

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

Bayard moved, Sorell seconded, THAT WE APPROVE THE MINUTES OF MARCH 22, 2005, AS PRESENTED. Voted unanimously.

APPLICATION SUBMISSIONS

1. **CHRISTOPHER WELLS FOR TOWNSEND D. THORNDIKE:** (Sorell stepped down) – Proposed Site Plan Amendment to establish an equipment and truck repair facility, Tax Map S25, Lot 10A, located on Winona Road in the Business/Industry District.*

Application, site plan and abutters list are on file. Filing fees have been paid. Recommended application be accepted as complete for purposes of proceeding to public hearing this evening.

Sorell moved, Flanders seconded, THAT WE ACCEPT THE APPLICATION OF CHRISTOPHER WELLS FOR TOWNSEND D. THORNDIKE FOR PUBLIC HEARING THIS EVENING. Voted unanimously.

2. **HART'S RESTAURANT:** (Bayard stepped down) - Proposed Site Plan Amendment to construct a 60' x 62' employee parking area, Tax Map U02, Lot 27, located at 233 Daniel Webster Highway in the Central Business District.*

Application, site plan and abutter's list are on file. Filing fees have been paid. Recommend application be accepted as complete for purposes of proceeding to public hearing.

Sorell moved, Kahn seconded, THAT WE ACCEPT THE APPLICATION FOR SITE PLAN AMENDMENT FOR HART'S RESTAURANT FOR PUBLIC HEARING THIS EVENING. Voted unanimously.

1. **STAN JACKSON FOR CONVEX, LLC:** (Rep. Carl Johnson, Jr.) Continuation of a public hearing held on March 22, 2005, for a proposed modification to conditions of a 7-lot subdivision approval granted to James Belcher in 1989. Applicant is requesting that a condition restricting Tax Map R29, Lot 2D, from further subdivision be removed. Property located on Batchelder Hill Road in the Forestry/Rural District.

There was a subdivision done November, 1988 and revised January, 1989. At that meeting there was discussion about the owner intending to restrict further subdivision of this property on the South side of the road, but he did not want to agree to a restriction on the North side of the road. Subsequently, there was a subdivision there. The restriction that was in the minutes was never put on the plan of record. Two weeks later the Planning Board signed the mylar and recorded the plan in the Registry of Deeds without any restriction of "no further subdivision" so as these lots were conveyed out from Mr. Belcher to subsequent owners, there was no restriction on the plan so no restriction was put in the deeds. The property owners were under the assumption that they could develop the property. A significant amount of work has been done, topography, wetlands delineation mapping, soils analysis and test pits on this lot and during the conceptual discussion phase when we applied to the Town, Edgar looked at the minutes of the meeting and discovered there was a restriction put on by the Planning Board and we have been discussing what that restriction meant. It's unclear exactly what it meant because nobody can particularly remember. Harry Wood was the presenter and doesn't recall the specifics, John was here and I believe Roger was also serving on the Board at the time. The taped minutes of the meeting have been destroyed so all we have is the written minutes and they are fairly vague in terms of specifics. We're hoping that the Board would consider removal of the restriction for further subdivision because we now have sufficient information. The Zoning Ordinance has changed, the Subdivision Regulations and what is required to produce a subdivision plan for approval is significantly different, more intense than it was in January of 1989. I understand you met with Town Counsel just before the meeting and probably have some additional knowledge of what his opinions are. Edgar – Carl has summarized exactly where we are at. One of the things brought out at the last meeting was an offer by one of the abutters, Mr. Cotton, to share some additional information. Mr. Cotton and I have spoken on one or two occasions and he has shared with me copies of Covenants and Restrictions as well as a copy of his deed and as I understand it, there were Covenants and Restrictions established in 1977 that have been recorded at the Registry of Deeds for something called the Meredith Hills Subdivision. This Covenant and Restrictions not only apply to the property that was subdivided at the time, but also is very specifically applicable to subsequent subdivisions of the mother property. One of the restrictions in the Covenants, there again there was a 1977-76 plan, there was a 1984 plan, there was another 25-lot subdivision that created this 97-acre piece and then this particular re-subdivision of Lot 25 and 24. The long and short of it is that there is an Article 15 that seems to suggest that all of the lots within the Meredith Hills Subdivision shall not be re-subdivided. There is a private covenant

apparently applicable here. John Cotton's deed does reference this Declaration of Covenants and Restrictions. His deed specifically states an exception, meaning that the subdivider, Belcher, had specifically exempted Lot 7 (Cotton) from the re-subdivision restriction. I haven't done an exhaustive title search, there certainly could be some other bones buried out there, but I did look at the Convex deed and the predecessor deed in title, it does make the same reference to these Covenants and Restrictions, however, it does not include an exception of re-subdivision. There may be a privately, enforceable covenant precluding re-subdivision. My understanding of the law is that the Town of Meredith does not have the legal authority to enforce private covenants. There are private covenants all over the place that deal with everything from house colors, architectural styles, outside clotheslines, pigs, all kinds of covenants out there that aren't specific to our land use authority. We historically do not enforce private covenants. We do enforce conditions of our approval and our regulations, but we do not enforce private covenants. I think it's important that it's brought to Mr. Jackson's attention. I don't know if anybody read the covenants and the fact that there presumably is a restriction against subdivision that is a matter of record in the deed by extension, so that is out there, but it's not something that we enforce. It's something a property owner's expected to abide by and if there's an issue, then it's enforced civilly between those that share the covenant. Johnson – The Meredith Hills Subdivision essentially was all of the land Jim Belcher bought. There was another subdivision on Eagle Ledge Road, 24-26 lot subdivision. This is a part of that. The presumption is that when Mr. Belcher purchased that, he became the declarant and he could subdivide the property. That subdivision restriction that's recorded for the Meredith Hills Subdivision was in effect. Belcher couldn't have subdivided the 26 lots and he couldn't have subdivided these eight lots. Edgar - There's a provision that allows the declarant that exception, so that's how the successors in title were able to configure the re-subdivide. It's pretty clear when you read the declaration that it refers to how they could be dissolved and it would be kind of ridiculous to assume that an individual lot owner is a declarant. It's pretty clear in the declaration that it was meaning and intending to apply to all further subdivisions of the main parcel. If that's the case, it would void the subdivision of Lot 8 also. That was done by a separate party, that was not done by Mr. Belcher. Edgar – But it allows Mr. Belcher the ability to except things. Johnson – I think the assumption is that when those covenants apply to a specific subdivision plan and that plan no longer exists, whether or not those subdivision restrictions are in effect, my opinion is that they are not and, again, that's a legal opinion not a surveyor's opinion and again not enforceable by the Board. We are aware of those restrictions and this is #15 that you're referring to in the first part of it, no lot in the Meredith Hills

Subdivision shall be subdivided or its boundary line changed except with the written consent of the Declarants. How you interpret that and how far down the road you go is a matter of opinion and it is our opinion that doesn't apply specifically to these lots. Edgar – Just for historical purposes, interestingly enough it was specifically waived for the Cotton lot and not the Convex lot. How do you read into that? Johnson – I interpret that as there are attorneys that cover more bases than some other attorneys and someone had a good attorney to make sure that was covered. Edgar - Mr. Chairman, that was in essence the information that Mr. Cotton brought to our attention, the nature of his deed and the restrictions that are applicable to his property and is also referenced in the Convex property. Vadney – Am I hearing here to a degree that restriction or covenant that said no further subdivision applied to the owner of the property at his discretion so to speak. Edgar – Like Carl said, it could probably be interpreted different ways, but obviously if you took the most narrow view and said nothing shall ever be re-subdivided, he would not have been able to continue to subdivide so as a practical matter knowing that they intended to re-subdivide isn't the interpretation. Johnson - The other thing to remember that's important is the lots that are on the Meredith Hills Subdivision plan for all practical purposes don't exist or didn't exist because of the way the property was purchased and re-subdivided. Edgar – So there is clause and Carl's correct, it basically says no lot in the Meredith Hills Subdivision shall be subdivided, except with the written consent of the declarant. Flanders – I think this is good historical information, but where we don't enforce private covenants, I don't think we need to spend a whole lot of time on this because it's really not going to weigh into the decision. Johnson – I would be willing to offer that I would be almost positive that we could obtain written permission for exclusion of that exemption if it exists from Mr. Belcher who was the Declarant at the time the subdivision plan was prepared and that would be brought forth because as you remember, we're not here asking for a subdivision of the property. We are asking for the permission to come back to you to subdivide the property. It's entirely possible you may grant us that permission and decide that the property is not subdividable in the manner that we're intending so Mr. Belcher, because he never felt that there was a restriction other than a restriction from him further subdividing the property, I'm sure he would write that letter for us. Edgar – Did he not understand the nature of the covenants he attached to all of the deeds. Johnson – Probably not. Edgar – It is a private matter, but from a legal point of view recognizing that there are any number of people that probably would make a claim to enforce the covenant and get things mired and you might want to take a real hard look at that angle that you suggest. Vadney – It seems almost the wording as I've heard it from a couple of different sides boils down to this fellow and there was a note put in there that said you can't

do anything you want to. Johnson – In the 70's, the original Meredith Hills Subdivision was done for a completely different set of individuals, Dominic Builders I believe were the parties involved. They had a subdivision plan, they showed roads, they showed lots and when they came to me, they set up this list of Covenants and Restrictions for their Association. Those entities dissolved and Mr. Belcher purchased the bulk of it, not all of the land in the Meredith Hills Subdivision with the exception of a few lots and so that Meredith Hills Subdivision doesn't exist anymore. Edgar – Excuse me, Mr. Chairman, I want to make sure I understand what you are saying. I'm not trying to put words in your mouth, but see if I am restating what you are saying correctly. Are you saying that the lots that were created as a result of the '76 subdivision, the 25-lot piece, regardless of what title they have, do those lots exist in the configuration as they were subdivided. Did the lots all get merged and dissolved? Those are plans of record, they tie to common area beaches and all kinds of things. Are you saying that those lots don't exist or are you just saying that the name, Meredith Hills or Dominic Builders doesn't exist? Johnson – Some of the lots in the original Meredith Hills Subdivision were conveyed out and do exist as lots. Harry Wood – There were some lots sold along Black Brook Road that had frontage in that area and Mr. Belcher never owned those. I would point out also that the Meredith Hills subdivision lots were a lot smaller than these. The biggest difference was that the Meredith Hills Subdivision called for roads that would have been difficult if not impossible to build and the only one that's there now which is in principle what is shown on the Dominic Builder's plan is a connecting road. However, it's not in the same place as shown on the Meredith Hills Subdivision, it's where it was laid out for the Town of Meredith and Mr. Belcher deeded the ROW for it as did Camp Waldron so there could be a connection. That road was laid out by me, it was not part of the Meredith Hills Subdivision. Kahn – It seems apparent that there's an issue here regarding a private covenant. It's not our issue. Vadney – It would seem we're in a position where there may have been some statements made in a Planning Board meeting 15-20 years ago, but there's no rationale documented for it, it doesn't necessarily coincide with today's rules and regulations for subdivision. It may have made some sense at the time, but we're not aware of that and it does appear that we could abandon it totally and still have full control of the property under today's subdivision regulations and they recognize that. If there is a residual, if some of the current abutters wanted to make this a civil matter, that's totally outside the scope of this Board. There's enough nuances in this that I'm not sure I fully understand it. Harry Wood – I'll speak with regard to the statement that was made that probably resulted in the condition being considered by the Board and the question came up as to whether or not Mr. Belcher intended to subdivide this property further and he responded very specifically at the

meeting that he did not expect to further subdivide these on that side of the road himself, but he specifically stated that he was going to re-subdivide the ones on the other side of the road and that did take place and as Carl said, they've actually been subdivided again since then. For whatever reason that translated into the Board saying you can't subdivide it. I think today you wouldn't take that step because you would realize it was one you were putting on there and it would take a reason. At the time this was done, there was an unofficial 5-acre net density zoning in Chemung and the entire subdivision was set up to meet that. That no longer exists. There are other factors that no longer exist. There are specific setbacks from streams and for structures and septic systems all now regulated by zoning and the requirements are not as extensive as they were before. All of that translates into in my opinion, the Board should look at whatever comes in on its own merits. John Cotton – I think that I mentioned last time, I just wanted to supply the information that I had. My position is not to argue for or against this, it was to present and contribute the information I have. Johnson – One of the things that's stuck out in my mind is what might have happened that would cause the Board, John, or us not to put a note on the plan or for the Board not to look for the note on the plan before they signed it and recorded it if it was a restriction that was somehow to be remaining with the lots forever or it could just be loose wording. The wording in the motion says, "indicating that all lots excepting #8 will not be further subdivided". It would seem to me that if the Board was including the restriction against further subdivision as part of their approval of these lots, the wording might be something stronger and may have been something to the effect of "with the restriction that no further subdivision occur". If you just seem to add "will not be further subdivided by Mr. Belcher" to that motion that would kind of jive with what he was saying and what he recalls of the meeting and his recollection of not having further restriction from subdivision because as you know, John's looked at some of the deeds and I've actually looked at all of these deeds and none of them say anything about a restriction. Edgar – Do they all refer to the Covenants and Restrictions? Johnson – 2 do, but Mr. Cotton's not part of this... Edgar – Well, Lot 7, he bought that. When he bought Lot 7, he was subject to those restrictions. Edgar – The two deeds I've looked at that clearly include the reference to the covenants that by extension including no subdivision clause, one is John Cotton's but it has an exception, it's waived so that Article 15 does not apply to Mr. Cotton's lot and the Convex lot and the deed prior to that. Edgar – Mr. Chairman, I would just like to point out and I'm not trying to quibble with Carl relative to Mr. Belcher's intent, but just so it's clear in this record what the minutes do say, January 24, 1989 minutes in part say, "applicant is considering re-subdividing Lot 8 which is what Harry and Carl eluded to. He will accept a restriction of no further

subdivision on the other lots". That's what's in the minutes, how we got there is not clear and then that similar language is then carried forward in the motion, and then was carried forward in the Notice of Decision which is a restatement of the motion and the significance that compounded this whole thing is that stipulation never got carried to the plan. There is not, in my opinion, a clear connection as to why that restriction is being discussed. Clearly, there was discussion about ledge and wetland setbacks and those kinds of things. There is no mention of this in the private covenants and no reference to those directly in the minutes. I do not believe that the Board was just trying to parrot that restriction, there's nothing to suggest that that happened either. Vadney – But the actual motion does read, "Moriarty moved, Sorell seconded, that we approve the subdivision plan of land of James Belcher as presented this evening indicating that all lots excepting #8 will not be further subdivided." No technical parameters put on what was causing them to see it that way. Edgar – I think we can all speculate. It probably wasn't because of road access, it basically was a brand new road at the time, there might be road issues when we look at any re-subdivision. it's basically a brand new road. Clearly, the subdivision plan indicates wetness, streams and steep slopes and I want to make sure ledge outcrops got mapped and things like that, but nothing that dovetailed those considerations back into a specific rationale to preclude large lots from being re-subdivided as best as I can see, it's not that clear. The lot calculations that were submitted at the time given the standard of care at the time, suggests they were re-subdividable. Bayard – There's a lot of issues with this, I guess. One of my main concerns is that it is not on the mylar. Because it is not on the mylar, I think I would tend to lean toward lifting it. Flanders – Initially looking at the plot plan, it's obvious that there are a lot of steep slopes out there and some wet areas and I believe there's some ledge out there, so those all may have contributed to the restriction that the Board put on there. That being said and being aware of these deed covenants and also I want to make it clear that the Planning Board does not enforce private deed covenants, that is strictly a civil matter. Hearing closed at 7:34 p.m.

Flanders moved, Bayard seconded, I WOULD MOVE FOR STANLEY JACKSON, CONVEX, LLC, THAT WE REMOVE THE RESTRICTION WHICH THE PLANNING BOARD PLACED ON TAX MAP R29, LOT 2D, WHICH PREVENTS FURTHER RE-SUBDIVISION. Voted 5-1 in favor of the motion.

Flanders wanted to include in the motion "provided that any subdivision that comes in meets all the current standards". Vadney did not feel that this should be tied to any future action. We all know and the applicant knows

that is has to meet today's rules and regulations, but I don't think it should be part of the ruling. Edgar – I would rather or at least suggest that if by voting to remove the restriction in no way shape or fashion implies an opinion of the Board as to whether or not that plan on the wall is re-subdividable. Flanders – I would accept that.

Vadney – I will make the statement for the minutes that this in no way implies that the Planning Board has any predisposition in any direction toward further subdivision and any submissions will have to be in accordance with normal procedures of the Board and the Ordinances and that the Planning Board recognizes that this has no effect on any civil matters between the abutters, other deed holders and the applicant. Bayard – Considers this to be a somewhat unique situation and in his mind the absence on the mylar weighed very heavily in his decision. Vadney – And for the audience that is one reason why we now take great pains at putting lots of words into the motions so there will be something to back it up in the future.

2. **HOWARD RICHARDS (PRODUCTION TRAILER AND DOCK):** (Rep. Howard Richards) Compliance Hearing to review the Landscape Plan pertaining to a change of use to construct an office/store and maintenance area with related site improvements, Tax Map S19, Lot 11, located at 21 Daniel Webster Highway in the Commercial-Route 3 South District. Application accepted October 12, 2004.

Applicant is seeking compliance with landscape plan as requested by the Board. Edgar – There was a decision back in November granting conditional approval with a series of administrative conditions that have been reviewed over the course of the last several months. The one issue by virtue of that decision that did have to return to the Board for your signoff was the landscape plan. One of the main features of this proposal is that there is a fairly significant amount of blacktop within the State ROW that is being removed in trying to provide a level of distinction and separation between the highway shoulder and the proposed display and parking areas. The blacktop that is being removed and converted into a landscaped area is in the State ROW. At the time of the approval, we didn't have any information as to exactly what would occur there nor the rest of the site. Howard has submitted a landscape plan that meets with our basic requirements and that is to identify the names, size and location of the plants that are being proposed. The Route 3 improvements are within the State ROW. There's a total of 18 2½' high deciduous shrubs being proposed and they are distributed amongst four (4) planting beds. The beds are separated by small lawn areas that would be loamed and seeded.

The purpose of the Route 3 planting is to provide a visual and physical separation of sorts within the ROW to separate the highway shoulder from the display and parking. The NHDOT did not want to see trees planted in the ROW. The plan does call for two areas of plantings that have other purposes. They are primarily aesthetic. Where the building's torn down, there's two big circles, fairly good size flowering crab trees and beneath those would be PJM rhododendron to break up the linear nature of of the paved area. There are a small number of shrubs to be planted along the foundation of the west side of the proposed new building. If this were to meet with the Board's approval, the other conditions are in place and we would then be in a position to give final approval and then we would be proceeding into the demolition phase of the three structures and with a Building Permit, we would proceed into the construction of the new building. The other requirement is that the State will require that the sign located in the State's ROW be relocated which has been indicated on the plan to a location that is outside the ROW. Flanders – The plantings in the strip, are those going to obstruct the sight line coming out of these driveways in any way? Edgar – It doesn't look like it when you look at it on the plan. If they were planted right up to the edge of the end caps, it would be a little different. We can field check that. Vadney – It will probably be a bigger issue as they start to grow. The other purpose of the plantings is that it is closing off some driveway access. There's a whole bunch of unrestricted pavement and this is redefining that and tree locations run all the way to the south of the house. Vadney – The North driveway is the Exit and the South one is the entry or are they both. Richards – They are both entrances and exits. Edgar – That is what has been approved by DOT. Touhey – Is the block wall a retaining wall or is that wall above the Route 3 grade? Richards – No, it's a retaining wall, once the restaurant is gone, it's to allow a little bit more display area to move the stuff away from the highway. Touhey – When you had come before the Board earlier and we did the site walk, you indicated that there would be some repair work done on the East side of that retaining wall. Richards – I said there would be a fence there or a barrier so I could store some product down there without going off the edge. Touhey – Is that going to be visible from the street? Richards – The segmented wall will not be, that will be at grade. Touhey – Is the work that's going on behind it visible? Richards – It's approximately a 7' wall so not much, you might see the tops. Touhey – But you've got nothing to screen that. Flanders – I don't think he needs to, that slab down there on the other side of the wall is 7 feet below the parking lot. What's been submitted as product information on the allan block wall, it will require certain structural elements to be added as part of the construction and we would coordinate that with Bill prior to construction. These allan block walls are the same thing that exist on Pleasant Street when they did the Water & Sewer project. Hearing closed at 7:58 p.m.

Bayard moved, Flanders moved, THAT WE ACCEPT THE LANDSCAPE PLAN AS PROPOSED AND THAT IT MEETS THE REQUIREMENTS WE LAID OUT IN CONDITION #5 OF OUR CONDITIONAL APPROVAL GRANTED ON 11/23/04. Voted 6-0 in favor of the motion.

3. **NORMAND AND ROBERTA MORIN (CASE 'N KEG):** (Rep. Carl Johnson, Jr.) Compliance Hearing to review issues and conditions discussed at public hearing held on October 12, 2004, regarding a Site Plan Amendment to revise parking and access to existing business utilizing abutting lot, Tax Map U06, Lots 139A & 138, located on Mill Street in the Central Business District. Application accepted October 12, 2004.

The Board conditionally approved this site plan late last year and we had some details we were working out with Mike Faller, Director of Public Works. We were waiting for a wetlands approval for the filling of a portion of the wet area for access to the back and there were some other site issues that came up. We are here this evening with a compliance plan, we've added some things. I have addressed some of the issues on the staff review. Basically, I think we're almost there. There are a couple of things on the staff review that require an additional visit to the site that I'll have to go back down but our purpose is to try to get some type of a mechanism where Mr. Morin can begin his site work here because if he doesn't do it right now, he'll have to wait until Fall and this is really the time of year that we should be doing this type of work. The NHDES Dredge & Fill Permit has been added, that was granted in December of 2004. We went to the Zoning Board and received a couple of special exceptions and those are noted on the plan. The proposed walkway in front here, with the reconfiguration and restriping of the parking lot, originally was discussed as being a raised concrete walkway. In meeting with the contractor, because of the grade of the building that actually will have to be at grade so this is not going to be a raised walkway, therefore, the handicap access will work, there'll be no restriction to them entering by the walkway. The fuel supply, in order to heat the building for the winter, Mr. Morin had some propane outside propane tanks installed as shown on plan, eventually those will be buried. The new underground propane tank will be installed here. It will be a great time to do it because they are going to be adding some clean, well-drained fill for the tank to go in. That may have to be run by the Fire Chief. Normally, the underground is a little bit less dangerous and does not require the same type of bollard protection. Edgar – The tanks were there, but we were adding a door. Apparently, one of the code issues is that depending on the size of the tank, we typically have separation between tanks and windows and tanks and doors. We are adding an overhead door in that

location so the Fire Chief would need to know what the size of the tank is to determine whether or not there is an issue if it's a small tank. Johnson – I did have some discussion with Mike Faller. His recommendation originally was as you know now, there's two entrances to the main property and Mike suggested that we do away with the middle entrance. We've agreed to do that and we've also curbed all of the new entrances along Mill Street and based on his recommendation, we've also curbed the entire island. We have left a gap in there because there is an existing catch basin and discussing it with Mike, we would like to continue draining the water in that location. The other thing that came up that I've added was a suggestion by Mr. Morin is that currently the pavement goes into the spot right at the end so there's no restriction. We propose to rip up some of that pavement and add some grass in there and blend it in with the existing grass so there's not an open access at the end of that spot. The other thing that came up was the lighting. We've added two lights, one on each side of the parking lot. They will be very similar to the lights that are installed at the Lovering Volvo downward shining. We would be willing to submit a detail on those for staff review to make sure they're not glaring and don't create any additional glow. There is an existing street light, but it doesn't adequately light the parking lot. For safety reasons, these two lights I think will do the trick. I've added some additional tax map information. John would like to show the location of the stockade fence and the air conditioning units which I can add also and water & sewer services can be added to the plan. The water & sewer both come out to the front. Originally, we didn't have any spot elevations shown on the plan and that was a concern. We've done some topography in here, shown some existing contours and shown some spot elevations. What we would like to do is get into a mechanism where by Mr. Morin could get going with the site work, install the sediment erosion control hay bales and proceed. Vadney - You say you're going to bury the propane tanks, right? How deep a hole can you dig there without getting into water? Johnson – It's going to be fill at that point. In this area right now, there's going to be 4 or 5 feet of fill. Edgar – The mechanism to proceed should be final approval. We are that close and should button it up, get a signed plan and go to construction. Edgar – I think the main breakthrough here was the adjustments to the driveway configuration and Mike indicated they would be permitted and he's happy with what we are doing. It is consistent with what we did across the street, curbing up some things and draining some water into some existing catch basins. I think in terms of the Board's subjectivity, hopefully, we would be able to convert this list to an administrative checklist as opposed to coming back to the Board. One of the things that Mike would want to see on the final plan in the bottom left-hand corner, you'll see curbing code showing granite curbing, but we've got to make sure that the gutter drainage can get back around into that CB. Mike's asked that we

shorten up the granite a little bit to make sure it gets back into that CB as it comes down Mill Street. Similarly, from the parking lot's point of view, some of that drainage could come right to that corner closest to the CB and through a simple little swale allow some of that parking lot runoff to run into the CB as well. That can be accomplished very simply with a couple tweaks in the arrows, it's all very, very flat so it's nothing complicated, but get as much not going out the driveway as we can and get that corner to drain into the CB and the rest of it would come out the driveway, down the gutter and then back into the CB. With that adjustment, Mike's very comfortable and happy with the changes and they should work well. The applicant will need to do a lot merger because we are using two different lots of record and there is a note on the plan to that effect. Mike has also asked that we continue a little bit of that curbing on the back side of the island. I think, subject to the public input, and you are OK with that driveway reconfiguration and the rest of the minor checklist items, then we could bring the final plan back for signature. Johnson requested that the Board authorize signing of the plans outside of a meeting if he makes the necessary changes to John's satisfaction. One of the two trees that were to be cut down was saved. Hearing closed at 8:10 p.m.

Bayard moved, Flanders seconded, I MOVE THAT WE ACCEPT THIS COMPLIANCE HEARING FOR NORMAND AND ROBERTA MORIN (CASE N' KEG), FOR APPROVAL OF THE SITE PLAN AMENDMENT TO REVISE PARKING AND ACCESS TO THE EXISTING BUILDING UTILIZING ABUTTING LOT, TAX MAP U06, LOTS 139A & 138, LOCATED ON MILL STREET IN THE CENTRAL BUSINESS DISTRICT, SUBJECT TO ADMINISTRATIVE REVIEW AND APPROVAL BY TOWN STAFF AS FOLLOWS: (1) FINAL LAYOUT OF THE DRIVEWAY IS REVIEWED BY DPW; (2) DRIVEWAY PERMITS ARE REQUIRED FROM DPW; (3) FINAL SIGNOFF OF THE PROPANE TANK INSTALLATION BY THE FIRE CHIEF; (4) THAT THE LOT MERGER BE REQUIRED PRIOR TO FINAL APPROVAL; (5) THAT LOCATION OF EXISTING SEWER AND WATER SERVICES, AC AND EXISTING FENCE BE ADDED TO PLANS; (6) A LIGHTING TYPICAL OF A CUT OFF FIXTURE NEEDS TO BE SUBMITTED; (7) PLAN SIGNATURES OUTSIDE OF A MEETING ARE AUTHORIZED; AND (8) SUBJECT TO THE USUAL RIGHT TO REVIEW AND AMEND. Voted 6-0 in favor of the motion.

4. **DEREK MAKSY AND RICHARD KELLY FOR ROBERTS RECREATIONAL LLC:** (Rep. Harry Wood) Continuation of a public hearing held on March 22, 2005, for a proposed minor subdivision of Tax Map U17, Lot 15, into two lots (10,951 sq. ft. and 7,313 sq. ft.) located at 95 Pleasant Street in the Shoreline District. Application accepted March 22, 2005.

The property involved is the Chieftain Motel and the application is to create two lots which will be used for single-family residential use. At the present time, there are 14 bedrooms, 11 units total and a lot of pavement and the plan here is to separate the two existing buildings by the equivalent of the normal residential setback. The existing setbacks on the side would stay. The pavement immediately adjacent to the building will be removed in order to bring the lots into close conformity to the normal coverage requirement. Lot #1 will meet the coverage requirement of 30%. Lot #2 as it stands this instant would be at 33%, however, the applicants in the future plan to reconstruct this building moving the rear line of the building to the setback, thereby increasing the front setback rather dramatically compared to what it is now and when they do that, the building will be sitting on what's pavement now so they should be within compliance at that time. We have gone before the Zoning Board previously on this application and an approval was granted. The numbers have, unfortunately, changed slightly from what was originally granted and I'm scheduled to return to them for a reconsideration. The essence of that is two major things: one is the size of the two lots, keeping in mind that there will be two dwellings if approved. We had represented that this would be 10,000 sq. ft. minimum and the Board approved it as 10,000 sq. ft. period. When we got the final numbers together, it came out 10,951 and Lot #2 was at around 8,200 sq. ft., it's actually going to be 7,313 sq. ft. Everything else we represented will be essentially the same except for 1/2' difference on the lake frontage. Because the numbers didn't agree, we had to go back. Other than that the questions that came up at the prior meeting with regard to the water service, we did locate the water service with the help of the W & S Department. We show the line to be split with water shutoffs on each new line. If this procedure is followed, it would necessitate Lot #1 granting a water easement (note on plan). Also Lot #2 would have to grant Lot #1 a sewer easement because the present sewer line exits the building on Lot #1, travels across the frontage, goes in front of the existing unit and goes into a municipal manhole located less than 10' from the property line. The municipal sewer line runs from here to the pumping station and they have a 10' either side of the line as a permanent easement (book & page shown on plan) and the manhole's within the 10' easement of the sideline and that allows us to be tied into it. The previous variance granted is referenced on the plan. Hopefully, the Board will feel the same way with regard to the slightly revised figures. We will be removing the temporary dock that exists on the end of the main dock. The primary reason for that is because it protrudes over a projection of the lot line which is not only not allowed, we have a number of things that are required to bring it into compliance and that will be removal of parking spaces, existing sign, a portion of the existing

structure on Unit #2 and the removal of pavement. I had spoken very briefly with John regarding those requirements. There's some concern because of the zoning issues. If they were Planning Board issues, we would normally just post a bond and that would be that and if we didn't do it, the Town would take the money and do it. Because it's a zoning issue, they feel that the work needs to be done before the plan can be recorded and I would offer one other possibility at this time with regard to that and that is the applicants would be willing to restrict occupancy of the building on Lot #2 until the conditions are met. Vadney – What conditions are those specifically. Wood – In order to make this have effect, we would have to remove a portion of the existing building, we would have to remove pavement in this area, we represented we would take this out and take down the motel sign because it's not a motel any longer and there's a light post out here for these parking spaces, all of which would come out. There's some utility work that will have to be done but it won't be done until either this building is occupied or the new structure is built. This will cease to function as a motel the instant we can get this in a position where it could be transferred so we're having a little bit of trouble figuring out how to meet the requirements while the property's still in the hands of the current owner and we can't seem to figure out how we're going to be able to get the bank to go along with this if the plan's not on record. I've spoken to John about it, it may end up being our problem, but I just offer that one other possibility about the occupancy of Unit #2. The Zoning Board initially granted the variance with the proposal we had made and they made no provision for it to be done and I think that was primarily because they knew we were coming here and that normally the Planning Board would bond any requirement like that. But John and Bill's guidance have indicated that is a difficulty and not necessarily consistent with other approvals they have granted where lot lines have gone through existing buildings. Edgar – The light and parking are incidental, those are just things in the ROW we're cleaning up as part of the project. The lot coverage is the zoning issue. They exceed lot coverage to create two lots that they are proposing to bring back into compliance and Lot #2, near compliance, 33%. So there's a pavement removal issue that needs to be in place so we don't create non-conforming lots. Right now it is a grandfathered lot. Once we subdivide it, we're creating two lots. The Board does not have the authority to create non-conforming lots so the pavement is one issue and the building is another that they are proposing to eliminate a piece of the building and for whatever it's worth, this was in the staff review a month and a half ago. There needs to be a haircut to the right half of the building in order to create the 10' offset that they propose. There have been past practices that dropping a new lot line as a result of one of your decisions, you don't have the authority to compound a non-conformity with line so the building's got to

go. There typically are arrangements that people make under purchase and sales agreements and find a way to make it work. The other thing is when we bond improvements, we don't bond compliance with the zoning ordinance, we bond road construction, erosion control, those kinds of things. We don't bond the incidentals. We were hesitant to put the Town in a position to have to chase people to bring their property into zoning compliance and then legally whether or not we have the authority to record a plan at the Registry that does not comply with the zoning ordinance so that was the issue that we face, both the legal issue of zoning as well as the practicality that should it be the Town's issue to have to chase people to bring something into zoning compliance when it's a brand new project. The light and the parking and signage are incidentals, they're not zoning related, they are not compliance related, just part of what has been talked about and presented as part of the proposed subdivision. These issues were raised at the outset when I staffed it the first time. Most recently, if you think of the Hutchins subdivision on Winona Road, the line being proposed by the subdivider would have gone through a barn and they created a non-conformity. They jogged one line and they removed one barn and that had to be accomplished before the plan could be put on record. This is a little bit different because of these agreements. The concern expressed to me is that certain people incurring risk and the like, I know there are some oddities here, but why should the Town be the one at risk. With respect to the ZBA situation, the ZBA had the hearing, the ZBA's motion to approve reiterated exactly what was asked for in the application and so there's a disconnect between what was presented to the ZBA and what was in the application. So when I staffed it for the Planning Board, I realized that what was being presented on the PLB plan did not match the ZBA decision. The Boards need to be approving the same plans. With respect to utilities, Bob has conducted his review and you would basically be looking for his signoff. They are going to use the existing sewer. A separate service will be added for Lot #2. It needs to be private, we'll need maintenance agreements and typical language easement descriptions on the final plans. One of the things we're trying to do more of is to bring the electrical utilities into discussions on subdivisions to make sure they are not the last one in. We have spoken with Dan Cornelissen and they would rather be approached early on. They do need Driveway Permits. Mike's indicated that they would be forthcoming. There is a little bit of work involved in the Town ROW removing two existing parking spaces. Sign needs to be removed. Plan note regarding Shoreland Protection Act requirements is required and that also includes expansion of non-conforming structures. Edgar expressed concerns that by decreasing the shorefront to 66' might create a non-conformity (state or local) with respect to dockage. Does this necessitate NHDES approval prior to final subdivision approval? Will Lot #1 have dockage? Draft easements will be required for sewer and water, possibly electric and telephone and we would typically review drafts. Flanders – I don't think the Town should accept any responsibility or

exposure in removing this piece of building and the asphalt that's needed to bring this into zoning compliance. Certainly, the person doing the subdivision or selling the land is doing it for a reason so I think they should carry the burden of any exposure. Edgar – If we were to pull a bond, it's to put in infrastructure and the last thing I would want the Town to have to do is to knock someone's house down. Kahn – Are you suggesting that there shouldn't be two docks? Edgar – I'm suggesting I don't have enough of a handle on the issue. I'm just suggesting that we probably should not inadvertently back into a situation because we're creating two lots that we would end up with more dockage on two substandard lots. If you've got 50' of frontage you're entitled to X amount of dock. The existing dock that's going to be left after they remove this temporary is going to exceed what that lot would normally be able to get if it were a standalone lot with 65' that's where John's coming from so it may be necessary in complying with what the state would normally do to shorten this existing dock that's going to be remaining so we don't exceed the total length of dockage between the two lots. Edgar – There's not a lot of waterfront and we don't want to add too much to the equation by virtue of all this variance and so I'm just raising the issue that was raised a month ago for someone to look into to see what is the effect on shoreline development relative to this subdivision. It's a fair question to ask, I don't know enough about the law to know exactly what the answer is, but it's a question that would be reasonable for the Board to be informed about. Vadney – I'm not sure it's a Planning Board issue. It seems to me the applicant or whoever plans to sell these lots to somebody would want to have that answer in hand in order to price the real estate. Flanders – I think it's incumbent on us to make sure we're not creating something that doesn't conform with the law. The State regulates docks, it's a simple matter for us to get a copy of that regulation, take a look at it and say each one of these is entitled to X and if the dock on Lot #2 is longer than X, then it has to be reduced. Vadney – It's up to the State to tell them what they can have and these folks to peddle it. Edgar – I just raised the question. It may not tie to a condition, it's just that somebody should be thinking through the waterfront development implications of a waterfront subdivision. We do that fairly regularly and in this case because it's only 130' to begin with, it gets more sensitive. Wood – Mr. Chairman, first of all we're being required or suggested strongly that we put a note on the plan that it conform to the Shoreline Protection Act. With regard to the dockage, if we have less than the amount required for a 6' x 30' dock, then we are restricted to 5' x 24', that's the requirement. We don't know yet if they are going to grant us the second one. We anticipate that when we apply for this that something's going to happen to this one. We are subject to the State's rules. Hearing closed at 8:45 p.m.

Flanders moved, Sorell seconded, I MOVE THAT WE GRANT CONDITIONAL APPROVAL TO DEREK MAKSY AND RICHARD KELLY FOR ROBERTS RECREATIONAL LLC FOR A PROPOSED SUBDIVISION OF TAX MAP U17, LOT 15, INTO TWO (2) LOTS (10,951 SQ. FT. AND 7,313 SQ. FT.), LOCATED AT 95 PLEASANT STREET IN THE SHORELINE DISTRICT SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THAT THE ZONING BOARD OF ADJUSTMENT DECISION BE CROSS-REFERENCED ON THE FINAL PLANS INDICATING DETAIL OF THE RELIEF GRANTED;
- (2) CONFIRMATION THAT THE BUILDINGS AND PAVEMENT HAVE BEEN REMOVED PER PLAN SHALL BE REQUIRED PRIOR TO RECORDING THE MYLAR;
- (3) WRITTEN VERIFICATION THAT THE DEMOLITION HAS BEEN ACCOMPLISHED PER PLAN SHALL BE REQUIRED PRIOR TO RECORDING THE MYLAR;
- (4) FINAL PLANS SHALL SHOW EASEMENTS REQUIRED FOR SHARED SERVICES INCLUDING MAINTENANCE PROVISIONS;
- (5) ANY APPROVAL SHALL BE MADE SUBJECT TO BOB HILL'S SIGN OFF FOR THE WATER AND SEWER DEPARTMENT ON FINAL PLANS;
- (6) FINAL PLANS SHALL BE AMENDED TO CLARIFY HOW AND WHERE SERVICES (ELECTRICAL, TELEPHONE AND CABLE) WILL BE PROVIDED TO EACH LOT;
- (7) DRIVEWAY PERMITS ARE REQUIRED FROM DPW FOR THE CHANGE OF USE AND SHALL BE CROSS-REFERENCED ON THE FINAL PLANS;
- (8) WORK IN THE ROW SHALL BE SPECIFIED AND APPROVED BY THE DPW;
- (9) WRITTEN VERIFICATION THAT THE SIGN HAS BEEN REMOVED SHALL BE REQUIRED PRIOR TO RECORDING THE MYLAR;
- (10) FINAL PLANS SHALL NOTE THAT THE USE AND REDEVELOPMENT OF THE PROPERTY IS SUBJECT TO THE PROVISION OF THE SHORELAND PROTECTION ACT (RSA 483-B);
- (11) FINAL PLANS SHALL IDENTIFY EASEMENT AREAS. DRAFT EASEMENTS SHALL BE SUBMITTED FOR STAFF REVIEW; AND
- (12) FINAL REVIEW CAN BE HANDLED ADMINISTRATIVELY BY STAFF.

Voted 6-0 in favor of the motion.

5. **CHRISTOPHER WELLS FOR TOWNSEND D. THORNDIKE:** (Rep. Chris Wells) (Sorell stepped down)

This property is located at the corner of Winona Road and Route 104. The last site plan on record goes back to 1991. Applicant is looking for four (4) outside parking spaces and plans to establish an equipment and light truck repair facility which falls under the Special Exception. Two parking spaces are for employees and possibly a second one in the future. He is renting two bays in the building right now and the second bay is for the storage of vehicles. There won't be any outside storage of anything other than propane gas for heat in the winter. The bays will be used for repair, no retail sales are proposed. No additional traffic will be created. Any traffic that might be created is easily handled by Route 104. The bay doors are actually facing away from Route 104, not towards Winona road so there's no view impact. Edgar – This is a straightforward application that is required by our regulations because it is a change of use. Basically, we are predominantly dealing with existing conditions. I'm not aware of any site work. This is a 5-bay building previously approved by the Planning Board. The use is an equipment and truck repair facility, special exception required and that is lined up to go to the ZBA. Bill has made the distinction that this is not auto repair, which is a separate use in the zoning ordinance. I suggested that we cross-reference to the State approved septic system. The State does require a driveway permit for changes of use and that should be cross-referenced on final plans. Maybe Harry can speak to the parking waiver. The initial calculations that were submitted were 19 required, 16 provided and a waiver of 3. That's assuming a total of five employees for the entire facility. There's not a lot of parking on-site, but I'm not aware we've had any problems in the past. There is a reference on the plan to a 30' wide easement and I suggested that we provide the recording information for that easement on the final plan. An editorial comment to raise the question at this stage as to whether or not there is any necessity for outside storage of vehicles or parts with repair of equipment or trucks be offered for sale on site. I think Chris has indicated the answer to that questions is "no". No outside storage or display is proposed on-site. If that's the case, that's fine, but if it were to be proposed, it might effect the parking calculations because there aren't that many spaces to go around once the property is occupied. The offices are vacant at present and we have Chris occupying units 2 and 3, Mr. Thorndike according to the site plan uses Unit 4 for storage and the Genesis Auto is there under a temporary permit for the 5th unit. Effectively, one is used for storage and 3 office units are vacant so if we were to be in full operation and if we were to need more parking, then the 4 spaces would get tight. It could affect the adjacent property if it spilled over. If we were looking for outside storage of parts and

scrap vehicles and things of that, the question of screening would come up as well as storage of waste oil outside. If all the waste material, oil and the like, is kept inside the building it's fine. I just raised those questions, I shared those with Chris and suggest that we put those on the table tonight so that we're all on the same page and there's a common understanding as to what can be expected out there should the use move forward. Vadney – We're calling this a change of use going to equipment and truck repair. What is the existing use? Wells – It's been vacant for almost 10 years. Flanders – I think the last tenant there was Quality Insulation, they were using it for a warehouse. Wells – Wickes Lumber was using it for truck repair back in 1991 on the previous site plan. It was not open to the public. Flanders – Are there any floor drains in that building? Wells – No, they've all been sealed. Brian Bushman – Just in regards to the outside parking, as far as 3 or 4 vehicles outside, I didn't understand. He said he wanted 4 and there's only 3 now. Vadney – That's for parking for employees and visitors and not for display or not for broken trucks. Bushman – Outside storage will be no more than 4 cars? Wells – That's why I rented a second bay to handle any overflow like that. Vadney – Any vehicles there for repair will be inside. The only thing outside will be the employees or customers. Wells – Right. Bushman – And that's enforceable, if that's the way it's going to be that's it. Edgar – Four outside parking places for customer arrival and pickup and employees. Everything else will be inside. Flanders – Which business is that? Bushman – Not in that same building. I am an abutter. Bayard – I don't think we fully discussed the outside storage of chemicals and things like that, are there any plans for that? Wells – There will be none. The only thing outside will be propane tanks for heat. Flanders – One of the things I think we really need to emphasize is that it's not going to be storage of vehicles that are waiting for parts or whatever on the outside. The Citgo Station down here over time collected quite a few vehicles on the exterior. I think we would have people jumping all over us, including this gentleman here, if the same situation were to start to exist there so I just want to make it really clear on the record that that's not part of this application. Touhey – I have reservations too. We have 6 rental units there. Just the fact that those offices are empty now and not putting a demand on parking doesn't mean they won't be occupied in the future. You're talking about 14 spaces for 6 businesses. Edgar – It's up to Mr. Thorndike to manage his property. It's a fair question, but also keep in mind that Chris is looking at two of those units so he basically would be obligating 4 spaces for 2 of the units, which is not excessive. Hearing closed at 9:05 p.m.

Bayard moved, Flanders seconded, I MOVE THAT WE CONDITIONALLY APPROVE A PROPOSED SITE PLAN AMENDMENT FOR CHRISTOPHER WELLS FOR TOWNSEND D. THORNDIKE TO ESTABLISH AN EQUIPMENT AND TRUCK REPAIR FACILITY ON TAX MAP S25, LOT 10A, LOCATED ON WINONA ROAD IN THE BUSINESS & INDUSTRY DISTRICT SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) A SPECIAL EXCEPTION IS REQUIRED FROM THE ZONING BOARD OF ADJUSTMENT FOR THE "EQUIPMENT AND TRUCK REPAIR USE AND SHOULD BE CROSS-REFERENCED ON FINAL PLANS.
- (2) FINAL PLANS SHOULD INCLUDE A CROSS-REFERENCE TO APPLICABLE NHDES SEPTIC SYSTEM APPROVAL FOR OPERATION NO. 190507 DATED 6/12/92 FOR 500 GPD CAPACITY.
- (3) THE DRIVEWAY PERMIT FOR CHANGE OF USE NEEDS TO BE CROSS-REFERENCED ON THE FINAL PLAN.
- (4) RECORDING INFORMATION (BCRD) FOR A 30' WIDE RECIPROCAL ACCESS EASEMENT REFERENCED ON THE SITE PLAN SHOULD BE CROSS-REFERENCED ON FINAL PLANS WHETHER EXISTING OR PROPOSED; AND
- (5) OUTSIDE STORAGE OF VEHICLES, EQUIPMENT, CHEMICALS, ETC. , IS NOT ALLOWED.
- (6) A PARKING WAIVER OF 3 SPACES IS APPROVED.
- (7) SUBJECT TO THE USUAL RIGHT TO REVIEW AND AMEND ANY APPROVAL AS PROVIDED FOR IN SITE PLAN REGULATION NO. 17-A.

Voted 4-1 in favor of the motion.

6. **HART'S RESTAURANT:** (Rep. Carl Johnson, Jr.) (Bayard stepped down)

This is a revised site plan for Hart's Restaurant property. We were in last year to modify parking in the upper portion of the lot and construct a drive thru from the lower parking lot to the upper parking lot. This proposal is part of a long-term plan for the restaurant to improve their parking and add some landscaping. What we are proposing is to construct a small employee parking area with some existing angled parking along the southeast portion of the parking lot. We would construct an entrance and construct 11 spaces in this 60' x 62' area. This would also connect to the drive around situation that was constructed last year. A portion of the planning that's not shown on this plan and not part of this approval is to also redo the parking that's in the upper portion. There is right now essentially one huge area of

pavement of striped parking and there's no landscaping at all and what the overall long-term plan is to do would be to break up some of this pavement with some buffer areas and some landscaping. Part of this proposal would be to plant a couple of trees to increase some of the landscaping in the immediate area of the southeast portion of the parking lot. As a result of that, it doesn't seem like 11 spaces means too much especially since you're losing one or two here for the entrance, but overall it will mean a lot because as a result of some reconfiguration, restriping and landscaping of the upper parking lot, we would lose a few spaces there too. Contour lines are slightly over 2' in the corner of the parking lot and rest of it would be slightly graded to drain in the direction where the existing drainage drains out. There would have to be a culvert installed because there's a drainage ditch here that eventually leads into the drainage system that goes down and becomes part of the Route 3 drainage and part of the drainage that's coming off the new Harley site. The other additional use of this would be occasionally during the busy season and there's bus traffic, you could park 2 or 3 buses in this area to alleviate the buses parking and motoring around here and gives them an alternative to get out of the parking lot. Right now if the parking is busy, it's tough to have the buses come in this portion of the lot. There is a wetland complex that was mapped by Gove Environmental Services. There is a 50' setback from that wetland complex. In John's staff review he mentioned that there is obviously some type of drainage structure there. The drainage is not well defined and the 50' buffer from the edge of the wetland is actually the more restrictive than the 75' for the drainage stream because the drainage on almost all portions of the site that involve this particular disturbance in the buffer area is greater. If you showed the 75' buffer, it would actually be to the inside of the 50' buffer so that's the buffer I showed. Edgar – This is one of several conditional approvals that we have lurking out there that haven't been wrapped up. This dates back to last year, April 2004, when we were building the driveway. There was a time when there was an inconsistency between Paul Fluet's plan and Carl's plan and the Board conditioned it's approval that those inconsistencies be corrected. He had a Public Works permit issued for Upper Ladd Hill Road because we were making this thru connection and basically funneling traffic out Upper Ladd Hill Road. Also at the time there was a discussion on the part of the applicant to relocate the propane tanks. It is my understanding that this is no longer under consideration and according to the Fire Chief, the current location is acceptable so effectively that condition is mute. Technically speaking, we are amending a conditional approval or seeking final to the conditional one and adding to it is somewhat semantical other than the fact that we do have an open conditional approval on the drive-thru piece. We are adding impervious. We typically look to see what the lot calculations are. My guess is that they are OK, but we need to start with a

baseline somewhere along the way. As Carl indicated, the 50' line is more restrictive than the 75' given the proximity of where the brook is. A Special Exception is required from the ZBA and I recommended that the wetlands be re-flagged. There is basically one flag that seems to be still in place based upon the 2003 flagging. It's pretty obvious where the wetland is, it's not as obvious where the edge is. The stonewall that's shown on the plan to separate the parking lot from the wetland would be part of the construction. It's not like it's out there where you can see it nice and neat or the demarcation of where that wetland is. I think it would facilitate everybody's view of where this is because it is pretty tight. This particular parking lot is access for two locations, one is the existing where the proposed culvert is shown and as Carl had indicated, it also connected to the drive-thru that was constructed last year. With respect to looking at the grading information, it didn't seem to me that it tied into the drainage ditch. If you look at the blowup on the left-hand side of the site plan, you see the drainage ditch and look at the contours, it didn't seem like the ditch line was contoured and tied in with the proposed finished grades of the parking lot. More importantly, this whole lot will drain into this intermittent stream. The intermittent stream goes down along the Harley-Davidson property and for those of you who were on the Board when we reviewed that, we were very careful not to put drainage into that system. The reason being is that system continues under the driveway onto the Clinic site. When we redeveloped the Clinic site, we were very adamant about not adding drainage to that system and the reason being is that below the Clinic site, this stream goes literally through someone's basement and to avoid any issue about adding more water to a downstream basement structure, we were very careful during those big projects to make sure we weren't adding water to that mix. Although this is not a big project, I think we have to be similarly very careful about not sending a whole lot of water into that stream and under Route 3 down through someone's basement. Because of that kind of precarious location of the stream beneath the house, I suggest we be equally as careful with this project. The suggestion on my part is to have Paul Fluet who did the design of the drive-thru and the grading could take a look at this and see how best we might address that. The proposed northwestern edge of the new parking lot which faces Route 3, the way this is drafted would butt up immediately to the edge of the drainage ditch. There's no separation between the end of the parking stall and the top of that ditch. Presumably, that's because we're in a pretty tight fit with the wetland on the back side of this and so we're in a slight fill condition, not a big cut and fill, but there will be some leveling that will occur in that area. The grade lines don't tie into the ditch. It's not a complicated thing. There's nothing to stop the cars from running into the ditch. Typically, when we see pipes added to plans, we look for culvert size and type information so we

don't have an issue where we would have freezing. Here again, given the proximity of the stream, we want to see a little erosion control which in this case given the grades, we would probably run a silt fence. According to what's on the plan and what's out in the field, we're losing two spaces, the parking lot does not appear to conform to the standard site plan regulation requirements as to dimensions. The regulations call for 20' long stalls, plus 24' aisles for right-angle parking. I think 62' is the module that was presented. That would necessitate a waiver from the Board. I raised the question whether or not there would be any lighting in the parking lot. I know they did some additional lighting out there, but I don't know if that will carry over to this parking lot or not. Snow storage areas should not be in the wetlands. Vadney – Would this parking be used in the winter time?

Johnson – Yes. However, it would be plowed in the winter time. Whether or not it would be used, would depend on the amount of business. This would probably be more employee parking. There is a comment by Mr. Hart that I want to mention. Their busy time is basically late spring into early fall and there is a perception that if the parking lot is full, they drive by. In terms of the drainage in this area currently goes in that direction so pre-development, post-development calculations, I'm not sure we're adding water. I don't think we're adding any more water to the drainage system that's not already there. This drainage comes down around from the back of the barn comes down through and all of the land that's to the east of the driveway, already goes in that direction and went in that direction prior to construction of the drive. Whether or not the Board wants engineering is up to the Board. At this particular point, I didn't think it necessarily elevated itself to that, but that's your call, not mine. Total number of parking spaces is unknown, but will be added to the plan. Flanders – What's the size of the parking spaces, you're 2' short on the module. Johnson – There is a desire, and whether or not it will go anywhere, the Harley property has plans for developing the backland for a rider's edge training course and there's been discussion between the Hart's and the Johnson's to connect that upper portion with this connect-thru which would require a crossing of that drainage. That would require a State approval, a Zoning Board approval and a site plan approval. But that would tie in with these plans and there would be a complete connection of all the roadways. There are attempts to make larger, better improvements to the site and this is only one component of it. For purposes of motorcycle week, they would be using that track. They try to make a 9 month use of the training. This application is scheduled to go to the Zoning Board on Thursday for the Special Exception to be within the 50' buffer zone of the non-designated wetland. Flanders – John said the wetlands should be re-flagged. I think that's a simple matter of you going out there and setting... because you located those flags. If the question is to put them back to where I had originally mapped them, I can

do that. The Conservation Commission has already made their recommendation, but they should be able to see where the wetlands are located if they choose to do a site inspection. Vadney - What is the net increase of parking spaces. Johnson - 9. Vadney - You're looking at approximately 4,000 sq. ft. of new pavement. The amount of water collecting on that doesn't worry me, but it would worry me a little more if it's changing the drainage there in any way. Johnson - The drainage that's coming down, if anything, would go into the existing wetland complex. The reason this is so obtuse is because it is gently sloped. Johnson - I would be more than willing as part of a conditional approval to have Paul Fluet look at the drainage in this area, to put a culvert size on this. I would also offer to have him look at sediment and erosion control. If you wanted you could look at that as Carl suggested and either you might bring that back as a compliance issue and once that information is added and evaluated, it comes back to you for final signoff or just do it administratively, but it's a tight little spot. Vadney - This in no way implies that I'm particularly happy with the idea of all the other circulation you may be back to do. Hearing closed at 9:45 p.m.

Flanders moved, Kahn seconded, I MOVE THAT WE GRANT CONDITIONAL APPROVAL TO HART'S RESTAURANT FOR A SITE PLAN AMENDMENT TO CONSTRUCT A 60' X 62' EMPLOYEE PARKING AREA, TAX MAP U02, LOT 27, LOCATED AT 233 DANIEL WEBSTER HIGHWAY IN THE CENTRAL BUSINESS DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS TO BE HANDLED ADMINISTRATIVELY:

- (1) LOT COVERAGE CALCULATIONS NEED TO BE SUBMITTED.
- (2) THE INTERMITTENT NON-DESIGNATED STREAM SHOULD BE LABELED AND THE APPROPRIATE 75' SETBACK ADDED TO FINAL PLANS. A SPECIAL EXCEPTION IS REQUIRED FROM THE ZONING BOARD OF ADJUSTMENT AND SHOULD BE REFERENCED ON FINAL PLANS.
- (4) THAT WE GRANT A WAIVER OF 2' TO THE STANDARD PARKING MODULE FROM 64' TO 62'.
- (5) THAT THE APPLICANT HAS OFFERED TO PROVIDE SOME CALCULATION INFORMATION FROM PAUL FLUET, PE, WITH REGARDS TO THE DRAINAGE, INCLUDING GRADING, TO BE REVIEWED BY STAFF AND HANDLED ADMINISTRATIVELY.

Voted 5-0 in favor of the motion.

TOWN PLANNER'S REPORT

1. CHARRETTE – May 20-22, 2005.
2. NHDOT – 10-year plan for the Town on Route 25, initiated this RFP as a community planning initiative.
3. CIP ADVISORY COMMITTEE – Liz Lapham has stepped down. Scott Nolan and Tony Candage have been appointed to the Committee. Lou Kahn has been appointed as the Planning Board alternate to the CIP Committee.

Plan Signatures: Harlow –Boundary Line Adjustment
Buckley – Boundary Line Adjustments
Grant – Site Plan and Architectural Design Review
Hutchins – 3-Lot Subdivision

Respectfully submitted,

Mary Lee Harvey
Administrative Assistant
Planning/Zoning Department

The above minutes were read and approved by the Meredith Planning Board at a regular meeting on _____.

William Bayard, Secretary