

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

Finer moved, Kahn seconded, I MAKE A MOTION THAT WE GO ON FOR THE COMING YEAR WITH THE SAME SLATE OF OFFICERS THAT WE HAVE CURRENTLY:

Chairman	Herb Vadney
Vice-Chairman	Roger Sorell
Secretary	Bill Bayard

Voted unanimously.

Finer moved, Kahn seconded, THAT WE APPROVE THE MINUTES OF MARCH 28, 2006, AS PRESENTED. Voted unanimously.

APPLICATION SUBMISSIONS

1. **WINDOVER REALTY INVESTMENTS, LLC. AND JANE RICE** – Proposed Boundary Line Adjustment between Tax Map S06, Lot 2 and Tax Map U36, Lot 26, located on Meredith Neck and Powers Road in the Shoreline District.

The applicants propose 3 minor boundary line adjustments in order to correct two existing encroachment conditions, one being the existing driveway to the Rice camp which encroaches onto the abutters land and the second being the existing Rice dock which also encroaches onto the abutting lot. Lot 2 is the property of the proposed 8-lot subdivision that we will be hearing later this evening. Application, Boundary Line Adjustment Plan and abutters list are on file. Filing fees have been paid. I'd recommend the application be accepted as complete for purposes of proceeding to public hearing later this evening.

Finer moved, Bayard seconded, THAT WE ACCEPT THE APPLICATION OF WINDOVER REALTY INVESTMENTS, LLC AND JANE RICE FOR A PROPOSED BOUNDARY LINE ADJUSTMENT. Voted unanimously.

2. **STEVE CATALANO d/b/a ABONDANTE** – Proposed Site Plan Amendment to expand an existing restaurant use, Tax Map U07, Lot 130, located at 30 Main Street in the Central Business District.

The applicant proposes to expand the dining area of an existing restaurant into the now vacant storefront space adjacent to the restaurant on Main Street. There would be a total of 48 additional seats, eight of which would be outside and located in front of the restaurant. The restaurant would be made handicap accessible as a result of the proposed improvements. Applicant is currently

working with Code Enforcement and the Fire Department regarding code-related issues that will be a function of the Building Permit and Certificate of Use and Occupancy. Application and abutters list are on file. Filing fees have been paid. Applicant has requested a waiver to the formal site plan requirements in light of the fact that the application does not involve site work or building expansion. I recommend the waiver be granted and the application be accepted as complete for purposes of proceeding to public hearing later this evening.

Sorell moved, Finer seconded, THAT WE ACCEPT THE APPLICATION OF STEVE CATALANO D/B/A ABONDANTE RESTAURANT FOR A PROPOSED RESTAURANT EXPANSION. Voted unanimously.

3. **LOVEJOY SANDS DEVELOPMENT, LLC** – Proposed Minor Subdivision of Tax Map U34, Lot 21, into three (3) lots (1.51 ac., 1.45 ac. and 2.15 ac.) located on Lovejoy Sands Road in the Shoreline District.

Applicant proposes to subdivide 5.11 acres into 3 lots. The property is vacant. The lots would be served by a 400' road. Engineering plans have been submitted for the road design. Application, subdivision plan and abutters list are on file. Filing fees have been paid. Recommend the application be accepted as complete for purposes of proceeding to public hearing later this evening.

Finer moved, Sorell seconded, THAT WE ACCEPT THE APPLICATION OF LOVEJOY SANDS DEVELOPMENT, LLC FOR A 3 LOT SUBDIVISION. Voted unanimously.

4. **PLATINUM REAL ESTATE INVESTMENTS, LLC. AND MARLENE L. OKONSKE** – Proposed Boundary Line Adjustment between Tax Map R16, Lots 25A & 25B, located on Weed Road in the Forestry/Rural District.

5. **PLATINUM REAL ESTATE INVESTMENTS, LLC. AND SCOTT A. AND DIANA L. BATCHELDER** – Proposed Boundary Line Adjustment between Tax Map R16, Lots 25A & 25B, located on Weed Road in the Forestry/Rural District.

We have a letter dated today, that issue has been withdrawn and they would like to reschedule to April 25th and they will re-notice. That will not require any action here tonight. Edgar - That applies to both 4 and 5 on the agenda. Technically it's not withdrawn. They have asked to be placed on the next agenda for the next meeting which will be the 25th of April and it will involve renotification. Edgar – Mr. Chairman, that applies to both items 4 & 5 on the agenda and technically it's not withdrawn, they've in essence asked to be rescheduled for the next cycle so we would pick up the acceptance and the hearing at our next meeting which will be the 25th of April and it would involve renotification.

6. **RICHARD AND GAIL FREEMAN** – Proposed Site Plan for a proposed multi-family condominium, Tax Map U03, Lot 8, located on Mass Avenue and Hillrise Lane in the Residential District.
7. **RICHARD AND GAIL FREEMAN** – Proposed subdivision of a multi-family use into condo ownership, Tax Map U03, Lot 8, located on Mass Avenue and Hillrise Lane in the Residential District.

This next one is almost identical. The Richard and Gail Freeman proposed site plan and subdivision for a proposed multi-family condominium located on Mass Avenue and Hillrise Lane. There are two issues 6 & 7 on the agenda, but they are both basically the same and that also has been requested to be withdrawn from tonight, rescheduled for April 25th and re-notification will occur. Edgar – Mr. Chairman, it was brought to the Town's attention that there was a defect in the abutters' list that was submitted by the applicant. The defect being that one of the properties on the list was transferred in ownership and was not picked up in the abutter's list submitted by the applicants so in discussions with the applicant it was agreed that the cautious and prudent thing to do would be to correct that defect and then re-notice and put the whole package on for the next cycle.

Vadney - We've had a letter come in since the last meeting about the Ducharme issue out on New Road in the Chemung area. In that letter the applicant has stated that they are withdrawing the application. They requested in there that it would be "without prejudice". First, I want to make it clear that it is not the applicant who requests to go "without prejudice", that is a Planning Board decision based upon what has transpired leading up to the withdrawal. That being said I think we should take a look at that and have a quick Board discussion on the withdrawal of the Ducharme plan. Kahn – Mr. Chairman, I agree with you wholeheartedly that it's our decision as to whether it is withdrawn "with prejudice" or "without prejudice", but I don't have a problem with them withdrawing "without prejudice". Finer – I agree with that. Any further questions or comments. Vadney – OK, as far as I'm concerned that can be withdrawn. We do also have a letter from the attorney for some of the folks out there. The only other issue would be the question of the ZBA approval and that is I believe beyond the scope of the Planning Board. That was not given by the Planning Board, that was given by the ZBA and any withdrawal that we can approve has no bearing, that is a legal issue to be taken up elsewhere. The issue before us is the withdrawal of the Ducharme application "without prejudice". They can just withdraw that and go about their business as they see fit. Finer – I make a motion that we accept the withdrawal without prejudice. Seconded by Kahn. Voted unanimously. The Ducharme issue is withdrawn and without prejudice".

PUBLIC HEARINGS

1. **WINDOVER REAL ESTATE INVESTMENTS, LLC (FORMERLY MERTON WINN CAPITAL, INC.):** (Rep. Mike Garrepy) (Touhey stepped down)
Continuation of public hearing held on February 28, 2006, for a proposed Major Subdivision of Tax Map S06, Lot 2, into eight (8) lots ranging from 2.54 acres to 17.69 acres, located on Meredith Neck and Powers Road in the Shoreline District. Application accepted November 22, 2005.

As part of that tonight, a few moments ago I read into the record for hearing tonight a Boundary Line Adjustment between Windover and Jane Rice and we'll look at the whole package together but they will require separate votes.

Mike Garrepy – As previously mentioned, we are proposing 3 boundary line adjustments to remedy some encroachment issues on the site between the Rice property and the Atteberry property. The area that's shown here is a hatched area is an encroachment area where the existing gravel driveway for the Rice property now encroaches upon the Atteberry property. The first issue is to remedy this encroachment issue of a small portion of the gravel that exists on the Rice property today. The second area of adjustment is down by the shore where we're fixing an encroachment issue as the existing dock for the Rice property now encroaches out as you draw the lot line out onto the lake, we have a small encroachment with the Atteberry property so we're just adding a small section and it's I believe.. Vadney – What is the scale of the map you have up there? This is 1" = 50'. Garrepy – I think you have 1" = 100'. I believe you have the overview sheet of the entire property. What was requested at the last meeting was that we provide an overview sheet of the entire property which I have to show you as well on the board, but this is the breakdown of just the boundary line adjustments. The third area to be conveyed is actually being conveyed from the Rice property to the Atteberry property and that's a small triangular corner of the property and it's just in effect if you look at the overview plan, it just helps create a better building envelope, a potential building envelope for the proposed Lot 1. That's about it in a nutshell. Edgar – The typical package that we require would apply here relative to the Boundary Line Adjustments. That being that conveyance deeds for the 3 parcels being transferred would be submitted for staff review, we would require executed deeds to be recorded with the mylar and that the applicant's attorney would verify in writing whether or not either lot is encumbered by a mortgage and to the extent there is an encumbrance or encumbrances, a release or releases would be recorded with the deeds and also our standard conditions that the surveyor would provide written evidence that all pins have been set including angle points prior to recording of the mylar. These adjustments are relatively minor, these adjustments are reflected on the subdivision plan so the subdivision plan that you'll see next incorporates these changes and

that the adjustments do not result in the creation or compounding of a zoning non-conformity which is one of the other things that we look for. DeVoy - I'm an abutter to the Rice property and I don't know if this is the appropriate time for me to address this or when we get into the subdivision. What I'd like to know is in the process of changing these boundary lines, is there going to be something done with the Rice's driveway that will change it's current use for the Rice's property only? Vadney - Is there any intention to expand the usage of that driveway for any other property? Garrepy - At this point, the only proposed additional use of that driveway is to share proposed Lot 8's access will be via deeded easement across. Vadney - So this will become a two-home driveway instead of a one home. ?? Lot 1 won't have anything to do with it? Garrepy - The proposed Lot 1 that we show on our subdivision plan won't have anything to do with this. DeVoy - I don't know if this is still the right time for me to address this, my concern is when it's used for Lot 8, now will that be a year-round use? Garrepy - We're proposing that these lots be permitted for year-round occupancy if that's in fact what the ultimate end user chooses to do with the property. DeVoy - My basic problem and again it's either here or the next hearing, there's a brook that runs underneath the Rice's driveway. That brook feeds my wetland and right into the lake. Currently, my well which is a dug well and is adjacent to my wetland, it's a little higher, but it does take some of the water obviously filtering through the ground into the well. My water is clean, nice and clean and pure. The wetland is nice and clean and pure. There are all kinds of aquatic life in that wetland. You've got the Blue Heron that goes in there and feeds, it's a very active wetland and the only source of the water coming in there is from the lake or that brook. That brook, if you stand at that brook, both surface water and ground water feeds that brook and if you look to the East, for about several hundred feet it slopes down into the brook. You go to the Northwest, for several hundred feet it slopes down to the brook. Everywhere it slopes down to that brook. It's going to pick all of the surface water and all of the groundwater. Any contaminants that get into that area are going to enter that brook and it's going to enter my wetland and it's going to end in the lake so if someone can use it year-round and plow that driveway, that driveway isn't sufficient to be able to support the snow and everything else that would be plowed into the brook and also it would be such a slope that if someone's using it in the winter time and it's slippery, they are going to have to salt it. That will end up in my brook. So I have a real concern so I don't know if it's this issue or it's the total subdivision issue I have to address. Vadney - It's OK to bring it up here although we'll probably discuss that in depth when we go to the subdivision itself. I didn't get your name for the record, David DeVoy and I'm at 139 Powers Road. Vadney - We will come back to your issue in a little while. Public comment portion closed and I'll turn to the Board for further discussion or a motion on the Boundary Line Adjustment. Vadney - By the way, I might ask, is this Boundary Line Adjustment something that the two parties would like to go ahead with even if the subdivision is not

approved, sometimes we do them as an independent. Garrepy – It's something that is proposed to be done concurrently with the subdivision approval. That's how our agreement reads. Vadney – Concurrent, so if the subdivision falls through, the boundary line adjustment falls through. Bayard – Hearing that comment, it seems to me it might be premature to act on that at this point because I'm not sure technically whether he would withdraw it or exactly what, but it sounds like this is pretty much contingent on acceptance of some sort of the proposal that he has. It's good that we heard it up front, now we know the situation particularly on the driveway issue that he brought up. Why don't we go to the other portion on the subdivision and discuss that. Garrepy - Just to give the Board a brief summary of what we've done since we've been here last. We've put a lot of the finishing touches on the plan. We do have John's staff report that he prepared this week for this project and we've gone through that, I think we agree with pretty much everything that John has in his staff report. We'll have to add a few notes here and there based on John's report and recommendations, final state permits and that sort of thing. We can go through that in whatever detail you'd like tonight. We did meet with the Conservation Commission. We had a site walk with them on March 31st. We walked for a good couple of hours out there. Mark West sort of led the way and we walked through the entire site. We looked at not only driveway impacts for crossings and for buffer impacts which are more relative to the ZBA process that we'll be going to next month, but we also looked at trail crossings and trail locations for pedestrian access down to the water and particularly Lots 3 and 4 and we talked a bit about the potential docks and potential beaches and other amenities that might exist down at the shore of Lots 1-4 so we had a good walk with the Conservation Commission and they have submitted a letter that is part of your packet and I know that John has I believe pulled all of the important points or recommendations out of their memorandum and put that in his staff report and we're happy to go through any of those issues that the Board may want tonight, but I guess it might make the most sense just to have me stop talking and have you start asking some questions and take some public comment. I think that might speed things along, but I think we're pretty close to being in agreement certainly with what John has in his recommendations and tonight we're hopeful that we can finalize this application at least with a conditional approval, that's our hopeful intent to leave with tonight. Edgar – As I indicated before the proposed plan, the subdivision in front of you is predicated upon the Boundary Line Adjustment with abutter Rice to correct the two encroachments. It's my understanding that there's also one other land related issue that the applicant intends to resolve. It certainly was spoken to that effect in the February 28th minutes and that is a piece across the street where there apparently was a small sliver of disputed land with abutter Hamblet and I think the minutes of the 28th indicated the applicant's willingness to deed that over so I just didn't want to lose sight of that. That was part of what was discussed apparently on the 28th. That was a meeting

I was not present at. With respect to the standard discussions on use, density and lot sizes, we do have lot size calculations that have been submitted based upon actual slope and assumed worst case soil types. In Meredith that worst case soil type would be a shallow to ledge soil type known as a Shapleigh-Gloucester and the calculations all E and F slopes and wetlands have been deducted and the calculations demonstrate that each lot conforms with minimum requirements and that the property could support substantially more lots from a septic impact and groundwater impact perspective. The additional fieldwork on the wetland issue was conducted by Mark West. As you know from the last hearing, the development sites on Lots 3 and 4 were pulled back away from the vernal pools and the stream closest to the lake. The current proposal as it sits in front of you now has several minor impacts. There is a driveway on Powers Road servicing Lot 8 that would be located in the wetland buffer. There is a wetland crossing on the common driveway lots up on Meredith Neck Road and then there would be minor impacts associated with any trail crossing that was referred to again in the February 28th minutes. The buffer impact, I stand corrected, the buffer impact for one of the driveways off Powers Road is on Lot 7. The applicant has filed with the ZBA for the two special exceptions. West Environmental had submitted at the last meeting a wetland evaluation report. This report goes on to summarize that the four vernal pools on the property and the stream and the wetland related to that stream are the most important from a functional perspective. The second tier as Mark describes it would include the wetland nearest Meredith Neck Road and the wetland near Powers Road as having moderate wetland function and the third tier includes five smaller wetlands, four of which are isolated. According to the wetland scientist, they provide a very limited function and do not possess principle wetland functions. The ConCom has submitted a letter in your packet that can be found on Page 101 and my summary of that letter is on Page 72 and they've detailed a series of recommendations. It's my understanding that those recommendations have been also forwarded to the applicant and they might be able to respond to those suggestions. There are standard comments in the staff report relative to the applicability of wetland permits. One of the most significant aspects of this that we haven't yet got to has to deal with future restrictions on the property. There's been concerns raised at all levels with respect to getting our arms around what the total impact on the property is and as we have done on other projects in the past, we tried to identify building envelopes that can be readily developed without needing further wetland relief and we've suggested in the past that such stipulations be part of any approval, factored into the deeds and that type of thing so I think that's an important issue that we need to speak to. Similarly, there are other issues regarding easement access and the like. I noted in the February 28th minutes that those were all discussed and seemingly at least in principle agreed to and I think we need to talk about how those kinds of stipulations get memorialized. We have state subdivision approvals required for the lots

less than 5 acres or any lot that's located within the Shoreline Protection Act area. Final plans need to clarify where and how electrical service will be provided. With respect to access to the property, as we all know the property has frontage on two roads. Meredith Neck Road is a state road. The proposed common driveway on the Neck road, the new one would require a DOT permit as well as the change of use to the existing driveway which would then become also a common drive. With respect to any driveway permitting on Powers Road, that too would necessitate driveway permits from our Department of Public Works. The current proposal involves two flag lots coming down onto Powers Road that would be served by one common driveway. There is a third lot according to the subdivision plan that would be accessed via a separate drive off Powers Road. We have had discussions with the applicant and some of the staff with respect to possibly connecting that stand-alone lot which would be Lot 7 into the common driveway. Mike Faller has expressed his concern that the common driveway and the stand-alone driveway as currently proposed are too close, it's about a 30' separation. From the Conservation Commission's point of view, they'd like to see that incorporated in the common driveway because it currently is proposed to fall within a protective wetland buffer. The Fire Department's reviewed that notion and has no objection from the Fire Department's point of view. There is a little bit of a dilemma that we've talked with the applicant about and we need to have some discussion about. According to our subdivision regulations, streets are defined as to include roads but not including drives servicing not more than two lots. In other words, if you get to the third lot it's considered a street or a road and at that point the Selectmen's Minimum Road Standards kick in so essentially we go from a virtually non-regulated driveway scenario to a 26' cross section which would be two 10' lanes and two 3' shoulders. Vadney – Would that have to apply to the entire 1,200' or could it only apply to the couple of hundred feet that it would have to go in. Garrepy – 100'. Edgar – Well, there's a few ways to skin the cat and we'll get to that. So in one instance, you have a third unit on a common driveway which is inconsistent with your subdivision regulations. By definition, it becomes a street and kicks in the Selectmen's road standards. If we were to consider it a driveway as opposed to a road, my sense of it is that would necessitate a waiver on your part and some concurrence from the Selectmen's part that this is a driveway and not a private road and that would obviate the road standards if we had that kind of concurrence. Another way to possibly look at that would be to have some form of a reduced standard for the first 100' that would provide up to where the third driveway comes in. I'm not sure that you could argue it back and forth which is the more proper way to go. I think from the Town's point of view, if it's a driveway, we would just assume it to be declared a driveway so the likelihood of any exposure to the Town in taking over a private road is negated. It would be a driveway, a driveway, a driveway and try to at least minimize the exposure that somehow this thing

could conceivably become a public street. I think you probably have maybe a little less of an argument in that favor if you consider it a reduced standard road for 150 feet, but certainly there could be lots of different ways of looking at it, but from a staff point of view, there doesn't seem to be any objections to the third unit tying in, I think on the other side when you get into these kinds of waivers you need to be mindful of precedent and what the implications are, what is it about, I'm asking this rhetorically, what is it about this application that would set it apart from somebody else coming in and asking for the third lot on a common driveway. We do have safety considerations from the permitting point of view on the driveway. We do have environmental considerations with respect to the setback. There is probably a likelihood that the lots would be precluded particularly 1 and 2, the flag lots would be precluded from further resubdivision which here again minimizes the street issue a little bit and we're only looking at really the third driveway coming in for about 100-150' depending on where they break off to the left. So I think you do need to be mindful of the precedent issue, but we do have some circumstances here that are probably not completely normal. I just kind of flag that in the bold text on Page 73 and in the alternative if we don't have an agreement to waive things down to a driveway or if we don't get reduced standards and concurrence with the Selectmen, then the last alternative is simply to merge Lot 7 or to incorporate Lot 7 into an abutting lot and that would be the end of it for now anyway. So I think we need to just be mindful of that. We have met with Dave Dolan and Mr. Garrepy and the Fire Chief and myself to review the driveway characteristics and basically those issues have been addressed. You do have engineering plans that have been submitted for the plan and profile for the 3 common driveways and you may ask them to present that a little bit, but basically we've reviewed those and are comfortable with it from the Fire Department's point of view. The Fire Chief has asked the applicants to discuss with the Y-Landing Marina owners the possibility of installing a dry hydrant for water supply firefighting purposes. Ideally, the Chief would like to have this issue be given very serious consideration in light of the number of lots now proposed and the benefits to the broader neighborhood of having a hydrant access to Lake Winnepesaukee in this area. Maybe the applicant can update us on those discussions if we've been fortunate enough to have them. Alternatively, the Chief has advised though, as we have seen on other projects, that sprinkler requirements would also meet the NFPA requirements and at the end of the day the Fire Chief should sign off on whichever way we're going. With respect to legal, there are several easements that are necessary with relationship to the common drives. There are also needs for the Covenants or deed restrictions that may safeguard against any future incremental development in wetlands and wetland buffers. Things that might address issues of resubdivision as well as the granting of waterfront access easements. It was also noted in the February 28th minutes that there was some possible discussion of tree cutting restrictions or no cut zones. I know this afternoon I got an e-mail

from you, Mike, and I haven't had a chance to review any of it. We did have some things submitted to us this afternoon. We certainly can talk about them tonight, but I'm certainly not in a position to advise the Board relative to any of that and if you were to consider an approval after the public portion of the testimony, I would suggest that all of those legal issues with respect to stipulations and restrictions be considered at a duly noticed compliance public hearing. As was mentioned earlier, the subdivision plan is predicated upon a Boundary Line Adjustment with abutter Rice and the deeding of the small parcel to Hamblet as was agreed to and I'm suggesting that be part of any decision as well as the fact that the subdivision plan should make cross references to those transactions. There's one issue that I'm not up to speed on but in looking through the February 28th minutes, there was an agreement by the applicant to relinquish an off-site access easement on an abutter's lot to a pump house located on the subject property. Again, I'm not very conversant in this particular issue, however, if it is what it sounds like, then evidence of that release should be provided prior to recording of the subdivision mylar. With respect to construction, the applicant has agreed to construct the proposed common driveway to Lots 1 and 2 given the importance of the drainage and the erosion control in that area. A performance guarantee is necessary for that construction and site stabilization and the legal documents could be reviewed at a compliance hearing. Vadney – One quick question, you use the words, Lot 7 be merged with an abutting lot, you mean in that case Lot 7 would disappear? Edgar – That's correct, I think technically it wouldn't be merged, it's just that lot would go away and some other lot would be made bigger. Vadney – I wanted to make sure we are absolutely clear on that. Edgar – Mr. Chairman, that would be in the event everything else failed relative to 3 lots on a common driveway or reduced standards whichever way you go, that would be a last case.. Vadney – I just wanted to know what you meant by Lot 7 would be merged. Ralph Pisapia, representing the Meredith Conservation Commission, I just wanted to summarize it in some sense that our objective in our letter was to try to avoid as many of the impacts as we possibly could by suggesting alternatives that we thought were feasible. The avoidance of filling some wetlands, avoidance of impacting some wetland buffer zones, avoidance of four docks out into a very shallow dead-end cove with some alternatives that we proposed and I ask that you seriously consider our suggestions and if you have any questions, just let me know. Ed Touhey, 33 Soley Lane – I'm not a direct abutter to the property, I live one lot further along in the Cove. At a previous public hearing I indicated to the Board that I felt I represented a number of the folks that had an interest in this development due to the fact that I maintain very close communication with them via e-mails and phone calls, letters and the like since the development was first proposed. The residents in this area as you know are by in large seasonal residents. The DeVoy's are here most of the year, perhaps 11 months of the year, otherwise it's my own

family and that's about all between Shep Brown's Marina and Y-Landing so that folks cannot always be present for public hearings so I've attempted to represent them in the best possible way, however, my comments are my own and do not always represent all of the people who I try to speak for. Just to orientate you here, I have turned the plan so that North is directly up and South is directly down. The blue area here is Lake Winnepesaukee, that's Kelley Cove. The darker blue is the indication of the stream that is now clearly delineated. The red areas, there are just a few noted there, four precisely and these are vernal pools that we all know require additional protection. The orange areas are wetlands, the yellow area are the 50' buffer that are granted to wetlands and in some instances that buffer is slightly larger as a 75' buffer is afforded a stream. The green noted Powers Road and Meredith Neck Road, public rights-of-way. The brown are proposed driveways with the exception of the Atteberry homestead driveway that already exists, that's also in brown. I'd like to start up here at Powers Road. I'm very pleased that the Town Planner has gotten together with the applicant and discussed this roadway here. I earlier expressed quite a bit of concern on the number of curb cuts that would be necessary on Powers Road due to the traffic there, particularly in the summer time with the marina operation, adding four more homes there would create significant additional traffic I believe. If that were multiple driveways, it would complicate the problem. If the Board of Selectmen is willing to go along with the proposal that has been worked out to eliminate this drive into Lot 7 and make this drive for 3 lots would seem a tremendous step in the right direction, both for the wetlands involved and certainly for the safety issue. I am concerned and have expressed a concern before regarding the appropriate culverts and drainage. There would be major work to put this drive in, this is a major watershed area coming down in this direction toward the DeVoy property. David DeVoy has spoken to that this evening and I think that's something the Board will certainly have to look at particularly with the potential year-round use of a portion of the Rice Drive. I'll now direct your attention to another side of the property here, the access for Lot 6 and I believe it's Lot 3. This is where the wetland crossing has been applied for with the State. This proposed driveway would be a common driveway as we see for those 2 lots and looking through the comments from the Conservation Commission, there was a proposal or a suggestion on their part that this drive be placed at another point in the lot. Lot 5, the Atteberry homestead lot, were a drive to be brought in here as a common drive to serve these two lots, no wetland crossing would be involved. That particular drive would run along the Bass home lot line on the South side. The grades there are quite reasonable, a cul-de-sac could be, if necessary, it might not even be necessary, but it could serve those two lots and avoid that wetland. That was a suggestion of the Conservation Commission. I'd like to make reference to some of the other lines that I've added to Mike and Dave's plan here. These darker lines are just my tracing the contours, the contours I've drawn here are 10' contours. The highest elevation of the

property is slightly over 650', just at about the homestead site of the Atteberry's and as we all know down here at the lake, it's 504.32. Obviously, to get from an elevation of 650' to 504', simple math tells us we're talking about a drop of about 145'. In looking at grades here and this is speaking specifically to trails. Now trails have been used by the applicant to describe the access that the people will have from the dwelling for Lot 3 and the dwelling for Lot 4 down to the water. In John's staff report, he refers to a pedestrian way so I think we've got to be careful what our definition is of a trail versus a pedestrian way. To me a pedestrian way is a footpath, a trail could be something more. I'm very concerned about that in light of the steep slopes. There was at one public hearing mention of golf cart access. Looking at these slopes, the slopes across Lot 4, this line is 20%, the lot line really between Lots 3 and 4 here 16%, 12 ½%, all very steep slopes I think we'll agree. We all know because we're all golfers that the golf cart if you measure the floorboard to the pavement or to the grass is perhaps no more than 6 inches. Now, if we take a golf cart across these slopes and across the terrain as it is in the wooded area, you're not going to get very far with a golf cart so that in order to bring in trails if they are to be used by golf carts down here, you're going to have an alteration terrain situation that you're going to have to look at and those trails would not, I don't think, would be approved at a 20% grade. I think it's particularly worrisome in that below those grades we have all wetlands so anything that is done here in the form of a trail is going to carry water, it's going to be packed soil, it's going to be an impermeable surface of some sort and it's going to bring that water, the nutrients, the phosphates and everything else down this pitch, this steep terrain rather quickly into the wetlands and it's not going to be filtered. I think if the Board goes in the direction of pedestrian use on these trails that are defined as walkways and restricted from vehicular access, then we can preserve the forest mat, not get into any kind of site alteration to accommodate a golf cart and do much less potential damage to the environment here. The golf car would not really do any harm, let's be honest. Probably making a roadway for the golf cart would, but the golf cart is not probably going to be the vehicle used by the children, it's going to be an ATV or perhaps it's going to be a dirt bike and I think we all know from having walked through wooded areas and whatnot, what ATV's and their treads and dirt bikes might do to the buffer here in the wetland so not to belabor that particular point any further, I think that has to be addressed by the Board and with some kind of condition and certainly ask the applicant to define, not only the house sites that John has asked for, building envelopes that the Conservation Commission has asked for, that I asked for all of the lots, but certainly the trails and how they are going to meander on down through here. Also, these drives as they come in, I'm not really sure where this house is, remember any time the drive goes further along here, it's going to get into this 20% grade so that building envelope should be at the crest of the hill for those two lots. Leaving that and going down to the shoreline, the applicant now has proposed four docks.

According to the State, a dock that is approved today is 6' wide and 40' long. It has to be a temporary dock; that is, it has to be removed four months of the year. A slip to meet the state definition has to be 25' long, 8' wide with a depth of 3 feet. These docks will barely make the minimum, barely have 25' at the end of the dock to accommodate the State acceptable minimum. As described earlier this evening, the interior part of the Cove is very shallow, particularly at Lots 2 and 3. There's a delta of sand there, silt and whatnot that has been formed over the years by the stream. Because this particular cove is sheltered from the Northwest and open to the Northeast, leaves and debris will blow into the cove on an East wind settle there and not get blown out on a North or Northwest wind so that there is tremendous silting or decayed vegetation all along the inner portion of the cove, as much as 4 to 6 inches of leaves and decayed forest debris, it forms a muck. In minimum depths with the average size boat that's used on Lake Winnepesaukee, that prop is going to be down a good 2 ½' - 3'. When it turns, it is going to turn up all of the debris there and eventually so much so that it will recontour the bottom of the cove. It will force some of the sand out in one direction or another. Bringing any kind of a trail down here, as you can see is going to be extremely difficult. If it comes down here through Lot 4, we have a wetland crossing and it's virtually coming through a buffer all the way along. Lot 3, another wetland buffer, again coming through a buffer all of the way along. If there were a trail that started up here on Lot 4, picked up Lot 3, made this one wetland crossing here, that would be perhaps the narrowest wetland crossing and the narrowest buffer crossing possible, proceed down to the shoreline between Lots 2 and 3 to the shore where conceivably there could be a common beach to serve all that would eliminate the vast majority of interruption here to the wetlands and wetland setbacks. Vadney - You're saying put a single footpath to be shared. Touhey - A single trail that would be shared by Lots 3 and 4 and ultimately at the lower end of Lot 2. The beach area could be shared by all four lots. We are of the understanding and it has been spoken of many times before that only the four shorefront lots will have a right-of-way to the water. No further easements will be granted to any other lots and that there will be no further subdivision of any of the eight lots. I think that's been made clear at previous hearings. That would lead to the possibility of a single dock and perhaps one of the deeper areas of the cove that could be shared by all four with ample good area for a perched beach along the bottom part of Lots 1 and 2 and far less disruption to the bottom of the cove that certainly is going to result from propeller action from those other docks. Remember, this cove is still used for home drinking water by many of the people who live in Kelley Cove. I don't see how it could be in the future if we turn up all of this silt. We've all been in a boat when the propeller turns and we leave a cloud of brown behind the craft. I think I have spoken to the points that I wish to make, Mr. Chairman. DeVoy - I just have some additional questions on Lot 8. I haven't been able to be at the previous meetings. I don't have any detailed information as to exactly where Lot 8 is so I can only comment to

what I believe it possibly could impact. Is there a map there that I could look at? Vadney – Show him where the driveway comes in specifically off of Powers Road. DeVoy - As I mentioned before, my biggest concern is that brook empties into my wetland and into the cove. On our side of the cove which is northward side of the cove there, that is the only outlet for any of the drainage that comes out of that property, the Rice's property and a lot of the land flows right into that brook and as I say there's a lot of groundwater that comes bubbling up there as well as surface water. My concern is the usage of Lot 8. I kept hearing something about a parking lot. Is that true? Is the Appalachian Mountain Club going to use that as a parking lot? Vadney – That is not currently before us. Edgar – I can't speak to the status of any discussions between the applicant and the property owner, but early on we did have discussions about whether or not it would be a good thing to try to find a home for the Appalachian Mountain Club so they had a place for parking. It's been something that's been on the radar screen for several years at a discussion level. When this project came forward there was actually a property owner on Bear Island who got everybody in touch with one another to see if there was an interest. I don't know where that sits. The way this is presented tonight, it's a residential lot that would meet all residential lot requirements in terms of driveway permitting, state subdivision approval, test pits and the like, if it were to be approved as a lot and if at some point in time in the future if they were to convey it to AMC and wish to put in a parking lot, it would have to come back before this Board under what is referred to as site plan review to review the impacts of a change of use if you will from a residential lot to a parking lot. That is not before us so we're only kind of speculating at least you and I might be speculating as to whether or not that would or wouldn't happen, but there were discussions about it. At this point, there's nothing on the plan or in this application that would include that, but if that discussion got to a point where they wanted to do that, they would have to come back to this Board, have a noticed public hearing and discuss whatever the relevant impacts would be with this board and determine whether or not that would be a prudent thing to do under our regulations. At this point in time though, that's not in front of us so we can't chase windmills on things that aren't in front of us, but I wanted to be clear that we had had discussions and I was party to one of them, I'm sure since then other discussions have been had, but I do not know the current status of those discussions. DeVoy - I would just like to ask the Board to make sure that any approval it gives is for a residential lot because if that ever were a long-term parking lot, the gasoline, oil and everything else is going to find itself in the groundwater and it's going to end up in my brook eventually and I just can't have that because it will just do too much damage. Even as a residential lot, I'm still concerned because right now it's only seasonal use, it's never been plowed in the wintertime that I've ever seen. Once you start plowing that lot, I get worried about how far that plowing takes, where does the debris from the road go, if it goes off to the side of the road anywhere on

the down slope which is several hundred feet long, it's going to contaminate the brook. There's no doubt about it. If they salt, it's going to contaminate the brook, there is nothing you can do there unless you put up some good strong barriers on either side to direct the flow someplace else, it's going to go in the brook. If it goes in the brook, it has to come into my wetland, my wetland is rich and is very clean, my drinking water comes right off and is adjacent to the wetland; it'll damage my drinking water. I want to make sure whatever restrictions you put on Lot 8 are done such that they guarantee that my wetland doesn't get contaminated. Edgar – Sir, would you be good enough to maybe point on the map, sketch out or at least indicate where your lot is and the approximate location of the well that you've been speaking to. DeVoy – My lot is right here. The wetland comes like this here, my well is right down here. It's probably about, it's a dug well. The top is above the wetland that goes up about 25' and it's probably a good 30 to 40 feet from what I would call the wetland boundary. I think it's a little further up, but it's far enough and the water's perfectly clear, clean and tests wonderful and I don't want it to end. Vadney – How close to the surface does the water come? DeVoy – I can't even see it because what happened is when I bought the property I was told it's 25' deep, I know where it is, it's been covered with plastic and that well is sealed, I haven't been in it. Eventually someday I'll have to when the pump goes, but that's what I'm really concerned about and the wildlife in there is just tremendous. The fish are hatching in that area, there's lots of small minnows during the year. There's crawfish, the great blue heron comes in to feed. The sounds all night long from fall to spring is absolutely marvelous. I don't want to lose all that. Vadney – Where is the access for your house, where do you come in? DeVoy - I come in over here and then up and the wetland and my property extends up into here right next to the Rice's so the Rice's share some of the wetland and I have some of the wetland. Kahn – I just want to clarify some thing here. There's a wetland that comes down between Lots 7 and 8 and also comes down across Lot 1 sort of "Y" shaped and then it continues down and goes off the plat at the bottom of Lot 1, is that the wetland you're talking about? DeVoy – There's a little driveway and then it flows down, it's all this wetland, this is all wetland in here. Kahn – Was that the one you were talking about? But the Rice driveway is well off to the East of that. DeVoy – No, the brook flows under the Rice driveway. Kahn – I understand, but what they're talking about in terms of access to the Rice driveway would be well north of that wetland. DeVoy – Well, the whole question is where does the slope go? If they plow up to where those, if you take the brook, you can look about 700 feet up towards the East, that is all sloping up. Anything you dump up there is coming down here. Kahn – If you look at the easterly line of proposed Lot 8, do you have a problem with their accessing the Rice driveway up there? DeVoy – No, not as long as there's no plowing beyond here. Kahn – Well, then we have a potential answer here, don't we? Garrepy – We can't certainly speak for the Rice family.. Kahn – No, you can speak for where you're going to access Lot 8

to the Rice driveway. Garrepy – But as far as the future accessibility of the Rice property. Kahn – Accessibility of Lot 8? Garrepy – We just certainly can't speak to whether or not the Rice property will be a seasonal use or year-round use. Kahn – Understood. If the Rice's want to plow, it's beyond our jurisdiction. DeVoy - This driveway here, where is the driveway going to be? Kahn – That's not a driveway. Garrepy – I believe our agreement is a 200' easement along the existing gravel drive so before you reach that bend and I suspect sooner. Vadney – On a similar vein though, at a previous meeting I asked about the crossing where the "Y" wetland comes together and then crosses the Rice driveway and asked you to do some numbers and to check those slopes because as I recall both sides of the driveway are pretty much the same elevation, it's a very slow drainage in that area. Garrepy – We had our engineers look at it and I think you're referring to the culvert that goes under the Rice driveway. We had a similar discussion with Mike Faller about a culvert that is a cross culvert on Powers Road and he asked us to make sure that we looked at that for any potential impacts as well, so we looked at that culvert, we also looked at the existing culvert on the Rice driveway and our engineer supplied a letter that we'll submit for the record that indicates there will be no adverse impacts to either of those downstream or down gradient culverts and I can submit that for the files this evening, but we did have them look at that when they looked at designing the shared driveway for Lots 1 and 2. Vadney - And that included a look at any modifications of drains, modifications of impervious surface additions upslope on Lots 1 and 7. Garrepy – The only thing that the engineering firm, Jones and Beach, analyzed was the impacts of the driveway construction relative to any on-site construction for house location and that sort of thing without knowing the specific locations, we haven't analyzed those impacts, but we've been assured by the engineers and Mark West might be able to speak to this as well, that due to the size of these lots, the impacts down gradient are going to be negligible. Vadney – And I agree the percentage would be small, but from what I could see when I walked on that driveway, that culvert is pretty much at capacity anyway. It's an existing 15" culvert on the Rice property. Vadney – it seemed to be there's so little slope there and now could someone speak to that knows that area better than I do? (inaudible) My concern at the last meeting when I asked the question was when that water gets under the Rice driveway, it appeared to be going into an extremely slow draining area. Garrepy – What we analyzed just for clarification, we analyzed our on-site impacts relative to the Atteberry property to the off-site impacts that we may be creating and so what we had our engineers do was design this driveway and analyze the site so that our post construction flows would not be any greater than our pre-construction flows and that's all we've done so we're not impacting or proposing to impact that existing culvert in any greater fashion than currently exists today. Now whether that culvert needs to be upgraded in the future may be in fact true and I'm not sure if the Rice's have any plans to do that and what permits that may require, but that's not part of

our analysis. Vadney – Your analysis shows your level of construction and building will have no impact on the flow through that culvert. Garrepy – In fact, the letter I'll submit for the record indicates just that and I'm certainly not an engineer so I'm not going to try to speak out of turn or above my head, but we have constructed this driveway with cross culverts that will handle the drainage that's going to be coming from the northerly direction so we're not going to restrict the flow of drainage via the construction of this driveway, but the driveway itself actually acts as somewhat of a detention structure, if you will and that's how it's been designed so it detains water while it's discharging water through those cross culverts. Vadney – You're saying your new driveways been designed that way. I won't beat it any harder here tonight, but one of the concerns is that anytime you do construction you end up channelizing more than used to be and it's pretty hard not to channelize or increase the channelization which normally means some of that water that's flowing on somebody else's land is going to get down to that Rice culvert quicker and it won't have to get there much quicker when it will go over the top rather than through so that's really the concern. Garrepy – That was really the focus of our engineer's review is will there be any increase in flow, velocity and whether or not we retain that storm runoff. Vadney – And you say you have the letter, but you haven't yet given it to us. Garrepy – I actually have the letter and some draft legal documents that John has and plans have been submitted as well for the Town to review the plans that show the driveway plan and profile and we're still working on modifying that plan somewhat. Final plans will have to be signed off by the DPW and by your Fire Department and we're fine with that as a condition of approval, but we have submitted engineered drawings for the construction of this driveway and also the two other driveways that we've shown as well on the plan. Richard Kurth, 140 Powers Road – It's more of a procedural question for the discussion of Lot 8 and this common driveway. The plan as it stands right now doesn't show any driveway into Lot 8 and there's been a lot of discussion about a new common driveway on the Rice property that would lead to it. Is the subdivision approval contingent on a review of that common driveway or can it stand as it is without it defined. Vadney – You're talking about Lot 8 and the driveway to Lot 8? Kurth – Yes. Vadney – Which means basically that Lot 8 would use the first 3, 4 or 500 feet or whatever of the Rice driveway. Garrepy – 200 feet? So it would use the same as the Rice driveway and there would be no change and there was no property line adjustment at that portion was there? Garrepy – Not at that portion. Vadney – So the existing first 200 feet of the Rice driveway would also be the driveway for Lot 8, does that summarize it correctly? Garrepy – That is correct. Edgar – If I could add to that, a couple other things that would be part and parcel to the approval process, (1) a series of legal documents that wherever we have common driveways or any shared issues, they have to be identified. We look for a couple particulars in them at the staff level. They would then be reviewed by the Board at a public hearing so people would have the opportunity to

comment on those documents. We have not received those documents with sufficient time prior to this hearing tonight to address that. That's what I indicated before that we got a package of stuff e-mailed to us about 2:30 this afternoon that I just simply have not had time to look at nor would any of you have that opportunity as well. So one thing is that the legal documents need to be looked at in a public hearing and in this particular case we're looking at probably a series of deed restrictions and things of that sort as well as the easement documents, so in the case of the Rice common driveway easement that would be part of a review. They do have frontage on Powers Road, but the approval as it's been discussed up to this point of the application, I should say has been that there would not be another curb cut on Powers Road and it would be tied into the existing Rice curb cut, if the question is should that or could that be a stipulation that would be part of what we would be addressing when we get further along into the decision making process. We also require driveway permits from whatever agency is involved in the case of Meredith Neck Road it's NH DOT. In the case of Powers Road, it would be our Public Works Department so the DPW would also then have to issue a driveway permit for the additional use to the additional Rice driveway curb cut and typically those permits stipulate a limitation as to what that use is for, so knowing Mike Faller the way I do, he would be writing that permit such that it would allow for the addition of one more driveway for residential purposes to tie into that. That's what's before us, that's probably the kind of process that would play out. Any approvals, if the Board were to grant any, would be subject to those driveway permits being issue and it would be subject to us looking at the legal documents at a subsequent hearing that would focus on a whole myriad of those legal technical points. If there was a change of use proposed for Lot 8 like the gentleman was asking before about the AMC parking lot, that change of use would trigger a series of reviews by this Board under site plan authority so what we will be zeroing in on at this point is going to be state and local approvals relative to the residential uses of the property. In the case of Lot 8, all the discussions have centered around, I think from day one, have centered around tying into the Rice driveway for purposes of access to Lot 8. Kurth - I think what I heard was that "yes" that the review of the details of that common driveway on the Rice property is tied to the review of the subdivision proposal. Edgar - And would come back at a public hearing. We have yet to be able to discuss that because we don't have the documents in front of us at this point and typically in a case like that is make the review and approval of those documents an element of a compliance hearing. Maureen Soley, 37 Soley Lane - We are direct abutters to what would be the proposed Lot 4 and we'd just like to add again our concerns about both water quality and safety. We do still pump water directly out of the lake. We've had it tested in the past because of a number of springs that are present in the cove, it's always been clean and perfectly potable so our concern is particularly while it's a construction zone that there be enough of a buffer in place so that it continues to always be potable and

also in terms of safety for both swimmers and non-motorized boats, many of us in the cove literally swim across the cove all the time so we are very concerned about any possibility of any further subdivision of this or any further giving rights-of-way because we all know these are going to be very expensive lots so people will buy I think the biggest and fastest boats they can and even though it's a "no-wake" zone, you still will have a lot of traffic in and out. We had little children in the cove, we don't presently because they are all grown up, but there are little children who live across the cove who are continually out on rubber rafts, rubber boats and swimming and you can at any time see probably during the summer 8 or 10 children out there so it's a very big concern for us and also I think Mr. Edgar mentioned earlier as we do go through this development, the idea of cleaning up some of these things here and you mentioned the pump house that is on Lot 4, that actually goes with the old Atteberry property. It has not been in use from my understanding for years, no one has ever come down to maintain it in any way, so if that could be removed that would be one person taken off our already overburdened ROW on Soley Lane. Overburdened in terms of what the Town considers to be a substandard road. Adria Garneau, 114 Powers Road – I am directly across Powers Road from the existing Rice driveway that we've been talking about this evening. I have a number of concerns about traffic on that dirt driveway that exists there now simply because Powers Road is a narrow road and most of the traffic now stops at Y-Landing and so the discussion tonight about additional curb cuts, I was interested in hearing about that and I just want to express my concern about the additional traffic and the use of that dirt road. The other concern that I have relates to the adjustments in the easements for the road and what have you. I have an existing easement across the road next to that dirt road should I ever need to repair my septic system so I have a great concern about any of those easements impacting the area where I have an existing right to expand my septic system should I ever need to. Vadney – I'm a bit confused when you refer to the dirt road, are you talking about the Rice driveway itself? Garneau – Yes. My driveway is directly across Powers Road. Edgar – Mr. Chairman, if we could have that pointed out, I think that would be helpful to us. Garneau – My septic system is on my own property on the lake side of Powers Road, but I have an easement across Powers Road, on the Powers Road side of the Rice driveway, I believe it's on the Powers Road side. Vadney – You have a little piece of property that's on the other side. Garneau – I do not own the property, I have an easement to expand my septic system there should I ever need to. Vadney – And who owns the property? Garneau – I honestly don't know. I believe it was the Rice property, but the way that this is drawn and looking at it tonight, that's why I had a concern, I would assume it's on the Rice property, but the way Lot 8 is drawn. Vadney – I would agree with you, it does not look like it's on the Rice property from this map, it looks like it's on your property. Garneau – My driveway being here, my actual septic system is right here behind my house. Mike – There's one driveway not showing.

Garrepy – This may, in fact, not be your driveway. Garneau – Well, I have both of those driveways. There's one that is over the culvert that goes down and then there's one into my house and both of those are my property. Vadney – Part of the question would be whether Powers Road is owned by the Town in a fee simple status or if it's a ROW and from this it looks like your lot may go to the other side of the road. Edgar – Mr. Chairman, I believe there's a lawyer representing the owner. We have the surveyor who probably did some chain of title work, maybe the first question is to ask these folks as to whether or not any of their research has indicated a septic easement on the Atteberry property. If it's on the Rice property, it's really not being affected by this because the grant of an easement to Lot 8 is over the existing driveway and if your easement is in line prior to that and if for some reason, you have rights to put your septic system underneath their driveway, that's probably preserved in all of this. Obviously, that's not something you'd want to do, but I think the first question is to determine whether or not the Atteberry property is encumbered by a septic easement. If the answer to that is no, then I guess the only residual question is whether or not superimposing an access easement for Lot 8 over the existing gravel driveway to the Rice camp would somehow affect that septic easement right. My guess is it probably doesn't, but maybe the owner's lawyer or Dave Dolan could speak to that for us. Garrepy – I can speak to it, I think. I think the Atteberry property has suffered from numerous change of title so we've just recently done one ourselves and there was no indication of a septic easement on the property, but to further answer your question, even if there were, the access easement wouldn't impact your ability to locate your septic system wherever your easement grants you the right to do that nor would these lot line adjustments that we're proposing impact that in any way. The answer is, no there isn't, at least in our review of the property, an easement. Vadney – It might behoove you to check your deed and documents to see where that falls so we could have it better explained to us. Doug Hill – Mr. Vadney, I'm the attorney for the Atteberry Trust, the present owners of the property, and we're very familiar with the title history of this property and we have not found any such easement encumbering the Atteberry property. I just was reading a detailed title report from the applicant's attorneys at Donohue, Tucker and Cindella and there is no indication that their search found any such easement as well so I'm quite comfortable with the conclusion that any such easement is not encumbering the Atteberry's property. Richard Kurth – I listened to Mr. Touhey's concerns relative to the access down to the waterfront on Lots 1-4 that was discussed at the last hearing and the footpaths and whether they would be paved or not and the sensitivity of the wetlands and I think what he described tonight which I hadn't heard before was very much a kind of solution that I think the Board should also look at relative to managing to get through that area in four different ways to four different docks. The alternative may be larger, but I think it would be better than anything I can think of in that fragile cove and those wetlands. Vadney – I did want to

point out by the way that Mr. Touhey's analysis might have the distinction of being the first time anybody came and spoke against something where they offered a reasonable alternative. We don't see that very often. Touhey – Do you have the plan that shows the docks? Garrepy – I should point out real quickly before Mr. Touhey speaks that this is just a conceptual plan of the cove and what the dock configuration might look like. As part of this plan, we aren't proposing perched beaches or docks; we're not proposing trails. Those issues are really issues that will happen subsequent to this approval process so it may be beneficial to talk about it tonight or the Board may determine that it isn't, but we're really not here tonight to get the approval for dock locations, trail locations or beach locations although it's helpful for us in our ultimate plan for the site and we know we have to seek local and state approvals for those uses at another time, that's not part of this application so I just wanted to mention that. Vadney – Let me add to that though. It was a concern of the Board when we walked that property, the wetlands and the environmental impacts and the steepness and Mr. Touhey did make a good point which is pretty obvious when you see the land that that's a substantial grade down through there and I do think as part of the subdivision, it might be something the Board would want to do is put some kind of restrictions on every lot that has water access having a separate trail going down there. It does make some sense, so I think if we're going to do that, it has to be as part of the approval process of the subdivision. Garrepy – Just to respond to that, I guess I would have to say that we would be opposed to some kind of restriction to affect our ability to locate trails on the property where these lots are 10-15 acres in size and where folks may want to build numerous trails, I'm not saying they are going to build a hundred trails on their property, but they may want to build 3 or 4 trails that might meander through the trees to different locations on their property so we want to give the end user, the person that's ultimately going to live there, whether it's seasonal or year-round, the ability to locate trails to their advantage. Vadney – And I agree with that, but I did raise at the last meeting, the idea of if these were walking trails versus big enough and need to be paved or ATV's or those kind of things, I think in that area I'm sure Ralph Pisapia, if he's still here, will stand up and yell if we start talking about multiple ATV trails on the 25% slopes. Touhey – Mr. Chairman, I really have to speak extremely strongly and I really am supporting what you're saying, Mr. Vadney, that these, again we use this word trail, if I look up the definition of the word trail in Webster, it's very, very broad, OK, so we've got to clarify trail and then we've got to consider very carefully what kind of alteration of terrain would have to take place in order to accommodate if it's a golf cart. I see where areas would have to be filled, I see where stumps would have to be removed, I see where areas would probably have to be leveled all the way down hundreds of feet and if there was ever to be a trail per lot, you can multiply it by four and in the case of the real threat to the wetland multiplied by two. There were two other points I wanted to make. I realize that the developer wants to maximize this property as much as he

possibly can and you maximize it through waterfront lots, that's where the value is and that is again why access to the water is going to be so important in terms of the sale of these properties, but we're getting to the point where we have on here for Lot 3 the only access to the shoreline that is not through a buffer for all of Lot 3 is about 8 feet and that's where that dock is going out there because we have a 75' setback from the stream, a 50' setback from the other wetland so that dock could not be there in a buffer zone if it weren't for that 8' so that's how we are wedging things in here to make them work. Again, we're really talking about thin lines here. How many minimums do we have to have to say a project just isn't doable as presented? The other point that I wanted to make is I would hope that these wetlands would be protected because of the aquatic life in them; I demonstrated the amount of decayed vegetation along the shoreline. A lot of that is because of the overhanging trees. That decayed vegetation over time has become a tremendous aquaculture area for habitat for aquatic animals. That is certainly going to be threatened so what can we do to protect the vernal pools and all of the aquatic life that's in the wetlands, protect the canopy over it and I think the Conservation Commission made that point so I certainly hope that the Board would restrict all cutting except for maybe minor trimming of trees, removal of dead trees of course, but restrict all cutting in the buffer and wetland zones. Pisapia – I don't mean to burden you with getting up twice, but I wanted to respond first to a comment made by the Chairman about reasonable alternatives and I think the Conservation Commission has over a period of at least two years been trying to provide some reasonable alternatives and still provide for development in town. I also wanted to mention that the applicant has been one of the more pleasant applicants to deal with on this project and we appreciate their flexibility. My reason for standing up at this point is that I didn't read our letter into the record because of its length, but if you have read it and I hope you will before you make any decision tonight, there are a number of recommendations, some of them similar to the ones that Mr. Touhey made and others, but in particular about some of the possible alternatives to driveway access and access to the water and access on the water. I ask that before you make any decisions on whether or not to go forward at this point in time, that you consider those alternatives that we presented. Kahn – I guess a question I would have is, Ralph, have you seen John's workup in which he summarizes your letter and if you haven't could you take a look at it. He's got 11 points that he took from your letter and are those complete and accurate. Pisapia – No, I haven't seen them, but I can take a look at them. Edgar – One thing I would just like to reiterate, the Wetland Ordinance allows recreation activities, including hiking, etc., in wetland buffers as a permitted use, but that's provided you're not in a major grading and filling operation so I think if we found ourselves having to cut and fill and grade to establish a cart path, that would be inconsistent with the permitted uses that are specified in the district and would trigger and a special exception so what we had talked about initially

was the more the meandering footpath down to the docks because that seemed to be consistent with the intent of the ordinance which allows for recreation including but not limited to hiking and a bunch of other things so from my way of thinking that seemed to be consistent with the purpose of the ordinance, but I just want to be clear to the applicant and everybody else that if we found ourselves having to construct a mini pathway for golf carts or something like that if we get into cutting, filling and grading in those buffers, then that represents a different ballgame and would require ZBA relief. Phyllis Hamblet – Would you just explain to me what a dry hydrant is? Vadney – A dry hydrant is one where the intake is under water, but the outlet isn't and the fire truck comes up and sucks water out. That way, the part that's above frost line is empty so it can hook up in the middle of the winter. Edgar – We have dry hydrants located all over the Town. Wherever we can, we try to tap them into the lakes for the obvious reason that it's a major supply. We also have dry hydrants in fire ponds all over Town and in this case when the Chief was looking at how he would respond to a fire in that area, we don't have the kind of coverage. They can drop a line in the lake, but their preference would be to have a suction line that goes out into the lake and they can knuckle onto an actual hydrant type of fixture so wherever we can, we try to work with property owners when there's a need in the neighborhood to try to site one. When Church Landing was constructed recently, we put one in and there are quite a few all over. There's one over on Lake Wicwas at the public ramp. Vadney – They are normally about a 5 or 6 inch pipe with a knuckle on the end of them that looks very much like on a fire hydrant and they spin that off and put on their fire hoses, but it is a required suction from the fire truck to make it effective. Kahn – We've got a lot of proposals here, a lot of things. I think we've come a long way on this one. I'm beginning to see the shape of a conditional approval. On the other hand, my usual way is to go home and work on it for a week or so and then come with a 34-point conditional approval, but I don't think we're going to get there tonight. My suggestion would be that we start on Page 72 and assuming that Ralph right now is reviewing John's summary of his letter that we work our way down through those proposals and then work our way into John's proposals and see if we can come to an agreement on any of them, it being understood that in many cases that the applicant will not agree with us, but on the other hand if the entire package results in something that gets him a conditional approval and that is palatable, he may have to take a little bit of the bad with the good so why don't we work our way through sort of line by line and see what we come up with and then maybe we have a conditional approval package. (inaudible) Bayard – Does Lot 3 meet the 4:1 ratio. Garrepy – Is this width to length. Bayard – Yes. Garrepy – Obviously, there are a couple of lots that wouldn't meet that ratio in certain areas where we're providing the access, say Lots 1 and 2 off Powers Road. Vadney – It's the overall ratio that counts. Garrepy – Dave, can you speak to that if we've done an actual ratio of a 4:1 in compliance with whatever regulation you're referring to and I have to

apologize, I'm not familiar with the regulation. I don't know if John has taken a look at it or not. Edgar – I have not specifically looked at calculations. The regulation basically says that the length of a lot cannot exceed 4 times its average width. Where it gets awkward sometimes is when you have incredibly irregular shaped lots, how you calculate that. Dave, have you? Dolan – If I have I might have looked at it a long time ago so I don't have the number at the top of my head. I think it's Lot 3 that might be the most difficult, but I can't answer that directly. That is a Subdivision Regulation I believe and is something that can be waived. In order to be technically compliant we'd be happy to submit a waiver request in lieu of the fact that these lots are so large in size, but hope that would be supported if it's required. Worsman – It was brought up on a number of times, the pathway for a couple of the lots to get down to the waterfront and though it sounds great to have a path from the residence down to the lake, my concern is that when it's sold, we now have a 17-acre lot, it's now mine if I'm the buyer and someone is going to tell me that I can't traverse it any way I want to or is going to limit that it must be walking as opposed to ATV or golf cart, etc. Is it possible for the Board to put that kind of condition on the property to limit its use to no ATV's. On a private piece of property, do we have that? Vadney – The enforcement would certainly be problematic, but I do think we need to put some restrictions like that because of the environmental issues... Edgar – Collette, you didn't have the benefit of some of the early hearings, but when you really start looking at where that stream comes in, if you could point that out maybe, Mike, do you have a full view plan? There's a stream that comes in, there are four or five vernal pools on the property where there is particularly sensitive habitat, right around Lots 3 and 4 those areas kind of converge and the majority of that area closest to the waterfront is encumbered by setbacks because of the configuration of wetlands in there. When we went on the site walk, it became even more apparent that that's probably not an area where you'd want to force in houses, septic, wells and driveways, there is just too much wetland relief, too much encroachment so what they now have shown at least in plan view is pulling those houses out of that area altogether and then provide for the pedestrian... My sense of it is though as long as the Board is acting reasonably, in other words you have good cause to do that, you can build in stipulations of approval as long as they are reasonable, whatever that means and that you have a basis for it and I think clearly given the concerns that have been raised by the Board during its inspection, confirmed by the applicant's wetland report that identifies the high value wetlands, further confirmed by concerns of the residents, there certainly is a reason to take a couple extra steps relative to doing our best to insure that those areas are protected so I think as a general matter, it is within the Board's discretion given what we know about the property to look at it from that point of view. It's not normally something we would do unless we had really good reason and in this case, the kinds of things that we can do and here again we don't have the benefit of the legal package yet, is look at, not

that this is a silver bullet answer, but we try to put some of these flag notes on the plan so when someone is buying the property, they have forewarning. We try to build some of these things into the decision so to the extent that anybody ever bothers to go to the record, they would see stipulations of approval and then in some cases further carry those stipulations into conveyance deeds. Does that mean that somebody is precluded from acting contrary to those decisions, no, we can't guarantee that, but we can certainly position ourselves in a way to try to minimize the likelihood that that would happen. Garrepy – If I could also just jump in before we go to a different topic perhaps is again just to reiterate that really we're here and I don't want to preach to the Board by any means, but we're here for a subdivision plan as submitted we feel is compliant with your local regulations. We're not here to talk about trail locations, we're not really here to talk about dock location and we're not here to talk about ATV use and some of those things. We may, as developers and as conveyors of property, put to covenant on these properties when we transfer the deeds, such as no ATV's perhaps, maybe something we might as a landowner place on our property prior to transfer, but that's not something that we're really here asking the Board's approval of tonight. We're simply here asking for the subdivision approval and I understand and appreciate that the trails are of concern; I know the Conservation Commission was concerned about where they might cross the wetlands. We're certainly willing to work within the State guidelines for trail construction, I know Mark West has spoken of that at an earlier meeting and we're certainly willing to pinpoint where those crossings might be on a sensitive wetland area for a trail, but I'd have to agree that limiting the future landowner's ability to construct trails or just traverse his/her property as they may see fit is sort of out of the scope of this Board's purview and I just want to bring us back to why we're here. Vadney – In that case, I guess the short answer is "no". Garrepy – We'd simply like to have the flexibility to work with DES guidelines, we're sensitive to what the issues are and we've had no problems working with the Conservation Commission on the issue of trails, but tonight we are not really here for that and I just don't.. My hope tonight was to work towards a conditional approval and I think if we start to cloud the real focus of the issue with these other issues that we're going to be dealing with later on in our development process, we're not going to get there, certainly tonight we may not get there for some time. Kahn – I think we ought to notwithstanding the developer's wishes, I think we ought to take these things one-by-one and discuss them and then if at the end, he doesn't like the package, he doesn't have to accept it. We have to come up with something that's reasonable and it seems to me that among the things we can do that are reasonable is to put some teeth into our zoning ordinance that has provisions as to what you can do in a wetland buffer and a wetland and we can provide that there are some things that you are not going to do and you are not going to go to the ZBA and get the ZBA to approve it and we'll ask you to put that into your deeds so instead of you volunteering to

put it in the deeds, we will stipulate that you will put it into the deeds. But I would like to start one-by-one and take these things up because otherwise we are never going to get anywhere. Vadney – I agree with that, I just wanted to make sure the Board didn't have any other pressing questions that they wanted to ask at this point. Let's do that. Lou, do you think we should put a time limit on this workshop or press through it because we have other issues to do tonight; It's about 9:15. Kahn - If we were to continue this, to what date would we continue it and I assume that these folks would like to make a sort of seasonal market, they'd like to subdivide before the snow flies. Garrepy – We could be here until 1:00 o'clock if need be, we certainly would like to move forward. Vadney – We do have a couple of other issues. I'm just worried that stepping through this could take a great long time. Let's give it a few minutes working through as you wish. Kahn – I guess instead of just trying to resolve any of the particular issues, why don't we just sort of discuss them and see if we have some consensus. For example, building envelopes, what do we think about that on Lots 1-4? Garrepy – Can I jump in real quick because John's numbering here 1-11 of the Conservation Commission's concerns, numbers 1, 3, 7 and 8 are all with respect to those setbacks and I guess to perhaps answer the question and maybe not answer it in the way that the Conservation Commission was hoping we would is to say that we've already provided the building setbacks on the plans. They are already there, they've been there since day one and they are probably easier to see on Mr. Touhey's plan, but we show building setbacks to side, rear and front lot lines, we show wetland setbacks on the plans so really.. Vadney – But surely you don't expect on Lot 4 to go to the lower end of the building envelope as you're describing it which is about 130 feet below, I'm trying to picture the driveway extension that would be required to do that. Garrepy – Correct and that's the second component of our setbacks which we haven't shown on the plan yet, but we've agreed to in concept with the Planning Board to restrict the primary dwelling units building area to the westerly side of this sensitive wetland area and we haven't depicted those lines, but it's pretty clear from the map that we're talking about this wetland system here so the building areas for the primary dwellings would be restricted to that side of the property for Lots 3 and 4. Vadney – Yes, I agree as far as the wetlands go, but the bigger question from the trail aspect was the vertical drop. As I see from the well you've got drawn there down to the beginning of the wetlands is a 50-60' drop or more. Garrepy – On proposed Lot 4 there is an existing trail that currently meanders down to the water and we propose to relocate, if necessary, there is one somewhat steep section, although it's manageable certainly on foot and we propose to relocate a certain section of that so it's more manageable. Vadney – You're missing my point here, maybe I'm not making it very well. The question is if you're going to put the house down at elevation 530 or so by the wetland, what are you going to do for a driveway? How steep is the driveway getting down to it going to be? Garrepy - We've actually designed driveways for the lots, in fact, for Lot 4

the driveway's been designed and has been submitted as part of the plan package. It's designed down to the test pit location that we've conducted on the site so the driveway has already been designed for Lot 4, at least a proposed driveway and as John has mentioned, any driveway's going to need to be reviewed and approved by the local and state bodies that have jurisdiction. Vadney – On Lot 4, point to where the end of your, you say you've designed a driveway, where is the end of that driveway. Garrepy – It's showing right here. Our test pit area's here and our driveway is here. Vadney – I see that. My point was that is now a notional place that you could put the house. What if you put it about 400 feet northeast of where that ends, that's what we're talking about, the building envelope. Nothing says you couldn't put it 400' northeast of the end of that driveway and then try to put a driveway down to it which would be about a 25% slope. Kahn – Other than they are not building a driveway that the fire trucks can't traverse, as long as they stay out of wetlands and the wetland setbacks, if they want to block their view by building at the bottom of the hill rather than at the top of the hill, why do we care? I think what we ought to do is put something into the plan that keeps them out of the wetlands and the wetland setbacks and then just have driveways that the Fire Chief can go along with so I guess my view is the specific building envelopes, I don't necessarily agree with that, I just think that we ought to put into the plan and on the deeds that they will not build in the wetlands and the wetland setbacks. Garrepy – And that is part of our proposed deed language that there would be such a restriction and reference to a plan setback line. Kahn – How about Lot 7 tying into the common driveway. It seems to me that is as close, other than how we do it and that's as close to a no brainer as we have tonight. Vadney – I agree. Kahn - Get around that wetland and get it into the common driveway. Now one possibility is that for 100' you have the lowest common denominator private road and then we don't set up a bad example where we're going to have 3 houses on an 1,800' driveway. Bayard – I would agree with you on that because this is a problem lot and it seems like an awful lot of developments we get are problem lots and one could easily envision a case where you could set it up so that in your proposal a 3 would be obvious and it seems to me we keep getting more and more proposals where 3 would almost become common off of the driveway so since we have a viable option here of 100' of low grade private road if you want to call it, that seems to make sense to me and then do the two off the rest of it. Vadney – Done deal, work out the details. Kahn – What is the lowest standard, he says we don't have a standard for a private road so I was asking what is the lowest, narrowest private road we've ever gone along with or is that the Selectmen? Bayard – I think that's sort of up to the Selectmen, but I'm sure they would take that into account. Edgar – What is the difference (inaudible) If it's considered a private road, then the question is whether or not some day could that road be accepted by the Town and is there an advantage for us to consider this a driveway or is the concern that we would be setting a precedent for future

development so everybody would eventually end up with 3 lots tying into a driveway. Is that the concern? Bayard – My concern is that the precedent I don't think has to be set here. There may be a case where we do make an exception, but I'd like to reserve those exceptions to the very rare cases and not one where it's just sort of a convenience and quite frankly if the Town wants to take over the road in the future, that's sort of up to them. Edgar – So the idea if I understand your thinking and maybe this is also for Collette's benefit because she would be the one bringing this back to the Selectmen, in part is that if the Board were to want to see final plans showing that lot tied into it and because it then technically becomes a street or road by virtue of our regulations is to defer the actual standard of that to the Selectmen. Is that correct in terms of what they ultimately think? Bayard – That has to be the way it is, I believe. They have to accept the road or the standard. Edgar – It's not a matter of accepting the road.. Vadney – The purpose of tonight's meeting, we could sit here and spend the rest of the night arguing on this one. I think there are about 7 different options available, one of them will work. I don't know which one, but I think if we try and solve that tonight, we won't get any further, so let's just say that we agree that that will be a common access point and then we can work off record to figure out which one will be the easiest for everybody to do because some of these others will fall into a similar kind of thing. Finer – I don't think that's fair to the applicant to say one of 7 will definitely work. Vadney – We'll come back to that in another hearing, but for tonight's purpose, we're going to say that #2 is not a showstopper; we will find a solution using a common access point. Finer – Then we'll have a 3-house driveway. Kahn – It's going to be a 100' private road. What about Paragraph 4, I think with all due respect to Ralph that for us to locate the pedestrian trail, that way madness lies, I think we can set some standards for trails in the wetlands and in the wetland buffers whatever they want to do with trails outside the wetlands and wetland buffers is up for grabs. They can have a wonderful time, but I think we could specify standards such as use of permeable trail materials, we could perhaps limit the number of trails in wetlands, but I would like to keep the amount of our involvement down on this one because I just don't see that we can really deal with it in terms of actually locating a trail. Finer – How do you feel about making it a pedestrian only trail? Kahn – I think that we can specify that it's a pedestrian only trail and then the owners with their dirt bikes and their ATV's will take it from there. I think we have to assume they can walk anywhere they want to go. If there's any control at all, we can put on this, it's the idea of taking vehicles down in there and chopping up the wetlands with ruts and the like, but I mean as far as pedestrian trails, I don't care if they put 17 of them in down there. I'm not going to think that we're going send a Code Enforcement Officer out there to see where they are walking. Finer – No, I don't care where they walk, I don't want to see ATV trails, that's why I'm saying we should make it pedestrian and I have a hunch that the abutters will help enforce that or at least report it if not enforce it. Vadney – What about cutting the canopy trees, I think a

restriction on cutting within the wetland buffer is a good idea and shouldn't interfere with the owners. If they build their houses where I think they are going to build them on 3 and 4, they are going to look right over the trees and they don't need to cut them. Garrepy – With respect to cutting if I might jump in, our thought and our position is that we are certainly sensitive to, this is a site we intend to develop, we're spending a lot of money on this site, we don't intend to butcher this site by any stretch, but we want to follow state guidelines for any kind of timber operation or timber cutting we might be conducting on the site now or in the future so we'll follow Best Management Practices when we are doing any timbering on the site and we'll certainly follow Shoreline Protection Act requirements in the shoreline protection area. We really are adamantly opposed to cutting restrictions on the site. Kahn – I don't quite know how we deal with 5, except in terms of the engineering with respect to driveways. John, is there something else we can do on 5? Edgar – The engineering plans and maybe Mike you could just point that out if you have that in your stack there, the plan and profile for the common driveway high up on the land coming into that cul-de-sac provides for at least two cross pipes, two or three and the idea there was to try to maintain the natural flow. Obviously, there's a little bit of damming that would occur on the back side of the road and then the water would be channeled down to the cross pipes and then they would eventually flow back into the downstream wetlands. I suspect that's the type of thing that they are talking about. The idea's obviously not to divert the water in such a way as to drain the swamp if you will. The wetlands have significant value and the idea is to try and allow the flow to remain as natural as possible. I don't think any of the proposed house sites, as general as they are at the moment, basically meaning the test pit locations would necessarily have a radical effect on redirecting drainage. It's still going to flow downhill and eventually into the wetlands so the main thing we talked about was this common driveway and making sure that it didn't somehow channel all of the runoff into the road and circumvent the natural wetlands. Kahn – Item 6, you'd end up with a driveway that I guess using my pen as a ruler, you end up with a driveway that doesn't have any real grade problems, but would be about twice as long because you take it all the way down to the south and then bring it out along the line by the Atteberry house. On the other hand, that does avoid quite a wetland crossing and maybe the answer is we ought to consider that. I don't think that other than lengthening the driveway, I don't think we're creating any major engineering hurdle there. We would certainly be avoiding the wetland. Vadney – I would disagree with that move and I would say cross the wetland, make the short driveway and stay out of these other people's way. By sticking it over there, you're going to be putting it by the Atteberry house, you're going to be running it behind these other two properties in a way that I wouldn't like if I were living there and I don't know that crossing that one wetland is any major environmental horror show. Bayard – I think in this case I tend to agree with the Chairman. I think I'm not really in favor of having driveways

meander all over the place, especially given that they would be meandering by different persons property so I think that it makes some sense. (inaudible) Kahn – it sounds to me like we actually disposed of something. We've got more building envelopes here. I think the building envelopes are all the same issue and that is that we ought to restrict construction in the wetlands and in the buffers and so I think that takes care of.. Vadney – Isn't that almost redundant? Kahn – No, because you could always go to the ZBA and say I really need to build my house in the buffer. Edgar – I'd like to ask Mike a question. We talked about restricting 3 and 4 to the west side of the wetland as designating that area. With respect to all other lots, are you willing to stipulate that given the wetland setbacks on the plan that there would be no further encroachment into those setbacks as a result of lot development and if we can agree to that, we don't have to try to create envelopes because that's been the issue? You and I have talked about that for 8 months now to try to get our arms around the cumulative effect of the project and we don't want to have an approval today and then have everybody for whatever reason start crowding the wetlands and going to the ZBA and asking for relief and then getting all turned around sideways with our ZBA and Conservation Commission so I think the simplest thing, notwithstanding 3 and 4, meaning on the uphill slope for the balance of the properties if we can agree that there wouldn't be any encroachment into those wetland setbacks, then you have all of that area on all the lots as indicated on the plan to site a house and we can just eliminate everyone's concern about subsequent lot owners getting into those setbacks. That's a straightforward question and deserves a straightforward answer. Are we willing to do that? Garrepy – I don't know if the draft deeds that I provided to you have language that addresses that, but we've talked about that with respect to the building areas for Lots 1, 2, 3 and 4, and I don't have any issues with that. I'm sorry, with respect to the building areas for all the lots, I don't have any issues with that. The only tricky part comes down here where we are seeking to eventually gain access down here and then I imagine at some point down the road, folks might want to seek permits for accessory structures that are allowed by your ordinance that meet setbacks and we'd want to be able to access those areas. Edgar – If they meet setbacks, you don't need relief. Garrepy – And I guess the other caveat would be that we'd like to make sure that we're talking about setbacks that are currently existing within the Town of Meredith so if in fact the setbacks for some reason were to change and I know this will never happen, but if the setbacks were to be changed so they weren't 50' let's say and they were 25' from a certain type of wetland, we'd want to have the ability to then work with the change in that flexibility as the townspeople have voted to change the setback, we would want to be able to still locate accessory structures and other allowed uses in those relaxed setback areas. But I don't think we'd have an issue in general with what you're talking about. Edgar – I think the one concern would be that given the envelopes you have down by the waterfront, we've been around the barn a few times on lots 3

and 4 and if a future owner all of a sudden wanted to put a large accessory structure located in one of those setbacks, should there be an issue at the Town's level, it should be sent packing and you have limited envelopes on 3 and 4 down by the waterfront to put in an accessory structure and I think we need to try to hold to that, otherwise, we've just wasted a boatload of time trying to get stuff out of that area if we keep that door open. (inaudible) Kahn – If we were to put restrictions in the deeds, the restrictions would be as the setbacks exist now. If somebody can pass a law that extends the setbacks and does it without grandfathering, that shouldn't be our problem. If we've got a 50' setback now or 75' setback, that's all we should apply. We shouldn't try to grab anything that happens in the future. (inaudible) Garrepy – There's no plan at all at this point to do any cutting, but that is sort of beyond this level of what we're seeking tonight. We're not submitting an intent to cut, we're not looking to cut anything at this point. Once we gain the approval for subdivision, we'll certainly be building the infrastructure, the shared driveways, etc., but beyond that we're not. At this point we don't have a master plan for what the eventual view shed cutting might be, if any, and so it could be entirely left up to the individual who buys the property to determine what he or she may want to do within the scope of the state regulations governing timbering. Any cutting certainly has to go through the Selectmen, intent to cut and that sort of thing, so there isn't a plan right now but we don't want to restrict anybody's future plans. Vadney – There is a difference between an intent to cut for logging and just cutting to create views. Finer – You said you were adamantly opposed to any restrictions on cutting and that's not the purview of the Board. I take exception to that. On several subdivisions that have been before us, we have placed restrictions on cutting and it is part of the approval that is put in place. Garrepy – Your ordinance actually allows for timbering in wetlands, it's a permitted use so it goes so far as to allow the use in the wetlands, obviously, the wetland buffer would be allowed as well so I guess if there's a compelling reason why you would want to restrict our ability to cut views, or paths or what have you. Finer – We don't want to see the cove clear cut. Kahn – I think the answer is that, yes, we have restricted cutting in the past and it's an issue as to whether or not we may be going sort of at the outer limits of our envelope, but if it comes to that and it comes in the package of a conditional approval, you can always say you don't want the conditional approval so I would be in favor of keeping you out of cutting in the wetlands and the wetland buffers, particularly on Lots 3 and 4. I don't see why you would need to cut other than for driveways and things on Lots 1 and 2, particularly there in the wetland buffers and in the wetlands on Lots 1 and 2, there's sort of no need for it, but I am very concerned about cutting in the wetlands and the wetland buffers on Lots 3 and 4. Edgar – Mr. Chairman, can I ask a question, Mark, you've evaluated the functions of wetlands, if the wetlands were cleared, would they effect negatively the functional value of the wetlands? West – If the whole thing were clear-cut, it would. What I was just going to say is, the 3 vernal pools on these two lots are all within

the shoreline protection zone and would be restricted for shoreline protection cutting and limited by all those regulations anyway. Edgar – With all due respect, Mark, this Board has dealt with shoreline cutting and the Shoreline Protection Act, just because there is an act doesn't mean that it affords a tremendous level of protection, that's minimal level of cutting protection and I guess and we had another experience in Town that has nothing to do with you guys, but we unfortunately learn from experience sometimes and I always thought there was a 50' buffer protection for streams from cutting and we come to find out that only applies to perennial streams. My guess is that the majority of that stream in that wetland complex is not perennial and so notwithstanding a condition of approval to the contrary, a property owner could go up and clear cut the whole thing if they wanted to open up their view and that's the kind of thing the Board's speaking to is to say we've been working with you extensively to try to find ways to protect that sensitive area so now that we get to the goal line, is there a cutting element to this that would be beneficial to both the applicant and the Town towards that objective? That's what we're getting at and what Lou is suggesting and what the Conservation Commission is suggesting is maybe limiting that only to the wetland buffer areas because presumably those adjacent uplands provide some functional value to those wetlands themselves and I guess I'd ask you, are we missing something here, because we've tried to get the driveways out, the houses out, the septic out of that little area and then if in theory a property wanted to go in and clear cut that whole area to open up a view, that would seem to at least in part be contradictory to everything that we've been working towards so what's the balancing act that could kick this thing loose? West – The balancing act is that any cutting plan down here for view sheds and other activities should be well thought out and well designed and you certainly don't want to allow any clear cutting and you want to leave the trees around the vernal pools if at all possible, but what I'm trying to raise is our company has done work on view sheds where they do selective trimming of trees to get views and that type of activity, if done properly, could have no negative impact on vernal pool critters because you are literally taking branches and very selective areas to enhance views or to have a small structure there, so I'm saying that could be done without decimating or losing the function or even having a significant impact on the function of the wetlands. Edgar – One scenario is that it could be done right and another scenario is that it could be done wrong so how do we get to some comfort level relative to this approval so that we know it's not going to be done wrong? West – Well, I guess you've got a variety of Best Management Practices even in the forestry regulations around vernal pools so clearly you've got some pools here where you want to protect the trees. Perhaps and I'm going to speak out of turn, but they may want to have some restriction just around the pools themselves and your other general cutting activities are going to be something where they really don't need to do much to get down there. We hiked with the Conservation Commission, it's a mature forest, there's an

existing trail here that actually created a vernal pool an old logging rut area and a lot of the trails are already there so I think what they're trying to do is not a situation where they can't touch this whole part of the property when that's part of the value of the property so I believe the most important area to protect is right around the pool itself. The trees within 25' are the ones that provide the shade and if you want to have some extra restrictions around those pools, then after that we're really talking about pedestrian traffic and not something that's a big threat to the resource. Edgar – How about from a water quality perspective in terms of the cutting proximity to the seasonal stream, do you think it would be prudent if a property owner wanted to cut up to the bank of the stream? West – Clear cut, no, but if they are taking a tree out here or there to get a view or even some branches, I don't think that's a problem. Finer – Who's to decide what branches come out though? If Joe Landowner walks in saying I want to see the water better, comes in with his chainsaw and wipes out all the trees and said now I can see the lake, who's going to stop that, if it's not a deed restriction? West – I think you're right, you would have to have some sort of handle on that. Garrepy – What we've done in other situations, other development projects that we've been involved in where we have sensitive situations, we've enlisted in the aid of a licensed forester, who's licensed with the State of New Hampshire, to oversee any cutting that might happen in those sensitive areas and we would be willing as a condition of approval to work with a licensed forester in those sensitive areas when we're cutting to ensure that the Shoreline Protection Act requirements are fulfilled and obviously, to make sure anything outside of that shoreline protection area that is still in a sensitive area is protected when the cutting happens and that's been done, we've done that before voluntarily, it's worked very well. Towns have been receptive to it and the end result has always been a good one so that may ease some concerns. I don't think we want to require that for every single area of the site when we're cutting a tree in that sensitive area. Vadney – Item 9, common docks. Kahn – I don't see how we're going to do that. Sorell – I don't know how we're going to do it when the state's the one that issues the permits for them. Vadney – Correct, forget it. Item 10 – Type and location of shore structures and beach construction to advise.. Kahn – It seems to me on shore structures, we've got wetland setbacks and we're going to put the wetland setbacks in the deeds so beach construction is a DES thing. Pisapia – We are trying to concentrate the impact. Kahn – You want one beach for four properties. I just don't see it happening. I think there's a difference in philosophies. I think the Board is looking at this as a subdivision that's going to have eight lots and the guy's asking to subdivide his property. It could be divided into two properties, but I think the Board is being very liberal. Kahn – We are not going to have 8 docks, we've cut the thing back so at least we'll only 4, now the issue is whether or not they are going to be able to look at them from their houses and I think the answer is "no", but I don't know, maybe somebody won't agree with me, but I think on shore structures, we have the

provision. Beach construction I really don't see that we're going to be able to get people into a co-op beach. Bayard – I'm not big on that. I think with the restriction of the structures, I don't see Lots 1 and 2 as problematic, 4 seems to have an area for a small structure, 3 once again is our problem lot. It's got a stream on it, vernal pools, it's got all sorts of stuff in it and it's a weird lot and if you made 3 and 4 one lot, it would solve a lot of problems. Vadney – We don't go along with #10. Vegetation, clear cutting, tree cutting prohibited if it impacts wetlands and wetland buffers. Kahn – I think we've already been through that. I would just say to the applicant that if you've got a proposal to make in writing as to how you would handle tree cutting, make it for what it's worth, but if it's just going to be that they are going to hire a forester, I don't think that's going to fly as far as I'm concerned. Kahn – John, help out, what else have we got as an issue here. (inaudible) We've already addressed that. We didn't resolve it, but I think the sympathy was that we don't want to establish a precedent where we have a 3-house driveway. How we deal with it we haven't figured out yet. OK, restriction on future subdivision, is that an issue? Garrepy – Not with us. Kahn – The plan will provide that there will be no further subdivision. Garrepy - That's what our draft deed language suggests and I know you haven't had a chance to have it reviewed yet and that's understandable given the time we.. Edgar – Does that include the granting of any waterfront access rights? Garrepy – Yes. Lots 1-4 would have sole access to the water without any ability to grant easements of access in the future. Vadney – No question with Chief Palm and firefighting. Kahn – It seems to me the only issue that we're really dealing with here is how we are going to handle the trails and the logging. Otherwise, I think we're pretty much there. Edgar – Mr. Chairman, one way to look at that and I know it's punting a little bit, but the notion of standards relative to the trail construction that were eluded to earlier, Best Management Practices for trail construction and that kind of thing, we don't have those tonight. We're certainly not going to be able to get into that tonight. We have at least two items that will be coming back for a compliance hearing if you were to grant an approval tonight so to add a third to that is not that onerous so possibly the trail and cutting standards could be incorporated in that kind of follow-up compliance hearing. We certainly don't have time tonight to nail that. Kahn – Is there any inclination to try to formulate a conditional approval tonight? Sorell – You guys keep talking about this, but I don't see how you are going to get around a 300' section of road to be.. We've got a rule already that says you only get two houses per driveway, that's it. How are you going to finagle another house in there, I'm sorry, what's good for the goose is good for the gander and that's not going to fly with me. Kahn – I think the proposal that we're making is that until you get to the driveway from Lot 7, it's a private road and it will meet the Town standards whatever they are for private roads. Sorell – That's right, so why are we going to make an exception for that. Whatever the Town standards are, they are what they are. Kahn – For the first hundred feet, yeah. It might be 110', what I'm

saying is I'm looking at the plan and it looks to me like you can avoid that wetland and bring the driveway in close to 100' from Powers Road so you've got a hundred foot private road. Vadney – This is one of those dilemmas where we could give them the proposed second curb cut, we could move it another 30 or 40 feet down and make Mike Faller a little happier, but that would bother Ralph because it would require a wetlands crossing so if you're going to allow Lots 2, 1 and 7 to exist, common sense would kind of say use one access point, so then the question is do you do it by three houses on the driveway, a 100 foot road standard to make it a road and then a driveway that comes off the end of it. I just think we can work some kind of a deal so that we don't have to have the two curb cuts with one curb cut coming through the wetland. Sorell – As long as the road meets Town road standards that's all right. Vadney – So that can be it. Edgar – Held to a conventional standard, you would have 26 feet. Kahn – It's the Selectmen's jurisdiction, is it not? Sorell – That's a Town ordinance and that's the way it goes. Kahn – But the Selectmen as I understand it have in many cases accepted less than 26 feet. But what I'm saying is, I think that the compromise here is get out of that wetland, get out of the second crossing that Mike Faller doesn't want and the way we avoid setting a potentially unfortunate precedent is by recommending to the Selectmen that they come up with a reasonable standard for a 100' private road. Vadney – If we were to say we wanted a 26' road, it would be actually a rather silly looking driveway that's 26 feet long coming out on.. One of the goals remember is to preserve the somewhat scenic look by Y-Landing and on that side of the road, we would now have a great wide access road coming and it would be just about the shape of a parking lot because it would be 26' wide and 100' long. Garrepy – Could I make a suggestion or ask a question first I guess and that would be if your regulations define a road as anything over two lots being serviced by it, a waiver from that regulation would then define it as a driveway if you allowed it to be a 3-lot driveway and then it would remove any need to go to the Board of Selectmen for a road standard issue because you've now defined it through your regulations as a driveway. Finer – I for one will not support a driveway that serves 3 houses. Garrepy – The second thing I wanted to talk to the Board about is our ability to shift our proposed driveway for lots 1 and 2 further to the north of the property towards the boundary of our property providing that we provide center line to center to line roughly 100' of distance between the two driveways. Mike's concern was the distance between driveways and if we were to move that driveway as far over as we can, keeping in mind that the proposed driveway location for Lot 7 would remain where it is, it's a wetland buffer impact not a direct wetland impact and I can't speak for Mike but I think that would go a long way to solving his concerns and it would get around this whole issue of private road, what is it how wide is it, etc. Vadney – It becomes a question of would you rather have two curb cuts somewhere between 30 and 100 feet apart or a driveway that serves 3 houses and you could call part of it a road, but you'd

be kidding yourself, it is still basically a driveway that serves 3 houses. It's just a question of how wide you make the first 100' and how you define it on the books. To me, it's the same thing. I would hope that the Selectmen if they authorize a road would waive any kind of standard and say make it 16' wide or 9' wide or something like that like you would a normal driveway. It seems a bit senseless to put in a 26' road if that's what the Town standard is. Finer – I'm not saying it has to be 26' or has to be a road that's not a driveway serving 3 houses. Vadney – To me, it's almost making believe that it's anything different because in deed no matter how you design it, it's going to be a driveway serving 3 houses. Finer – Not if the Selectmen say make it 24 feet wide. Garrepy – Increasing the separation just gets rid of all the confusion and again to remind the Board, you know this but to remind you, lots in this district, 50' of frontage required, if we can provide 100' of separation centerline to centerline or thereabouts for those driveways, we are already way above and beyond what your minimum requirements would be for driveway separation. If you were to have lots in this district with 50' of frontage so I think that, at least in my mind, solves the problem. Vadney – And I recognize that you can do that and I appreciate the fact that you've offered to put in two driveways. I personally would say it's time to be a little flexible and put the third house on a driveway and have one access point to the road, but I don't care, it's up to the Board. Garrepy – We're fine with either solution. The only thing that we're worried about a little bit is timing because I know the Selectmen have just recently become a five-member Board and there's probably some getting used to each other and figuring out what's going on and I don't know how quickly we could get on the agenda and resolve the issue in time to come back for a compliance hearing. Hopefully, we could come back for a compliance hearing some time in early May with the Planning Board, but if we haven't had that issue resolved at that time, we'd like to have some resolution on another avenue and perhaps separation is the solution. Vadney – In your run through those, what do you see as any hang-ups other than this driveway issue. Kahn – The hang-ups I see are the driveway and deed restrictions and apparently some deed restrictions have been submitted. Maybe some more will be submitted. It seems to me that we're not going to get this done tonight, but John tells me we've got room two weeks from now and I think we ought to put it over to two weeks from now and wrap the darn thing up. Edgar – If the Board were to continue it, I think it would just be helpful to make it clear to the applicant what if anything you're expecting him to come back with just so we can move this forward at some point so I just think that it's one thing to continue the hearing, but I also think it's important to know specifically what, if anything, do you want the applicant to provide. We just can't keep going and going like an Eveready bunny. Vadney – The whole hang up appears to be minus some legal details on deed restrictions, the hang-up is how to define that driveway and the applicant has said they can put two driveways in there, meet the book and everybody's happy and if that's true, and I guess maybe that's the simple solution. I think it's rather inflexible of

us to say we wouldn't allow the 3rd house on a driveway so we've got two driveways. To me, it won't help the neighborhood. Kahn – I would say there's going to be a compliance hearing on this one and by that point, whatever we want to call this thing, it will have been resolved. The Selectmen will have learned to deal with each other and I'm sure that whatever this thing is, they in their wisdom will decide that the first 100' must be a private road and I think they'll get the message. Mrs. Worsman will take it to the Board that we're hung up over whether or not the first 100' is a driveway or a road and we prefer that it be a road so I call the motion. Kahn – If the applicant wants to make a proposal on the cutting, let him make a proposal. So far what I've heard doesn't appeal to me.

Kahn moved, Bayard seconded, THAT WE CONTINUE THIS TO THE NEXT PLANNING BOARD MEETING ON APRIL 25TH, 2006. Voted unanimously.

2. **STEVE CATALANO d/b/a ABONDANTE** – Proposed Site Plan Amendment to expand an existing restaurant use, Tax Map U07, Lot 130, located at 30 Main Street in the Central Business District.

This is a follow-up to a pre-application consultation with the Board in January. We are looking to expand our dining room area to the adjacent spot in our building at 30 Main Street. At this time, we're asking the Board to waive the formal site plan requirements as Mr. Edgar pointed out the fact that we're making no structural changes to the building. All the changes will be cosmetic and internal; primarily external will be lighting, signage and landscaping, etc. We're working right now with the Town Administrators to make sure that all the changes and modifications are within the proper codes. At this time, we are also asking for a parking limitation waiver. The net gain of seats right now we have that number revised, that number should read 42. That's our best estimate at this point. That's including indoor and outdoor seating. It has been our experience running the restaurant there that a lot of the parking is really not an issue given the fact that we open for dinner at 5:00 p.m. A lot of people park in the church parking lot or adjacent public parking areas or some of the Mills or B & B's or may be in Town for other business and walk to the restaurant for that purpose. Vadney – When this is done if this gets approved, what will be the total inside seating? Catalano – The total inside seating will be 68 seats and the outside will be 24. Some of that in the back of the restaurant, 8 seats in the front of the restaurant. Bayard – Is the upstairs included (inaudible)? Catalano – No, this is just the adjacent spot where the restaurant is located now to the right of us where NJ Tangles hair salon was previously in business. Finer – I'd like to ask Steve about the trash problem (no microphone being used) from next door. There's a letter from an abutter that says there's currently a trash problem and this is going to make it worse. Do you have plans to increase your trash pickup or anything?

Catalano – Yes, we do recognize there has been a problem there and we've already taken some steps to address it, but more steps need to be done and that includes but not limited to changing the doors that cover the existing trash area, to have more frequent pickups of trash, to maybe even relocate the site of where the trash is currently picked up, greater staff compliance, those are some of the things we're thinking on. We are aware there is a problem and we really want to work to address it. Edgar – Basically, you were briefed on this at a pre-app so I think you have a pretty good feel for it. The formality of a parking waiver is necessary which is consistent with just about every land use on Main Street that doesn't have parking, that's on Page 32 of the packet. There is a small decorative fence being proposed to separate the sidewalk from the front seating area and I've suggested that Mike Faller, Director of Public Works, should just sign off on that fencing proposal, maybe perhaps visit with Steve out on site to make sure there's no complications with respect to sidewalk plowing. We've had a couple of those issues pop up in the past and this is just, I'm pretty sure it's probably without issue, but I think as a courtesy to Mike, having him just take a look at that fence location and give his nod of approval would be prudent. Vadney – Is that something that would be better to be a seasonal fence? Catalano – If I remember correctly, my understanding is for handicap access, it has to be a permanent fence. Edgar – other than that as was noted by Bill and spoken to briefly; we do have a letter raising concerns regarding the increase in trash and food debris. What I've suggested, a few different ideas just as Steve has eluded to in terms of securing the area, better management relative to keeping doors closed, frequency and so forth and alternative locations. What I had suggested in the staff review is that the Board stipulate as part of any approval that a program be approved by the Health Officer to make sure that the issues that were raised by the abutters are addressed in an improved program relative to the solid waste storage and so that's how I suggested that we address that one. This afternoon I took some pictures of the site and if you wanted to get a feel for them, they begin on Page 41 of your packet is basically the front sidewalk and the storefront closest to us in the pictures there that the expansion would occur in and if you look on the part of Abondante that currently has the canopy, you would see where those bushes are and the planters, you kind of carry that line forward towards the camera, that's the general area of the seating. The next picture is looking down the alley and if you look at the building on the left is the Abondante side of the alley. The abutter, Michelle Riccuitti, that raised the concerns on the right-hand side of this picture and if you look back past the two exterior doors on the left, you'll see kind of a shed with some sliding doors, that's the area where the trash is stored. The next picture is a bigger picture of the shed area. Within that shed area there are two fuel tanks that occupy the left third and the center third of that shed and the right third of that shed is where the cans are kept. Those are just to be familiar with that. I certainly think the applicant's agreed to make some improvements. I don't have the expertise to know

exactly what they could or should be, but I think maybe a way to handle it is to just condition that subject to our Health Officer's approval of an improved program.

Finer moved, Bayard seconded, Mr. CHAIRMAN, I MAKE A MOTION WE APPROVE THE PROPOSED SITE PLAN AMENDMENT FOR ABONDANTE'S SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THAT MIKE FALLER SIGN OFF ON THE PROPOSED FENCING;
- (2) THAT BILL EDNEY AS HEALTH OFFICER SIGN OFF ON THE APPROVED SOLID WASTE MANAGEMENT PLAN; AND
- (3) THAT THE PLANNING BOARD RESERVES THE RIGHT TO REVIEW AND AMEND AND WE GRANT THE PARKING WAIVER THAT HAS BEEN REQUESTED.

Voted 6-1 in favor of the motion.

3. **LOVEJOY SANDS DEVELOPMENT, LLC:** (Rep. Carl Johnson) – Proposed Minor Subdivision of Tax Map U34, Lot 21, into three (3) lots (1.51 ac., 1.45 ac. and 2.15 ac.) located on Lovejoy Sands Road in the Shoreline District.

I'm here representing Lovejoy Sands Development, LLC. This particular property is located on Lovejoy Sands Road off Meredith Neck Road in the Shoreline District. As you can see by the plan, it has a few hundred feet of frontage on Lovejoy Sands Road, but is exceptionally long and skinny. When we were approached for the potential development of the property, the first thing that we did was to hire Nicole Whitney from Ames Associates to delineate the wetlands and then work in conjunction with Randall Shuey of Gove Environmental Services to conduct a site specific soils map. So you can see here on the plan, we've delineated the wetlands that are on-site. There are two small wetlands located on the northeast corner of the property and then in the center portion of the property on Lot 3, both of those wetland areas are qualified as non-designated exempt in that they are less than 3,000 sq. ft. big and are not connected to a brook or stream. The other aspect of a site-specific soils map is that it's utilized to conduct soils based lot sizing calculations to determine how many lots the property would be able to support for a subdivision. The soils based lot sizing categories are charted, they are brought back into the Town of Meredith regulations which still uses the Belknap County Soils Survey soil designations and then a chart is developed to demonstrate how many total lots could be produced and then also each individual lot that's created has to be at least 1.0 lots big in order to be a lot. The configuration as we have it so far is to create a 50' ROW off of Lovejoy Sands Road which would be a roadway built to Town

specifications. At this point in the discussion, not a driveway and then all of the lots would be accessed off of that roadway so right now the property as a single lot would be entitled to a driveway cut on Lovejoy Sands Road. We would only be asking for one cut on Lovejoy Sands Road and it would be at this point a roadway. I have met on-site with Mike Faller in terms of creating that access point on Lovejoy Sands Road and in standing on the site, his first comment was there's no problem with this being a roadway in terms of sight distance and safety and the drainage associated with Lovejoy Sands Road, but it would be a shame that this couldn't be a driveway. I thought it was very interesting listening to the discussion that the Board was having because it would be essentially the prime example of why I believe there should be a mechanism down the road whereby three lots could be accessed off of a driveway, a portion of which may be built to a slightly higher specification than what a normal driveway would be but, for example, this particular roadway is only about 400' long and we're showing a driveway going to Lot 1 that comes down the roadway a ways. Actually, if you were to flip the house location and the septic location, you could have a driveway coming off of the roadway only after being on the road 50' and from that point on you would essentially only be accessing two lots and as the ordinance is written, that could be a driveway. One of the problems we're faced with in this particular subdivision is the aspect of having both frontage and access. We had actually looked at this a couple different ways and I know John in his staff review has a comment we'll get to in a minute, but one of the things that we looked at was creating flag lots where you would have two 50' frontages on Lovejoy Sands Road and then one lot would have it's own frontage and then you would build a common driveway so one of the 50' frontages would be a dummy 50' similar to the Clover Ridge subdivision where several of the lots have a dummy 50' to qualify for frontage and then have their access somewhere else. Paul Fluet of Fluet Engineering has prepared a complete set of plans showing what we are calling a reduced standards roadway and even the reduced standards roadway being 24' wide is really way above and beyond what you may expect to have for a roadway or driveway accessing 3 lots. So I think maybe if there is a point in time where the Board of Selectmen in conjunction with the Planning Department were considering talking about different roadway standards, this may be a case whereby you could have a caveat where more than two lots could be accessed by a common driveway with some restrictions. For instance, the first lot would have to get off of that roadway within a certain distance from the cut, say 200 feet and beyond that it could be a common driveway servicing the other two. At this point, we believe we have a subdivision plan for residential development only, there's no commercial application of the lots being proposed. These are 3 single-family homes accessed off of a single roadway which we would at this point approach the Board of Selectmen for a reduced standard for that roadway so we're not building the 26' box to access the 3 lots. If you recall, the Board of Selectmen did previously grant a waiver for the box for Clover

Ridge which is an 18-lot subdivision so certainly it seems reasonable to believe that they may entertain a reduced width for a 3-lot subdivision. The other aspects of the subdivision are that we have identified well areas and 4,000 sq. ft. areas which are acceptable to septic. They all meet the standards from the Town and the State. This will require State of New Hampshire DES subdivision approval which we would be applying for immediately after getting input from the Board tonight on this subdivision. The other aspects that are in John's staff review are things that can be worked out, some cross referencing of notes, he would like some information regarding how the power is going to be brought into the property, whether it's going to be above ground or below ground. Of course, the density is 40,000 sq. ft. so we're way above the density requirements. In most cases, when the density requirements are 40,000 sq. ft. and you have on-site septic requirements, the soils based lot sizing takes precedence. He wants the engineer to verify that there will be no downstream impacts associated with the road and the lot development and that's something Mr. Fluet will be providing as well as some site stabilization information and the other thing that he will provide would be a performance guarantee which is typical of what we do with a roadway where it would be a cost estimate of what it would cost to construct the road, the components would be included in that cost estimate and a bond would either give the developer the option of bond it or build it, you'd either bond it or build it and if you decided to build it, there may be a small contingency bond associated with the sediment and erosion control elements of the roadway. At this point, the developer would intend to build the road as opposed to bonding it and so it would be built. It would be reviewed by the Town in terms of its construction and by Mr. Fluet as the engineer of record and then when it was signed off on, then the plan would be recorded. I was away for most of the day today and later in the afternoon I understand there are some letters that have been written with concerns regarding the wetlands, increased runoff, the well and septic locations that won't restrict the uses of the abutting property, commercial use, need for environmental assessments, opposition to transient or multi-family use, increase in boat traffic and a couple other comments. I can address those very briefly. The well and septic locations that are on this property are self-contained. There are no well radii that are crossing any of the lot lines so that it won't affect the location of any septic fields on any abutting properties. In terms of residential or commercial, this is a residential subdivision; there is no commercial application for this particular subdivision approval. When these lots ultimately and hopefully are approved it does not preclude any member of the public that owns any lot in the district from coming to the Board and asking for home occupations or any type of use that's available to all other landowners in that zone. At this point, these are single-family homes. That's what's being proposed and we have no intention or desire to have any commercial aspect of those lots. In terms of the environmental assessment, based on the site-specific soils map that was determined, the

soils are very good. As you can see by also the slope categories, the entire property falls into the lowest slope category that's in the soils and slopes table which is the A & B. There's no slope on the property that's in excess of that category so it's very flat. As you can see the contours, it's gently sloping from west to east and the home sites are generally located central to the properties. What has to be demonstrated in the subdivision application is that you can have a 4,000 sq. ft. area available for septic that has a good test pit in it that you can fit a dwelling of a reasonable size and a 75' well radius that falls entirely on each lot and outside of the 4,000 sq. ft. area and that's what we've demonstrated on each one of these lots. I don't know how we could tie this into an increase in the boat traffic. I suppose if every person that bought a house in a subdivision owned a boat, there would be 3 more boats, but right now it's available for a single-family house so we're only really adding two boats. I suppose that's how you'd have to look at it. I don't know how the Planning Board controls that aspect of the development. In terms of the transient or multi-family use, this is not approved for multi-family. Multi-family is not a permitted use in this zone; it would have to be a single-family home. Any change to that, a subsequent landowner would have to come before the Zoning Board of Adjustment and the Planning Board for additional approvals so we're not here, we don't have the ability to get multi-family or two-family homes approved at this point. They are single-family homes and that's what we're here for. Just briefly, John, in looking at this thinking a little bit outside the box considered the option of creating the flag lots whereby you would have two 50' strips side by side and potentially ask Mike Faller to grant two driveway permits for the frontage as opposed to one roadway permit and then although you'd have 3 frontages, you would only have two driveways, one would be a very short driveway accessing what I'm calling Lot 1, you'd have two 50' strips coming up the western portion of the property in which you would build one common driveway. So you'd have one driveway servicing two lots and then you'd have the third lot, Lot 1, having a driveway cut of its own. I can tell you that Mike Faller indicated to me that he would much rather have two driveways, one being a common driveway than to have another roadway. Now that's something he would have to verify, but I can tell you that his concern is that as Meredith becomes more desirable to live in and people are developing land, some of these subdivisions are creating additional roadways that he's ultimately going to be responsible for. This is a very short roadway and if it was built to these specifications, it would not be a big deal, however, it would be an additional road to plow. And when you sent the plow truck down to Lovejoy Sands Road to plow that and beyond, he'd also have to plow this and right now in town, there's Crestwood, Clover Ridge, there's a few other roadways that are right at this instant private that are coming down the road eventually, hopefully to become Town roads so his thinking is that in this particular case if there can be a mechanism to avoid another Town road or potential Town road, it would be worth looking into. I know John and I just talked about this today so I really haven't had a

chance to run that by Mike, but standing there talking to him on the site, I know that he expressed an interest in having driveways as opposed to roadways. I think in terms of the general public to have two driveway cuts here would be probably more beneficial than having a single roadway cut accessing 3 lots, but that's something to bounce off the Board. Right now, we have a plan that we believe meets and exceeds all the subdivision requirements of the Town. Edgar – As a technical matter, Mr. Chairman, I just flagged on Page 46 just to double check the lot calculations to make sure the ROW area's been deducted. They are tight. Johnson – These are the individual lot calcs. And just so the Board understands when we're doing this, it's not unusual after the site specific soils map is done as you're creating the first lot to have that lot be slightly over one and that's where you end up putting your first line as you're creating a lot at 1.0 something. Edgar – The reduced standard that we're talking about is going from a 26' section, two ten's plus 3' shoulders, to two 10's plus 2' shoulders so we're talking about a 2' reduction in the standard. I know that the time's getting late, but we go from virtually a non-regulated driveway non-standard to a 26' standard and have nothing in between. I think that's fundamentally an issue here, we could certainly approve it the way it's presented, there's nothing wrong in doing that with a compliance hearing on legal and performance guarantee issues. The reason why I recommended the site inspection is not because of its technical complexity but to help evaluate this whole issue of which way to go with the driveway. In this particular case, this is probably about the flattest site Carl's ever submitted to us. I think the road grade's a minimal fill and we're looking at less than 1% grade through the entire length of the road. This is about as short and flat as they get so there's no geometric issues. In fact at this point, we're not even looking at farming the engineering out other than to verify some drainage aspects because it's pretty straightforward construction, there's no curvature, there's no vertical or horizontal road alignment issues. It's so short, probably at the end of the day, there won't be any major drainage issues. That's really the basis for me suggesting that you take a peak at it just so that you can try to visualize whether or not we should be forcing a 24' road in there or maybe looking at an alternative lot layout. Quite frankly, if we went with a common driveway approach, it very well could be less runoff, less earth work, less disturbance with a smaller footprint as opposed to a 24' road with a little bit of fill section so it may be environmentally a little more friendly way to go as well so it's not essential that you walk it, but I think that it might just give you that perspective to help with it. We have received 3 letters from a total of two people and those are on pages 51, 52 and 53 in your packets and I was running out of time, effort, energy and enthusiasm today when I got to this staff review so I didn't detail those out, I did them in bullet fashion as Carl was speaking to so those are very abbreviated comments in terms of the abutters' concerns, but you'll see the letters on Page 51 from Martha Roberts and she is an abutter to the rear lot to the right. Her concern had to deal primarily with the runoff and then making sure that the development

of the property would not impact their use of their property relative to your placement of wells, septs and so forth. Then we had two letters from Sarah Krebs and that's the lot to the left of Martha's and the first letter raises just a lot of questions relative to the nature of the application. Is it residential? What about future commercial? Applications for zoning changes? What kind of environmental assessment? And where the roadway would go? The follow-up letter is intended to be an addendum to the first letter and from her point of view, she just would not support any transient or multi-family use. The boat traffic must not increase through Brown's marina or any right-of-lake access so I guess the question is, is there any waterfront lake access being attached to these properties? Johnson – There's not the ability to grant waterfront easements in Meredith without going through the zoning regulations regarding waterfront access. Edgar – But at this time is there anything that's compliant with the zoning that's being conceived that would be attached to these lots? Johnson – Not that I'm aware of. In terms of granting access to the lake, there's a Town ramp at the end of the road. Touhey – I raise the question because the owner of the property owns a lot of land in addition to what he is presently using as the commercial property there. That lot of land is on Lovejoy Lane and it's a very, very small lot that is on the water. I just raise the question because, he could as owner of that property go through the procedure to grant easements to a certain number of people depending upon the amount of lake frontage that he has. That's my understanding. Johnson – As I understand the ordinance as it's written, it's extremely restrictive in terms of granting access to back properties. There's none proposed for this property, but to answer your general question, if you were to grant access to back front properties via a lakefront property, you have to dedicate the first 100' for swimming and then an additional footage for each lot that you were to grant, you have to have a certain beach size, you have to have restroom facilities, it's pretty restrictive in terms of granting rights. Right now this is a residential, 3-lot subdivision and I'm not aware of granting any lake rights to these lots. Vadney – (No mike, inaudible) Edgar – Even if it was deeded, if they comply with the zoning, they comply with the zoning. Vadney – (no mike, inaudible) Johnson – The real answer is there is no intention of granting any waterfront access to these lots. (no mike, inaudible) Edgar – A couple standard conditions with respect to the highway access, but here again depends how you ultimately treat it and whether or not you want to cut this loose tonight or take a look at it. If you do conditionally approve it, it needs a waiver from the Board of Selectmen relative to the cross section that we talked about. Here again, we haven't made a real big deal out of the engineering review because of the nature of the project, but I think it would be, especially in light of the fact that we haven't done the third party review and some abutter's issues have been raised about downstream, it's just to see what are we looking at if anything for any downstream implications to abutting properties. In a bigger project, you'd put it all into a detention pond, you can regulate your discharges to demonstrate legal

compliance to avoid easements and all that kind of stuff. In this case, it's basically going to be a small amount of sheet flow, how much of that's going to absorb before it gets over the lot line, I don't know whether or not that's an issue or not. My guess is that it's probably not an issue, but it's a good one for the design engineer to verify. Performance guarantees and the legals, we'd have to have some mechanism set up for private road maintenance and those together with the performance guarantees would be typical compliance hearing requirements. Vadney – One letter on Page 53, from Mrs. Krebs, she mentions (inaudible, no mike). Edgar – It's out of your control in that it's not in front of you, I don't know exactly what the ordinance says, I could look it up. It's being presented as a fairly typical residential subdivision and just like we got done telling those folks about the AMC property that it's being sought after for purposes of approval as a residential lot and to the extent there was any non-residential activity, you'd have to come back so I think Carl is correct in that the ordinance applies to everybody and if people want to seek approvals pursuant to the Town's zoning ordinance, you can't necessarily preclude that. Johnson – I know that the Town does not regulate a person renting their house out and to that extent if a person were to buy a lot here and build a house, I don't believe the Town can say that he can't rent that on a monthly, daily, hourly basis. Kahn – In some of the districts, we have rental cottages as a permitted use so the flip side of that is maybe in districts where you don't have rental cottages, it's not a permitted use. I think there's an issue as to whether or not if someone has owned a house and rents it out 12 months of the year, that's not a rental cottage, but on the other hand (inaudible). Edgar – One of the things that we had proposed in the ordinance that did not get approved was basically eliminating that use because it's somewhat _____. You know you're looking at probably well over a hundred grand for one of these lots and you're probably not going to put up a shack and rent it out a little bit. The money's going to be there to put up a nice home. Vadney - I think the old definition of rental cottage (inaudible) From a code point of view when they get into the transient use is generally 30 days or under and so if you were looking at a hotel, there would be those kinds of elements that tie into actually the building code. If you'd like, I certainly could look up the Shoreline District to see what the commercial possibilities are, if any, they are probably by special exception. Vadney – As presented here, these are going to be purchased by people who put kids on school buses everyday from residential houses, that's all we have to approve. (inaudible) Edgar – I didn't speak with Mrs. Krebs, I don't know if she's contacted the office, but if she is just simply responding to our certified mail, and I don't say this with disrespect, but she's probably not informed, it's probably not like she's gone through the file or gotten into the details so she's just asking a lot of questions out of concern for how her property might be impacted. Johnson – I think one of the things she may be thinking about is, is the owner going to build 3 houses and rent them out on a regular basis to different people and the answer is "no", these are lots to be

sold. Now in thinking of the waterfront access, let me make it clear that one of the owners also owns a marina and he owns boat slips and a person that buys a lot here may also buy a boat slip, but that is not the same as I don't think that Mr. Touhey was talking about granting rights across a piece of land, that's not the intent. Whether or not somebody buys a house and a boat slip that already exists as a boat slip, I'm not quite sure, but the intent is for residential lots to be sold to individual owners. (inaudible) Barbara Clark, 40 Lovejoy Lane – My principle concern was granting of access through a property owned by the principles of Lovejoy Sands Development and that question has been answered. Living on Lovejoy Lane, I just want to add a comment having been thoroughly educated today on the virtues of driveways vs. public roads. This is a special case being near the marina. Lovejoy Lane is narrow, it's barely wide enough for two cars to pass. It is not uncommon to have someone park their big fat boat on Lovejoy Lane because they cannot find a place in the marina. I have no opinion as to whether or not this should be a driveway or a public road, I think it should be what's economic for the builders and what's best for the Town, but either make it narrow enough so nobody's tempted to park there and block it or wide enough so that the people can get out because the people coming to the marina, they'll park anywhere and these poor people won't be able to get out if that's not taken into account. Johnson – One of the options that I've explored with the owner is to keep the roadway, build it to Town specifications whatever they may be, but to keep it a private roadway and in some instances with a small subdivision like that, that may be more attractive than making it a Town road. In other words, if you have a private maintenance contract to plow your road, you may get it plowed sooner and quicker than the Town road and given the fact it's only servicing 3 lots, the standup ability of a road may be 20 years so there may not be any major maintenance issues. However, that being said, I don't believe that you can ever say permanently that something will remain private and there's a couple of cases in New Hampshire where roads that have been deemed to always to be private, have been taken over by a Town, but that's one of the aspects that I'm exploring with owners as to whether or not they want that private. The other question I have before the Board would entertain a continuance or an approval would be, is the Board amenable to revising the plan such that we would entertain something like John has suggested with the two flag lots and two driveways versus the roadway? Sorell – We just got done this with the last application. If you're going to make the roadway, you're going to make it to Town specs. Johnson – We know that if we make this a roadway. My question was would you rather have this be a Town road built to Town specifications or two separate driveways, one being a common driveway. Kahn – Either one is fine with me. Isn't it really the applicant's choice? If it's going to be two driveways, then let it be driveways. I'd rather see two driveways and not have to worry about another road in this Town we've got to plow and maintain. Bayard (inaudible). Johnson – Well, yeah they will because traditionally you don't

count the flag portion of a flag lot in the 4:1 ratio. Edgar - It might just result in less runoff, less disturbance. I just took these same lot lines and if you kicked over another 50' so you have the dual flags here, you'd have one driveway coming in servicing these two sites and something coming in there. It just seemed a whole lot simpler than going through the whole drill on road construction. (inaudible) Johnson - It could be as much as 200' if you require that. We have plenty of flexibility there. The sight distance from anywhere on this property, the sight distance is up to the intersection and for several hundred feet down the road. Vadney - How wide is Lovejoy Sands Road at that point? Johnson - The actual ROW? I did not measure it that I remember. Sorell - I think it's about 18'. Edgar - Maybe a little bit more, it was rebuilt a couple of years ago. Johnson - The roadway we're proposing is wider than Lovejoy Sands Road if that's the question. OK, so if I were to revise this for the next meeting to show this and talk to Mike and work out those details, the Board would be acceptable to that configuration. The lot sizing would match. Vadney - In this case I think it would probably make a lot more sense and people (inaudible, no mike). Johnson - It would say private drive, no trespassing. Vadney - If you put a 26' road in there (inaudible). Johnson - And as John mentioned, it involves a lot more cutting and alteration of terrain and.. And again, I'm not speaking for Mike, but I can just imagine how happy he will be when I tell him this tomorrow. Vadney - So, to the Board, is that the preferred choice, two driveways? Johnson - That being the case and I think I have a good feeling, then I would just entertain a continuance of this hearing for two weeks. I'll revise the plan as such; handle the additional comments that John has on his staff review. I can have the plan revised as early as tomorrow. Pisapia - I'm not familiar with this specific property, but I know there used to be a deer yard in that area, a state recognized deer yard and do you know where that deer yard is in relation to this property. Johnson - I do not. Sorell - It's right down on the back corner of that last lot down. Barbara Clark - There are at least 7 of them in one herd. Pisapia - I know we have to be careful on Meredith Neck Road in that area so this parcel does have some value for wildlife. Edgar - If it wasn't as late as it is, I would suggest that we tie the front lot into the common driveway and have 3 come off one driveway, but I won't suggest it. Is there a minimum lot size for this area? Johnson - The density is 40,000 sq. ft. which is just under an acre and most times when there's on-site septic, the soils based lot sizing is bigger than that so these are all in excess of that. ?? So it means it meets lot sizing in that area. Edgar - It meets the density for the zoning district and it also meets the soils and slopes requirements. Johnson - The smallest lot is 63,000 sq. ft., which is 50% larger than the minimum density.

Finer moved, Sorell seconded, MR. CHAIRMAN, I MAKE A MOTION WE CONTINUE THIS TO OUR SECOND APRIL MEETING, APRIL 25, 2006.

Meeting adjourned at 11:15 p.m.

Respectfully submitted,

Mary Lee Harvey
Secretary
Planning/Zoning Department

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

William Bayard, Secretary