

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Bayard, Secretary; Flanders; Kahn; Finer; Touhey; Edgar, Town Planner; Harvey, Adm. Asst.

Kahn moved, Sorell seconded, THAT WE APPROVE THE MINUTES OF NOVEMBER 22, 2005 AND DECEMBER 3, 2005 (SITE INSPECTION) AS PRESENTED. Voted unanimously.

### PUBLIC HEARINGS

1. **MERTON WINN CAPITAL, INC.:** (Rep. Dave Dolan, Mike Garapie and Mark West) (Touhey stepped down) Proposed Major Subdivision of Tax Map S06, Lot 2, into five (5) lots ranging from 13.5 acres to 22.7 acres, located on Meredith Neck and Powers Road in the Shoreline District. Application accepted November 22, 2005.

Merton Winn Capital, Inc. is the applicant, but the property is still owned by the Atteberry family. It's located on Meredith Neck Road and consists of about 77.7 acres and has frontage on Meredith Neck Road and has a couple hundred feet of frontage on Powers Road as well as frontage on Kelly Cove on Lake Winnepesaukee. We surveyed this property about four years ago and at that time we had topography done by Eastern Topographics and shortly thereafter Peter Schauer, a certified soils scientist, delineated wetlands on the site which are showing on this plan in the cross-hatched areas running here through the middle of the property, over on the easterly end of the property along Powers Road and another small area up on Meredith Neck Road. The wetlands as they show on the plan are non-designated wetlands according to the Town of Meredith Zoning Ordinance. Proposed is a 5-lot subdivision with lots ranging in size from just over 13 ½ acres to 22 acres. Lots 1-4 have frontage on the lake and meet the minimum lake frontage requirements. Lots 1, 2 and 3 have at least 50' of frontage on Powers Road; Lot 5 has frontage on Meredith Neck Road and contains the existing house and outbuildings and Lot 4 has 60' of frontage on Meredith Neck Road. Test pits which were shown on the plan were performed by Dave Ames of Ames Associates and they were submitted with the application. During the on-site that we had a couple weeks ago, there are a couple of areas that were brought up as to whether they were wetland or not and the applicant and Mark West of West Environmental who is a certified soil scientist revisited the site and looked at those areas as well as a couple others we thought might be borderline. Those are not on the plan you have, we just got them located today, but those are shown on this plan, one being along the area of the proposed driveway that we observed, it's located in this area and then there's three (3) small pockets right here and here, where I think Mr. Edgar, the Town Planner, questioned where he thought he saw some standing water when we were standing in the area of this driveway and then a small isolated pocket down near the shoreline. Vadney – Are you

saying those are newly mapped wetlands? Dolan – Those are newly mapped, I've got them on this plan. They are not on the plans that you have, but we have the information, I thought I could at least point out where they were on the plan and speaking of plans, I'm not sure if it's easier to handle plans of multiple sheets or all on one sheet or reduced sheets. I can give you whatever you like. Flanders – I've just got a question and this may sound abrasive, but if our site walk turned up three (3) wetlands that weren't delineated the first time around, that shakes my confidence a little bit in the work that was done. Dolan – I understand that can be a concern and I've spoken to the soils scientist that did the original work and he's going to take another look at them. The developer's been working on this piece of property with a different soil scientist. He's here tonight to answer any questions concerning that, but other than that, I would not like to see that myself either because I work with several soil scientists and have confidence in the ones I work with that what's going to be on the plan is indicative of what's on the site if they find everything. Again, this is about a 200 sq. ft. area. This is a small area, it's about 2,000 sq. ft. and that's another small area of about 800 sq. ft. I'm sorry, this one's 500 sq. ft., that's 800 and I appreciate your concern. Flanders – I just want to put that on the record, I mean when we look at these plans, we have to rely on the professionals that prepare them for them to be accurate and we've already found inaccuracies in the wetland delineations so that's not a good way to start in my opinion. Dolan – I understand that and I understand it puts me in a funny spot standing here also that's why we wanted to look at a couple other spots while we were out there. As far as each lot has minimum usable area so if we take the worst case scenario for soils and slopes after deducting all wetland areas. On this plan, there are shaded areas that indicate slopes in excess of 25%, each lot would have over 10 acres of usable land if you were to use the worst case soil type which would require 160,000 sq. ft. per minimum lot size. Access to Lots 1-4 is proposed, as shown on this plan, by way of two common drives which would run parallel off of Powers Road, separated by a strip of about 20 feet. The first one, again these are highlighted in yellow, runs to Lots 3 and 4 and the length of that to this point is about 2,600 feet. The driveway servicing Lots 1 and 2 is about 1,600 feet in length to this point. Right up in here is about 1,000 feet from the road to where these parallel driveways split. I have spoken with the Public Works Director and he's not in favor of one thing, having two access points off Powers Road and would prefer to see at a minimum among other alternatives, one access point and then possibly splitting into two (2) driveways and that's one of the things we wanted to toss out to get the Board's feedback was the possibility of entertaining a waiver for more than two (2) lots being serviced by a common driveway, given the unique characteristics of the land. Basically, what we're proposing is a minimal subdivision on 77 acres with five (5) lots. There will be some impacts to the wetland buffer area in a couple of spots and again if we were to combine this into a single driveway, we could minimize the impact on this buffer or on Powers Road and minimize impact in this area on the buffer. In

this area there is about an 800' section of driveway which is entirely within the wetland setback buffer and that would require a trip to the Zoning Board. That would probably be a total area of impact of roughly between 20,000-25,000 thousand sq. feet. There will be a wetlands crossing which would be the width of about 15 feet in this area and might be 300-400 sq. ft. total impact area. We also met with the Fire Chief and the Town Planner regarding the common driveways. There are some concerns regarding some of the grades and we indicated a willingness to work with them to relocate portions of the driveways. In this area, there's a grade that's fairly steep and over here we could relocate the driveway to avoid another steep area and that would also pull this further away from a wetland buffer. Vadney – Starting up there where the two driveways come onto Powers Road, if you would just looking at each of those major wetlands, just drag your finger along to show which way they drain. This one actually partially is going this way, then over in here this is draining down through and through the Rice property. Vadney – About where is the topo break? Of Lot 1, probably 70% of it's draining at that second point you showed me. Dolan – Which is basically starting back in here. Edgar – Does that connect down to the Cove on the Rice property? Dolan – Yes, that comes down through here and connects right in here. Vadney – Now, if you would, drag your finger along the point where the driveway that goes to the Rice property, approximately where does that run? Dolan – That's right here, it comes in along the property line.. Vadney – It follows the property line? Dolan – Yeah, right up to here. Dolan – Again, back on the common driveways, the Fire Chief suggested at intervals of about 800', if we were to go with common driveways or even single driveways, every 800' have some sort of pull off so a fire truck could pull off to drop hose and string another hose for another 800' are among his recommendations and again I think we can do that. I'll also provide for turnarounds at the ends of the driveways based on our discussion there. I got a staff review summary from John Edgar and again we mentioned what John brought up about the wetland areas. We've discussed the lot sizes and lot calcs, and we could provide those to indicate what each lot would support based on soils and slopes. The utilities, the lots will have on-site sewer and on-site water and will require State subdivision approval, which has been submitted. Also, a Dredge & Fill Permit is required for the wetlands crossing right here. Vadney – Is that the one where the brook is? Dolan – Yes. That would be the only one on the site. It is my understanding that electricity, cable and telephone will be coming in from Powers Road and we will note that on the plan. We understand, again, we will need a driveway permit and again I emphasize that we're looking for feedback on what the Board's feeling would be on entertaining a waiver request to possibly have the four lots serviced by a common driveway to this point and try to incorporate a turnaround staging area for the Fire Department in this area and then continue from there for two common drives. With all that said to this point, I'll just take questions that the Board might have at this point. Vadney – One question I have is the double driveway is really a weak approach. It gives you more hard packed surface and cuts a big swath up

through there. It has a number of problems, but one of the things I'm worried about is that first 1500' up in there, certainly a thousand or 1,200', is pretty much a steady uphill from when you leave Powers Road, it's pretty much uphill for about over a thousand or 1,100' something like that. Dolan – To about this point which is about 500' it does drop down.. Vadney – Then it drops a little. Dolan – It drops down and comes back up a little, but your starting at an elevation at about 516 on Powers Road and up in here, you're at about 550. Vadney – The thought that I'm having is if you put those roads in there, they are going to intercept any water that's running from further north as it heads south toward the Cove and they are going to channelize it and you've got to control it and all the runoff collecting on that road, the bulk of it is going to go down and cross the driveway to the Rice property nearly to the Rice cabin at that wetland. Dolan – Right, probably between here and here. Vadney – Right, and that's channeling down to a relatively small culvert on that driveway and from the lay of the land, it won't be easy to put in a bigger culvert because on the other side of the road isn't any particular drop so I was wondering if that needed some calculation to verify that it won't cause a problem down there. Had you thought about that? Dolan – We haven't gotten to that point because we're not sure which way we're going to end up going with these driveways. That was my first thought, but I'll turn to the Board. Flanders – You've got five (5) lots here, are you planning to put a cistern in out there? Dolan – No, actually that's not being required for this. A couple options we talked about were, again, the turnouts and/or a staging area for fire-fighting equipment in this area and also it was requested that the applicant at least discuss with the owners of Y-Landing, the possibility of working with them and getting a dry hydrant installed on that site. Flanders – I'm just curious because usually four (4) lots or more has been the breaking point in the past and they've required cisterns. Dolan – I understand that and we discussed it and asked the question specifically and the answer was “no”, not on this site. Edgar - What the Chief does with a four-unit threshold is look at do we have municipal water, do we have ponds, cisterns, he looks at the range of options. When we hit that threshold, then in this particular case, given the proximity to the lake and the marina, he's asked the applicant to explore with the Hamblet's the possibility of putting in a dry hydrant in there that would be able to serve this neighborhood, but also provide a little more security for the whole neighborhood. Depending on where that goes might bring in other options. Bayard – I may have missed it when you were going through this, but when we went out to the site inspection there does appear to be a fairly well established brook going through there. Has that been mapped yet? Dolan – It will be added to the plan, yes. It hasn't been mapped yet. It was worked on this week, but it's not on the plan. Edgar – In reviewing the plan with Bill Edney, Dave we picked up on some rear setbacks that will we'll have to look at. This is not a huge consequence to the effected envelope. As Dave had indicated, on the site walk we did observe what appeared to be some wetlands and at that time we pretty much asked that we take another look at that and we would be interested in what Mark West has to say with his

take on the project. But as it's currently configured, as Dave indicated the driveways to 3 and 4 that common driveway, 7 or 8 hundred feet at least would all be 100% within wetland buffers. It raises the question of the accessibility of Lot 4 because the envelope and the test pit locations that we're showing on Lot 4 down by the waterfront would be subject to being able to get a driveway access in there. Also as it relates to Lot 3, the waterfront aspect of that property likewise would only be accessible to the extent a driveway was necessary to get down to a dock or something and, likewise, would be determined by the outcome of the ZBA review of wetland impacts. The mapping that Peter Schauer did didn't pick up two (2) vernal pools in the area that are on the line between Cove Lots 4 and 3. I'm certainly not a wetland scientist, but I know they are particularly unique habitats, perhaps unique is not the right word, but they have their own characteristics and down the road we'll be able to perhaps even to some degree tonight, we'll be able to speak to what some of those characteristics are, but in any event, a ZBA Special Exception will be required and the DES Dredge & Fill is required for the one stream crossing. The significance of the comment that Bill had made and Dave's response relative to the mapping of the brook as a non-designated brook and by our Zoning Regulations, it requires a 75' setback so 75' either side of the channel or about 150' of width. The non-designated wetland in a non-brook situation has two different setbacks that come with it, a 50' setback for development and a slightly greater setback for septic purposes so the significance of that is that the buffer requirements may be a little more restrictive depending on how all those lines shake out once we map the channel of the stream. We do show 75 footers off the non-designated so I think we have a pretty good feel of what the impact zones are, what the mapping of that brook would allow us for fine tuning the setbacks and then, therefore, the amount of buffer impact in terms of square footage and then enable the applicant to seek some relief from the ZBA. I have recommended that given the extent of the wetlands on this site and the overall environmental sensitivities of the site, meaning the presence of the stream, the volume of wetlands, the 3 vernal pools, and the proximity of all of these resources to the lake, that three things should occur and perhaps some of, it sounds like some of them are already in motion, but (1) wetlands boundaries should be revisited to ensure their accuracy, (2) that the pre-development functional values should be clearly documented by a wetland scientist so that then we can evaluate the impact of the development on those resources and (3) that the Conservation Commission be consulted, all of which should occur prior to any applications being filed either with the ZBA or the DES. The Conservation Commission, although advisory, is an important part in our zoning. They will advise the ZBA on the special exception request and they'll also be advising the Department of Environmental Services on the stream crossing as well as any dock permits so this would be the appropriate project for them to be involved directly. Local wetland setbacks also then do apply to the docks. I wanted to point out, Dave, if you could for me just to illustrate as we go down through here on Lot 1, there's a wetland near the shoreline, here's the

setback from that and it does appear that even with the property line offset that we would be able to get a dock in there. You swing over to Lot 4 \_\_\_\_\_ setback from the wetland, that's on the line between 3 and 4, so there's likely a possibility of a dock slipping in there. On Lot 2, it's probably the most permissive and we have the setback from that stream coming down the middle and the balance of that shoreline, there's clearly a place in there that a dock could be set back. One of the lots that's problematic is Lot 3 and the stream on the top side of Lot 3 and the vernal pool on the bottom basically encompass all of that frontage from the setback point of view so any docks going in on Lot 3 would also necessitate ZBA relief. Getting a feel for all of that is going to be important so that we come up with a cumulative effect of the project and get a comfort level with the wetland impacts. In particular, it affects the accessibility of the envelope shown on Lot 4 and the waterfront access in two different regions, one the driveway and two the docks on Lot 3. I just raise the question on the existing conditions plan, we have the Rice dock that appears to be built on this property, It looks like it's right on the pin perhaps? Dolan – The access, it comes on to the dock kind of from the Rice side of the property and the dock is pretty much over the extension of the property line. I don't believe that will affect permitability, it's just an issue as to how do you resolve a boundary issue of encroachment by the abutter. Edgar – Dave touched on utilities, obviously there are on-site septic and wells. We do have an extra state permit that's required because of the subdivision approval, not because of the lot sizing in this case but because they are subject to shoreline protection requirements. There's a memo in your packet dated the 13<sup>th</sup> of December from Mike, which addresses some of his concerns relative to the common driveway situation. Where the common driveway provisions kick in in a subdivision (1) it's not zoning, it's subdivision regulations. We have a definition 3.23 in the regulations defines street as including roads but not including driveways serving not more than two (2) adjacent lots so in other words common drives can serve two lots without it being considered a street or road and therefore not subject to road standards. If a proposed drive were to serve four (4) lots and if the Board favored such an adjustment, some form of waiver would be necessary. Depending on how tonight's discussion goes, I would suggest that if we were to consider this further that the applicant provide a written request that would be submitted to the Board setting forth the basis for the waiver and then be available for the Board, staff and other concerned parties to review the request and comment on that request at a public hearing. Subdivision Regulations do not include specific waiver provisions, however, the Enabling Statutes with respect to subdivision regulations do allow waiver provisions in cases where in the opinion of the Planning Board, strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations. This is very similar language to what we have on the site plan review. We do have general language in the Purpose and Intent statements that give the Planning Board some flexibility where there are special topographic features or other physical economic conditions, which

would dictate the best possible use of the land and the Board may require development plans based upon this use. I've also noted that if the Board were to entertain a waiver or at least entertain hearing it, we do have in my opinion, a need to consult with the Board of Selectmen because it raises the question as to whether or not in that we defer to the Selectmen on road standards whether or not the Selectmen feel as a Board whether or not a waiver to their standards is necessary as well in the context of a common driveway proposal so I think that they need to be in the loop. As Dave has indicated, we have met with the Fire Chief to review driveway characteristics and particularly the length. As Dave indicated, the types of issues that were discussed in this meeting included the cross-section of the driveways, the turnouts, the turnarounds, vertical clearances to allow for emergency vehicles to get to the building sites, the minimum turning radii and maximum grades, all of which seem to be very workable in this case as contrasted with a couple of the other projects that we've looked at recently. As a very general statement, the applicant had suggest that the issues could be addressed fairly easily and that the developer would be willing to construct the driveways to ensure that any agreed to standards and conditions were in effect and built by the developer. That would be a good thing. Because of the proximity of the driveways to the streams and the lake, basic erosion control information should be added to the final plans to protect the wetlands and streams from any construction related impacts. Depending on how we configure these driveways, we need to determine whether or not the DES Terrain Alteration Permit requirements kick in which here again because of the Shoreland Protection rules the thresholds have dropped I think to 50,000 sq. ft., if my memory's correct. When we get further down the way, we need to double-check that to see if that permit kicks in or not. As was indicated before, the Fire Chief has asked the applicants to discuss the issue of the marina owners regarding the possibility of a dry hydrant system used for water supply fire-fighting purposes. In terms of the legal aspects of the project, several easements will be necessary in relation to driveway access and utilities, which is not a particularly difficult matter to address and the fact that we need to review draft language when we get to a more final layout. I raised the questions as to whether or not any covenants are being proposed for the lots that may safeguard against any future incremental environmental impacts. One of the things that we try to do on these projects is to get our arms around what the overall environmental impact is of the project and explore with the applicants several questions including whether or not properties could be re-subdivided in the future, whether or not any lot development would necessitate any additional wetland impacts and in this particular case because of the waterfront aspect of it, whether or not any easements are intended to grant to non-waterfront property rights to the waterfront and these are just three off the top of my head, but those are the kinds of things that at least on the Planning Board side things that we might want to discuss more further relative to getting our arms around the full scope of the project in terms of how it might play out down the road. To the extent that the applicant

agrees to make certain improvements or is required to make certain improvements, performance guarantees would be required at a later date. We have standard language about pins being set at a later date and my recommendation at this point is that we not take any action on the application this evening. I would recommend that the application be referred to the Conservation Commission for the reasons that I mentioned earlier and further recommend that the hearing be continued to the 24<sup>th</sup> of January, 2006, to allow sufficient time for the issues that have been raised to be addressed by the applicant and get back to the Planning Board in a timely fashion in anticipation of continuing this hearing. Vadney – The 24<sup>th</sup> of January is a good length of time, but does this weather permit this kind of wetlands evaluation. I know they've been working out there and Mark can speak to that. Mark West – I have been retained by Falls Brook to work on the project. I originally went out to the site June 1<sup>st</sup> this past summer and my job at that point was to do a complete wetland evaluation and analysis of vernal pools. I have complete photographic documentation including egg masses, cactus flies, aquatic insects of all vernal pools and did a whole survey. There are four vernal pools on the site. There's one here and this is probably the most significant one on the site in that it had the most diversity of aquatic life in it. The second most important one is probably here because of it's proximity to the lake and then you had a lesser important vernal pool here and then an actual excavated human created vernal pool here. People say you can't make wetlands, but if you dig them in the right spot and they hold water long enough, the critters come so that's what happened in here and this is relatively small. At that point I was doing an evaluation, but I did a very thorough evaluation in this part of the site looking also at the wetlands because I was looking to see what other type of wetland areas might be there so in June I did a pretty good review of the wetland boundary here and walked a lot of this stretch of the site. I didn't review even though I looked at it, I didn't review much of this part of the wetland. I did look at this boundary here because we were looking at this whole part of the site. When it was mentioned there may be additional wetlands, we went back up there last week before snow, there was a quarter inch or so on the ground and we located these additional areas and I did some more evaluation. I have not done a thorough evaluation of this part of the boundary of the site and of this part of the boundary. In these weather conditions because I already have a printout of all the flags that were out there, I can do soil borings, we will be able to dig all winter long if we don't lose this snow cover and I can do an analysis. If there are areas that I feel in these conditions, I still can't be 100% sure, I would move the boundary farther upslope and air on the side of caution. I will say that based on what we found here, the client has asked me to now take responsibility for this entire boundary and that means as a certified wetlands scientist, I need to walk all the rest of the boundary that I haven't reviewed and so that's what I will be doing. You will be getting a complete analysis. I also did call the Conservation Commission today and talked to the Secretary and he indicated to me that they are used to meeting with us after we file the



Wetlands Permit. But now that we've been referred to them, I requested to get on their January meeting, I think it's January 5<sup>th</sup>. We'll go meet with them and present the whole report and they may want to do a site walk also. Edgar – Mark, some of us aren't that familiar with the notion of what a vernal pool is, can you give us a short version of why they are keyed out as being identified as something other than just your run of the mill wetland. What is it about a vernal pool that gives it its characteristics and what are generally some of the upland requirements from a habitat point of view that go with the vernal pools. West – The vernal pools are specifically defined as habitat for certain species of amphibians. They also provide habitat for aquatic insects. There's a set of species wood frog, spotted salamander are the key species that utilize these areas because they flood deep enough sometimes approximately 2 feet. I have measurements of all the depths of the pools and they dry up in the summer so they don't allow fish to survive or other species like bullfrogs, which will eat the eggs, and they allow certain species to lay their eggs and hatch out and then disperse into the uplands. They do require upland habitat. The other thing they require is shade or they are very sensitive to the woodland community so the most important things for the vernal pools is to have available upland areas to disperse into the adult frogs and salamanders and protected shade and their hydrology, i.e., their flooding and drying up doesn't get disturbed by runoff, increased or decreased, and their shade areas and a wooded buffer around them is important. As we get into the final layout and development plan, the key will be where the houses are, where the lawns are, where a septic system is in relationship and how much cover is in relationship to the pools and other habitats on the site so that's something we'll specifically look for and typically on a plan like this, we will put together something called wetland protection and habitat protection measures that will be put in place into the design to make sure and I will talk directly with Dave Dolan about directing stormwater runoff where it goes, doesn't go straight to the pool, but it also doesn't prevent water from getting to a pool. Those are things we considered during the development process and they would be in my report. Vadney – One thing you might, earlier tonight I mentioned the drainage from Lot 1 crossing the driveway down at the Rice driveway to the Rice property, it looked to me at a quick glance and eyeball leveling that once it crosses that driveway it kind of spreads out and doesn't drain quickly away from there, it kind of goes into a pooling area so when you go out there that might be something you might take another look at. Mark West – I did look at the upstream mend to this and the thing we'd be looking at here and what I'll talk to Dave about is dispersing it instead of concentrating in one area having several different areas where it goes so that it doesn't concentrate flow. Vadney – That was my concern, if it concentrates onto the Rice property, it then goes into a pooling area. West – Based on the density and the size of this area, I think it will be very easy to prevent increased runoff. Bayard – I think it's been mentioned, but I do think the idea of one driveway rather than having two parallel driveways, it does seem a little odd to have the two. It looks like a divided interstate driveway here. It may require a

slightly upgraded driveway. Vadney – Well, that's what John was mentioning at least the first 1200-1400 feet or something like that. It would have to come up to, I'm just guessing, something like 22' with a scant chance it would ever become a Town road but would have to be built close to Town standards. Edgar – We don't have a standard at this point. Here again, we haven't really started to kick it around yet. Flanders – I was just going to say, I guess I've been on the Board some 16 years now, I can't remember a time when we waived from two lots per driveway and so I would not be in favor of us doing it now and I wouldn't be in favor of the waiver either. You need to put a road in here that meets normal road standards at least to get past the access to the first two lots and then go from there. I think it's incumbent on the applicant to make this project fit reasonable standards that we've applied consistently in the past to everybody else. Vadney – Let me make sure I understand what you're saying. You're saying build a road at least 1400' in there roughly until you split off 1 and 2 and then 3 and 4 would continue with the driveways and that would still leave those driveways at 1200-1500' long. They are pretty long. What's the longest driveway all the way to the lower end of Lot 4? How long is that driveway? ?? - 2600'. Flanders – Is that starting from Powers Road? Dolan – Yes. Flanders – So you would cut that in half roughly if you built a road in there. Dolan – If it's 2,600' from Powers Road to here, right about here it's about 1,100'. Originally, when it was in here for design review back in the early part of the summer, I think it's about 1,200' to about here. Vadney – A long walk with a 2' snow blower. Mike Garapy – I would like to speak to the driveway issue real quickly. One of the things we would like to try to avoid is designing this double barrel driveway so that's why we're seeking some input from you folks tonight on whether or not we should seek a waiver from that standard. I think we're technically complying with your regulations by designing the driveways in this fashion, although it's not really ideally suited for our development purposes nor do I think it's ideal for the long term benefit of these folks that will be living here either so we would like to do a single driveway shared for the four lots for the first thousand feet approximately, but if we have to I guess what we'll end up doing is designing something along the lines of the double barrel and like I said we would like to avoid doing that. Flanders – I think it's just to be redundant, we haven't given these kind of waivers in the last 16 years that I've been on the Board and I see no reason to do it here. You are starting with a new development and I think it's incumbent upon you to comply with the regulations. Vadney – If you were to build a road that met the standards that the Town comes up with for the first 1,500', then you could have four driveways off of that and that wouldn't require a waiver at all as I understand it, that would just be the proper procedure and if you're willing to go that way, that's doable. If you were to stick with two driveways, the Board I think would be troubled by that. If you were to try to stick in a less than up-to-snuff first 1,000' that wouldn't qualify as a road and that is where Mr. Flanders would be upset as a Selectmen. Even if it is a private road, there are some standards that we put in there. As I said earlier, there's a very low chance this would ever become a public road, but

the first 1,000' would be close to public road standards. In our discussions with the Fire Chief and with John, we talked about a wider road, a wider driveway for the four lots that would share it for the first 1,000' or so and we threw out numbers and 18' was felt, at least in that discussion, a reasonable standard. Edgar – We also said, Mike, you asked me a direct question as to what my opinion was and I told you for purposes of this status of the application, I don't have an opinion knowing that this is we don't have a history as was suggested by Mr. Flanders. We did talk about different numbers, but it wasn't in the context of me endorsing any number. I just wanted to be clear on that because you need the input from the Board and some of the other departments as to what the ramifications are. Vadney – Building a road as long as you know it's not going to be a public road, but comes to certain standards would probably solve that particular problem. Flanders – You said 18', is that 18' traveled way with shoulders or is that the total? Garapy – As John said, we tossed around some numbers and that 18' was shoulder to shoulder and that was proposed to be just a gravel 18' traveled way not to be paved. Vadney – We could have that design separately, but at any rate it would be an improvement to have one even if it were 24' wide, it would require less land and less disturbance out there than two 10 footers. Edgar – We didn't talk about whatever or however this gets resolved, make sure that the bankrun structural gravel basically be run to the full limit of the shoulder so that the shoulders can support weight, whatever it is whether it's a road or a driveway is to make sure that we have the full integrity for the emergency vehicles to ride over the full width of the traveled way. Flanders – I would just like to make one point, if you're putting two 10' driveways up there, you're building 20' and if you're talking about doing an 18' road up there with shoulders, it's about the same. Cost wise, I don't think you're going to be much different. Garapy – We're agreeable to working with the standard that we can work with the Board and with your Public Works Department and your Fire Chief on what that standard should be and whether or not we have to call it a private way or private road or just a driveway, I guess we can work that out and what we would like to do is build one accessway for the first thousand or so feet and if we can call it a private way and we can deed restrict that so it will be in all the deeds to the lots that there will be no approach to the Town to accept it as a Town road. We don't want that to happen. Vadney – In effect, you can call it anything you want except a driveway. Edgar – What we would do in a case like is just make sure there's plan notes that would void any dedication so there's no ROW being dedicated that would sufficiently complicate any future petitions to the point that people aren't going to want to go there so there's ways to clarify what you intend and that needs to be on the plan so that it couldn't be construed as a dedicated ROW that would facilitate Town acceptance at some future point. Garapy – We have language that we've used in other towns that we can submit for review to your Town Counsel that works to the effect that the lot owners can never go to the Town to seek that acceptance even if it's not dedicated. I think the discussion's important regardless of the semantics if we're in some

kind of a reduced standard, not that we have to nail it down right at the moment, but my sense of it is that if it's going to serve more than four lots, arguably it involves a road standard waiver from the Selectmen because by definition it's still a street just by the volume of lots that it serves and I don't know that you would have the sole authority under your own Subdivision Regulations to waive that. It kind of has to be the Selectmen and the Planning Board a little bit on the same page so with that said, I think the discussion still meets that we had after we get the public input, you know as to what the comfort levels are with seeking some level of reduction, if any, because I think both Boards have to be in somewhat of an agreement as they have on other road standard waivers. Touhey (as an abutter) – I am speaking tonight as a private individual and I'm also speaking for many of the property owners who live in an area that begins really with Shep Brown's marina, goes all the way around the shoreline of Kelley Cove and along Powers Road almost to Y-Landing. Since the applicant first brought before the Board a different application last spring, these folks have kept in touch with me and I have kept in touch with them, we shared e-mails during the summer because they wanted to be abreast of what was going on. I think the Board is aware that the folks that live in this area are non-residents of the community; they own their homes as vacation homes. In fact, I believe that my family is the only permanent residents from Shep Brown's all the way around almost to Tuffy Hamblet's at Y-Landing; that's quite a bit of shoreline so it's virtually impossible for these people to be here this evening. A few of them are and a few of them will certainly want to add to my comments so tonight I'm representing myself, but I have really been asked by these others to represent them. I do want to impress upon the Board that I'm speaking for the majority and when I speak about particular concerns that does not mean that each of those abutters has all of those concerns, OK. First of all, I want to thank John and I want to thank the Planning Board for participating in a very thorough site visit on December 3<sup>rd</sup>. I had an opportunity to go along as a private citizen; the Planning Board spent two full hours, along with Ralph of the Conservation Commission going through, walking extensively through the property. Of course, we did not cover 77.7 acres, but we certainly covered the area that Merton Winn is considering to develop. I do feel that the developer and I think I'm speaking for the majority has offered a plan for subdivision that is less invasive environmentally and more in keeping with what is desirable in the Shoreline District and what was offered last spring. The group would like to impress upon the Planning Board and Merton Winn that we would like to work with the developer and the Planning Board to see if we can't move this along. Vadney – Refresh my memory, when we first saw this, they wanted 8 lots, all of them set quite a ways back, maybe 4 had one way down low. Touhey – I think we were talking a common beach area, I think there were perhaps four lots that had.. There were 7 or 8 lots, but some of them had private shore frontage and others shared in the common shore frontage. Vadney – It was pretty much just common wasn't it? That's right, cluster. Vadney – It was a cluster of eight houses upland and open shore land. I just

wanted to bring that up to the Board to be aware. Touhey – I'm going to try to very quickly go through a dozen or so concerns. The first concern and perhaps our most major concern has to do with the accurate identification of and protection of wetlands. We feel that the wetlands map that has been provided needs to be completely redone. We noted that the wetlands study was done in November of 2002 and in March of 2003. All of us who live in New England know that in November the ground is littered with leaves and on March 14<sup>th</sup>, we have very few March 14<sup>th</sup>'s that we don't have substantial snow cover. When we did the site visit on the 3<sup>rd</sup> of December, the Planning Board very quickly picked up on possible wetland areas that were not identified on the plan. They've already been spoken to tonight by the developer and his cohorts here and it has been determined that the plan that is here is not accurate. Quite frankly, when I did the site visit, I was shocked to the extent of this stream that actually the Board only brought up tonight, the developer did not bring it up. That concerns me greatly. We clearly have in our regulations definitions for wetlands and we have definitions for streams and brooks and they are substantially different. A brook, a stream is channelized and as we all noted on the site walk that that channel certainly extended all the way up to the crossing of the driveway here and we really didn't know and did not walk up further along that stream to determine the exact length of that channelization. It's my belief and John please correct me that based on how that channelization is eventually determined to be, it would influence the setbacks that that brook and the associated wetlands might have, an additional 25' perhaps. Edgar – If I may, Mr. Chairman, it depends on how much wetland is adjacent to the stream channel. For example, if you had 75' measured from the stream channel, but if you had 100' of wetland, you're going to measure 50' from the outermost limit of the wetland, which would be beyond the stream channel so it depends and that's why the mapping of the stream channel is important so that we can fine-tune those setbacks. It may increase setbacks in some areas, but until we see where the thread of that channel is we won't know. As a non-wetlands person, non-wetland scientist, for this to be submitted for a subdivision as important as this in such a sensitive area as this so close to the lake and not have that clearly delineated for all to see and review, really sets me back so I was very pleased to hear you mention that something needs to be done to better delineate this and now, of course, we're into the month of December and no matter, I can't be convinced by the wetland scientist here that a thorough job can be done here when we have substantial snow cover. I'm glad that a study has been done of the vernal pools. I don't understand why that wasn't submitted as part of the application when it was submitted and here tonight for the first time learning that report is available. The group that I represent wishes to restrict the unnecessary removal of trees that they believe serves as a habitat for a variety of animals and aquatic life and screen development as viewed from the lake. It was mentioned by the wetland scientist that vernal pools should be protected by tree coverage. I would like to extend that a little further and say that any tree removal in these wetlands cannot help but cause erosion

and sedimentation, not that the root structure necessarily will be destroyed immediately, but eventually it will deteriorate and that erosion will take place and this whole watershed here comes right into this cove and the shallowness of the water at the end of Kelley Cove is a result of siltation over the years coming right down through that channel. I have today with me and I would like the Planning Board to look at them, these are photographs that I took as we did the visit and it will show that channelization and again I think it points out the importance for that to be looked at and in many cases the removal of trees in this area is going to have major sedimentation effects long after the development takes place, long after the driveways have gone through. The minimum building envelopes for construction setbacks for each lot should be determined before subdivision approval is noted on the site plan. We're a little anxious with all of these wetlands here and actually where the buildings are going to be constructed. We see the driveway end, we see the test pits, and we're not really sure particularly when it comes to Lot 3 where one would ever fit in a home. A second major concern is for the protection of lake water quality, the aesthetics of the shore, safety in the cove for boaters and swimmers alike, the potential for dock and boathouse construction on or near the water in order to maintain the tranquil atmosphere to every extent possible that has been characteristic of life in Kelley Cove for generations. We acknowledge that most of our concerns regarding the shoreline need to be addressed to the State, however, we wish to pursue all avenues with the Planning Board and the developer that are open to us and we appreciate the fact the Planning Board has already raised some questions and John has some questions relative to docks and docking and we would certainly appreciate input from the Conservation Commission regarding that. We do know that the water in here is very, very shallow, the neighbors are extremely concerned and have every reason to be concerned that any dredging would have major impact to the quality of the water. I think that those, again going back to that brook, that stream, the clarity of that water was absolutely beautiful and this whole area serves as a major filtration for that water. We were told when we first purchased our property in 1976 by General Atteberry that there was far more water going out of this cove than coming into this cove. I didn't quite understand what he meant; I thought he meant spring action. Now after seeing that very active stream, I think that's what he was referring to. A third major concern deals with the potential for further subdivision and the granting of easements to others to the lake over the subdivided lots. We didn't hear anything about that today in your presentation. In your application letter, you said that Lot 5 that has the Atteberry homestead on it would not have any shorefront rights, am I correct? Dolan – That's my understanding, yes. Touhey – OK, that was in your letter of application, I just want that for the record that none of that acreage that is assigned to Lot 5, whether it be subdivided in the future or have any shore front rights by virtue of easement or ROW.. Garapy – That's not necessarily accurate if I could speak to that. The configuration of Lot 5 may be such that we would allow passive recreation access via an existing trail that runs along

the property line to the water in the event they wanted to... Vadney – Across Lot 4? Garapy – We may consider granting an easement in favor of Lot 5 across Lot 4 via the trail for passive recreation pedestrian access to the water to put in a kayak or a canoe or just to view the water itself, but that's a possibility that I would want to make sure we're clear about in representing our product to the Board. That's a possibility that we're looking into. Vadney – Let the record show that they may retain a right for passage in their plan. I'm not saying they can, I'm saying they may want to. Garapy – Assuming it's within the regulatory framework that we can do that, I'm assuming it is and (can't make out). Touhey – Mr. Chairman, I would like to refer to Paragraph 3 of the letter of application addressed to Mr. Edgar, the Town Planner, paragraph 3, the second sentence begins "proposed Lots 1-4 each have an access of 150' of frontage on Lake Winnepesaukee, Lots 1-3 each have 50' of frontage on Powers Road, Lot 4 has 50' of frontage on Meredith Neck. Lot 5 contains the existing buildings, has frontage and direct access from Meredith Neck and has no proposed access to Lake Winnepesaukee". I don't know why at this point why we would have something different than what you have written here. Garapy – To clarify, there's no direct access, there's no fee simple access from Lot 5 to.. Vadney – For tonight's purposes, we'll say that sentence is being contested and certainly does leave us in a fog. Edgar – As a practical matter, I think the Board is experienced enough to know that within certain margins all projects evolve as we go through the hearing process so the fact that something is in a letter doesn't necessarily lock it into that. If that was what was represented, we need some clarification. Everybody needs to have sufficient time to respond to clarification or a shift in some of the details, but I can't think of a project that hasn't had some details evolve as we go through the application process. I wouldn't think anything's being contested other than the fact that additional information is coming out in the hearing tonight in the form of a clarification from the owner and Mr. Touhey, the abutters and staff and the Board will have sufficient time to respond to it, that's all. Kahn – I think we ought to also point out that we do have an ordinance that deals with waterfront rights-of-way and you ought to read it. Touhey - We're aware of that as well, but the folks I represent are raising questions, they are concerned if additional easements are going to be given to people over these (can't make out). We request that the Planner, the Planning Board, the developer and the Highway Department supervise and determine the multiple driveway entrances and marina operations on Powers Road can be compatible so we were really coming up with much the same that you came up with today. The two driveways here plus the Hamblet homestead, plus the operations of the marina seem to make a very, very active intersecting area and we want the Planning Board to look very carefully at that. The residents who live on Powers Road from the Y-Landing out to the end, the Town paved that road recently. These folks are very concerned with the speed of the vehicles on that road since it was paved, they fear for the safety of the children, children who like to walk down to Y-Landing where they can buy ice cream and candy and what not and they just don't feel safe on

that roadway any longer. I have been told by some of those neighbors that they actually do have a petition before the Selectmen to possibly put in some speed bumps on that road and I believe the Town is looking into the liability of such an action so they are very concerned with traffic on Powers Road. Flanders – I just want to comment that has not gotten to the Selectmen yet and if somebody were to suggest to me that a Town maintained road is going to have a speed bump on it, I would look at them like they had 3 heads. It hasn't made it to the Selectmen, at least the Chairman of the Board doesn't know about it, OK. Vadney – You'll find that the State government and local government tend to shun sleeping policemen, as they are known. Touhey – Again, getting back to the wetlands, I just want to point out to the folks that are here, these black areas where the vernal pools have been identified and spoken of, all of the blue areas whatever we would call are identified wetlands, the pink area are setbacks where no construction can take place. The green area from the green, red and the blue, within that area, no septic system construction could take place. So if we go from green to green, no septic system construction can take place in those areas and if we go from red through the blue all the way over to the other red, no building construction can take place, leaving in Lot 4 very little area of land that's buildable and it might be able to maintain a septic system. Lot 3, as you see, this is all either buffer or wetland. Lot 2 is a little better situation and Lot 1, a better situation. I do want to point out and it's already been pointed out earlier, the roads, so much of this driveway is in the wetland or wetland buffer area, I think I heard the figure 600'. What is that going to do, the erosion and sedimentation control, disturbing of the soil and again that is a direct flow by the brook, all of these wetlands or most of these wetlands feed into that brook right down into Lake Winnepesaukee. Finally, Mr. Chairman, it has already been mentioned as most of this has, of course, we certainly welcome a thorough study and report done by the Conservation Commission. Jack Armstrong – I live on Meredith Neck Road also on Kelley Cove. Perhaps I should know this, but why is it that Lot 4 has 50' of frontage on Meredith Neck Road? Is this some requirement and if it is there, could this be the access to that lot thus making the driveway thing much easier. My #2 point would be in front of General Atteberry's house, the For Sale sign says "Waterfront Properties". Edgar - Jack, if I could, the Zoning Ordinance requires all lots to have 50' of frontage on an improved road so there is a 50' frontage requirement. The law does not require that you use that frontage for purposes of access. Most do, but you don't have to so in theory if one were to obtain a State permit from that location, you could come in from there. There are other issues if you have a chance to look at the topographic map, there's a pretty good steep drop-off and then you're crossing a different set of wetlands if you were to try to get to the water, but as a practical matter, each lot has to have 50' of frontage somewhere, but not necessarily using that frontage for access so that's what enables the developer to use those common driveways. So there is a 50' zoning requirement, it's not required that you access the property from there. Clearly, there are building sites on that upland portion coming in off the Neck



Road, but I think as a practical matter at least for purposes of what the developer's proposing, they are trying to get down to the waterfront. Flanders – I'm not sure that 50' strip out on Meredith Neck Road would have adequate sight distances. I haven't measured it, but the terrain kind of breaks there. Edgar – At this point if we were to have some resolution of the driveway issue coming in from Powers Road, we would not need driveway permits from the State, but we would need to have something on the plan that shows that the 50' frontage is approved for purposes of zoning, but not necessarily for purposes of access so you wouldn't inadvertently represent to somebody that there's where the driveway goes. Relative to the "For Sale" sign, I can't speak to that. The property as a whole has 600' on average of frontage in the Cove so the 77 acres is a waterfront parcel, but I can't speak to how it's being marketed. Armstrong – Who owns the property now? Edgar – Roy L. Atteberry Revocable Trust, I believe is the property owner. Armstrong – So these folks here do not own the property. Garapy – Not now, we have an option to purchase. Edgar – Jack, just so you understand how it works, if someone is authorized by the Trust to proceed in this fashion, we consider them authorized applicants because they are working with the permission of the property owner. Armstrong – So the "For Sale" sign is there because of the Atteberry's, not because of you folks. Garapy – Actually, to clarify and John you're pretty much correct. It's there marketing the property as a whole. The property has been configured with four lots, plus Lot 5 being the estate lot, that's how we're marketing it. Portions of the property and some lots have waterfront access. Maureen Soley – I would just like to add my concern to giving any easement right down to the water over Lot 4 to Lot 5. I've been here before and as a number of you know over who has right and who does not have right to Soley Lane which was deeded to us. It seems to me from what I've seen, I've been in this area my entire life, nobody ever terribly cared about land way out on the Neck and people who owned it let people do whatever they wanted to do. There are two pump houses that actually have easements right down this property now on Lot 4 and to our lot too. People bid those kinds things, they did things like somebody built a construction dock with a right-of-way to the water with that, but then when anybody goes to sell the property, you know as well as I do, it further compounds everything so I would really suggest that we not give other easements away. Vadney – You say there are two pump houses. Soley – There are two pump houses down there, one serves the Atteberry house and one that serves the Greenwald house both on Meredith Neck. Vadney – That's something I guess we should probably... Is that the one that shows? Vadney – Is there any necessity to document the pump houses there and where the pipe goes or any easements that might be on there? Edgar – I think that would be appropriate and Dave maybe can speak to what's been picked up in mapping. Dolan – I'm not sure if there's any use out of them now, but we'll double check and if we have information regarding the easement, we'll put it on the plan. Edgar – Or conversely, not being a clean slate too and if the idea is to not have some confusion in the future, if the pump house could be discontinued, I don't know

what it's functional purpose is at this point. If there is none, then maybe some of that could just get cleaned up along the way so that it's not a source of contention in the future if someone on Lot 5 bought Lot 5 and there's a legal argument that they have rights to a pump house and therefore (cannot make out, too much coughing into the microphone). Those are fair things to clarify; it's probably in everybody's interest to clarify that. Janet Nolen – I want to thank Mr. Edgar and the Board for all the time you've put into the site walk preparing this and I just want to say that we appreciate it, our Cove is a family oriented area and our intent is not to keep others out, but to make sure the quality of the Cove remains as pristine as it is. Therefore, I also want to strongly say, I hope a lot of subdivision won't happen after this. I'm not quite sure what will happen, being they are large size lots, will they 10 years from now be allowed to... Vadney – I thought I had seen that there would be no further subdivision in this proposal, is that so? Edgar – I don't know that I've seen that, I raised the question for the same reason that we should address as part of... Vadney – Dave, would you clarify that? Dolan – Well, and I'll stand to be corrected, but it is my understanding that Lots 2, 3 and 4 will be restricted, so there will be no further subdivision. Lot 5 will be limited in any possible future subdivision and I'll let Mike Garapy speak to that as far as the potential number of lots. Lot 1, the same thing. Other than we have been talking to the AMC who own the Three Mile Island Camp and they are looking for additional parking and we have had discussions with them about subdividing off a portion of this lot to provide parking for them to take some of the stress off the municipal parking area over at Shep Brown's and the access to that lot would actually be as discussed with the Rice family, off of the Rice driveway so it wouldn't be directly off of Powers Road. That wasn't made part of this plan because it is felt to be less complicated. There are some things to work out with the AMC before that happens. Edgar – If we were looking at a covenant and there is further subdivision as it relates to Lot 1, to clarify that there may be an area reserved for that limited purpose and if that materializes, obviously that comes back before this Board and everybody else would have a chance to be heard on whatever those impacts are, but to make it clear in the covenant that's not necessarily creating an out lot for housing purposes as much as this potential AMC project. There's a way to build that into your covenants that keeps the door open, but not so far as to represent a concern relative to residential re-subdivision of that property. I think we would be able to work with that to keep the option open on the parking subject to another day and another round of hearings on that specifically, but still address the concerns that has been raised about trying to get our arms around the cumulative impact of the project. Janet Nolen – Right now, what has been submitted is four lots that would have their own waterfront access. Lot 5, I still question whether they are going to have access down to the water. We also just heard possible subdivision of Lot 5, then again is that more people and I'm concerned about how many families will then be using this 600' of shorefront. Vadney – We'll get clarification on both of those last two points. The waterfront one is probably a pretty clear case because of the

Town ordinance on further access for backlands getting access to the water. That's pretty clear and as I understand it, that lot since it's not previously deeded, wouldn't be eligible. Edgar – I'm not going to try to make that determination on the fly. We would have to look at it. Janet Nolen – That question will be answered next time. Edgar – We have provisions in the ordinance that are not terribly restrictive, but frankly we refer to them as funnel provisions. Think of a thousand acres somewhere else having deeded easement rights to a quarter acre spit of land somewhere and come in with Gunstock Acres in Gilford, that's basically the poster child, so we have an ordinance that says you need 100' for the first unit and so many feet after that so it doesn't get overkilled, but a lot of folks would argue that building out to that level is pretty intense. It is intense compared to what we're looking at here so there is a potential that those properties may have the capability from a zoning point of view for easement access. It was a very fair issue to raise relative to getting our arms around it and it is one that we will need to nail the numbers down in terms of the zoning and then make sure the applicant is very clear with their proposal, one way or the other, as to how that might play out in the future as to whether or not they are willing to restrict it in a way that would be more restrictive than our zoning. Phyllis Hamblet – I am an owner of Y-Landing and I would rather the driveways be across the street from my garage. I would rather see one road than two although it doesn't truly matter. I also have the question still on this old piece of right-of-way that crosses my land that I didn't even know the line was supposedly to the Atteberrys and I would like to see that go away because I want that somehow stated that people aren't going to be trotting across what I think is my property and they think is their property and the Town doesn't know either way. It doesn't show on my map or the Town map. This is my big concern, are these people going to then be walking across my property. Edgar – Could you point that out for the benefit of the Board. Dolan – That strip of land is located right here, the Y-Landing property is right here, it's a couple hundred feet long and again, there's a garage in here and the Hamblet property from Y-Landing is right here. It is my understanding, again, the developer was willing to work with them and make that issue disappear. ?? - How wide is this strip? Dolan – About 16-20 feet. Hamblet – I think the developer has done a very good job; I hiked the whole thing in the freezing cold also as far as this end. I think you're going to have some problems with the neighbors with pieces deeded for parking for the AMC. Not that we would want to the AMC, but you're going to have, we already have people on Powers Road upset because of the speeding beyond my house since that's been paved has increased considerably. What the people down the road would like to see are some speed bumps I think that they could put in and take out in the fall. I like having that road paved all the way down to the end, it's nice. Since that road has been paved, an increased amount of traffic whipping down there has been considerable. Before the road was in such deplorable shape that once you got to my house, you wanted to go park. Edgar – While we have a captive audience, could I make a non-regulatory suggestion? Mr. Touhey, as

well as a lot of you folks are very close neighbors and if we're looking at a lot of seasonal folks from Sheps up to the marina, if we have them as a captive audience and knowing it's not a thru road and that traffic is yourselves, it's your neighbors, try to manage it by talking amongst yourselves and saying if you rent your property or invite guests over, try not to speed. It's not a thru road. It's the people in the neighborhood. ?? – I have noticed it's the UPS trucks. This is the most easterly pin of this property; our drinking water intake valve is about 60' from that development so we have a tremendous amount of concern about the quality of that water. Vadney – When we walked the other day, as you know with all the rain the lake is at full lake right now or maybe even higher, it's pretty much up around the Cove, there appeared not to be over about 18" of water if you just stepped in, I didn't do it because it was fairly chilly, but it looked like about 18" of water or less. In the summertime, the lake does tend to drop sometimes. Does that sandy area become beach? Is it ever exposed? It's very close to it; it's to the point that you can't row a rowboat through it or a kayak. Vadney – At that point of being kind of low that you're talking now, how close can you come in in a rowboat before you start hitting that sand? Nolen – Not far beyond our property line. Vadney – so pretty much if you drew pin to pin on this property, a good proportion of that... Janet Nolen – There's a couple of rocks in there and there's a lot of silt that has washed in. Vadney – I was just wondering how far that sand extended out. Do you know anything on that, Dave? Dolan – That brook to the Rice property line at least about 10 or 15 feet from the shore, it varies along here, but you have a depth of 3 feet at full lake water which is what the State uses their definition of defining is 3' of water 8' wide and 25' in length. There were some concerns raised at the design review about the shallowness of the water so we did get some depths in there and I can plot them, but it is again, it varies in here you get closer to the shore with that depth being maintained and over towards the brook, it's about 15 feet from shore where you get less than 3' of water. Nolen – From that stream towards Lot 4 and our property, however, what are the depths there because that's significantly shallow. I don't have that information, but we can get it and actually... Christina Touhey – Speaking to the depth of that water, you know it might be 3 feet but you also have to consider in the fall most of the time you have a lot of weeds coming up from the water and a lot of grass so that you couldn't really get any kind of a boat with a motor in there even if it was just a little rowboat with 5 HP motor because of all the grass and the weeds. Nolen – And that's why I raised the issue of our intake for our drinking water is because to rectify that situation is going to require vastly changing the contours of the lake bottom and then we're in trouble. Pisapia – I am here representing the Meredith Conservation Commission. We participated in the December 3<sup>rd</sup> site visit and appreciate the opportunity. I would like to make a few observations and some preliminary recommendations to the Board. We observed that the site is mostly wooded and wetland. There is some evidence of previous timber harvests, there didn't appear to be any within the last 10-20 years. Wetland habitats that we observed included some vernal pools, emergent and forested

wetlands and open water on the lakefront. The land appeared to provide good habitat for deer and possibly moose and bear although we only noted signs of deer while we were out there. The property probably provides good herptofauna habitat, but none were noted again due to the time of year. The forested habitat is probably good habitat for passerine birds as well as owls and raptors typical of this area. We didn't make any extensive observations while we were out there. There may also be some waterfowl use of the lands along the lake and in those wetlands especially in that stream that comes in. The number of acres of wetlands does not show on the plan but it appears from our site visit and from this plan that the number is pretty substantial. Combined with the wetland habitats and the Town of Meredith wetland buffer zoning ordinance, the building envelope near the waterfront is very limited. Also, in order to subdivide the property to include four lots with waterfront frontage, wetland habitat will need to be filled in or bridged and there will be substantial infringement upon the buffer for numerous wetlands, which will diminish the value and possibly the functions of many of those wetlands. The Commission desires to make a more thorough analysis of the wetland habitats on this site and was told during the site visit that we would be invited by the applicant to go along with the wetland scientist when they do their analysis and we're still open to that. However, since this proposal is on the agenda for tonight, we feel we should provide some preliminary recommendations lest you believe we have no concerns. Our primary concerns relate to the configuration of the lots when this property is subdivided. We are interested in assuring that the Board only approve subdivided lots that are configured to avoid all direct impacts to wetland habitats and that minimize the indirect impact to the buffer zones for the majority of the wetlands on this site. We would also ask the Board to approve subdivided lots that minimize the impacts related to access to Lake Winnepesaukee. While we appreciate that the applicant has tried, where possible, to avoid wetlands, construction will alter watershed drainage patterns. The alterations will likely affect the function and the value of the wetland habitats as I noted and the species that are dependent upon them and this is I believe Mr. West mentioned the importance of drainage in and to all the vernal pools in particular, but that also applies to other wetland sites. This impact will be caused as the land is manipulated (recontoured for construction of houses and roadways) as well as by the increase in the amount of impervious surfaces. These changes will likely increase the volume and speed of water runoff as well as the amount of sediment that will flow into the wetlands and into the lake. While there are mitigating measures that can reduce the impact, nevertheless, there will be an impact. We recommend that the applicants consider and that the Board not approve a subdivision of more than three waterfront lots (preferably only two waterfront lots) in order to minimize the impact to wetland habitats. At a minimum, our suggestion is that the proposed Lots 3 and 4 be combined to eliminate the proposed driveway beyond test pit #3. This would eliminate the major amount of impact to the infringements on Town of Meredith wetland buffer

zones as well as a significant direct impact to a drainage way and wetlands. Also, we do not believe the building envelope at test pit #4 is of a size sufficient to avoid substantial construction spillover and that spillover would adversely impact the wetlands on this property and on the abutting property. The wetlands don't end at that property line. We also see no way for the proposed Lot 3 to access the lake without directly adversely impacting wetlands and the drainage patterns so we recommend that the lake access for proposed Lot 2 and Lot 3 be reviewed with the purpose of combining access to avoid all direct and indirect impacts to wetlands on these lots. Also, the impact on aquatic habitats of Lake Winnepesaukee must be considered as a direct impact of this proposal since the shoreline is currently relatively undeveloped at the head of this cove. The rationale for waterfront lots is often to provide direct access to the lake, which will likely take the form of docks for boats and beach areas for swimming. Kelly Cove is shallow and rocky and likely provides for a protected area for aquatic organisms off the main lake. The likelihood is that each of the four proposed lots would have beach rights and at least have a desire for an individual docking system. Given the distance to water depths sufficient to qualify as a boat dock, the docks would likely exceed 40 feet. Due to the shape of this Cove, multiple docks at the head of the Cove will make for significant crowding. In order to reduce the zone of impact to the lake, we suggest that the applicant consider a community dock system where all access to the lake will be through one docking system rather than one separate dock on each lot. In short, our preliminary review reveals a subdivision proposal that attempts to crowd too many incompatible uses onto a waterfront packed with some very sensitive habitats. In order to minimize the impacts, our preliminary recommendation is to expand the size of the lots and to propose only two with direct waterfront access and to consolidate lake access.

Richard Kurt – I have a question with regard to the discussion on the possible parking lot for the AMC on Lot #1. Is that use and any details with respect to a final plan on that beyond relevance to this subdivision plan?

Vadney – I think John spoke to that a bit earlier.

Edgar - The short answer is yes. As a practical matter, there have been discussions so we know that there is at least the potential that something can play out. It's not in front of us formally so the short answer is yes it's not specifically in terms of what we're looking at from an impact kind of view. Where it does come up is if we're looking at resubdivision clauses is to at least hold the door open so that maybe that could be considered at some future point in time, but for purposes of this hearing and this application, it's not an impact that we in fairness can bring into the discussion of these plat lots.

Vadney – Just a quick look at that, it looks like there may be about an acre of land you were talking about for the parking lot?

Dolan – Yeah, I think we figured about 70,000 sq. ft.

Vadney – Oh, if you go into the green and pink areas, it could be close to two acres then that would be eligible. It is a fairly substantial chunk of land.

Pisapia – If I could just add, the Town has an ordinance on the buffers and there's a reason for those buffer zones and that is to help protect the sensitive habitats. This proposal that we see before us

substantially impacts and adversely affects the purposes for which that ordinance was passed and I think this really is a stretch. The Commission often gives recommendations to the ZBA and gives relief on some setbacks, but this one here just goes beyond what is reasonable. Vadney – I will say, Ralph, that I was surprised at the boniness of that land and some of the slopes and some of the drainages out there. No question for the developer, it's a problematic site to do anything with and we'll see what falls out here, but it certainly when you walk on it, you say this isn't an easy one to develop. Flanders – I was just going to say, well I guess I'm appalled that that brook is not on this plan. Dolan – Again, it will be on the plan. A lot of it is going to be far enough into the wetlands that the setback buffer from the brook would fall short of the 50' wetland setback buffer. The portion of it is up in this area and the rest of it will be added where the defined flow is through here so we can add another setback line where it exceeds the wetland setback line. Flanders – It seems sloppy borderline deceptive to not have it there. Dolan – That wasn't the intent. Flanders – But you can see how it could be construed that way. Dolan – Well, I guess I can imagine that it could be, yeah. Bayard – How big does something have to get before it becomes a major, John maybe you can answer my question. Don't we have a 100' setback on some wetland areas. Edgar – Prime wetlands. For wetlands that are generally an acre or greater, generally that were mapped back in 1983, there's a whole slew of them in the Town, this is not one of them that come with higher setbacks as a general matter because of a function of their size. That's why these wetlands are considered non-designated because they are not designated on the wetland map so we go beyond what most towns would do and pick up all wetlands once they show up at all during delineation and at least give them some level of protection. Similarly, we have about a dozen or so named brooks. Some of the larger brooks in the community, they are likewise named, labeled and therefore designated. Those are the bigger brooks that have probably a greater likelihood of being perennial although that's not hard and fast, but they are some of the more obvious ones, Page Brook, Hawkins Brook, Dolloff Brook, Blake Brook, Merrill Brook and some of the big ones. They come with a 100' setback, but then we have a myriad of seasonal streams that maybe they are perennial, but certainly they are defined and channelized so there's enough flow going through there during enough time of the year to create the scarring and channelization and here again unlike some other communities, we protect those as well at least with some level of protection so in this case a non-designated stream has a 75' setback. These aren't the largest prime wetland and major systems that we have in the community, but they are significant and therefore they are afforded these buffer protections. Vadney – This property, well just by the shape of it, you're draining at least 75 acres and probably counting other people's property that drains down through there, I wouldn't be surprised if there's well over 100 acres draining down into a very shallow cove and crossing a number of wetlands, some vernal pools, it's certainly problematic to put four close houses to the water down there. One of the concerns we had when we were

doing the site walk, at least I had when we were doing the site walk, is once it's subdivided, the lots are sold and houses are built, either legally or illegally, trees tend to fall and/or die and fall, but pretty soon everybody wants a view that runs out onto the lake and it doesn't take much to envision that whole wedge of land being effectively clear cut so that each house can have its view. Mr. West mentioned tonight the need to keep the vernal pools somewhat in the shade to keep the critters happy and that's one thing I think that we'd have to look at. We don't normally have cutting plans on things, but this one may have some.. Edgar – We have looked at cutting plans on some projects relative to views and Paquette's is one that comes to mind. We had some no cut zones that were offered up and the Board agreed to to provide some backdrop when we had some ridgeline development so there are a few instances where we have looked at that. The Wicwas island project we were looking at, it involved both the habitat as well as a view protection scenario in terms of some no cut, not no cut zones but at least some managed zones. I think we have looked at it in the past. One other significant thing that I made mention in my staff report and I just want to drill this point home is that I think it's important for the report that Mark had referred to getting that published, then consulting with the Conservation Commission and to see how that meeting might affect layout is an important thing to play before you look at voting on an approval. The reason I say that is because this is different, I do agree with Ralph this is not your garden variety, you know throw a culvert in somewhere to provide access to a subdivision. This is a little bit, a little higher stakes and I wouldn't want the ZBA to infer that if you were to conditionally approve something that that therefore meant it was OK. The Wetland Ordinance requires that and just to sort of partially correct what Ed was saying, all those buffers aren't no-build zones, those are zones where maybe you can build by Special Exception so it's not variance territory, it's Special Exception territory but more importantly the criteria is that the development needs to demonstrate how, pursuant to the Wetlands Ordinance, how the project is consistent with purpose and intent and the purpose and intent of that zoning ordinance restates the functional values of wetlands and their adjacent uplands so those functional values need to be understood before you can then evaluate the impact of the project. That's a pretty significant bar on this project. The other criteria is that you look downstream which in this case downstream are going to be cove effects as opposed to flooding but there will be downstream effects on projects and that you looked at all reasonable alternatives to minimize all those kinds of effects so those are pretty significant criteria that have to play out with the ZBA and the Conservation Commission is going to be front and center relative to making recommendations to them so that's why I think that process needs to play out first so we get a better feel for what the and I think we can run a couple concurrent tracks, I think we can look at the driveway standard issues at the same time with the Selectmen and the Staff, but I think it's important to not infer by virtue of a conditional vote anything and let the Conservation Commission and ZBA do their job and let the applicant take all of this under



advisement and then see how we can massage this project and... Vadney – The best we can do tonight is a continuance on this and there are a number of things that have been discussed and we've told people we would get back to them with the answers and I think they can all be done in parallel so it's not one after the other kind of situation. I do think this particular one is the way it funnels down into that small cove, we're pretty protective around the lake and we have been like in some of the development downtown, we've got a parking lot right close to the lake so that anything that spills into the parking lot in a few minutes is in the lake and you've got the same situation here, you've funneled everything down and it's not very far from these septic systems and on right down into the lake. It's a troublesome area. Flanders – I've got a question and then a comment. Is this scheduled for the ZBA yet? No. If this were to go to the ZBA with the map we're looking at tonight, I would suggest that the Planning Board send a letter to the ZBA identifying the significant number of deficiencies in this map that would impact their decision. Edgar – Like I said, I don't want to speak for the developer, but I don't think there's a rush to the ZBA at this point to meet some kind of a deadline. I think they've acknowledged that Mark's got to continue to do some work in the field, he has to finish his report that he plans to meet with the Commission and I think as a practical matter, that needs to occur before we file any applications with anybody. Dolan – There will be more detailed plans and corrections and probably some changes based on the input we got here tonight before anything goes to the ZBA. Vadney – There's no question, you've already recognized the brook has to be mapped in and some additional wetlands and I'm sure that will be done before it comes back to us or to the ZBA. Edgar – What's more important than the mapping, quite frankly, the 75' thing, I think it needs to get defined. The most important thing that we have not seen the written version of is really understanding the functional aspects of these wetlands. That's the base line against which the Wetland Ordinance will be applied and that really is the key here for Mark to finish that work and have that dialogue and then to evaluate the propriety of the driveways, the docks and these kinds of things particularly as it relates to Lots 3 and 4. That really is the crux I think of getting to a comfort level. Finer – I would like to see this continued, but not date specific. I want to let them go to the ZBA and do all that stuff first before they reapply to us. Edgar – Let me just speak clear on the nomenclature, then it wouldn't be a continuance, it would be tabling and just so you don't get the terminology confused. Kahn – I would not want to see it go to the ZBA in this form. Vadney – I don't either. Kahn – I think that this needs a lot of work, I think the area with the driveway coming down to Lots 3 and 4, picking its way through wetlands and wetland buffers and where Lot 3 and 4 meet the cove, we've got vernal pools and you've got the stream coming through there, I think that's a nightmare down there and I don't think it should go to the ZBA until we've seen a substantial revision of this plan. Finer – Looking at Mr. Touhey's coloring of that map, I don't see where they could even build on Lot 3 and 4 is just in that west corner. I realize with Special Exceptions they can. Edgar – I'm not taking sides here, but just so we are

clear, Dave if you could point to test pit #3, that white area is fairly substantial in size, it doesn't appear that way given the scale of this map. Finer – But that's Lot #2. Edgar – No, it's not, that's Lot #3 and that's where the test pit is shown for Lot 3. The question is could that support a house, Bill, but the question is getting down to the waterfront you get gobbled up in all those buffers, so if there are any kind of physical improvements such as the driveway getting down to the water front on Lot 3, that's all buffer zone material in terms of special exceptions. That's why I raised in the staff review, you have the access issues for Lot 4 and you get to Lot 4 and then beyond test pit #3, you have that length of the driveway including the crossing that would be your means of access to your water frontage for Lot 3, all of which is ZBA relief territory. Flanders – I'd like to see this plan come back to this Board and give us a chance to review it before it goes to the ZBA just because we've identified a significant number of deficiencies here tonight and I'd like to make sure those deficiencies are cured before it goes to the ZBA, otherwise, the ZBA will be grossly misled. Bayard – I think part of this is response to the fact that the neighbors, if you will, didn't want to have 8+ lots or whatever was envisioned before so I mean I will say they are trying here. I don't think it's the deal myself, I mean there's things with 3, 4 and 5 that maybe could be rearranged or something and I'm not sure if four docks jutting out into that cove is going to work either, especially given the length they would need to be, but it doesn't appear, well you've got Lots 1 and 2, they don't look terrible in my mind, but I think there's stuff that can be worked in this thing, but I think it still needs work. Vadney – There's no question, Lots 3 and 4 become more problematic because you have to cross the wetlands to get there. Bayard – I think once you put your houses, these may just be occasional residencies, but if they become more permanent like we tend to see around the lake, you're going to have some disturbance just to get to the lake let alone wanting views. Nolen – Mr. Chairman, I've got a question and perhaps some of you, the Town Planner or you can answer it because I've heard varying things about buffer zones and what you can and can't do within the buffers. My question specifically relates to Lot 4, given the vernal pools and whatever the buffer zones are there and the drainage, with 155' more or less of shorefront, how much of that shorefront is developable by putting a dock on it. Are you forced into one corner, are you forced to build your dock 10' from my line and abandon the other 140'? Vadney – The short answer is probably, but I'll let the surveyor answer. Dolan – Well, I think that's kind of what John asked me to go through earlier and we showed the wetland, whatever buffers on Lot 4 and about half of the lot is not subject to the wetland buffer. You do have a 20' sideline setback, but there is area there. Vadney – So the dock would be fairly close to his property line. Edgar – It's going to be off center towards you, but at a minimum to meet the state requirements, at least 20' back the other way away from you, so somewhere in that zone as a practical matter. Nolen – So roughly from the midpoint of the shoreline towards my property is available to use. The rest of it is not. Edgar – If you have a chance to view the plan more specifically, it's hard to

see it up; you'll see a setback line. That vernal pool, the blue dot closest to the lake, that wetland boundary extends down to the shoreline. From that wetland boundary towards you is a 50' setback. Theoretically, they could seek zoning relief and build in that setback. If they choose not to or depending on how this all plays out, if they respected that buffer, there is a little less than half of the property back to you so about 150' a little less than half of that, but then you've got to go back the other way 20' to meet the state requirements so if you say 75', they have maybe 50' or thereabouts to work in for placement of a dock or something of that order. John Hanaway – John, if I could just ask you the same question about Lot 3. Edgar – With respect to Lot 3, Lot 3 is the most troublesome on that issue because the stream setback or the wetland setback which is the shared line between Lots 2 and 3, that extends down this way and then the vernal pool, the blue dot, extends back up the other way so the entire shoreline of Lot 3 is encumbered by setbacks whereas these folks heading towards the Soley's, there's a window of space that would meet state permitting and local permitting somewhere. Lot 3 would need relief from Town zoning because of the wetlands at the top and wetlands at the bottom that are effectively on either lot line for Lot 3 when you apply the setbacks that becomes problematic. Hanaway – And that has happened before in the Town and they've gotten relief? Edgar – I think that's kind of what Ralph was eluding to. I don't think we've seen this particular fact pattern before and what we try to do is to understand the wetland impacts up front and get our arms around a cumulative effect. Have we seen something exactly like what's represented here before, not that I can recall. Vadney – In the interest of time because we do have a couple more issues to sit through after you've all gone home, unless there's a real burning issue, I would be willing to listen, but if not I'll close the public portion of the hearing and turn back to the Board for maybe a couple of short comments and then a motion to table or continue, whatever you like. Flanders – I was just going to point out on these docks, you've got one on each side that belong to neighbors. The way the state, if you apply for a dock, they project the property lines straight out into the water and then apply the setback and if they did that neither one of those docks that are there now would be legal. You're actually encroaching on the property here. Maureen Soley – We did do a whole state approved dock when that went in 25 years ago and we also had signoffs from the abutters. Flanders – That's the key, 25 years ago. Kahn – John, in your staff review, you've got a recommendation that this go to January 24<sup>th</sup>, do you stand with that date? Edgar – If you were to continue it, we have a major application that we've already continued to the first meeting in January and I'm just trying to keep that agenda light because of the complexity of that night so by default that pushes us to the second meeting. If you were to continue it to a date specific that would be the earliest that I could recommend. If you chose to table it subject to the resubmission of a revised plan or something could be another way of handling it so I'm not standing firm with that recommendation if you felt you wanted to table it, you would need to be specific as to what you want to have happen in order for it to come back and

be taken off the table so that needs to be fairly clear in the motion. If you were to table it... Vadney – I see no way to put a 30-day timetable on this. It looks to me like there's at least a couple of months worth of work that needs to be done. Flanders – I would just like to ask Dave if we continue this to the 24<sup>th</sup> of January, are you going to be able to have the information updated and submitted 15 days prior so it's available for inspection. Dolan – You're looking for what erosion control plans as well? Flanders – Delineation of that brook. Edgar – I think that the bigger issues are going to be meeting with the Commission and resolving any lot layout issues. Vadney – They've got to come up with some conclusions on what type of driveway requirements they are going to be. Mr. West has got to do his mapping and his functional analysis as you've asked. We need to consider things like whether there are any restrictive cutting areas because of the vernal pools and shade areas and the like. Finer – I would also personally like to see something that limited no access from Lot 5 into the water, especially if they are talking about re-subdividing Lot 5 in the future. Right now, you could be talking about one family and a footpath to put in their canoe. If they re-subdivide and put a 50-unit cluster in there, they would all want to use that footpath. Edgar – The assignability is there, one of the things to look for would be covenants in response to all this stuff, OK. If there were to be let's just say for the sake of argument a very clearly worded pedestrian easement that went with benefiting Lot 5 over something else, it would need to be clear I think to address your issue that it's not assignable, that if Lot 5 were to be re-subdivided, there's one right if you will and that right doesn't have a way of multiplying itself because that could happen. Under the terms of the ordinance, in terms of the black and white side of the map so.. Vadney – We do have an ordinance that covers it at least in terms of minimum standards, but in a case like this where you have certain considerations that come into the mix, if there was a concern like what's been expressed and if the developer certainly could come back with a draft covenant that could, if they were to provide pedestrian only, no docking that would be one thing so that is clear, but then it's the assignability or the ability for that easement to multiply under re-subdivision. Finer – Or they could put in a covenant that there's no access from Lot 5. Vadney – They now know there is an ordinance that covers and they know they can come back in asking for the moon so to speak. They also know that the Board is at least concerned over that and the public is also concerned. I don't think we should try and solve that for them tonight. It's just something that they know about has been put on the table. Kahn – I would just say Mr. Chairman, I move to table it, I move to continue it, but if this same plan comes back with the driveway wandering down through the wetland setbacks and with the shore frontage on Lot 3 and Lot 4 the way it is, I'm going to keep an open mind, but... Mike Garapy – If I might as far as tabling or continuing is concerned, we would like to come back in January so we can give you a progress report on what we've been able to accomplish and get some things resolved at least. We may have to come back for a subsequent meeting after that, I'm sure we will, but we would like to start that process. We don't just

want to close the door and then reopen it 3 or 4 months later. Vadney – I'm sensitive to that, I'm also sensitive that these folks if it's just a progress report and not much progress has been made, we would be wasting several people's time. Garapy – We would be wasting your time and our time and if we haven't made much progress, which I'm sure we will, but if we haven't we will certainly notify the Town that we would like to continue further, but I think the 24<sup>th</sup> gives us time to address a lot of the concerns. Vadney – That means by about the 10<sup>th</sup> you're going to have your new engineering drawings and stuff in to John so that he can do the staff work. Edgar – What we try to do is to meet the due date deadline so that not only do we have time to staff it, but all the abutters we would be able to look at whatever we've added to the file so they would have the opportunity to review that information in anticipation of the hearing. Bayard – Would February make sense? Vadney – We do have one problem, we're coming up on Town Meeting and because of that the Planning Board has some, by regulation and State law, some rules and meetings that we have to adhere to as far as zoning. Edgar – February would be better for us in that regard because we have hearings in January. Vadney – So either the first or second meeting won't make any difference to your scheduling? Edgar – In February, no.

Flanders moved, Sorell seconded, I MOVE THAT WE CONTINUE THIS HEARING TO FEBRUARY 14<sup>TH</sup>, 2006, WHICH IS THE SECOND TUESDAY IN FEBRUARY. Voted unanimously.

### PRE-APPLICATION REVIEW

1. **DOUGLAS P. HILL:** (Tim Jordan, Representative) Pre-Application Conceptual Consultation to discuss a possible subdivision of Tax Map S16, Lots 37 and 37A, located on Lake Waukewan (off Jenness Hill Road) in the Shoreline District.

This is the Lenfest piece which is 33.72 acres and Mary Corthouts piece is 11.64 and they basically have come together looking to see what they could do with the parcel of land. Altogether we've got 45 acres, we have 170' of frontage on Jenness Hill Road. There's an existing driveway that comes down to Mary's cottage and there's a garage structure as well. There's another driveway that comes over to this area. The site is basically wooded. It looks like there have been some gatherings over the years down at this area and so forth and people may be using it for access to the lake, I'm not sure. Basically the site, the high point's up here on Jenness Hill and sloping down across here and more to the lake. We have a number of wetlands crossing the property and we have three small isolated under 3,000 sq. ft. wetlands. As you can see, there are some blank areas on this plan. There's no topo. We don't have all of our information yet, but we do have a direction that we've been thinking about so we wanted to come in and talk to the Board and get some feedback and so forth. Obviously, we are in the Shoreline District 300' back from Waukewan.

We've got 4 acres zoning in that area, 210' widths and 65' setbacks from the lake and we also have the option from a cluster standpoint as well. We're back here in Forestry/Rural, which is 3 acre zoning and 150' widths. You can see there have been some test pits dug out there, you can see these numbers, Harry's put some numbers, not with all the data, but it had the capacity of somewhere around 13 or 14 homes. There are on-site septic and wells. We do have, you can't see it, but we're showing buffers around. This particular wetland down here coming down becomes very channelized, coming down to the lake right here and it becomes somewhat channelized, but not as defined over in here a bit and so you can actually see you've got two wetland setback lines kind of drawn over here. We've gone through and developed some concepts showing cluster and concepts showing single-family lots. Mary Corthouts wants to build a home here and she lives in a cluster development right now and she wants more land and so we've looked at this from a subdivision standpoint, but what we've done is we kind of looked first at where we think house sites could go and then put lots around them. It's kind of interesting when you do that, it starts feeling somewhat like a cluster plan in some ways too. So we've looked at areas that are out of wetland buffers, upland land and so forth and we've identified more than 10, but that's the number that we've looked to and from this point then we've taken and put lot lines around it and so now it looks like a typical subdivision. But we feel like we've accomplished a lot as a cluster as well. We're looking at upgrading the existing driveway. We haven't done any engineering, Harry's taken some measurements and feels we've got line of sight here. We will have to make some improvements, right now the driveway comes straight down. We will have to cut across on the topo, do some traversing and come down and then turn, but basically following the same driveway location to a cul-de-sac on the end and this is 2,300' long to that point. Then we have the back lots, the back lots would have obviously just driveways coming through. We're showing a conservation link, this is Town land here and this is the Town line of Center Harbor, but there's been talk about conservation so we've provided a link to tie this altogether in the future between the properties. We come down to this point, there would be a common driveway for what's labeled 5 and 6 and we would have a wetland crossing here in this area. There would be a common driveway serving 5 and 6, again there would be a crossing here to get to Lot 5 and Lot 5 we don't know about. We're showing this but we don't have any topo for there and talking with Harry, we haven't seen information. There may be, there's another little piece of corridor coming into this section of the lot there so whether we have some additional wetlands here, I don't know yet. It would be a common driveway serving Lot 7, which is in a very similar spot. There is an existing and individual driveway serving Lot 8 and a common driveway serving 9 and 10 and so our impacts from a wetland standpoint obviously for upgrading the road, we would be impacting the wetland at this crossing here and then there would be a wetland impact here, otherwise, we feel with what we've got for information right now, we've minimized the amount of wetland impacts and buffer impacts on the site. We've got 6 waterfront lots; the back lots would not

have any access to the lake. We talked with the Fire Chief just very informally to get some feedback obviously. The whole question about cistern fire protection, pulloffs coming down we talked about. He also mentioned individual sprinkler systems for the houses, but some combination would end up being provided and if we had cisterns, he was talking about somewhere in this area here or access, we wouldn't be pulling water out of the lake. This is too big of a head coming back up. He did talk about wanting driveways to be 14 to 16' feet and have minimum weight for a 15-ton vehicle and doing some clearing as far as branches and so forth so he would have easy access at the end of driveways and we would have a hammerhead so that he could negotiate it. We are going to have to talk to the Selectmen obviously about road length, potential grades coming down through here, maybe in this section may approach 12%, I don't know yet and whether we have a paved or gravel driveway. We haven't gotten that far yet either. We know it's a sensitive parcel of land obviously. We would like to, we've talked to make covenants as far as controlling what happens on the overall property, but also have a requirement for anybody to obtain a Building Permit they would have to do a site plan for their house showing existing and proposed grading, site vegetation, erosion control, any kind of runoff issues that would be taken care of and that would be part of, we would like to make it a condition to get the Building Permit that process would have to go through... Vadney – Who would they show that to. Jordan – Bill Edney. Ultimately, we probably should have some review internally, but then to get the Building Permit, the Town would have to sign off on it and I guess the vehicle would be.. Vadney – John, have we ever done that for a residential... Edgar – We do require erosion control plans on waterfront properties, which is essentially very similar to what he is talking about. Remember Tim had done work on the Lake Ridge project and in essence that's what does play out. It's mostly internal review as the developer looks to make sure we have continuity on drainage, the easements and stonewall requirements and tree cutting requirements, but essentially the way that is set up is that internal approval has to occur first, then that documentation will be submitted as part of the Building Permit application so that they are showing compliance with their own covenants and restrictions. Doug Hill – We would have a pretty elaborate and in some ways this is new. We spent some time with John and talked about that. It is a pretty elaborate system of restrictions. The restrictions would be there up front and there would be notice to anyone who buys that they be on record at the Registry of Deeds and the restrictions would have provisions in them that said that while this is a Declaration of Covenants, it can't be changed without approval of the Planning Board and so the front end of that would be requirements stated in the Declaration of Covenants because the site can't be altered in any way. For example, you can't buy the lot, come in and nuke it and then come in looking for a Building Permit. The site can't be altered in any way until this site development plan... Vadney – But that would be an internal covenant. Hill – It would be in the covenants, but it would be something that would have to be worked out with you folks and approved as part of the Planning Board process

and recorded in the Registry of Deeds and the first sentence would be that none of this can be changed without approval of the Planning Board. The Declaration of Covenants would be the first step of this. What the Declaration of Covenants would do is outline and it would really be in the nature of a contract between the Planning Board and the developer, that would state that no building permits can get pulled until the following requirements are carried out to the satisfaction of the Code Officer. The Code Officer would have a list of things that have to be dealt with and one would suspect that the Code Officer might have some discussion with John about the individual sites. We anticipate that process would take place for each of these sites. I think what John would really like to see would be a totally engineered and planned project so that all of the site layout and thus all of the drainage points and all of the enviro detention areas that would be where the water from the impervious area would go would be designed in advance, but because these folks are not builders, they are not planning on building houses and selling houses. Mary's going to build her house on one of the lots and that process will go through her lot, but the others would most likely be sold to a third party and the third parties would be subject to exactly the same set of regulations. It would be obligatory to them because it is part of the title to their lot. Jordan – We have a lot more work to do obviously as far as wetland values, engineering, test pits, but we felt we're at a point where we would like to get some input from the Board and we looked at, you know, again ultimately we came away from this kind of interestingly thinking this was going with a straight subdivision which is actually better potentially than going with a cluster plan because the need for the client, from an assessment standpoint, we would be clustering everything down on the water. We did a concept plan that way and kind of stepped back from it and thought this was a better solution ultimately. We think with covenants and so forth, again as you saw if you take a look at it without the lot lines, it starts feeling like a cluster and with covenants and with documents, we could make it work and have the restrictions and function be a sensitive piece to the developed land. One question may be getting started, there's a little bit of discussion going on, would be kind of the road standards. What would be an acceptable road width with shoulders potentially for 10 homes? We had discussions of 16' with 2' shoulders on each side, 18' with two shoulders trying to minimize, it's not a high volume situation here if there's an acceptable reduction in the standards. That's one question we have. Vadney – They are driven more by the fire truck than they are by volume and if you met the Fire Department weight standards structural box and width... Edgar – The history of relief and I'm sure Bob can speak to it probably better than I, but I think on the Paquette subdivision (Clover Ridge) is probably the closest animal where I think we shaved a foot or two off the cross-section of the travel lanes plus shoulders. Jordan – Were those 2' shoulders, do you remember John? Edgar – I think they were 3' and that would allow for the ability to put in an extra foot of pavement if there was a desire to put 10' lanes if that was revisited and the structural box was already there, I'm pretty sure that's what it was. It was 9' and 3' and what the Selectmen have looked at in the past in terms of the cul-



de-sac length waiver is looking at if there is a potential for \_\_\_\_\_ to some property is to explore that from a Planning Board view and make sure that is considered in the design, ruled in and ruled out, and so absent that level of planning, they have discouraged waivers on cul-de-sacs. Clover Ridge is another good example where there is a likelihood that a cul-de-sac will connect to another property so they run the ROW to the lot lines, we don't have \_\_\_\_\_ and things like that so they typically look at that. They also look at whether or not utilities are underground or not. In the case of them going underground, it just takes another element of hazard out of the mix, trees falling down and that type of thing. We encourage it in the Subdivision Regulations, but it's not required so the paving waiver is one that they have frowned on in the past. The Regs do provide for you to ask for it and you have to beef up the structural box to compensate for lack of structure that comes with the pavement so you don't gain a lot when you're saving pavement, you would be making up most of it in gravel so we haven't seen too many of those in recent times. There may have been one 15 or 16 years ago on the pavement issue, but nothing really recent. They have looked at some waivers but not in a real dramatic fashion because two 10's is already not a huge overkill and so with my encouragement and some others, we have nibbled around the edges as long as we're not compromising safety and granted, it is a low-volume road and I think from a lineman point of view, it's going to be low speed, low volume and if we need to take a real hard look at your horizontal and vertical alignments to really avoid some wetlands or whatnot, I think with the low volume, low speed, they'll look at the centerline radii and that type of thing to work in the landscape to try and minimize the cuts and fills and that kind of thing. Flanders – I would just like to encourage you to try and come up with a plan that keeps you within that 10% grade. I'm not sure that we've waived that on any road. Edgar – I don't think we have. Flanders – I don't think we have either so that would be significant. Edgar – Other than an existing upgrade to an existing ROW or something like that. Bayard – I think you are recognizing the sensitivity we have around the lake. We've got to look hard at probably Lot 5 I think is the one in the corner and that's the one... Jordan – I can't argue that because we don't have the information. Bayard – What could be a stream crossing there too so you've been here today so you realize it. Jordan – But it's very, in one respect it's very defined and so it could almost be bridged and so the actual wetlands would not be impacted. That's not to say we wouldn't have buffer impacts. Edgar – I think that's why you need to understand the functional values of the wetlands because that also may be some kind of \_\_\_\_\_ coming up from the lake into that larger wetland system and we don't see kind of where that goes off-site, but that's why I think that, here again, not that we timed it this way, but I think hearing the whole deal on the prior application, this is going to be even a hyper level of concern on water quality above and beyond what we heard earlier. This is the Town water supply. It's the only unspoiled part of Waukegan that's left; it's the only undeveloped shoreline. For all practical purposes, things that I shared with you before in our meetings and I'm not necessarily poking holes at this

design, please don't take it that way, but from a conservation point of view, you'd identify your most sensitive resources which in this case is probably the shoreline area and that's where all the houses are. I understand you're trying to gain waterfront access and the like, but that's arguably the most sensitive part of the property and that's where 6 houses are going. It does meet some conservation objectives that might fly in the face partially of some others so one update that I want to share with you, we spoke about the connectivity possibly with two of the properties, on the Town side that has progressed very positively since we met last. The discussions we had that I participated in with others at the Selectmen level to advance the conservation purposes with Town property, then the Conservation Commission were asked to put a framework and management plan together. They held a hearing on that, got input, massaged it a little bit, went back to the Selectmen and then basically got their concurrence to move forward. I don't know if it's going to Town Meeting as a formal Town Forest lot yet, but the wheels are definitely in motion to look at that property. I can't say at this point a 100% because there are some DPW issues that are outstanding, but the lion's share of that probably at the end of the day is going to be conservation so I think that all of the shared lot line that we have with the Town property, we should be viewing that as abutting conservation land at this point. One thing that we had talked about and I would like you to maybe update me on is that maybe we don't lay it out as a cluster with a dedicated open space, but I think having a skinny little pedestrian path or a couple hundred feet in the middle, we might be able to do better than that and if you think of the areas of those wetlands and the middle piece where there's no houses, that might be an area that could be restricted in some fashion so it has the equivalent of an easement so it's not just a physical pedestrian connection between conservation areas but may have some environmental connectivity. I think that's also where a guy like Mark West or Rick Van de Poll or somebody like that could give you really good guidance on the environmental attributes knowing that we are going to be conserving our piece, you have an opportunity certainly with a lot of your property under whatever scenario you come up with and would like to have that and with the likelihood that something may happen above this is probably at least 50/50 so that's why we ought to collectively get way beyond just delineations, you've got to understand what's going on with these resources and who lives out there and I think when we get to that level, it might massage your thinking a little bit or certainly might play into that conservation component a little more clearly. Finer – My biggest concern, as has been in many issues here, is water quality, that it's our drinking water and I want to see stuff moved as far back from the lake as possible and look into some covenants and restrictions on fertilizers and that type of stuff to help protect the drinking water. Jordan – In conversations with Mary, she wants to build a house there, we are not envisioning a house with any lawn, all very naturalized ground covers and so forth and so whether we can take that a step further and play that into the covenants is something we can look into. Finer – I believe we've done that in others, haven't we? Doug Hill – We talked to John about some of the items

that might go in those covenants and we anticipate working with the Town about that and certainly there would be restrictions on laws, restrictions on lawn chemicals, restrictions on cutting, maintenance, vegetative buffers and along the shoreline making sure the right species, things that are going to survive are there. A lot of them are there now and trying to within the 50' State buffer and within the Town's setbacks, set some rules and regulations. Mary certainly doesn't want her next-door neighbor to clear-cut either and her intention is to stay there. Those will all be something that will be brought before you folks. I suspect it will be revised and we had a good conversation with John about that and I suspect that we'll have more than one again. Edgar – One thing that I've tried to encourage and I haven't really succeeded yet so I'm preying upon these guys is to look at the location of open space or common lands or something like that as a tool and one thing I draw your attention to if you still want to stay with some form of conventional lot layout, think of it maybe as a hybrid and I draw your attention to the Windsong Subdivision. That's where Herb lives, it's sort of clustered, there's open spaces dedicated, but along Pickerel Pond there are 2-3 acre lots, but there's a strip of common area that let's just say it's 65' or 100' or whatever it ends up being, that's not owned in fee. There may be some reserved rights or there may be the legal deal that goes with who can do what, but it's clear that's not something the lot owner owns and can then cut every conceivable tree within the envelope of shoreline protection so I think if you look at the shoreline of Pickerel Pond, but I think most of those property owners respect that and because they know they don't own it, there is some collective ownership, then they are not as inclined to go down and clear cut and violate whatever the rules of the game are for that piece of common area so it's just something to consider. There may be hybrids of that or versions and versions of that because as Bill said, stepping things back as best you can if you have to have the houses on the lake, looking at that area between the house and the lake is probably the most sensitive resource you've got on the property and how that gets managed and we could put covenants until the cows come in but they are only as good as people are willing to abide by them. If we get into the enforcement mode, something has gone wrong and then we are backing our way through all that stuff and so that's a necessary part of it, but I think if we can accomplish something within the physical layout of the lots, we would all benefit from it and maybe if we put a little bit of creativity to it, there may be ways to still accomplish those very house sites with slight modifications of that in ways that don't mean 6 docks and 6 lawns and all that, there may be some diversion from that. Vadney – You use Pickerel Pond as a sharp contrast. At the other end of the lake on the Laconia side, two years ago they built a very large log cabin at the South end of Pickerel Pond. When they first started it, it looked like it was going to be well done. They ended up basically, the lawn, it now has a bright green lawn the width of the property and the house a hundred some odd feet from the lake, but the lawn comes right up to the water. It's just a total old fashion kind of project. Edgar – With the slopes that you have in the area of those house sites close to the lake... Mary Corthouts – I just want to say that I really don't

see lawns in here at all. I want to keep this as natural as possible and no clear cutting, it's just not allowed. Edgar – We don't want to become lawn cops and we have enough problems managing quite frankly what we have on the books and so those are all appropriate things and I'm sure we can work out the legal side of it, but when it comes, there are way too many \_\_\_\_\_ and for example on this lake, people just blow off state laws and local laws and then we're back into it. I think people might be less inclined to do that if you are doing that on land you don't own individually and so I just think, think about that to see if there's a way to maybe look at some element of that that serves the purposes that Bill's talked about and then guarantee that the filtering effect of the shoreline which is the most sensitive feature, we could lay out a management plan for that shoreline so it could be thinned and managed to obtain the views, but keep it natural which should serve your purposes anyway, but maybe not in terms of fee interest going down to the lake. Here again, there's probably market issues and all as to why you maybe don't want to do that, but I think at the end of the day, you have to view the shoreline as the most sensitive feature of the property not just run the lot lines to it and then build into the covenants and say there are all the things you can't do and hope it works. Hill – I differ with you a little bit on that. I understand where you're going and what the fear is, but from my own experience in dealing with South Down and Long Bay where you have cluster-type developments and the people that have, if you've got some rogue characters, they don't care whether it's a fee interest or an interest, there are just some people who aren't going to follow the rules. The fact that there may be some kind of common land, they view what's in front of their house as theirs anyway so I'm convinced that there's any really material benefit in having a strip of land along the shore being in common ownership, but I think the best tools are making sure that the areas that are restricted are well marked and whether they are part of the fee ownership of that lot subject to restrictions or some kind of common land, common land raises another whole set of practical management kinds of problems. I think we have to be very clear as to what the restricted areas are by monuments, by clear signs, by clear markers and the most clear language we can put into the documents. Ultimately, there are some people who won't play the rules and I agree with that completely, but hopefully the other people in the community will be the first responders in that situation because that's really the only way to keep something from getting to the point where it can't be retrieved, but the fact that it's in common land as I said, my experience is that really doesn't make a heck of a lot of difference if somebody really wants to do something right in front of there and the bad guys are going to do it anyway. Edgar – So that's a reason not to put the houses by the lake. Hill – I suppose so. I expected that you would say that, but as a practical matter, what we want to do is build in a plan that we work out with you guys that provides the best possible protection and hopefully make it a model and we think that could be accomplished and it can work, particularly if we work cooperatively with the Conservation Commission and the Planning Board to come up with a plan. Vadney – These certainly aren't the first houses on that lake so. Edgar – Bill was eluding to there are so

much common sense things, but they may not be common things for people from afar like managing your septic tanks, like some of the landscape kind of considerations, what some folks refer to \_\_\_\_\_ so there may be some guidelines like that that could be developed. Hill – There will be an association and I as I said earlier on, we're anticipating developing a fairly complex set of restrictions and that's what Mary would like to see because that's how she's going to protect herself. She can't afford to keep the whole thing just as her own single site, but she would like to be able to make sure that the folks that she sells it to, there's some teeth in her ability to protect her yard. Vadney – That was the point of my question 8 or 10 minutes ago was it seems to me if you're going to have an association and some covenants, because there you've got the real neighbors watching everyday. Hill – We are going to have an association with the covenants that we work out with the Town, Mary and the environmental people. Vadney – I just didn't want it, we don't have the Town staff and I don't want to pay for the Town staff as a taxpayer to have Bill Edney or some other clone of Bill Edney out there looking for this kind of code violation. It's a covenant kind of situation for you folks and then you're (Mary) right there anyway. Hill – I do expect there will be Town involvement up front as the site plan for each lot is developed. While that's somewhat of a new concept to me anyway, I think we could work out a protocol for that and Mary's house and lot is going to be the pilot for that protocol. Edgar – If we had at this scale the whole cove depicted, what are the characteristics around the cove that would influence any reconsideration of design. I think that towards that end, for example, this stream that comes in on the top side, where does that go, is that the stream that goes up to the golf course or is that further up in the cove. That's a fairly significant inlet if it is so anyway, are there any other characteristics there because we'll do the site inspection and if there are things about the cove, I would suggest that this is either the layout or something that should be modified. Jordan – The intensity of development on this side over here is much heavier than here and this is almost like a transition piece because we go to this side and it's less, it's more open and physically there's a camp right here and beyond that I'm not sure, you can see there's some vantage points as far as looking out you can see the hillside, the farm on the hillside and so forth, so we're kind of in a transition area, we've got heavy development that's come to this point right here and then we've got this 1,500' of shoreline and then we've got some more camps and then it seems very open. Kahn – Where's Sawmill Shores Road? Mary – The last property on Sawmill Shores Road abuts this property. Hill - But the roadway does not. The roadway dead ends and there's a lot in between the roadway and this site as I recall. Jordan – There's a little dashed line because we thought could there be a connector to there and it's steep on the other side of the wetland there. Flanders – It's nice to build in deed covenants and so forth, but deed covenants, if they are violated are a civil matter and the Town's not going to start fistfuls of money at attorneys to chase after these things, it's going to be up to the people that live there to do that. Finer – If Mary's living there, I think she'll be your lot police. Kahn – In terms of the subdivision plan, we can set

rules and if anybody wants to build has to follow our rules. I don't think, I don't like the idea of individual site plans as individual lots are developed. I'd like to see the rules set out in advance; I don't want the Town or the Code Enforcement Officer to have any responsibility for the individual site plan for each individual lot. If you want to have a subdivision, let's have a subdivision; let's decide what the subdivision's going to look like. If we're going to decide where the houses are going to be, let's decide that in advance. Mary – You could have a building committee that goes over their plans. They have to be presented to this building committee. That's what they have at South Down and so certain rules and covenants are set up within the organization and the building committee goes over the plans to make sure everything is followed before it even goes to the Town or whoever. Edgar – That's, in essence, what happens up at Lake Ridge. Plans are reviewed privately for compliance with their own restrictions. Hill – What we were envisioning, Mr. Kahn, is that there would be a set of rules that would be set up up front in the Planning Board process and that each site's development plan because we are not going to be developing all of these sites so we can't do that now, but that there would be a set of rules and what the Town would, in essence, be doing is making sure that the rules that the Planning Board set out are followed before a building permit is issued. Kahn – That's my objection. Hill – We are not talking about the Code Officer designing the site, we're talking about the Code Officer or whatever Town function it is, making sure before a building permit is issued, just as the Code Officer makes sure before a building permit is issued that setbacks and all the other requirements of the Zoning Ordinance are satisfied so that the building permit is legal if you will. There would be some more terms to that because they would be contained in the vote of the Planning Board approving the plan. Vadney – I understand where you are going with that, but I just want to be cautious that we don't do something that becomes an undue burden on the Code Enforcement people and I think Mr. Flanders could probably speak to that better than I can. Flanders – If we had a checklist that was part of the site plan approval as to the requirements, then it would be a fairly simple matter for the Code Enforcement Officer to go down through and see if those documents were there and complete. Sedimentation and erosion control is necessary to build on the lake anyway so I don't see that would be very burdensome, but it certainly couldn't be construed as Bill helping design the site. Edgar – You're obviously more familiar with Lake Ridge, you've basically done those plans, I think in essence what happens there, we have a series of restrictions that were part of that process in terms of trees and walls and in particular trying to make sure the drainage systems are respected from one tier to the other and basically that goes through their internal review process, that's part of their declaration and that signoff as a completed packet is what gets delivered to Bill and he kind of goes through. This basically meets what the Planning Board had set out as illustrated by virtue of the checklist. Vadney – Let's just drop it for tonight, the Town enforcement office enforces Town ordinances and as I think Lou is saying, I would be very careful adding tasks to his job that really aren't our authority to add to his job and I

would think Mr. Flanders would... Flanders - I would agree with that, it's just that we have a specific checklist and there are a few things because at least for the waterfront lots all the sedimentation and erosion control have got to be reviewed by him anyway. Edgar - If you wanted to structure it or some piece of this as a condition of the approval, then it is within its compliance function to make sure that the new development is compliant with either a site plan or subdivision approval depending on how we look at it. I think the points are well taken, but this is the Town's water supply and it's one of the last developable pieces on it and I think if it means a little bit of extra effort all the way around, it's probably one where that extra effort may be warranted as long as it's reasonable. Bayard - Reasonable is a buy word. If someone's trying to develop the property and they are looking for some shorefront homes and the problem is the shorefront is our water supply, we've got to do something there. Vadney - Six lots on the water and four back and meets all the other rules. Anybody have a problem from a pre-application standpoint. Hill - The back lots would not have any water access. Bayard - I have some concerns about 5 and just general concerns about the wetlands and all. Flanders - I think the fact that they sat through the first hearing probably gave them more guidance. Edgar - For example, what are the water depths in that area? What will happen once this gets more public; there will be an incredible level of scrutiny that the project's going to come under from the Shoreowner's Association, etc. etc., and I think you need to anticipate the whole realm of this early on, but then take it to an even higher level recognizing that it is Town water supply. The boats, how many boats and the water quality implications of it are going to be of a higher level than what you heard before. Mary - I can tell you that the depths around all those lots with the exception of Lot 5 have at least 3 feet up to 6-8 feet. Jordan - There's a lot of vegetative growth. Edgar - The grouping of docks might make some sense that you could accomplish with easements. Just like you would a common driveway, maybe you put some common docks on some \_\_\_\_\_ so you don't have six structures jutting out. When we talk about the grassy area that might interfere with boating from a wildlife habitat point of view, that's going to be probably some of your highest habitat. Water depths of 15' or less in and around a stream outlet like that, that's probably a fairly significant habitat. When you sit down and talk to a guy like Mark West or Rick Van de Poll or people like that, \_\_\_\_\_ that's a constraint, to an environmentalist that's an asset. Finer - Maybe a 75' - 100' buffer across the whole front of it with a dock area in one area is the answer to all that too. Jordan - We have enough frontage to do like 19-20 docks and to me I don't think a common dock facility is necessarily the best solution. I think in this case it may be better to have a series of smaller, individual docks just because of that. Vadney - We can't save Waukegan from all encroachment by using this one property, there's enough damage already done out there. I wouldn't worry about a... Finer - That doesn't mean we should encourage any more damage. Edgar - Just be careful not to follow the path where you create your own problems, in that case dual driveways and then back into a waiver to show how we're solving the problem that we needlessly created. I would be cautious

about starting with the 19 docks. Jordan – That’s what I’m saying, the frontage is there to do something like that. Again, my point is in this particular case, it almost seems like smaller docking facilities are a better solution than trying to cluster them all in one area or a couple areas. Edgar – It might and I think part of that separation is to come to that conclusion after speaking to the environmental folks, looking at the shoreline to see other places that would be less sensitive than others. You worked on The Wilds project and look at how we looked at Page Pond really carefully to make sure that the docking facilities were located in such a way to minimize their environmental impacts. I am just suggesting that rather than just automatically assuming the best thing is one for each of six lots is to look at it environmentally because like the last project we heard tonight, it will be reviewed by the Conservation Commission and all these similar issues should come up. I have one question; we received a dredge and fill to replace a culvert on the driveway. Tim is that in anticipation of the roadwork or is there a failed culvert down there? Mary – That’s a PBN and right across from that wetland, there’s an old culvert and it’s one foot and it’s going every time we go down the road so it’s collapsing and when we had those heavy rains in October and I drove across it because it’s my way out, I noticed the water was up pretty high and so I wanted to increase the size of it so that the water can flow through more readily, but it is definitely deteriorating. Edgar – So the answer is it’s nothing to do with the subdivision. Hill – It just accesses the existing dwelling down there. Mary – I’ve been working putting that thing together for two months. Edgar – You mentioned briefly about the site distances. We all know the dips and dales of Jenness Hill Road and this is a conversation you and I had Mary at the very outset and I’ve had it with Tim and Doug as well. We’ve got to make real certain that we have nothing in any way, shape or fashion compromising public safety on Jenness Hill Road and that’s a sight surveyed sight distance but its also making your engineer take a look at things because he has to create intersection alignment, is it 90 degrees, or is it less than that and taking all that travel speed and everything and all that good stuff into consideration for those approaches and knowing that there’s those dips and dales in that road, here again if you can’t get to the front door safely, everything else becomes moot. Hill – How much more developed proposal and at least an outline of the legal structure that we plan to do at a much earlier stage in this one and probably in a lot of other projects because I think it will facilitate our understanding how we can protect this land in the long run. Vadney – I didn’t hear any showstopper kind of arguments from the Board here so if that’s OK with you, we’ll leave it at that and look for you again.

### **TOWN PLANNER’S REPORT**

#### **1. PATRICIA TARPEY – LAKE WINNIPESAUKEE WATERSHED:**

Vadney – Mrs. Tarpey, you have been very patient waiting here tonight. My name is Pat Tarpey and I represent the North Country Resource Conservation and Development Area, Inc. and the Lake Winnepesaukee Watershed



Committee. I'm here to talk to you about an effort that we're starting and hope to get underway. The formation of a Lake Winnepesaukee Watershed Advisory Committee and this isn't a new idea. It's been kicked around many times. I know the Lakes Region Planning Commission in the '70's did a study, it was called a 208 Water Quality Report for the Lakes Region and it focused on several lakes, ponds, tributaries, Waukegan and Winnepesaukee. They actually did some water quality monitoring on 11 tributaries of Winnepesaukee. It happens to be many of the same ones that we're currently doing. In 1998, the Lake Winnepesaukee Watershed Partnership undertook some focus groups, there were four held at various areas around the lake and brought together municipalities, the public, other stakeholders, conservation organizations to try and bring all these interests together and develop a vision and I've attached some things in your packet of the summation of those focuses, an article in the Citizen back in 1998 about that effort. I don't know what happened, I wasn't involved back then, but it fizzled, nothing ever came of it. They held all the groups and the next step wasn't taken. In 2000, Laconia undertook their Paugus Bay planning study, Winnepesaukee River, Opechee as a watershed study. In 2004, an ongoing Lake Winnepesaukee Watershed Association has been doing a tributary monitoring study of 11 of the major tributaries in the lake. We just finished up our second season of sampling and UNH will be issuing the report over the winter and as you know Meredith was just involved in the Waukegan Watershed Advisory Group that came up with a management plan for Lake Waukegan. I'm coming to you because I'm trying to figure out how to approach this on this whole watershed and it's quite large and I have one aspect and one idea is to start small and break it up into subwatershed areas. The first group I would like to work with is sort of a pilot or model with Laconia, Gilford and Meredith. Laconia's interest is, of course, Paugus Bay, that would be their drinking water supply and Meredith and Gilford are the two towns abutting property that drains into that Bay. I've been to Laconia and they are in agreement to participate in this subwatershed group. Gilford has agreed, I've had talks with John and that's why I'm before you tonight to discuss this subwatershed group and hopefully get your support and agreement to participate. I'm trying to get a member of a Planning Board and a member of a Conservation Commission on this committee. We're also going to convene a meeting of the five professional planners of the five towns around the lake that have them, Wolfeboro, Alton, Gilford, Laconia, Meredith and for them to come together and help strategize on how we approach the entire watershed. Those are the short-term goals. Our ultimate goal is a Lake Winnepesaukee Watershed Management Team. Edgar – As Pat indicated, the Planners will be getting together and try to provide what horsepower we can to it from our respective points of view, but I think that as Pat indicated the big part is trying to get the Planning Boards themselves directly involved so it's not just a staff function and getting the Conservation Commission members involved. As you know, Ralph, you can probably speak to this much better than I can, but Ralph and the Conservation Commission have participated in some of the water quality sampling in Meredith Bay. Fortunately or

unfortunately, depending on how you look at it, it has drawn our attention to some of the water quality issues in Hawkins Brook that we'll be needing to address. Bob is leading the charge with the Selectmen to try to get a handle on some water quality issues in relationship to sewer or not to sewer issue on Pinnacle Park and I don't know exactly where that stands, but I know that's ongoing. There's some work in progress there so I think there's, you know, from our point of view, the Meredith Bay part of Winipisaukee is the next most critical area for us to really zoom in on with a watershed management plan. We've started to get a handle on Waukegan, but we've laid out the management framework for it. When you look at the importance of Winnipisaukee, particularly Meredith Bay, to us, it is our economy in the downtown. We have an awful lot riding on really doing the best we can to manage that piece of it from our own self interests and I think in doing so, we're helping all those folks downstream such as the Laconia Water Works. I think that we would have an immediate self-interest that could be served as well as working with our sister communities. I'm going to be, I've made a level of commitment to work with Pat and any other Planners, but I think notwithstanding that, they are looking for representation from the Boards and I could speak to you folks, but I'd like to think that somebody from the Planning Board could agree to represent the Meredith Planning Board and work with these other two communities as well as Ralph or somebody from the Conservation Commission. I think we've learned something and could be productive and my own view is that I think we have some level of responsibility to do this given that we are a contributor and maybe in some respects a leader in terms of trying to problem solve some water quality issues. I think that, to me, it was a natural thing for us to participate in, but it's not a commitment that I can make on behalf of you, it's a commitment that you have to determine on your own as to whether it's important enough to volunteer to work on this advisory group. Vadney – What kind of time commitment are you looking at for people? Tarp – I haven't really worked it out yet and I think maybe that gets decided at the first meeting. I'm envisioning something that could be maybe a permanent type committee, but rotating members, just as you have Planning Boards, Conservation Commission or whatever. That would be the larger group, the Winnipisaukee Watershed Advisory Committee. Vadney – I would be careful of rotating members or you'll have no continuity at all. Edgar – I think the concern would be to not suggest that if you sign up, it's for life. Tarp – Maybe have a year commitment and some other member takes over. Kahn – The beauty of the Waukegan Watershed Committee was that it wasn't members of sitting Boards. Instead, it was interested citizens so there was no overlap in terms of demand on their time. Tarp – That's true, I mean, you can have citizens as well, we're hoping to involve the Conservation Districts, Belknap County Conservation District and Carroll County, but the other good thing about having representatives from the community, you need some local control and you need the people who can get things done back in their community and that's partly why I would like to see Planning Board members and Conservation Commission members. They know what's going on in their

Town, they know what their ordinances are and they have the ability to go back and maybe get something done or present what's been discussed. Pisapia – Mr. Chairman, I just wanted to mention from the Conservation Commission perspective, this effort is well overdue and the need for a comprehensive management plan for the lake is something that I think is important for every community if we want to maintain the quality of the lake and quality of our lives. The Conservation Commission will participate and I personally will make a commitment to provide whatever time is necessary to help out on this effort and I would hope that the Planning Board would do likewise. Vadney – I think the five of us could just nominate Ed. Kahn – He lives out on the Neck and I heard all sorts of concerns about Lake Winnepesaukee from him earlier this evening. Finer – And we know how well he can present an issue. Ed Touhey – I don't know that an alternate is in a position to volunteer. Edgar – I think for it to work, you have to find someone who would not have a personal interest in terms of their lot or their cove, but a personal interest in terms of some passion for the issue and that's going to make the meetings more productive and it's going to make it more interesting. Touhey – If it pleases the Chairman and the Board and it's if it's not against the rules for an alternate to serve on that, I would be happy to. Vadney – I understand the goal, the philosophical goal, I'm not a great believer in these committees to bring one guy from each town, I wish you luck but you're pushing a rope. Tarpay – I know, but I agree with Ralph, it's long overdue. It's been talked about for 30 years. Vadney – To me, it's really a question of getting a commitment from the Selectmen in all those towns to bring something to the voters. Tarpay – Well, that will be one of the outcomes. Vadney – There's got to be 10 scientists within 50 miles of the shoreline of Winnepesaukee who could sit down and write this plan for you in about a week. They already know the basic things that you're going to put in a report and I don't know how you get that done, but I'm not sure a committee is a very efficient way to do it. Flanders – The only thing I would say, I might disagree with pushing a rope just a little bit because the Waukegan Watershed was a similar initiative and that was superbly successful in my estimation. Edgar - You've got to start somewhere, I have been involved in that intermittently, it is apples and oranges in some respects. It is only five towns, but it's only 13 square miles. If you look at the second page and look at the magnitude of the land area (can't make out, microphone went crazy). Vadney – Ed, would you like to take that task on? Finer – He serves at the pleasure of the Chairman. Vadney - I didn't see anyone wildly anxious to do this and I certainly don't want another task. It could be very interesting; I just know that some of these committees can become laborious. Edgar – Pat, have you developed any familiarity with how things have played out in Squam? They put that under the microscope, different facts but similar big lake, multiple towns and some mechanism that has been developed there and I don't know if it's considered a model or not in terms of how they structured it, but I know there's a series of management plans. Bayard – They've got the whole Squam Lakes Association and everything. Edgar – That's something when the committee gets formed is to try not to reinvent the wheel and learn from what others have

done in other watersheds. Tahoe's one that's much bigger but it has come under a tremendous amount of scrutiny from a Regional Planning point of view and I'm sure there's a lot of other work that's been done. Tarpay – I know Lake George... Vadney – So, Ed, Ed and Ralph, you're it.

## 2. DISCUSSION – ZONING AMENDMENTS:

Flanders – I don't want to be rude, but I've got to get up early tomorrow morning. Edgar – Well, here's the deal... Kahn – Do we want it at this year's Town Meeting or do we want to forget about it is really what it comes down to. Edgar – That's exactly what it comes down to, either we find a way to get through some of this or we're going to be out of time. There's not a lot of wiggle room. We've talked to the Chairman about not meeting on December 27<sup>th</sup>, I think we probably pretty much agreed that's fruitless, but even if we come to some consensus tonight on a few things, the timeline is such that we would work out a notice, post the change, we'd have two hearings in January. So we're out of time in the sense of not being able to push this another couple cycles so that's why all the stuff was e-mailed and we asked for comments and asked everybody to read the stuff so that's pretty much where we're at. We're in a position to give you the highlights and see if you think something is ready to go. We've spent a lot of time working on it, you got e-mails on the program and if you have the desire, I would be happy to go over it and if not, then it's next year. Flanders – I don't think it's a matter of desire, John, I think it's a matter of time. I have to be up at 5:00 a.m. and get headed and to concentrate in any meaningful way at 10:30 at night after what we've been through, I think is asking a bit much, OK. And it's not because I'm not interested. Edgar – I understand. Bayard – I'm not speaking for Bob because it seems to me though that we could maybe put in a little bit of time, some of us so that at least it moves it forward. I did read this over and I'd like to go through it some. Kahn – Let me try to explain where we are. There's been a committee that's been working on these issues now for two years at least. It came to a public meeting last January, it was not very well received. We decided to go back and look at it again and I guess the same committee, which I was not a member looked at it and dealt with various issues dealing with the Zoning Ordinance. From the better part of January through I guess August and September and they came to us in October and we had a very brief session. We looked at some of the materials, we had a very brief work session and it became apparent that we could not possibly take everything that had been bitten off, chew it and get it into the Town Meeting so I volunteered to work with John to make a smaller project dealing only with a few changes in terms of the map, very small changes in terms of the map, some changes in terms of uses and to try to clean up stuff in the definitions and the uses where you have 3 or 4 different terms describing the same thing and they'd vary from one district to another and John and I have been working on this for a number of weeks now and we finally have a product that we think works. What does it do in terms of major changes, a major huge overhaul of the ordinance, it doesn't. What it does do is it does minor things like try to give

more coherence and more vibrance to the downtown village by taking portions of the residential district that abut the downtown village and turns them into a so-called "Village Residential" District. That was something that was raised last year. They would have galleries, they would have arts & crafts, they would not have brewpubs which was one of the things they threw tomatoes at last year's public meeting. We've also tried to make, there would also be greater density in the "Village Residential" District so as to try to bring a little more work force housing into the village area. That is the major change, but we've also made some changes regarding the Central Business District, the Business & Industrial District. You heard things last year like well if you zone it so that somebody can put apartments where there's Wickes, where are you going to put Wickes? The answer is, we've got a place for them. It's that sort of change, it's not a huge global change, it's that we've now got a place that's clearly set aside in Business & Industry if you wanted to put a wholesale lumber yard there. We've got issues regarding the Commercial District; it used to be part of the Central Business right now, from Route 3 North of the lights all the way to the Center Harbor Town Line. We've changed that into another district so that sort of north of the Community Center, it's a Route 3 District sort of similar to the Route 3 South District that already exists and the two of them are treated as one district and we've tried to deal with uses that make sense in those districts. One of the issues that we have for you tonight is whether or not amusements could stop at the Laconia city line or should they be permitted to continue North. We can think of all sorts of recreation uses in Route 3 South or Route 3 North that would make a good deal of sense for this town, but don't have to involve bumper cars and miniature golf. We think there's plenty of that where it is right now and that we don't have to encourage that, we can encourage tennis courts, climbing walls, golf courses, all sorts of things that we can encourage along Route 3 that don't have to involve amusements. Vadney – Why isn't a climbing wall an amusement? I'm confused over the definition. Kahn – I just came up with climbing wall, but basically it's more athletic stuff that we tried... Edgar – Versus video games. Kahn – Video games, bingo, that sort of stuff, we tried to exclude that. Edgar – We tried to define it. Kahn – We defined it to exclude it. Edgar – To distinguish it in the first instance from recreation and then that's why we flagged it in the materials as to how to handle it and it could be not included, it could be whatever you want it to be, but you know my view on it and Herb and I have had different views of this as this has progressed over time, but that... Vadney – I still say we are a tourist area. I don't see anything wrong with a miniature golf course. I don't like to play it myself, but a lot of people do. Why do we want to take that right away from us? Kahn - It's not really taking a right away. It depends on the nature of the tourism. Once upon a time, this whole area was very much blue collar. We do think there is more money here in Meredith as a matter of tourism than there used to be 20-30 years ago and it's here year round. It's here in the hotels, but it's here also in retirees like Kahn and Touhey who are here to take advantage of this community and that group of retirees, that group of hotel visitors, they are not into miniature golf. They might be into a tennis facility.

They are into health clubs and so it seems. Finer – So you are trying to gear recreation and amusement more towards the aging population. What happens when the aging population has aged itself out of the amusement and entertainment business or needs... Bayard – What you're trying to do is avoid Weirs Beach, isn't that sort of where we're looking. Kahn – Weirs Beach is big enough. Bayard – But on the other hand, not preclude some degree of recreation and sports or whatever. Kahn – We very much encourage recreation. Recreation stuff is front and center including health clubs, fitness centers, spas, swimming pools, racquet sports facilities, skating rinks, bowling alleys, indoor rifle ranges, golf driving ranges, climbing walls, hunting, fishing, game farms and that kind of stuff. There's a very wide range of things that would be considered recreation and sport. Kahn – We've got a problem and that is this thing has been kicking around for 2 years with work to clean it up to make it makes sense. If you're going to try to deal with it tonight or any other night line by line, it is never going to happen. Vadney – I don't want to do that but I do think we have to get to the fundamental philosophy here which we've never been able to do, we've talked about it for 2 years and in a couple of years John's going to have some kids that are edging on to teenage years and they are going to want amusements. Kahn – Herb, it's right down the road. Finer – Why should we send our money out of town? Look at the campgrounds in town and the number of kids that come into town. Vadney – What is this next door, is the bowling alley recreation or amusement? I don't know. Kahn – I think we've got it as recreation. Vadney – I'm not picking on you I'm just saying how can you define that? Kahn – You've got to make choices, if you can't make those choices, let us give up and go home. Vadney – I made my choice, I think we have to allow some things for various ages. I don't want to zone this town for a bunch of old people. Vadney – There are only about 6, they are kind of a philosophical issue and I don't know, Bill sounded to me like he didn't think we should zone only for old folks. Kahn – It would be very simple for us to put video games in the "Village Residential" district, that way they could be right next to you on Waukegan Street. Finer – There are video games next door, do you want to take them out of that because... Kahn – No, because they are accessory uses. We are not trying to get the video games out of... Finer – We don't have enough of a year round kid population around here to have a video game room only. So if it's not likely to happen anyway, why do you want to exclude it. You are just going to get the business people in town, they are going to get their... Look at how much we were surprised last year. Edgar – It's got to come to a head so who would want it somewhere in the community and, if so, where and by right or by special exception? Those are the 3 progressions. OK, what district for those that are in favor, where would they go? Kahn – We've got it all set up so all we have to do is pull the brackets off and they are there, but I mean, it's already written so that it says [amusement], if you take the brackets off, you've got amusements on Route 3. If you strike out everything in the brackets, you've got all kinds of recreation on Route 3, but no amusements. Vadney – I think you're trying to fight the last war. Vadney – The land dictates some of

that and everybody complains about Funspot, it's an ugly, ugly spot. There's not a teenager that's passed through this area in 30 years that has spent a substantial amount of time at Funspot, like it or not, but there are no pieces of land between here and Laconia big enough to put another Funspot. Meredith doesn't have any land down there that a good Funspot would fit on. Kahn – There definitely is. Edgar – What about the 200-unit RV Park that was fully designed and permitted that never got built. Just past Flurries on the right-hand side is a beautiful piece of land that is huge in size, relatively speaking, and was already fully permitted for an RV park and across the street is the sloping lot that is more challenging from a grade point of view, but the day is going to come when that's going to go so the philosophical question that you need to address is do you want to look at it in the broadest context like Herb is saying and provide these things as an amenity to business opportunities or do you have a more parochial view in saying we have very limited land that is zoned commercial and are we better off trying to encourage other types of development, not so much for old folks or not, but would we rather see other kinds of development that create jobs and one of the things why we're criticized a lot of times is looking at the median income and perpetuating all the negative issues that come with a seasonal, low-end job development or do we take a more affirmative step and try to be a little more cautious as to how some of this land gets developed or is that going too far from the big brother point of view and just leave it to whatever the market attracts. Pisapia – I would just wanted to make a comment and it sounds like what Lou and John have done is they are taking a more regional view of zoning, recognizing that there are uses like these entertainment spots that they didn't include elsewhere and pretty close by, but by taking a broader view and saying what's missing and try to encourage certain types of things and so not having read the document...

Edgar – That's accurate and we took a similar view toward auto dealerships that if you want to buy a car, do we need to gobble up the little commercial end we have with big sprawling parking lots with cars in them or is it reasonable to go to Laconia, Gilford, Concord, Tilton or Plymouth to buy a car. Kahn – That was in last year's proposal as well. Edgar – There are a couple choices like that where some judgment's needed. Vadney – Is a driving range athletic, recreation or amusement? Bayard – Is this the only real issue we have on this? Because I had one issue I wanted to bring up and I thought maybe we ought to consider expanding the buffer zone around Waukegan. I think, what is it 65' now or is that kind of a separate issue? Kahn – We have something working there too. Edgar – If we ever get to that, we want to talk about Waukegan based upon our conversation we had at the last work session. Kahn – What we've done with Waukegan is a number of the uses that would be permitted in the Shoreline District, we have banned from the water supply portion of the Shoreline District, like marinas and a handful of other things that are allowed in the shoreline but not allowed on Waukegan. Vadney – If it can't be done there anyway, all you are doing is irritating the town folks when you bring it up and say, we're going to restrict this. Kahn – I don't think anybody is going to be irritated by not having a marina or marine construction

on Waukegan. Sorell – What do you mean by marine construction, Lou? Kahn – I'm talking about pilings, construction yard, building docks, servicing island folk, they build waterfront structures. Sorell – There's guys that are already doing that on Waukegan. Kahn – Not on Waukegan. Not as a land based commercial operation. Kahn – We had a guy building docks up on Waukegan Street, but that's a different story and he's in the B & I District. We are talking about guys with barges that are going around driving pilings. Kahn – They build docks but they don't have a marine construction yard on the shoreline. Vadney – There's not a lot of call for driving pilings in Waukegan. Kahn – There's also no land to put a marine construction yard. Finer – So why are you telling them they can't do it, if they can't do it anyway? Edgar – One of the kinds of things that we've done throughout all of this is look for obvious disconnects in the ordinance and those we can argue about the probabilities, I would lean initially towards being cautious and a lot can be done with redevelopment. Just because it's developed doesn't mean that land use can't change and we've seen that all over the place so just because the shoreline of Waukegan is developed to me does not equate... Edgar – Somebody could buy two lots, merge them, tear something down and then propose something altogether different. Kahn – The things that we've prohibited on Waukegan I think are not going to draw fire from anybody. Edgar – Things that would otherwise be allowed in shoreline that we're erring a level of caution on that lake. Bayard – And you were talking about a potential overlay district at some point anyway. Kahn – To try to cut back on the density.

Sorell – That doesn't mean that you eliminate the beaches on Waukegan? Kahn – No. Finer – Where does the rowing club, is that allowed? Kahn – They actually don't have any facilities. Finer – What if they were able to get a piece of land and wanted a place to store all... Edgar – It's anticipated and it's called marine recreation and boating. It's defined as shore based facilities including shore docks, clubs, etc., the support of water recreational activities such as sailing clubs, rowing clubs, kayak rental sites, etc., and scheduled lake tours. Kahn – We were able to tack it on the Wickes property, which is where they talk about it. Edgar – We also have to relate that the district also applies to the village, I mean, you know, the Bay and try to make sure we think of it broadly enough and not all of a sudden.. Kahn – Guys again, if we try to do this thing line-by-line, we are going absolutely nowhere and we ought to quit. Vadney – Tell us the ones you don't want to tell us about. Kahn – Herb, you have had the opportunity to see it more often than anyone else and one of the issues that you and I discussed were amusements and you and I really don't have a lot of disagreements otherwise. You had some comments and they were taken into account. Finer - Philosophically, you have to have the whole Board agree on this. If it isn't sold to the Board, it will never be sold to the public. Kahn – Well, as a legal matter, if the Board doesn't put it forward, it isn't going to happen. Edgar – As a practical matter, you're absolutely right. We dealt with, one of the issues was and we spent time at the last workshop with the whole notion of when someone annexes a piece of property where we



have a zoning line bisecting something, we built in the special exception provision. We did have a legal review with Tim. He went over the whole ordinance and every one of the definitions we have maybe a dozen very minor tweaks to the definitions, a comma and stuff like that, but in the scheme of things, he's very comfortable with it. He did suggest that we whack some of the additional waterfront provisions that I drew everyone's attention to, some of the ones that spun out of our island project and for a whole bunch of reasons that I don't want to get real specific about, he suggested that we whack all but one of them. Kahn – Given our current litigation posture, he didn't want to add to the litigation issues by having the Planning Board deal with it right now. Edgar – And if you create permissive language, you need to then have some kind of standards to guide those that exercise discretion and we said the Board may do this and code enforcement may allow that and Chuck may allow this and he was concerned and I appreciate it very much so and that's exactly what I cautioned all of us when we did architectural review, that's why we have all those guidance documents for the same reason so that was the only real substantive whacking that he had in the ordinance. He asked us a lot of questions, but the long and short of it is, here again, we don't need to go over them blow by blow, but there was I think a very positive readout that we had with Tim today. Vadney – What we are thinking of submitting March except B & I... Kahn – It affects every district in some way. Edgar – We cleaned up uses and definitions in every district. Vadney – What did it do for Chemung? Kahn – Not a lot. Edgar – That's why we sent the district comparisons to everybody. Kahn – As one of the two representatives from Chemung, it didn't do anything anybody would be upset with. Edgar – We increased accessory apartments to be permitted as opposed to special exception, that's throughout the entire zoning ordinance. Kahn – Nothing with respect to clusters. Edgar – We left the clusters alone as special exceptions. Vadney – This doesn't approach any size of lots, this is just the uses. Edgar – Public uses and buildings throughout the entire ordinance is deleted. There is a statute on point about governmental land uses which explains the process when a governmental land use by State, County or Local government proposes to do something, there's a process spelled out in the statute that allows the Planning Board to have a hearing and make its comments back but it's not in the context of zoning jurisdiction, so we've eliminated that conflict throughout the whole ordinance. Temporary sawmills we took out because they are a function of forestry. Clubhouses we took out just to avoid the conflict. Vadney – What do you mean by a function of forestry? Temporary Sawmills would be an accessory function of forestry. Kahn – Forestry's a permitted use and the definition of forestry would include temporary sawmills. Finer – So public uses and buildings are special exceptions only throughout. Kahn – No, special exceptions were removed entirely; they are governed by the statutes. Finer – In the stuff you sent me.. Kahn – I know, they've come out since. Edgar – We made an edit. Kahn – We have made some changes. Bayard – Churches are out in the Forestry and Conservation District. Edgar – Since this was sent, OK, I read that statute, discussed that with Tim and in the latest draft it's taken out

so we don't have a conflict between our zoning and the prevailing state statute. Kahn – Let me give you an example of one of the things that we've done because John and I did not sit down to rewrite the zoning law. We took the work that had been done by this committee which was trying to rationalize the zoning law and there were 3 things kicking around in various districts.

Commercial Child Care Facilities, Day Nurseries and Kindergartens and some were in some districts and some were in other districts and when you looked at them, they were all the same thing. There were different rules as to how many kids you could have before you had to file for a site plan approval.

Edgar – In B & I where we had packaging, we had assembly and light manufacturing all as separate things and we just kind of grouped them as an industrial grouping to simplify the ordinance. Bayard – I like what you've got here, but I'm just asking some questions because I missed the other one.

Convenience stores, what size is Cumberland Farms would you say roughly? We've used size things, we've got 3,500 and 5,000, I just wanted to get it in my head.

Kahn – We noticed that that varied all over the place and basically, we left it on grocery stores because those only exist in a couple of districts. Meredith Center and I think there's grocery stores out on Meredith Neck somewhere, there's a grocery store that's been permitted and we figured don't mess with it, but in every other place with the convenience stores, I think we took the size requirement out on the basis that a convenience store is a convenience store and how big can it possibly be.

Bayard – I'm looking at Route 3, you have convenience stores under 3,500 sq. ft. , special exception under proposed. It looks to me like you put it; maybe I've got it backwards, but it looks like you've put it in.

Kahn – If it's under convenience store, we probably took it out in a later draft. There were grocery store limitations and we just, there are grocery stores under 3,500 sq. ft. in the shoreline district.

Edgar – Or at least litigation relative to that. Kahn – And we just didn't want to mess with that one.

Edgar – That had been litigated twice, once in the shoreline district. Bayard – I was just wondering what size because I see some at 5,000 and some at 3,500; I was just wondering the dimension.

Kahn - We noticed that and so with respect to the convenience stores, we took it all out and the grocery stores we left it because everyone of those has it's own history.

Vadney – How do convenience stores read now? Kahn – No size limit.

Bayard – Did you take it out on manufacturing home, I saw it out on some and then one or two places I thought I saw it still in.

Kahn – It's probably out in the latest version. We intended to take it out. Edgar – One other thing that you probably remember from our workshop is the converse of the Lang Street area on the map.

Remember how that was possibly going to be commercial, this is back to residential. Kahn – Another thing we found was all over the map was offices.

There were like 3 or 4 definitions of offices kicking around in various districts and what we did was we came up with essentially two definitions, one is offices which excludes medical and dental and then we came up with another definition, clinics and medical and dental offices, because clinics were also kicking around.

We tried to figure out where does it make sense, our own judgment on it was that medical and dental offices tend to generate more traffic

than an insurance office so we excluded clinics, medical and dental offices from the Residential and Village Residential districts, although we permitted other offices in those districts. We kicked hospitals out on the grounds of who's going to put one here anyway. We excluded from clinics, certain substance abuse operations, recognizing that it is conceivable that there may be public policy issues down the road if someone actually wanted to force the subject. Touhey – This is archaic for it to be excluded, treatment of substance abuse and addiction. That I think is not politically correct at all. What you are trying to do here is to isolate a group of services, perhaps a group of individuals to go someplace else for something they should be able to get in their home communities. When you're talking about addiction, you are not necessarily talking about methadone clinics or like that, it could be and that to me is OK too, but you may even be talking about a child that has an eating disorder. That is an addiction, smoking is an addiction, alcoholism is an addiction and for us not to realize that those are real problems in every community, even a community of 6,000 people, that's archaic. Bayard – It seems to me you can get rid of the word "addiction" and I don't know if you can further define substance abuse of illegal drugs or something, but I mean... Kahn – You're dealing with a few definitions. One definition is clinic, which doesn't have in the existing ordinance, has no restrictions, no exclusions. You have another definition in the existing ordinance of nursing convalescent home, which excludes... Bayard – Did you catch what I said; just get rid of the words "or addiction". Kahn – What I'm saying is I'm trying to tell you there's some history. Nursing and convalescent homes in the existing ordinance exclude mental illness, alcoholism and narcotics addiction. Kahn – It's on the books, it's there. Touhey – What do you mean it's on the books? Edgar – It's in the current zoning. Touhey – I'm just saying that yeah, maybe it was put in the current zoning a long time ago. Kahn – John and I thought that it wasn't for us to be politically correct. If you want to take those restrictions out of nursing and convalescent homes, they are easy to take out. Just strike them out. It's not something we need to get hung up on, just recognize that that restriction, you see this is what we were doing, we found these things in one definition, but they weren't in another one so okay I'm not going to treat narcotics addiction in a nursing/convalescent home, I'll do it in a clinic. That's what we're dealing with, guys. Edgar – In trying to clean that up we got into that world of making judgments and we can go just like amusements, pick it apart and we can take out the brackets. Bayard – My suggestion is eliminate "or addiction" in both those. Bayard – But not including treatment of substance abuse and eliminate the words "or addiction". Edgar – What about mental illness? Bayard – I'm ambivalent on that one, I'm just saying get rid of "or addiction" in both of those. Edgar – What is it about the effect of the substance abuse facility that would render it needing to be included and that's effectively what you're saying right? Touhey – What is so repulsive about treating people for mental illness? Bayard – There's nothing that precludes it in clinics or medical offices, where its being precluded is institutionalized I think with the nursing home and... Edgar – What Lou is eluding to is there is probably bit of a gray area that someone

could make that argument. If it's a state function, if it's a state hospital or state clinic, clearly we're \_\_\_\_\_ (governmental land use do you remember talking about that). Where it gets gray is what if you're licensed by and heavily subsidized by the State but running a private for profit business. Tim felt that that is to be governed by zoning. Tim felt that you could govern those kinds of uses if they were privately owned, but recognizing that someone could mount an attack on that and gang up on, you know, I'm serving a state function, I'm licensed by the state, I'm subsidized by the state and bring it in that way and we'd have to figure it out. Vadney – One of the things that's been controversial in other towns are these halfway or group homes for juvenile delinquents. Edgar – Group homes is one where there is going to be a level of pre-emption. Bayard – And that's why you put special exception. Kahn – We didn't monkey with group homes, group homes we left exactly the way (too many talking at once) Touhey – What is a group home if its not something that we might be treating people for an addiction. Kahn – Your typical group home, the group home concept came about when the state got the bright idea they would close down in-patient mental facilities and farm them out and there's also you know when they closed down the Laconia State School, they put the in-mates in homes, some of them were group homes and some were individual homes. Vadney – There's also the teenagers in trouble and... Kahn – They tend to be under government programs and you really can't do much about it. Edgar – Specialized and distinctive care and supervision in a family environment so it's broad. Touhey – It goes along with the group home that if you have a group home, you would have youngsters there that need therapy. Vadney – But we authorized clinics and to me those would come into clinics don't they. Bayard – If you read it, the exclusion is not on clinics. Touhey – What I'm saying, John, that you wouldn't have in a sense for those children, you wouldn't have one without the other. There would be some clinic hopefully nearby that would be treating those kids. Kahn – Yes, but not necessarily for the same thing they are in a group home for. Bayard – But if you look at the thing, the only, you say the only thing about clinics, the clinic restriction is substance abuse and it says or addiction and I would eliminate the "or addiction" myself and just leave it at substance abuse and maybe make it illegal substance abuse so we don't want a methadone clinic basically we're trying to exclude there. If someone has a problem with alcohol addiction, fine they can be treated. If someone has a mental health issue... Kahn – We were not charged with writing a new zoning law for the Town. We were charged with cleaning up the old zoning law and where there were inconsistencies, we tried to make it consistent. Edgar – If the majority of the Board wants to take and pick it away, it's not a difficult deal. Just like we're moving brackets. The definition's right in front of you and you've all had it, if there's a general direction to Lou and I to eliminate those exclusions, we change the definition. Kahn – I just want to point out to you, if you want to take it out of clinics, you should take it out of nursing and convalescent homes also. It doesn't make sense to have it in one and not the other. Edgar – OK, if that's what you want to do, we'll do that and take it to the first hearing. Vadney – What do you think

will be the most controversial part to the public? Edgar – One thing and here again I don't know if you all read it or not, we have eliminated what we would describe as conventional density controls in both the village districts. We used to have sewer and water , 10,000 s.f., now there is no prescribed density. Lot coverage, setbacks, driveway permitting, architecture, building heights, buffer requirements, landscaping and all that kind of stuff collectively is going to give you your yield on a piece of property. Bayard – Those things aren't in here though. Edgar – In the narrative part of each of the two boxes. Kahn – There will be boxes showing the Village Residential. Bayard – There's a narrative part , but there's nothing here about setbacks. Kahn – Last year we got yelled at for signs, we are not doing signs at all. Last year we got yelled at for brewpubs and noise in a residential district and we've eliminated anything that will create noise. We got yelled at for bringing traffic into a residential district. I thought that the problem was the kind of business that we were permitting. Vadney – We are no longer doing Lang Street right? Edgar – Lang Street went back to Village Residential. Kahn – The only thing in that district, Lang, Stevens, High Street, the only things that are being permitted in there are galleries and arts & crafts and specialty retail. It's not going to be a big automobile traffic generator, they are not noise generators and the answer is if they want to complain about that, fine but that's not what they were complaining about last year. What they were complaining about was noise and traffic. Kahn – To me, there's not much controversy here. Sorell – Can you put it to the Town as house cleaning? Kahn – It mostly is. With the minor exception of the Village Residential District, it mostly is housecleaning. Kahn - We've made some choices, we didn't make the choices, the committee made the choices as to say we don't want gas stations on Route 3, where are we going to put them. Edgar – The other thing we did in the B & I, we loosened that up and added some uses and building trades was one that we clarified. All of the construction trades, with the exception of blasting, concrete plants, will be allowed in B & I and they are allowed by special exception on Route 3. The reason they were a special exception on Route 3 was basically because someone and it wasn't us, it must have been coming out of this committee, made a choice that there was going to be equipment, sales, rental, service and building trades and building trades were going to be permitted in B & I and the other one was going to be permitted on Route 3 so when you did the flip side, you permit the equipment in B & I by special exception, you permit the building trade on Route 3 by special exception. Where do you leave room for a particular business or do you just let them go anyplace. Edgar – The thing that could be a lightning rod issue is that service stations and car dealerships in the 3 North segment would be grandfathered and the service stations in terms of future service stations are allowed elsewhere. Car dealerships would not be. Kahn – You can sell gas on Route 3 but you can't service automobiles there. You can sell gas in Meredith Center but you can't service automobiles there. Edgar – So the convenience store combos that we have would be what you would have in the village cores and then we allow for the service station components in other districts. Sorell – Where are you going to allow the

garages? Kahn – The garages in the sense of auto repair? B & I. Edgar – B & I and I don't know if it was Route 3. Kahn – I don't think they are there. Edgar – We have a repair facility now behind Charwill's. Kahn – One other issue that came out of this committee which I was not a member, I had nothing to do with it, is someone suggested that seasonal boat storage in the B & I district was a good idea. Boats under white and blue... Sorell – Don't we have that at Meredith Marina now? Kahn – We have it at marinas, the marinas are permitted to store but this is off-marina storage. Someone back in the days when I first joined here as an alternate, someone was complaining about boat storage out at Flight Craft and it's never been permitted. It's not on their site plan. Edgar – Let's talk about that because we... Kahn – One of the concerns that I had, I'm told by John that back up by Annalee's it's not at all uncommon for them to store boats on the ground there in the winter. Edgar – We did a site plan amendment for boat storage. Kahn – In an area like there where you have a lot of water recreation, the marinas don't have enough space to store all the boats so they are going somewhere. If they are going up at Annalee's, you're not seeing them in the winter, basically its parking lot space that they're taking up. The only thing that concerned me was Flight Craft and I mentioned this to you I think, Herb, about that huge 5-story high pontoon boat thing on Route 16. That thing is huge and there's another one down in Grossman's. Edgar – Flight Craft owns at least two wooded lots to the west of their current building (small ones) that are part of the acquisition and they had talked about when they came about plans to expand. Now, not that we're catering to that, but as a practical matter, there's where it would probably play out first and so it is a philosophical thing, do you want to narrow it down that boats, as a practical matter, get stored in marinas period or your own little house lot or is there a responsibility of some sort to try to accommodate boats some other place? Kahn – What we did was on the assumption that boats could be stored anywhere in B & I and that might involve structures. We kind of beefed up the buffering requirement giving the Planning Board exclusive authority to come up with buffering for visual purposes. Vadney – Right now, the way you've written, this, you could store, Flight Craft could cut those lots and store boats on them. Kahn – Absolutely. Not only could he cut the lots and store boats on them, but within the... Vadney – Because that's B & I and.. Edgar – But they would still have the buffer requirement to the extent that we can work it. Vadney – As far as the rest of the stuff about maintaining a nice look coming into town, one of the ugliest parts of the Lakes Region six months of the year is that square half mile down near B Mae's, the marinas with blue tarps, they go forever. Bayard – I'm not gung ho over having boat farms. Kahn – The answer is do I want to see a 5-story high boat storage rack south of the light at Winona Road. No, but on the other hand, if the guy has to plant 60' high pines in front of it, maybe it's not so bad. Edgar – Well, you know, and I'm not throwing this in your face, Herb, don't take it that way, but if we take the line of thinking that when people come here to recreate, they also come here to vote. It's not my personal choice, but if we are a lake community. Kahn – I've got a suggestion and that is you could put that seasonal boat storage is OK south of 104 in B & I, but not

north of 104. They have been doing it up by Annalee's. They haven't built racks, but they just put them on the ground. Vadney – Would that get us into a spot zoning kind of thing. Kahn – It would. Edgar – We were talking about a different issue on the Commercial 3 District with Tim today and because the characteristics of Route 3 North are a little bit different than Route 3 South in terms of density and utilities. Within the district, we just set our standards for the 3 North different than 3 South and that gave Tim some pause for that reason that we're kind of creating a district within a district. Kahn – But you're separated by several miles. Vadney – Not the distance issue, but he had some technical issues about sewer and... Edgar – What Lou's getting at is on the North side, you have a real buffer to work with and on the South side, you have some properties that are more vulnerable to the visual issue if a big building went up. Kahn – If you put a 5-story boat rack in there at Annalee's, you'd see it from Route 25 coming down the hill, but otherwise you wouldn't notice it. Edgar – Whereas, anything on the corner of Winona Road and 104 or in that area, you will see it. Bayard – The other thing is if it's two, it'll probably try to make it three by throwing them on top of the roof. If you go to the old McIntire Circle and look at that fourth leg going into their industrial park, you see the big Irwin box, that's what we're talking about and what was it 45' high? It would go to the max. Vadney – The Town was upset when Flight Craft put all those boats out there two years ago. That is a very visible thing. Bayard – They didn't have a permit to do that. Kahn – Guys, can we get your OK to notice this and start the process? Bayard – I move that we do that. Vadney – Where do you go from here, John, if we... Edgar – We had a series of edits from the Town attorney today that we've got to build in other than I think the waterfront stuff, are not terribly substantive. We have Tim on alert that if we get a vote tonight to go forward, then he will be crafting us the legal notice because of the complexities of this whole thing. I'll be working on an explanation sheet as a handout kind of thing and then we'll be scheduling hearings in January and the ball would start rolling. We would start to touch base with the media and get the word out. Kahn – What we have working are explanatory memoranda that would not be official in the sense that they don't get adopted, they don't get put in public notices, but they are handouts. It would explain how we've moved particular land from one district to another and then significant changes in uses. Edgar – Wherever we have a new district by name, Village Residential, or setbacks, just say side setbacks, wherever we have a new district by name, VR and Commercial 3, one thing we should have resolved are what are the setback provisions, frontage provisions. The first logical step is if the Village District was CB, it is now the way we use CB. If Village Residential was residential for now, where it gets a little bit less clear is the commercial corridor was two different districts, Route 3 South and Central Business, which one do we go with. Kahn – It was my suggestion to go with two different ones, treat north which is a different sort of operation.. Edgar – Lot size, different lot sizes, the Commercial 3 South has a 50' front setback and a 20,000 sq. ft. density with sewer. Route 3 North you have much smaller lots, you don't have as much visual sensitivity farms and views capes and so 50' of frontage set

back would be cumbersome on 3 North and that is what led to the discussion of having a footnote. Bayard - Anyone want to second my motion? Then I call the question. Edgar – You’ve got to be comfortable with it and if you’re not, it’s something you’ve got to be, we can’t go to a public hearing and have everybody fragging??. Kahn – Herb, you’ve been sitting in these meetings for two years. Vadney – I know, but that doesn’t mean I agreed with everything. We’re dabbling with people’s property rights here. Kahn – I did not view my role here as writing a zoning law to please me or anybody else. My role was simply to take whatever the committee had come up with and try to make sense out of it and that’s all I did. Vadney – And I appreciate that. Kahn – I don’t have any personal stake in any of this, I could care less. Vadney – You misunderstood my comment. You can’t edit something without putting some of your own biases in, they are there and you can’t speak without an accent. Kahn – That may be true, but if I see two or three provisions that are in conflict with one another and I try to reconcile them, I don’t know that that involves any personal bias. I was just trying to carry forward what your committee was doing. Vadney – I didn’t agree with everything they did either. You still have changes to make, edits and stuff. Kahn – Nothing major, if we can get a resolution on whether or not we’re going to be politically correct, that’s about the only thing I see that’s open and amusements, I guess we’ll leave in. Bayard – By special exception, please. Absolutely, by special exception, but other than that. Vadney – Is it unfair to ask for amusements in there, I don’t think we should have a Town that says if you’re under 20 years old, don’t little bit of time in that the hearings would probably be after the holidays and so I’ve got a little time to do the final cleanup. Kahn - One of the things is just a matter of dealing with the disaster last year would be we want to get the Laconia Sun, The Citizen, Meredith News, call them in and tell them what we’re up to and show them what we are up to so they could explain it before there’s a public meeting. Vadney – I would say let’s go ahead with it, I would like read when you finally make the changes Tim’s talked about and things, I want to at least read it in case there’s any minor editorial, no major functional changes or anything. Bayard – Is it just section V that we’re changing? Edgar – And VIII, the definitions that go with it. Bayard moved, Kahn seconded, voted unanimously.

Meeting adjourned at 11:55 p.m.

Respectfully submitted,

Mary Lee Harvey  
Administrative Assistant  
Planning/Zoning Department

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

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William Bayard, Secretary



