

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

Bliss moved, Kahn seconded, THAT THE MINUTES OF OCTOBER 11, 2005, BE APPROVED AS PRESENTED. Voted unanimously.

### APPLICATION SUBMISSIONS

1. **LORI CRAM** – Proposed Site Plan to erect a 30' x 40' metal building to establish a commercial welding shop, Tax Map S15, Lot 77, located at 66 Jenness Hill Road in the Central Business District.\*

Application, site plan and abutters list are on file. Filing fees have been paid. Recommend application be accepted for public hearing this evening.

Finer moved, Sorell seconded, THAT WE ACCEPT THE APPLICATION OF LORI CRAM FOR A PROPOSED SITE PLAN. Voted unanimously.

2. **CONVEX, LLC (WINNISQUAM HEIGHTS)** – Proposed Minor Subdivision of Tax Map R29, Lot 2D, into three (3) lots (3.6 ac., 8.36 ac. and 9.58 ac.) located on Batchelder Hill Road in the Forestry/Rural District.\*

The applicant proposes to subdivide 21.5 acres into 3 lots, ranging in size from 3.6 acres to 9.5 acres. Based upon soils and slopes requirements, the lots would not be further subdividable. The application, subdivision plan and abutters list are on file. Filing fees have been paid. I recommend the application be accepted as complete for purposes of proceeding to public hearing.

Sorell moved, Kahn seconded, that we accept the application of Convex, LLC (Winnisquam Heights) for a 3-lot subdivision for public hearing this evening. Voted unanimously.

3. **DONNA AND ALBERT DUCHARME** – Proposed major subdivision (cluster ) of Tax Map R30, Lots 3 & 4, into fourteen (14) lots (1.9 ac. – 17.1 ac.). located on New Road in the Forestry and Conservation District.

Applicant proposes a 14-lot cluster subdivision on 209.8 acres, located in the western end of Meredith on New and Roxbury Roads. The subject property, at a point, may abut the Sanbornton Town Line. Lot sizes range from 1.9 acres to 17.1 ac. Special Exception for the Cluster was granted by the ZBA in August, 2005. The ZBA decision has been appealed to the Belknap County

Superior Court. Town Counsel has advised me that RSA 677:9 provides that the filing of an appeal to Superior Court shall not have the effect of suspending the decision of the Zoning Board of Adjustment. Therefore, Counsel has recommended that the Board process the application in normal fashion. I would also like to bring to the Board's attention two other statutes that come into play. One is 674:53 II requires in part that upon receipt of an application for subdivision whose boundary or portion thereof is a municipal boundary, the municipality receiving the application shall inquire in writing to the adjoining community as to the existence of facts or regulations which may preclude or affect the subdivision. As I indicated in this case, we may come to a very narrow point on this subject property which may abut the Town of Sanbornton. There's another statute that may come into play which is RSA 36:54-58. This statute sets forth the process to notify potentially effected municipalities and the Regional Planning Commission concerning developments that may have impact beyond boundaries of a single municipality. The determination as to whether or not to invoke the statute is made by the Land Use Board in this case, the Planning Board and may include factors such as the number of dwelling units being proposed, the transportation network and water resources that transcend political municipal boundaries, etc. Upon such determination, the regional planning commission and the affected community are afforded abutter status for purposes of notice and testimony. The application, subdivision plan and abutters list are on file. Filing fees have been paid. Technical review fees have been paid and the application is being forwarded to our consulting engineer for the review of the engineering. Due to the number of lots involved, in this case 14, the subdivision is considered a major, therefore acceptance and public hearings do not occur at the same meeting. I would recommend that the Planning Board (1) accept the application as complete for purposes of proceeding to public hearing, (2) schedule the public hearing for November 22, 2005, (3) following the inquiry provisions set forth in RSA 674:53 II with respect to the Town of Sanbornton, (4) based upon the proximity of the subdivision to the Town of Sanbornton, the extension of New Road into both the communities of Meredith and Sanbornton and the number of proposed lots being fourteen, the Board determine that the project may have impacts beyond the boundaries of Meredith and that we follow the provisions set forth in RSA 36:57, and (5) the Board schedule a site inspection for a date prior to the hearing date of November 22, 2005.

Finer moved, Bliss, MR. CHAIRMAN, I MOVE WE ACCEPT ALL THAT JOHN JUST SAID (ABOVE) AND SCHEDULE A SITE INSPECTION FOR NOVEMBER 19, 2005, THE SATURDAY BEFORE THE MEETING FOR A SITE INSPECTION AT 8:30 A.M. Voted unanimously.

Vadney – The site walk that we're going to do on the 19<sup>th</sup>, the public is invited to that site walk, however, we do not take public comment and we do not discuss the issues themselves. We are just there to see the property and we don't conduct a moving public hearing, it's just to view the site.

4. **TONY CANDAGE** – Proposed Site Plan Amendment to expand use of the Upstairs Art Gallery to include dining events, Tax Map U07, Lot 133, located at 48 Main Street in the Central Business District.

Applicant proposes a change of use to offer catered, special events/dining events at the art gallery as a means to promote three Main Street businesses. A maximum of 64 seats are proposed. The application, floor plan and abutters list are on file. This is an internal change of use with no formal site plan that in my opinion is not necessary. Filing fees have been paid. I would recommend that the formal site plan requirements be waived and the application be accepted as complete for purposes of proceeding to public hearing.

Bliss moved, Bayard seconded, THAT WE ACCEPT THE PROPOSED SITE PLAN AMENDMENT FOR A CHANGE OF USE FOR TONY CANDAGE. Voted unanimously.

### **PUBLIC HEARINGS**

1. **HENMOR DEVELOPMENT, LLC (FORMERLY EDNA SWANK):** (Rep. Atty. Donald Gartrell) (Finer & Sorell stepped down/Granfield & Touhey sitting) Proposed minor subdivision of Tax Map R10, Lot 22, into two (2) lots (1.76 ac. and 1.82 ac.), located on Bryant Island, also including Tax Map R14, Lot 58, on Chemung Road in the Shoreline District. Application accepted May 10, 2005.

Gartrell – Thank you for granting our request to extend the date for this meeting so that we could try to address all of the issues. I would like to review briefly what we have developed and submitted and explain tonight and I think address the issues that were primary to your concerns at the last meeting. Just by way of background and to sort of set the parameters, there have been discussions and issues having to do with wetlands issues that had to do with a dock, a temporary seasonal dock on land on Chemung Road and I would like just to clarify the definition of where the jurisdictional boundaries are between the Town and its regulations and those of the State and clearly the natural mean high water level, the boundary from which the State regulates whatever activity that takes place in the lake. I gather there are

some designations here that included some of the lake itself and delineations of what are prime wetlands, but it's clear that the jurisdiction of the State pre-empts any regulation of things like that temporary dock and we have here the correspondence and the granting of those temporary seasonal docks so you can see that that has been examined by the State and approved. The other issues seem to center primarily upon the use of the Chemung Road lot and there have been certain discussions and representations that have been made by the applicant having to do with what the intentions were as to the use and the ownership and control of that lot. I would like to point out that we've submitted some specimen deeds and in those deeds, we try to clarify the fact that Henmor would convey each of the separately defined and surveyed lots on Bryant Island to separate owners. Included in the deed to them would be an undivided one-half interest in common to the Chemung Road lot so that they would be common owners of that lot. It would preclude any other ownership, it's not trying to promote more ownership on the shore, that's not it, it's related to the Bryant Island property, but they would each have an undivided one-half interest in that and it would be available to them for use as their permitted property. We tried to define as we articulated what... Vadney – Could I ask and this is splitting hairs I realize, but that's what we've had a little bit on with this, there would be no withheld easements or anything on that Chemung Road property? Gartrell – It would be private by the current owner. They would be the owners of that and once both of those lots were sold, Henmor would be out of the picture. It is our proposal that that lot would afford parking to the owners of the island lots and we have a plan which will show and I have some photographs that we can introduce that will show you how four cars could be parked on that spot, on portions of the lot that are high and dry and are clearly out of the wet. They would allow as many as four cars at a time to be parked on that lot. This is parking which is not required under your ordinances and in many cases it's not afforded that island lots have a place on the shore for parking, but this would be afforded for the benefit of the two lots we're proposing on Bryant Island. There's no requirement that I've been able to identify that requires off-site parking, if you will, be provided for these island properties or for single-family homes generally within the Town of Meredith and indeed these parking facilities would be consistent with those that are allowed on State and Town roads throughout Meredith and neighboring towns and Mr. Moriarty has prepared and will present to you some photographs and a list of numerous lots including something like 11 different properties on Chemung Road itself within a two mile distance of the Town ramp and this piece of property which back out onto Chemung Road and we have examples of numerous other properties in the Town which back out onto State and Town roads with even higher speed limits. I think it's 25 MPH on Chemung Road in this section. We also have photographs to demonstrate the sight distances from a vehicle that were

Backing, if that were necessary, out onto Chemung Road from the Chemung Road lot that we're talking about. It's possible if you didn't have four vehicles on this lot, it would be possible to back around on the lot and go out head first. This certainly would be preferable, but we're sort of portraying what is the worst case scenario from a standpoint of a potential safety issue, but it is an issue which I think has been clearly addressed and is no different than these numerous examples that you will see of other properties, including some that were recently constructed under permits issued by this Town which have no alternative but to back into the highways. Attorney Dietz, Lake Wicwas Association – I thought that all of the submissions of material were to be done 15 days or so prior to this hearing giving an opportunity for everybody else to look at it and respond. If we have photos and other information that's not in the record already that we've gotten copies of, we are certainly handicapped in responding to that. Vadney – I've been wondering the same thing. John – Did you get the engineering drawings and the things that you needed other than the photographs?. You got everything on time? Edgar – Yes. Vadney – We'll wait and see what they are going to submit tonight and that is a point that we did ask for information, but go ahead. Gartrell – The point that I'm underscoring is that what we propose and what would be afforded by this lot is that the parking would supplement and reduce the burden upon the public parking generally enjoyed along Chemung Road in proximity to the Town land. We have analyzed what is out there on Chemung Road. By our calculations, there are some 680 feet of parking space afforded along the side of Chemung Road in proximity to the Town ramp. That would be as many as 34 spaces or a 20' space for an individual vehicle. If all of those were taken up with a trailer and an automobile that would be 15 or 16 such vehicles that could be accommodated on Chemung Road and those are spaces that can be used by anybody whether they live in Meredith or not, anybody who's using public access or the Town ramp to get into the lake has that available to them. By affording this facility to the owners of these two proposed lots, we would reduce any additional burden by affording them an opportunity to park whatever vehicles they need or acquire on their own lot so we think that the circumstances afforded by this lot and the availability of them to the two island lot owners is really eliminating any adverse impact on the Town and this road and on the public use of that road for access to the lake that it is in excess of any requirement imposed by the Town in its ordinances or regulations on any other island property and that it is consistent with a proper use of that property and it's not going to adversely effect any of the wetlands adjoining the high and dry portion of the lot which will afford parking facilities. We have also submitted and analyzed the question of visibility. This is something that came up at earlier meetings and there were specific questions raised where these buildings could be seen and we have analyzed what buffering could be done and we have proposed that the buffering could be such that with the elevation

of the trees and the buffering that will remain and the elevation of the buildings, they would not be visible. In particular, we looked at that in relation to the Mercer property and Mr. Mercer as I recall is the one who had raised this issue before the Board and with the elevations and the average height of these trees and where they are located and where the buildings will be sited, going out there and actually taking a visual look back at the Mercer property, first of all we don't think these buildings will be seen from that property in particular, and all that we could see of the Mercer property from the island is his red canoe. So we think this property has been laid out in such a way that the homes would not be visible. At this point, I think I would ask Brian to present the analysis of the parking and the road \_\_\_\_ issue. Moriarty – The last time we met, there was discussion that some members of the Board were not comfortable with backing out into the street and there was a safety issue so one of the first things I did was to back out onto the road to see what the sight distance was and to see if you could see both ways and see if there was a crest or a turn in the road which there is not and the photographs were done for that. The next thing was it appears that an awful lot of properties in Town even new ones are receiving building permits where you have to back out into the road and that's in today's standards and this is not a primary residence, it's an island property mainly used 10-15 weekends a year, maybe vacations during the week, but this first picture that I'll hand down is a picture of an extended cab pickup truck sitting, not out onto the roadway. Dietz – Point of Order – Is there a ruling by the Chair as to whether this is in fact admissible, I haven't seen this and that was not part of the record earlier? Vadney – I believe I'm going to allow it to go on and if as a safety valve for you folks, we could extend this another two weeks and come back after you've had a chance to look at all this. Since we've got a crowd of people, I'm going to go ahead and accept this information. Moriarty – The reason why I was pointing out and I thank you for letting these pictures be presented because on the plan, we did submit the revised plan that does show the Chemung Road lot, it does show the driveway, it does show the parking lot and this was an issue brought up by the Board. The next picture is sitting inside that black pickup truck looking back down toward the launch ramp so it's showing that you can see the whole road, you're not out into the road and this third picture is the sight distance towards Meredith Center sitting in the truck. Just to make this little look bigger for everyone in the audience and the Board to see, this is a larger picture of what's down in the corner showing Chemung Road, showing the road that goes in and shows two other vehicles off to the side so that each side could be for each lot. If there was one car in each spot, a third car coming into the lot could still turn into here and turn and back around and three cars could be headed out of the lot. The only car that couldn't turn around that would have to back into the lot if they wanted to drive out would be the fourth car and that one would have to back onto the lot. The next

group of pictures that I'll hand down to you show four full-size Chevrolet vehicles sitting in the lot with plenty of room to spare. They do fit fine, there is plenty of room if there was a boat trailer left behind from launching a boat if the owners of the island owned a boat trailer and didn't have a marina take care of their boats, then there's other places on the lot where they could leave a trailer. I would recommend that they probably not because it wouldn't be there full time probably, but there is other room on that lot. The other thing that was put on the plat for this introduction is that the buffer zone was extended around the corner farther down to include all of the ledge that Mr. Mercer asked about so that this is all 75' woodland buffer zone now. Bayard – Could you point out where the new line ends. Moriarty – The third thing new on the map is the exact placement of the houses and the size. The one closest to the south is 30' x 50' and the one closest to Route 104 is 32' x 40'. We handed in a rendering two weeks ago showing the houses both from this side of the island and this is all the wetlands and the two islands I believe the Town owns over here showing what houses may look like 65' through the trees, 50' being the State woodland buffer, 65' being the Meredith woodland buffer. In that buffer zone, we all know that only 50% of the trees can be cut and the ordinance is pretty specific that it's 50' of the total length of the property, not a 50' opening or 50% to clear cut openings so I think those renderings show quite well that the roofs of the houses are well below the height of the trees. We have a photograph that we can show that is from the water that we've used to do that rendering. It shows the height of the trees. This is over by the islands and you can pick out some of the trees that are in there where the houses would be. Vadney – Are those house lots the same as was proposed earlier. They seem further apart here than I remember them. Are they still the same lots? Moriarty – They are the exact same lots. Edgar – I think we've tweaked the house sites a little bit. Moriarty – We put the houses exactly where they will go. This house used to be up more on the top of the knoll and it was never intended to be there because then you would get all the traffic noise from Route 104, being down over the hill, you don't hear the traffic noise. I'll leave with you the synopsis of all of the different driveways on the roads in the immediate area. I'll just read it real quick starting with the bottom which is Chemung Road, there's 11 properties total, about 6 from Meredith Center to our Chemung Road lot with 5 from there down to Weed Road where people have to back out of their driveway to get into a travel way or back into their driveway to get out. There's no turn around unless they were on their green grass or whatever. It's broken down by streets. There's 130 properties from Pease Road over, Livingston, Corliss Hill, Meredith Center Road, three on Parade Road, Pease Road, I think that's all they did on that side. I did take a ride down on Pinnacle Park and Meredith Neck, Barnard Ridge and those results are in here also, but I didn't bother putting photographs in because they are on the opposite side of Town.

Gartrell - I have indicated, Mr. Chairman, that we've reviewed these seasonal dock approvals. Edgar – Can we have that for the file please? Edgar – No, just one other very minor thing, just to mention that the draft deeds also do include easements relative to the power line coming off the property and the like, so there's a provision in the deeds relative to \_\_\_\_\_ easements. Other than that, basically the staff review is the previous staff review that you've had and I've flagged in bold the submittal items which I think the applicant did a good job of basically summarizing those two plan changes which is effectively about a 150' extension of the buffer and the inset that refers to the property that's referenced in the draft deed as submitted. One other matter, we did receive a correspondence item from Mr. Brooks Banker dated September 28<sup>th</sup> and it's in your packet and Mr. Banker has requested that the Board consider further the limitations imposed by RSA 674:41 on the authority of the Planning Board to grant the application of Henmor Development, LLC. Bob Dietz – I think that I would like to request that we have an additional two weeks to look at the material that's been submitted to perhaps have something in response ourselves. We haven't had a chance to even see what those things may be. I would make the following initial comments reserving the right to comment further once we've had a chance to look at these things and put them forward. One of the questions that's been raised is the issue of backing out onto Chemung Road and whether or not other properties have people backing out on Chemung Road or whether this property is OK for that because there are some sight line distances and so on. First, I understand that all of you have been out there and looked at this site so I'm speaking to those who have already seen it, but there is a very small shoulder of road for any vehicles to park on that shoulder without risking sliding on the sand into lake or swamp, whatever you want to consider it, it would require the vehicle basically to have at least two wheels on the pavement. That road is only suitable for two vehicles, one in each direction. If you start encroaching on that, you're creating a hazard or problem. This also is an area that I think most of you being Meredith residents and we discussed this already at one of the multiple hearings we've had. This is an area, a strip along that side that has unfortunately been used by people for skiing. It's no secret that there have been motorcycle track marks out in that particular location for 20 years. Whether you're going to get people to stop doing that if there's a vehicle parked on the side of the road, especially at night, people don't do that in the daytime, then that again is going to be a risk for everybody involved. The fact that there are X number of other homes and residences that require backing out onto the road is not an excuse to allow or to encourage this Planning Board to permit this subdivision. Those may or may not have been subdivisions, the first step. The second thing is if they were approved at some point in the past that may not have been good or appropriate planning at that point. This is something that is still within this Planning Board's control



to not create that situation. Given the narrow size of this small parcel of land, the map that they have submitted showing two vehicles parked in there at this point, however you configure that small piece of land there are going to be people who are going to have to back in and out. You put a boat, trailer or truck and you start maneuvering that in there, people are going to be backing out onto the street. One of my questions for the applicant is what is the maximum height of the houses that are going to be built here? Is there some limit other than what the zoning ordinance limits or is it fair game to whatever height is permitted under the zoning ordinance. Vadney – It's fair game isn't it John? I can't speak for the applicant on what they are proposing. Vadney – No, what they're proposing, but as far as the rules go, there's no special restriction. Edgar – Zoning provides for 38' which is from the lowest point of grade basically to the ridge. Vadney – Does the applicant know what the proposed houses would be? Doug Hentz – It's between 27 and 32 feet. Dietz – The last comment I'll make on the parking is that it references to the amount of parking spaces down by the public launch and along the side of the road. I was wondering if there were reasons there was concern both by people in the audience here and by some ordinance at different times about the overnight use of those parking areas and what that might do?. Again, parking is limited in that area and within the shoulders of the road, it's going to be difficult to squeeze a lot of cars, let alone a significant truck and boat trailer, along that road at night. Hentz - I would like to point out that rendering is true to scale. The architect we had do that in relation to the heights of the trees and with that photograph and the house heights, it is a good representation of the true scale. Marjorie Thorpe – I would like to ask how many docks would be put on the Chemung wetlands area? Vadney – The number of docks at the Chemung property? Moriarty – We propose only to put one. If the owners of the island wanted to put more, that would be up to them. Vadney – Up to them and the wetlands people. They are only proposing the one, the owners would have the right to try and get another one approved by the State. Paula Trombi – Forgive me if this was already stated, but I don't think I heard this. I wanted to find out, of those 130 properties from Pease down to Chemung, how many of those were required to back out and is that their only option? Vadney – Brian, do you have that kind of detail? Moriarty – Most of that was just a survey. I only counted the ones where people either backed onto the road, or backed into their driveway in order to drive out. Vadney – Did you hear that? He was saying when he recorded that number, those were the ones he felt, in his judgment, there appeared to be no place to turn around on the property. They were required to back out. Trombi – That was the determination, just by looking at it? You didn't talk to the property owners? Moriarty – They were only one bay wide and there was no spot that looked like anybody had ever turned around on their grass. Trombi – I'm just thinking, on my own property and I live out on 104, if you

don't go down my driveway, you might think I have to back out too, but I have a lot of space down by my house and in front of my garage so I just didn't know if you had actually driven down there yourself and had to back out or used some other scientific method. Moriarty – What I did is I looked from the street and as I could see the house and there was no place to go past the house to turn around and it was a straight shot to the garage one-car wide or two cars wide, it was very evident that is what they did and that was the general practice. Dean Dexter – Just a comment about testimony. I think in the real world when you consider a situation like this talking about four parking spaces for two homes on an island. I'm assuming they are going to be year-round, people will come and go who have guests who have children and cars, who have celebrations, Fourth of July celebrations on the lake. There's not really room for that kind of parking #1 and #2 is, you are all very much aware that this portion of Chemung Road is a parking lot throughout much of the summer, especially on weekends so you're seeing rows of cars on the side on any given popular weekend if not during popular vacation periods during the summer anyway, so you're looking at a congested area anyway and then to say that four cars being able to park on a very miniscule piece of land seems hardly adequate for popular usage of an island like this, two island properties. I consider this really something you should take into consideration on how this is going to be used in the real world. Tom Crane – Just to follow up on what Mr. Dexter said, I have the same concern and I think that's the issue you have to decide today is whether to grant the subdivision and it seems like every problem and I know tonight we're only mainly focused on the access which would seem to be the hardest issue for the developer to answer, but it still seems to be a big problem and all of the problems are made worse by granting the subdivision. Everything from the site (changed tape) who knows what it's really going to look like in practice and I think that certainly is going to be an issue, but when you get to the access point, it's not just the backing up, what do you do in winter, snowmobile trailer, they are going to have to have some sort of a vehicle to get out to that lot. You start piling snow in there, all of a sudden your four parking spaces are gone and again this is going to be a year-round home as the developers have said, they are going to be out of the issue as soon as those lots are sold. Now you've got the other people to deal with and that's where I feel like the Board has to use their discretion here. The developers, a number of times, referenced the fact that there's no requirement in the Town of Meredith to talk about access to the lake and Mr. Moriarty just said, well if they're not parking at a marina, I believe. There are no marinas on this lake, there's a completely different situation on Lake Wicwas than there is on Winnepesaukee. On Winnepesaukee, absolutely right, if somebody wants to leave their car down at Alton Bay and take a rowboat up to Bear Island, I couldn't agree more that's not up to anybody's discretion, but there are no alternatives on Lake Wicwas.

There are no commercial marinas, there's no place to have access and when you subdivide this lot, you are increasing all of these problems. The fire problem, how are you going to cover this? Not to belabor that, I know you guys went over that a long time at another meeting, it's one thing if my house burns down, but I might not feel so well if your house burns down and my house gets caught. All of these problems are going to be made worse by granting this subdivision. Hentz – I just think that the point that Brian had brought up about the marina was not an issue of having a marina on Wicwas for access, it was a matter of, if somebody wanted to store a boat, a lot of people that have properties on Winnepesaukee don't have a trailer and have commercial boat marinas haul their boat out and store it for them. I think that's the point he was making. I'm just curious, have you been around that lake, around that island lately? This summer? You realize that the area for the septic system has been cut out there all summer long? Crane – No. Vadney – Please, I don't need a lot of cross talk around the room. I appreciate your thought. Cohen – I don't know if you didn't want this to be discussed again, but I'm still sitting here with significant concerns about the wetlands. It's very close. For the life of me, I don't understand how they even got a dock since the regulations require 75' of navigable frontage and I think the entire spot is connected through non-navigable frontage that is, it was all wetlands until the motor boat was run back and forth to create a channel, but that aside, what's going to happen as four more cars try to squeeze into that tiny spot? Everything there in this tiny spot is aiming for trouble, as it gets pushed by usage, for the wetland. Gartrell - I would like to address a couple of the points that have been made. First of all, I think some of the spectra of harm that's being presented to you is based on something that is very doubtful. The idea that these will be owned and occupied as year-round homes I think is pure speculation. They don't have foundations under them. They are built on posts. They won't be as snug and insulated as other permanent dwellings will be. There's always the problems of access at off seasons of the year to get back and forth to an island, whether you could get across ice if there is any, or if you could use a boat. It's not likely, in my estimation, that these buildings are going to be used four seasons of the year. The idea that we're going to have a snow problem on the Chemung Road lot to maintain accessibility for parking year-round, I think is compounding the speculation. That would mean that someone would have to clear through the snow banks that are going to be thrown up along that road and maintain open space for these limited numbers of cars that could park there. The issue about whether there is a narrow shoulder, I trust your observations on that but to aid the Board I have a picture that will show in perspective the width of a pickup truck parked on the shoulder looking down the road and I submit to you that that's not a particularly narrow shoulder at the spot where access to the Chemung Road lot is located. As Mr. Edgar pointed out with regard to

the deeds, he did include a couple of things that I didn't mention before, one was reciprocal easements to provide for the utilities. We are not compounding a problem by having two dwellings because we have a septic system which has been pre-approved and it will serve both dwellings and there are reciprocal easements for power, water and septic and use on the island so it's feasible for these two dwellings to occupy that space and all of that's based on approved utility structures and access. Another thing that was included in those deeds is an express statement acknowledging by the buyer by accepting the deed, they acknowledge, like any other island property, there is limited assurance that they will be accessible for fire protection and other emergency services. Again, This is a common sense fact of life to anybody acquiring a piece of land, but we put it in the deed so that it's clear to the extent that the Town wants some comfort in the fact that people will be knowingly buying into a situation where they are assuming some risk that others might not have. It's clear from the deed itself that that is the circumstance. I'm a little confounded by the argument that by allowing this subdivision, you would be compounding the problem of the night parking on the road or compounding the problem of parking on the road. The fact is that we're making an accommodation because we have this lot to provide for parking to the extent that it's necessary for people while they are on the island to get off the road and not be in the public way or using the public parking facilities that are provided on Chemung Road. Those parking spaces are some distance from this lot, not like they were right next door. They are on the other side of the road, why would anyone use less convenient parking spaces if they have something available that suits their needs on their on lot which they don't have to share with anybody and that parking would be off the road. Furthermore, they are asking this Board to make up new rules for this situation simply as an argument to keep this subdivision from being permitted. I point out that we are offering more than is required and there are island properties all over the lake and all over the islands of Meredith that have been developed without the kinds of requirements that they are trying to place on this little two-lot subdivision. Dexter – First of all when property is sold, the owners can do what they want. My grandfather built a very nice seasonal cottage, it was kind of up on stakes, had a nice area underneath where you could pile wood. Then Mr. Keagan bought it and he jacked it up and put a cement basement in it. Mr. Crane bought it and has a beautiful year-round home there. When people buy these buildings out there, if this is approved, they are going to be able to do what they want with them so we can't just look at the snapshots now, we're looking at how the best use of this area is going to be in the future so you have the possibility of certainly something developing down the road with these properties. They are envisioning something that's year-round now or not: (1) It could change; (2) It may not be strictly in the purview of the local legal situation, but certainly it needs to be

considered by the Board. They are talking about maybe plowing an area very close to the lake that would include salt and other debris that builds up throughout the winter very close to the lake so if you've got a place for houses and for cars that are going to be in this little postage stamp place next to the lake, you're going to possibly see some pollution from development. It's a very nice natural area. Again, this may not be something that is the make or break of your decision, but it is going to be answered somewhere along the line if not by this Board, in another venue. We are as concerned about broad area as we are the narrow one. The third thing is, we talked about the congestion of that area. We're not just talking about overnight parking, we're talking about how that is used 24/7. Naturally, in the middle of an evening like this, there's probably no cars parked out there. If anybody is going to hold a party in a cottage on the lake maybe they would cancel it on a night like this, but we have to consider the safety and quality of that whole area. We are talking about two homes on a nice island and how people actually are going to use it and are four parking spaces enough? Is that adequate to protect the environment and the water quality on that place where this parking is? I would say that Mr. Gartrell is a very well known attorney in Concord, a very respected person. It certainly is debatable about whether the parking is an issue here or not and I know it's been done over the last 20 years in New Hampshire, a lot of things have been done, but certainly the question of parking is very much an open question. It's not going to be settled here so it's going to be settled somewhere else. That is certainly a debate we are very anxious to continue on. Vadney – The command decision here, I'm going to press on tonight with the idea that there were some pretty pictures shown to us, but I don't think they changed anybody's mind one way or another and I don't know that there's anything that had you known about them 3 weeks ago that it would have changed your rebuttals at all so based on simply my judgment, we are going to press on here tonight so that's something you can have to think about. That being said, we are in deliberation. Bliss – The pictures did mean something to me, I have to kind of disagree with you. There were four full-size vehicles in there and I think a lot of the comments that have gone along tonight and a lot of the comments that have been made throughout the meetings, one of the bottom things I keep hearing is nobody wants things to change. I don't want things to change either, but the bottom line is the applicant does have the right to do these things and I think he's tried to meet every thing that we've asked him to do. Vadney – I agree that the photos did show that, but also the engineering drawings they submitted in the packet also showed that and that is what we have asked for so based on that, I think we should press on. Kahn – Mr. Chairman, this is the sixth meeting we've had on this subject. The applicant was given extra time at their request to furnish information with respect to this meeting. I went and

looked at the file at Town Hall, the photos were not there. I've looked at the photos, I don't find them persuasive, but in any event they looked \_\_\_\_\_. I find them sort of ambiguous, some of them show possibilities of being able to move around on that space, some of them show driveways that look like they have turnaround space. In any event, with respect to the driveway issue, we don't know that anything we were shown was a subdivision. Anything that this Board had to approve and furthermore, even if there was a subdivision, I don't know that what we did in the past becomes the lowest common denominator that binds us for all time. We are entitled to improve the breed so I agree with Mr. Dietz(??) that the photos are not necessarily persuasive. I think that we now have clarity about the grant of access and coming back to the parking issue, we do actually have, I'm one of these people who instead of watching television at night, reads the zoning code. Our Town Planner has referred to me as a sick puppy. We actually do have a standard that's not directly applicable here, but it's darn close as an analogy. We have a standard for grants of access to lakes across waterfront property that requires 350 sq. ft. of parking area for each home granted access across waterfront property and if that isn't as close as you can come, I'm not saying it applies, I'm just saying that as an analogy, you couldn't be closer. Whether or not there's 700 sq. ft. of parking there, I don't know. I think that there ought to be 700 sq. ft. of parking, that's less than our commercial standard which would be, I think, 800 sq. ft.. I think there ought to be turnaround space and I have taken the liberty of preparing a resolution which is very, very long and if need be, I will read it into the record, but I also brought copies for everyone in the room and if you want me to read it, I'll read it along with you. What I've done is tried to put something together that would cover every aspect that we have discussed. It may not come out in each case to the satisfaction of each member of the Board, amend it, but I would like to do is make that motion. If you want me to read it into the record, I will and I'm moving that we conditionally approve this subdivision, subject to the conditions that are set forth in my motion, and John, if I have screwed up in some technical way, I've got the pins being set, but if there's some other way in which I've screwed up, just point it out and I'm happy to fix it. Vadney – I want to take a minute of silence to read this. Kahn – Do you need me to read it into the record? The Board asked Kahn that he do so.

I move that the proposed Bryant Island subdivision, Henmor Development LLC, Tax Map R10, Lot 22, also including Tax Map R14, Lot 58, shall be approved subject to the following conditions:

1. Because of the public safety risks from possible 24-hour parking of vehicles on Chemung Road in the vicinity of Tax Map R14, Lot 58, that applicant proposes for access to Bryant Island, and from vehicles backing into traffic lanes from that lot, there shall be a minimum of 350 sq. ft. of parking space on that lot per subdivision lot, plus turn-around space sufficient so that vehicles parked on that lot will not need to back into the traffic lanes on Chemung Road.
  
2. Ownership of Tax Map R14, Lot 58, shall be deeded to the owners of the subdivision lots as tenants in common, subject to no other interests, and the interests in such lot and in the subdivision lots, shall not be transferable separately from one another. The forms of deeds to such lot and to the subdivision lots shall be acceptable to the Board and shall be recorded with the Mylar.
  
3. In order to protect scenic views of the island from Route 104 and Meredith Center Road, in accordance with the Town's Master Plan and to reduce light and sound projected from the island, the applicant's proposed 75-foot "natural woodland buffer", shall be as shown on the plan submitted and the height of structures on the island shall be limited to 32 (30) feet, in order to insure that such views are not affected by roofline projections above the tree line. Deed restrictions, acceptable to the Board, shall be submitted to prevent cutting of trees in such buffer (with such exceptions as applicant proposed) or construction or filling in such buffer or in shoreline or wetland setbacks (determined, in the case of shoreline, on the basis of a high water line as proposed by the applicant and noted on the ), and such restrictions shall be expressly enforceable by the Town, by owners of the subdivision lots and by owners of shore properties on Lake Wicwas. The form of such restrictions shall be recorded with the Mylar.
  
4. There shall be compliance with the recommendations of the Loon Preservation Committee to protect the loon population on Lake Wicwas, set forth in their letter of June 30, 2005.
  
5. NHDES subdivision, septic approval shall be cross-referenced on the final plans. Each lot on the island shall have a NHDES approved septic design (which shall be cross-referenced on the final plans) and shall be subject to a septic maintenance agreement, satisfactory to the Code Enforcement Officer, to be recorded in the Registry of Deeds.

6. The provision of electric power to the island shall comply with all NHDES requirements and shall not impinge on the property rights of any landowner. The NHDES Dredge and Fill Permit with respect to the power line shall be noted on the final plans. If either island lot is encumbered by a utility easement, the final plans shall so note.

7. Final plans shall cross-reference the NHDES Dredge and Fill Permit relating to the proposed island docks.

8. There shall be a construction access plan approved by the Board of Selectmen and the final plans shall note that an Erosion and Sediment Control Plan, approved by the Code Enforcement Officer, is required prior to earth-disturbing activity.

9. Each house on the island shall have a monitored and maintained fire alarm system and a sprinkler system approved by the Fire Chief, and there shall be recorded with the Registry of Deeds for each subdivision island lot, an acknowledgement and hold harmless agreement substantially similar to that which may be required by statute for development on Class VI roads.

10. Deeds to the subdivision lots shall contain restrictions, acceptable to the Board, on outward and upward lighting from the island properties, enforceable and recorded in the same manner as the other restrictions to be contained in such deeds.

11. The Board shall be satisfied that any review by NHDES of the status of the dock on Tax Map R14, Lot 58, and of any actions taken by the applicant with respect to access to the lake from such dock through wetlands, shall have been completed and NHDES shall have concluded that such dock and such actions do not violate law or NHDES regulations.

12. There shall be a hearing of the Board to determine compliance with conditions 1 through 4 and 10 and 11, other than matters of recording. Matters of recording and compliance with all other conditions shall be handled administratively.

13. Written evidence that pins have been set if required before recording the Mylar.

Bliss seconded.



Granfield – Now that we've heard from the lawyer, we've got 11 pages, now we'll go to a cop and see if I can reduce it down. I wanted to note and I find that what you've done here perfectly except... I had a lot of problem with the parking and was prepared to vote against this because of the parking. The issues of the night, people are going to use that a lot at different times and we can't predict there are too many variables out there. I still felt people would be backing out, just because they park five or four cars on it and 4-wheel drives happened to be it. It was a problem; it was a recipe for disaster. People don't do 25 through there, they do 45. It was something that I just in good conscience couldn't have voted for but if these are enacted as Lou has presented, I would find that perfectly acceptable. Bayard – I do have a little problem with the enforcement aspect in #3. I can see where the Town obviously would be enforceable and perhaps the owners of the subdivision could have sort of cross ownership interest to some extent in the property, but the owners of the shoreline property on Lake Wicwas having enforcement powers, I can understand people can always sue, I mean if they find that the things did not meet what was stated, but enforcement I'm not sure how that stands legally and I think it may be granting a power of enforcement that I'm not sure we're authorized to grant for that matter, not being a lawyer myself. I have a problem with that. Flanders – I was just going to say I think that whether that statement's there or not, the reality is that if the shoreline people feel their rights have been impinged on, they can bring suit anyway. I think Lou did an excellent job trying to boil this thing down. It's been a long process, there's a lot of issues and I think he's done a pretty good job and I really don't have any indigestion with this thing exactly the way it's written. Vadney – I've got a couple of comments, myself. On that Paragraph 3, I'll come to the enforcement part in a minute, but we do hear the applicant say they thought the buildings were going to be between 26 or 27 and 32 feet and Lou has got 30. Lou – I would accept 32 feet. Vadney – It may already be designed for 32, I would say let's add that 2 feet. Vadney – As far as the enforcement goes, first I'm a little baffled I guess, we've made an agreement on how the buffer would extend and what the limits of it would be, but there are already some fairly stringent cutting rules enforced by the State and John I could ask you on this partly, do you think we need anything more stringent than the Shoreline Protection Act from a cutting, I mean that's already very tricky as far as basal area and stuff on how you enforce it. I don't want to see us trying to get out there with no numbers, no changing of numbers here, I don't know how this would change it or what kind of a plan we could insist on. Edgar – I wouldn't suspect anything dramatically different, but there were some reservations that the applicant wanted to make clear and I think the rules of the road if they are spelled out would be in everyone's best interest, both from the applicant's point of view and the Town. If the Board were to provide weight to the notion on some of the Loon Preservation Committee's

recommendations, they may have some thought that might be a little bit different in one area as opposed to another area so I think as a general statement, it probably would be dramatically different but I think some additional clarity would probably be in everybody's best interest especially if it's a condition of the Board's approval. There may be other ways to skin the cat that might be different than the State standards that might be agreeable to everybody and I think it's a fair thing to look at the clarity of that situation. Kahn – It's been a long time, but I think the applicant proposed cutting standards. That's what I believed and that's what I tried to set down. Vadney – If this is just documenting what they've already agreed to that doesn't bother me, but if we're saying we're going to develop some new cutting rules and stuff and you know how complex those got and remain with the Shoreline Protection Act. Kahn – I would point out that I said prevent cutting of trees in such buffer with such exceptions as applicant proposed. Whatever they proposed is fine with me. Vadney – Further on in there somewhere, there were some words that gave me the uncomfortable feeling we were trying to come up with something different than the Shoreline Protection Act. As far as the statement, if we go with that enforcement clause, I don't mind if it says expressly enforceable by the Town, but I'm strongly opposed to saying by the owners of the subdivision lots and by owners of shoreline properties on Lake Wicwas. Any enforcement you have as a \_\_\_\_\_ of what we give you here is no different than what you already have as far as the U.S. Constitution goes. I'm not going to give you powers that you don't already have. I think it's quite silly of us we're putting those in there and we're expressly saying that the owners of shoreline property can enforce this. Everybody, some guy in a canoe going by has the right to go to the Code Enforcement Officer or the Police if he sees some violation. I don't know how we could possibly change that. Kahn – Mr. Chairman, I would be prepared to accept, there is a concept in the law of a third party beneficiary, but I would be prepared to accept deletion of the owners of the shore properties. I don't see why we should delete the other subdivision lot, as between the two of them, I think they should have the right to enforce the restrictions so I'm prepared to take out the... Vadney – You mean against each other? Kahn – Yeah, right. I think they are going to be the best police because they are both out there. Vadney - They still have the right to go to Code Enforcement or the Police if there's some violation being made. I don't know that we could possibly add anything to their Constitutional rights. Edgar – The concept of a private property owner, within a subdivision, having the right to enforce covenants or restrictions is pretty common. Almost without exception, when we get into declarations of covenants and restrictions, there are clauses in there that provide for that scenario. Or a property owner, if they were so inclined, they could come to the Town if it was relevant to an approval and seek the Town to enforce the conditions of an approval, that's one scenario and it's also my

understanding that it's also pretty common to provide for some mechanisms internal to the subdivision if they wanted to pursue it civilly against each other and I don't believe that's uncommon. Vadney – The guy in the canoe can also do that, the way I look at it, but if you take both of those out of there, I can put up with the rest of it, but I just don't think it's proper to say, I mean if we've got rules out there, they need to be enforced by the Town. Edgar – Mr. Chairman, there are covenants all over the place that we review and we purposely don't get into whether or not you can have a clothesline in your back yard to hang out your laundry. Those kinds of covenants are all over the place and we opt out of that. Vadney – But that's because they have a condominium agreement that they've all signed up to. Edgar – That's right and they are allowed to enforce that within the unit owners. Vadney – This ought to be something between the Wetlands Board, the Town and the citizens. Gartrell – Leaving that language in would be a lawyer's full employment act, but the worst part of it is, it would create a recognition of standing that I don't think we need to state. You have to have a direct agreement to have standing to appeal your decision or to take that kind of enforcement action. It isn't the guy in the canoe, it's somebody who's directly affected by it. You could complain to the enforcement agency, but I think the enforcement properly lies here with the Town. I think Mr. Edgar's correct that between the two rights, the two property owners clearly have a standing and have direct interest and maybe they could enforce those kinds of covenants. Two other observations, one is I confess that I don't know this because I wasn't involved at that stage, but I don't know what that reference to the Loon Preservation Society means and I think if that isn't spelled out some way so there's some clarification what their recommendations to the Board are, I would have trouble with that down the road not knowing. One other element that I think is problematic is requiring that these island homes be sprinkled. I don't know how many of you are involved in that kind of thing, but I think that's a problem for just two homes located on an island and I would, we have the recognition in the deed of some assumption of risk, alarms clearly could be installed on this property, but I think the requirement that they be sprinkled is something that would be very difficult to require. Vadney – I don't want, I'm sorry I expected one quick comment. Dietz – I would like to respond to it. Vadney – I'll call on you in a few minutes, but right now I want to continue with this deliberation and cover the points in this and I will ask before we're done for one more set of comments for a different reason. If you want to leave in owners of the subdivision, fine but we certainly have to take out the shoreline property owners. Kahn – Just move the word "and" to after Town. Vadney – Item 5, the way I read this, it says each lot on the island shall have a DES approved septic design. Were you meaning that each would require it's own septic system. Kahn – This is a Town Planner issue. Whatever he tells me, I meant. Edgar – It's not a Town Planner's issue. What was mentioned in the

staff reviews in the past is that it has not been outside the Board's practice on other shorefront projects to require not only State subdivision approval but the actual design approval. If my memory's correct, I think that was already agreed to and that the applicant had... Vadney – My question is, is it 1 or 2? Edgar – Well, when I get my chance to go through this, I was going to hold out, I think it was represented tonight that there may be a common system serving both properties so I think it should be some kind of an either/or thing. They have a State design approval that will serve both properties whether it's individual or common. Vadney – I just wanted to make sure that was good because I also heard that it would be a common system. #10 – Outward and upward lighting. I certainly agree with the idea. We are on fairly thin ice in our ordinance to think that we can control the lighting from residential properties and I'm not sure that's one that unless you can show me something in the ordinance or give me an example where we've done it before on just plain residential, non multi-family, non-commercial kind of stuff, John do you know of anything on that? Edgar – I know we've had complaints about it before, but I don't believe it's addressed in our regulations. Vadney – So I'm a little worried that we just pluck that out of thin air and put it in there. I agree with it wholeheartedly, but there's a legal issue that we have to look at. Those were my comments on it, does anybody have any thoughts on that #10. Flanders – I would like to back up to #9 also. I think a requirement for the sprinkler system is over the top especially in a seasonal home like this, if they have an alarm system approved by the Fire Chief. First off, if you get into what's required in a sprinkler system, there would be a substantial amount of water storage that would be necessary on a property that is seasonal in nature so it would mean draining and anti-freezing and so forth, either that or going into a dry system which is even more of a burden and if they have an adequate alarm system, the sprinkler system does a good job knocking the fire down, but I think more importantly, is protection of life and safety and if you've got an alarm system that goes off and everybody gets out of the house, if it happens to burn down before the Fire Department gets there, you can't protect everything at all times and the cost of a sprinkler system out there is going to be I think burdensome and unnecessary. Kahn – I accept that amendment. Flanders – Now the other one here, the lighting outward and upward, I don't know as I can remember the time that we've done something like that in the past, it seems like a heck of a good idea to me and I think we ought to leave it in there. Vadney – OK, as long as you are aware that we are on fairly thin legal ice as far as our ordinance goes on that. I agree with you on the sprinkler one and Pam has accepted that as the second. Touhey – I would just comment also on that lighting thing. I think we've heard it a lot from the folks who live on the shore of Lake Wicwas and we have certainly talked about the aesthetic out there and I think that it would be a shame for lighting to be out of control in that area and as viewed from the roads so I would ask that that be left in. Edgar – A couple of things, #2 – I think the Board's approval of the format of the deed is appropriate, but as a practical matter the deed wouldn't necessarily get recorded with the mylar.

The mylar would get us to final approval, the deeds wouldn't come into play until we convey so I think as long as it's clear that you're approving the format of the deed and that is the nature of the deed that has to be employed at the time of conveyance, that's fine and even if you have a flag note on the plan to make it clear to a buyer that there is a prescribed format or something, but I don't think you are intending to force the conveyance of the property the same time the mylar gets recorded. Kahn – Are you suggesting that instead of saying it shall be recordable with the mylar, it should say and shall be referred to in the plan. Edgar – You know, the form to be approved by the Board and perhaps noted on the plan so that if someone comes across the plan in the registry and they see the subdivision approval, they recognize there are prescribed components that have been mutually agreed to so that we don't get in a catch 22 about having to record a document that is not tied to an actual conveyance. I think that could just cause confusion. Kahn – I would substitute the words “noted on the plan” for “recorded with the mylar”. Edgar – Mr. Chairman, the question of the Loon Preservation, that was not necessarily agreed to specifically by all the parties, but there have been representations that there would be a desire to work with the Loon Preservation Committee and, quite frankly, I think the buffer is probably one of the most substantive issues here that has been incorporated in the approval. The correspondence is dated June 30<sup>th</sup> and is something that goes back to that timeframe in the review. The staff review that's been produced over and over again refers to it, I draw your attention to Page 90 of this particular packet. There were five issues that were suggested by the Loon Preservation Committee and I had suggested in a staff review, the Board should consider all sum or a combination if you look at the five. I wouldn't just blindly say all five are required, I would think you would want to look at those five and then decide whether or not you think those or what you take from that. For example, the buffer was one, I think another one was to try to coordinate the timing on the laying of the electrical line if the timing happened to be during a particular nesting cycle, that could be a problem. There's probably a way of working around that time issue. Those five items have been on the table for a while. Gartrell – I just had a chance to look at the letter, one that jumps off the page at me which I don't think the particular homeowner is going to be in charge of is limiting motorized boats on the lake. Vadney – I couldn't agree more. Edgar – I just wanted to draw your attention to those items and they are paraphrased out of the correspondence that's in the record. With respect to Item #9, you have a copy of the specimen deed and you can see in that deed the language that was eluded to in the public hearing relative to flagging the fact that the owner, by accepting the deed, is acknowledging that this is an island property with (my language not the lawyers) but accessibility questions that are inherent with island properties so that is how it has been addressed to this point as a representation in the deed and so I just raise that question as

to whether or not that would satisfy the intent of Item #9 or not and I think you need to talk about that amongst yourselves. Just so we have clarity on that issue moving forward one way or the other. Vadney – I think that on the loon preservation ones that #3, limiting the number of motorized boats, I have no idea whoever wrote that, how extensive they meant that to apply, but the two, three or four boats at most you would expect that somebody living on this island would have, would pale of insignificance by the number of other boats that buzz that island looking for loons, etc., etc., so to me that's one that is an unfair burden to the property owners. Kahn – I suggest at the end of Paragraph 4, we put a comma and say other than limits on the number of motorized boats. Bliss agreed. Kahn – John, I'm having a little difficulty what the problem is in Paragraph 9,

Edgar - ... recognizes that it is an island property so on and so forth, I'm just raising the question that that has been somewhat addressed in the deed. If the Board wants to go beyond that, that is your prerogative. I just wanted to point out that it's been reflected in the deed and that you are making a conscious decision whether or not to advance it as it's stated in #9 or not. Kahn - #9 is one to be dealt with administratively. I am not prepared to try to figure out what the statutory agreement on Class VI roads is tonight. I'm not prepared to read your proposed deed tonight to find out what it says and whether it meets those restrictions and whether it would comply with that provision. I'm prepared to leave it to you. Edgar – And I'm prepared to suggest otherwise. Vadney – I thought that the applicant's statement tonight was broader and the hold harmless aspects were broader than what are implied by that Class VI road statute as I know that. Flanders – I think sometimes more is better than less and I think this is fine the way it is. I would like us to get every potential ounce of shield for the Town from anyone that buys one of these island lots and thinks the fire truck's going to be there 10 minutes after they call in a fire so I think we should leave it alone for that reason and I would like to thank Lou for the job he did in drafting this to give us a vehicle to start moving forward in an intelligent manner and coming to a reasonable conclusion. It's been a big help. Vadney – I also planned to thank him for that because it is, like it or not, it's an outstanding piece of paper for us to focus on and it's been a big help. Kahn – Thank you both, but as to Paragraph 9 and John's concern, all we've got to do is shift that into the compliance hearing and it becomes our problem. We're not going to deal with it tonight so I would suggest that in Paragraph 12, we say "There shall be a hearing to determine compliance with conditions 1 thru 4 and 9, 10 and 11. Finer – Can I make a comment. I don't see why we should be requiring an island resident to have a monitored system. We don't require other residences to have a monitored system. You can have problems with your alarm systems and if they start throwing out false alarms and central alarms

or whatever and they keep saying we're going to shut you off because the homeowner in March has no way to get out there, they are going to turn around and say well the Town told me I had to do it. Send them the bill and I think you should leave this up to the homeowner to assume the risk between him and their insurance companies. Vadney – There will be at least a couple of months in the fall and a couple months in the spring where all the alarm does is say come watch it burn because nobody can get there. Finer – Right, and I think that should be up to the homeowner. Vadney – I lost that argument at one of the meetings that you missed, Bill. I couldn't agree with you more. Finer – I would also like to make a suggestion to #10 since we've never done anything, the Board has never done anything with lighting on a residence, how about if you change it to "lighting and keeping with the rest of the residences on Lake Wicwas". That way you're not telling somebody that they can't have an outside light, but they are looking across the lake at all kinds of spotlights. Dean Dexter – That gentleman was recused, we have some comments as well and the Chair has not allowed us to express. Vadney – It was my mistake to let him speak. I won't let him do it again. Dietz – We have a comment, we have some things that we want to share as well. Flanders – I was going to respond to Bill. I couldn't disagree more as far as the alarm system goes. The genesis of this, Bill, was you're not going to be able to get a quick response out there, OK, and it's to protect life and safety so the risk in that structure, if it catches fire, to the people in it, is significantly greater than it would be to someone on the mainland. Finer – Right, but you don't need to have it monitored. Vadney – Bill, no more comments, please. Finer – I'm responding to his direction. Vadney – I know, but in this case, it's over. I'm sorry. Keep in mind all of these things that we're proposing against this property are going to come back to haunt many of you because there are other islands in the Town and the fact that there is a fireboat on Winnepesaukee doesn't make much difference as far as how long it takes to get there to save somebody so all of these arguments are equally valid for Winnepesaukee as they are on Wicwas. Flanders – I never said they weren't. Granfield – I was going to make a comment since you had brought up the lighting and I am concerned and maybe, Lou, you can help me. It's outward, because I do see there's going to be docks and from a safety standpoint, there's going to be outward light and it was very well put by someone who couldn't speak that you can see other things across the lake and it was exactly what I was going to say. Are we sure, we want, I don't see that as being enforceable at all and I think it puts us in a bad position to say outward, if outward is anything you can see if you're just away from it, is that what you mean, Lou. If they have a dock and there's lights on the dock, lights on the stairs coming down, isn't that going to be a common occurrence? Kahn – There are ways that we use, I grant you we're off in an area that we're not typically in, but on the other hand, in your typical residence, you don't

have to look at the lights from  $\frac{3}{4}$  of a mile away. Vadney – How about the one across the street? Where does it stop? Kahn – Mr. Chairman, I have the floor. Vadney – OK, go ahead. Kahn – We have restrictions that we apply to commercial properties to keep down the light aura and I say restrictions acceptable to the Board, it seems to me that picking up from our commercial property restrictions, we should be able to come up with something reasonable. You want to put in the word reasonable, fine with me. Everything we do is reasonable as far as I'm concerned, but it would not be my intention that no lumens shall travel out into the water. On the other hand, what would be my intention is if you have lights out on your dock that cast light down on the dock, that would be fine, but if you put a big flood up on your house and focus it on the dock, that wouldn't be fine. But I'm prepared to work it out. Vadney – My whole point on this lighting issue is we're not covered in the ordinance on this. If we were to say that a person living  $\frac{1}{2}$  mile across Lake Wicwas can see a light on the island, therefore, the light is not allowed, how is that going to translate into everybody's home that has a neighbor across the street. It doesn't have to be an island, we are setting policy here that could come back to bite us in many, many ways and it worries me. Kahn – Mr. Chairman, I would say if we can be reasonable, we have commercial standards that we can work into this area and I think that we are talking about a conditional approval here and if the applicant wants to take that paragraph to court, he can go and see if he wants to overturn the conditional approval. Vadney – To me, that's a sad way to do business, but go ahead, Bill. Bayard – I think in this case my argument in favor of some reasonable lighting would have to do with the scenic nature of the area and I think that's one of the things that we have stressed in our long-range plan, a community plan and that's one of the reasons for the additional buffer and I think it's in keeping with that and I find it acceptable for that reason. Granted, I think that reasonable perhaps could be fit in there or something like that, but I think we're looking at something that's a little bit discouraged here, outward floods on the dock and this sort of thing. Other than that, I don't think we're talking about a spot in front of the door and in front of the two doors and that's it. Vadney – When we start talking about what's reasonable without further definition that's truly the full employment rules and opportunities for the lawyers. We don't have an ordinance to hang our hat on with this. Bayard – To respond, I think we do have an example with what we do with the commercial. Vadney – Oh, we've got some very good reasons for it, but the system says, draft a zoning ordinance change and get it passed at Town Meeting. Flanders – I think that what we've tried to do and been quite diligent at in preventing light pollution is where Lou was headed when he put this in here and I've got another thing I'd like to say, we've had six hearings on this thing, we have a comprehensive thing in front of us, we've dissected it pretty thoroughly and I'd like to call the question. Edgar – Now wait a minute, we



need to make sure before we vote on anything, we know exactly what tweaks have been made, so it's OK if you want to shut off debate, but I need to make sure that we at the staff level know what the motion is and that you know what we voted on. Kahn – Mr. Chairman, I have kept track of all the changes that I have accepted. The only one that I haven't changed was Paragraph 5, John. Edgar – Can we just go off the top on what your recollection is. Kahn – Sure, it's not my recollection, I noted them down. Edgar – What do your notes tell you. In Paragraph 2, we take out the words, recorded with the mylar at the end of the paragraph and substitute **“noted on the plan”**. In Paragraph #3 in the fourth line, 30' becomes **32'** and next to the last line of Paragraph #3, add the word **“and”** after Town and end that sentence with the words **“subdivision lots”**. In Paragraph #4, at the end of the paragraph, put a **“comma”** and add the words **“other than limits on the number of motorized boats”**. Paragraph #5, I'm going to leave until you and I can discuss it. Paragraph #9, in the first and second lines strike the words **“and a sprinkler system”**,... Paragraph #10, add an **“r”** to enforceable. In Paragraph #12, at the end of the line where it says conditions 1-4, and **add 9**,... Edgar – For whatever its worth, under Item 11 the Tax Map reference should be **R14**, not R15. Kahn – And now it seems to me we've discussed the change on Paragraph #5, but we never came up with the language about a common system. Second line, **“Each lot on the island shall have or be served by a NHDES approved septic design”**. Kahn – That's my list. I mean we've got one or two issues that the Chairman has raised that have not been resolved. Edgar – Is that what the second understands to the minutes. Bliss – Yes. Edgar - So you have a motion and a second. Vadney – The outstanding issue is still on the light. Kahn – I second the call of the question. Vadney – All right, how many want to have any more discussion and how many want to vote. How many want to vote, say Aye? Voted in favor. Are you going to hear our input? Vadney – No, it's over. (??) You were in negotiation with the proposal's lawyer. Vadney – It's over, you can sue, it's that simple. Go for it. Dexter – We will have our voice heard, sir. (??) I do have important information about the loons. Vadney – It's over.

Motion voted 6 in favor, 1 against. The motion as voted on is as follows:

The proposed Bryant Island subdivision (Henmor Development LLC., Tax Map R10, Lot 22, also including Tax Map R14, Lot 58), is approved, subject to the following conditions:

1. Because of the public safety risks from possible 24-hour parking of vehicles on Chemung Road in the vicinity of Tax Map R14, Lot 58, that applicant proposes for access to Bryant Island, and from vehicles backing into traffic lanes from that lot, there shall be a minimum of 350 sq. ft. of parking space on that lot per subdivision lot, plus turn-around space sufficient so that vehicles parked on that lot will not need to back into the traffic lanes on Chemung Road.
2. Ownership of Tax Map R14, Lot 58, shall be deeded to the owners of the subdivision lots as tenants in common, subject to no other interests, and the interests in such lot, and in the subdivision lots, shall not be transferable separately from one another. The forms of deeds to such lot and to the subdivision lots shall be acceptable to the Board, and shall be noted on the plan.
3. In order to protect scenic views of the island from Route 104 and Meredith Center Road, in accordance with the town's master plan, and to reduce light and sound projected from the island, the applicant's proposed 75-foot "natural woodland buffer," shall be as shown on the plan submitted, and the height of structures on the island shall be limited to 32 feet, in order to insure that such views are not affected by roofline projections above the tree line. Deed restrictions, acceptable to the Board, shall be submitted to prevent cutting of trees in such buffer (with such exceptions as applicant proposed) or construction or filling in such buffer or in shoreline or wetland setbacks (determined, in the case of shoreline, on the basis of a high water line as proposed by the applicant and noted on the plan), and such restrictions shall be expressly enforceable by the Town and by owners of the subdivision lots. The form of such restrictions shall be recorded with the Mylar.
4. There shall be compliance with the recommendations of the Loon Preservation Committee to protect the loon population on Lake Wicwas, set forth in their letter of June 30, 2005, other than limits on the number of motorized boats.
5. NHDES subdivision septic approval shall be cross-referenced on the final plans. Each lot on the island shall have or be served by a NHDES-approved septic design (which shall be cross-referenced on the final plans) and shall be subject to a septic maintenance agreement, satisfactory to the Code Enforcement Officer, to be recorded in the Registry of Deeds.
6. The provision of electric power to the island shall comply with all NHDES requirements and shall not impinge on the property rights of any landowner. The NHDES Dredge and Fill permit with respect to the power line shall be noted on the final plans. If either island lot is encumbered by a utility easement, the final plans shall so note.

7. Final plans shall cross-reference the NHDES Dredge and Fill permit relating to the proposed island docks.

8. There shall be a construction access plan approved by the Board of Selectmen and the final plans shall note that an Erosion and Sediment Control Plan, approved by the Code Enforcement Officer, is required prior to earth-disturbing activity.

9. Each house on the island shall have a monitored and maintained fire alarm system approved by the Fire Chief, and there shall be recorded with the Registry of Deeds for each subdivision island lot, an acknowledgement and hold harmless agreement substantially similar to that which may be required by statute for development on Class VI roads.

10. Deeds to the subdivision lots shall contain restrictions, acceptable to the Board, on outward and upward lighting from the island properties, enforceable and recorded in the same manner as the other restrictions to be contained in such deeds.

11. The Board shall be satisfied that any review by NHDES of the status of the dock on Tax Map R14, Lot 58, and of any actions taken by the applicant with respect to access to the lake from such dock through wetlands, shall have been completed and NHDES shall have concluded that such dock and such actions do not violate law or NHDES regulations.

12. There shall be a hearing of the Board to determine compliance with conditions 1 through 4 and 9,10 and 11, other than matters of recording. Matters of recording and compliance with all other conditions shall be handled administratively.

4. **LORI CRAM:** (Rep. Harry Wood)

This is a site plan for a small welding shop to be built on the lot adjacent to the house site. They intend to erect in reality a 25' x 30' building. I think we started with a 30' x 40' and the economy ruled somewhat smaller and I think the last size was 30' x 25'. I did not change the plan from the 30' x 40' because that would allow them a reasonable -expansion in the future should they be able to do it. The will be presenting to you at your next meeting for Architectural Review, the actual building to be erected at this time which would be 30' x 25. The property has been prepared over the past couple of years for this eventuality. There is a driveway and a pad where the building would sit already in place. It's been that way for some time, I believe there is a driveway permit that has already been issued for the site. In essence, what we are speaking about this evening is the

placement of the building on the lot so it does not violate any setbacks and does not create extensive drainage. The drainage runs basically to the rear of the lot and off diagonally to the side. There will be no employees on the site. No septic facilities proposed. The residence is next door and the owner would utilize his residence. There are no large vehicle repairs contemplated so there would not be trucks with frames to be mended and things of that nature at the site. Mr. Cram chooses not to service that type of clientele. There would be no parking on the site except for dropoffs and pickups. We are talking about a very limited amount of activity on a two-acre + site that is wooded and you can see specimen trees and the tree line on there. There is a comment on the plan that calls for outside storage on what would be the southerly side of the building and I have copies with me tonight that have removed reference to the outside storage. In review with staff in consideration of architectural review, it was mentioned that the Cram's preferred not to have outside storage and that they retain any salvageable material or such things as oil or whatever else might come out of an outboard motor, that they collect it in drums inside the building and they have a pickup arrangement for somebody to remove it from the property. Other than that, I am unaware of any hazardous materials that are used in the business. Bayard – On the outside storage, you're saying that's being removed. Wood – That's been removed and I.. Bayard – You're going to remove that from the plan? Wood – I have copies with me that I can give you, the one on the wall and the one that I've given to John has that removed. Kahn – When you remove no outside storage, are you then going to note the plan "no outside storage"? Wood – We'll note the plan. Edgar – I don't know if any of you folks were present, but this before you as a pre-application review on October 12, 2004. There was just a general discussion at that time, but there was discussion about the fact that it would be owner occupied and that it's separate lots, but as a practical matter it's basically one employee living next door. I discussed with Lori and Raymond that we have to try to think beyond the current ownership and it's one thing to say there's one employee and if he needs a restroom, he goes home, but in the context that we're talking, these are separate lots of record so I suggested something to the effect that they consider a stipulation that should the employee level increase, in other words if you had a level of employment beyond the homeowner or if the lot were to be sold separately, a site plan amendment would be required for purposes of providing on-site septic disposal and water supply. The owner of some type of occupied building, you would typically have some basic services so that could be a stipulation, it's something I've discussed with the owners and it should be noted on the plan so that anybody buying the property would realize that that sale would trigger the need for site plan amendment if they were to occupy it separately. Something like that would be prudent if you were to look at this as needing on-site septic. One other thing that we talked about briefly was the outside storage and you heard what the resolution of that would be. A question that I had raised and this something that is typically made as an administrative matter, just clarification

of the fuel supply. I would assume that the building would be heated. At the time we last met, myself and the owners, it wasn't clear what the nature of the fuel supply was going to be, but that needs to be approved by the Fire Chief so it will show on the final plans and then be signed off by the Chief. Three's different codes and a lot of it's driven sometimes by the type of fuel, the size of the tank and when we have that information, we can check setbacks and that kind of thing. If the issue of outside storage is clearly noted, the intent and something to be in our record and very clear to all the parties is that they are in the watershed of the Town's water supply and we just want to make sure that we don't have any inadvertent releases of material into the environment if we can prevent it and so by keeping those materials inside the building, not having a floor drain, it's pretty well contained. If there happened to be a spill, you clean it up and it should be that simple as opposed to storage of some of that stuff outside, containers can rust, they can leak, they can be damaged, they can be bumped into and so I think we are all hopefully on the same page as far as that goes. As Harry indicated in the not-too-distant future, we will have the rendering of the building. It's basically a pretty straightforward building, but you'll have the application before you I believe the next cycle if I'm not mistaken. Wood – The building is essentially two-tone tan with green trim and the door to the front, the overhead door, will be camouflaged to look like barn doors. You know, some diagonal indication on it that look like braces and then we were proposing a gallows overhead which is similar to what would be used on a barn to lift something into an overhead tack. Edgar – My last comment typically if signage is anticipated, we would like to at least see the location on the plan so we don't have any obstructions of sight distance. Even if it's not a high priority and maybe not a front-ended thing, it would just make sense to show a possible future sign if it's at all conceivable so that doesn't become a permitting issue. We do have a driveway permit that was issued for the property for residential purposes and as a practical matter, that would need to be amended to reflect a commercial use. Flanders – Do you anticipate having a dumpster on the property? Cram – No. Flanders – Probably consistent with our other commercial plans, we should have snow storage noted somewhere. Finer – It's noted on the plan, Bob. Hearing closed at 9:07 p.m.

Bayard moved, Finer seconded, I MOVE THAT WE APPROVE THE APPLICATION OF LORI CRAM FOR A PROPOSED SITE PLAN TO ERECT A 30' X 40' METAL BUILDING TO ESTABLISH A COMMERCIAL WELDING SHOP, TAX MAP S15, LOT 77, LOCATED ON JENNESS HILL ROAD IN THE CENTRAL BUSINESS DISTRICT, WITH THE FOLLOWING CONDITIONS:

- (1) SHOULD THE EMPLOYEE LEVEL INCREASE, IT WOULD REQUIRE A SITE PLAN AMENDMENT FOR THE PURPOSE OF PROVIDING ON-SITE SEPTIC DISPOSAL AND WATER SUPPLY;

- (2) FINAL PLANS SHALL SHOW THE LOCATION OF EXISTING AND PROPOSED ELECTRICAL SERVICE;
- (3) THAT THE DRIVEWAY PERMIT BE AMENDED FOR COMMERCIAL PURPOSES AND BE REFERENCED ON FINAL PLANS;
- (4) SHOULD SIGNAGE BE ANTICIPATED, FINAL PLANS SHALL SHOW LOCATION.
- (5) FINAL PLANS NEED TO INDICATE FUEL SUPPLY TYPE, LOCATION AND SIZE AND SHALL BE APPROVED BY THE FIRE CHIEF;
- (6) A PLAN NOTE INDICATING THAT ALL MATERIALS THAT REPRESENT ANY WATER QUALITY THREAT SHALL BE STORED INSIDE THE BUILDING;
- (7) THE BOARD RESERVES THE RIGHT TO REVIEW AND AMEND ANY APPROVAL AS PROVIDED FOR IN SITE PLAN REVIEW REGULATIONS NOS. 7 & 17.

Voted 7-0 in favor of the motion.

3. **TONY CANDAGE:** (Rep. Tony Candage)

Tony Candage – I am the owner of this property and owner and operator of the Village Perc on the first floor. The gentleman with me is Michael Moon, owner and operator of Upstairs Art Gallery on the second floor of 48 Main Street. Michael is looking to expand promotional activities with his business by bringing dinner arrangements with a business down the street, Abondante's at 30 Main Street. We have done two of them by getting Special Permits from the Town. We've orchestrated two wine dinners to date with very good success. Basically, just to see how it would work out and the two events that we've had did work out well. There were 20+ people, one was closer to 30 people so we would like to get the Board to look at amending the site plan to accept this expanded use of Upstairs Art. Vadney – Is there a limit like, is 30 as big as you can get or how big do you think you can get? Candage – Chief Palm looked at the space as far as occupancy and the proposal and you should have a drawing showing 60 seats and that's what Chief Palm agreed upon as far as the occupancy. Edgar – There's a little minor thing I need to bring to everybody's attention and the way the Chief explained it is initially we are looking at 64 and you see the floor plan refers to 64 (8 x 8). I think there was one table that represented an issue and one of the 8 footers got made smaller. So the occupancy permit, the Place of Assembly Permit that the Fire Chief has to issue which you guys submitted to us is for 60 so the real number is 60 and I think it's just a matter of not updating the floor plan to reflect the fact that one of the tables is not 8 but 4. It's not a big deal, but I did ask the Chief specifically this afternoon if there was wiggle room in the 60 calculation based upon the fire code stuff. The

answer was not, it was actually 59.8, so 60 is the number for maximum occupancy under the Place of Assembly standards. Vadney – Do you know if that is driven by the fact that these are sit down eat a meal type accommodations. Would it be different if they were doing lineup chairs or anything like that or do we care? Is this simply the meal situation. Edgar – I believe it's the meal situation. I have not been in on all of those discussions. That floor plan showing seating and tables for dining is what the Chief had reviewed under the Special Use and he had to calculate under the fire codes what amount of people could be safely be put in the building based upon those codes so I believe it has to do with seating in the context of a dining event. Vadney – Stairway, escape routes and something like that. Edgar – That's why one of the tables wasn't going to be as big, because it was a little bit crowded in an area where they had to maintain a passage area. So that's where the numbers come from and it's a matter or reconciling to it and you'll see on Page 83, any approval should stipulate that the seating capacity not exceed the approved seating capacity. The approved seating capacity meaning the Place of Assembly. Four seats is not a big deal, but I did check and we were at the max with 60. Bayard – If you look here, the floor plan seems to show the 4' one and just on the side, the map wasn't noted correctly, so it's kind of there already. Candage – The origin of the original drawing actually came from Steve Catalano, the owner of Abondante's and what he was given was basically the floor space and based on his expertise in the restaurant industry, what the arrangement would be. He originally came up with 8 8's giving us 64. WE then presented that to Chief Palm who then had some concerns with I think the back 8 and that's when it was reduced to the 4, giving a total of 60. Kahn – Is it possible that you might be using this space for cocktail parties where you wouldn't have the tables for an opening or something like that? Michael Moon – The proposed collaboration with Abondante would include essentially meals only. Cocktail parties and the like, no. There's a possibility of special catered events, but not cocktail parties. We definitely want to keep a fine level of control of this and keep it within the overall art gallery kind of experience that people would expect, so no cocktail parties and no keg festivals. We were talking about sit-down meals only. Kahn – I wasn't thinking about a keg festival, I was thinking about your traditional Madison Avenue opening. Edgar – And one thing that we did talk about that I don't think is necessarily a change of use, but right at the outset with an art gallery, if they had an opening with an artist or something and they were having some kind of an event to try to showcase somebody who's stuff is in the gallery, to me that's just, you know as long as they meet with whatever the codes are for that, that's part and parcel of running a gallery. In that context, if that were all we're talking about, we wouldn't be here, but because we did a couple of Special Use Permits, they worked which is why we do those and there could be more of these coming down the pike as we

have with other matters on this project, we want to make sure you understood what the thinking was and they had your blessing so before we just launch into a winter/spring season of these things where they could be more frequent and then you guys wondering why it never came before you, so it's not an issue from a staff point of view as much as to bring it go your attention. Bayard – Do we need to discuss anything about parking with this or not or is that already covered under the prior approval. Sorell – There's no parking anyway. Edgar – For clarity purposes, I didn't to put it in the staff review, but I think if you want to be clear for the record, you could just indicate that the associated parking is waived. Bayard – I would like to see that made.

Flanders moved, Granfield seconded, MR. CHAIRMAN, I MOVE THAT WE GRANT AN APPROVAL TO TONY CANDAGE FOR A PROPOSED SITE PLAN AMENDMENT TO EXPAND USE OF THE UPSTAIRS ART GALLERY TO INCLUDE DINING EVENTS, TAX MAP U07, LOT 133, LOCATED AT 48 MAIN STREET, IN THE CENTRAL BUSINESS DISTRICT AND THAT WE INCLUDE A PARKING WAIVER AS NEEDED, THAT THE NUMBERS ON THE SEATING BE CLEARLY STATED AT 60 FOR THE CAPACITY AND THAT WE RESERVE THE RIGHT TO REVIEW AND AMEND. Voted 7-0 in favor of the motion.

4. **CONVEX, LLC (WINNISQUAM HEIGHTS)** – (Rep. Carl Johnson)

This property is located on Batchelder Hill Road and is a 21 ½ acre piece of land that we appeared before the Board previously because of a restriction of a prior subdivision that this lot could not be further subdivided. This Board authorized by vote that the previous subdivision restriction be removed and that we would have to appear before the Board and meet all of the requirements of the Subdivision Regulations to the Board's satisfaction. Subsequent to that meeting and prior to this meeting, we appeared before the Meredith Zoning Board of Adjustment because there were some issues regarding some drainages and associated wetlands along the project. As you can see, there's a drainage that comes down from the southwesterly portion of the property, it comes down through, there's an associated wetland here, there's a small drainage that comes down into a wetland, picks up again goes down and kind of dissipates and then there are some wetlands in this area which are largely associated with the culvert which crosses Batchelder Hill Road and exits the property. The original application to the Zoning Board of Adjustment dealt with 3 driveways. There was a driveway to the North that was accessing Lot 2, there was a driveway here that was accessing Lot 1 and there was a driveway that came up this 50' strip and went up across this drainage to access Lot 3. Upon a site review by the Meredith Conservation Commission and based on their comments, we have removed one of the



driveways which is the driveway that directly accessed Lot 3 and included the access to Lot 3 through the common driveway which comes across Lot 2. What that does is eliminate two crossings by taking out this driveway, as well as the earth disturbance and buffer impacts associated with that driveway for a length of over 1,000 feet. What we are proposing now is a 3-lot subdivision that has two driveways. The first driveway comes up and goes through a buffer with no wetland impacts, comes up cross slope, this is relatively gently sloped here, (I'll avoid using the term flat for this property) and I'll get into the lot sizing in a moment, but then comes cross slope and would have a hairpin turn here to come up to the building site which is located here on Lot 2. We have submitted test pit information for these lots. Test pits were good for this site. The driveway would then continue and cross over the boundary between Lot 2 and 3, come up and have one small crossing to get to the buildable home site on Lot 3. As you can see by the contours here, there is a flatter area towards the top of Lot 3 for a building site and there is a test pit and 4K area there. In order to accomplish this, we went through a series of lot sizing calculations. The density as you know out here is 3 acres, all the lots are greater than 3 acres. The size of the lots are based on the soils based lot sizing and what we did here because we had the benefit of the topography which was done when the overall subdivision was done on Batchelder Hill and Eagle Ledge, we had the ability to do what's called the worst case slope analysis for the lot sizing and what that does is you net out the wetlands and the drainages and then you analyze the slope categories of the lot and you assume you would have the worst case soil type existing on that slope. For an A and B slope, that translates to 90,000 sq. ft. per lot which is over two acres. In the worst case scenario for a C slope, it's 100,000 sq. ft. and for a D slope, it would be 160, 000 sq. feet. E slopes are not allowed to be counted and there are E slopes that appear on Lot 2 and on Lot 3 and they are noted in the lot sizing calculations so you can see that Lot 1, when you net it out, you're allowed 1.3 by worst case, Lot 2 you're allowed 1.8 and also Lot 3 about 1.8 so we meet the soils based lot sizing using the worst case scenario. If you look at some of the test pits, Lot 1, 2 and 3, you can see that it's probably not the absolutely worst case so there's a safety valve built into the lot sizing calculations there. When we got into the situation if you're at 1.01 or 2.01 because we were on a previous subdivision plan, it may be important to have a site specific soils map done. If you were to add these all together, you can see there's sufficient safety built into those calculations to see that without any question, there will be suitable places for septic system disposal on these lots. Mr. Jackson met with Al Bolduc from the Town of Meredith on the site way back when he first bought the property and talked about subdividing it and did talk about three separate driveway entrances and at that time was told that both of these driveways here, as well as the driveway to the north would have no problem. Since that time, it's been

staffed, viewed under DOT and Mike Faller's viewing of the driveway locations as well as the general condition of Batchelder Hill Road and as of today I don't have any information regarding that meeting. John doesn't yet either, but we'll speak to that in a moment I'm sure. If you look at the setbacks from the wetlands, you can see that there are no problems at all with your setbacks for your buildable areas for Lot 2 and 3. For Lot 1, there is a smaller building envelope, if you will, but what you have to remember is that the 4K area that's shown on the plan which is 4,000 sq. ft. big is not a restrictive area for a building site once you get approval for subdivision. So in other words, this 4K area that we're showing, once you get subdivision approval and you actually construct the septic system, things can go in there, houses, driveways, garages, whatever, that's no longer an area that's blacked out from development. You have to demonstrate for subdivision purposes at the State level that you have a 4,000 sq. ft. area available and that outside of that 4,000 sq. ft. area, you show a house and a proposed well site. John has a staff review here with a few comments that I'll briefly go over, then I'll turn it over to the Board. He summarizes the background, the zoning density and the lot sizing and notes that a DES subdivision approval is required only for Lot 1. Lot 2 and Lot 3 are of sufficient size that they do not trigger DES subdivision approval. So the subdivision approval at the State would have to be obtained prior to final approval and would be only for Lot 1. That would be a requirement of conditional approval. The utilities, test pit data has been submitted and as I mentioned, that's subject to approval. The electric cable and telephone will come off the existing services that are on Batchelder Hill Road. John asks that we note on the plan where the existing services are and where they would be coming from and we would be happy to do that as part of the conditional approval. In terms of the common driveway that's going to be accessing Lot 3, right at the moment we're showing it here based on field inspection by the owner and also by the analysis of the topography as it sits. As I mentioned, the great majority of it, although it is fairly lengthy, is either on a very gently sloped area or a cross slope situation with the exception of one area. Probably what is going to happen, the driveway will be located in an area to minimize the amount of slope that you're going to have to achieve to get to the house site. I spoke with Chief Palm briefly about the length of driveways in general and the fact that we essentially are eliminating one entire driveway, there is a tradeoff and I mentioned to him that the great majority of the driveway length, although it is a long driveway, is not slope restricted or the worry is not the slope. There's a very small section maybe 130 feet long that might be of a higher slope and that's part of what you look at when you design the driveway is trading off the location of it in general avoiding the wetlands impacts and maybe having one small section of it that might have been steeper than might have been desired, but then once you get up here again, you're going cross slope to the lot. The other thing that I

spoke to him about, is it more desirable actually to have the steeper part of the driveway be perpendicular to the contours instead of going around a corner? You don't want to be going up or down a steeper driveway that's going around a corner and the dramatic example of that is if you've been up to the Clover Ridge subdivision and you've gone around a super elevated curve, that's a 10% curve, but it feels like it's a lot more because only because you're going around a curve. If you go around a 10% curve going straight up, the appearance is a lot less. Well, it's the same with a driveway, if you've got a straight driveway going up the contours for a short period of time, it's a lot easier to accommodate both the private vehicles as well as the fire trucks and safety vehicles. I know that right now there is no requirement that the Town has regarding lengths of driveways or steepness of driveways. Basically, what the Town looks at is how the driveway comes out into the road where they have adequate safety sight distance and whether or not there are adequate drainage structures in place as it intersects a Town road. I know there is a lot of discussion at the planning level and primarily for safety reasons for the Town to start incorporating some analysis of driveways and access into their regulations so you don't get into situations where you have a very narrow scope and all you're looking at is the apron getting to the highway and from there on, all bets are off and you can go wherever you want to get to your house. I think you can see here, John does have some comments about whether we have analyzed different situations, different building sites, different lot configurations and basically we have. We actually at one point in time, when this first came about, we were entertaining more than 3 lots, but because of several issues, not the least of which is access, we've ended up with 3. Remembering that we are entitled to one because we have an existing lot of record so what we're asking for really is only two additional lots. There are a couple of photographs that were taken that indicate the extent of the drainage. These were not submitted 15 days prior to the meeting, but I would like to submit them now. This just gives you general indication of these drainages that are being crossed. We are not talking about the Pemigewasset River here, they are very small drainages. The mapping was actually done, as you can see there was snow on the ground in the spring so the amount of water shown in those photographs is based on a spring runoff situation. These drainages do run when there's rain. They are probably running now. But I think what you can see here is if they were bigger and more important, there would be larger wetlands associated with them and you can see that the wetlands associated with them are fairly small. Actually, when you get down to the nuts and bolts of it, not including the buffer impact, the actual wetland impact that was approved by the Zoning Board was 86 sq. ft. so I think we've done an excellent job in avoiding wetland impacts for this 3-lot subdivision. Although you do have some drainage issues here, this

drainage is largely undisturbed, the major drainage runs down. There's one crossing that's right at the top and it's about the same width that, as you can see in those photographs, is very narrow and so in terms of getting to the three buildable areas on this lot, I think we've done a great job of avoiding the wetland impacts. John did mention that he would like to see some additional details submitted for his review and the Board's review. We would be happy to submit some additional information and what I could do is provide some rough profile information of the driveway showing what the slopes are anticipated to be after the construction. We can actually analyze possibly coming up a little here because as you come up, we're going essentially cross slope in this section. If we were to relocate this a little bit away from the wetland and actually come slightly diagonally up to the slope, you gain some feet in elevation and this rise right here might not be quite as steep. We would be happy to provide that additional information to John and the Board.

Bayard – Were you approved for this specific spot for the crossing because it seems to me you might be able to move that down slightly too, not knowing the trees and the contours there, but it looks to me like you could perhaps move that down and somehow work the driveway a little better that way also.

Johnson – It was based on the site review where the driveway would probably go. Remembering that originally the driveway came up here, across this drainage, crossing here, came around and crossed here so we were looking at three separate crossings to get to this lot. This is the only one that remains.

Bayard – I'm just thinking if it moved a little further down, you might gain a few contours.

Johnson – We would be happy to investigate that possibility and also...

Bayard – And the going around. It seems to me you might be able to substantially review...

Johnson – As part of submitting additional details to John and for the Board to review, we would be happy to look at that.

Vadney – Am I reading on that lot, the big one up there at the top, the house is going to be downhill. You're going to pump up to the septic.

Johnson – As of right now, yeah.

Edgar – That house site is not there. There is nothing that would preclude them from building on the hillside as high up as they can get to obtain views and then gravity into it.

Vadney – Sooner or later, the driveway's got to get to the house.

Edgar – The point is that footprint for the building is just to illustrate a building site, it doesn't necessarily obligate them to build.

Johnson – The building envelope for this lot is from there up.

Edgar – For that matter, you know Test Pit #4 is a good pit and could shorten up the driveway and eliminate the 27% grade, if you weren't looking to try to get real high in elevation.

Johnson – We have to get to this one because that's a common driveway.

Edgar – That could go a lot lower in the landscape too. Closer to where the text is on the, you would still have a crossing, you wouldn't have the view off that knob, but you could shorten up the driveway and eliminate the grade with a different house site. Anyway, the point that and I've shared this with Carl, this is not a surprise, it's

just that we are getting more and more development pressure on steeper slopes and we're getting more and more back land development with long driveways and the Fire Department has been looking at it, I've asked them to look at it, there are some NFPA requirements that trigger for bigger projects and roads. I don't believe they by regulation kick in on a project like this because of the number of lots that are involved. However, if you're the one having the heart attack and you can't have an ambulance get to your property, you don't give care whether it's a 3-lot project or a 23-lot project and so it's not an area that we have regulations on, but it does raise some questions. That's really it in the nutshell in the terms of this one. I think that when you have these narrow drainages, they are a little easier to work around than big squatted wetlands, but the wetland drainage is a function of the, in this case, soil type and the slope that's why you have these narrow little tributaries, these little rivulets, but I would recommend that you take a walk on it just so you get a feel for the approximate orientation of the driveways and to see if there are places in which within reason that can be massaged to be a little more in keeping with the safety checks that we all have. Johnson – The only thing I have to add to that Mr. Chairman, is that I've walked this road delicately and with tiptoes, but if this wasn't a subdivision and if the applicant wanted to build a house right here, he would apply to the Town of Meredith for a driveway permit and he would be off and ready to go and if you had the permit from the Zoning Board to connect here, I'm not sure if John and Chuck are talking about incorporating these elements of what they are talking about into the Building Permit process also or just the subdivision process or how that's going to work, but there's some element of the right of an owner to get to where he wants to build on his lot and then there's the element of how the Town's fingers in the pie of the general public's safety and watching out for the guy who's having a heart attack up here. If I had a weak heart, I wouldn't buy any property in Chemung. Edgar – It's also for the people driving the vehicles that have to get there. Johnson – Primarily the way I look at it, and my discussion with Chief Palm, it's an access issue for the Fire Department. He's of course concerned with the person having a heart attack, but his concern is less with the person and more with getting to the person so I think that's the discussion. We can submit some additional details on how we think this thing will play out, but as of right now, the Town doesn't say you can't have a driveway steeper than 18% or 20% or 2% so I think we'll just submit what additional details I think are necessary to give the Board the satisfaction you're going to be able to drive up to the lot. Vadney – I don't mind going to walk it, but I honestly don't think there's much to be learned from that. We know it's steep, we all know Chemung, we know it's bony out there. We might question the sanity of anybody wanting to live up there, but that's not our issue. Johnson – I certainly don't want to direct the Board in terms on

whether or not they should go look at the property, that's up to you guys, you can decide how you want to go on that. Bayard – I do think that the slope needs to be looked at a little more carefully and I think Chief Palm would be perfectly within his rights to say that this thing should be sprinklered. Touhey – If I can't get to it, he could argue that. Johnson – I think the trigger on that is four lots if I'm not mistaken. Bayard – I understand that but I do think it does... I don't say we should be, when there's possibility of alternatives, then I think they should be looked at, I don't think we should be willy nilly taking really steep slopes when some of that could be mitigated. Flanders – The 4-lot trigger is on cisterns, not sprinkler systems. Johnson – I thought it was alternative water sources or alternative fire fighting sources. My point, I guess, is that we are willing to and I'm assuming Chuck Palm has reviewed this at staff and I talked to him, not staring at the plan, but I talked with him in detail about the situation in general, steep slopes and long driveways and getting to the lots, so you would probably want to be staring at this with the additional details that we are willing to provide to the Board in terms of the profile and what we are actually looking at. Vadney – There are no roads there that are going to be a threat for major erosion? Johnson – We can submit erosion control details in those areas that are adjacent to wetlands, but we've tried and I think if you read the minutes of the Zoning Board meeting and the comments by the Conservation Commission and the Zoning Board, they were very, the Conservation Commission especially, was very satisfied with the way we responded to their comments and did basically what they said. Now, from a client's standpoint, a common driveway is never a better situation, it's always better to get separate everything, that's the reality so it was a compromise for us to take the driveway away and it probably does create certain situations that are not as desirable for marketing the lots. The Conservation Commission appreciated that and was very supportive of this plan because of going around the wetlands, staying out of the buffer to the best of our ability and also they realize that always staying out of the buffer necessarily isn't the best thing. I mean, if you can be in the buffer, sometimes you would be doing less damage than outside on a steeper slope and you get the drift, so they were very supportive of how we went about doing this, 86 sq. ft. of impact on wetlands. The steepness is a separate issue, but as you can see and probably the profile will be the dramatic example of that, there's only a short section that we're talking about that's steep, the rest of it is not steep. Vadney – Well that reaffirms my position about not needing to do a site walk. If the Conservation Commission has walked that and reviewed all this and is pleased with its direction, then they've looked at all that and there's no need for us to look at it basically. If Palm is reasonably sure he can get up there, we can go walk a steep hill, but as far as the Planning Board goes, it's a waste of time. Bayard – The driveway to Lot 2 just sort of ends right before it gets steep and it seems to me that's perhaps where an even bigger issue may

lie, I think you can kind of curve the other one out of some problems, but I just think it needs to be looked at a little harder as to... Johnson – I think what happened there is we actually moved the house which was down here. The driveway obviously is going to just come up like this across slope into the area that's not steep and up to the lot. Vadney – Remember, this is all notional, they can put the house, they can move it about. Johnson – That's why showing a driveway is more for informational purposes. John's focus I think is that in the future and maybe now, in those areas that are of concern, we should be showing where the driveways are and what they are going to look like. If this was an A/B slope and a 1,000 foot driveway, I don't believe John's comments would have been what they were. If you're going to go 1,000 feet down a road, as long as it's of sufficient width and there's no loop de do curves, I don't think the Fire Department is going to be as concerned. Am I reading that correctly, John? Edgar – That's correct. Johnson – The area that's steep is the area he's concerned about and that's the area we will provide additional details on. Vadney – But the whole thing is notional, once its subdivided, you can move that driveway, right? Edgar – It depends on how you leave it. If you leave it open, the answer is yes, if you don't leave it open, the answer is maybe not. Vadney – But do we want to do the work to say you have to put your house at this point and give GPS coordinates. Edgar – I didn't suggest that. Johnson – I think from a practical sense, the driveway with this lot is largely driven by, if you are going to build a driveway, where are you going to build it? You're not going to pick the steepest spot, you're going to build the driveway access to this building site in the most logical way to get there. Mr. Jackson has walked all of this and he can walk this driveway and some of those photographs probably are of one of these crossings and has walked this to get there. He is involved in the development process and understands that there's certain places you can't get driveways in and certain places you can. There's nothing that drives that out here that says you can't reasonably get to these lots. That's my point. Flanders – I think if the Conservation Commission has taken a look at this and Chuck Palm has taken a look at it... Edgar – Has Chuck Palm reviewed this plan? Johnson – My question was did he review it at staff? Edgar – Have you sat down with him and gone over that? Johnson – Not this plan specifically. My discussions with Chuck Palm were about subdivisions in general and access roads in general. Edgar – And from the staff point of view that's where the suggestion of having some plans and profiles to see if there's ways in which we could try to lessen these grades. Flanders – Given the fact that Chuck hasn't looked at it, probably reviewing the plans and profiles that John suggests is adequate. Edgar – I've shared this with Carl right up front is that we don't have the driveway specification, but one of the general tenants of what we should be doing is good planning and is it running a private driveway up a 27% grade

good planning when there's alternatives and it's just trying to put a blend between reasonable use of the property and recognizing whether a fundamental purpose Flanders – That 27%, is that a number you pulled out of the air or is that? Edgar – A 50' change in elevation over a run of 180'...

Johnson – But that's shown, when we show the revised contours for a road or driveway, they generally are not the same as when you're just showing, you've got to remember, this is just a line going across the contours.

John's correct, but if you look at the roadway that we just designed for Ducharme's, there's a 17% grade from Point A to Point B, but the roadway that's designed is 10% and that's because you're filling in some areas and cutting in another and that's I think what he's getting at in terms of some potential additional details to show what the grade would be. It's not going to be 27%, it's probably not going to be any steeper than his driveway.

Flanders – Given John's comments and stuff, I think we should get profiles on this because if we're going to end up with a 27% driveway, we ought to all be shot. Bayard – I agree with your first comment, not necessarily your second one.

Is this something you think you can get, what are we looking at here, two weeks or a month? Edgar – I will need time to take a peek at it. Not the day before the meeting kind of thing.

Bayard – So, given that limitation, if we extend it, what are we talking here, one or two cycles I guess? Johnson – It wouldn't be more than two. I'm just trying to determine if I can get the information together for the first meeting in November.

Edgar – Give it a shot, if you think it's likely to happen, I can do everything I can to try to turn around the review and if it doesn't work, we push it. Johnson – Can we leave it at that, we continue to the next meeting with the anticipation that I'll have the information in in a timely manner for John to review and if it's not, we'll have to continue it.

Vadney – All we have to do is continue it to the 8<sup>th</sup>. Johnson – My point is that I have never tried to force information on the staff and the Board and then ask for a decision at the next possible meeting.

Edgar – We have one major item for having pushed Ducharme to the second meeting in November, we have a fairly light agenda, we have the CIP but if we have a relatively minor project, we can work that in.

Bayard moved, Finer seconded, THAT WE CONTINUE THIS HEARING TO NOVEMBER 8, 2005. Voted unanimously.

Meeting adjourned at 10:05 p.m.



Respectfully submitted,

Mary Lee Harvey  
Administrative Assistant  
Planning/Zoning Dept.

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

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William Bayard, Secretary



