been raised before. A lot of folks have taken a more laid back position than I. I would like to thank the Board for their considerations. The discussion that I've heard tonight leads me to believe that the decision is a foregone conclusion. The discussion of how much to fund the project has to go through a public hearing process meeting the scenic road provisions. If you are approving the project without giving any consideration to the public hearing process for the scenic roads, you are bypassing the input that will come from the public. You already know there are a lot of people out there that are going to be interested in how wide, what are we cutting and what are we leaving? Even the improvements that you will require apparently do require the scenic road provisions are in place. If you make the decision without making this a subject to, I think it's inherent, I would hope that you would consider that course of action carefully. It certainly seems that the Board has already arrived at a conclusion. Thank you very much. Paul Fortier, 67 Roxbury Road – I'd like to remind the Board of what Frank Michel had said at the last meeting and that was that Y Corner was a safety issue well before this started and it was the Town's responsibility to fix it. That was a Selectman saying that. If I remember correctly, Mr. Vadney, you said something to the effect that there's no higher authority or made some sort of comment that a Selectman was saying it is the Town's responsibility to fix that so speaking of proportionality, I'd also like to comment about something that's a concept and that is if traffic is

flowing freely through Y Corner from Chemung through Carleton and the only problem is Higgins Road, this could be settled with just a STOP sign on Higgins Road if that's the issue. Put a STOP sign right there, those people stop, and end of story. Vadney – The reason a STOP sign won't do it is the sight distance. Whether you stop or not, you really can't see a whole lot when you proceed around the corner. Bayard – I really do think there is a safety issue at Y Corner. I think to add this many new houses in that thing is bordering on the premature and scattered. There's a safety issue there that needs to be resolved. The fact that there are a few houses out there already is somewhat irrelevant in my mind. There are houses all over the place. There are houses in places that do not meet current day standards of what road design is or where people would normally think a house should be located. That's an existing condition. I think this is a safety issue with that many units out there and needs to be addressed. I also think there does need to be some gravel on New Road. I don't want to second guess Mike Faller as to the exact depth but I certainly think the safety question may get to the lower amount and to get above that you may be getting into perhaps what might be proper design or optimal design, but I certainly could see we should be requesting the full Y Corner and to some level at New Road because this project will be on New Road. If you go into Sanbornton, those roads are in even worse condition and I only see that there's probably a lot of thru traffic. Kahn – I'm trying to think of a way out of this. It seems to me that there really is an issue of fairness with respect to the amount of gravel that goes on Higgins Road and New Road. I don't know how we resolve that. None of us are highway construction engineers. If Mike is sort of putting down the optimum amount of gravel, something that he has never seen before on another gravel road, it would be unfair to ask the applicant to fund that, but I don't really have a good solution unless we sort of adopt Pam's solution and that is that the amount of gravel shall not exceed the average amount on all of the gravel roads in the Town. Maybe that's the answer. Vadney – Except that tends to be unknowable. Kahn – I think it is because I think if you look at the low-lying portion of Hermit Woods Road, there's an awful lot of gravel there that isn't on the rest of Hermit Woods Road so I'm sort of at a loss. Maybe the answer is that despite Mike's objection, maybe we just simply cut the baby in half and come up with a fixed number that doesn't get Mike everything that he asks for and that gets it off our agenda. Vadney – We could make the proportionate share that the applicant pays for the first 3" and he can put as much as he likes out there but he's got to pay for anything above 3". Worsman – If I may, Mr. Chairman, is there any way that we can approve it and the road issue be the level of gravel be discussed with Mike and he's the one who maintains our roads, he's the one who knows if he were to go in there and do that road what it would take, what it would do, rather than second guess him, allow him to come up with what his suggestion is and that's what would end up happening. Bliss – Mr. Chairman, if I could just make a comment to that effect, Mike does know his roads, but I am a little leery because we do know that he was asking for improvements way back, far back on the road so I kind of agree with Herb that he's looking for the



big improvement because he thinks it might happen so I'm a little leery of going back. Is this a wish list of his or is it a necessity and in my mind, him asking for all the road improvements all the way back through kind of says it might be a wish. Kahn – There's another issue also that I don't know how to resolve and that is the issue of the cost of the Y Corner improvement. I don't know how you resolve that. I suspect that if it can be done for less than Fluet's estimate, there's no reason it couldn't be done for less than Fluet's estimate as long as it's done to the satisfaction of the Town's Public Works Department. Maybe we could word it that way. Basically, the applicant is responsible for improving Y Corner to Mr. Fluet's plans but the cost to the applicant shall not exceed \$44,246.00. Vadney – John, could you clarify for us, I would hope if they find a way to fix Y Corner following Fluet's engineering and it costs \$10,000.00, they don't spend \$44,000 for the fun of it so how does that process work. What does that \$44,000 really mean? Edgar – My guess is that the project probably would be bid and the estimate with the contingencies is to cover that and the bid amount and whatever goes with it is ultimately what an applicant would be responsible for and so maybe the way to think of it is a not-to-exceed figure and if at the end of the day we contract with Ambrose for \$20,000.00 they would pay the actual costs to complete the improvement and if its significant savings, then they would pay the actual cost but not to exceed or you could ask for the \$44,000.00 and then bid it. Vadney – Fluet's engineering drawings should be enough to make those bid proposals. Edgar – Absolutely, and that's basically why we look at the unit costs is because they are very neutral costs not assuming that someone has a good price on gravel or whatever, they are what they are from the engineer's estimates and at the end of the day if we didn't need that amount of money to complete the improvement, then it would be prudent to not require an applicant to pay more than was necessary to finish the improvement. Johnson – Can I ask a question, I have something to offer the Board in terms of an amount and proportionality if that would be appropriate. Mr. Chairman, based on the estimates that we received from Ambrose Brothers and the relative difficulty the Board has with the proportionality at Y Corner, the applicants would be willing to offer a 100% improvement to Y Corner based on Mr. Ambrose's \$20,400.00 and 100% of the 3" of gravel for Higgins and New Road in the amount of \$18,500.00 for a total amount of \$38,900.00. Vadney – Is this a contract in hand, this \$20,400.00 for Y Corner. Bliss – It's in our packet. Johnson – If it would be helpful for you, Mr. Ambrose is also in the audience and can answer some questions, but I believe it's an estimate that's a signed contract between the Ducharmes and Mr. Ambrose. Bliss – That estimate does say \$20,460.00. Vadney – I'm a little uncomfortable proceeding with a single bid, the lowest number we've seen. If it turns out when they get into it that it doesn't do this, I don't want the Town left with the extra \$79,000.00 or whatever the cost. Edgar – One caveat could be to ask the Board to provide that the DPW approve the contract. In other words, it might be appropriate to provide more specificity to it rather than a lump sum just to make sure we know what that covers. It does refer to the plans but maybe there's a way to provide

for some approval of more specificity to it to give the assurance that.. Vadney – Lou, do you have a thought on that from a legal standpoint? Kahn – I'm kind of stumped here. Bayard – Looking at page 78 and the \$20,460.00 is listed as estimated costs for improvements to Chemung Road and Y Corner intersection as per plan by Paul Fluet. To me that's a little fuzzy. The second one, while it's not in great detail, and this is something I think they do pretty standard is putting down the stone, if you look at the one cost 2-3" is that and then you kind of multiply and add for whatever extra trimming and the two numbers would be pretty similar mathematically and there's a note on here as to what it does and all that so I'm not too uncomfortable with those cost estimates. The first one I'm a little less comfortable and keeping in mind there would be some Town costs associated with that too if they are minor, perhaps they could be absorbed but if there is a lot of oversight costs, you might be adding another \$5,000.00 to that but that's something I would have no idea about. Bliss – If I can throw my two cents in, first of all Ambrose Brothers has been around for a long time, it's not likely they do low standard work. I think just like we respect Mr. Pernaw's report and what he does, we also to a degree have to respect Ambrose Brothers proposal and know that they are not going to throw that out there unless they are prepared to do it and it does say per plan by Paul Fluet and if we put in the conditional approval what John has listed here (his 11 conditions), isn't that what they have to do? Edgar – Mr. Chairman, could I throw in one other wrinkle? I think similarly you have to provide a level of deference to Mike and his expertise, if we're going to accept Mr. Pernaw's expertise and Mr. Ambrose's, I think, in fairness to Mike Faller, he does have a pretty good handle on what it takes to maintain our roads so I don't want to leave anybody with the impression that we would be selling Mike short. With that said though, here's maybe another way to think it through. If we look at Y Corner as principally being a safety improvement regardless of level of service, level of capacity and the bottom line is it's a safety issue and the Board could reasonably take the position that we're not obligated pursuant to subdivision to send significant additional traffic through the intersection if it's significantly problematic. That would support the notion of 100% of something notwithstanding if that was not fixed reasonably, then maybe the subdivision doesn't go forward so there would be a logic to looking at that as 100% of something and maybe this something has to be worked out further but at least getting beyond that so it would in all likelihood not be more than \$44,000.00 but very well could be less and maybe that something has to be worked out with a little more specificity between perhaps Ambrose and Mike or something else because I think there is a cost to the Town to oversee the project that's not yet factored in the numbers and Mike may have some questions of the \$20,000.00 to make exactly sure why is it that the engineer's estimate and this one are \$33,000.00 off in terms of construction costs. I think that differential could or should be examined and if we all benefit from some very well priced discounted gravel costs or something, then we don't need to get more money than is necessary to complete the improvements so there is perhaps a logic to looking at that one project differently than the gravel on New Road but this is

safety driven and if it wasn't improved reasonably, the project wouldn't go forward and therefore 100% of something might be appropriate. Conversely, the gravel on New Road is different, it's not as much safety as it is the condition of the road itself and I guess by extension it's safety but we heard a lot of testimony about mud conditions and I think you guys were even out there during mud season to get an appreciation for that and we would be adding substantial additional traffic to the road during those seasons and so forth but that would be maybe to use the engineer's word, more of a desirable improvement as opposed to an absolute necessity and therefore might warrant the proportionate share. So maybe we look at 50% of something on that one and maybe we can narrow the focus to say it's going to be a 100% improvement of Y Corner of something that we know would be not more than \$44,000.00 but very well could be less and 50% of the gravel improvement that depending on what Mike gets back to us under your further interrogation because I certainly can't answer those questions, but they are fair to ask, I don't have the answers and in that case it's going to be 50% of not more than the \$45,000.00 but could be less depending on how you ultimately weigh in on the 3" vs. 6". So I think if we at least could come to that consensus, that's going to provide additional focus. If we have to come back at a compliance hearing to look at the numbers for the internal road anyway, that's where we could ask Mike specifically to be at the next meeting and we could try to resolve if we could come in with a lower number than the \$44,000.00 given the Ambrose quote for Y Corner and then he can address the more particular questions of the depth of gravel as was raised so if you were in an attempt to try to move something forward, it could be under the premise or under the condition that the developer pays 100% of a figure ultimately to be determined but not to exceed \$44,000.00 for Y Corner and the applicant would be responsible for a 50% share of the other improvements not to exceed the \$45,900.00 but the actual figure to be determined by this Board at this compliance hearing. That's maybe just another way to kind of move it forward without still getting your questions answered. Worsman – My concern again is the requirement of the Town to come up with the tax base to bring up that road. Regardless, the Town's going to have to pony up in the next 6 years. Are we in a position where we could continue this and talk to Mike about some of these issues that have been raised and come back to this? Edgar – One way to address that would be that if they are paying 100% of something on Y Corner, there's no 6-year issue because we would come with a figure \$20,000.00 or \$30,000.00 whatever we end up with, we'd contract for it, we'd get the work done and that would be that. The 6-year issue pops up when you're dealing with proportionate shares so the 6-year issue would apply only to the second of the two improvements. If in all of this good faith negotiation, if the applicant were to waive their right to the refund in the 6-year issue, if they were to waive that then the Town could go forward with a level of gravel improvement to the road and not run the risk of the money being returned and having no improvement made to the road and if there is a concern that if no improvement were made to the road and if that is reinforced by concerns about

scattered and premature development, it would strengthen the argument to solicit a waiver of that refund provision and in light of all the discussions we've had, that very well may be something that could at least in part substantially address that concern. Vadney – John, I'm concerned here that either these improvements are needed or they're not and assuming that any of these homes would be built within the next 6 years, I don't care if they waive their right to return money or anything else, the question is are the houses going to be built and the Town caves in and doesn't fix the road, then we've got a bad situation. I think from what Lou was suggesting, he was saying this Y Corner needs to be fixed before they go forward and I would agree with that. I don't know why, I hate to call Mike in on a compliance hearing and go through it all. I don't know why we couldn't put the 100% of the \$45,000.00 on Y Corner, it's 100% if they can find a way to do it for 12 bucks, that's all they have to pay so that's not hurting them, that's kind of the worst case, the Town is protected from the 25 high side and the applicant is protected if he can find a way to do it cheaper, he gets it cheaper from the graveling of the road if it's a 50% split on the gravel, I'd be happy if he said put 3" on and then pay 100% and put as much as you want on and you pay the rest of it but I don't know how I would word that in a formal motion. I would hate to see us get in an argument over it's a \$20,000 maximum but we have an add-on for the Town, just put \$35,000 on there with a 100% requirement and if they can find a way to do it cheaper, fine. If they don't want to do it, they can put it all together. Kahn – Suppose we provide that it's their responsibility to rebuild Y Corner according to Fluet's plan to the reasonable satisfaction of the Town and that the cost to them shall not exceed, they are going to pay 100%, it's got to be done to the Town's reasonable satisfaction and the cost to them shall not exceed this estimate. Then with respect to the gravel, I'm with you, I think I'd rather see the number fixed, that it's their responsibility to put down 3" of gravel and can we figure out what the cost of that is, \$18,540.00, and the cost to them shall not exceed this amount. I guess you don't have to worry about the reasonable satisfaction of the Town, yeah I guess the gravel has to be applied in a manner that is reasonably satisfactory to the Town. Vadney – Which I suspect that the person applying the gravel is the one that normally goes under contract anyway or frequently does. Kahn – We could work that out, we could word that and then we have it fixed and we don't have a call back and we've got these two issues taken care of. It seems to me we could do it. Finer – I just have one question here, could it be done that they are responsible for 100%, their cost to be figured out however they want to do it, but we put in a performance guarantee for Mike's amount so that if half the price of Mike's doesn't work, it's covered under a performance guarantee for Mike to come in and fix it. Edgar – Well, that might work, I guess if we were to agree to a number which is ultimately agreed to by the applicant, in other words they decide to move forward with the approval, the simplest thing is to make a payment that covers what we've got to do and the Town would oversee it so we know it's done to the Town's satisfaction and we only spend what we need if you will. That's probably preferred rather than have the applicant be the

general contractor and sub some work out in our ROW. I think the Town's preference probably would be to provide some level of oversight so if they made an agreed-to payment, then there would be no need for a guarantee that the improvement would be completed because we would be managing it. Conversely, if they were to somehow call the shots themselves, then we would as is indicated under performance guarantee, then we would need the improvements to the ROW to be guaranteed so that we had a guarantee that they were done to the Town's satisfaction. Vadney – There's no way we can authorize the applicant to go fix Y Corner, it's got to be done through the Town. Edgar – I guess in theory, the Selectmen potentially could but I could probably read Mike's mind on that one and the Selectmen's mind is that they would probably have a greater comfort level if there was a level of oversight and coordination being provided directly by the Town and that would be the simplest to the applicant. Their carrying costs on the Letter of Credit are reduced because they don't have to guarantee anything. They make the payment, that covers what you were just talking about and they are done. We're comfortable with the numbers, they've met their obligation, they are out of the picture and then the Town would provide the oversight in terms of contracting what had to be done and the numbers would include offsets to cover the Town's expense to do that. That's probably the simplest way for everybody to proceed to get the kind of result that we're all hoping for. Bliss – With Y Corner, it would be 100% not to exceed \$44,246.00, is that what everybody agrees with. Edgar – And they would be responsible for the actual final costs, including the Town's cost. Bliss – And then, with the additional gravel to Higgins Road and New Road, it would be 100% for 3" or if Mike comes back and says yes he wants 6", it would not exceed 50% of the \$45,900. Finer – I would rather see 100% of the 3". Vadney – 100% of the 3", he can put as much as he wants out there. Bayard – For that one, my suggestion would be just to go with the number Ambrose provided, it does say 2-3". We've got one number pretty fuzzy so I'd just as soon be firm with the other if we could. Bliss – If I could ask one more question, I know I asked Carl earlier about gates at the end of the road. Johnson – We can remove that, we don't propose to have any gates at the end of the road. We intend to remove the gate that's there now. In terms of the signage, there would be a road sign identifying the end of the road and there may be an associated sign identifying the subdivision name and that can be added to the plan similar to the Clover Ridge situation. Bliss – Mr. Chairman, I do have another question as far as John's list under miscellaneous: "Consider adding a stipulation in the covenants or as a condition of approval that any lots created subsequent to the original subdivision with frontage on the subdivision road or New Road shall be accessed only via the subdivision road". Edgar – The concept there is that when we were reviewing the larger proposal, there were a couple other lots in the corner and good planning would suggest that any lots in that area be accessed via the internal road to minimize curb cuts onto New Road and so if we have additional subdivision in that area, it should tie into the subdivision road. Kahn – John, I raised this with you earlier but Mike wanted to extend

the Town ROW along the frontage of the development, he wants an extension of 17 feet, what are we doing about that? Edgar – I did discuss that with Mike recently and that had been discussed either in the prior application or prior hearings and although there are no plans to, we were talking about going to 18 feet and putting gravel down on the existing alignment so at present, there are no plans to realign that road, but the additional 17 feet would help if there was a desire to do that in the future so if that is still an option from the perspective of the applicant, the Town would be interested in acquiring that additional ROW.

Bliss moved, Finer seconded, MR. CHAIRMAN, I MOVE THAT WE GRANT CONDITIONAL APPROVAL FOR ALBERT AND DONNA DUCHARME FOR A PROPOSED MAJOR SUBDIVISION, TAX MAP R30, LOTS 3 AND 4, INTO 9 LOTS LOCATED ON NEW ROAD IN THE FORESTRY/CONSERVATION DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THE SPECIAL EXCEPTION THAT WAS HEARD ON 10/12/06 AND GRANTED SHALL BE CROSS-REFERENCED ON FINAL PLANS;
- (2) NHDES DREDGE AND FILL PERMITS ARE REQUIRED FOR THE THREE DIRECT WETLAND IMPACTS AND SHALL BE CROSS-REFERENCED ON THE FINAL PLANS;
- (3) THE UNDERGROUND UTILITIES SHALL BE ADDED TO THE ROADWAY TYPICAL ON FINAL PLANS IN ACCORDANCE WITH NHEC REQUIREMENTS;
- (4) DPW DRIVEWAY PERMITS ARE REQUIRED FOR BOTH ACCESS POINTS AND SHALL BE CROSS-REFERENCED ON THE FINAL PLANS;
- (5) THE NHDES SITE SPECIFIC PERMIT SHALL BE CROSS-REFERENCED ON FINAL PLANS;
- (6) THE NHDES DAM PERMIT IS REQUIRED AND SHALL BE CROSS-REFERENCED ON FINAL PLANS;
- (7) THE ROAD STANDARD WAIVERS FROM THE BOARD OF SELECTMEN ARE REQUIRED FOR (A) THE LENGTH OF THE CUL-DE-SAC BEING IN EXCESS OF 1,000' AND (B) A PROPOSED TYPICAL ROAD CROSS-SECTION OF 24 FEET (TWO 10' TRAVEL LANES PLUS TWO 2' SHOULDERS). ANY WAIVERS FROM THE BOARD OF SELECTMEN SHALL BE CROSS-REFERENCED ON FINAL PLANS;
- (8) THE NAME OF THE PROPOSED ROADWAY SHALL BE SUBMITTED TO AND APPROVED BY THE BOARD OF SELECTMEN IN RELATION TO THE TOWN'S 911 STREET NAME/NUMBERING SYSTEM. THE APPROVED NAME SHALL APPEAR ON FINAL PLANS;

- (9) THAT THE OFF-SITE IMPROVEMENTS AT THE Y CORNER INTERSECTION WILL BE PAID 100% BY THE APPLICANT NOT TO EXCEED \$44,246 WITH THE FOLLOWING STIPULATIONS RE: FLUET PLANS:
1. THE CHEMUNG ROAD APPROACH TO THE INTERSECTION WOULD BE REGRADED AND RAISED OVER A LENGTH OF APPROXIMATELY 280 FEET.
  2. TURNING MOVEMENTS AND SIGHT DISTANCES ARE IMPROVED AT THE INTERSECTION.
  3. THE MAXIMUM DEPTH OF FILL ON THE CHEMUNG ROAD WOULD BE 4-5' (REFERENCE STA. #'S6+50 to 7+50 +/-).
  4. THE WIDTH OF THE NEW APPROACH WOULD BE 22' to 22.5'. THIS IS SLIGHTLY WIDER THAN WHAT IS THERE AT PRESENT, YET IS CONSISTENT WITH THE EXISTING WIDTH IMMEDIATELY TO THE EAST.
  5. FILL SLOPE EXTENSION REMAIN INSIDE THE EXISTING ROW.
  6. THE PLANS INDICATE TWO TREES WOULD BE REMOVED AND NOTES THAT THE MINIMUM NUMBER OF TREES SHOULD BE REMOVED AS NECESSARY TO CONSTRUCT THE IMPROVEMENTS. MIKE ESTIMATES 3-5 TREES MAY BE REMOVED
  7. THE ENGINEER CALLS FOR TWO SIGNS TO BE PLACED ON HIGGINS ROAD AS TRAFFIC ENTERS THE INTERSECTION; A 25 MPH SPEED LIMIT SIGN AND AN INTERSECTION SYMBOL WITH TRAFFIC ENTERING SIGN.
  8. MIKE HAS REVIEWED THE PLANS AND ESTIMATE FOR THIS LIMITED IMPROVEMENT. MIKE IS COMFORTABLE WITH THE IMPROVEMENT AS IT IS PRESENTED (SEE CORRESPONDENCE DATED 10/20/06 FOR REFERENCE).
  9. THIS PORTION OF CHEMUNG ROAD IS A DESIGNATED SCENIC ROAD. THE PROPOSED TREE REMOVAL WILL TRIGGER THE PROVISIONS OF RSA 231:158 WHICH REQUIRES WRITTEN CONSENT FROM THE PLANNING BOARD AFTER A DULY ADVERTISED PUBLIC HEARING.
  10. FINAL IMPROVEMENT PLANS NEED TO BE STAMPED BY THE SURVEYOR.
- (10) THE APPLICANT WILL BE RESPONSIBLE FOR 100% OF THE ESTIMATE FOR 3" OF GRAVEL TO BE ADDED TO HIGGINS ROAD AND NEW ROAD;
- (11) CONCURRENT APPROVAL FROM THE BOARD OF SELECTMEN AUTHORIZING IMPROVEMENTS TO A PUBLIC ROW REQUIRED PURSUANT TO A PLANNING BOARD DECISION IS A NECESSARY CONDITION PRECEDENT TO FINAL PLANNING BOARD APPROVAL;
- (12) THE AGREED-TO STIPULATION REGARDING STREET LIGHTING CAN BE HANDLED AS A NOTE ON FINAL PLANS;

- (13) THE PLANNING BOARD SHALL DETERMINE THE AMOUNT OF THE PERFORMANCE GUARANTEE FOLLOWING A COMPLIANCE HEARING. THE FORM OF THE GUARANTEE SHALL BE EITHER A LETTER OF CREDIT OR CASH. THE FINANCE DIRECTOR SHALL APPROVE THE FORMAT OF THE GUARANTEE. THE SCOPE OF THE GUARANTEE SHALL INCLUDE THE INTERNAL ROAD CONSTRUCTION, DRAINAGE IMPROVEMENTS, EROSION CONTROL AND OFF-SITE IMPROVEMENTS, IF REQUIRED. THE AMOUNT OF THE GUARANTEE ULTIMATELY PROVIDED TO THE TOWN WILL BE DEPENDENT IN PART ON WHETHER THE APPLICANT CHOOSES TO EITHER BUILD THE ROAD UNDER CONDITIONAL APPROVAL AFTER ALL OTHER CONDITIONS PRECEDENT HAVE BEEN MET, OR PROVIDE THE FULL GUARANTEE UP FRONT THEN RECORD THE MYLAR. IN EITHER EVENT, THESE ISSUES WILL NEED TO BE ADDRESSED AT A SUBSEQUENT COMPLIANCE HEARING.
- (14) EASEMENTS WILL BE REQUIRED FOR LOTS 8 & 9, LOT 8 BENEFITTING FROM LOT 9 WILL BE REQUIRED TOGETHER WITH A SHARED MAINTENANCE RESPONSIBILITY. SIMILARLY, LOT 5 WILL REQUIRE AN EASEMENT OVER LOT 6.
- (15) THE APPLICANT'S ATTORNEY SHALL SUBMIT DRAFT EASEMENT LANGUAGE FOR REVIEW;
- (16) THE SUBDIVISION PLAN, OR PERHAPS AN EXISTING CONDITIONS PLAN, SHALL IDENTIFY PARCELS, ACREAGES AND ASSESSORS DEED REFERENCES. THE TWO PARCELS WILL HAVE TO BE MERGED PRIOR TO THE RECORDING OF THE SUBDIVISION PLAN;
- (17) WRITTEN EVIDENCE THAT PINS HAVE BEEN SET (CORNERS AND ANGLE POINTS FOR EACH LOT) IS REQUIRED PRIOR TO RECORDING THE MYLAR;
- (18) IT SHALL BE A CONDITION OF APPROVAL THAT ANY LOTS CREATED SUBSEQUENT TO THE ORIGINAL SUBDIVISION WITH FRONTAGE ON THE SUBDIVISION ROAD OR NEW ROAD SHALL BE ACCESSED ONLY VIA THE SUBDIVISION ROAD AND SHALL BE INCLUDED AS A PLAN NOTE;
- (19) FINAL PLANS SHALL INDICATE A CENTRAL LOCATION FOR MAIL DELIVERY ACCEPTABLE TO THE POST OFFICE SINCE THEY WILL NOT DELIVER MAIL TO INDIVIDUAL HOMES ON PRIVATE ROADS.
- (20) THE TECHNICAL REVIEW ESCROW ACCOUNT SHALL BE BROUGHT UP TO DATE.
- (21) IN VIEW OF THE FACT THAT IT MAY BE NECESSARY IN THE FUTURE FOR THE TOWN TO IMPROVE OR WIDEN NEW ROAD, THE APPLICANT SHALL CONTRIBUTE 17 FEET TO THE TOWN ROW ALONG THE ENTIRE FRONTAGE OF THE APPLICANTS' PROPERTY ON NEW ROAD. Voted 7-0 in favor of the motion.



Worsman – The 17' along the ROW frontage to be granted as part of the plan. Vadney – At what level is that 17' ROW worked out with you? Edgar – Do you mean as an administrative condition, it doesn't necessarily need to come back for a public hearing if that's the question? Worsman – It doesn't need to be part of the motion? Edgar – It should be. Kahn – I would suggest amending the motion to add a condition that says in view of the fact that it may be necessary in the future for the Town to improve or widen New Road that the applicant contribute 17' to the Town ROW along the entire frontage of the applicants' property on New Road. Vadney – Is that what you originally talked over with Mike, the full length? Edgar – Mr. Chairman, just a clarification, to my way of thinking, there are two items in this list that would need to come back before you, one is the Compliance Hearing aspects associated with the Performance Guarantee and the second would be a Scenic Road hearing pursuant to the Scenic Road statutes on that particular issue. Is that the Board's understanding? Yes.

2. **HORATIO AND CYNTHIA MELO:** (Rep. Carl Johnson) Bayard stepped down, Touhey sitting) Continuation of a Public Hearing held on September 26, 2006, for a proposed major subdivision of Tax Map R11, Lot 14, into five (5) lots (10.5 ac. – 80.9 ac.) located on Chase Road in the Forestry and Rural District. Application accepted September 12, 2006.

This application was originally submitted as a 5-lot subdivision. Based on some of the discussions we had with the Board and some discussions with the applicant, we've actually dropped one lot from the subdivision which would be the lot which was furthest to the northwest and now we are currently proposing a 4-lot subdivision. Essentially if we blend in what was then Lot 1 into Lot 2, we've renumbered the lots so now we have a 4-lot subdivision with the largest lot in excess of 90 acres. Subsequent to the Planning Board last, we provided a blowup set of plans to the Planning Department and also to Mike Faller. The Board directed us to look at the roadway frontage on Chase Road and identify those areas of the road and types of improvements that would be made to the Road. We had represented originally that the applicant had met with Mr. Faller on site and talked about some of the roadway improvements and had initially offered a number in the \$35,000.00 range. That number as it sits right in the staff review is \$38,000.00 for primarily paving the road. During the time of the original application and today, the town of Meredith has already made significant improvements to Chase Road particularly with the drainages. They have done some drainage work and some culverts and you can see that identified in Mike Faller's memo. Mike did take the plans that we submitted to him and he has marked them up. Essentially what Mike did, he broke down what would be the necessary improvements to Chase Road and identified them by number. He's highlighted in color the particular areas and he has a detailed list in his memo as to what the improvements would be. Largely they are doing some additional ditching, adding some gravel and moving back some stonewalls so that you could get some increased width to the roadway. No major or significant changes to the horizontal or vertical line of the road. Most of the changes I would consider to be minor changes and if you'd like

I'd pass this down to the Board. It may be better for you to see his thoughts. As I mentioned, those changes largely are the resetting of some stonewalls where they are impacted, selected areas of limited widening to obtain desired width, limited tree removal, limited slope work, removal of some large rocks, there's some work at the proposed driveway entrances to increase the safety sight distance, setback the ditchline a couple of feet in some areas and close up the drainage on the hill and he's proposing two 10' paved drains with cape cod curb to manage drainage. With 1-2' shoulders beyond the end of pavement, he's requesting deeding of 17' for additional ROW on that side of the road. The ditch work is expected to be done in late 2007 or early 2008 depending on the funding. In John's staff review, he basically said with regard to those issues, he is recommending that we have a commitment by the applicant for the amount and a commitment of adding the ROW and we are prepared to do both the commitment based on Mike's memo is \$38,000.00 and the deeding of 17' of ROW would be acceptable to the applicant for the frontage on Chase Road. John has some additional staff comments. He added a bunch of notes based on his last staff review. The plan again at a 200 scale is probably a little bit hard to read in terms of the roadway that's why we did a blowup and Mike was able to use that blowup, identify some areas based on the pole numbers and did add to the blowup, the driveway locations that are on the opposite side of the road because the Board had some questions and concerns about doing all of the improvements to one side of the road. Edgar – As Carl has indicated, a series of minor notes have been adjusted in terms of referencing wetlands and things of that sort. The two principle issues at the last meeting were the full scope of the DPW improvements. In other words, the DPW is looking to make improvements to Chase Road and was looking to be able to utilize the developer's contribution to contribute to the paving and the Board had requested Mike to try to elaborate on a little more than what was contained in his original memo to be a little more site specific in terms of what the DPW would be doing. The DPW I believe does plan to continue its work on the road as Carl has indicated and as Mike has indicated in his memo, some of the drainage work, not all of it, but some of it has been done so Mike has articulated the more full scope of what his Department plans to do for the road and then puts the paving contribution in some context. From what I can gather in reading Mike's notes on the plans, there is no major relocation per se of the roadway, it's probably a maximum shift, there's probably a couple feet in a couple areas to improve the ditch lines. As Carl has indicated, there would be some areas where in concert with the slope work to accomplish that, there would be improvements to the sight distances for the driveways that are anticipated which has now been reduced by one. So hopefully between the plans and Mike's memorandum, you'd have a feel for what the order of magnitude is. As you recall from our site inspection when you come up from the brook, you come into the steepest part of the climb, that's where Mike has proposed curbing, basically, bituminous curbing so that the drainage is in the gutter and that obviates the need for a lot of open ditching so it allows us to go with a narrower cross section with the curbing. Once you come out of that steeper section though, it would go into a more conventional two 10' lanes and the ditches and then when the pavement ends, it would narrow slightly down to the two 9' lanes and

probably at the end of the day, the cross-section is about the same. You'd have a little less shoulder with the pavement, probably a little more shoulder with the gravel but the overall width is going to be comparable. That's kind of it from what I can understand from Mike's review. The other issue that I wanted to bring to your attention, there were concerns that were raised by the abutter through their attorney in the previous meeting and we have since reviewed that with Tim to just double check and make sure our position was correct as originally stated and there have been some communications between the lawyers, but the long and short of it is that our Counsel has advised that our position remains unchanged and Counsel's view is that we do not have the responsibility to interpret and enforce and apply private deed restrictions. The Walter's attorney is here, he certainly can speak to it from their point of view but the fact remains that our position as was previously stated remains in effect from a staff point of view. If you could go to page 96 in your packet, recognizing that based upon the communication between the attorneys, there wasn't agreement if you will between the attorneys on this, I had asked Tim to prepare a draft finding for the Board to consider relative to this particular issue, this is only draft it is there for your consideration if you feel that it would be helpful to provide a basis upon which you may decide not to act on the request of the Walters if that be your position. Those essentially are the two issues, one was the Board wanted to get a feel for the overall picture of what DPW had planned for that climb on Chase Road. I think Mike has hopefully responded to that request to your satisfaction. The applicant has indicated their willingness to make the contribution as identified and the only other issue really was the question of private restrictions that principally had to do with cutting and access to the property and that type of thing and you have the attorney's communication to Tim Bates which sets forth what their concern is and you have Tim's response and you have Tim's draft finding for your consideration. Kahn – How much of this section is going to be paved? Edgar – It is my understanding that the DPW would tie into the end of pavement which is at or near the brook and I believe it would run the bulk of the roadway, I think on one of those plans there is an end of pavement referenced near the top, it's not the entire frontage but it's certainly the bulk of it. Kahn – We had some discussion indicating that some of the neighbors were perfectly happy not to have it paved in the area at the top where it's relatively flat. Edgar - And you had other testimony that they would just as soon see it paved. I think we had kind of a mixed bag on that one. Vadney – It actually goes further than what we had seen. Kahn – It goes out almost to that cemetery. Edgar – It's similar to the statement I've made in the previous matter relative to the role of concurrence from the Board of Selectmen. That statement would apply to this project as well. Bliss – What's a Cape Cod curb? Edgar – Cap cod curb is black top, it's not granite. It's not vertical, it's relatively shallow and it's not pitched very high. If this were the road, it would come off on a very oblique angle so it's black top curbing, but it's not kind of like the vertical sometimes that you see put in parking lots, it's a little bit more revealed off the edge of pavement. Eric Newman from Gallagher, Callahan & Gartrell for the Walters – Just very quickly we're here to again preserve our objections to the application as proposed. You indicated the correspondence from another attorney in our office to Attorney Bates and we maintain the position that

the application as proposed would obviously require cutting the driveways in violation of the covenants having not received written consent from the Walters and it's our position that if the Board were to approve the application as proposed, they would be facilitating the breach of this covenant and that's tantamount to a tortious interference with the contractual relations between the Walters and the Melos. That said, the Walters remain open to discussion of other options that would limit the amount of cutting between the proposed subdivision and the road. Edgar – Mr. Chairman, if I could just draw the Board's attention to Page 94 in the packet. This is a communication from Attorney Bates to me wherein he had attached the letter that Mr. Newman just referred to. I don't know what tortious interference is, I don't think I need to know. Our attorney has advised that with respect to that threat in the last sentence of the second paragraph, it should not be taken seriously and so forth. We don't have the benefit of Counsel here other than the fact that he does not see that as an obstacle. Vadney – We as a Board don't want to go into the business of investigating and chasing down these covenants that may have been made. We don't have access to all of the legal things, whether they are legal or just handshakes, we don't know. Edgar – My point, Mr. Chairman, is simply that Tim is aware of the concerns that have been raised by the Walters' attorneys. They have been in contact. Vadney – Our previous issues were the road, the access and the driveways, we've covered that. Kahn – Are we talking conditional approval? Vadney – I see no reason not to go to a conditional approval. Edgar – It's not in a final situation. Obviously, it would be conditioned upon the issuance of the driveway permits, the acceptance of the contribution as has been discussed this evening towards the road improvements. It would be conditioned upon the deeding of the additional ROW to the Town which also has been agreed to. Kahn – It looks like after Page 92, the page seems to have disappeared that probably has some of your standard stuff like pins shall be set. Edgar – There are those 3 issues, one is the issuance of the driveway permits. The page that you don't have reiterates the role of the Board of Selectmen and addresses the abutters concerns that Attorney Newman spoke to so in summary, if I can do this to hopefully help the Board a little bit, one of the identified conditions would be a detail that utility information is added to final plans, that we have the driveway permits issued and referenced on final plans. We have common driveway easement language submitted for staff review. We require as a condition precedent to final approval, concurrent approval from the Board of Selectmen regarding improvements to the Town ROW. We have as a condition precedent to final approval the acceptance of the \$38,000.00 towards the road improvements as has been agreed to this evening. We have as a condition precedent to final approval the acceptance of a ROW deed as has been agreed to this evening so those would be recommendations for conditions, however, I would also recommend that the decision include a finding that is referred to on Page 96 of the packet that was prepared by Attorney Bates, second paragraph. Kahn – Tim just wants to put something in the record that shows we've thought about it and we have a reason for doing what we're doing so I don't think we have to put it in verbatim, we can refer to it.

Kahn moved, Sorell seconded, I MOVE THAT WE CONDITIONALLY APPROVE A FOUR-LOT SUBDIVISION FOR HORATIO AND CYNTHIA MELO, TAX MAP R11, LOT 4, LOCATED ON CHASE ROAD, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THAT DRIVEWAY PERMITS BE ISSUED AND REFERRED TO ON THE FINAL PLANS;
- (2) THAT UTILITY INFORMATION BE ADDED TO THE FINAL PLANS;
- (3) THAT LANGUAGE FOR A COMMON DRIVEWAY EASEMENT BE SUBMITTED FOR STAFF REVIEW;
- (4) THAT THE APPLICANT AGREE THAT \$38,000.00 SHALL BE PAID TO THE TOWN WITH RESPECT TO IMPROVEMENTS OF CHASE ROAD;
- (5) THAT THERE BE A DEED FROM THE APPLICANT TO THE TOWN EXPANDING THE ROW ON CHASE ROAD BY 17 FEET ALONG THE FRONTAGE OF THE APPLICANTS' PROPERTY;
- (6) THAT THE BOARD OF SELECTMEN APPROVE WHATEVER IMPROVEMENTS TO THE ROAD ARE BEING CONTEMPLATED;
- (7) WE HAVE CONSIDERED AND TAKEN INTO ACCOUNT THE OBJECTIONS OF THE WALTERS AND THE FINDING SUPPLIED BY TOWN COUNSEL ON PAGE 96 OF THE STAFF REVIEW REPRESENTS OUR VIEW AS TO OUR RESPONSIBILITIES IN TERMS OF PRIVATE COVENANTS; AND
- (8) THAT THE PINS BE SET PRIOR TO RECORDING OF THE MYLAR.

Voted 7-0 in favor of the motion.

3. **REAL GREEN LAWN AND LAND CARE, LLC.** (Rep. Harry Wood) Architectural Design Review of a proposed warehouse/office building, Tax Map S15, Lot 31, located at 470 Daniel Webster Highway in the Central Business District.
4. **REAL GREEN LAWN AND LAND CARE, LLC** – Continuation of a Public Hearing held on October 10, 2006, for a proposed Site Plan to construct a warehouse/office building with related site improvements, Tax Map S15, Lot 31, located at 470 Daniel Webster Highway in the Central Business District.

I just want to remind the Board that we were here at your last hearing and revised the basics for the project. We talked about it being located on Route 3 North on the left-hand side of the road right after the Center Harbor Town line. There is a small parcel of the property which is actually in Center Harbor. John Edgar wrote a letter to the Center Harbor Planning Board asking their opinion or consideration of this proposal and whether or not they felt they had any jurisdiction or concerns. You may recall that at the last hearing that we had, we had amended the plans that we had originally submitted to remove any improvements whatsoever in Center Harbor with regard to Phase 1. I went to Center Harbor last Tuesday and presented them

with a copy of the plans that you're looking at this evening which show no structures in Center Harbor. We do show for informational purposes some parking spaces labeled Phase 2 and you'll note our plan under the title says application for Phase 1 only. I didn't see any indication that a letter had come back from Center Harbor so I contacted them this afternoon and they faxed me a copy which basically indicates that I was present for the revised plan, explained the project to the Board, the Board reviewed the plan and saw nothing that would violate any of the site plan regulations. We did explain that this was Phase 1 and if Phase 2 has any development on the Center Harbor portion of the property, the Planning Board will be notified. Wood submitted copy of Center Harbor's letter to J. Edgar. The left-hand plan that you see is essentially the existing conditions plan, it shows the topography, it shows the location of the entrance onto Route 3, then it goes on to show what I'll call major improvements as part of the work that I did with the landowner. We stipulated where the majority of the structures would go and the placement on the property was important for the engineer to have and be able to work with so that's kind of what Sheet 1 consists of. There was a little bit of confusion at the last meeting with regard to the driveway permit. That has been reviewed by the State Highway Department and they amended their previous approval to say that the driveway was approximately 30' from the Town line but I think it was 75' before which was the original entrance before they moved it so that has been corrected. One other thing that came up, we were trying to locate the easement for the abutter LaBraney who has a sewer easement across the front of the property and unfortunately it was improperly indexed by the Registry and it took us a while to find it. The owner did have a copy and about the same time he found that, we found the listing in the Registry where they had separated the name of his company into two words rather than keeping it all as one and when you're looking on the computer, that's deadly. The easement basically is 10' wide, 5' either side of the line. The exact location of the line is known only by the cleanout vent which is visible on the northerly side of the driveway. We talked to the individual who installed it and he said it runs right out through here so that's as close as we can get to it until we dig it up and typical of these easements, it does relate to the line itself which is in the ground rather than specifying a specific course and distance and then saying the line's got to be located right there. They always do it the other way around and wherever the line is the easement is either side of it. The other thing that was mentioned with regard to that easement was whether or not it had any effect at all and I have a copy of it here which I'll leave with the Town Planner which basically says we have the right to utilize the property in any way we see fit provided it doesn't interfere with the sewer line. It doesn't say that we have to stay out of the easement so what that generally translates to is, for example, if the driveway were paved and it became necessary to dig it up at a later date, the person digging it up would have to repair the pavement. That is essentially what it entails. We do show a sign location centered in front of the portion of the building that's being constructed during Phase 1. We show minimal lighting on the site plan. There will be some discussion of that when you get to the architectural review. We basically have one on the north end of the building, one on the back of the building and we have a small light adjacent to the door on the front of the building where the sidewalk is and that

would be typical of a light that you have on a house. It is very small and just illuminates in the immediate vicinity of the doorway. We are only applying for Phase 1 at this time. The other phases are shown for information only. We have submitted since the prior presentation, we did submit an engineering plan and for that I will allow the engineer to tell you what improvements were considered and I will correct Joanne Coppinger who's not an attorney, she's the engineer. Joanne Coppinger – I took Harry's plan and I put on some finished grading and drainage improvements. Basically, all the runoff comes off the hill and most of it gets trapped in the swale behind the parking area and most of the parking area also drains toward that swale, it's a wide swale 2 feet at the bottom and 4 feet at the top and it was designed for a 25-year storm because that's what the DOT requires and I have submitted my drainage analysis to the DOT for approval and we're expecting a letter tomorrow. All that storm water goes through that swale and onto a rip rapped stone lined swale and empties out onto Routes 3 and 25 into a catch basin further down the road. So the DOT has shown verbally that they are in agreement with this. I've submitted calculations and they are going to review them and we're expecting an approval in the near future. Some of the areas where you see the lines very close together are 1:1 slopes and I've put 6" minus stones lining those to prevent erosion. I had to put some steeper slopes in just to make the grading work out. The light blue shows the pavement we're proposing for Phase 1 which is what we're looking at for approval tonight and I think that's about the gist of it. Wood – We are hoping to obtain conditional approval this evening subject to showing the easement and a couple of plan notes such as making sure that the snow adjacent to the driveway does not become a problem with sight distance and also subject to the letter coming from the State Highway Department. We do have a verbal consent as Joanne said but typical of those things even after they make up their decision and they draft their letter, the boss still has to stamp it and that's the reason for the delay. Edgar – Basically, following up on the last meeting, they indicated they were going to get some engineering done and get it to us in a timely fashion which they did do. The drainage information needs to be signed off by DOT as a practical matter as has been stated. Other than that it's pretty straightforward. The final plans should show the easement location as Harry has indicated. The final signoff on the fuel tanks, the issue there is minimal, it's just basically the Fire Chief likes to see some form of protection around the tanks in the event a plow truck or something went a little bit off the road or what have you, we'd have a level of extra protection so we don't damage the tanks and create an issue. That's administrative in nature; it doesn't require a subsequent hearing by this Board. The only other question is to take a look at the architectural in concert with this and you have some elevation drawings that I think maybe Dan can speak to but essentially they have done what we asked them to do at the last meeting. Bayard – You have real green tanks in there right at the border of Phase 1 and Phase 2 of the building. What is that? Wood – That's one of the principal products that is sold by the company and I'll allow the owner to describe that to you. It's essentially a form of fertilizer, that is the reaction it has but it does not have the negative connotations that fertilizer implies. Dan Harris – Last year I came before the Board, it's the de-icer that we talked about and you actually said you thought it was a neat product. Bayard – It's not a fertilizer per se? Harris – No,

it's a de-icer. Wood – I'm sorry, I was talking about his other product. Finer – Harry, it shows where the tanks are going to be in Phase 1. Assuming Phase 2 goes ahead, where will those tanks be relocated to? Wood – That depends upon what happens with Phase 2. We have a number of considerations that we have to deal with; first of all, with regard to Phases 2 and 3, we do not have tenants at this time so it is very difficult to specify the amount of parking that's necessary and the exact arrangement of buildings, in fact, we might come back and say the building's not going to be 50' wide, maybe it's only going to be 40' wide the rest of its length so those are all things that will be addressed at the time. What we've done for now is to locate them so they are not in Center Harbor and we have placed them in an enclosure. Mr. Harris has indicated that if he has a road to the back, he would probably locate them up near Phase 3 which would be the very back of the property. They would be at that point essentially not visible from anywhere except the immediate vicinity. Edgar – Under any scenario though, Bill, that would come back before you. This approval, if the Board were to grant it, applies only to Phase 1 so if there was a subsequent phase that would necessitate the relocation of the tanks; it would be subject to further review by this Board. Bliss – While I do realize this is in the business district, I am concerned about the floodlights that you have picked out because one of the things it says, hood glare shield minimizes the side glare and hood can be rotated to direct the light where you need it and just knowing that there are residential houses around you, I would like that considered that it's only downward and not out. Wood – The abutter to the south which would be the one that would be most exposed to the site if you look at the landscaping plan, you can see several trees planted on that southern boundary which will help that a great deal. If there should be any problem that will mitigate it. On the other side, the abutter to the north, their garage faces the property.

Bayard moved, Sorell seconded, I MOVE THAT WE APPROVE THE APPLICATION OF REAL GREEN LAWN AND LAND CARE, LLC, FOR A PROPOSED SITE PLAN TO CONSTRUCT A WAREHOUSE/OFFICE BUILDING WITH RELATED SITE IMPROVEMENTS, TAX MAP S15, LOT 31, LOCATED ON 470 DANIEL WEBSTER HIGHWAY IN THE CENTRAL BUSINESS DISTRICT, SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- (1) THE FINAL PLAN SHALL BE AMENDED TO SHOW THE EASEMENT ASSOCIATED WITH THE SERVICE OF UTILITIES, THE SEPTIC, TOGETHER WITH THE APPLICABLE BCRD CROSS-REFERENCE AND SHOW THE SERVICE LINE;
- (2) WRITTEN VERIFICATION BE PROVIDED THAT THE NHDOT HAS SIGNED OFF ON ANY DOWNSTREAM DRAINAGE DISCHARGES INTO THE STATE ROW;
- (3) THAT THE FINAL PLANS BE AMENDED TO NOTE THAT IF SNOW IS STORED IN THIS AREA, IT SHALL NOT OBSTRUCT DRIVEWAY SIGHT DISTANCES;



- (4) THAT THE FINAL PLANS SHALL BE SIGNED OFF BY THE FIRE CHIEF WITH RESPECT TO TANK PROTECTION BARRIER OPTIONS, I.E. , BOLLARDS, ETC.;
- (5) THAT ANY SITE LIGHTING OR BUILDING LIGHTING BE PROJECTED DOWNWARD;
- (6) THAT THIS PLAN IS BASED ON THE APPROVAL OF THE ARCHITECTURAL DESIGN REVIEW;
- (7) NOTHING IN THIS MOTION IN ANY WAY APPROVES ANY PHASE OTHER THAN PHASE 1; AND
- (8) THE PLANNING BOARD RESERVES THE USUAL RIGHT TO REVIEW AND AMEND ITS APPROVAL AS PROVIDED FOR IN SITE PLAN REVIEW REGULATION NOS. 7 AND 17.

Voted 7-0 in favor of the motion.

Dan Harris – Obviously, Route 3 is on this side of the door. We are looking for approval of a partial section of the building, 30' wide by 52' with two windows on the side and an overhang. There will be a garage door off the back 12' wide and 14' high with a pass door also. Each section was to be approximately 30' being a total of 120' so what we in a sense are doing is building a section of the building 30' wide and 50' deep, for a total of 1500 sq. ft. The total width of the structure will be 120 feet. The building is stick built but we are just putting up one section at this time. Bayard – Will there be anything on either end for architectural features? Harris – Possibly. I have been talking with the builder and architecturally it would make the building look a little bit better and if we had an office upstairs, it would be nice to have a window looking out and/or on this side being able to see out into the parking area if someone does come in so most likely there will possibly be a window here in the front and one up top and possibly something in the back similar in size to these 4' x 6' windows or 3' x 6' windows. Vadney - He's building a fourth of a building. Bliss – So he's only putting one of these in at this time. What's going to happen to the cupola? Harris – At this point there was going to be no cupola on top of this section but that could change. Bliss I don't have a problem where it is even if it didn't come on until the next phase. Kahn – My suggestion is if and when the building ever gets built, that's a mighty long expansive roof, maybe adding another couple or two would break it up. Harris – That was brought up by the builder also, siding and roofing material that over time it fades, possibly stepping the next phase up or down or by using at least using that type of siding that can be repainted. Vadney – Do you expect to have offices in the upstairs in the future additions? Harris – To be completely honest, I do not know. I would say probably some type of space upstairs. Vadney – I think what Lou was getting at something like dormer windows. Kahn – Dormer windows are just something to break up the expanse of the roof. Instead of one cupola, maybe three. Edgar – Similar to the site plan, we're really looking at the first phase so obviously like you said ¼ of it and if and when you get to the point of your second or third tenancies, we could certainly come

back and if we're going to be amending the site plan at that point in time, just to be able to reevaluate the building and at that point in time with the experience of the first phase under your belt, certainly could address Lou's concern at that time. Bliss – If I could just throw this out there that if they were to go to a second floor and add more offices, from what I'm seeing here it doesn't look like there would be enough parking.

Bayard moved, Sorell seconded, I MOVE WE APPROVE THE ARCHITECTURAL DESIGN AS PROPOSED FOR WAREHOUSE/OFFICE BUILDING, TAX MAP S15, LOT 31, LOCATED AT 470 DANIEL WEBSTER HIGHWAY IN THE CENTRAL BUSINESS DISTRICT. Voted unanimously.

**4. CLIFF ANTONELL FOR BLUE SKY MANAGEMENT, LLC.** (No representative present)

Edgar - Do you want me to summarize the staff review? Vadney – It is a public hearing and I guess we should open it to see if anybody here came to comment on it. I don't know if we want to take action on it. Why don't you give us your staff report just so we can see what the status is? Edgar – You're all familiar with the Meredith Car Wash opposite Harley-Davidson on Route 3. They have been in the process of upgrading the property, there's no change of use. Initially, they had come in and talked with Bill and I about a couple elements of the upgrade. It got to a point where they were putting the clapboard siding on and so forth and they were doing enough upgrades that had gone beyond what we thought they were doing to the point that we felt the ordinance was triggered and that's why we asked them to make application and come to see you. At the end of the day, they are looking to reconfigure some of the façade elements. It's a 5-bay car wash, they were closing in one of the bays. I think basically to incorporate it as an office in the car wash facility so if you look on the existing photograph in the left hand bay under the old vs. the new you'll see the open 5<sup>th</sup> bay all the way to the left. The new photograph basically shows where we're at today and effectively that bay's been closed in, windows added, door added and sided over and then similarly on the end of the building, they reconfigured some of the windows. There's not a substantive concern on the staff part other than the fact that they had made some reconfigurations and technically the ordinance was triggered and it needs your blessing. I think as an aside the changes to the site are for the positive, they have upgraded the look of the building considerably with the addition of the clapboard and there is landscaping in progress, they've replaced a retaining wall on the property. That was already there but they replaced that with decorative stone and so forth so they are making a series of kind of comprehensive refurbishments to the prior approval but because they had started to change some of the façade elements that triggered the ordinance and that's why it's in front of you. There is no staff objection to it, it's more a matter of the ordinance technically being triggered and needed to be brought to your attention. Bliss – I'm going to throw in the precedent setting thing even I know this is a wonderful improvement, I think the applicant should have been here to present this. What are we going to do the next time something comes in and we don't like it and the

applicant's not here? If feel they should have at least been here. Vadney – I don't know if there are any rules about having to show at a public hearing. John, have you seen this before? Edgar – I think maybe once in 18 years somebody didn't show up for their own hearing and we did something similar to this because it was a catch and release. Pam is correct, if everybody did that we'd have a problem but this is certainly an exception, not the rule, it's not something that happens with any degree of frequency. Vadney – You and Bill had discussed this with the people before they did anything, is that correct? Edgar – Yes. Vadney – And then what, Bill had issued a building permit for some renovation work but it got to a point where we agreed that the scope of what was covered under his initial permit, he was thinking the ordinance was triggered and I think he was correct and we sat down with the property owner after that and I don't think they were trying to pull anything, it's just that was kind of the nature of the renovation business and we pointed out that we think the ordinance is applicable. They didn't disagree with that and agreed to make an after-the-fact application. Vadney – It is a public hearing so I'll open it to the public and see if there's anyone that wants to comment on it. Mr. Littlefield – It's looking much better.

Finer moved, Sorell seconded, MR. CHAIRMAN, I MAKE A MOTION THAT HAVING FOUND THAT THE PROPOSED DESIGN DEMONSTRATES SUBSTANTIAL CONFORMITY WITH THE GENERAL AND SPECIFIC CRITERIA SET FORTH IN OUR ARCHITECTURAL DESIGN ORDINANCE THAT WE GRANT APPROVAL OF THE PROPOSED CHANGES TO AN EXISTING COMMERCIAL BUILDING KNOWN AS MEREDITH CAR WASH, LOCATED AT 246 DANIEL WEBSTER HIGHWAY, TAX MAP U02, LOT 30. Voted unanimously.

### PRE-APPLICATION REVIEWS

1. **BRUCE VAAL** (Rep. Carl Johnson) Pre-Application Conceptual Consultation to discuss possible subdivision of Tax Map R07, Lot 49, located on Collins Brook Road in the Shoreline District.

This is a conceptual discussion regarding a potential subdivision of Mr. Vaal's property which has frontage on Lake Winnisquam, Collins Brook Road and Meredith Center Road. The property consists of about 43.6 acres and we had done several other projects for Mr. Vaal that came before the Board. There were several Boundary Line Adjustments, there was also a subdivision on Sanctuary Lane that the Board approved several years ago. This is a parcel that Mr. Vaal bought from an abutter and right now the parcel is generally vacant and the exception is the existing home which is down near the shorefront on the lake. Mr. Vaal approached the Town and talked to John about the potential development of the property and talked to me and since that time, we have done quite a bit of work. We have actually done an aerial photography, topographic analysis of the property so we have flown topo, we've done an on-site site specific soils map by Nicol Whitney of Ames

Associates so we have delineated on the plan the site specific soil types. The reason that we did that, combining the two you could get an idea of what the available lot sizing would be. This property is not benefited by municipal sewer so the sewage disposal would have to be on-site. One of the possibilities that are being explored is connecting to the municipal water line, bringing the water line up and extending it from Meredith Center where it is at the intersection of Meredith Center Road and Livingston Road up Meredith Center Road to service this development as well as other properties in the area. At this time that decision has not been firm, it's being discussed as a possible way to provide water to the site. There's no break from the soils analysis for providing water, there would be a break obviously if it were the sewer, but the condition of municipal water does not give a break, it does not allow you to have any more lots that you would have otherwise. Right now the driveway to the property comes off Meredith Center Road, comes down into the property under the power line down around and empties to the existing home near the lake. What we propose to do is to apply to the State of New Hampshire DOT for a new roadway cut in the vicinity of where the driveway is now and to construct a new road to service what we're calling the development area, which is central to the property here. On one of the sheets you have in front of you, we did a rather general and rather quick and dirty conventional water analysis. What this does is it allows us to look at what the potential of the property might be should we decide to go with conventional lot sizing. When I say quick and dirty, what I mean is we did not do an actual physical analysis of each individual lot to make sure you could have a 4K area, well radius and that each individual lot meets the lot sizing calculations. We did, however, use the basic elements of the subdivision regulations and the zoning ordinance to come up with this configuration. What we are proposing to do with the property instead of conventional lot subdivision is "cluster" subdivision. The cluster subdivision would be accessed by the same type of roadway, the roadway would be a little bit shorter and then off of the main roadway would be smaller driveways servicing what now we're showing conceptually as two-unit buildings. These buildings are very similar and taken actually from a template that was used for Meredith Bay Village which is at the bottom of High School hill so the duplex if you want to have something in your mind that we're thinking of now would be similar to those whether it be single-family homes but they would be attached, each would have a separate entrance and a separate driveway. When we did the math analysis for the overall property, we came up with just over 15 lot equivalents from a soils-based lot sizing standpoint, meaning we could have 15 units. We did not use a great portion of the land area that's around the house for that lot sizing calculation. At the time right now, we're proposing to keep the house lot as a separate lot and it will be a conventional style lot not included in the cluster. If we wanted to beef up the number of lots from 16 to a slightly larger number, maybe 19, we would have to utilize some of the land area that's to be less than (inaudible). What we're trying to demonstrate to the Board is we've done a careful analysis of the property, we've delineated the wetlands, we know the sensitive soil areas, what we're trying to do is develop the property on the portion of the land that's best suited for development. There is Collins Brook which is a designated brook and then there is a prime wetland which is to the north and what the advantage of the cluster subdivision is to protect

those areas and we would not have any development in the near vicinity of the designated Brook, that would all be green space and also in the vicinity of the sensitive wetlands to the north and to the west. We are here just to make the Board aware of our plans, get some general thoughts from the Board in terms of development. We would hope that the Board would be supportive of the cluster concept in this particular case whereby you preserve a great majority of the property with green area. The primary purpose for the preservation of those areas is the sensitive wetlands and designated brook. There would be buffering for the nearby residences as required by the Ordinance, a minimum of 50' is required to be buffered from cluster, we would hope to have distances in excess of the 50' dedicated to the buffer spaces. There are residences that are along here which are accessed off of Meredith Center Road and the closest unit would be here and again in a conceptual discussion, we're looking at this not in terms of specific placement of units but general placement of units. We tried to make that in terms of topography and buffering to be sensitive to the dwellings on these lots. The dwellings generally speaking are closer to the wetland in the back so we would be analyzing where the existing homes are on those properties and trying not to impact them negatively. We're at a point where we've done a lot of homework so far to get here, we do have most of the environmental data available and soils delineation, we do have on-site survey control and we're very familiar with the limitations of the property and we're very familiar with the areas that are best suited for development. If there are any particular questions, I'd be happy to try to answer them. Vadney – This is kind of an arithmetic question, you show a total area of 43.6 acres, then it says development area east side of power line 29 acres and west 32 acres. Johnson – That was more for the applicant's information. We were looking at specifically the development area being exclusively the area that's east of the power line that runs down through the property. At the beginning we were trying not to use any of the land area west of that towards the development area and so I broke it out into a couple of different... Vadney – So the owner owns 62 acres down in there roughly? Johnson – There are different parcels of land that he owns, Satchel's Realty Trust is also part of the Vaal property so there's different elements that can be entered into the development process. Worsman – You said you had done some topographical work other than the aerial? Johnson – Topo lines have been generated, we have the topo plan. We haven't represented that on any one of these maps just because at the conceptual level, it tends to have too many lines to let you see what we're planning to do, Eastern Topographics produced a 2' contour map of the entire parcel that's being developed. Worsman – What about wetlands? Johnson – The wetlands were delineated by Nicol Whitney on the ground. Worsman – Do we have anything here? Johnson – Yes, the wetlands show up as the blue, there are some wetland areas here and this line here is the major wetland, this is the major brook that feeds down through the wetland. You might be able to see it better up here, there's a major stream that comes down through here and on a photograph it actually shows up better and associated with that drainage are the wetlands that we also delineated. Those were all subtracted from our calculations in terms of usable land area to generate the soils-based lot sizing. Essentially, the chart that's at the bottom which is probably hard to see on your 11 x 17 is the chart identifying the site specific soil

types that are identified in the site specific soils map using her criteria and we take those site specific soils classifications, translate them into the Town of Meredith Zoning Ordinance which uses the Belknap County Soils information to generate the minimum lot size for that particular soil type and pro-rate it over the property, that's how you come up with your number that's available for development. Kahn – What's the status of the existing house on the proposed cluster layout? Johnson – It's a livable dwelling unit. When we get to the point where we're producing a cluster plan, that house would be a conventional lot not part of the cluster. It would stand on its own as a lot and whatever land area surrounded the house could not be included in your calculations for your number of cluster units. Edgar – We've had several discussions leading up to this, I actually walked the property with Bruce a month or so back. One thing I would do, Carl, I would sit down and review with Bill whether or not there are any zoning questions regarding the duplexes. We have been around the barn on a different application relative to the clustering of duplexes and whether that's permitted by zoning or not so before you get too far into it, I'd take a look at that aspect of it with Bill. What has been the reaction if any from DOT at this point? Obviously, we have Collins Brook Road, Windsong Place and then this proposed intersection all within a reasonably close proximity. Has there been any dialogue with the State? Johnson – Mr. Vaal has met with members of the DOT at the site to make them aware of his intentions to have a new roadway accessing the property and generally speaking, DOT's mostly concerned with sight distance in either direction which is excellent so I don't think there are any major problems glaring at this point. There's certainly a problem on that existing driveway if you're thinking of using the same one. Johnson – No, in the vicinity of the existing driveway, this will be a totally new entrance. Vadney – Is there room to make it perpendicular to the road? One of the problems there now is it comes on very obliquely. Johnson – It may not be entirely perpendicular, it would be mostly perpendicular. Vadney – I see, I was looking at the wrong part of that so that makes sense. That's actually a pretty steep hill there. The vertical and horizontal alignment would be reviewed by DOT in terms of site safety. Johnson – From a conceptual standpoint, we haven't identified stationing at this point which is showing the proposed roadway going out to Meredith Center Road in that vicinity. Vadney – I would think they would be a little concerned about the two roads almost overlapping. Johnson – Those are the details that will be worked out with DOT. Vadney – The only reason I say that is I do live up off of Windsong and already the fact that Collins Brook Road and Windsong are maybe 300' between them and there's always interference now because the cars come down that hill coming from Laconia at tremendous speeds and when there are cars pulling out of Collins Brook and pulling out of Windsong, there's always interference and I just would think that another one coming out directly across, directly across would probably be better, it looks like it's a skew of maybe 30' or something like that. It is slightly offset shown on this particular plan. DOT recommended that they be set opposite one another and that's what would happen. The reason we've got it a little bit further to the north is just the sensitivity of the brook and the existing culvert that runs through there. Windsong's road as you know does not come (inaudible). Vadney – No, and you take it headed south a lot faster than you can take it headed north. Bayard – I noticed that you've

got 4 housing units coming off of one driveway. I'm not sure whether that's going to fly or not. I know there are two duplexes off of one driveway. I'm not sure if we've made a determination on that whether it's acceptable or not. There is, I don't know how exacting your calculations have been, but you calculated 15 and you're putting 16 in (inaudible). Johnson – That may be an issue. The other thing to remember is the 15 is not applied to the entire piece, it only applies to the specific development area that we looked at that instant in time. We do have other land areas available to add in should we try to go for more units. For instance, Mr. Vaal still owns properties that are adjacent to this in separate ownership that he could add in theoretically merge in if we needed additional land area so that's why we're not, the reason it's a conceptual discussion and not a design review is we're not here asking for 15. We're here showing 16 as an indication of what we think the site is capable of supporting. Bayard – My take on that is if you've got a bonus, it has to be kind of exceptional and demonstrate proper planning. Bayard – It has to be good planning and percentages have to be a little higher than (inaudible). Kahn – It looks to me like a lot of the green area is wetland. Do we have any idea in terms of percentages what we're talking about in terms of wetlands? Vadney – We know the lower end of that's 482 because it's like Winnisquam, what's the upper end elevation; I'm trying to get a feel for the general slope there? Johnson – The intersection at Windsong Road is 567.2. Vadney – Because Collins Brook Road is probably several times longer to get down to the lake, you're only developing that above the power line in this case, does that drop quickly in there. I'm guessing at these elevations, but it looks like where that proposed road goes, that's a fairly steep side hill isn't it? This is a pretty small-scale map and you're dropping. Johnson – This is 1" = 100' and there are no contours shown. Vadney – What I have here is ½" is about 100'. It looks to me like it's pretty steep where that road goes in. Johnson – I don't believe so. There is a gully around the brook. Worsman – Before it comes before us, Carl, is to be realistic with those lots that you've got here, it looks like you've got some lots in some serious wetlands. Johnson – I'll point out again to the Board, there is no provision anywhere written in any of the Meredith ordinances that you have to demonstrate that you can have a conventional subdivision that meets all of the requirements of the Subdivision Regulations of a certain number before you can apply for that number for a cluster subdivision. Worsman – But let's be realistic. My second comment is putting duplexes behind single-family homes, is that a good use? Johnson – In a residential zone? Vadney – John, do you have the ruling on clustering duplexes? Edgar – I don't have it at the top of my head but that's why I asked Carl to review that with Bill because I know Bill had issued an opinion on a similar request that was not favorable and I don't know if the fact patterns are exactly the same or not relative to the nature of the district and so forth, but definitely you want to review that with Bill. We had one project that was being considered as clustered duplexes and it ran into a zoning problem. At the end of the day, it's a single-family detached cluster. Dwelling units are dwelling units and what we're making a distinction on is don't get into the bedroom counting game saying 4 bedrooms in two duplexes is the equivalent of a 4-bedroom home, that's where the zoning problem came from, I think and so just make sure you review the duplex question with Bill from a zoning point of view. Bayard – It's a pretty good cluster, at

least the bulk of it looks like a pretty good area for development. You do have a real challenge with the driveway getting in being next to the brook and those wetlands. It's probably more the Conservation Commission's area. Vadney – Conceptually, it's a development, the duplexes will be an issue. If the land supports it, I don't know how we could say no but we'd have to see (inaudible). Edgar – Carl, what's your best guess in terms of when you might be further along in terms of a submittal and the reason I ask that is if the Board wanted to walk it this fall or early winter, that maybe it would be more advisable for us than entertaining the engineering in February and not having as much ease in terms of getting around the property. Do you have a rough idea as to what your timeline is for the engineering? Johnson – We hope to be back with a design review which would be the first public hearing probably in 30 days. Edgar – Not a filing per se, but it's still at the next level of pre-app. Johnson – Right, which is a noticed meeting and then we'd be showing you the detailed lot calculations, topography, the Eastern topo sheets. Edgar – He's talking about the next level of pre-application. Basically, taking it from this stage and coming back with more detail but still not yet having filed, is that what I heard you say? Johnson – That's our plan. The other option would be to file in 30 days and have an acceptance hearing and then have the first hearing subsequent to that. Edgar – You'll need the engineering to file. Something's likely to happen in the not-too-distant future. Johnson - What we'll be sensitive to is having the Board be able to walk the property prior to snow on the ground, is that what you're getting at? So if we don't have our ducks in a row and engineering necessary to make a formal filing, we probably would go with the next level of design review so that we get the Board out for a site inspection.

**2. DEEP WATER MARINE MANAGEMENT, INC. (Rep. Attorney Robert Varney)**

Essentially, I think a picture's worth a thousand words. The building is depicted on the plan in this location and is presently in the state that you can see and is very close to the waterfront and it's right now used for winter storage of boats. There's equipment storage in the fully framed up section and during the summertime people park cars in the bays which are depicted in the photographs. What the applicant would like to do I've summarized in this Memorandum. As you know, this is part of Shep Brown's marina, Tax Map U35, Lot 8A, and what we propose to do and I'd like to point out to you that rehabilitation and renovation of this building is very similar to the improvements being made to a car wash here in town. It's very analogous to that, the building, as you can see, is somewhat decrepit and has fallen in disrepair over the years and what the applicant would propose to do is to rehabilitate it to look more like this. We've already gone over this with Bill Edney and the owners of the marina have been down to the Department of Environmental Services and have cleared the project with the Wetland folks and the issue has come up as to what level of scrutiny this Board would give to the use that we propose to make of the building. Essentially, what we've planned to do is to move bathrooms which at the present time are in this building here which is a showroom and storage building and move them over into the building in question. We would then take the storage part of that aspect and move that into the space in the showroom building and just swap one use for the other. The remainder of the building



we would take 16' off the end and create a patio and then what's left of what's depicted there, you can see in the photograph which is presently used for garage bays, we would enclose that and it would become a meeting room for a venue for the marina slip lessors to utilize on rainy days, during cold weather or at night if they prefer to be in there, we would consolidate all of the barbecue and grilling in this one location of the patio at the end of the building. Inside would be a cleanup area so that people can wash their dishes and that sort of thing in connection with the cooking and grilling. The objective is to try to centralize the activities of the slip owners. Right now they have to walk across the access road over to the showroom for access to the bathrooms. There are grill areas on a number of the locations next to the docks and we really want them in one spot. It would give us an opportunity to take the electrical service and put it inside as opposed to being outdoors where it is now. There is no proposal to increase any of the slips or the size of the business. This is what I would call a classic qualitative upgrade, it's really meant to improve the facilities available for the slip renters. We agree that under your regulations that we need architectural review for this building and we're prepared to go forward with that. But after the unhappiness we had a few years ago, we consulted with the neighbors who haven't been terribly happy with some of our plans in the past in the hope that perhaps we could reach an agreement. I don't know that we have, but we certainly have identified a couple disagreements and I thought that rather than get halfway up the flagpole with this thing and get in trouble, we would come see you and see what you thought as to what you would require. One of the issues is whether or not we need to go for a site plan review. Under your regulations and I've sort of summarized this in the memo on page 3, it says: "No or change in use for non-residential properties or for multi-family dwelling units other than one and two-family dwellings, whether or not such development includes a subdivision or re-subdivision of the site, nor shall any building or other structures for such use be erected or externally remodeled or enlarged and no area for parking, loading, vehicle services or driveway access shall be established or changed except in conformity with site plan approval by the Planning Board." This is clearly a non-residential use, but we don't feel that we trigger any of those events or full blown site plan review and approval. We are not adding or subtracting any parking spaces and the ones that were internal to the building now would be shifted to the outside and you can see in one of those photographs exactly how it would be, I think we've got one with an SUV which is pointed right at the fully framed up section of the building and that's where the 5 spaces that are inside would be shifted over to. We are not enlarging the building and I don't believe that we are remodeling it within the meaning of your ordinance. My understanding of remodeling is that you actually change the configuration of the building or the juxtaposition of the improvements on the site without necessarily enlarging and that as a consequence, all we really need, all that you would really wish would be Architectural Review to make sure the building doesn't conflict with the purposes of your ordinance. The other thing that has come up is the suggestion that we might need to obtain a special exception before you would consider our application and there would be two reasons why a special exception might be needed, one would be that the use which we concede is what's called a pre-existing, non-conforming use. It was a marina property long before there was zoning and that's the status of the use and whenever you expand or change a pre-existing, non-conforming use, then you may trigger the ordinance and

require a special exception or need a special exception from the ZBA in order to do that. We don't think we are doing that, I think I've described to you the uses that are being put to the marina property as the same before improved as they would be after. There's no expansion, there's no increase in the number of dock spaces, there's no increase in the amount of parking, no increase in the amount of traffic, none. It's again, merely a qualitative upgrade. The other event which might trigger a special exception is the fact that the building itself, set aside the idea of the use of the building, the building itself is non-conforming which anyone would have to concede, it's very close to the water. You could never build a building in that location today in that spot and under your ordinance, again if you expand a pre-existing, non-conforming building into the encroached area, then you need a special exception before you do that. Again, we are not doing that and gratuitously the State requirements are identical to the requirements that you have to avoid needing a special exception. We have to stay precisely within the footprint and actually there's actually a very elaborate tree preservation plan which the State has required the applicant to provide and adhere to as a condition of their approval under the shoreline protection provision. In any event, I put to you a number of questions, I know that you're probably reluctant to give an answer tonight but I wanted to put the question before you and hope you might consult with your Planner and Mr. Edney, your code man, and with your Town Counsel and I would then like to communicate with them and get the feel for what the Board's position is to these 3 things. Do we need a special exception in your view? Do we need site plan approval in your view or can we proceed straight to Architectural Review based on the uses to which we're putting the building? I certainly would be willing to answer the Board's questions. Mr. Littlefield is here as well to answer any questions on detail. Vadney – You said 3 things; I've got special exception and site plan, what is the third? Varney – Well, two special exception theories, one on the building and one on the use. I think the building is pretty pro forma, I don't think anybody would seriously suggest that we need that, but it has been suggested in a letter which we received that might be required. Vadney – We don't give answers at pre-applications and I guess this would be opinions so I'll turn to the Board for any comments, not whether you favor it but if you see this as a reasonable approach by these folks. You don't want to sit here and make it look like you like it and have them come back and say you don't like it or vice versa, this is a chance, they've done us the courtesy of coming in to say we're thinking of doing this. Bliss – One of my concerns is how close the building is that you want to be the bathrooms to the lake? Varney – I can show you that. Vadney – The back side of this building is actually within the encroachment. Varney – Location pointed out and you can see they are very close to the lake. The engineering is such you can see it on the State plan that the sewer line proceeds to a holding tank and then into another tank up to the elevated leachfield. They would use the same leachfield as the existing bathrooms. Vadney – Kind of underneath one of those buildings almost. Varney – If you remember, the Town had thought and perhaps may still wish to tie some public restrooms with it so it's an over engineered, oversized leachfield more than sufficient capacity. Bayard – I'd just like a clarification. The current use of the building is as I look at the picture here, I see what will either be boat, it's like roofed storage or parking I don't know which. Varney – In the winter time as I understand it boats are stored there and in the summer, those are parking spaces that people put their cars in. Bayard – And then there are two other

sections of the building that's a continuation of that parking/storage area, there's a couple of windows and an addition that might have been put on. Varney – It's all used for storage now. Initially, in this location there were two, there was a Shep Brown's on the other side of the landing and I don't know what the name of this one was, I was in the building and conceded it was a Shep's store or part of the marina. Right now, it's just part storage and that would be transferred. Vadney – This whole building would be like a social center? Varney – It's really for people that might want to go in and play cards if its raining out, a place for the kids to go inside. Typically, as I understand the population, about half the people keep their boat there and it's transportation. That's all they want, they get in their boat and go to their island property or wherever and they come back and that's all they do. There's another group of people that their boat is really the basis of relaxation and so they spend a lot more time around there and it's really to cater to those people. Vadney – One of the concerns I would have would be the hours of operation whether this would be just a few coming and going during the day or if there were scheduled parties or anything like that. Varney – As a matter of fact, they wouldn't be looking for anything like, it's strictly for customers, an amenity for the existing customers nothing else. As I understand it the previous owner used to actually have social functions out on the docks in that area, but these folks do not and would not be looking for anything like that. Bayard – Would there be any food served there or a kitchen or anything of that nature. Varney – No kitchen, there would be cleanup facilities and I believe a refrigerator. Bill Littlefield – Yeah, there will be grills on that outside patio where people will do their grilling as they do now around the facility and there would be a place where they could wash the dishes and whatever, but there would be no cooking facilities of any kind in the building with the exception of these grills and tables around that area while using the grills. Vadney – Could you put the drawing of the building itself back up. Littlefield – This is the new rendering. This would be the architectural plan actually that we would be bringing. Vadney – That's the front of the building, not the lake side. The right-hand side toward the dock would be the barbecue area. Varney – Yes, this would be the barbecue area and in one of those photographs that I used to demonstrate how far away from the water, those trees, as you can see you can barely see that building and those trees again as part of the plan which the State approved, those trees are all staying and in fact they have to place more plantings. You're barely going to be able to see this structure just as you're barely able to see it today. Warren Clark – Mr. Varney has characterized this as a very minor change, however, the neighbors pretty much see it quite differently and I want to acknowledge that the previous owners of this property did have an annual party which was extremely obnoxious and basically those in the Bear Island channel could not go outside during the party because the sound carried throughout the entire area and since Mr. Littlefield has purchased the property, that has not happened. That doesn't mean it couldn't happen in the future, but so far it hasn't. Bill, I thank you for that, we appreciate it. We see this as a very significant change in use and one of the things that's characterized here and this is something I think we need to talk about is that during the previous discussions we had, the site plans did not show a shower. Some of the neighbors went there looking for one, could never find it because we didn't have keys. We surmised that an unlocked door in the back of one of these buildings was the shower and the most recent site plan seems to show this but these showers are

something that have never been approved by this Board. In fact, at the last presentation that I'm aware at the Board, the showers were not shown on the site plans. Maybe the showers are appropriate, maybe they aren't, but this is a very significant change of use from operating a marina to operating what the neighbors view as a yacht club. From operating a marina in a residential area to operating something that is much more extensive. Again, perhaps it's the right thing to do, perhaps it's permitted, perhaps it's not, but it's on that basis that I and I'm not the lawyer here and I'm speaking here for myself and while I'm a member of the organization that's hired the lawyer, I'm not speaking for that organization. In deed that organization is made up of a large number of individuals with a large number of different positions and different feelings about what should and should not be permitted so I'm speaking only for myself. But given that this change of use of the facility, first of all there's a major change of use in the building from being a parking facility to being a clubhouse which really is what it was described as on their initial drawings so the reason I think they should go for a special exception is so this change of use, not just the building but so the overall operation of the marina can be discussed. Relative to the question of whether this should go for site plan review, the Site Plan Review Regulations say that if there's a change of use and this building is changing from being boat storage and parking area to being a clubhouse. If it is being externally remodeled which it is, in fact, the building is being demolished and reconstructed. It's not being demolished? Littlefield – Absolutely not. Clark – I stand corrected. It also says that if there is a change in parking. Now, this building is being used for parking and my back of the envelope analysis indicates we'll probably end up losing one parking place, I don't know but that's the kind of thing that should be presented to the Board and we should see. There's no net change in parking, then that's fine. I'm trying to limit my comments to the questions before the Board which is, should site plan review be required which I think definitely, clearly by your Site Plan Review Regulations it should and should a special exception be required. I believe that a special exception should be required, especially cases where there is likely to be a lot of desire on the part of the neighbors for public comment. If there is a judgment call to be made perhaps it should go toward the possibility of allowing a forum for public comment which is one of the major issues here. Varney – I think you can see the issues that Mr. Callen raised in his letter and he sent a letter to John Edgar. And again, this is something I hope you would take up with Town Counsel and reach a determination because we would like to get some guidance from the Board as to what you think is appropriate. I think the appropriate way to look at this is that you'd have to look at the operation as a whole. Are you changing the overall operation? The fact that you move some facilities from one building to another to consolidate activities which are ongoing in a specific area, does that constitute a change of use. No, I don't think so and I think you'll find a lot of people don't think so but obviously some people do and that's why we wanted to get it in front of you before we went a lot further down this road. Vadney – Everybody that I know that's looked at this, the first thought is always out at Shep Brown's marina, the parking. I was surprised to hear Mr. Clark say one spot, there are 5 or 6 bays in that building now. Littlefield (son) – Five are being used. All that parking is going to do is come back out to the front of the building. We're not losing those parking spaces. Varney – This is where they are now, this is where they will be. Bill Littlefield – These are 5 bays that are presently being used for parking. Originally,

the parking goes right along here. These have to be open during the summer months so the people just slide right in there so in reality what's going to happen, this parking will just take place in front of the building as it already takes place in front of the building right here so there's absolutely no loss of any of the parking spaces, there's only 5 of those assigned to the present customers. Every single slip has a parking spot assigned to that person so there isn't a parking problem throughout the marina and by just moving these back to the outside of the building, it just keeps the exact same parking that's there now only outside the building instead of inside. Littlefield – The hours of operation of the marina is 24 hours a day and people are on their docks, or they are sitting on the back of their boats or whatever, if it was a rainy night, heavy mosquitoes or whatever, we see them going in there and spending their evening until they go to bed and maybe play cards or whatever they have to do. If these people are on the docks which are right adjacent to this building, right now the people are congregated right in here instead of being outdoors on the water, they'd be inside that building and your transfer of noise is going to be far less than if they were out here. I don't think there's been any complaints to the Town or to us, we haven't had a single complaint from anybody on noise in the 4 years that we've been there and the Town does not come to us with a complaint of noise from anybody. I think we've tried very hard to control noise, we have a couple of customers that were noisy customers, they are gone and we have a very nice group of people there that are well behaved. Slips by the lake are like gold and if you all of a sudden don't have the use of your slip, you're in big trouble. People will do pretty much what you ask them to do on your facilities to keep their slip. Littlefield (son) – One of the other things that's very deceiving is that picture and Mr. Clark brought this up saying we are tearing the building down. I am not tearing down the building, I am using the existing area that is enclosed, I will be refacing it, I will be using the existing roof, I'll be redoing it, I will be shortening the roof by 16 feet so the actual coverage of the building itself is no taller, no wider, no longer, it's actually shorter, 16 feet shorter. The only thing that is higher is a little cupola on top and if that can't be put on there, it can't be on there, it's put on for visual. The uses that are going into that building today are in that marina and again I guess it depends on how you want to look at this facility. Are we going to look at this facility as a whole, or are we going to look at this one particular building or another particular building. Bill Littlefield – The marina provides restroom facilities for its customers now, it provides a place for them to congregate which is on the docks right now. It provides a place for them to barbecue their food in a couple of different areas right now, what we're trying to do is to take and put that into a much nicer facility that again is enclosed so noise would be less of a factor not more of a factor. If they got to laughing inside that building rather than on the docks, it certainly is not going to carry across the water so we're going to be providing the exact same services that we do now when this job is done to the same number of people to do the same exact thing they do today but they are just going to have a nicer set of restrooms and a place to go during inclement weather. Bliss – Mr. Chairman, I just have a question. One of the questions that you had asked about hours of operation and I guess my question would be if your restrooms were in the showroom, did that showroom lock up so they didn't have access to the restrooms. Littlefield – The restrooms were accessible from a door outside of the building. That's a little section of the showroom that was built and there were exterior doors and these restrooms will be

accessed from an outside door. Clark - I think the comments that Mr. Littlefield made are all interesting and extremely relevant. I'll say again that I appreciate as a neighbor the effort that they've gone through to make the area be more quiet but I would suggest that the discussion we just had on parking is the kind of discussion we should have during a site plan review and some of these other discussions are the types of discussions we should have regarding a special exception with the ZBA. Edgar – Mr. Chairman, could I make a suggestion, obviously there's very diametric positions that have legal connotations to them and it would be my suggestion that we do schedule a session with counsel. I think we had a good airing of the differences of opinion at least in brief and so I think that would be the next step and we'll take it from there. Vadney – My opinion is the building obviously is far superior to what's there only you could argue the other one is rustic. At the same time, the abutters do have a vested interest in what's going on out there and we need to look at it in the broadest way I guess to make sure everybody is reasonably satisfied. The property owner has put forth a proposal. Is the building going to be dramatically modified, the answer is yes but is that wrong? Under the grandfathering rules, as long as you've got a cellar hole, you can do a lot of things and so that's not necessarily a bad thing. Vadney (inaudible). Edgar – The issues at the end of the day are probably going to be less relevant to those kinds of things. The crux of it is whether or not there is a change of use or whether if there is one, if it's sufficient enough to invoke a public hearing related review. As a related matter to that, is whether or not there is a sufficient change or what have you relative to trigger special exception which is also a use-related issue. Obviously, there's two very diametric views of that and we're not going to resolve them tonight so I think you will need the benefit of counsel to understand at least some of that point of view and then at some point we could come back into a public meeting and discuss it as a Board as to what the Board's view is. The Board doesn't necessarily have to agree with whatever Town Counsel gives you but he'll give you his take. It is important then that you discuss your views publicly as opposed to privately and then at that point you could direct me or Tim one way or the other, communicate back to these folks on what your sense of it is, recognizing of course that the pre-application process is by definition informal and non-binding and if and when you get an application in front of you, then the gun goes off. Vadney – I guess that's it for tonight, we'll get with our attorney to get a reading on this. In many ways it's a very superior proposal, but it does have some abutter issues. All we can say for tonight I guess is that we'll talk to our attorney.

Meeting adjourned at 11:03 p.m.

Respectfully submitted,

Mary Lee Harvey

Secretary

Planning/Zoning Department

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

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William Bayard, Secretary