

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Bayard, Secretary; Worsman, Selectmen's Rep.; Kahn; Finer; Touhey; Dever; Edgar, Community Development Director; Angela LaBrecque, Town Planner; Harvey, Clerk.

Finer moved, Worsman seconded, THAT THE MINUTES OF NOVEMBER 27, 2007, BE APPROVED AS PRESENTED. Voted unanimously.

APPLICATION SUBMISSIONS

1. **DEEP WATER MARINE MANAGEMENT, INC.** – Architectural Design Review of proposed improvements to an accessory structure, Tax Map U35, Lot 8A, located on Lovejoy Sands Road in the Shoreline District.

Edgar – The applicant proposes to renovate an existing building to provide a family recreation center for existing boat slip customers at Shep Brown's. As the Board's aware, we have a pending Site Plan application on this matter. The application for Architectural Design Review, building elevations and abutters list are on file. Filing fees have been paid. I would recommend the application for Architectural Design Review be accepted as complete for purposes of proceeding to public hearing and this hearing be held in conjunction with the Site Plan application later this evening.

Finer moved, Bayard seconded, I MOVE WE ACCEPT THE APPLICATION FOR ARCHITECTURAL DESIGN REVIEW FOR DEEP WATER MARINE MANAGEMENT, INC. Voted unanimously.

PUBLIC HEARINGS

1. **ROBERT HALE ANDREW & PHYLLIS ELDRIDGE TRUST** – Continuation of public hearings held on July 10 and August 28, 2007, for a proposed Major Subdivision to subdivide 15.73 acres into 5 lots (3 ac. – 5.11 ac.), Tax Map S02, Lot 1, located on Old Center Harbor Road in the Forestry/Rural District. Application accepted June 12, 2007.

Carl Johnson – You're familiar with this subdivision, it has been before the Board and I'll be brief in my comments regarding the location and configuration of the lots. It is on Old Center Harbor Road and Gilman Hill Road, it's a slightly over 15-acre parcel of land that's being proposed as a 5-lot subdivision. The 5-lot residential subdivision lots will be serviced by individual driveways for 3 of the lots and a common driveway that is servicing 2 of the lots. The Board has made a site review of the project and is familiar with it. At the previous hearing it was determined because of some specific drainage situations on this property that it be reviewed by an engineer in terms of providing some type of drainage report regarding the subdivision. That report was completed and submitted to the Board. The portion of the presentation dealing specifically with the drainage report should

be addressed by the engineer and he has not arrived yet. As you recall, we had identified 5 buildable areas on the site and the site drains from the northeast to the southwest. There is a ditch running along the northerly and southerly sideline of Old Center Harbor Road and the question was if the sites are developed individually, where will the drainage go, how will the drainage affect the existing properties which are to the west and south of the subject property? One of the things that we have done in discussions with the consulting engineer the applicant hired and some of the comments made by the Board is to create a restricted cut zone primarily on the western portion of the property that would limit cutting to dead, diseased and dangerous trees so what we've done in conjunction with the subdivision application you can see here on the cross-hatching of the plan, we've taken the westerly portion of the property and created what we call a restricted cut zone and the restricted cut zone has a note saying that no vegetation of any kind may be cut, removed, disturbed or otherwise altered from its existing natural state as of the effective date of signature and approval by this Board and other boards and the exceptions would be diseased, dying, hazardous trees, vegetation, parasitic plants or vines that may be harmful to existing plants and vegetation, any poisonous vegetation such as poison ivy and any non-native invasive vegetation and that's wording we took from some other projects that had restricted cut zones. Basically, it's going to be left in its natural state with those few exceptions. The intent of that is to increase the buffering capability on the westerly portion of the property so any of the drainage that is going in there will be benefited by the fact that you'll have the existing vegetation and root systems there. As I mentioned in the previous presentation, there is an advantage that you can take using the topography that's existing on the site and we do have 2' topography over the entire property and it's a feature of the program which lets you essentially take a drop of water and drop it on the property and based upon the topography, it will track where the water goes to illustrate where potential drainage would end up if you dumped it on the property. So what I have done is I've taken a lot of the information off the plan and if you can see these red lines, it's kind of hard to see from the Board and from the members of the audience but essentially you make a tick mark and the computer program shows where the water would drain out and it's important because what it shows is from the development area here and here, the water primarily drains into this wetland complex so it has the buffering capability of that existing wetland benefitted additionally by the restricted cut zone that we've put on the westerly portion of the property. The common driveway that comes from Gilman Hill Road to service these two lots essentially creates a berm by itself so with the development of this property, the drainage would hit the roadway ditch, follow down the ditch and then enter into this wetland system which also provides buffering capabilities. These two lots as you see because of the topography, the drainage primarily goes down almost due south and enters into the ditch line which is the ditch on the northerly section of Old Center Harbor Road and that ditch is about 700-800 feet long before it hits the culvert which is the culvert where the primary drainage from this site exits and goes to the properties that are

on the southerly part of Old Center Harbor Road all the way down to NH Route 25. We actually did an analysis of the property on the southerly side of Old Center Harbor that's owned by the Calvary Bible Church and during that analysis, we did a complete topography of that site, there were wetland delineations and we mapped the drainages. Johnson pointed out the subject property that is the 5-lot subdivision owned by the Eldridge and Andrew families, the ditch that comes down the northerly part of Old Center Harbor Road, the existing 15" culvert that goes underneath Old Center Harbor Road and what you can see is the water comes from that culvert, enters into a drainage system, comes all the way down and finally goes under NH Route 25 and exits on the other side of Route 25 and continues on down so what you can see is the primary amount of drainage that exits the Eldridge property comes onto the southern part of the property, is in a well-defined drainage system and there are no structures, dwellings or improvements existing on this lot until you get down to Route 25, there's one house and on the other side of Route 25 are fields and there are no structures with the exception of the structures that are on the corner of Quarry Road and Route 25. We did not have this drawing at the last meeting. I know John Edgar walked down this entire drainage and took some photographs and we were trying our best to explain how this system worked but I think you can see dramatically on this drawing and this is on the ground mapping of the parcel and how the drainage goes. I would like Kevin Leonard to give you a short presentation on what he did to analyze the drainage and give you a brief analysis of what his thoughts are regarding the property and the potential for additional drainage as a result of development on the 5 lots. Kevin Leonard, Northpoint Engineering – As Carl had indicated, he asked me to perform a drainage analysis on the property. As you are probably aware, Gilman Hill drains kind of through the property down to Old Center Harbor Road. Basically, the outcome of the analysis we performed and submitted to the Planning Department is a major watershed comes through here, there are two wetland complexes that drain through the property to a ditch that's on Old Center Harbor Road and a primary outfall off the property is this culvert which I believe everyone's aware of its location. Within the analysis of the pre vs. the post and the numbers show that the existing conditions flow that comes through that culvert overtops the road. Based on a site inspection and talking to Mike Faller, we don't believe that really happens. Often times when we do these analyses, they are sort of conservative in nature and they can't always take into account the storage capacity of some of these wetlands in here, the logging that was done I'm not sure how long ago but logging was done on the property and some of these areas have kind of become like wet meadows with cat-o-nine-tails, they have storage capacity. We analyzed the post development conditions of the 5-lot subdivision as you would expect an increase of runoff off the property converting a wooded parcel to a typical lot development with homes, lawns, driveways and that sort of thing and the analysis we submitted shows an increase in runoff to the culvert in question. I guess we have a couple of thoughts on that matter, we talked with Mike Faller regarding the possibility of a detention basin potentially in

this vicinity that basically would collect the water in the ditchline, swing it off into a basin in design right before the wetland, have an outlet structure and then discharge it to basically the culvert the current flow is flowing through. That seems like a lot of infrastructure to us for a 5-lot subdivision. Mike Faller wasn't particularly excited about taking on a basin for a 5-lot subdivision and in talking with the Planning Department, it wasn't an ideal situation from their perspective so we were contemplating other methods to see if we could mitigate this runoff and there are potentially different ideas on how to handle that. One thing that I'm sure you're aware of now is the no-cut zone's been added as defined in this wetland complex basically keeping that as an existing condition, a wooded forested wetland. I guess at the moment we're just trying to see where the Board is coming from and kind of work something out between the owner, Paul, and the Board as far as what the appropriate action is as far as dealing with the runoff in this location. Vadney – I'm a bit concerned about your comments. I guess if I boil it down to a short statement, it says you only believe your analysis when you agree with it. Is that what you're saying? That's effectively what I took from your message. Did I miss some of the words? Johnson – Mr. Chairman, I think the situation can be further explained by understanding that when you do a residential subdivision, you prepare topography for lot sizing calculations. You don't prepare topography for detailed drainage analysis. It's the first time that I can recall a drainage analysis being requested for residential subdivision that doesn't involve some type of roadway access or major alterations of terrain. If you walk the site its a thousand feet from where this house is going to be built to this culvert, that's a long way to go through the woods and granted there's going to be some limited cutting and so forth but what Kevin's trying to get at is he was asked to take a look at the drainage. The problem is you can't just take a look at the drainage, you either have to do a drainage analysis or you do nothing except guess so we did the best with what we had with the exception of going out and doing incredibly expensive detailed topography to try to get a handle on the drainage system. For instance, this ditch that he mentioned on the northerly side of Old Center Harbor Road, we have very rudimentary mapping from a drainage standpoint on that ditch because we weren't doing topography for a drainage analysis, we were doing it for lot sizing. We show the ditch because it's important in terms of getting a driveway access and so forth so there's certain idiosyncrasies about the property that aren't showing up on the topography to give you sufficient cause to be confident with what the results are. We're doing the best with the information we have been asked, we weren't asked specifically to do a drainage analysis and in the staff review and the minutes, we were asked to take a look at the drainage. We took a look at it and when I first called Kevin, he said you really can't do much unless you run the numbers. The problem is when you run the numbers on this situation being for certain storms and so forth, you end up with conservative numbers that are telling you the existing culvert right there doesn't handle the water and we know that's not true because we have the Public Works Director saying he's never experienced that culvert overflowing or having a consistent problem with that

culvert and that's because the drainage ditch that covers largely the entire length of the frontage of this property has a capacity to handle water that we're unable to figure into the calculations so we're using the numbers and we're using our on-site knowledge of the property and we're using the information given to us by talking with Mike Faller and his history of that roadway to make the comments so you're right, we don't like the results necessarily and we're trying to explain why we think those results may be overstating what the actual amount of drainage coming off the property is. Knowing that, we've offered this restrictive cut zone which can only help the situation in terms of having all of the vegetation on that portion of the property remain intact and as I mentioned before, the great amount of drainage that's going to be a result of developing these properties and having houses built is going to be filtered into and buffered by this wetland before it gets to that culvert. Does that help you a little bit? Vadney – A little bit, but your own words a moment ago were that gully and the trench to the north side of the road has a water handling capability that we have no way to take into account. Johnson – We don't have any way to take an account, we could go out and do a detailed drainage analysis of that ditch to determine the capacity, we did not do that based on the parole testimony that we have from Mike Faller that there's no problem with that culvert. One of the additional things is if you saw the culvert, the way the ditch comes in sometimes a ditch goes by a culvert and some water comes in from one side and some water comes in from another, there's a fairly substantial berm that occurs just westerly of the mouth of that culvert and I'm going to guess it's several feet high which prevents the water that's coming from that ditch line, unless it goes up over the road and over the culvert from continuing on down the road and it's important because what we're demonstrating is that the great majority, if not all of the water that's coming into this ditch, is exited into the complex I showed you that's on the southerly side of Old Center Harbor Road. Kahn – Carl, that drawing that you had, would you show me where the lot line is between Lots 24 and 26 on the south side of Old Center Harbor Road. Johnson – If you could identify Lots 24 and 26, I'd be happy to show them. Kahn – One is Advent Christian Church and the other one is Bliss. Johnson – This is the lot line and remember when I put names as abutters, they are not necessarily lining up with the lots. In other words, the Bliss property doesn't come halfway up, it's listed there as an abutter because they are on the southerly side of the road. Kahn – I take it the structures on that lot are to the west of this wetland. Johnson – This is a stonewall that separates the Calvary Bible property from the rest of the property. This stonewall shown going off is the westerly limit of the Eldridge property. Edgar – Kevin, on this particular topic given the analysis that you did, given your familiarity with the property and recognizing the limitations of the analysis, do you have any opinions or insights as to whether or not the subdivision would likely create some kind of a hazard to any downstream properties? Given the limitations of the study and given what is downstream and the downstream configuration and so forth, do you have any opinions or observations as to whether or not the 5 lots will create or compound a problem? Leonard – There's a couple things relative to that. The study does

show an increase to the culvert. The increase is ordinary in my opinion to a typical 5-lot subdivision of this nature, I do believe the increase is overstated based on the capability of the on-site wetlands as well as the storage capabilities of the ditch that Carl spoke of and as depicted in the drawing of the Calvary Bible Church property, there's a substantial parcel, I haven't walked the property but based on the inspection of the survey that Carl has done, there's a defined wetland channel which he's highlighted there in blue and it would appear obvious that the water running off the property is running through that channel and down to Route 25.

Edgar – Mr. Chairman, with respect to the balance of the staff report, we had essentially 2 issues and I think the issue of Gilman Hill Road was addressed at the last hearing to everyone's satisfaction that the applicant had agreed to contribute \$10,000.00 to road improvements. Mike has reviewed the minutes and the concerns that were raised about Gilman Hill and he has indicated he can widen that about 3' or so, it's premised upon there being some tree removal on the back side of the stonewall so when DPW does that work, the stonewall can be reset and then the limited widening could occur. It's also premised upon the conveyance of additional ROW via easement like we did on the Chase Road project so those are flagged in the staff report as future conditions of approval. The drainage information as Carl indicated, the Board had asked that the applicant have the engineer look at that which they have done and we're at a point now where we're trying to get a sense from the Board as to whether that's sufficient, whether the opinion of Kevin that this is an ordinary increase, that the increase in his opinion is overstated by virtue of the methodology or its limitations and that there is a downstream defined channel as a receiving body whether that's sufficient to move forward on that representation or not as the case may be so those are essentially the two basic issues that we left off with the last time and this is your first opportunity to have a discussion of that report and have a dialogue with Kevin, I'm not an engineer and most of the Board are not engineers so this is your opportunity to examine Kevin to see if you feel there's enough confidence in relying upon that assessment to conclude that we should be all set downstream. That's basically it, there are some other suggested conditions such as State Subdivision Approval which are required due to the lot sizing, there's some language in the staff report relative to shared driveway easements, typical things that we look for. According to the Fire Chief, there had been discussions before about cisterns vs. sprinklers and my understanding is they would be going the sprinkler route but at the end of the day there needs to be a signoff by the Fire Chief on that aspect of it relative to the State Fire Codes and then our standard language about pin placements.

Worsman – Did you say that you had not walked the property or you had not walked the adjacent property? Leonard – I walked the entire parcel being subdivided, I did not walk the property south of Calvary Church property.

Worsman – I'm concerned because I guess there had been some issues with drainage initially without any disturbance of land and I guess my concern is your level of comfort that disturbance of this property is not going to cause a problem going across Route 25 and onto the abutter's property. Leonard – If this were a

larger subdivision based on my past experience with putting in roads and things like that we'd be designing infrastructure, drainage conveyance channels or closed drainage with detention basins and that sort of thing to mitigate the impact of a larger subdivision. When you get into a situation like this where you have a frontage lot subdivision, you're usually not putting in too much infrastructure, maybe contributing to some roadside improvements and that sort of thing. We performed an analysis based on information that we have, the results of that analysis are a couple things: (1) Based on the existing analysis, the existing culvert is not taking all of the flow and (2) based on an inspection of that site and talking with Mike Faller, we don't believe that to be the case but that's what the numbers say. Then comparing it to a pre-development condition, you have a peak flow and CFS and you calculate the same parcel of land with a developed condition, the driveways, lawns, cutting and so forth and there is an increase in flow. We did the two 10 and 25 year storm which is pretty ordinary for any drainage analysis and the increases aren't excessive but the results of the report are that there are increases and that's what you would expect by changing the surface cover of a piece of land. I believe that the report is overstating the amount that gets to that culvert because I don't think the culvert overtops and understating the capabilities of the wetlands on the property to help hold back or mitigate retaining some of that water as well as the ditch line that Carl spoke about has some storage capability along that section of Old Center Harbor Road. It's a fairly substantial ditch and my model hasn't taken into account the fact that there's storage volume in that ditch, it acts as a detention basin in itself but we don't have the detailed survey that Carl spoke about to include that in the analysis at this point in time. If you're looking for me to make a statement that I guarantee, I can't do that based on the information we have today. My understanding just speaking with Carl is that there were concerns from abutters from the properties to the West and I don't believe the water from this property gets to those properties based on looking at the topography that Carl has and the wetlands on that property but there will be more water leaving the property in a post development condition. Worsman – That stands to reason but I guess my concern is the southeast section of the property and I understand we may not have had an issue to date but there's something that's saying we've had 2 50-year storms in the last 5 years and we as a Board experienced some rather dramatic and we as a Town some rather dramatic effects as a result of that and I just want to make sure we do not exacerbate any of those situations. Vadney – Based on your recent statement, did I hear you say that your current model that you're using would suggest there would be more flow at that culvert than the culvert could handle except Faller has said it's never reached that point. Is that effectively what you said? Leonard – That is correct. When you're modeling a culvert like this, basically the model is an inlet control meaning the culvert can only take on so much water because the opening is only so big. The more storage you have, the less it's going to pond up and then the less likely to overtop the road. A couple things with the model, the model is inaccurately reflecting currently the amount of storage in that ditch

because we don't have topography to model that and the model may be overstating the amount of water that is actually coming down off the property because of the storage capabilities of some of the wetlands on site. Vadney – That would suggest to a degree and I'm speculating, assume you had a big sponge up there so if you just look at the rainfall, the slope and the model says we should be seeing 20 CFS, we're not seeing that much because the sponge is soaking it up. When you reach the end of the sponge's limit, then you're going to see a whole bunch so I'm very concerned by your analysis, it seems (a) you need a new model, (b) I don't see how you've clarified this at all for us, I'm just baffled. Am I missing something? If anything I'm more confused than I was a couple weeks ago. Finer – What I'm getting out of this is that according to his computer model, the culvert can't handle what its getting now but adding houses to it and increasing the flow isn't going to make it any worse and that makes no sense to me. Johnson – Let me tell you a comment that was made by Paul Fluet, an engineer, and I was discussing this specific situation and this conundrum of having to perform a drainage analysis when all we were really asked was to look at the drainage and I told him the situation that when you plug the numbers into the model and the model's being overly conservative, it says the culvert there doesn't handle the flow. Paul said if you did that drainage analysis for the Town, it would probably tell you that half the culverts in the Town are undersized. You know that's not the case because there may be a few culverts that are undersized but not half of them. The problem is in the situation that we're in is we have a model that tells us a number, we believe that number is overstated based on reality, the reality being that Mike Faller knows to the best of his knowledge that the culvert in there is properly sized and doesn't overflow. Based on that and the marginal amount of increase that results from the 5 home sites on the 15 acres, I don't believe these 5 development areas are going to cause that culvert to top over, that's the best we can do. Does the model say that the culvert is undersized, yes, will the amount of flow caused by a post development situation cause that to be worse, yes so that ends your confusion with the yes and no, the answers are both yes. The two yes answers we don't believe to be the case and we believe the addition of the restricted cut zone and the capability of the wetlands in there already that aren't taken into consideration in the model in terms of the ability to retain the water make this way more complicated than it should be and the result is that we're plugging in numbers that don't represent the real conditions of the property. Bayard – According to what you had said before, the parcel we're calling Lot 24, the Bliss property, sort of comes to a point with the point of the other properties and you said there is a stonewall that separates it. This is the stonewall that's the limit of the Caverly Bible property; there is a residence on the lot that's immediately to the West of that wall. The Church property itself is undeveloped. Bayard – There are two points of drainage, one of which is off to the West, does the one off to the East, drain onto a separate parcel first? Johnson, no. Bayard – So that drains also onto the church property there? Johnson – Correct. This is shown because that's the portion of the Church property that's encumbered by the

view easement that's retained by the Eldridge property. It's not a separate parcel. Bayard – And you're not anticipating that particular drainage would have much if any additional water going through that culvert. Johnson – That's correct. Bayard – I'm looking at the numbers here and in my own opinion, it doesn't look like a huge amount in addition to what's already there. I'm looking at Table 1 and 2 in the report prepared for Paul. Did that report consider the no-cut zone, were those numbers affected by putting in the no-cut zone? Leonard – At the time the report was done, the no-cut zone was not proposed. When the no-cut zone was added to the plan by Carl, we reviewed the no-cut zone and it has no impact on the numbers in the report because we provided a post development condition showing driveways, homes, limits of clearing and so forth and the areas of lot development were shown on the plan like you would normally on any subdivision of land. Those areas of development were not within the area of no cut so the no-cut zone has no effect. Bayard – But you would anticipate that it would have some benefit in a practical manner? Leonard – In a practical manner, of course, any preservation of any portion of a parcel is going to guarantee that area cannot be cut and that the forested condition which is good for runoff and the trees and so forth suck up the water and that sort of thing is good for the runoff. Johnson- I tended to look at this at one point the situation that's very common in Town, you can take western Meredith for example is that there are plenty of areas of this size that are undeveloped that has existing house lots on them. They don't have houses on them but they have house lots and generally speaking as the lots get developed one by one or even if they get developed simultaneously when the lots are 3 acres in size, you don't generally get drainage problems, you get problems if you have extremely steep slopes which we don't, you have drainage problems when you have massive amounts of alterations of terrain which you won't have and so there's a lot of factors that are complicating what we're trying to say to back up two steps and look at it from a practical standpoint and look at the 5 home sites on this 15 acres and the fact that we are restricting the western portion. It's certainly not uncommon to many of the developments we've done before. Kahn – I guess what we're being told is the conclusions you've reached about the capacity of the culvert are not affected by the no cut so what we have to conclude is the no-cut zone doesn't improve the situation but it can't hurt it. If you clear cut the no-cut zone, it would only be worse. Is there anything we can do even a minor alteration or something, I have something in mind, that would improve the situation more without putting in detention ponds and things like that? The thought I had in mind was if you took the driveway on Lot 3 and aimed it to the East, then the drainage from that driveway would go in that first culvert and wouldn't make it to the second culvert. Johnson – One of the issues was originally before this project even got going, Paul Eldridge met with Mike Faller regarding the driveway locations because he wanted to minimize the driveway cuts on Gilman Hill Road, that's primarily the reason why we have a common driveway servicing two lots. Would it be a significant impact? The other issue that came up during the discussions was trying to limit the headlights shining into the house that's directly across from

the lot to the East from a vehicle that was exiting the property. Edgar – Kevin, one of the things you and I had chatted about on the phone was whether or not there may be any practical BMP's that could be looked at on one or several of the lots that might enable us to get some of the roof runoff into the ground underneath the frost and let it very slowly migrate down to those wetlands before they bleed out to try to lessen the peak discharge without having to do that statistically which would be difficult, but is there anything like that in that tool kit of low impact development that would be practical and reliable knowing we're not looking at big numbers and would probably have some overstatement based on anecdotal information, wetland storage and the ditch, given all of that, is there anything that could be done on some of those properties that may lessen that peak flow that are not dramatic things that aren't going to be scars on the landscape but things that could be employed as lots are developed. Are there any thoughts on that aspect relative to this proposal? Johnson – There is a method of collecting the roof runoff of the dwellings into a structure that's similar if you want to think of it sort of a catch basin but it's a structure that takes the roof runoff which is a significant component of the impervious surface of a development area and it infiltrates that water into the ground in the areas where the seasonal high water table allows you to do that and we'd be willing to put a note on the plan that the buildings that are to be constructed on this site would have a drainage structure of that type in those building envelopes that allow it. In other words, if your seasonal high water table happens to be 5 inches, you can't infiltrate roof drainage into it but we would be willing to put a note on the plan and have it part of the deed structure. That note would go in coincidence with the restriction that each one of these properties has to have the sprinkler system as opposed to the cistern. Vadney – Carl, do you have any idea what the depth to ledge is? Johnson – The only thing we have are the test pits and all of the test pits that were dug on the property indicate no ledge 6' or greater on all of the pits a significant depth down before you encounter ledge in the areas where we have the test pits. Vadney – Usually when you have a wetland like that, the reason the water's pooling is it can't find anywhere to go. I'm wondering how much infiltration you're going to get sitting in the wetlands anyway. Touhey – There was mention of a berm just to the West of the 15" culvert, can you clarify that, is that a natural berm do you think that was put there to direct the water? Johnson – That's a manmade situation created by the Town when they installed the culvert or upgraded the culvert. This is a fairly new culvert as a result of road work that's been done recently but it is a situation where they have tried to prevent any water that's coming down this ditch line from going further than the mouth of that culvert. Touhey – Could we then conclude that the rush of water there is significant enough in a storm that it would even bypass that culvert without that berm being there and that the berm was constructed there because of problems further to the West that resulted from that rush of water? They have had problems in the past with the roadway surface in the spring so I'm assuming you're right in what the Town was trying to do is to get as much water as they possibly could to the South side of Old Center Harbor Road to prevent complicating those

situations as you head further West. The majority of the problems based on the abutters' testimony and having driven up and down the road occur in a place other than the frontage of this property that's why the contribution of the \$10,000.00 is to allow Mr. Faller to apply that to portions of Old Center Harbor Road that aren't necessarily adjacent to this site. Touhey – Since you mention that \$10,000.00, in our previous discussions the money was first mentioned in terms of upgrades to Old Center Harbor Road. I brought up to the group my concern over Gilman Hill Road and the inability of two cars to pass with the addition of 3 homes accessing, a shared driveway for obviously 2 and then the other single driveway. My concern being that Gilman Hill needed to be widened at this point in time, I was certainly pleased that the developer's willing to provide that 17' easement for a stretch of the property line, I have felt and I've revisited the site at least 3 times and I'm still convinced that the road work should be done now and \$10,000.00 for any addition of 3' to the width of Gilman Hill Road as well as work on Old Center Harbor Road is a pittance certainly won't suffice in my mind. Johnson – The original amount discussed by Mike Faller with the client was \$5,000.00 and as a result of the increase in the scope of the work and the cost of materials, it was increased to \$10,000.00 so from the original start of the project which was a year ago to now, the contribution has doubled. It doesn't affect your opinion about whether it's enough or not but it has doubled. Edgar – Mr. Chairman, Mike has indicated from his point of view with that contribution he would be able to make a 4'+/- widening up Gilman Hill and still have the ability to put additional gravel down on Old Center Harbor Road. Obviously, not as much because you're working with a fixed amount of money but he feels he'd be able to address the widening and still be able to address some of the mud/gravel issues on Old Center Harbor Road with that amount of money. Johnson – One of the reasons that Mr. Faller has expressed an interest in a direct contribution vs. hiring somebody is that he can make \$10,000.00 go a lot further. He has to do improvements to that road on a regular basis because of its nature so he would rather have the cash contribution because you can get a lot more work from the Town than if you were to hire an outside contractor to go out there and do the work. Mike seems to indicate that that number is sufficient. Bayard – Looking at the plan that's shown here, I'm looking at Lot 4 and just the notational house that's there, would that require a variance or an exception because it's in a wetland buffer? Johnson – No, there are two wetland buffers shown on the plan, one is a 75' setback and one is a 50' setback. The 75' setback which goes to the house is a setback for a septic system, the house can be within that but cannot be within the 50' setback of a non-designated wetland. Edgar – Mr. Chairman – I just took a look at the test pit data and if you look at the lots on Gilman Hill which are further from the wettest site, the uphill ones, and here again the test pits would be located at the optimum from the designer's point of view, you're looking at 27", 26" and 36" respectively as you go from top to bottom which are fairly typical, the 36" is obviously a little bit better which is pretty good. When you get closer to the wetland lots 5 and 4, you're at 18" which is not unusual but obviously as you would expect, the water table is a

little higher as you get lower on the landscape so the ability to do that on the lower ones may not be as readily achievable, but then again you have the benefit of some of the no cutting as it relates to some of the surface flow. The only concern I'd have on the 3 upper ones is there is some thought that could go into the typical that might work and even if we had "or equivalent" or something like so when we get to the time we're building it, we have a little bit of guidance to Bill and the homeowner so it's not just completely there g that hasn't at all yet been determined as to how we handle that and if a little thought could go into that from a typical or equivalence because they do need to sit out of the water table and if you have a typical 4' catch basin going into 3' of separation to water table, that's not going to work. There may be something that's more horizontal than vertical, something along those lines to look at so I think that would be something that could be examined a little more fully. If we rely upon that which I think is maybe a way out of this conundrum that works for everybody, we would just need a little bit of guidance. I'm not talking about engineering them at this point because we don't know where the houses are going to go. Johnson – I did mention in the previous presentation that there are limits that are established by reviewing agencies to when you have to provide drainage calculations to show that you're going to be preserving downstream properties. The State of New Hampshire Alteration of Terrain number is 100,000 sq. ft. If you disturb an excess of 100,000 sq. ft., you're required to apply to the State of New Hampshire, Department of Environmental Services, for a Site Specific Permit. You've seen them come through on a lot of these large subdivisions that have roads. There are other reviewing agencies that go all the way down to 40,000 sq. ft. of contiguous land disturbance; you're required to file some type of review. Normally, if it's in that vicinity, they just shuffle it on down the road because it's not significant enough to warrant a drainage analysis. What we did to analyze this is we came up with areas that we feel represent a very conservative, meaning bigger than probably is going to happen, development area for each one of these sites and you don't get a situation where you have an acre of alteration of terrain on any one of these sites, the largest you get is ½ an acre which includes because they're connected by the common driveway, the common driveway and the two lots that are serviced by it so you don't even get near the level from which anybody would be asking you in a normal situation to provide drainage situations and the reason it is that way is because generally speaking most of the time development that's under those amounts doesn't cause a drainage problem and that's where we are. Public Hearing portion closed at 8:04 p.m.

Kahn, I'll make a motion but I'm a little unclear, John, on how it should be couched in terms of some form of infiltration system or whatever it is you have in mind. Edgar – With respect to that language, we're talking about some form of BMP's and this is a new area for engineers, it's a new area for Planning Boards, you've probably been to some of the similar training that we've all been to and some of the things the University's looking at so it's something that's evolving and because

it's evolving I just want to make sure we don't get locked into one technique that may not be the right one. We'd be looking at perhaps the design engineer or the engineer working on the project to submit some suggestions that could be made part of the approval, we could handle it administratively and that would be noted on the plan and as Carl had indicated it would be factored into the development restrictions on the property similar to the no-cut zone and that kind of thing for purposes of achieving infiltration to the extent feasible. We do have a higher water table, we know the ones that we looked at, the technique that Jeff Burd and Randy Shuey were talking about on the other project was a very simply gravel berm infiltration kind of system and that was because they had a high water table. Sometimes you have issues of frost and things like that and it may not work perfectly all the time but at least during the rainier season when the frost is gone, you have the benefit certainly not 12 months, but you certainly have some benefits so it basically would be looking at that information being submitted, we could handle it administratively and I would suggest as a practical matter, it's probably the 3 sites furthest from the wetland where that would be most practical. Those are also areas where, to the extent you'd have more clearing to achieve the views that we talked about at the last hearing, those would be the ones that would have view potential so there would maybe be an added benefit of trying to encourage some infiltration on those properties because you won't have the tree canopy as much as you might otherwise. Worsman – Lou, before you start, John on Page 7 of our packets in the second section regarding drainage and storm water management, you've and there's a comment about "now may be the appropriate time to incorporate drainage easements over proposed lots and that could be done in conjunction with the 17' ROW." Edgar – If you go to the subdivision plan and look at Lots 1 and 2, do you see the common driveway that is coming just South of that lot line in between Lots 1 and 2, where that common driveway intersects Gilman Hill Road if you recall in the site visit, there is a cutout from the Gilman Hill drainage from up above this that comes down and right about where that driveway stake was we have a cutout onto the property. In other words the drainage comes down Gilman Hill and then vents out onto the property and as a practical matter, there's going to be a culvert needed there for the driveway to go in at that location but the statement addresses the fact that we're going to have, unless something were to change that I'm not aware of, but if we hold to that current location, that drainage would dump out onto Lot 2 and the point there being is that drainage could be managed so as to run sort of parallel to the road as opposed to being angled right either at a house or a septic system. That comment was speaking to the fact we have that cutout and if there's a plan to change it, Mike needs to be back into that loop. If we plan to modify it on the property which I'm sure we could do somehow, but then Lot 2 may need to have a restriction on it so they can't just fill it or obstruct or something like that. Johnson – We would be willing to issue whatever drainage easements to the Town are necessary in conjunction with the widening of the road. I don't believe that situation that John's speaking of is going to stay where it is just as a result of

talking to Mike and what he intends to do with the drainage there, we would be more than willing to issue whatever drainage easement the Town would need and it will probably be relocated so I would say any of the lots that are on Gilman Hill Road that would be encumbered by a drainage easement would have as language in the draft deeds. That would address it and the point there is to make sure the development proceeds smoothly without after-the-fact lots are conveyed, houses are going up and we have an outfall pointed at a foundation or that kind of thing. To the extent we are looking at any motion language, we would incorporate as part of the acceptance of the 17' of ROW any associated drainage easements. Bayard – In a number of developments where we've had significant wetland areas and this sort of ties in with the drainage easement, we have required that there be no building in the wetland buffers. Johnson – The only thing I can mention there is it came up in a hearing previously a couple of years ago and there was a legal opinion and I'm not sure if it was from Town Counsel or the attorney for the development, he basically said you can't take away somebody's right to appeal to the Zoning Board, you can't prohibit a right to appeal but you can make clear in the minutes of the subdivision approval is that the building envelopes represented on the lots we're representing are significant enough in size that it would be extremely unlikely for the Zoning Board to grant any relief to be into the wetland buffers and I think as we have gone along and tried to develop these subdivision plans, we have really stayed away from these very, very restrictive buffer areas and at a previous presentation I actually put up a plan that highlighted the buildable areas and they are pretty significant on these lots so I think it goes without saying that if it's in the minutes of the subdivision approval and we all know about it, it would be extremely unlikely the Zoning Board would grant any relief. They don't have to grant any relief and they probably wouldn't in this case. Bayard – I would say it is now in the minutes and that's fine with me. Kahn – I think in view of the concerns we have about drainage here that it would be entirely appropriate for us to condition it that there will be no building in the wetland buffers and I intend to so move.

Kahn moved, Finer seconded, I MOVE WITH RESPECT TO ROBERT ANDREW AND PHYLLIS ELDRIDGE TRUST, FOR A PROPOSED MAJOR 5-LOT SUBDIVISION, TAX MAP S02, LOT 1, THAT WE GRANT CONDITIONAL APPROVAL FOR THE SUBDIVISION SUBJECT TO THE FOLLOWING:

- (1) NHDES SUBDIVISION APPROVAL IS REQUIRED AND SHALL BE REFERENCED ON THE FINAL PLANS.
- (2) RECORDING INFORMATION SHALL BE ADDED TO FINAL PLANS. THE PROPOSED DRIVE FOR LOT 1 IS WITHIN THE PSNH EASEMENT AREA. PSNH SHALL CONFIRM THAT THERE ARE NO CONFLICTS BETWEEN THE PROPOSAL AND THE EASEMENT.
- (3) THE PLANNING BOARD REQUIRES THAT THE APPLICANT PROVIDE A \$10,000.00 PAYMENT FOR ROAD CONSTRUCTION AND IMPROVEMENT AS

AN OFF-SITE IMPROVEMENT AND THE PAYMENT SHALL BE MADE PRIOR TO RECORDING THE FINAL PLANS.

(4) A 17' EASEMENT FOR ROAD IMPROVEMENTS DEPICTED ON THE PLAN AND THE EASEMENT FORM SHALL BE SUBMITTED FOR STAFF REVIEW AND ACCEPTED BY THE BOARD OF SELECTMEN TOGETHER WITH ANY MORTGAGE RELEASE, IF APPLICABLE.

(5) THE ROAD IMPROVEMENTS THAT WE ARE REQUIRING SHALL REQUIRE CONCURRENT APPROVAL FROM THE BOARD OF SELECTMEN AS THE BOARD OF SELECTMEN HAS TO AUTHORIZE IMPROVEMENTS TO A PUBLIC ROW.

(6) EXISTING DRAINAGE INFORMATION SHALL BE ADDED TO THE PLANS DEPICTING AN EXISTING DISCHARGE FROM THE WESTERLY SIDE OF GILMAN HILL ROAD ONTO ONE OF THE PROPOSED LOTS AND IF THAT IS TO CONTINUE, THERE SHALL BE A DRAINAGE EASEMENT OVER THE PROPOSED LOTS WHICH SHALL BE SUBMITTED FOR STAFF APPROVAL.

(7) THE NO-CUT ZONE SHALL BE AS INDICATED ON THE PLANS. THE NOTE SHALL BE MODIFIED ON THE PLANS TO STATE THERE SHALL BE NO VEGETATION OF ANY KIND CUT, REMOVED, DISTURBED OR OTHERWISE ALTERED FROM EXISTING NATURAL STATE AS OF THE DATE OF THIS APPROVAL OF THE PLAN BY THE MEREDITH PLANNING BOARD.

(8) THE ENGINEER SHALL SUBMIT SUGGESTIONS TO BE HANDLED ADMINISTRATIVELY AS TO POSSIBLE FEASIBLE INFILTRATION DEVICES AND THIS SHALL BE NOTED ON THE PLANS AND HANDLED ADMINISTRATIVELY.

(10) IN VIEW OF THE BOARD'S CONCERNS REGARDING DRAINAGE, THERE SHALL BE NO BUILDING IN THE WETLAND BUFFERS AND THIS SHALL BE NOTED ON THE PLAN.

(11) FINAL PLANS SHALL BE SIGNED OFF BY THE FIRE CHIEF.

(12) DRAFT EASEMENT LANGUAGE REGARDING THE COMMON DRIVEWAY SHALL BE SUBMITTED FOR STAFF REVIEW INCLUDING PROVISIONS FOR PRIVATE MAINTENANCE. FINAL PLANS SHALL REFLECT THE EASEMENT REQUIREMENT.

(13) THE SURVEYOR SHALL PROVIDED WRITTEN EVIDENCE THAT ALL PINS HAVE BEEN SET PRIOR TO RECORDING THE MYLAR.

Voted 6-1 in favor of the motion.

2. **DEEP WATER MARINE MANAGEMENT, INC.:** (Touhey and Worsman stepped down) Continuation of a public hearing held on October 9, 2007, for a proposed Site Plan Amendment to create a family recreation facility in an existing building for boat slip customers, Tax Map U35-8A, located on Lovejoy Sands Road in the Shoreline District. Application accepted October 9, 2007.

Finer made a motion that this hearing be tabled to next summer when the Bear Island and other seasonal residents are in the area. No second. Motion failed. Discussion occurred as to length of time allowed for a continuance. In the end, the applicant moved forward with the public hearing. Carl Johnson – We have 2 applications before the Board, Site Plan Review and Architectural Design Review. I do want to read into the record the letter from the Chairman of the Meredith Planning Board dated a year ago November and signed by Herb Vadney (see attached). At the first hearing we had a presentation which described the existing building and the proposal is to take that building and do some improvements to it as to the architectural plans that you have in your packet with a small rec room on one end with a walkway, some restrooms and showers a recreation room in the middle with a patio to the right-hand side as you're standing on the land looking at the lake. We also have the architectural plans that are part of the package which shows the general nature of the building materials and so forth to convert this existing building from its current state into what's being shown on the plans. In conjunction with doing that, I was asked to take a look at the parking situation because one of the things that's happening is that there are a few slips that are underneath the existing overhead portion of the building that will now be lost as a result of that becoming inside space so what I did was look at the existing parking situation and came up with a reconfiguration of the parking which does not increase the amount of area that the cars are utilizing now but because over the years cars were parked in kind of a helter skelter situation, the more efficient way of putting the cars on the same amount of area results in more spaces so my note that's on the plan that says no increase in spaces available what that's meant to say is that the numbers are actually increasing because we're making a better use of the existing area and using it more efficiently. That being said, based on your site walk you know that this is a graveled area, natural ground area in many cases and there are several trees which were located by a previous plan of an existing tree survey of the property and we've succeeded in reconfiguring the parking so there's no net loss of any of those existing trees. What probably wasn't said at the original hearing is part of the plan that was submitted to the State and received approval from the State of New Hampshire, Department of Environmental Services, did include some additional plantings in front of the building of native species and the two species to be added are Red Osier Dogwood and Low Bush Blueberry. Currently as you know, the showers are located in this portion of the existing showroom and they are to be relocated into the proposed recreation area. The main thrust of our presentation is that this is an improvement to an existing situation. It does not result in any more slips, it does not result in any more traffic, it does not result in any more or intense use of what is there, it's just taking an existing use that's now occurring on the outside of the building and on the docks and putting it inside of a safe and secure upgraded building. We did take several photographs, the Board did go on a site walk but I have some photographs that were taken from the water which you might not have had the benefit to see. As you go down through these photographs, you can see

that they are taken from the water and they are basically illustrating that from the water it's very difficult to see the existing building that's there and since there's no anticipated cutting of any trees for the construction of the new building that situation would remain the same. You can see the docks and the larger storage buildings to the left and you can see on the first page directly behind the central dock area is where the building is located and you can see the roofline through the trees. These pictures were taken during the recent months so the vegetation during the summer is actually a little bit more intense than the vegetation existing there right now. There were a lot of comments made by the abutters to the property that had to deal with matters regarding the Town's parking lot and the usage of the Town docks and so forth and again we're considering this to be essentially a partial site plan of only the area that's of concern which is the renovation of the building here, connecting it to the new septic system and the relocation of the showers from one building to another building. John Edgar has prepared a staff review that highlights some of the issues and it would probably be best at this time if the Chairman would agree to let John go down through some of his comments and then we'd respond to those and be happy to take any questions from the Board or the public. Edgar – As a result of the last meeting back in October I believe it was a request from the audience and an agreement by the Board to incorporate the abutter correspondence or the file for that matter from the 2006 proceeding which you have before you and we have in the file the correspondence that goes with that. You also have as part of the correspondence file, the new 2007 correspondence that has come in and we were working on some staff comments during the day and things that had come in via e-mail up to a given point in the day were incorporated into the staff report. We do have a couple late entries that we put in a separate packet that had come in after the staff report was generated and the Board has all that information and all that information is in the file. We know from prior experience that the lot coverage in the project is very tight and in terms of the zoning allowance and we believe we may have gotten the verification from Carl but I think the adjustment to the parking if I understood this correctly would not increase any lot coverage so I think we would just need at some point a verification between the building being made smaller, you look at the site plan the end to the right is being shortened up and being replaced with a patio, there is a nub coming off the building away from the lake for a front portico. It's not on the site plan but it is on the architectural so at the end of the day that's all compacted gravel and if you look at the photos beginning on Page 30 and recall your site inspection that's not lawn area so it's essentially a wash from a coverage point of view whether it's a rooftop or broken up pavement or compacted gravel it's probably 6 of one and half dozen of the other but knowing we're as tight as we are, we just need an assurance that we're not having any kind of a net gain in lot coverage knowing that there's virtually no room for error on that one. The applicant provided us with a full size copy of the plan that was part of the Shoreland Waiver. The Shoreland Waiver is a State permit that allows for the reconstruction of this building within the State's shoreline

protection zone. We would want to see in final plans where the actual connections are in terms of electric, sewer and water. I think we may have made the plan change at the last meeting regarding the sewer but essentially we have a construction approval issued for a septic system on the property which is referenced on the site plan and that is a 2004 approval. The 2004 approval had conditions and it spelled out 25 employees, 25 overnight boat slips and then the public restrooms and then it had gallons per day allowances for each of those uses. In 2005 those plans were amended to show the connection of that septic system to Building #4 which is the proposed rec center building. We do not have an operational approval on file and I don't know if you want to address that Carl or if David is here or you want me to take a stab at that based upon our conversation. Johnson – Mr. Chairman, we have some comments on that but if we could wait until later we'll address that. Edgar – There were many issues raised back in October and one of the issues that was raised was whether or not there be a fire suppression requirement given how the building might be rated. Generally speaking, we don't get into those kind of interior floor plan kind of issues but if there was a water supply requirement associated with the sprinkler system, sometimes that may affect the site plan in terms of where a tank or something like that would be located. I know the Chief was reviewing the building plans, the uses and went out to the site to kind of get a better feel for that and we're awaiting his comments as to whether or not the classification of the building because of the public assembly type of use as to whether or not there's a sprinkler requirement. It's not a threshold issue that would determine whether or not the project could proceed but it would be something that to the extent the well or water supply requirements were to be outside of the building, we would need to be able to visualize those on the site plan. Back in October we had raised the flag about the right-of-way going to Tall Pines Condominium. There are several correspondence items and I had suggested at the time that we get a copy of that deed if it's available to determine whether or not there are any fundamental legal conflicts or practical conflicts between anything that's being proposed and if nothing else, simply cross-referencing the fact that there is a right-of-way to the adjoining property that would be applicable to this property. As Carl has indicated, the plan has been reorganized in terms of the parking and that's something the Board would have to evaluate. Carl, on the parking, I think we looked at about 6 spaces in the carport during the summer months, does anybody double park those spaces. If the answer is no, then it's 6 and if the answer is yes, we need to accommodate more than 6 in terms of the reorganization plan. Johnson – There are a couple of previously existing double parking situations. They are not there as a result of what we've done, in other words we haven't made a new parking space by making a double parking space. Edgar – I'm speaking in terms of the carport of the building. Johnson – The answer is there is no net loss of spaces as a result of losing those under the building because we've reorganized the parking to be more efficient within the same area. Edgar – So the efficiency of what we've gained to gain back what we've lost, did we find homes

for 6 more spaces or do we look for 11? In other words in the summer time when cars are parked under the carport, is there any double parking at that specific location? In other words, it's one thing to say there's 6 in the building that we have to find homes for? Johnson – The answer is no. Edgar – We had talked about the issues of lighting at the last meeting in terms of trying to make sure we don't inadvertently create glare or uplit lighting which is a typical requirement of our non-residential projects. We talked a little bit at the last meeting to make sure that to the extent there are fuel supplies outside of the building for purposes of heating or running any appliances, that would have to be added to the plan and signed off by the Fire Chief relative to any applicable NFPA Codes. We talked briefly I think at the last meeting about solid waste and if my memory's correct, there would be some provisions inside the building, is that correct and the reason why these kinds of things might seem like short-hair issues is because we have a tight site and we can't inadvertently have propane tanks or dumpsters show up if they weren't anticipated, that's why we want to make sure that we try to think that through as best we can so at the end of the day we know what the physical changes are on the ground so if there needs to be any clarification, that would be helpful as it relates to any solid waste that might come off the docks. I know it was touched on in the minutes, I just don't recall exactly how that was left. As it relates to erosion control, essentially it is my understanding or my assumption there would be some foundation work involved, we'd be excavating within, I think at its closest point it's about 9 feet of the lake and I've suggested we have site specific erosion control information. The State Shoreland Waiver just simply says that the applicant would follow BMP's that are contained in a reference book and I think given the proximity of the building to the lake, it's in everybody's interest and certainly the applicant's to make sure we contain any construction related impacts to the upland portion of the property. We received the 2006 letters, the abutters concerns are bulleted on Page 25 of the comment packet and as of 9:00 a.m. this morning we had received 18 additional letters in addition to the 2006 material. There is a summary here of what the opposition is and we also did receive 2 letters of support articulating in their opinion the improvements were beneficial to the community, etc., so I'm not going to go through all of those but we do have all the items. Another minor issue, we have a door exiting the building out toward the lake side and my assumption is that would intend to connect to the dock that runs parallel to the shore and I raise the question as to whether or not if we are securing that stair connection to the shoreline, it probably requires a Dredge & Fill Permit unless there's some other way of doing it that would obviate a need for a permit. It's not a big deal and I think if the State had issued the Waiver for the reconstruction of the building, my guess it probably wouldn't be opposed to making that connection. Mr. Chairman, the concerns that were raised we arbitrarily categorized those in terms of environmental concerns, neighborhood concerns, access and parking and then the issues that were spoken to at length at the last meeting about whether it's a permitted use, at what point does the boating activity go beyond what is associated with a marina and become a yacht

club or some other use so that's kind of the last paragraph, things that are associated with use issues. In summary, I think its important for the Board to at some point complete the hearing process after we're comfortable that the issues are on the table and all of that information will be taken under advisement as a practical matter. There are a series of underpinning legal issues that have been raised and will probably be raised again this evening and I think it would be appropriate for the Board prior to taking any action on the application to seek input from Town Counsel on the legal issues that have been raised. Kahn – This goes back to the letter you wrote last year and that is what is the scope of our inquiry here? This is a site plan of this particular building. Edgar – I think the letter basically says and here again that was preliminary and a pre-application but the thinking at the time as I recall it is that it would be a site plan review limited to this portion of the site with related impacts. We're not going to go to the back 40 on the property and deal with something that has nothing to do with this building but to the extent there are bonafide concerns associated with this project, that's what site plan review is all about is to try to evaluate what those impacts might be. Kahn – So we're entitled to look at the use of the building and the impact the use would have. Edgar – The use of the clubhouse, yes. In terms of the core issue is we're going from a storage facility to an amenity facility of some variety and as I understand it, the understanding was that we're focusing on the impacts associated with that adjustment in the use of that accessory structure. Vadney - That is correct and when that letter came out a year ago, the discussion leading up to it was we wanted to make sure, based on this particular request, we didn't want to reopen the main wounds of expanding boat storage and parking lot in general way out behind the boat storage and all those places and the commercial sales and the things that went with that. The specific focus was this building. There's one or two words in that letter that today give me pause, at the time I said based on the information reviewed, it does not appear to the Planning Board the proposed recreation center is a change of use from a zoning perspective and as we understood I think as a Board, I know I did personally, but I think as a Board what we thought was going on out there was stuff we thought was within the zoning. Since then, both the site walk and the discussions we had at the last meetings here, there were some comments that at least give me pause on wondering whether there are some issues that could be called a zoning issue, things like the RV Water Park comments and things of that nature. Those I suspect would start to infringe on that statement about zoning perspective but from that standpoint I don't feel the least bit bad about it because at the time, if what was going on had been explained to us, I didn't suspect some of the things that have now been alleged by some of the abutters so I think covers all my aspects and beliefs and understandings of that letter as we wrote it a year ago. To start some specific comments, we'll be turning to the public soon. One of my site concerns is just to the west is the Mason Marine loading area for the marine construction company and there are trucks, small tractors, graders and all kinds of things that go out there. They pass within inches of this building. I would say if

we were starting with a clean slate, we'd say there's a construction site there, you're moving heavy equipment in and out, is that where you want the playground. That's one of my concerns I want to see in some way answered and justified. The other one I mentioned a bit ago that I'm really troubled by are the allegations and some evidence that there is a substantial and growing amount of overnight camping on boats there and in the strict interpretation of our ordinance that probably isn't allowed so that's kind of where I stand. Those are the things I want to see answered. Bayard – I do recall the gist of the letter we wrote was a concern that this not reopen the site to review and that we start discussing parking over here and selling a boat, these boats are awfully big, how come we're doing this, how come we're doing that and are they planning another storage place and are they looking to do the valet machine, all these other things that kind of got stirred around the last time. We're trying to look at the specific facility and its impacts as opposed to the entire site. There's a lot going on there and obviously one could question any number of little things or large things but that was not what we wanted to make the focus of this particular review. Dever – How many boat slips do you have? Littlefield – 94. What you're doing with the bathroom and showers it's all coming from your showroom into this building, correct? Littlefield – Correct. Dever – I assume you already have a place to put trash. Littlefield – Absolutely. There's a designated trash area for every slip customer we have. Quite frankly, there's a stamp system that they put a stamp on a bag to throw into the dumpsters. Dever - One of the issues I mentioned before was having the grill that is presently on the dock would go up to this building and come off the dock. Littlefield – Correct. My understanding is that the Fire Chief and the State would like to see that. Littlefield - Absolutely. Kahn – It seems to me that the issue is, obviously a lot of people here would like to see you wiped off the face of the earth but short of that I think you're going to make a lot of noise and the question is what can you propose to limit noise? How can you propose to limit this facility so it doesn't increase noise? Littlefield – Actual noise at the facility or noise in this room? Kahn – Actual noise so that people don't have to hear carrying on through the night. How can you deal with that? Vadney – From this recreation center he means. Littlefield – Shut down the public parking lot, there's where your noise is and launching in the middle of the night. In all honesty and let's face it, there's a commercial building down there, a commercial business. For some reason a lot of people here feel that this business was built to service only island residents. I don't understand that. That's been brought to my attention many times at many different meetings. There's a business down there that runs from 7:30 in the morning until approximately 5:30 in the afternoon. I don't think those are unreasonable hours. It was a business that was built in 1919. Most of these homes that were built around this facility were built in the 60's, 70's, 80's, 90's and 2000's. I think short of shutting down a commercial facility which I think these people would like to see happen for some reason, I think it's a very, very clean and professionally run organization. Kahn – That was not what I asked. What I asked was I 'm assuming that whatever goes on there

from 8:00 in the morning until 5:30 in the evening is not our business. Our business is this building. What assurance can you give us, what proposal can you make to see to it that this building does not increase noise in the evening, I think that seems to be the biggest problem. Littlefield – OK. Kahn – I want to hear how you can put limits on this building so it does not increase noise and commotion in the evening.

Littlefield – I guess the basics of it is you're taking a congregation or an amount of people that may be outside and giving them an opportunity to go in side. The things that are happening down there right now aren't going to increase in noise by this building, if anything, it will decrease. Kahn – Can I hold a birthday party there, can I bring a band? Littlefield – Absolutely not. Kahn – What do you mean absolutely not? Littlefield – There has not been a band there since I've owned this facility, I would absolutely not allow a band there. Kahn – So you're going to have a rule, no bands? Littlefield – If you need a written rule, you can have a written rule. Kahn – What about a keg, can I open a keg at this place and invite in all the folks from the docks? Littlefield – This is a sitting, resting, enjoyable area, it is not a party area, it's not being set up as a party area. Short of a couple of couches and a gas fireplace, they can bring a keg to their boat, any home on this waterfront edge can bring a keg to their home. I guess I just don't understand. You have condo associations. Kahn – There's more space in the building than there is on a stern of a boat. Littlefield – The space in this building is approximately 16' x 20' (300-400 sq. ft.) There's a lot more dock space. It's a very small area, I don't understand why this whole entire thing has been blown out of proportion. Kahn – Do you have any limitations on what happens on the docks? Littlefield – Only the respect of each other. Written limitations, no. Kahn – You might think about having some. Littlefield – If we need to put in some written regulations, we will. I talked to the Chief of Police today and asked for the last 5 years in complaints down at Shep Brown's, excuse me last 5 years of calls at Shep Brown's. There were 28 dispatched calls to my facility put out as burglar alarms. I have a very sensitive burglar alarm system in there of which none of them were an active burglary. There was one car alarm system that had gone off in the parking lot that they were called down to and in the area and probably some of these people that are complaining about fireworks, in the area not at my facility, somebody on Lovejoy Lane had called on a neighbor setting off fireworks. It's a very close niche of people just like a condominium association may be. A lot of very good customers there and I'm not going to attest to what had happened before I was there and I've heard there was a live band down there maybe once a year, but a live band is not allowed at my facility at this point. We don't have open parties at our facility but there's no restriction any different than the condo association next door may have nor your Town parking lot quite frankly which is so much of the issue here, is a traffic issue. You guys have "0" restrictions on people coming in and out of your parking lot during the evening and I'm going to tell you there were some comments here at the last meeting about how do I know what goes on down there at night, I go home. I actually own a

facility right next door to this marina and I spend many evenings down there. The only noise I hear down there is generally between 11:00 o'clock and 2:00 o'clock in the morning and it is the public parking lot and people getting onto the Town docks. I can't police that, that's not my job. Vadney – Let me ask you a specific question because this is based on comments that were made at the last meeting. Approximately how many boats on a typical big weekend were occupied as sleeping quarters over this past summer? Littlefield – I have 94 slips, 55 of my slips are now occupied by island residents, that's 58 1/2%. I have 8 slips that are occupied by others and by others I mean a non-resident of this Town that comes to day boat, that's 8 1/2%. I have 3 service slips that I keep open and I have 2 jet ski slips in there that are actually 2 customers that have jet ski's that stay in those slips. I currently have 13 overnight vessels at my facility but could handle as high as 20 and how I look at that is by the power at the docks that could handle a cruiser. These docks have been there a long time and they haven't changed. I think probably since the beginning of when those docks were there, there have been people that have spent nights on those boats but on top of that I have 13 that are available empty slips. The 13 overnight slips makes up 14% of my slips, I have 13 available slips that are unoccupied of which only 7 of them would even be able to classify into an overnight slip. Vadney – When you say overnight, you're basing that on the fact they have power available. Littlefield – They have power and actually cable run to those docks. Vadney – How many were there say 3 years ago. Littlefield – More, I would say out of the 20 that I could handle for overnight slips, there were probably somewhere around 17 of those 20. Edgar – The use of the recreation facility, would that be limited to the overnight folks or some other subset of the 94? Littlefield – No, the overnight folks will be the only ones that have accessibility to the actual clubhouse itself. Kahn – When we were out there, it looked like all your overnight slips were sort of one extension of the dock that was really right on top of this building. Littlefield – Right outside of this building, correct. Kahn – How many slips were on that dock? Littlefield – Just to refresh your memory, this is the main entrance onto the larger dock which is where the cruiser slips are. This building is referencing right here (pointed out on the plan) so it's just outside of that dock. Kahn – Is it that dock you're talking about that are the overnight slips? Littlefield – The slips that are across here and one slip there (pointed out on the plan). Kahn – How many are there total? Littlefield – 20. Kahn – And some of them are not occupied? Littlefield – There are 13 total unoccupied slips in the facility. Kahn – How many overnight slips are unoccupied? Littlefield – 7. Kahn – So you have 20 overnight slips available, 7 are unoccupied. Littlefield – There are 13 existing overnight slips. Kahn – And that includes that one on the other dock. Littlefield – Correct. One of the big things that you said John was erosion. I'd like to address that real quick. The building that's existing is sitting on concrete piers and a partial foundation as well. The proposal and the change was to add no more concrete from a standpoint of nothing but piers. I am going to pull out those piers and replace them with new ones. The intent was to not change the flow of the drainage at all, it will flow right

underneath the building. I just wanted to say a couple of things and you made a good point to begin with that there seems to be a lot of people that would like to see me gone but I don't why that has happened but I just want to talk a little about my background and what's happening here. I purchased this facility in November of 2002. It's been 5 years now. There have been many obstacles to get through in the past 5 years mostly created by previous ownership and second of all is the rising cost of doing business today. I've read some of the letters that have been sent into this Town with things being said as my intent of greed. I take a lot of offense to this. I've had a huge obstacle like many small businesses have had in the past 5 years in increased revenues, trying to increase revenues to offset to offset general business increases. A few major issues, general insurance is up 108%, real estate taxes up 84%, boat shows up 116%, floor plan up 314%, health insurance for employees up 84%. This isn't greed, this is business and we're just trying to get through business. It is very difficult to do this without just passing the cost on to customers. As you remember, I was at this Board a couple of years ago to build a couple winter storage buildings to help offset these rising costs and additional expenses. It came with much resistance from my neighbors, just like anything I try to do for some reason. I looked at storage buildings to be the least impact to the area because of the nature of the time, winter time, and I also looked at it from their location away from the water which is quite a distance. After much resistance I elected to withdraw the application and approach the problem in a way I did not want to. To raise sales to offset expenses, I went and built a building in Gilford. Unfortunately, we are much more affected by the economy during a slowdown as we have been experiencing the last two years in a sales business. That's why I wanted to increase in storage and I wanted to increase in storage in an off season when it didn't affect traffic, didn't affect people, nobody was here. It is very difficult to just increase prices to your customers without increased value. I have put in front of you a proposed area for my slip customers to have all the things that are already happening in my facility be put into one area making it neater, cleaner and much more eye appeal than just a falling down building. This in turn I believe will make a better experience for my customers at Shep Brown's and hopefully will make them want to be here for many more years to come and give them a better value for their cost. I'm not asking the Board to do anything that they shouldn't do or to do something different for me than they would for another. I am asking the Board to look at the challenges that face a small business today much like balancing the Town budget. I think you would have to look at this person that has bought this facility as a pro-active person in helping the Town of Meredith with its parking issues and you know there's a lot of talk about traffic and a lot of talk about parking and I have taken the brunt from this Town on the parking issue down there and the parking issue is not an issue I have created. I have a parking spot for every one of my customers, I have a parking spot for people to come down to look at boats, I have a parking spot for people for service, the Town is way under in parking. I can't take the fault for something you've created. It's a Town issue,

I've tried to help it by approving in the purchase of my company an area for you to put trailer parking for townspeople coming to use the launch ramp. I've taken over 35 cars off the Town parking lot for AMC, got them out of the Town and put them in a parking area on my site to help alleviate your parking problem. I've also offered you guys for the last 3 years an additional 3 acres of land at my facility to build additional parking. I think in saying that, you have to say this is a person that's trying to help the area and the congestion down there not hurt it like everybody wants you to believe that I'm down there trying to do. I've also offered the use of some land to erect a Town restroom and facility for the island customers and for visitors to tie into a brand new leachfield that everybody wants to say is not in place at this point and quite frankly there's a little bit of a reason for it, on my plan I have a proposed tie-in for the Town that has not been acted on in almost 4 years, time is running out. I can get my permit finished within a 30-day period by removing your name off of there. If that's what we've got to do, that's what we've got to do. I've also convinced the Town as of the first of July last year to let me start collecting for the Town ramp. That's something I've been talking to them about also for 4 years. My suggestion to the Town is that we're there 7 days, 10 hours a day and year-round. It only made sense for Shep Brown's to take this collection instead of having the taxpayers' dollars do it 8 hours a week for 2 months a year. With this change we've been able to collect for them starting after July 4th weekend this year \$4,000.00 instead of \$1,400.00 the previous year. I believe with a full year of this we're going to be able to produce somewhere around \$7,000-\$8,000 for the Town. I also want to say to you and you people out there, these are true transient boaters giving you this money. The people from this Town don't have to pay. My only stipulation in asking to help out with this is that the money stay at Lovejoy Sands Road in the future and my understanding is it couldn't for the rest of this year because it wasn't put in the books but next year going forward, my only request is that this money collected stays there into taking care of the launch ramp which quite frankly I own 50% of and I give you guys 100% of the money with the understanding that money stays there, it goes into the waterfront, goes into the restrooms if they decide they want to do that in the future, it's a fund for that area. I've worked very hard in the past 5 years to prove to our customers, our neighbors and the Town I'm here to make a difference, a better, cleaner, quieter, classier facility and one of the best reputations on Lake Winnepesaukee. Just a little bit more proof of that is Shep Brown's and its crew of over 20 full-time employees have been recognized by both Boston Whaler and Monterey as one of the top 10 dealers in the world for customer satisfaction 3 years in a row. I'm extremely proud of my entire crew in helping me achieve the #1 dealer in the world this year for CSI for Monterey. I must add to this there's a tremendous amount of talk about noise in the evening at my facility. Again, I talked to you guys about that, I spend a lot of evenings down there, I hear what's going on down there, don't put the blame all on me guys. When I read the letters submitted to the Town and I look at the true facts in the 5 years of my ownership of this company, I just can't help but think there is a person in the area that really

has an alternative motive here in spending their time convincing people of things that just aren't true. I hope the Board can look through that, it's time to move forward and I would like to see this approved tonight. Jed Callen – I represent a number of neighbors who loosely go by the name MerNIA. I will try to make my presentation relatively short and it will be all legally relevant. I will not go back into history and talk in generalities. I was pleased that this Board decided a year ago that this proposal required Site Plan approval as well as Architectural Design Review. Paragraph 2 of Section I of your Site Plan Review Regulations required Site Plan approval as well as Architectural Design Review. This paragraph indicates quite clearly that for a non-residential building, site plan review is necessary if a building is externally remodeled. I would think that was a no-brainer but I read very carefully the minutes of your October 24th, 2006, previous hearing and read a letter from counsel for the applicant in both of which they argued they did not believe the difference between the existing facility and what they were proposing constituted external remodeling to an extent that would be covered by this regulatory requirement. Later in that same argument, that same attorney said a picture is worth a thousand words. I go over this only because I believe my clients have just been somewhat maligned as to their motivation or that they are out to get him, we heard several times somebody wants to shut me down. I will make this very point that we know what the existing facility looks like, I'm holding up a photograph but you've all done site walks, you know it is an open shed as to 2/3 or 3/4 of its length and a small enclosed area for storage. (Picture held up of proposal.) If that is not an extreme almost complete external remodeling that phrase means nothing so for the applicant to argue in writing and to you it's not externally remodeled and we don't need to be in site plan review, astonishes me. I'm glad the Board made the decision it does require it and that's why we're here. I'm here on behalf of my clients to object to the Board approving this proposed site plan for a couple reasons. First of all, according to your Site Plan Review Regulations, Section III, no site plan can be approved unless the plan submitted and approved is in compliance with the zoning ordinance. I don't believe approval of this plan as proposed is consistent with your zoning ordinance and any approval would therefore be illegal for violation of that provision of your Site Plan Review Regs. The reason an approval would not be consistent with your zoning ordinance is that the proposed use for this facility is simply not a use that is permitted as of right in this district under any aspect of your zoning ordinance, is not a grandfathered use and I'll speak to that point in a moment but is not permitted by pre-existing the zoning ordinance which is what permits much of what is at Shep Brown's, the docks, the showroom, etc., and its not even permitted by special exception even if it were, they don't have such a special exception so I would object to any approval absent receipt of special exception, I would argue that's not even permitted by law, but that's not your decision that would be the Zoning Board's decision. There has been a lot of confusion in Meredith on this Board and predecessor Boards about what is grandfathered at Shep Brown's Boat Basin and I believe the answer is straightforward and even

though your predecessor Boards may have decided otherwise in the past, you're not bound to stick with earlier decisions, you should make the right decisions based on the law. My argument is quite straightforward. Understand that the concept of a grandfathered use under zoning and I'm not talking just generally but specifically under RSA 674:19, which is the State law that sets up that concept of vested rights or grandfathering or that zoning ordinances do not apply to uses or buildings in existence prior to the enactment of the zoning ordinance or amendment of a provision that would make it illegal. That's a straightforward concept, you can't outlaw an existing pre-existing legal use but zoning ordinances do apply to changes to those uses, expansions, changes in the size of a building and it's very explicit in the State law, your zoning ordinance mirrors and meets it and is legally consistent with the State law and would be upheld and that is covered in Article IV., that is your non-conforming, pre-existing uses. What is grandfathered by State and your local zoning ordinance? It is not a category of uses, it is not that if a use exists prior to your zoning ordinance can be characterized as a marina, then anything else that is associated with a marina or might be a part of a 2007 marina is also grandfathered, that is simply not the law and that is the assumption under which the applicant is proceeding. In fact, what is grandfathered is what actually existed at the date the zoning ordinance was enacted or amended to outlaw or prohibit that use, what the actual is may continue subject to some internal expansion without zoning approval, subject to the necessity for a variance or special exception if the change is significant or has a greater impact, there's a lot of case law discerning what those steps are for expansion of a non-conforming use but there is no debate under State law all that is grandfathered is that which was there not similar things that might have been there or that I want to add later. The functions that are grandfathered are those that existed on August 27, 1971, the date your zoning ordinance was adopted or such later date if on that date this shoreline district was set up that prohibited commercial activities like marinas except by special exception that are residential districts. If that occurred later, it's as of the date that commercial marina became prohibited. It is exactly those uses and no other or any additional uses that are subsequently approved by the Zoning Board of this Town under a variance or special exception should the applicant have come before them subsequent to 1971 and said I want to add this, that or the other, it's not allowed by zoning but its allowed by special exception or variance and that was approved, that and only that additional use would be grandfathered, not anything else they wanted. Say it in the converse as the general rule and then apply the facts to it. There is no legal basis whatsoever to the proposition that because some uses are grandfathered or have been previously approved by the Zoning Board and those uses could be loosely described as a marina or a commercial marina, then anything else that could be fit on or part of a modern commercial marina are also permitted, is not legally correct or logical. We don't work by categories or definitions, we work by actual uses, what you're doing you can continue to do even if zoning now prohibits it. What was there in 1971 or such subsequent year

as the district was set up that prohibits marinas or commercial activities on the shoreline out there, I don't know exactly, I know what wasn't there and that is what's important tonight. I would submit to you that many of you know certainly the Town knows, Mr. Edgar maybe knows from doing some research, but we know it was Shep Brown's Boat Basin, we know there were docks, we assume there were fueling facilities, perhaps sales of parts, spark plugs, propellers and rope, cleats and all that good expensive hardware, repair of boats, storage of boats I believe has probably been there for a long time and maybe even the sale of boats, however, it's quite clear in 1971 or such subsequent or earlier year as grandfathering occurred and the existing use was allowed to continue indefinitely, a couple things that weren't there were heated indoor recreational spaces for boat slip users, computer rooms for boat slip users or I suggest even showers for boat slip users when this was grandfathered. Let me suggest the following point, if the applicant was proposing to you tonight and they purport to be proposing this, I think they've said this but I don't believe the facts support it, that they were simply planning to move some functions that had been grandfathered and they can prove they were grandfathered or subsequently approved by the Zoning Board as approved uses despite them being generally prohibited in this district. If they were simply moving them from one place on the facility to another, I would say they didn't need additional zoning approval, they might well need site plan approval because it might affect buffers, lighting, parking and all those things which are subject to site plan approval. However, I don't think they could stand up here and honestly tell you what they are proposing here are existing uses. They say that loosely and what they mean is what we're moving is stuff that was happening there already and it's going to be more efficient and they might even be right, it might even be a better place for it, but unless it's a legal existing use meaning grandfathered or previously approved, allowing them to move it without asking the Zoning Board if that's permissible is illegal. They are not entitled to add uses to a non-conforming site in a zone that doesn't allow it. As I said I read very carefully the representations made by the applicant on October 9, 2007, in the minutes and they were repeated here in the same plan so I don't question the validity of what they are suggesting that the following things are clearly new uses, they didn't exist before, therefore, not grandfathered, not permitted as of right in this district. The indoor recreation area, desirable as it may be, that's not relevant. If there wasn't indoor recreational space, they can't build it now because it's not grandfathered and you couldn't build that on another lot in this district and have a family recreational facility or clubhouse whatever you want to call it. The same with the computer room, the same with the second recreational room. The grilling patio, they say there was a grill already on the dock, they are going to move it here because its better but have they ever been approved to have outdoor dining facilities, was that there in 1971, did they get a special exception for picnic area, grilling facilities or whatever? If they didn't, it may exist now but it's probably an illegal use and now sanctioning it because they're moving it is illegal. The same thing with the showers, I would suggest to you that there is debate over the factual

underpinnings of this assertion and I won't pretend that I absolutely know it but I will make this challenge to the applicant and the Board. They claim the showers have been there for a long time, my clients and people who've been around don't believe they have ever been approved or seen before on a site plan by this Board or by the Zoning Board, that there may have been restrooms, washrooms in the showroom going way back, that's reasonable there are customers and workers there who need to use toilets and sinks but providing showers for overnights or people sleeping on their boats, when did that start? I suggest to you that you will not find anywhere in the Town's plan a site plan that says we're going to have showers for overnight boaters anywhere nor a zoning approval of that so I suggest that is a new and unapproved use and not only would allowing it to be moved and now sanctioned on a site plan be inappropriate but it would violate the zoning ordinance if that's not an approved kind of use, again, approved because he did not get approved or grandfathered as a commercial marina as that term is defined in your zoning ordinance. That definition and general category is a construct of your zoning ordinance; it doesn't define the rights that were accrued to the previous owner in 1971 when the zoning ordinance outlawed this kind of use. What was grandfathered was what was actually happening and not anything could be fit under that category and let me make an analogy that illustrates that point I think fairly well. If one were to assume that because you had a marina and I'll grant you some marina uses are grandfathered, docks, storage, fueling, repair, sales, you therefore could have any other marina like use on the same facility, why not a theater, why not a dining room, snack bar, video arcade, Laundromat to service the slips renters, I don't mean for the public. It's a competitive business out there in the marina world and in order to get people to come and rent my slips and spend the night there and all, I have to provide their kids with video games in the evening or food on site, I have to have a dining room, kitchen and whatever that's part of marina reality in 2007 so I want to put that here. You would say that's absurd, that's a brand new use and not permitted in this district and I suggest to you the family recreation center might be a little less blatant and a little less intrusive than a video arcade, theater or restaurant but legally and conceptually no different. It either was there when the zoning ordinance came in and can continue or it wasn't there and you can't allow him to have it now unless the Zoning Board says we'll give you that by special exception or variance. The answer is neither will exist. Let me take it a step further, I would argue that the uses he is suggesting be allowed in this facility, the uses he's proposing such as a computer room, shower facility, recreation room with some sofas, tables, scrabble, quiet intellectual games, no parties, no kegs are not even permitted by special exception is my point to you and you don't have that authority to make that decision but let me point out what is permitted by special exception again is not some broad undefined category of any useful thing one might have at a marina in 2007 to become profitable or to be competitive or to make a living despite rising costs of business and all these good human reasons, we've got to go by the ordinance and what's permitted by special exception is marina (commercial) and

there is a definition in your ordinance of that and the definition is pretty clear and it provides a place for docking or storage of pleasure boats and providing service to pleasure boats not to boaters including servicing repair, sale of fuel and marine supplies and to emphasize the meaning of service to pleasure boats, I'd point you to the next definition too which is marina (residential) and it says a place for providing secure mooring or docking for pleasure boats but offering no other services and helping define it by example, no other services such as boat storage, fuel, repairs, maintenance. Notice in neither definition of marina are the services to the boat owners, slip renters, and the services are nothing other than the services actually are already there and probably grandfathered like selling them fuel, doing repairs, hauling them out and storing them. It does not say a marina is a place that services boats and entertains and services boaters, customers or whatever, it could easily have said that. You could have a marina that's more like a yacht club if that's what the Town wanted to allow that has services for boats and amenities for boat slip owners or renters. So to propose to service your customers by giving them showers and whatever may be a nice thing to do but I suggest it's not even in the definition of what's permitted by special exception but that's not your concern. Let me tell why else you must deny the application, it's not only inconsistent with the zoning ordinance for the reasons I explained, it's not a use that's grandfathered or permitted but its procedurally deficient. You have several sections of your Site Plan Review Regs. that say how one applies for site plan review and they are very explicit, Sections III, V.B(3) and XIV all define how to do it. Section III mandates that the site plan application be prepared in accordance with these site plan regulations including the site plan checklist which is a part thereof. Section V.B.(3) mandates that the site plan application must consist of among several other things listed 3 copies of all other plans and documents required in Section XIV. Site Plan Review Regs, Section XIV, mandates an application for site plan review shall be accompanied by the following plans, information and documents unless waived in accordance with Article 17, Section B, of the Site Plan Review Regulations and that list of things that must accompany the application which you accepted months ago are 15 requirements that have to show up on the site plan itself and 37 requirements that have to show up on the survey that underlies the site plan and I don't doubt that many of those are irrelevant to this small application for just one building not the whole site or whatever and probably should formally have been petitioned to have been waived and voted to be waived but nothing in the minutes that I've read indicate to me that there was any petition to waive or any vote to waive and therefore the application is deficient on its face. I forgot to read you that Section XVII, B. (Waivers) which was referred to in the previous section indicates how one goes about getting a waiver because it has to be accompanied by all these things unless waived in accordance with Article 17 and that waiver provision requires that a petition for a waiver must be submitted in writing by the applicant at the time when the application is filed for the consideration of the Planning Board so petitions for waivers have to be submitted at the time and shall state the grounds

for the waiver and the facts relied on so in summary, this thing was received on September 24th, it's stamped as received then, it lacked any petition for waiver, it was accepted by this Board as complete on October 9th and still lacked any petition for waiver and any vote by you to waive any of those requirements, at least nothing in the record shows me, I could be wrong but the file I reviewed had no waiver petition or votes and was therefore illegal procedurally under your own Site Plan Review Regs. The only way that I understand that this Board can undo the error it has already committed unfortunately by accepting a plan that didn't meet the requirements for a site plan application is to deny it and say please resubmit it consistent with our Site Plan Review Regs., that is seeking waiver of whatever things you think are irrelevant and unnecessary under these facts and that we will then vote to consider it complete and vote on the waivers and there are bases and grounds for granting waivers if the Board wants to but you'll look at the waiver provision. None of that was done and I think it can all be saved by a denial which would also solve the additional problem that I don't believe you can approve it because it wouldn't be consistent with the zoning ordinance and it would solve your additional technical problem of it not being when most people are around or you're not having an opportunity to do a site walk when its in operation so for all those reasons, I would urge you to deny it tonight and not waste the abutters times, the applicants time, your own time and the money of the taxpayers who pay for you to be here tonight when this thing is just clearly procedurally deficient and also legally erroneous. Ken Goldberg – I've come up here twice now for this hearing. I own Rock Island which for the last 34 years looks out at Shep Brown's Boat Basin over the property, the docks, the public docks and I look at it every day out of my dining/living room windows. The gentleman before me was very interesting. Quite frankly, I would rely upon your collective understanding of the Town regulations and your Town Counsel not the self-appointed new Meredith Town Counsel hired by somebody who is in opposition to what it is that is going on here tonight. It suggests to me that what he suggests to you is that you folks should invoke an ex post facto law to turn the clock back and take away everybody's rights if somebody didn't do something once upon a time and forget about ancillary use that goes on with respect to any business that goes on in the Town but that gets away from what I'm talking about and why I'm here tonight. I don't rent a slip at Shep Brown's, I provide my own access to the lake. I met these people last year and I know they are good stewards of the lake and of the property. I do know they made the place clean, I do know they don't let people do things there that are wrong, they don't let people spill stuff onto the ground, they don't let people park where they shouldn't and they police it and the people who don't do it, they get after them. I also know what Mr. Littlefield tried to tell you and maybe he's not there all the time and maybe he is, but there are a whole core of people who put their boats in at the public dock or somewhere, they don't have boat slips, they tie up to the public dock at Lovejoy Sands. This is not an indictment or complaint about the people who use it but I go over there to use that public dock and I park in the public parking lot which is my

right, I'm a Meredith resident, and there are boats parked there for days. They get tickets, they get more tickets, they live on their boats, they are having parties there, cooking their food and they are sleeping there and that violates the Town regulation. That has nothing to do with Shep Brown's but it seems to me I look out at that property and I've seen it improve, I've seen it get cleaner, neater, I come in there to park and see its really not an eyesore, its something that means the people that own it are taking pride in what they are doing. What offends me here is that all of these people who are I'm sure well intended lose sight of the fact that if somebody wants to improve our tax base so as to improve their property to take a piece of property that's worth a dollar or whatever the number is and to improve that property so its worth more money, then we collect more taxes by their simply having improved the property. I'll leave it to you folks to decide whether this is an existing use, but I suggest to you that you should not be dissuaded from doing it because some hired lawyer comes here and reads you 400 different chapters, paragraphs, subsections and then argues well I can't be sure but this is my impression, this is my interpretation of what it is. If these folks are absolutely sure about it, let them go and get a bond and guarantee the Town of Meredith that when the Town gets sued we don't have to pay the bill to have counsel hire outside counsel to defend it because they don't want to do it or they do want to do it, whatever it is that you folks decide to do. There are a couple of things I've listened to and it would seem to me that if you folks who have the authority to make these decisions and want noise to be controlled in the building put rules on it, you can do it but you can't do this. You can have the building but you must soundproof the building. Nobody's going to be offended. I'm hearing talk about somebody having a right-of-way. The right-of-way has existed since 1927, that's the right-of-way that goes to Tall Pines over this property. I never heard anybody say that they've been stopped from using the ROW or that it offends them. I have no stake in this other than the fact that I'm a resident of Meredith, I'm not their customer. They've done some work for me but most of my work is done by Irwin Marine not Shep Brown's Boat Basin but I do use the public docks there and I am not blind. I appreciate the Chairman's wish to go there when it's a busy time to see it, if you were able to do that and I gather it's not within the purview of the timeframe within which you have to work, if you went there you would see what I see and you would see what goes on is neat and orderly and is run well. In 34 years I have tried 5 times to rent a slip from them, they haven't had one that was available for my boat needs, should I be upset with them, I don't think so, do I store my boat there, no I don't. I use a different marina to do that sort of work but I am offended by the fact that the potential of our tax base to be expanded by something that probably amounts to maybe two grains of sand on a large mountain that they want to stop that from happening which benefits all of the people in the Town of Meredith, which beautifies a piece of property whatever reasonable use they want to make of it that's there, you can't force them to tear down a building that has a current existing use but if they wish to take the building and to make it worth more than it's worth today, that helps all

of us because Meredith's tax base expands. I don't know the motivation for neighbors getting together to say we oppose this. There is no noise. I tell you there is no noise because noise carries over the water, it is directly in front of me. When there is noise there, I hear it, when the fireworks go off at the end of Lovejoy Lane which are the houses and the docks immediately adjacent to some of these folks homes or maybe it is their docks where the fireworks go off, I can see it, I can hear it, it wakes me up in the middle of the night because they don't do it and stop at 10:00 o'clock, they do it at 11:00 o'clock and 12:00 o'clock and the next day depending on which way the wind is blowing, the lake is full of debris from the fireworks. I'm sure the Town is not happy with that going on but those are things that I hear and see but I have never heard any noise coming from there beyond the fireworks and when you go there at night, the place is as quiet as a tomb. I was here at a meeting two weeks ago when this thing got postponed and I left my boat tied to the public dock down there. It was no different that night when I went back at 10:00 o'clock at night than it was in the middle of the summer. The people that sleep on their boats that take up the space, that live there at the public docks, they are sound asleep. Maybe these folks have a right to complain about that but I don't see them going to the Town to complain about it, I don't see them asking the Police to come down. The Police in this town are very responsive, they would come. What offends me is we have an opportunity to have our Town improved visually and financially and all I hear is mumble jumble about the rules and to make an argument of ex pot facto law that absolutely boggles my mind. Susan Chinetti – I'm an employee of Shep Brown's and have been for 19 years and I'm also an abutter. I speak my mind freely; it has nothing to do with where my employment is, it has to do with where I live. I've lived at my current home since 1999 but I've been a Meredith resident since 1988 at which time I lived in Tall Pines Association, I've also lived on Lovejoy Lane. I've also made a lot of noise down there and so have a lot of other people in the neighborhood. I call it a good time in the neighborhood, I call it people having a nice time using the lake for what it's supposed to be, a good family area. I don't see the people on the docks making a lot of noise, as a matter of fact I've gone down there a couple of times at 9:00 o'clock at night to have a drink with somebody and there's nobody there because they are all sleeping. In the past it's been different, but since Bill has taken over the place, it's been very quiet. I don't have a problem with the amendment to the site plan or the building. Bill did not ask me to speak, he left it up to me to do what I feel is best for me. I think that changing the building and fixing it up will definitely enhance the area and make a difference to the marina as far as what it looks like. I don't understand why the people in the area have a problem with it but that's their problem and we really try not to go down that road because we are neighbors. Barry Green – I'm not a resident of Meredith but I'm a lifelong boater. I've been on and about Shep Brown's for the last 6 or 7 years having bought a couple of boats at Shep Brown's. For the past 3 years I've kept a boat at the marina. I'd like to make two common sense points because I think it's time for common sense to have a say here. Over

the past 25 or 30 years, I've kept boats at 4 marinas excluding Shep Brown's, 3 of those 4 had small recreational areas. These were not yacht clubs, these were just marinas. They had small recreational areas where people could get together, sit down quietly and eat lunch and do whatever they wanted to do. People who own boats tend to group together and this makes that allowable, it keeps things quiet and it just helps with a sense of camaraderie. The only one of those 4 marinas that did not was in a very tight area where you couldn't have put in a phone booth and I think if they had more room, they would have had this common area as well. It's very common; it's traditional with most marinas, not yacht clubs, just with marinas and its part of what normally goes on. Having come to Shep Brown's 3 years ago and having slept on my boat on occasion, having the docks quiet is more important to the people on the boats than it is to the people in the surrounding area. If the marina is a source of noise, it annoys first and foremost the people who are there. Right now we gather on the docks, we will sit and have supper and we'll talk. Somebody will have a beer, it's quiet. Shep Brown's is as quiet or quieter on the docks than any other marina I've been at. Every time there is excessive noise at 1:00 or 2:00 o'clock in the morning, it's at the Town docks or in the parking lot, it's not people who are part of the marina community and there are times when people from the marina will ask people who are transients that come in at 1:00 o'clock in the morning to keep it down because there are some people who are sleeping on those boats. The people who now sit on the dock and have supper there or sit and talk or listen to a radio quietly will probably do that inside now. If anything, as Mr. Littlefield says, this will make it a little bit quieter not noisier. If there's anybody concerned about the quality of the life of the marina, it's those people who may sleep on their boats on a Saturday night at the marina. They are really the guardians to make sure the quality and quiet and consideration is there and that's what we all do and I've seen it happen for 3 years. Over the past 3 years I know it is a well kept, well mannered, well policed quiet marina community. I see this as making a mountain out of a molehill, I can't imagine anybody would rather see the structure that's sitting on that piece of property now stay the way it is as opposed to being converted to a functional, useful, nice looking area that not only improves the property but actually improves the quality of life for the people at the marina as well as the abutters. This to me is a very bizarre situation. Warren Clark – Several years ago during the previous unpleasantness, Bill Littlefield said to me, Warren when you bought that house didn't you notice there was a marina just down the road? I did notice there was a marina at the end of the road and that's one of the things I liked about the house. In fact most people I know are very happy to have a marina at the end of the road and, in fact, I do not know a single person who would like to see that marina go away, not me, not a single person that I've talked to. This idea that there are people on Lovejoy Lane or any place that would prefer that that property be something other than a marina is not anything I am aware of. I would also say I would agree with much of what the last 3 speakers have said. I think Bill Littlefield does a fine job running that marina, I think it's

neater and cleaner than it has ever been, I will also say that since he has taken over, I have not heard any noise, I have not heard anybody complain about noise during normal working hours, I'm not saying there isn't any, I'm just saying nobody's complained about it, it's not excessive and I can see evidence that he goes to great pains to avoid noise and I'm sincere about that. I will also say that prior to the time he took that marina over, once a year there was a huge party on those docks that you could hear all over the lake. Basically, if you were anywhere on Bear Island channel, you had to go inside because it was unpleasant to be outside your house. He has kept the marina extremely quiet and I applaud him for that and I think it's something the Board should recognize as something very favorable and something very much in his favor but at the same time, I think we also have a different idea of what the marina should be. Most of the people in the area view it as sort of a community thing the way it's been since the previous owner had it and Bill views it as something much larger, something perhaps we feel would be more appropriate in a commercial area than in a residential area and this is probably natural. I don't criticize him for this, this is just a difference in perspective but we do have a definition in our zoning ordinance, a place for dockage or storage of pleasure boats and providing service to pleasure boats including servicing and repair, sale of fuel and marine supplies. There's nothing in that definition that's meant to encourage people to congregate or hang around their boats and stay on the dock or on shore. Nothing about a picnic ground, barbecue, cooking facilities, cleanup facilities, shower, rec room or internet access, nothing about any amenities for boat owners themselves. In fact, those amenities change completely the very nature of the marina activity or at least that part of the activity. The activities described in our definition of a marina involve people passing through on their way to drop off or pick up their boats. They might spend time sitting on their boats at the dock if they want but there's nothing in the definition of a marina about providing facilities or services to help encourage this, but in fact a family recreation clubhouse does just that, it encourages people to spend time on shore next to their boats. In fact, it enables people to live aboard their boats overnight, over the weekend, maybe for a week or two of summer vacation or maybe for the entire boating season. It does in fact convert the marina into a sort of floating campground or RV park. Remember this is a fairly dense residential neighborhood, we are not out in the woods here. Clubhouses are not permitted, campgrounds are not permitted, RV parks are not permitted. I'm not saying that this family recreation clubhouse meets the definition of these activities in the zoning ordinance because it doesn't, those are very clearly land based activities, however, the effect on the local area would be the same. This family recreation clubhouse changes the very nature of the activity, it will no longer just be a marina supporting and servicing boats during the day and shut down at night, it turns it into a 24-hour activity with a high probability of noise, additional congestion and other problems. Mr. Callen has pointed out that any existing showers are not approved uses, I've gone through all the files and I've never seen a site plan that shows those things on the site plan but I think the thing

that's important is that making this facility more attractive to people, its not just the showers, its not just the barbecues, it's the whole package. It's putting all of this into something that's going to make the facility more attractive to people wishing to stay overnight on their boats and it must be that he expects more people to be doing this or there would be no point in building this facility. He's trying to make it more attractive and I'm not saying I blame him, but I'm just saying if you build it, they will come. It may be that a few people spend time occasionally on their boats overnight, I would expect that more people would be spending the night on their boat sometimes and more people would be coming and the people who are there would be spending more time there and then this would be as opposed to the island residents, it will be more attractive to people overnighing which would mean there would be more of those people and fewer island residents who are keeping their boats there and thus it's going to increase the density of people staying overnight. If you have one couple staying overnight on a boat, it might not be a problem maybe even 2 couples but if you get 3 or 4, then they are going to want to go out on the dock and kind of chat, that's what I'd want to do and then maybe have a beer and then maybe have a party. Let's go back to the point I made that Bill Littlefield would not permit this, I don't believe Bill would permit it, everything I've seen says that he would do his absolute utmost to control it and that's just great except that we're not giving a permit to Bill Littlefield to do this, we're giving a permit to Shep Brown's Boat Basin which has changed hands many times over the last decade, what if it changes hands every 10 years? Bill Littlefield has told me and I believe him, it is his intention that he's in the marina for the long haul and I believe him and that's good news to me. He might find that hard to believe but I am glad he's planning to do this but what happens when he sells this, what if he has to sell it, what if there's an economic downturn and what about the next guy because the next guy could not have the stringent control that Bill exercises on this. You say just call the police. Let me tell you a few years ago one of the neighbors and I believe this was before Kevin was Police Chief, one of the neighbors called to complain about noise, it was one of the marine construction companies and this has nothing to do with Bill Littlefield, he was starting at 6:00 o'clock in the morning and the answer they got was, the guy's got to make a living. This particular thing we're here talking about, a building permit was granted on this before it ever made it to this Board and people found out about it and said this deserves some public comment. If we have a Code Enforcement Officer, who I like by the way and respect and enjoy working with, but we have a Code Enforcement Officer that would grant this, what protection do we have, can we really trust the Town. I hope we can, but you guys are great, will you all guarantee you'll be on the Planning Board 10 years from now when maybe this marina has been sold and then there's a noise problem so this is what we're worried about, we're worried that this thing that's now a quiet activity could easily turn into a party area where the clientele that likes it quiet could be forced out by a few who want to party and pretty soon there will be a whole bunch of people who want to party and maybe the Police would be there and they can't do anything

before 10:00 o'clock by the way because there's no noise ordinance to the best of my knowledge before 10:00 o'clock and what's going to happen to us, we won't be able to use our houses until 10:00 o'clock and that's the kind of thing that could happen. Maybe I'm being extreme and maybe I'm worried about nothing but the zoning ordinance says this isn't permitted and I kind of have to admit going back and forth, is this really a problem. I'm thinking it could be, it could make my house a place I don't want to live. The zoning ordinance says this is not a permitted use and so let's just do what the law says so we don't have to worry about it. So Mr. Chairman when we bought the house, we did realize there was a marina just down the road but what I wonder is if when Mr. Littlefield bought the marina, he had any idea it was in the middle of a residential area. I urge this Board to deny the application for Site Plan approval on the basis that its bad for the community, it is not only contrary to the spirit of the zoning ordinance but clearly prohibited by it. Vadney – We've heard a lot of wonderful arguments from both sides. Mike Moser – I have a boat at Shep Brown's Boat Basin and I've been there since 2001. I've bought 3 boats from them so far in that period of time. Yes, at the beginning between 2001 and 2002 it could have been a little noisy on the docks and stuff but it was a lot younger crowd back then. The people there go to bed at 9:30-10:00 o'clock at night. If anybody has company on board it's one couple or something like that. People don't have a lot of company there. The idea about the building is we all like to congregate to have dinner together, it would be a nice quiet place to be. It would be a lot quieter and safer inside and to not get eaten by the bugs. Bill's tried so hard to get that place shipshape, I look at what he did in the building in Gilford, if anybody's seen it he goes first class all the way and whatever he puts up is guaranteed not to be an eyesore. I admire the man, I respect him, he's come a long way and there and there are only about 6 of us that have boats being used like that right now because let's face it, the economy isn't too great right now. Henry Buletti, Lovejoy Lane – I don't think this should be a referendum on Shep Brown's, as Warren said, I don't know anyone who doesn't like Shep Brown's or like the marina. I walk through there at least twice a day all around through Tall Pines but the only real objection that I have if you put in a recreational room and I'm not going to say it's a family room because I think there will be more adults in there than children, it's just going to lead to problems. You can have 4 or 5 people on one boat partying, you're going to get a little bit of noise. You get 15, 20 or 25 people inside this room with maybe a keg of beer that was sneaked in or something else, I just think it's going to lead to a lot of problems and who is going to police it. You can have all the rules you want, have a rule that its only open one hour a day, then what happens. If it's open 2 hours, who do you call? It doesn't make any sense to have rules unless there is someone there to say to us these are the rules, we are going to make sure they are enforced. I don't think that's possible. Johnson – I would like to enter one letter received today in support of the project. To paraphrase it, it's from Deborah Towle and she is in support of what Mr. Littlefield is trying to do for several of the

reasons that were stated by the other people that are in favor of it. Public portion of hearing closed at 10:34 p.m.

Kahn – I don't think we have enough time to discuss this. I'm somewhat confused because I thought in October or November of 2006, we had reached the conclusion that this was an accessory use and that does not have to be something that's specifically referred to in the zoning ordinance as a permitted or a use available by special exception. To me, I can understand what people are worrying about but to me to have a shower is like having a toilet in a gas station and for a marina to have a shower, it strikes me as completely an accessory use. A room, we have automobile and motorcycle dealers in Town, I bet they have waiting rooms, they may even have computer access in that waiting room. I don't see that as something that has to be specifically referred to in the zoning ordinance so I would like to see some way of putting a fence around this thing so it doesn't get objectionable in the future and I'd like to hear some proposal from the applicant as to how they propose to put a fence around this thing so we don't have a situation where instead of having 20 sleep-aboard slips, we have 80 sleep-aboard slips and everybody is in this building. I'd like to see some proposal as to how they are going to limit it and you don't have to come up with that proposal tonight but that's what I'm looking for because I don't really think the zoning argument works. I really think this is an accessory use in a marina and I have a lot of trouble in saying that it's a prohibited use, that's my own view. On the technical aspects as to whether or not you say may I when you file the application, we rely on Mr. Edgar and he says the application is complete, we approve it, if it's not complete, I guess we've got to go back and try to figure out what our options are. We're certainly not going to know that answer tonight. I suggest that we put this over to another meeting. Bayard – I agree, I think in a lot of ways we are looking at this as somewhat of an accessory use. I thought the computer argument was clever. Certainly, the computer if they did have one there, it wouldn't fit in this building but people have wireless all over the place, you could get rid of the computer and just throw wireless access in and let people use their laptops, that's downtown and everything so I don't see that as big an issue. There may be a little more gaming but I think there's a legitimate concern about the future. From what I've listened to, people don't have a problem with the Littlefield's, they are concerned about if this gets sold and we do look at that when we do approve facilities, we put in stipulations occasionally and things like that. We do have a concern about what could be done in the future and I think things get done because we can't guarantee who would own it in the future and what may occur, whether it be soundproofing, some limits or what is probably the way to go on something like this. Finer – Despite my earlier statement which I still stand by, I happen to find myself in agreement with Lou, I'm not a boater but I am a camper and when I pick my campgrounds, I do look for the amenities. I do look for a rec building, I look for stuff like that which make it more family friendly and I think they have the right to do this. I'd like to see it reviewed by legal counsel to

make sure everything has been or will be done legally. Edgar – Another consideration, Herb, is that we received Mr. Callen’s legal brief, if you will, and it would be fair to the Littlefield’s to make sure they have an opportunity to read it and respond to it. We have an agenda that’s starting to fill up in early January, we have about 3 or 4 applications that will have compliance hearings and after that at this point is still pretty open. Johnson – Mr. Chairman, the applicant will grant the Planning Board the necessary time extension of the clock to continue this to a further hearing if that’s important to you. Edgar – I would look at the second meeting in January, the 4th Tuesday, January 22, 2008.

Bayard moved, Dever seconded, THAT WE CONTINUE THIS HEARING TO THE 4TH TUESDAY IN JANUARY, JANUARY 22, 2008. Voted unanimously.

Respectfully submitted,

Mary Lee Harvey
Administrative Assistant
Planning/Zoning Department

The above Minutes were read and approved at a regular meeting of the Meredith Planning Board held on January 8, 2008.

William Bayard, Secretary