

PRESENT: Vadney, Chairman; Sorell, Vice-Chairman; Secretary, Bayard;  
Finer; Kahn; Bliss; Worsman; Touhey, Alternate; Harvey, Clerk

### APPLICATION SUBMISSIONS

1. **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.
2. **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.

Initially (2) applications were filed involving three lots in a row. Applicants proposed two sets of equal area exchanges in order to eliminate existing setback encroachments created by the construction of a dwelling on the middle lot (Lot 25-B). The nature of the request involved two applications, however the exchanges appeared on one plan. At our last meeting, at the request of the applicants the matter was rescheduled for 4/25/06

**Following the 4/11/06 meeting, one of the two previously filed applications was withdrawn (Platinum Realty and Batchelder) due the difficulty of obtaining the necessary release. See correspondence dated 4/18/06 for reference. Recommend the Platinum Realty/ Batchelder withdrawal be accepted without prejudice.**

The remaining application, revised boundary plan and abutters lists are on file. Filing fees have been paid. Applicant has requested waivers to check list items (i.e. soil type, topography etc.) that are not pertinent to the boundary line adjustment. Recommend the waiver be granted and the application be accepted as complete for purposes of proceeding to public hearing.

Finer moved, Bliss seconded, THAT WE ACCEPT THE APPLICATION OF PLATINUM REAL ESTATE INVESTMENTS, LLC AND MARLENE L. OKONSKE FOR A PROPOSED BOUNDARY LINE ADJUSTMENT AND THE WITHDRAWAL OF THE APPLICATION OF PLATINUM REAL ESTATE INVESTMENTS, LLC AND SCOTT A. AND DIANA L. BATCHELDER BE ACCEPTED WITHOUT PREJUDICE. Voted unanimously.

3. **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.
4. **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.

Applicants propose to expand an existing single-family residence to create a three-unit multi-family use (Site Plan) and establishing a condominium form of ownership (Subdivision). Each unit would include 2 bedrooms.

Applications for Site Plan Review and Subdivision Review, plans and abutters list are on file. A previously identified abutters list defect has been corrected. Filing fees have been paid. Recommend that the applications for Site Plan Review and Subdivision Review be accepted as complete for purposes of proceeding to public hearing.

### **PUBLIC HEARINGS**

1. **WINDOVER REAL ESTATE INVESTMENTS, LLC (FORMERLY MERTON WINN CAPITAL, INC.)** – Continuation of public hearings held on 2/28/06 and 4/11/06, 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.

**Mike Garrepy** – A few weeks ago we had some outstanding issues that we adjourned to address and we're here this evening to hopefully run through those final outstanding issues and move towards an approval with conditions this evening. I am in receipt of Mr. Edgar's latest staff report and it may be best that we proceed through that. It seems to me that might be the best course of action. We've read it, we concur with the majority if not all of the findings and recommendations that John has proposed to the Board and I can go through them if you like, if it's the pleasure of the Board. Mr. Edgar starts off with just the application references and the summary and the history which I won't bore everybody with. We've been through that already. He starts out by talking about some of the outstanding items, #1 being building envelopes and his recommendation here is that it be a condition/plan note and deed restriction stating there shall be no further wetland and wetland buffer impacts other than those indicated on the plan other than for recreational trail purposes and the house sites on Lots 3 and 4 be limited to the area west of the wetland setback line indicated on the plan. If you look at the plan that I have on the Board which is sheet C-1, the

Overview Plan, you'll note the western edge of this wetland buffer, that's where we propose to restrict the primary dwelling units for Lots 3 and 4 and we've also added to the plan a trail easement area to minimize the wetland crossings for the trails to one location which is an existing crossing location. It's already an existing impact area, it's an existing crossing so we wouldn't need to bridge it or culvert the crossing at all. It's already in place. Fairly minor upgrades to that crossing would be required and we're also showing potential trail locations or proposed trail locations and what we propose to have is some flexibility as we get out into the field to locate those trails to meander around the larger trees in those sensitive areas and we would do that as we constructed the trails, but this essentially shows the trails outside of all the wetland buffer areas to the maximum extent possible and the existing trail that's currently on Lot 4 goes right through a vernal pool. Actually the vernal pool was created as a condition of building the trail years ago so we propose to relocate that trail outside that vernal pool area so there will be a little bit of buffer impact, but no direct wetland impact beyond the crossing that's showing on the plan so we'd be certainly satisfied with that condition if that were an approval the Board wanted to place upon our application. Kahn (inaudible) Garrepy – That's correct and I have a plan I can hand out to the Board. Vadney – It's going to be very difficult. The primary thing of course for you is convince the Board, but you do need to try and help the public as well. Kahn – How does Lot 3 access the trail. Garrepy – Lot 3 accesses its trail via an easement area that is defined on this plan and should be on your plan as well. There will be an easement in favor of Lot 3 over Lot 4 to facilitate the one crossing to minimize the wetland impacts. Vadney – Could you just point to it with your finger. Garrepy – The purple, that's the easement area and the single crossing would be the black line. Vadney – OK that whole boundary area. Garrepy – Originally, we had proposed in our discussions with the Board and with John that we would have two crossings and there would be no easements associated with trails and John thought it would be better to minimize those crossings and in speaking with him last week, we agreed that would make the most sense. So, that's what we've proposed to the Board this evening. As far as the further wetland impacts are concerned, we're fine with the deed restriction note on the plan that there would be no further wetland impacts other than that as proposed on the plans relative to structures and the need for setbacks and that sort of thing. Vadney – I hesitate to do this because we have a lot of items to go through but I will try and ask for public input so make it very short and to these individual points because we'll open up the whole issue when we've gone through the whole briefing. Evan Greenwald – I own the property that abuts Lot 4. Basically, that property which runs all the way up to Meredith Neck Road and my one question of concern is just relative to this trail and whether it would adhere to appropriate setbacks and what scope is the trail, the dimensions of it and I

have some general concerns about whether, obviously you can't control use, but whether over time, it could somehow become wider, bigger, more navigable and by what type of vehicles and what restrictions are attached to it so I guess I would just ask that that particular issue be addressed in some manner. Vadney – The short answer is there are no requirements on setbacks for trails, driveways and the like. They can run very close to the property line. As far as future encroachment if it crosses onto your land, you've certainly got a problem there and then you have due recourse. Kahn – Mr. Chairman, I think that Mr. Garrepy is going to go on and discuss how he's going to build those trails and what he proposes they should be made of and what he proposes they should be sized and by what he proposes they should be used. Vadney – And that may answer your questions. If it doesn't, bring it back in a few minutes. Garrepy – On the trail discussion, I should have jumped ahead but it was relative to the impacts to wetlands and buffers so I wanted to mention it, but I do have more to say about the trails further on and John does as well in his comments. If that's it, I'll go on to the next point. The next issue that John brings up in his staff report is relative to the consolidation of access for lots 7 with 1 and 2. We've had a lot of discussion about Powers Road access and trying to limit curb cuts on Powers Road. Lot 8 accesses its buildable envelope via the Rice driveway under a shared maintenance agreement and access agreement. Lot 7 is now proposed to have access via the private accessway. We're not sure what we want to call it or what we should call it, but it's a private accessway for Lots 1, 2 and 7, the first 200 feet of which would be shared by the 3 lots. John has proposed and we've agreed, assuming the Board agrees with John's recommendations that we proceed to the Board of Selectmen to seek a waiver from the standard that a typical roadway would have to abide by relative to the width and surface type that would be involved in building that section of what we would call a private accessway. Right now it's proposed to be a 16' gravel drive the entire length which has been reviewed and approved by your Fire Chief, but we understand we need to go to the Board of Selectmen to seek some relief. We may have to build that first few hundred feet of accessway to a different standard, perhaps it won't be 16' but we'd like to try to see if we could work with the Selectmen to reduce the standard, therefore, reduce the impact. Vadney – Bill Finer has just pointed out to me that the maps that we have don't appear to show that driveway in the green location. It still shows a separate drive coming off of Powers Road. Garrepy – The one that I just handed to you shows, it's actually an error in the printing, and it shows a grade area on the plan and a note that says wetland buffer impact 3,000 sq. ft. and that is an error. The driveway's actually removed from the plan, but the drafter didn't remove the grade area that showed the impact so for the final plans, we'll have that and these plans are here tonight for display purposes essentially. The final plans that we'll put together will have that removed and the note removed, etc. Can you

show us on yours where that proposed driveway into Lot 7 is going to be? Garrepy – Well, my thought right now is we're going to try to minimize the length that they would all share their access so the first 200 feet or so would be shared up to about this point here and so where the purple is shown is where they would share and then the access then come into the site. It could spin off perhaps even earlier than that, but given the grade, we'll have to work on the terrain and what makes the most sense. So with respect to that proposed condition of approval, we would certainly be fine with that being directed to the Board of Selectmen and whatever standard they require we build that portion to, we'd be happy to abide by. Kahn – I think, Mr. Chairman, if you look at John's recommendations and at Mike Faller's communication with John, John is suggesting that we recommend to the Selectmen that we have pushed to get that third driveway out of the wetland buffer and therefore we recommend to the Selectmen that they go with the lowest possible standard for that very, very short road and Mike goes on and says he doesn't want that road a public road unless at some later date, it's built to the appropriate standards so I guess they are going to waive any intention to have that road dedicated as a public road. Garrepy – That's correct and part of John's recommendations are that there be an absence of a dedication or a plan note that says that any of the rights-of-way or accessways shown on the plan are not intended to be an act of dedication and that there be a restriction in place that is recorded that prohibits the future landowners from applying to the Town for acceptance of those rights-of-way and we'd be happy to work on those legal documents with the Town. We've submitted some language to John already that hopefully gets to that end result. Worsman – Is there anything in that ROW agreement that you'll be willing to put in the deeds a provisional as to who's responsible for maintaining it, that they are each responsible for sharing that maintenance, so there's not going to be arguments later on down the road? Garrepy – We've actually submitted to John and the Planning Department some shared maintenance agreements which have language exactly relative to that issue, sharing the maintenance responsibilities, the long-term costs and care, reciprocating easements, all the legal language in place. We do what we can to make sure everyone's a good neighbor. Obviously, if there are issues down the road with disputes that's a civil matter, but we've done all we can as designers and all you can as planners to make sure that the correct instruments are in place at least. Worsman – What about a method to provide funding for bringing in gravel when mud season hits and the road gets all pot holes and lot owner 7 says hey, lot owners 1 and 2, let's get some gravel in and 1 and 2 say no. What do you have in place for funding mechanisms? Garrepy – We have the legal requirement that they share the maintenance costs, we didn't place in the language a funding mechanism that would require them to fund an escrow fund or a maintenance fund, but that's something we could talk about although it's not typically something that we do. Again, if there are issues with folks arguing about who's going to maintain it, it's a civil matter as long as there are restrictions that say that

the Town will never have to be responsible for it, that's the most important thing at least from a cost standpoint from the Town's perspective. Vadney – And that's really as far as we can go with it and if they should have gunfights over it in the future, they can go to the courts or whatever, but it's not something we want Code Enforcement going out to follow up on or we don't want any Town money involved in any way. Worsman – Which makes sense. Garrepy – Getting back to the trails, the third thing John identifies and as you're going through this, I assume you guys are familiar with John's reports where the underlined things are the things he's recommending we focus on so that's how I'm taking these things so getting back to the trails, his third component of the approval is one wetland crossing for the trails. He talks via a bridge as opposed to a culvert. We were out there with the Conservation Commission and we observed the crossing area and as I said before, it's an existing crossing. The wetland is actual wetland break in the system so it doesn't require a bridge, it doesn't require a culvert, it's pretty much ready to be crossed as is in its condition now, but we would certainly agree to that one crossing. He talks about the trail locations shown on the plan that go down to the accessory structure envelopes which we've shown and we've agreed that we'd construct the segments of the trails from a sensitive wetland area east to the water and we've put together some bond numbers at John's recommendation for not only the trails, but for the two shared drives that we'll be constructing as well. We have those numbers to submit for you tonight as well. We'll get to that in a little bit, but we've agreed to construct it and also to guarantee its construction via a bond performance guarantee. He's talked about the trail being constructed to agreed upon specifications including a maximum width and trail surfaces being permeable. We have agreed that the trails won't be paved, they'll be of a gravel nature. We didn't really specify a width. Our goal is to allow for passive recreational use and access to the water and it's not, again, we've talked about this at the last meeting, it's not just for pedestrian access, we'd like some off-road recreational vehicular access. We're very comfortable with restricting the future typical on-road vehicles from ever accessing the water via those trails. In the event someone tried to do that in the future, we could restrict their access via the deeded covenant and plan notes. We'd be happy to do that, we just have to come up with the language that facilitates that restriction and I guess we have the easement identified on the plan and the trail locations located on the plan. What we're asking for tonight is some flexibility so that when we get down there and we start locating the trail in approximately these locations, we're not having to cut down larger trees or hopefully not many trees at all to get that trail to meander through the natural landscape. Partly in answer to Mr. Greenwald, this section of the trail about 600' or so of this trail is already in place. It will be upgraded slightly I'm sure, but it's already there. We're proposing to just relocate a lot of it's existing section out of the wetlands and into the upland areas so a good majority of it will be located away from his property and then connected back up to the existing trail. That's what I

have for that issue. Maureen Soley, 37 Soley Lane – I'm the direct abutter to Lot 4 and I would add to the Greenwald's concerns about the trail, I think this trail at some point here is probably no more than 10 feet away from my property line and our driveway, Soley Lane is a private way that services about 6 houses that have right-of-way to it. We put in the last 400' of driveway to service our own lot, but we followed kind of an existing path that was already on the property. We have a small culvert that comes across to maintain our driveway so we're concerned over privacy, we're trying to maintain some privacy down there and not have 4-wheelers zipping by all the time and also that we be able to maintain our own driveway so they don't do anything to stop up that culvert. Vadney – And your water flows toward them, correct? Soley – Yes, we're higher up than they are. Greenwald – I similarly have concern about off-road vehicles and the open ended flexible nature of what could operate there. Maureen referred to 4-wheelers and obviously gas powered vehicles certainly are quite a concern relative to noise and I can imagine why she would because their house sits very close to that boundary and 4-wheelers coming right down to the water would literally be revving engines within about 10 or 20 feet, especially if there are no official setbacks for trails from property boundaries and I would share similar concern as well in terms of our property that come very, very close to our property boundary and one of the things I think we've appreciated about our property in Meredith in general is that it tends to be a somewhat quieter place and I don't know if there is any flexibility whatsoever or whether the developers would consider a restriction to still allow them the use they want in terms of access, but something that would be less noisy like golf carts which are electric vehicles or something else that would be a reasonable compromise as well as some reasonable restrictions so that the trails or the paths somehow could not become enlarged to a degree to which motor vehicles would and I know that in many deeds of rights-of-way, there are certain restrictions on what kind of vehicles can have access across rights-of-way, trails, etc., and so I would just make a request that the Board take a look at that issue, consider the neighbors, the abutters, the use and privacy of our properties and look at maybe a restriction against gas powered vehicles, 4-wheelers, off-terrain vehicles, but still allowing them golf cart use and other things that would obviously allow the owners of those properties to enjoy that. Touhey – Mr. Chairman, you've kind of changed your format for this particular meeting. I respect that and in terms of entertaining public input after each paragraph or so of John's staff report, however, I have a brief presentation that follows a different format and would ask that I have that opportunity later on to go through that. Vadney – I said that when we're done, I would open it to general comments, but I thought if there were things that specifically needed to be asked on these small individual questions, it might be easier for the people to comprehend them. Touhey – Good point so I'll comment on two points. One certainly is the bridge that was talked about in previous public hearings. It was the recommendation of the Conservation Commission I

believe, and Ralph might comment on that. He's here, he did that site visit that we did back in the fall, he returned again with other members of the Conservation Commission, I believe that was in late March or very early April and I think their recommendation was a bridge. John's recommendation here clearly is a bridge. What I observed there was a stream passing under sod I would say or whatever the forest humus that happens to be there. You could hear the water going underground at that point. I would suggest that a lot of traffic over that area would cave that in eventually and eventually they are going to be walking through the wetland. I certainly would urge the Board to consider a good solid bridge crossing that wetland. I think that would be the way to go. Vadney – How big of an expanse are we talking here, do you know? Touhey – Mark, could he comment on that? Mark isn't here? Kahn – Mr. Chairman, I'm looking at this and I'm seeing that the trails run through wetland buffers except at one point back on Lot 4, there's one point where they actually do cross a wetland. Now that's a wetland buffer on this. Garrepy – It's a wetland buffer. Kahn – Further up, where the trails are one trail before they fork, it looks like at one point there it crosses wetland #2. Garrepy – It does and that's where the wetland system itself actually is going. Touhey – That's the bridge crossing or the trail crossing. Garrepy – We don't call it a bridge site. We understand, that's where the wetland system actually breaks, it goes under. Vadney – You're talking about the same spot, the question is culvert or bridge. Garrepy – Perhaps Ralph might speak on the point being out there. If we need to put some kind of a wooden bridge structure there, we would be more than happy to do that, I just didn't feel that it was really needed and I guess we could defer to the Conservation Commission as to what they might think is appropriate there. We're not trying to be difficult about the access to the water, whatever their recommendation might be. Vadney – You're proposing a culvert? Garrepy – No, we're proposing to basically leave it as is. It's essentially an old access way to the water many years ago for what type of use I'm not clear on, but I mean you could certainly drive either with a 4-wheeler or a golf cart or certainly walk across it at this point and I don't know, Ralph, if you want to make a comment or not. We'd be happy to work with the Conservation Commission on the type of crossing structure that might be appropriate and we could leave it at that. Vadney – We'll come back to that then. Touhey –

As Ralph approaches the mike, I just might say that, again it was the Conservation's recommendation that the trail be limited to a 4' width and so Ralph might want to comment about that, but I would encourage the Board to put some limit, otherwise there's no limit whatsoever. We've got to have some limit there. Ralph Pisapia, Meredith Conservation Commission – This crossing that he's talking about, that land bridge in all honesty is not the area where we recommended the bridge. The bridge is where this trail crosses the stream and Mike hasn't mentioned that at this point. The issue of whether a vehicle would collapse this land bridge is one that we have not considered which goes back to the same issue of what kind of vehicles will



be allowed on this trail. We have recommended footpath type access, possibly some light vehicle like a golf cart or something like that, but I'm sure we'd have to do more investigation to really find out what kind of weight that current land bridge would support because the wetland is here on this side, then there's this land bridge and you can hear the water trickling underneath it and then it forms a stream on the other side so what kind of weight that would withstand I don't know. Garrepy – And that land bridge is actually the only area that we propose to impact the wetland if you will and that is the answer I guess that he might have. We don't propose to bridge the stream in any other location. We don't propose to impact the wetlands in any other location except for that land bridge area. Pisapia – Where the trail splits and goes back from Lot 4 over to Lot 3, my recollection from our site visit was that trail would necessitate a crossing of that stream. Garrepy – Under the original proposal you're right, we would have proposed a cross for Lot 3 in a separate location. What we've done is consolidate the crossing so both Lots 3 and 4 share a single crossing of the stream or the wetland system whatever it is in that area. Vadney – And that single crossing is this land bridge? Garrepy - And so whether that land bridge needs some kind of a wooden bridge structure to span it and we'd be more than happy to do that if that's required and we can work with Mark West on the type of structure that would need to be placed across that land bridge and go from there. With respect to the type of vehicle, again recreational off-road type of vehicle is what we're really seeking to allow the use of on that trail or trails throughout the property for that matter and we'd be more than happy with restrictions on vehicular access, on-road vehicular access on these trails or any other trails that we may construct on site so it's just with respect to this sensitive area, we're trying to minimize our impacts, stay out of the wetlands, stay out of the buffer where we can and build trails to a permeable standard, but gravel based essentially and we're certainly not looking to build a 20' wide trail down to the water. Kahn (inaudible) Pisapia – You may be correct, but in all honesty that's not my recollection of where that stream is. I'd have to go back out there and take a closer look. Garrepy – I might just further add for the record that these two trails are only proposed to be accessed by the owners of Lots 3 and 4. We haven't gotten to that yet, but we talked about it. There will be a restriction so Lots 1, 2, 3 and 4 will be the sole owners or landowners that will be able to access the water so there won't be a convoy of 4-wheel vehicles, golf carts or what have you going down to the water. It's the occasional use to access the cove. Finer – Is there any chance to alleviate the abutter's concerns a little bit where it gets real close to the property line. Can that get moved up between wetland 3A and vernal pool B, is there room to tuck it in between those? Garrepy – This is actually a wetland with two vernal pools in it. Finer – And you have another vernal pool right below that. Garrepy – Actually, I take that back, the vernal pool is here and there's one here so this is just wetland area. Finer – Can it fit between the wetland and that lower vernal pool away from the border? Garrepy – When we were out

there with the Conservation Commission, we noted it would be a lot more environmentally practical to bring it around the other side of the vernal pool as we're showing it and also, again, what we're doing is we're bringing it back to where the existing trail is and so to minimize the impact not having to build another trail, we're trying to tie into an existing trail. It's 20' away from the property line, perhaps in some areas it might be as close as 10 feet, I haven't measured it, but there's a good tree buffer between the trail and the property line and another decent tree buffer between the property line and the abutter's property. They've left some trees on their side as well so I think there's a good buffer there. Worsman – I hate to ask this, but would you consider eliminating the bottom trail and have Lots 3 and 4 basically have reciprocal easements so there's only one trail? Garrepy – What we have proposed here is pretty much as far as we'd like to go with restricting our access to the water. We've done all we can, we feel we've used our best efforts to minimize the impact to what we've all agreed upon as a more sensitive area. Originally, and you might be familiar with the original plan, we had house locations down on these lots with driveways going to them and we've pushed everything back a thousand plus feet away from the water and all we're talking about is low-impact trails that might be used by and certainly will be used by some off-road recreational vehicles such as golf carts, gators and the like. Worsman – It's clear you've worked real hard to try to work with the Board. There's no question, I guess I'm concerned about, you know the abutters seem to feel that it's very close to their boundaries. Garrepy – We have uses, the abutters have uses that are very close to our boundaries too. We respect their uses as we hope they would respect ours. We are trying to minimize our impact to their lives and we understand, we've always tried to be good neighbors wherever we go. I'm not going to live here on any of these lots, but there will be folks that buy these lots and build homes here that will eventually be neighbors of all the folks that are abutters to this property. We want to build a nice project and hopefully everyone can co-habitate together. We're not trying to get lots down or homes down here on the water, we're trying to work with the sensitivity of the area to the best that we can and still obtain access to the water which is obviously a very important function of our project. Kelly Greenwald – While I appreciate what you're saying in terms of having to make a lot of compromises. Another thing that hasn't been mentioned but is really on my mind is in recognition of this being a very sensitive area, an aquifer and vernal pools and all of that, ATV's, snowmobiles, party groups do happen in the winter time, especially and all I can see is gas, gas, gas and that water is really important to a lot of people in addition to the noise and the impact on the abutting properties and that sort of thing so I can see that you're in a bind, but that's sort of a bind for us also as people who depend on that water as a community. Bliss – If I can just make a comment to that, but then where do we stop. Do we say no boats in Lake Winnepesaukee. These people also have a right to enjoy the trails and to use them as they want. I just don't know where we stop if we start

something like that. Kahn – Mr. Chairman, following up on Pam's comment, I was taken to task by the Town Planner for tossing off the comment at the last meeting that we could come up with a conditional approval and if the developer didn't like it, he didn't have to accept it. What I meant was that we have a responsibility when we're looking at a subdivision to see whether or not restrictions are appropriate and we are entitled as a matter of law to assert restrictions that are reasonable and if we assert restrictions that are reasonable, the developer has to live with them unless the court decides they are unreasonable so we should try to be reasonable. One of the parts of being reasonable is not to pile on so many restrictions that are so difficult to conform to that the developer basically can't develop. People have a right to use their property. We have zoning. We, unfortunately, maybe can't prevent development so coming back to this trail, I'm looking at there's a stonewall that crosses the line there and it looked to me on the plot that's actually where Soley Lane ends, so it looks to me on the plot that Lot 1A is really not much affected by that trail coming down from the north and that the lot that is affected is Lot 3, the lot to the east. Vadney – 1A being Greenwald and 3 being Soley. Kahn – And the question that I have is could you, since the trail at its closest point is actually opposite the end of Soley Lane, could you bend that trail a little to the north where you're still out of the wetland as it runs along the line of Lot 3 and bring it in sort of at the northern end or northern edge of that wetland? Garrepy – This area right here. Kahn – I recognize that you can't do anything there, but you pass that, go further to the east and right there when you come out of the wetland buffer, can you move the trail a little bit to the north? Garrepy – We could do that and the reason why we haven't proposed to do that, again is because we're reconnecting to an existing trail and again it would be further impacting to the environment to do it getting closer to the other vernal pool and again at some point there might be some accessory type uses down here. Vadney – We do have to keep in mind these are 13 and 17 acre lots. They are not an eighth of an acre kind of things. Garrepy – The other thing to point out too is that Soley Lane while the ROW may end here at the property line, the actual road and don't quote me, but it ends another probably hundred feet or so off of the property line. It may be less than that, but it's all vegetated, it's all wooded. Vadney – As the Soley's would probably admit, I think that's been the #1 subject in the last 8 years of the Planning Board is Soley Lane. I don't know how many projects have focused on that little piece of road. Evan Greenwald – Just one last comment about the use of motor vehicles and concerns about gas pollution, the water system that is down there is very important. It flows all the way obviously through the existing property, but it also flows across two or three other properties, forms the aquifer which fuels all of the wells from all of the other lakefront properties, Touhey's property and the others, the Armstrongs, as well as fuels the water which is tapped into even from our home up on Meredith Neck Road. We have a 1000 foot well which goes well into that aquifer and that's what we're drinking and in addition, our

backup water supply is a pump house which used to be the primary water supply for our home up on Meredith Neck Road which literally is probably less than 75' from the property boundary right next to that stonewall so the environmental impact of motorized vehicles is of great concern due to it being our drinking water system and I understand the concern that Pam had mentioned about where do we draw the line and do we ban boats from Lake Winnepesaukee. No, but it is a well known fact that gas pollution in the lake and the various things that are in there do create a legitimate environmental concern and if there is any way that the Planning Board can take that into consideration and still allow reasonable use of property, I think that's your charter so to speak and obviously your task is to find out if there's a balance between environmental issues, neighbors and still meeting the needs of a legitimate request for a subdivision and the potential future owners who will own that property and obviously the main issue is access to the water. These folks have been asked to back up their housing lots far away from the water which was already a disadvantage to them which I appreciate and so the key issue just becomes how can people who own those homes get down to the water in a reasonable manner and I don't think gas powered vehicles is going to be critical to that task. It just doesn't seem to be an unreasonable request to protect the wetlands area, the aquifers that fuel all of our wells by creating some reasonable limitations in terms of no motorized vehicles. Vadney – Let's move on to the next subject and you can come back to any of these subjects at the end. Garrepy – The next item on John's list is the issue that we really got stuck on at the last meeting which is some consideration of protective buffers and limits on cutting and so as the Board suggested we come back with a cutting restriction plan and we've done that and I've prepared a plan to show the Board this evening. I didn't have a chance to get with Mr. Touhey earlier this evening to help me color this up, but I've done my best. What John has suggested we do is that we listen to our own wetland consultant when we talk about preparing a wetland resource protection plan and so we've done that. It's kind of hard to argue with your own consultant. In his wetland valuation report, he's identified some areas of critical importance or for when you identify the wetlands, you rank them in priorities. He's identified several areas on the site that are more important than other wetland areas on the site and I think we're all familiar with them by now, but it's essentially the stream channel and the 4 vernal pools that are on the site. He's also placed some importance on this wetland system #2 as well. What we've done is gone beyond what Mr. Edgar has recommended that we place for restrictions on the plan, at least we think we have, because we weren't exactly clear on some of his language here, but what we've done is prepared a two tier level of protection for the site. What you see outlined in green and it may be a little difficult for you to see on that plan due to the size of the plan and also just the way that it's been delineated, but the green area here or the single-hatched area on your plan is a no-cut, no-disturb area and that represents wetland #2 in its entirety, wetland #1 in its entirety

and also a 50' buffer around the 4 vernal pools and the stream channel in its entirety so we have agreed that we'll place a restriction of no-cut, no-disturb around those sensitive areas. We've gone beyond what our recommendations from our wetland consultant are. I have a letter to submit for the record from Mark West who couldn't be here tonight. The second tier that we're proposing is in the areas that I haven't identified in green but that are the cross-hatched areas and those we propose are restricted in accordance with the Shoreline Protection Act standards for any tree cutting that might occur in those areas and that is essentially the proposal in a nutshell. I can give you this letter for the record. Kahn – Mr. Garrepy, when you're saying that you are going to use the standards of the Shoreline Protection Act, I guess in the buffers outside those no-cut areas, do you mean that you're going to apply the Shoreline Protection Act as though it applied so that even though it's not shoreline as defined, you would use the same standards as the Shoreline Protection Act? Garrepy – Although some of the area is in that shoreline protection area, the areas outside of that 250' sphere of influence would also be under the same guidelines for cutting. As Mark West has suggested in his memorandum, not cutting in the wetlands themselves and then leaving a buffer around the vernal pools and the stream channel will adequately protect the resource. He wouldn't let us go in and start cutting in the wetlands although we tried. He was against that and then a second tier of protection would be some limited cutting in the buffer and the only other condition that we would ask is some flexibility to be able to get in there and as depicted on the plan, cut those trails and build those trails as they meander through the existing vegetation. Touhey – On John's staff report, the wetlands that were designated, Mike, I know that you included wetland #2. If you notice in John's paragraph there was a typo and wetland #2 was not included. Garrepy – That is correct. And I actually didn't read that as clearly as you did, when I met with Mr. Edgar, we referenced Mark West's report and wetland #2 is in there, it's just in there a little further down and he just missed that when he was putting his report together so we understood #2 was part of that so we've gone ahead and agreed to that as a condition of approval that that would be one of the areas of protection. Touhey – Just as a note, Mr. Chairman, I checked the file this afternoon at the Planning Office and there were communications in it from Dave and Mike to John relative to a number of these conditions and one of them did have to do with tree cutting. What Mike is presenting tonight was not in the file even as late as this afternoon so for those of us who are trying to digest this, this latest proposal relative to cutting is coming on us now as brand new. Garrepy – We'd be happy to revert back to the other proposal but we feel this is more restrictive and better for the environment and again I would remind everyone that these are voluntary restrictions we're placing on our property where we don't have to, again we're trying to work with everyone. Touhey – Right and we are too. Garrepy – So we could revert back to what we originally proposed, but we feel this goes above and beyond even that. Touhey – Mr. Chairman, I don't

want to suggest that they necessarily revert back, I just want to make sure that we protect the wetlands to the greatest degree possible and might need time to once again to determine which is the side we want to be on. Jim Nolen – I applaud your no-cut, no-disturb proposal here, I think that's a major step forward. My question is how does that get carried into the deeds and how does that hold any enforceable weight downstream? Vadney – It was mentioned in this report that he just read from that these would be deed restrictions. How do they get enforced, you can report such violations to the Code Enforcement Officer, you can take them to court, there's always a couple of lawyers around willing to take a case like so you have those recourses. Garrepy – And this plan in its final form after John's reviewed it and blessed it will be part of the record, part of the reference document that would be part of the deed description so it would say X lot has a deed restriction in accordance with this plan so there would be a reference document and that's what we have to adhere to. Vadney – It is, by the way, something as a Planning Board we kind of tread very lightly, we're hesitant to put anything into a condition that's basically not enforceable and we do worry about that a great deal and probably sometimes make mistakes, but we do try and do things that are clear cut and enforceable or else leave them out altogether. Garrepy – On the limits of cut and the buffer protection areas, yes, and there's a few other minor issues that John has raised and I can hopefully go through those quicker because they may not be as controversial. Access – John mentions that DPW and NHDOT permits are required and referenced on the final plans and we obviously have no problem with that. We've talked about water supply for these homes and we've talked with the Fire Chief, Chuck Palm, on a number of occasions and actually met with him and we have agreed that the homes for Lots 1-8, excepting Lot 5 with the existing house, would be sprinkled and that has been something that he's been in favor of. The second component of that fire section of John's report talks about driveway plans with typical cross sections and he wants the final plans to be reviewed and approved by the Fire Chief and we have no problem with that. Also, the DPW would approve our curb cuts and the like so we're fine with that condition of approval as well. Relative to the legal, draft easement language has been submitted for staff review and we will work with John to fine tune that as it relates to any conditions you may impose on the approval this evening, but we have submitted that, I believe it's probably part of your packet because I e-mailed that to John last week and John and I have been working on that at length. Final restrictive deed language, I just said that final easement language is something else he'd like reviewed and that's with respect to the reciprocating easements for access to the lots for vehicular access and then the trail easement as well. We're fine with that. Restriction against further subdivision, we've added that in our draft deed language that we submitted to John as well that there will be no further subdivision of any of these 8 lots as they are shown on the plan. The only stipulation that we've asked is that there be the ability in the future for lot owners to do boundary line

adjustments that wouldn't create new lots, but that might facilitate a better arrangement between neighbors and that's something that John didn't seem to have a problem with and we'd ask the Board to concur. Access to Lake Winnepesaukee – We've also agreed many times in the public forum and we'll solidify that for the record again and place that in the plan notes and deeded covenant restrictions that there will be only access to the water from Lots 1, 2, 3 and 4 and no other lots on this property will access the water. There won't be any kind of easements or rights-of-way, etc. John's also recommended that the final approval of the Boundary Line Adjustment be obtained and recorded prior to this plan being finalized and recorded and that's something we have here to take action on as well that's been noticed as part of this dual purpose hearing, the Boundary Line Adjustment between the Rice property and the Atteberry property and we'd ask the Board to take action this evening on that as well. Performance guarantee – It's a little interesting, I don't think we've done one of these before for a driveway but we've agreed to provide a performance bond to ensure the construction of this shared accessway and the shared access for Lots 3 and 6 to the point where it crosses the wetland so we can ensure that proper protection of this wetland crossing and ensure that we build the driveway to the acceptable standard that the Fire Department and the DPW agree upon so we prepared, based on the Town's bond cost summary sheets, we prepared a construction estimate which I can submit two copies and that also includes the bonding amount for trail construction and we would ask that either the Board approve this number tonight based on the spreadsheet that John provided us and our engineers have calculated, based on the quantities and distances of the drives and the trails or that as a condition of approval, you pass that authority to approve the final number on to staff. It's a \$57,400.00 performance bond amount that we would place with the Town to ensure that construction happens. Under miscellaneous, John has indicated that we need a couple notes on the plan, one is NHDES subdivision approval which is pending and we'll add that approval number to the plan when it's received and prior to the mylars being recorded. The Shoreline Protection Act notation will be added to the final plan as well and we're due to meet with the Zoning Board on May 11<sup>th</sup> I believe to talk about this minor wetland impact for the driveway crossing for Lots 3 and 6 and we'd ask that that be a condition of final approval this Board would act on. Demonstrating how electrical service will be provided to each lot, we will show that on the final plans that Mr. Dolan will put together for you. Monumentation or pins, he's asking for written evidence that the pins have been set prior to recording and we're comfortable with that condition as well. In the Boundary Line Adjustment, he has some minor requirements he'd like to see on the final plans. The after adjustment setback lines shown on the plans so both parties know where they can and cannot build, etc. Draft conveyance deeds, executed with the mylar, releases from mortgages, if any, and evidence of monumentation being set and I think that is it for John's staff report and I'll take questions. Vadney – One thing to help clarify Mr. Nolen's

question, under legal he mentioned draft easement language and then it said final restrictive deed language should match or complement conditional approval as applicable and provide that any conditional approval is sufficiently clear and can be handled as an administrative matter and specifically that vegetation would be if that becomes one of the conditions of approval that would then fold into that legal aspect so that's as good as I can give you for tonight. Bayard – I have questions regarding the pump house and the off-site release of easement. Garrepy – I skipped over that by mistake, not intentionally. Actually, before the Nolen's leave tonight if we could get together because that's actually not something that we have part of our legal record is this pump house easement, but as a condition of approval, we would agree to release that easement if it encumbers the Nolen property. We have no problem with that, it's just that we need some evidence of the existence of that easement and we'll be glad to put together whatever release we need. The pump house is not used, we won't need to have access to it anyway so we're fine with that as a condition of approval. Kahn – There are two issues that are on John's list that we haven't covered and we started dealing with them two weeks ago, but we haven't dealt with them and that is the issue that was raised about the driveway service to Lots 3 and 6 and the other issue was common docks and John says as to the first that this item wasn't resolved and some members of the Board do not seem to favor this recommendation and as to common docks, this issue was not resolved with some members of the Board not seeming to favor this recommendation. We've got to deal with those two issues, not at this minute but we can hear input. Garrepy – It's a non-underlined area so I glossed right over it. Kahn – I think we're aware of your position on both. You don't like either. Garrepy – If it's helpful, I'd like to remind the Board and the abutters that are here, the plan before you is not for any dock permits or beach permits so that's just to help clarify that issue and with respect to access to lots 3 and 6 to have it go, I think the Conservation Commission suggested that it go across Lot 5 which would require a lot more actual impact and the wetland impact in the opinion of our wetland consultant is minor, that system is actually not a high functioning wetland system. The crossing is an existing older crossing, very old crossing. Vadney – In my estimation it makes far more sense to leave it where you have it than to try and snake it across Lot 5. It would seem senseless to me to turn what may be a 300 or 400 foot driveway into a 1200 foot driveway. Garrepy – We already have one of those. Vadney – That one to me unless somebody wants to argue about it, is very clear. The other issue on the other, we'll come back to the third driveway in a minute. The docks to be honest really aren't our purview. You need to take that up with DES and I suppose get away with whatever you can get away with. Kahn – Mr. Chairman, one other issue. I don't think John put it on his list, but there was a question regarding where the driveway from Lot 8 would intersect with the abutter's driveway and it was desired that the intersection be on that northerly portion. Garrepy – Our legal agreement with the Rice's is the



shared portion of the access so unless there's something different, a new agreement drafted, the access would come within the first couple hundred feet of the existing gravel drive. Bliss – I have a question, it was talked about that the Meredith Conservation Commission recommended a 4' wide trail, but I'm not finding that in any of our staff reviews and I just wondered if anybody else was missing it and if it is true. My other question is, it talks about showing the electrical service on the plan, but it doesn't tell us what their plan is for their electrical service and I apologize if that came out at the last meeting. Garrepy – John Edgar had asked us to locate the service on the final plans and so if, in fact, it has to be located prior to the plan being recorded, we'll have to meet with the electrical service company and have them show us where the poles need to be set and we do that for this shared access road and we do it for the portion of this shared access. We had hoped that actually we'd be able to just provide a utility plan at the time that building permits were acquired where we're not talking about designing or building a roadway where you might get more specific about pole location or underground utility conduit, etc., but we can work with John on what he wants to see as far as the final plan. Bliss – If I could just make one further comment, I guess I'm a little leery, I'm hearing a lot of we'll get to later, we'll see later, I don't think we've seen a plan in a while that doesn't have at least some of what's being said in John's staff package to be on the final plans and then you, at the beginning of the meeting, said there were some errors on the plan and I as a Board member feel it's very hard for us to make a decision on a project when we don't have all the information and it's not on the plan yet. That makes it real hard for me to consider a conditional approval. Garrepy – What we've been trying to do, working over the course of the last several meetings, is develop an understanding with the Board as to what the expectation of the final plan notations would be and final plan easements, etc., would be. We show on the actual survey plan existing utility locations and that's typically what's done with these types of subdivisions that don't involve new road construction and John has asked us to take it one step further and demonstrate how utilities might access these lots and we can do that. We are fine with that. Kahn – I guess I'm not too concerned where the utilities come in as long as they don't start carving easements through the wetlands so it seems to me that if you can commit that utilities on the west side of the property will come in from Meredith Neck Road and easements on the east side of the property will come in from Powers Road along the driveway and not through the wetlands, I don't have a problem. Garrepy – That's our intention and with those wetland restrictions that would be, without showing them on the plan, we couldn't impact the wetlands so that's exactly our intention so we would have no problem with that. Vadney – Would your earlier comment that there be no further encroachment on the wetlands mean that there be no way to run power down to the shore side should they want to electrify their accessory buildings? Garrepy – Well, that's a question we haven't heard yet, but that's a good one. With respect to Lots 1 and 2 that wouldn't be an

issue, with respect to Lots 3 and 4 I guess we'd have to locate it along the proposed trail if we were going to run some utilities through that area. Ralph Pisapia – I just want to express our thanks to the applicant and to the Board for considering the comments that we've made. As you well know, we are very concerned about the resources in this area and we think that there is a good faith effort being made here. I do want to take exception to the Chairman's comment regarding the docks and access to the water. But for the subdivision, there would not be a potential for four separate lots and four separate beaches and four separate docks on this property so I just want to mention that because you say it's not within your purview to take a look at that issue, it's one of DES. They do the permitting, but for the subdivision, they probably wouldn't be looking at this type of proposal. Greenwald – I just wanted to mention one additional issue sort of by way of also appreciating Mike's effort at trying to work with abutters. Prior to this meeting, he had met with my wife and I to talk about impact of an issue that was not talked about tonight and for the record I just want to make sure that the Board also has that on the radar screen as well. Our property, there's a fairly narrow strip of property here which is very close their proposed house site here is also a lot which we own that my wife and I at some point to build a house on that property and probably sell our current home which is one lot over from that. This driveway, unfortunately, at the present time in its current angle when cars are driving into that driveway, their lights will be shining directly into our home which sits no more than 75' from that property. Mike kindly offered to add a couple locations of 100' of landscaped screening of some kind to deflect headlights from our home at night as well as down here, the house lot, the house location area would also be in direct view of our home which is right about here and he had also generously agreed to add an additional 100' or so of shrubs in that area so I want say I do appreciate that effort. In addition to that, I know some Board members had raised some questions about utility poles and although I think most of that may be irrelevant to some of the other lot locations because of the level of privacy, our lot here is literally just about as narrow as this existing lot where this drive is located and the access to it is very much in the same location and then it gets to about here and then it spreads out a little bit. The location of utility poles as it might relate to this particular house site, would directly sort of impact aesthetically our property as well and so if that was a consideration of the Board to want to see those, I as an abutter would really appreciate that consideration as well since obviously utility poles are not exactly the most attractive things in the world and since Mike had offered to try to accommodate us in terms of some screening, I very much would appreciate knowing exactly where the utility poles are going to go, as they might directly impact the aesthetics of our property as well. Garrepy – We'd be more than happy to work with the Greenwald's on that screening that he's mentioned as well as if there's an ability to perhaps piggyback off of your existing utility poles that access your property, we could certainly work with the utility company to do that as well as to minimize the impacts

new poles might cause to both your property and ours. It would be in both of our best interests I believe. Touhey – I do have a handout I would like to give to members of the Board. I want to assure you that I have thoroughly reviewed the file, the e-mails and the suggested conditions from the applicant, as well as John's staff report and so this particular handout that I have for you which will very briefly summarize what I'm going to say was based on the information that was available to me at 4:00 o'clock this afternoon. As I give this out, Mr. Chairman, I wish to present the Board for the file some photos taken of the shoreline of the property under consideration. I ask that they be put into the file for further reference. As you know, the Shoreline Protection Act does apply and indicates that no more than 50% of the trees may be removed from the first 150' and let the law prevail. I think the file should have these photographs so we know where the starting point is. Mr. Chairman, I certainly want to thank the Board for all the time and effort they've put into this at this point. This is certainly a hearing that has gone on for hours on end and much work has been put into it by John Edgar. He certainly should be credited. He has sat down with me and tried to help me organize my thoughts and I know he's worked with Mike and that's how we're narrowing this down and hopefully conditional approval may even be possible tonight. I do want to remind the Board that from the very start, it has been the effort on the part of the neighbors to be reasonable and to act in the public good so all of the conditions that we are suggesting here, we truly believe are reasonable and they are in the common good of protecting the people who live in the cove today and the people who will live there in that neighborhood for generations to come. The applicant has proposed many different conditions and has agreed to many conditions. I have 7 or 8 that I wish to go over with you and I apologize, some of this is repetitive and so I'll quickly gloss over some of that. I do believe a no-cut restriction should apply to all high value wetlands as identified by Mike's wetland specialist with those wetlands being 1, 2, 3A, 3B and 4 allowing only for the clearing of underbrush. The idea presented here of a no-cut zone for the wetland areas, OK that's halfway there and now we have the buffer areas and the latest suggestion from Mike is that the Shoreline Protection Act or the same regulations apply to that. I would strongly urge the Board to make it really clean and neat and protect the buffer as you protect the wetlands. There's plenty of area that's developable on all of these lots, there is no need to remove any trees in the buffer zone whatsoever. Everything can be done there without removing those trees. Make it clear, it's a no-cut zone. #2 – Any trails constructed through wetlands or wetland buffer areas are limited to pedestrian traffic only. You've heard a lot about this tonight, but I'm willing to compromise, I think we can introduce a compromise here and I address your attention to paragraph 3, vehicles such as cars, trucks, vans, etc. are prohibited on any trail within any wetland or wetland buffer area excepting golf carts or similar low-impact vehicles. Now what I was thinking about and I had not discussed this with the Greenwald's, low-impact vehicle

I didn't think of the idea of turning around and saying perhaps only other than internal combustion engine driven vehicles. That's what I mean by a low-impact vehicle. The fear of the residents here is we're going to get ATV's and dirt bikes running up through the wetland buffers so let's protect that area from that kind of thing, but yes perhaps these people would like to use some form of motorized vehicle to get all the way down to the water so that sounds reasonable to me, but let's control the width of the path and let's put an appropriate bridge over the wetland crossing. Four foot (4') wide path, maybe that's a little too narrow, 5' wide path but let's put something there, but let's not leave that such that somebody is going to drive a full fledged vehicle down there because that's going to make ineffectual all the work that's been undertaken here by you and by me. Vadney – How close do you drive to the lake at your house? Touhey – The position of my driveway. Vadney – How close is that? Touhey – I would say probably 135'. Touhey – But you see there's no provision here, Mr. Chairman, to prevent people in Lots 1 and 2, there's no wetlands involved there and should they wish to back a vehicle down there, I'm not asking for any restriction there, I'm only asking for this restriction in those wetland areas. #4 I've covered. #5 – The use of any accessory building located east of the common trail crossing serving Lots 3 and 4 shall be limited to storage. Now there are building envelopes there on your plan on both Lots 3 and 4, there'll be access by the trails. There are no toilet facilities down there so any accessory building down there should not be used for any kind of beer party, bunkhouse or whatever, toilet facilities are about 1,200 feet away so I would suggest that the Board put something in there that is going to keep the people from using the woods. #6 – A type 3 erosion and sedimentation control plan for Lots 1, 3 and 4 is required prior to the issuance of a building permit for those lots. A type 3 erosion and sedimentation control plan as you know is the most comprehensive of the three types authored. It requires that the owner of the lot hire a licensed NH engineer to approve the design of the development plan for that lot. You're all familiar with the steep slopes on Lots 3 and 4 because I indicated those to you two weeks ago and I pointed out that there were slopes there of 20% or approaching 20% for sure. I included Lot 1 there because there are slopes on Lot 1 that also approach 20% and Mr. DeVoy expressed concern a couple of meetings ago about the sheeting of water off of Lot 1 going in the direction of his property, so if we require that those owners have to have a type 3 erosion & sedimentation control plan, we are giving the greatest protection to the wetlands and to the steepness, the cliffs or whatever you want to call them on those lots. #7 – Accessory structures shall not be permitted in the wetland or the wetland buffer areas on any lot within the subdivision. Now if you look your plans over very carefully perhaps the most difficult lot to find a spot for an accessory structure down by the water is Lot 3, but it can be found. It can be found within about 75' of the water and you could build a structure there and be out of the buffer and it would be about 10' x 20' in size. There's plenty of room on Lot 4, obviously plenty of room on Lots 1

and 2 and clearly we can keep accessory structures out of the buffers and out of the wetlands. #8 – Trails within wetland and wetland buffer areas shall be limited to those identified on the subdivision plan. Mike has very clearly delineated roughly speaking where those trails are going to be through Lots 3 and 4. I'm only saying that no other trails within wetland and wetland buffers be permitted. The only, if you look at Lot 2, you can clearly see that there's plenty of land there that is not within buffers, you don't need to put any trails through buffers anywhere else on this site so I think it can be cleaned right up by restricting the only trails that be permitted are the ones that are designated on the subdivision plan. Regarding pretty much the same type of thing and John has under building envelopes on his staff report and the paragraph reads "no further wetland or wetland buffer impacts other than those indicated on the plan, other than for recreational trail purposes". I don't feel that we need to have any other recreational trails in the buffers other than those that are absolutely necessary and those are the ones that are on the plan. Chairman Vadney, I do want to mention one point of order from our last meeting and that was after I had spoken in the public session and sat down, Mr. Garrepy was asked some direct questions at the microphone here and he remained at the microphone for an extended period of time actually to the point where he challenged the committee at one point whether they could put conditions on these subdivisions like this, it appeared to me that he was participating for an extended time in the actual deliberation that was going on with the Board. I tried to get the attention of the Chair, the Chair did not recognize me because the public session had closed. I understand that but I think that perhaps the public session was extended in this case that Mr. Garrepy actually seemed to participate in the deliberations so I would ask that perhaps that not occur this evening. Vadney – I would say Ed that you still haven't gotten the attention of the Chair. David DeVoy, I'm adjacent to the Rice property. I don't know if it makes a difference, but the lake level at high level in the spring actually is higher than most of the wetland all the way up to the Rice's driveway and maybe even beyond so I don't know what they consider as an important part of the watershed for Winnepesaukee, but I would think that anything at high level or at least even maybe up half a foot or so below high level if it's the lake and it actually does extend right in through the wetland and is higher than the wetland in the spring and it stays that way I'd say until somewhere around May or June, maybe close to July. Vadney – You're saying the lake level is higher? DeVoy – The lake level is higher than the wetland in a number of areas all the way up to the Rice's driveway and maybe even beyond, I don't know but I know it goes up to the Rice's driveway at high level. Right now if you go down there, you'll see that the lake level is about as high as some of the little pools that sit within the wetland. As soon as it gets up a little higher than it is now and the lake is low, it's lake that goes in there. Vadney – It sounds like a tidal effect of some kind. Doug Hill, Counsel for the Atteberry Family – I just want to make a couple of comments on behalf of the family. First of all, that these

folks have done an extraordinary job, they've agreed to many, many concessions that are certainly not expressly included in the zoning ordinance and the other regulations in their effort to try in a sense make everybody happy and I think it's an extraordinary design considering the low density of development it results in and the many restrictive conditions that they've agreed to. I do have to say these offers and concessions that these folks have made are not agreements that are being made by the Atteberry family and if for any reason this project doesn't go forward in a way that's acceptable to them, the Atteberry's just want to make it clear that they are not the ones making these concessions. Of course, Mike and his team are here with the permission of the Atteberry's, but all of this including the boundary adjustments and various cross easements and releases are conditional upon a final approval that is acceptable to everybody. I think that this is quite a remarkable project, certainly in 25 years of zoning and planning practice, I don't think I've ever seen a piece of land studied in this fashion, I don't think I've ever seen a project, although there may have been one or two others in Meredith that I've been involved in where the developers of a purely single-family project have been willing to make such deep concessions that substantially effect the overall economic value of the project. The Atteberry's would urge you to act as swiftly as possible on this and favorably to the project and while we certainly have no difficulty with the interest of all the abutters and hoping as many protections will be imposed here. It would also seem to the family to make sense that those restrictions by some kind of neighborhood agreement could be made legally enforceable and would become reciprocal and apply to the other properties in the neighborhood as well because after all Windover, while it's a substantial piece of land, is only one small piece of this ecosystem and what goes on other properties surrounding it could very well have the effect of negating a good deal of what you folks have been working so hard on. So thank you. Kahn – Mr. Chairman, I think we can formulate a motion at some point, but I think there are a few issues that need to be determined by the Board. For example, how wide is the trail going to be? What kind of vehicles are going to use the trail? Where is the driveway for Lots 3 and 6? Are we going to do anything with respect to common docks? I think if we resolve these issues, then it might be possible to try to get through this and formulate a motion. I didn't bring a ready-made motion. It never occurred to me that we should get into a negotiation with the abutters about restrictions on them. I think we'll pass on that one. If this plan fails and the Atteberry's come with one, we can deal with that at that time. Finer – That's a valid point though, I appreciate the point. It's a good point, but I think we're pretty much there in terms of a compromise and I think to go in that direction and place restrictions on the people on Soley Lane, that way madness lies, so can we decide what kind of vehicles are going to use these trails, it being understood that right now all we're dealing with is specified trails, trails that are set forth on the plot. There will be no other trails through the wetlands other than the trails on the plot. I don't know how

we decide the issue of whether or not there's to be a bridge, I really don't know how to decide that, but I guess that's another issue regarding the trails. Is there to be a bridge, how wide are the trails, what kind of vehicles use the trails. If you just want to deal with trails, there are three issues. If somebody has a suggestion as to what to do with this bridge, let's hear it. I haven't got the foggiest idea how to deal with it? Vadney – I did not understand that the brook at that point runs underground and knowing New Hampshire pretty well, I've never seen one of those that would support much of a load. There are very few of that type, there's usually just moss and root, I doubt it's a stone bridge, it could have a made one but a natural one would be very unlikely and they are usually moss and roots so I think any attempt to drive on this, this one may be different but I've never seen one that would support any kind of vehicular traffic even golf carts. The bridge seems to be a reasonable alternative. I don't think you want to go in there and crush that down and end up with some kind of a washout that you have to bridge anyway. Kahn – Mr. Chairman, I would guess if we are restricting this trail to rather small vehicles that we're not really dealing with an extremely expensive bridge. It doesn't have to carry a lot of weight. Maybe that is the answer; maybe it should be a bridge rather than try to figure out where the brook is at that point. Garrepy – As the applicant, I don't know if I can be part of the deliberative discussion. Vadney – We are asking you a specific question. Can you put a bridge in there and would it help? Garrepy – I apologize if I was out of order at the last meeting, I wasn't aware that I, anyway with respect to the trails, we've done two things, when we met with John Edgar we gave him a copy of Best Management Practices for Erosion Control and this is part of John's staff report. We gave him a rather lengthy Best Management Practices for Erosion Control during trail maintenance and construction that's published by the State of New Hampshire Division of Resources and Economic Development and these are guidelines, they don't specify trail width, but they specify how to control erosion during construction and during operation. It talks about bridges over wetlands for what type of bridge for what type of use. We'd be more than happy to follow these guidelines and incorporate these guidelines as part of the approval and further more, we'd be more than happy to work with the Conservation Commission to ensure that crossing is adequate to protect the resource. Vadney – If it isn't, the way it is naturally is sturdy enough, that's fine, but I've never seen one that was more than moss and roots faking as a bridge. Garrepy – And you may be absolutely correct. We haven't analyzed it either and it may require some kind of a wooden bridge type structure for the crossing or it may be more than adequate. Vadney – At a minimum, I would think we need a condition of approval that would say that has to be worked out either what is there is truly engineered adequately or a bridge or some other method of getting across would be required. Bliss – Mr. Chairman, if I could, I would just like to reiterate that I would like to see us restrict car vehicles, but I do not want to see us say no to ATV's, no snowmobiles, I think that takes a lot away from the landowner and if these

people want to come up and they want to go out ice fishing out on the lake and that's their way to get there, then they should be able to. In reference to the structures down near the shore, I think we also as a Board have to be very careful that we don't take away landowner's rights. If they want to have a party down at their beach, that is their right and they are more than welcome to it, invite their neighbors and be friendly. I just don't want to see us as a Board do anything like that. Vadney – I agree with that. Kahn – I think that somehow the 4' width on the trail was being kicked around by someone. I think that a 4' trail for a golf cart or an ATV is a danger and I think that the trail should be wider than 4'. Whether it should be 5 or 6 feet, I don't really know, but I don't think that you should have a trail that's so narrow that there is a strong likelihood that a wheel will go off the trail and into a muck so I would suggest that the trail be no wider than 6'. Vadney – I'd go with 7'. Finer – Is that addressed in your Best Management Practices? Garrepy – The actual width of the trail is not, it's based on the type of use and it goes through varying types of uses for trails, whether it's snowmobiles or ATV's or just simply pedestrian traffic. We prefer to have some flexibility and perhaps 8', we'd be comfortable with an 8' maximum where we have some flexibility to provide for different types of uses on those trails. And again, we're talking about just specifically these trails I believe. Kahn – Suits me, 8' maximum so I guess that takes care of, if we are in agreement on that. Bayard – We agree that they not be used for vehicular use, I think we talked about cars, but I also want to make sure that includes the gamut of trucks, vans, etc. Kahn – I think the only issue here at this time is whether or not ATV's and snowmobiles are permitted. Pam has voiced a view that they should be. Does anyone disagree? Vadney – Assuming they decide to put an accessory building down there and need a pickup truck full of lumber, you want them to bring it in a boat and lug it up through the dock, I mean how close do we think we can manage this property and should we? There are truly limits. These folks have worked well with us to meet state law and the Town ordinance on wetlands, the buffers and offsets, I'm of the opinion that beyond that anything they can get away with is pretty much their business so to try and say no pickup trucks, no vans, how do we define it, where do we stop? Finer – Part of that's going to be defined by the bridge they build and the capacity. Vadney – The fact that we've said an 8' maximum trail still hinges on that they can find reasonable land to put that, they can't go put an 8' trail in if it ends up going through a vernal pool. They still have restrictions on there based on the lay of the land. Once they put an 8' trail in there, if they drive a pickup truck down there, I don't mind. Kahn – I guess, Herb, my view would be that we could easily write in that there shall be no vehicles other than ATV's and golf carts and such, except for purposes of construction and maintenance. That way we don't have to deal with SUV's going up and down the hill. They are not going to make it across the bridge anyway. Vadney – I was just going to say if they want to put in an expensive enough bridge. Kahn – If they want to build a bridge that can take 7,000 lbs., that's starting to get to be a



bridge. I think we can come up with a reasonable exception for construction and maintenance. The only thing that troubles me, it's a combination of the restrictions that we're putting on the wetlands which I think are fair and that the view sites are rather far from the water. I think these are going to be very expensive lots, but if somebody wants to take grandma down to the beach in an ATV, I don't think that taking people down to the beach in ATV's is going to result in off-roaders racing up and down the trail. I think these are going to be expensive lots and you're not going to have a tremendous amount of traffic there. That's my view. Vadney – One of the other outstanding issues we mentioned Lou was the driveway over Lot 7. Kahn – Well, the driveway for Lot 7, I think we've all agreed and Mr. Garrepy agrees that driveway is going to be bent to the north and west of that wetland and join the driveway for Lots 1 and 2 so I don't think that's an issue. Vadney – Well, I think the Board's still hasn't saluted it so to speak, so that's why I'm asking right now. Does anyone on the Board disagree with taking that driveway for Lot 7, having it depart the long driveway at about 200' from Powers Road. At 200' in, it would come off and service Lot 7. Kahn – It being understood that the first 200' is a road and subject to the Selectmen's jurisdiction and it is not a waiver of our two-driveway rule. The other driveway issue is whether or not the driveway that's proposed for Lots 3 and 6 should be moved in accordance with the recommendations of the Conservation Commission. Vadney – Off of Lot 5? Kahn – Well, to run it south across Lot 3 and then across Lot 5 and out.. Vadney – I totally oppose that idea. Does anyone agree with that idea of making that a long driveway. Bliss – I would agree with you Mr. Chairman that I think that's asking quite a bit, it doesn't look like there's that much of an impact out there. Vadney – One at a time. Stay with the lot as proposed, the driveway that services Lot 3 and Lot 6. In agreement – yes, no longer an issue. The driveway servicing Lot 7 will come off somewhere around 100 – 200 feet off of the long driveway that services Lot 1 and 2 and that first 100 or 200 feet whatever it turns out to be will be determined by the Selectmen to be some level of road construction. Kahn – Just that I would add that we will make a recommendation that to avoid the impact on the wetland buffer, we will recommend to the Selectmen that they exercise their discretion to use the lowest level of standards that they can come up with for that area. It being understood that portion will never be dedicated to the public. Kahn – I think we have pretty much, I mean unless somebody has disagreement on Mr. Garrepy's proposals, I think we are just about there. I think looking at Mr. Touhey's recommendations, I think there's an issue as to whether or not the "no cut" restriction that Mr. Garrepy has offered should apply to the wetland buffers, as well as to the wetlands, he's offered there is no cutting in the wetlands, but the wetland buffers would be subject to the cutting restrictions that would apply under the Shoreline Protection Act as though it were applicable so there's the issue. Mr. Touhey wants to have "no cut" in the buffers; Mr. Garrepy says, you can cut in the buffers under the Shoreline Protection

restrictions. I think it's going to be in either case almost impossible to determine from a cutting standpoint where those buffers are, but I think we can rely on the neighbors if there's a lot of chainsawing that the Code Enforcement Officer will be summoned. Vadney – I agree and I think the proposal by the applicant to use Shoreline Protection Act rules is more than we could expect or at least as much as we should expect so I'm happy with that. Does anybody disagree and want to go more stringent? Bayard – I'm in agreement with you, I'm being a little picky but I think you might want to note on the map the actual shoreline protection area just to make it a little clearer. Kahn – John says that should be noted on the plot so that will be noted on the plot. As to the area that's actually subject to the Act, then this becomes a deed restriction. The only other issue that I'm seeing here is one that was raised by Mr. Touhey about erosion and sedimentation control and I've got to admit that unless John puts on the staff review that there should be an erosion and sedimentation control agreement, I don't really know what to do with that one. Can somebody help out? Vadney – I know one thing to do, we could do absolutely nothing because these folks know that those folks are going to be watching them so they'll probably do more for erosion control than any Type 3 proposal would require, but I suppose we do have to specify some level of sedimentation. Kahn – Mr. Flanders, are you an expert on erosion and sedimentation control? Flanders – I wouldn't say I'm an expert. I think a Type 3 restriction would be excessive. Usually before Bill issues a building permit, he requires that the applicant on a shorefront lot go over a sedimentation and erosion control plan and he approves it before he issues the permit so I think standard practice in the Town of Meredith will probably do a pretty good job of policing this anyway. Kahn – So we leave it to the Code Enforcement Officer and it's not something that the Planning Board... Flanders – I think the normal procedure that he follows on shorefront lots will guarantee that this will be adequately taken care of. Vadney – As far as the Touhey #7, accessory structures not permitted in a wetland, he said don't allow anything in those wetland areas, I would go with the idea that anything they can build down there that they can get a building permit for, we have no tighter control on it than that. Kahn – One of the things I think we've sort of talked about or at least I had understood that we had talked about it, this goes to the whole issue of building envelopes and all of that is that we are going to put in deed restrictions and restrictions on the plot that no building will be allowed in the wetlands and in the wetland buffers. Now they do have areas along the shore where they could put structures that are not in the wetlands or the wetland buffers, but I think that it's not just accessory structures that are not permitted in wetlands and wetland buffers, it's anything, any structure whatsoever. Vadney – Any accessory building located east of the common trail should be storage only and I certainly can agree with that. Issues that are before us, driveways we've looked at and concurred, the trail and bridge issue we appear to have looked at and concurred, the dock issue is still outstanding. Sorell – Mr. Chairman, I don't think there's anything we can

do about the docks. That is a state issue. We can try to influence the state, but we don't get anywhere doing that. Kahn –Mr. Chairman, on the docks, my view is that there actually is, I realize that you've got a pristine shorefront there, but that's because it's never been developed so it's a matter of pulling up the ladder the last guy in can't develop and I don't think we can reasonably take that position. On the other hand, I'm looking at the plot and one lot has 165' of shorefront, another lot has 170' of shorefront, another lot has 180' of shorefront and another lot has 190' feet of shorefront and I would guess that those are actually pretty significant amounts of shorefront for that neighborhood. I also think if you force them into a single or two docks for all four lots you'd end up with something that looks like a beach club or marina and that would not make the neighbors happy either. Vadney – And the DES has rules as far as how long and how deep and how deep the water has to be and those would be far more controlling, I think, than anything we could do so I'm willing to just say leave the docks for the state. Are there any issues I've missed here? Does anybody want to venture a motion and the motion could be to continue this, to disapprove, conditionally approve it, take your pick. Mr. Chairman, I'm going to make a motion, but this could take awhile. This is kind of like making it up as you go along and so I hope the rest of the Board will look at John's review and Ed's memo and whatever else we've go so that we get everything covered here.

Kahn moved, Bayard seconded, THAT WE CONDITIONALLY APPROVE WINDOVER REALTY INVESTMENTS, LLC, (FORMERLY MERTON WINN CAPITAL, INC. ) EIGHT (8) LOT MAJOR SUBDIVISION, TAX MAP S06, LOT 2, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THAT THE PLAT AND THE DEEDS RESTRICT ANY CONSTRUCTION OF ANY STRUCTURES IN ANY WETLAND OR WETLAND BUFFER;
- (2) THAT THE DRIVEWAY FOR LOT 7 BE CONNECTED TO THE DRIVEWAY FOR LOTS 1 AND 2 OUTSIDE OF, TO THE WEST OF THE WETLAND BUFFER; THAT THE AREA OF THE DRIVEWAY, FROM WHERE THE DRIVEWAY FROM LOT 7 CONNECTS, SHALL BE A PRIVATE ROAD SUBJECT TO SUCH CONSTRUCTION STANDARDS AS THE SELECTMEN MAY REQUIRE, BUT THAT THIS BOARD RECOMMENDS TO THE SELECTMEN THAT BECAUSE WE ARE CREATING A ROAD TO AVOID A WETLAND BUFFER THAT THE SELECTMEN BE AS LENIENT AS POSSIBLE IN APPLYING WHATEVER STANDARDS THEY APPLY AND THAT THE PLAT AND THE DEEDS INDICATE THAT THE ROAD CANNOT BE DEDICATED AS A PUBLIC ROAD;

- (3) THAT THE DRIVEWAY FROM LOT 8 CONNECTING TO THE RICE DRIVEWAY SHALL CONNECT TO THAT PORTION OF THE RICE DRIVEWAY THAT EXTENDS IN A NORTHERLY DIRECTION FROM THE BEND IN THE RICE DRIVEWAY;
- (4) THAT THE DRIVEWAY SERVING LOTS 6 AND 3 BE AS LOCATED ON THE PROPOSED PLAT AND THAT THERE BE MUTUAL EASEMENTS THAT WILL BE SUBJECT TO ADMINISTRATIVE APPROVAL;
- (5) SIMILARLY, THAT THE EASEMENT GRANTING THE DRIVEWAY ACCESS FROM LOT 8 OVER THE RICE DRIVEWAY SHALL ALSO BE SUBJECT TO ADMINISTRATIVE APPROVAL;
- (6) THAT THE DRIVEWAY EASEMENT FROM LOT 4 THROUGH LOT 5 SHALL BE SUBJECT TO ADMINISTRATIVE APPROVAL AND THAT THERE BE BUFFERING TO PREVENT HEADLIGHTS ON THAT DRIVEWAY FROM BEING DIRECTED INTO THE HOME ON LOT 1A;
- (7) THAT THERE BE TRAILS ACCESSING THE WATERFRONT FROM LOTS 3 AND 4;
- (8) THAT THERE BE AN EASEMENT SUBJECT TO ADMINISTRATIVE APPROVAL ON LOT 4 GRANTING ACCESS TO THE TRAIL TO LOT 3;
- (9) THAT THE TRAILS BE LOCATED AS INDICATED ON THE PROPOSED PLAT AND THAT THE TRAILS NOT EXCEED 8 FEET IN WIDTH; THAT THE TRAILS BE OF A PERMEABLE SURFACE THAT IF THE CONSERVATION COMMISSION AND THE TOWN PLANNER SHALL AGREE, THERE SHALL BE A BRIDGE CROSSING THE WETLAND AREA IN THE VICINITY OF THE STREAM ON LOT 4;
- (10) THAT THE TRAILS SHALL BE RESTRICTED IN THE DEEDS AND ON THE PLAT WHEELED VEHICLES NOT LARGER THAN ATV'S AND SNOWMOBILES WITH THE EXCEPTION THAT OTHER VEHICLES MAY ACCESS THE TRAILS AS MAY BE NECESSARY FOR CONSTRUCTION OR MAINTENANCE OF THE TRAILS OR OF STRUCTURES NEAR THE WATERFRONT;
- (11) THAT TREES MAY BE CUT AS NECESSARY TO CREATE SUCH TRAILS AND TO MAKE THE TRAILS SAFE; OTHERWISE, THERE SHALL BE NO CUTTING OF TREES IN WETLANDS 1, 2, 3A, 3B AND 4 AND THAT THE CUTTING OF TREES IN THE BUFFERS OF ANY WETLAND SHALL BE UNDER THE RESTRICTIONS THAT WOULD PERTAIN UNDER THE SHORELINE PROTECTION ACT AS THOUGH THE SHORELINE PROTECTION ACT APPLIED TO THOSE WETLAND BUFFERS;
- (12) THAT THE AREAS THAT ARE IN FACT SUBJECT TO THE SHORELINE PROTECTION ACT SHALL BE INDICATED ON THE PLAT;

- (13) THAT THE EASEMENT PROVIDING ACCESS TO THE PUMPHOUSE ON LOT 4 OVER ABUTTER'S LAND SHALL BE RELEASED;
- (14) DPW AND NHDOT DRIVEWAY PERMITS ARE REQUIRED AND SHALL BE REFERENCED ON THE FINAL PLANS;
- (15) THE PLAT SHALL INDICATE AND THE DEEDS WILL INDICATE THAT ALL HOMES TO BE BUILT WILL BE SPRINKLERED, EXCEPTING THE EXISTING DWELLING ON LOT 5, AND THE FIRE CHIEF SHALL SIGN OFF ON SPRINKLERING.
- (16) THE FINAL DRIVEWAY PLAN SHALL INCLUDE TYPICAL CROSS SECTIONS AND SHALL BE SIGNED OFF BY THE FIRE CHIEF.
- (17) UTILITY ACCESS SHALL BE INDICATED ON THE FINAL PLAT AND NO UTILITY SHALL BE RUN THROUGH ANY WETLAND OR WETLAND BUFFER, EXCEPT TO THE EXTENT THAT ELECTRICAL SERVICE TO THE SHORELINE AREA FOR LOTS 3 AND 4 MAY BE RUN ALONG THE TRAIL.
- (18) BECAUSE WE HAVE WORKED FOR ALL THESE MONTHS AND THIS IS THE SIXTH MEETING ON THIS SUBJECT TO PROTECT THE WETLANDS AND TO RESTRICT TO THE EXTENT POSSIBLE ACCESS TO THE SHORELINE, THERE SHALL BE NO FURTHER SUBDIVISION OF ANY OF THESE LOTS AT ANY TIME AND NO OWNER OF ANY LOT SHALL GRANT ANY RIGHT OF ACCESS TO THE WATERFRONT THROUGH OR BY USE OF HIS LOT AND THAT THE PLAT AND THE DEEDS SHALL SO STATE.
- (19) IN THE SUBDIVISION, ACCESS TO LAKE WINNIPESAUKEE SHALL BE LIMITED TO LOTS 1-4 AND NO OTHERS.
- (20) DRAFT EASEMENT LANGUAGE SHALL BE SUBMITTED FOR STAFF REVIEW AS AN ADMINISTRATIVE MATTER. FINAL RESTRICTIVE DEED LANGUAGE SHOULD MATCH OR COMPLEMENT CONDITIONAL APPROVAL AS APPLICABLE AND PROVIDED THAT ANY CONDITIONAL APPROVAL IS SUFFICIENTLY CLEAR, SHALL BE HANDLED AS AN ADMINISTRATIVE MATTER;
- (21) ANY APPROVAL SHALL BE MADE SUBJECT TO THE FINAL APPROVAL OF THE PROPOSED BOUNDARY LINE ADJUSTMENT WITH RICE AND THE DEEDING OF THE SMALL PARCEL TO ABUTTER HAMBLET AS HAS BEEN AGREED TO. FINAL PLANS SHALL MAKE REFERENCE TO THESE TRANSACTIONS;
- (22) A PERFORMANCE GUARANTEE SHALL BE GIVEN FOR DRIVEWAY CONSTRUCTION, SITE STABILIZATION AND PARTIAL TRAIL CONSTRUCTION. APPLICANT SHALL SUBMIT UNIT COST ESTIMATES FOR PURPOSES OF THE TOWN'S DETERMINATION OF THE AMOUNT. THE PERFORMANCE GUARANTEE AND THE AMOUNT SHALL BE HANDLED ADMINISTRATIVELY AND AT THE PLANNER'S DISCRETION, BRING IT BACK AT A COMPLIANCE HEARING IF HE FEELS IT'S NECESSARY.

- (23) NHDES SUBDIVISION APPROVAL IS REQUIRED AND SHALL BE CROSS REFERENCED ON FINAL PLANS;
- (24) A SPECIAL EXCEPTION IS REQUIRED FROM THE ZBA FOR THE PROPOSED DRIVEWAY WETLAND CROSSING REGARDING ACCESS TO LOTS 3 AND 6 AND SHALL BE CROSS REFERENCED ON THE FINAL PLANS;
- (25) THE SURVEYOR SHALL PROVIDE WRITTEN EVIDENCE THAT PINS FOR ALL LOT CORNERS AND ANGLE POINTS HAVE BEEN SET PRIOR TO RECORDING;

Voted 7-0 in favor of the motion.

If the engineers or DPW need to modify that number.. Vadney – As long as we've left the opening because we still have to review it and have DPW and others look at it. Finer – Is there a way to word it that it can be handled administratively and at John's discretion, bring it back at a compliance hearing if he feels it's necessary. Vadney – Lou, did you follow that. Kahn – I have no problem with it. We have a very important objection on Pam's part that she wants to see the plat revised to cover all the things that we've agreed to. My own view is I think Pam is suffering a little bit because she's missed a meeting or two which is not her fault, but I think that the rest of us have seen this thing developing and so I think we have greater, I certainly have greater confidence in what I've been stipulating is either shown on the these sheets and will end up on the final plat, but Pam doesn't feel that way. Vadney – The only thing that is really outstanding probably is the electrical portion. The driveways we've delineated pretty well, one is not going to move, the other one we know where it's going to move to. The trail is pretty well delineated. Those were the main things. Bliss – Actually, Mr. Chairman, recollection, John does like to have the performance guarantees come back to a compliance hearing so I would rather have us do that. Vadney – But in this case.. Bliss – My whole point about seeing this map again is that we've at the beginning of the meeting, there was talk about an error in the printing. There's quite a few little notes on the plan that aren't here. They may have already been approved and that's all well and good, but we all know and I know John checks it, but at a compliance hearing I would rather just see a copy of the plan, I'm not saying we have to go through everything again, but I would like to have my little checklist here to know that "yes" that's there. In my mind, that's part of compliance. Kahn – Mr. Chairman, I don't know if we can get him into the next meeting, but could he get this plat revised with all the notes and all the driveways and everything else showing up that's supposed to show up on the plat, could you have that done by the next meeting. Garrepy – We may not be able to satisfy all of these final conditions of approval. Kahn – I'm not suggesting all of them, I'm talking about the issues of whether or not the plat shows everything it's supposed to show. We potentially could, I guess the question is if it's cut and dry administratively, we'd like to defer to your staff

to review those and not have to come back and burden the Board, burden the abutters and certainly.. Kahn – One thing, our staff has indicated that he would like to handle it that way but a member of the Board doesn't feel that way. Garrepy – And also with respect to the bond, that's something that we volunteered to provide up front that we would construct the road and we'd even bond it and that's something we don't have to provide, we've volunteered to provide that so to have to come back for that issue, we felt is a little. Bliss – Mr. Chairman, I would just like to make a point of order that "yes" you did volunteer, but now it is in a motion so that is part of the conditional approval and the way we've handled it in the past is to have the Finance Director check it over with John. Kahn – We typically do not deal with the amounts and forms of guarantees. They are dealt with administratively and then brought to us for a compliance hearing. Garrepy – That sort of was my point, where you don't typically set the number, it's set by others. Kahn – What I'm saying is, the approval as long as I've been on the Board, which is not very long, has always been done in a compliance hearing. Garrepy – If we need to come back for that one matter at the next meeting in May, we wouldn't need to be here, I guess we could just have you handle it with John. Vadney – We have done those. Garrepy – Will it require a renotification of all the abutters or is that just something that? Vadney – No, just a compliance hearing with. Garrepy – For that matter alone, that's not a problem? Kahn – I'm willing to bet that when all of this conditional approval gets typed up, either you or we are going to find a glitch in it somewhere so let's get the plot straightened out, let's see what the conditional approval says, you know we'll approve it subject to.. Vadney – Wait, we have a motion on the floor for a conditional approval and we've got a second. Bliss – Let's call for a vote. Vadney – The only way now to say go back and redo this plan is to vote down the motion and say now take those items and go do the plan. Kahn – I'm about to amend the motion. And for a further condition that we see and approve the revised plot at the next meeting. Vadney – You're saying vote now, that doesn't make much sense. I think we either have to vote this up or down with the conditions that he said and then tell them to redo it and come back in and you can take time to type up your motion. Kahn – I'm ready to approve it. Bliss – Point of clarification, there seems to be some, it's not the conditional approval I have anything against. I don't care if we come back at the next meeting, but I think at some point because this is conditionally approved in so many different ways that aren't on the plan, that even if it's a month from now when these things are completed, it should come back to us so we can check it. Vadney – John will check all of that based on the conditions we've put on it, John now goes over it with a fine tooth comb. If they brought in something that we haven't put in this proposal, John will catch that. Bliss – Then I have no problem with it. Garrepy – You may be speaking to two different things, perhaps. What we thought was the compliance hearing might be different. If really what John's going to do is review our final plan, come back to the Board and present everything's been satisfied and that's

sort of your compliance before the signatures are placed on the mylars, that's a procedure.. Vadney – That will be some ways down the road after you've done many things, it'll take some months. We give you the conditional approval, the only specific one that we mentioned a compliance hearing on was the performance bond and that one we can do administratively. Some of these issues you can't possibly get them resolved, you can make map changes and stuff, but some of them you won't be able to resolve within two or three weeks. Those you may have to come back to a compliance hearing for a final approval six months from now or something like that. Bliss – Mr. Chairman, because I know John will check this over and because I think this is a good conditional approval and I think the applicant has made a lot of concessions that are good for down there, I am comfortable if John checks it over administratively. Vadney – I do appreciate that you did work very closely with the Board and John Edgar to work out some of the environmental issues and this did come before us nearly a year ago.

2. **WINDOVER REAL ESTATE INVESTMENTS, LLC (FORMERLY MERTON WINN CAPITAL, INC.)** – Continuation of public hearings held on 2/28/06 and 4/11/06, 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.

Garrepy – We presented the Boundary Line Adjustment at the last meeting. John had I think four conditions of approval that he recommended and I can't find them, but very quickly encroachment of the Rice driveway on the Atteberry property, we're correcting that issue. The slight encroachment of the dock at the waterfront on the Rice dock, we're correcting that issue as well, orange goes to Rice. Purple was a swap if you will back to the Atteberry property and that's it. The only other component of that was the access to Lot 8 but that's really not part of this Boundary Line Adjustment plan.

Bayard moved, Finer seconded, I MOVE THAT WE APPROVE THE BOUNDARY LINE ADJUSTMENT BETWEEN WINDOVER REALTY INVESTMENTS, LLC AND JANE RICE, TAX MAP S06, LOT 2, AND TAX MAP U36, LOT 26, LOCATED ON MEREDITH NECK AND POWERS ROAD IN THE SHORELINE DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THAT THE ZONING DISTRICT (SHORELINE DISTRICT) SHALL BE NOTED AND THE AFTER-ADJUSTMENT SETBACK LINES SHALL BE ADDED TO FINAL PLANS PER DISTRICT;
- (2) DRAFT CONVEYANCE DEEDS BE SUBMITTED FOR STAFF REVIEW. EXECUTED DEEDS TO BE RECORDED WITH THE



MYLAR. APPLICANT'S ATTORNEY SHALL VERIFY IN WRITING WHETHER OR NOT EITHER LOT IS ENCUMBERED BY A MORTGAGE. TO THE EXTENT THERE IS AN ENCUMBRANCE OR ENCUMBRANCES, A RELEASE OR RELEASES SHALL BE RECORDED WITH THE DEEDS; AND

- (3) SURVEYOR SHALL PROVIDE WRITTEN EVIDENCE THAT ALL PINS FOR ALL CORNERS AND ANGLE POINTS HAVE BEEN SET PRIOR TO RECORDING OF THE MYLAR.

Voted 7-0 in favor of the motion.

2. **LOVEJOY SANDS DEVELOPMENT, LLC:** (Rep. Carl Johnson)  
Continuation of a public hearing held April 11, 2006, for a 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. Application accepted April 11, 2006.

At the last hearing, we were before you with a subdivision that looks very similar to this with the exception of a roadway to be the primary access for the lots. I'll forego a description in detail of the subdivision because I think you're familiar with it from the last hearing, but one of the things that came up was the fact that for a 3-lot subdivision, it seemed to be not productive to be creating a roadway that ultimately would be taken over by the Town as a public way so one of the alternatives given the applicant was to come up with a mechanism where you would create three lots, two of which would have 50' of frontage on Lovejoy Sands Road and would be serviced by a common driveway and an additional driveway cut would be given to the third lot so that you would only have two lots serviced by a driveway and each of the lots would have frontage on a Town road. Two things had to happen for that to become reality, one of which was to convince the applicants that was a good idea and the second was to convince Mike Faller from Public Works who is going to be granting two driveway permits on Lovejoy Sands Road instead of one road permit. I indicated to you that he probably would be in favor of that and immediately after the meeting the next morning I presented that to him and he was overjoyed to say the least that there would not be a road, that we would be doing two driveway cuts and he said he would have no problem issuing the two driveway permits on Lovejoy Sands Road. The other advantage of that is it does create a situation where you no longer will have essentially a 50' wide strip cut even though we were going to attempt a reduced standards roadway, you would have the road, the ditches and so forth, you'd have a 50' wide strip of about 500' in length. If you can see the plan in front of you, we now have a common driveway which we'll be able to wind within that 100' strip the two 50' strips side by side and will be much less of a visual impact to the neighborhood. All other things are basically the same. I've revised the plan to show that the lot sizing meets the soils-based lot sizing requirements of the Town. If you

notice the actual grand total goes up because we are not now faced with a roadway that had to be subtracted out so now the total parcel will accept over four lots by soils-based lot sizing and we're only proposing three, so we are in excess of all those standards. The basic house locations, 4K areas and well sites remain the same as before so what we have here is an option that is probably more palatable to the Town in terms of the access issues, it meets all the other standards and it will be less of an impact to the abutters as a result of the driveway configuration. The two 50' strips will have to have reciprocating easements for access, that's something standard. When the deeds are written, there will be deed language subject to staff review that just shows the maintenance agreements between the two lots. You no longer have a homeowners association because you no longer have a common roadway situation. The only easement is that driveway that accesses the two lots. If there are any questions, I'll be happy to try to answer them, but that's basically what we did and we think we've come up with a slightly better plan and now we have a fully engineered road that's going to be in the files for posterity sake I guess. Bayard – Just a very quick comment and I know it's getting late, but someday I think we ought to at least look at some way we could get rid of flags and for example like this could have come done and then just had an easement granted to the back lot. That's just my own opinion. I find some of these flag lots look really weird. That's for another day. Johnson – One of the things John mentioned is that he wants to engage in some discussion with some changes to the road standards which may allow in certain instances three homes accessing off of a common driveway if one of those is going to exit off fairly soon just like you went through with the last subdivision so that's something that may be coming down the pipe which would address Mr. Bayard's concerns. Hearing closed at 9:50 p.m.

Bayard moved, Bliss seconded, I MOVE THAT WE APPROVE THE APPLICATION OF LOVEJOY SANDS DEVELOPMENT, LLC, FOR A PROPOSED MINOR SUBDIVISION OF TAX MAP U34, LOT 21, INTO THREE (3) LOTS (1.44 AC., 1.74 AC., AND 2.65 AC.) LOCATED ON LOVEJOY SANDS ROAD IN THE SHORELINE DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THAT NHDES SUBDIVISION APPROVAL IS REQUIRED AND SHALL BE CROSS-REFERENCED ON FINAL PLANS;
- (2) THAT MEREDITH DEPARTMENT OF PUBLIC WORKS DRIVEWAY PERMITS ARE REQUIRED AND SHALL BE CROSS REFERENCED ON FINAL PLANS;
- (3) THE FINAL PLANS SHALL INDICATE THE DRIVEWAY EASEMENT AREA. DRAFT EASEMENT LANGUAGE SHALL BE SUBMITTED FOR STAFF REVIEW THAT ADDRESSES ALL ISSUES PERTINENT TO PRIVATE SHARED DRIVEWAY MAINTENANCE; AND

- (4) THE SURVEYOR SHALL PROVIDE WRITTEN VERIFICATION THAT ALL PINS HAVE BEEN SET PRIOR TO THE RECORDING OF THE MYLAR.

Voted 7-0 in favor of the motion.

3. **MARK P. KNISELY AND CHRISTIANE KNISELY:** (Rep. Carl Johnson) Compliance hearing to determine amount of Performance Guarantee for the Knisely subdivision. Conditional approval granted December 28, 2004, Tax Map S25, Lot 30, located on Birch Hill Road and Waukegan Street in the Residential District.

This particular project received conditional approval as you know and one of the issues was to come to a compliance hearing to determine the amount of a bond for the connection of the existing municipal sewer or the extension of the municipal sewer, the restoration of the public ROW, erosion control and paving. The engineer submitted a unit cost estimate to staff for review. Mike Faller and Bob Hill both had areas that they felt the estimate had to be increased. They voiced those concerns to the engineer, the engineer revised the estimate and the Departmental recommendations have been incorporated in the revised estimate. The total amount recommended by the Department of Public Works and the Department of Water & Sewer is \$46,207.00, that's the amount we wish the Board to accept at the Compliance Hearing subject to the form of the guarantee being approved by the Director or Administrative Services.

Bliss moved, Bayard, I MOVE THAT WE ACCEPT THE AMOUNT OF \$46,207.00 FOR THE PERFORMANCE GUARANTEE FOR THE KNISELY THREE-LOT SUBDIVISION. THE FORM OF THE GUARANTEE SHALL BE EITHER CASH OR LETTER OF CREDIT. THE DIRECTOR OF ADMINISTRATIVE SERVICES SHALL SIGN OFF ON THE FINAL FORMAT OF ANY INSTRUMENT LANGUAGE. Voted unanimously.

1. **PLATINUM REAL ESTATE INVESTMENTS, LLC. AND MARLENE L. OKONSKE:** (Rep. Dave Merkwan) Proposed Boundary Line Adjustment between Tax Map R16, Lots 25A & 25B, located on Weed Road in the Forestry/Rural District.
2. **PLATINUM REAL ESTATE INVESTMENTS, LLC. AND SCOTT A. AND DIANA L. BATCHELDER:** (Rep. Dave Merkwan) Proposed Boundary Line Adjustment between Tax Map R16, Lots 25 & 26, located on Weed Road in the Forestry/Rural District.

The areas that we are proposing in the Boundary Line Adjustment as trades equals 1,432 sq. ft. What we are proposing to do is bring into compliance Mr. Stabile's house that was built within the setback. Vadney – So you are

adding that little jog to the straight line. Merkwan – We are taking some land from the Okonske's and giving it to Stabile around his house which will put him in compliance and down at the southern part of the property, there's a piece that's going back to Okonske. We are trading equal areas. Vadney – So there's no change in use proposed, no density change, just an equal trade, no new lots being created, no zoning non-conformities and the setbacks are actually to improve them. Worsman – I'm not sure whether it was this one or the other side. One of the abutters had required that the new boundary line be straight, did anybody else read that? Merkwin – That could have been the Batchelder property. The problem is that Platinum Homes built their home so close in the corner of their property that they encroached into two other parcels. The reason we're not addressing the Batchelder property at this time is because the property is in foreclosure and the mortgage company doesn't want to deal with it. So Platinum Homes I think is on the agenda for the Zoning Board for an Equitable Waiver. Kahn – Where was the surveyor the first time around? Merkwan – I don't believe there was one. Sorell – Do you know when that house was built? Merkwan – Which house? Sorell – The one that's out of compliance? Merkwan – Very recently, I drove by the site today and it looks brand new to me, probably within the last two or three months. We've been involved in this project I do believe for about a month and half, maybe two months. We didn't create the problem, we're just trying to solve it for him. Bliss – With all due respect, this is the second house that we've seen in the past three months that has not been built in the right place and it has encroached. I know it's nobody's fault, I'm afraid we're sending a message. You put a house in the wrong spot and then you can fix it later. That concerns me a little. Vadney – That's a good point, we don't want to see a lot of these. I'm saying as a Board member, it does concern me and I wonder what we're setting up. Vadney – They do have to get the abutter's permission here. Finer – They're fixing it this time. Hearing closed at 10:00 p.m.

Finer moved, Sorell seconded, I MAKE A MOTION WE APPROVE THE BOUNDARY LINE ADJUSTMENT BETWEEN TAX MAP R16, LOTS 25A AND 25B, LOCATED ON WEED ROAD IN THE FORESTRY/RURAL DISTRICT AND THAT DRAFT CONVEYANCE DEEDS BE SUBMITTED FOR STAFF REVIEW. EXECUTED DEEDS TO BE RECORDED WITH THE MYLAR. APPLICANT'S ATTORNEY SHALL VERIFY IN WRITING WHETHER OR NOT EITHER LOT IS ENCUMBERED BY A MORTGAGE. TO THE EXTENT THERE IS AN ENCUMBRANCE OR ENCUMBRANCES, A RELEASE OR RELEASES SHALL BE RECORDED WITH THE DEEDS AND THAT THE SURVEYOR WILL PROVIDE IN WRITING THAT ALL PINS INCLUDING ANGLE POINTS HAVE BEEN SET. Voted 7-0 in favor of the motion.

Worsman – Do we need to make sure the pins are put in this time? Finer – It says they have been. Vadney – The plan indicates all pins including angle points have been set in anticipation of approval. Merkwon – To clarify to the Board, before we came in with this plan, we had larger areas that we were trading and we had set the corners for those areas, but the attorney for the other side on the Okonske side didn't agree with the amount of land being traded so we had to go and remove the pins, so we probably need to set these pins. Bayard – Just a comment, I just agree and I have a big problem with what we're doing here with this house not being in compliance and I kind of hope that the abutter was satisfied in all respects. Sorell – The only thing that bothers me about that, we have a Town Code Enforcement Officer who should have picked up on that no matter what. Why didn't the zoning guy catch it? He had to issue a Building Permit for it.

3. **RICHARD AND GAIL FREEMAN:** (Rep. Carl Johnson) 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.
4. **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 property is located with frontage on two streets, Mass Avenue and Hillrise Lane but for identification and 911 purposes, the street address is Mass Avenue. It does not have frontage on Westview Drive. There are lots between this property and Westview Drive. The property is a 46,000 sq. ft., slightly over 1 acre, piece of land in a neighborhood which consists primarily of lots that are smaller. There are a few lots that are of equal size and a couple of lots that are bigger, but the majority of lots in the neighborhood are smaller. As you can see and if you've had a chance to visit the lot, it is for lack of a better term the only estate lot in that type of neighborhood. It does have about an acre of land and it does have a large older home located about in the center of the lot. You can see that because it does have frontage on two streets, this lot has two fronts and two sides and does not have a rear setback, that's a consequence of the lot that has frontage on two streets so you can see where the setback's shown, there's a large buildable area in the lot. There are two drainageways or two wetland areas on either side of the lot that were delineated by Nicole Whitney of Ames Associates and those show up on the plan and the setbacks in accordance with the zoning ordinance are shown on the plan. When we were originally approached on this property, actually by a different owner, one of the possibilities that was brought to us was to subdivide the property. The density in the zone is one unit per every 10,000 sq. ft. subject to the provisions of the new Waukegan Watershed Overlay District which I'll get into in a moment, but the density is one unit for every 10,000 sq. ft. so the lot because of its size can support 4.6 units. Because of that one of the

possibilities was not to keep the house that was there and to take that house down, subdivide the property and build two homes. Because it's in the residential zone and two-family homes are a permitted use, you could have your four units, you could have a two-family dwelling in each one of those structures and you could have four units and still meet the density requirements of the Town. This particular owner came in and asked what could be done with the property and we went over a few different scenarios knowing that the lot would support from a density standpoint 4.6 units and we talked about the fact that with no meeting of the Planning Board and no meeting of the Zoning Board, he could put a sizeable addition onto the house and create two, 3-bedroom homes which would be a two-family dwelling and as a matter of right and as a matter of permitted use, he wouldn't have to do anything except pull a building permit. One of the issues that I introduced was the idea of a condominium situation because when you enter into a condominium situation, it's only a different form of ownership. It doesn't really change anything, it just goes from a rental situation to an ownership situation and many times in a condominium situation because it is an ownership situation, you get occupants that have a greater sense of the property than a rental person may and so we talked about the possibility of creating a 3-unit condominium situation and trying to leave as much of the property as it is right now that we could. We think we've done that with the proposal here and as you can see in the plans in front of you, we intend to keep the great majority of the house the way it is and put a small addition on the easterly portion of the house that's designated by the cross-hatching to facilitate the floor plans and architectural plans of a 3-unit condominium. Because it goes from two units to three units, several things happen. One of which is it becomes a special exception and not a permitted use so we have to appear before the Zoning Board of Adjustment to get a special exception for multi-family use in the zone. Because it is a condominium, the Town of Meredith treats condominium development as a subdivision so that's why we're here for subdivision approval. There is no subdivision of the land if you will that's taking place. The lot is still going to be 46,000 sq. ft., there's not going to be any chopping of the lot, it will still have the same frontage, it will still have the same square footage and it will still have many of the same characteristics or almost all of the characteristics that it has right now. The subdivision relates to the different units of the condominium and they get conveyed out separately. When you purchase a unit, you have a deed essentially for only the portion of that home that you're going to live in and then the rest of the property is either limited common area or common area. There has been a set of architectural plans submitted that are in your packet that illustrate how the property inside the building is going to be divided amongst the three units and we have a little bit of information to talk about in terms of the outside of the property and how that's going to be handled. This is the basic plan that you have in front of you and because it's multi-family, it requires site plan and subdivision. There are two sets of plans, but

I'm only going to use one because most of it is the same. The only difference is the condominium identifies those small areas that would be limited common areas. This plan shows the elevation sketch of the area of the proposed addition. The architectural plans and the design were prepared by Chris Williams Architects from Meredith and you can see that the architectural design is in keeping with the kind of unique character of the building that's there. They wanted to maintain most of the same elements that the house has now. One of the additional things that this triggers is Architectural Design Review. There was an application submitted today for the next Planning Board meeting to go over the architectural design review elements. That package is going to be reviewed by John and we will be on the agenda for the next Planning Board meeting to look at the architectural elements and how they meet the architectural ordinance, but I wanted to bring this to your attention just to show the intention of the owner is to keep the general character and nature of the house the same. The roof lines are kind of unusual and they really like the wraparound porch aspect of the front of the house and they wanted that to remain the same. The additional thing they've done is provide two garage entrances underneath the building. In talking with Mike Faller from Public Works in terms of the driveway, we don't want to change the driveway at all. We want the driveway just to be the way it is. It's got adequate sight distance and it doesn't need to be changed since a two-family home is a permitted use in this zone with just the pulling of a building permit, all we're really asking for is one additional unit on this property. Three additional units being allowed. By density we're only asking for one additional above and beyond the permitted use of the two-family dwelling. Because of that and one of the reasons that we did that was to try to minimize the parking on the lot. The experience that I've had with these types of condominiums and my business is in a combined residential and commercial condominium, is that the one and two bedroom condominiums don't generally generate a lot of cars and a lot of traffic. When you get into the 3-bedroom and 4-bedroom rental units, then you start having lots of kids and lots of cars and lots of traffic trips. The building that I'm in now across from the High School, while it's not fully built out, it has two fully functional businesses and two residences and I can tell you that one of the residences is the little house that's in the back and the other one is a two-bedroom condominium unit and that's occupied by a single person and the other building is occupied by a single mom and her daughter and although we have the two businesses and the two residences, there's virtually no traffic during the day. It's somewhat because we work during the day there and they work during the day away and vice versa, but this particular configuration with the 2-bedroom units is not anticipated to generate much additional traffic whatsoever and then on the site what we've attempted to do is try to get as many of the vehicles as we can out of sight and that's why we have the three garage units. Each one of those garage units would support one vehicle. Now in getting John's staff review and making a couple of tweaks to the plan and looking at some of the comments

the abutters had in their letters, one of the things that we've done that might be different from the plan you have in front of you, on the new plan we've actually stacked the parking to have spaces directly outside of the garage units. So if you had Unit 1, you'd have one car in the garage and you'd have the availability to have a car outside stacked and that way, even if each family in there had two cars, you'd only have a maximum of three cars at any one time that would be outside of the building. The other elements of the lot that are maintained and the integrity of which is maintained are the back area of the property which is kind of a yard area and it's wooded on both sides would remain virtually unchanged. That would be common area, which would be common to all three units, they would be able to use that in common but as a yard. There would be no additional structures out there; there would be a limited common area for Unit 2 that would be in the back but beyond that it would just remain an open yard. There's no anticipation that there would be cutting of any trees or any vegetation, especially the vegetation that runs along the drainage system in between this property and the property to the east. There's a wetland system that comes through a culvert that crosses Hillrise Lane and goes down in between these two properties and there's some vegetation in there that acts as a buffer between the two properties and we want to have that remain intact. The other benefit that is gained by a condominium situation is covenants and restrictions. You don't have covenants and restrictions in the normal rental situation. If Plan A which is this proposal was somehow not successful, Plan B, of course, would be to investigate how you could create a permitted use which would be a two-family home, probably two 3-bedroom units as opposed to three 2-bedroom units so you'd have the same amount of bedrooms but entirely different characteristics of the building and the covenants and restrictions allow to some extent the homeowners' association and it would be only a three-unit homeowners' association to control some of the aspects that happen around and inside the building. One of the issues that came up in John's staff review and in at least one of the abutter's letters, was a dumpster. The covenants and restrictions that will be submitted subject to John's review when he gets back say that there will be no dumpster. All the trash is to be taken off of the site just like we take our own family trash off to the refuse facility every week. There would be no dumpster stored on the site so there would be no cause for odor or anything associated with that so there would be no dumpster. There is a concrete pad that's located in between the home and the property to the east that was evidently some type of a dog kennel and a shed. What the owners would like to do is to use that concrete pad and put just a small utility shed there so people could keep rakes and things of that nature, but that would be a limited common area, limited common building and that would be the only outbuilding that would be on that side of the property. The rest of it would remain undeveloped. If you look at the figures on the property in terms of lot coverage, it's only at about half of what's permitted for lot coverage which means you theoretically have the ability to build a



much bigger structure, you have the ability to expand the parking area and you have the ability to add pavement. If this were just a single-family residence, you could put a massive addition onto this house and you could put a garage and you could put a lot more pavement on the site and still be well under the lot coverage. I think it's important for the Board to understand that we're trying to keep the property as much the same as it is now in the future incorporating the three-unit condominium into the building. The Board in its review process really, I believe, more functions as a site plan review here. The subdivision is really kind of a quirky thing with the difference in the ownership; it really is not a subdivision of the land. The subdivision only applies to the condominium so from a site plan aspect, I think the Board if they had any questions or comments or concerns about the way the site is being handled, I'd be happy to try to answer those. John prepared a brief staff report before he left and there are some additional notes to the plan. We tried locating the actual water service to the building. We couldn't do it ourselves, we are going to need some help from the Water Department to locate it, but things like adding the actual service to the building, the sewer service and the water service, we'll need some help just putting those plan notes on and John had some additional comments. In his staff review, he's actually got two, but I think the staff review comments are pretty much the same for both. We will be back before the Board in two weeks with the architectural design review to go over the architectural elements of the building and what's being proposed as the change. He wanted a couple of culverts on Mass Avenue added to the plan and we've actually mapped those and will add those to the plan. A note regarding snow storage, snow storage largely will be the same as it has always been on the site. We are not creating any additional large areas to be plowed so we'll just put some notes on the plan where the snow is normally plowed and stored. There won't be any additional snow plowed as a result of the proposal. The attorney for the project, Frank Michel, has drafted condominium documents that will be submitted to staff for review. They are pretty boilerplate for something of this limited nature, it deals with the homeowners' association and some of the basic things dealing with the condominium. The specific items that deal with the site plan itself I've tried to go over and hit briefly the highlights. The architectural design review will handle issues like lighting and they don't propose to have any additional major sources of lighting. The lighting will be sensitive to the neighborhood, it will be downward shining, there will be no spotlights or additional telephone poles with parking lights or streetlights. We will try to maintain the existing character and just briefly I'm obligated to go over the demonstration to the Board that the drainage from the property conforms with the Waukegan Watershed District. John went out and visited the site, he took a bunch of photographs. I haven't seen the photographs, but I think they are in your packet in terms of the water from the site. I've done a brief analysis on a tax map. My company, starting in the mid 70's, surveyed quite a bit of the property in the vicinity of this site, including the Gerrity

piece, both the Gerrity piece on the south side of the tracks and the Gerrity piece on the north side of the tracks and we do have some additional information regarding the topography of the Gerrity site that's on the south side of the tracks and the wetland complex which was just recently flagged by a certified wetland scientist in terms of where the drainage goes. The drainage from this site primarily goes down from a culvert that exits that drainage system that I mentioned to the east of the property. It then crosses underneath Mass Avenue, kind of goes down between a couple properties and enters onto the Gerrity site which is the Gerrity site that's on the south side of the tracks. That Gerrity site on the south side of the tracks which is this piece right here is gently sloping to the northeast and it goes down into a fairly large wetland area just south of the railroad tracks. That wetland area drains into a culvert system which shows up on the site plan that we did of the Gerrity property, but this plan which is on file with the Town as an approved site plan, shows the existing culvert and catch basin system that takes that drainage and essentially channels it out through and around the building that houses Cerutti Homes and Sally's School of Dance, goes into Corliss Brook, goes down behind Lang Street School (Children's Museum) and eventually makes its way out through and into Lake Winnepesaukee. John, in his staff review, has followed that path and has also talked to Bob Hill. Bob Hill's water treatment plant is located right here in the corner and they concur with the drainage system that we've shown here and how the drainage comes off of this site and where it ultimately goes. The objective was to try to maintain as much of the property in the exact same manner as it is right now and increasing only by one unit what would be a permitted use under the ordinance by the pulling of a building permit and entering into the condominium situation such that we have additional controls through the homeowner's association and the declaration of condominium and covenants and restrictions. Kahn – I hear Carl on where the water goes and I don't disbelieve him, I don't have any basis for disbelief. I also see what John has said about where the water goes. I guess my concern is this the first time we've had to apply the Waukegan Watershed Overlay and I think if you follow what Carl was saying, there are a couple of very significant properties that at some point in the probably not-too-distant future are going to be making the same claim as to where the water goes and I had thought when I spoke to John before he left that he was going to recommend that we take a walk and get some topo maps and maybe a topo of this property and see if we think that's where the water goes and I think we have a responsibility to do so and my own view is I would not proceed until we have that topographical data and until we take that walk so that's my observation. Bayard – I second that. Sorell – Mr. Chairman, I've lived here most of my life and I can tell you that water does run from Gerrity's yard down to Lake Winnepesaukee, I can show you the brook. It's underground at Gerrity's because they piped it underground, but it's still there. Johnson – Mr. Chairman, I know it's late but I have to make one editorial comment on this. I did not publicly oppose the Waukegan

Watershed Overlay District because I know the intent of it was honorable and good. I don't believe the Ordinance is good. I believe the Ordinance is flawed and one of the flaws is that's the only instance in the 30 years that I've been involved in this business where it's the obligation of the applicant to tell the Board what zone they are in. Normally, it's the other way around and I think the Ordinance could have been much better written had the actual limits of the borders been defined such that you would know ahead of time whether you were or weren't in the zone. An the example of which is you could be on Parade Road and be in the Waukegan Watershed District and in order to demonstrate through a topographical analysis to the Board that you are not entering into Lake Waukegan would probably cost you \$50,000.00 of a drainage study. This particular case, we have a little advantage in that we do have the existing topographical data of the Gerrity piece. There's no question that this drains onto the Gerrity piece. What percentage goes to the culvert over here or the culvert over there is inconsequential to where it ultimately goes which is on the Gerrity property. There may be a slight amount that continues down Massachusetts Avenue to the east but as it goes that way, the chances of it entering into Lake Waukegan become less and less because that water definitely goes into Corliss Brook and into the lake so I believe if the Board wants to take a site walk, they should. I can also arm them with the topographical data that we have on the Gerrity piece, if that would be helpful. We do have the approved site plan which shows those culverts that Mr. Sorell's talking about going underneath and out and I'll be happy to do that. We ultimately would not be seeking final approval until we have the architectural design review approved next week anyways so it's not critical that we would entertain any type of conditional approval this evening so if you could schedule that in between the two that would be fine. The other thing that we do have to demonstrate is to the satisfaction of the Zoning Board that we meet their standards for a Special Exception. Vadney – I agree with all of the comments because they are really not contradictory. I'm quite certain that water drains into Winnepesaukee and we've looked at that land for a number of different reasons over the last few years and Lou's right, there are some big properties in there and we knew when we wrote that a couple of those do drain into Winnepesaukee, that is very, very likely I should say without guarantee. But I also think that we need to walk the site just to see the property itself and the lay of the land so I'm not the least bit opposed to a site walk. Worsman – My understanding is when we passed that ordinance it was immaterial where it drained but that if it were located in that watershed area, it was subject to the 2-acre minimum. Vadney – There was a clause, weasel worded if you will, that said the real intention was for the water running into Lake Waukegan so if it could be shown that there was land that theoretically if it's in the watershed, it does go into Waukegan but there's some land that's in question. We don't really know the boundaries of the Lake Waukegan Watershed, that's the problem and that's what Carl's saying, we had to leave it a little mushy, but we kind of had to, because we

don't know what the true watershed is. Worsman – My understanding was that it was truly defined on the map. Johnson – The Ordinance, as written, says no lot or portion thereof located within the Lake Waukegan Watershed shall be subject to the provisions of this overlay district if it is established to the reasonable satisfaction of the Planning Board that storm water runoff from such lot or portion of such lot does not drain into Lake Waukegan. That's the Ordinance as approved. Vadney – As an example, you could have a piece of land that 100 years ago was in the Lake Waukegan Watershed, but because of construction, culverts, grading or whatever, it no longer drains that way, that would be excluded. The area we're talking about falls into that somewhat naturally and because of the carvings that have taken place on that side hill the way Gerrity's is sloped and the whole, part of it actually probably never should have been delineated in the Waukegan Watershed because it probably drained to Winnepesaukee and now.. Johnson – Waukegan and any other watershed is based on a USGS topo map irregardless of manmade structures. There could be a dike 50' wide that carries water 50 miles and if that happened to be in the USGS topo map, it wouldn't have an effect on the watershed. That's why the clause is in there because it's a well established fact that many of these properties have manmade structures like the railroad tracks, like the box culverts, like pre-existing drainages that take the stormwater in a direction that's not Lake Waukegan. Kahn – To continue the discussion, that was intended as an escape hatch so that properties that in fact didn't drain into Waukegan could escape, but Carl's suggestion that we should have figured out where out where all those properties were before we adopted the ordinance, we might have gotten around to adopting the ordinance in 2020. Johnson – For the record, I never suggested that. Kahn – We deliberately left an escape clause, but what I'm saying is this is the first time we've applied it and I'm saying it doesn't apply, indeed my guess is John says it, Carl says it, it probably does apply but I think because it is the first time that we've ever applied it and we are going to be applying it again to larger properties, we should to take a look. We ought to have John go with us. Bliss – Mr. Chairman, I would just say because of the late hour and I would like to see you open it to the public and I would also like to commend Carl because I know we did lose quite a bit of the public and he could have tried to get this thing tonight and I think that's very good that he said no, wait until another night. Jonathan Berry – I just wanted to say that the arguments about population density are a little bit misleading. Density is sort of an average or large area and it was mentioned that two units would be planned with 3 bedrooms rather than three units with 2 bedrooms. For me as an abutter, that would be preferable. Vadney – Two 3's would be better than 3 2's. Berry – Exactly. Peter Foster – I live on the property that the large portion of the water drains across, I would have to agree that it does go to Winnepesaukee from there. I happen to be a hydrologist, too. I do appreciate the fact that you're not going to push this through this evening because I know several of the neighbors have already left that were here for

this meeting and other neighbors are out of state. I'm fairly new to Town, I've been here for a few years and it was a little surprising to see that the density, I realize that regulations can't be changed at this point, not the density, but you can put a multi-family unit in the middle of single-family dwellings. My big concern is the precedent that this can set and maybe it's not a precedent, maybe it's just allowed and maybe the regs need to be revisited, but I think even according to the size of my property which isn't terribly large, I could probably put two condos there and it's a concern of mine and several of the neighbors that this is the type of structure that other people might be looking to do and those are just some of the neighbors concerns that is the type of thing or type of structure that folks are going towards in this neighborhood. Secondly, I didn't hear anything mentioned about, I heard there would be a homeowner's association, but there's obviously concerns about when you have folks, there's lots of common area, how is that being maintained to continue to maintain the neighborhood as it is and I'm certainly not against development, my work is intimately involved with development, but we just have to be cautious that the neighborhood is maintained relatively similar to what it is and lastly, I'd like to ask if this is approved, does that limit the further development of that parcel or is there still room to add another structure in the future. Vadney – This is the limit for this property. Johnson – We would be willing to restrict further development of this parcel upon approval of this project and that would be a restriction that would be on the plan, it would be a restriction in the condominium documents and the deeds. Foster – Carl had mentioned that there would be 3 garages and apparently 3 spaces in front of there and I don't think anybody in the neighborhood is looking for a large parking area, but the road is fairly narrow as it is and anytime anyone in the neighborhood has folks over on a weekend, it's congested and I just want to make sure that there's adequate parking there for visitors because if you have three units, you know people, just because they have a garage doesn't mean they use it. I have a garage and I hardly use it, I keep my snowblower in there. The point is just because there are 3 garages, that's 6 cars, that could be easily the folks living there. I appreciate the comments about where Carl's office is, but as he said it's a business and we're going to be looking at the highest traffic on the weekends and it's really a very different situation. Johnson – I did a quick analysis on a sheet of paper about the surrounding lots and how big they are and unfortunately, Mr. Foster could not put two condominium units on his property, he doesn't quite have enough. There's one lot which is directly across the street that's 20,000 sq. ft. that could theoretically have two units. The rest of them are restricted because they are small lots. The reason that they are able to do this on this lot is because it is such a big lot and, unfortunately, the Planning Board isn't in a position where they are penalizing the guy with the biggest lot because he happens to be the biggest lot. We just had a subdivision down the road if you remember on Mass Avenue Extension which was a larger piece of property that was subdivided into five separate residential units. One of those lots

was over 20,000 sq. ft. and now is supporting an application that's been submitted for a two-family dwelling and since it's 20,000 sq. ft., it's a permitted use and showed up on the original subdivision plan that's an extra unit because of the size of the lot. These lots surrounding it which are 11 and 12,000 sq. ft. would not be able to support an additional unit. They would, however, be able to apply to the Zoning Board of Adjustment for an accessory apartment which is a mechanism for getting a second family unit into a building without the benefit of the density, but from a pure density standpoint, multi-family has been approved in a residential zone. This Board just last year approved a site plan for a multi-family unit on Waukegan Street which actually received a variance from the Zoning Board of Adjustment, they only had enough land area for two units and they got a variance to create a third unit because they had sufficient parking on the site and the site was about a third as big as this site. The other thing I will say and I don't know if it satisfies any concerns, but one of the advantages of this being a site plan approval is the Planning Board does have the right to review and amend any site plan approval they grant so if there was a situation that we were representing here about parking, or dumpsters or whatever, the mechanism is a lot stronger because they could bring that back to the Planning Board under their site plan review authority. We do have as I mentioned a lot of other area to create parking spaces. This stacked parking is not really what is preferable for the site in terms of the developer. What they are trying to do is minimize any additional pavement added on the side or even additional gravel on the site to park cars. We don't anticipate it's going to be a problem. If it does become a problem, the two mechanisms are to review it at the Planning Board level or to create additional space somewhere for cars to park which we don't want to do as a first choice. Vadney – The elevations and the grades would allow it without a tremendous amount of work. I would like to mention I have about half a dozen letters that have come in. One was from Mr. Foster so I won't read that one. I won't read any of them in full but there are just a couple of quick comments, one from a man named Russell Rowland. I found Massachusetts Avenue to be a little island of tranquility in a fast-pace life, I don't want to see this atmosphere compromised. Patricia Fogg – I do not wish to see a condo going in across the street from me. Frank Baker – Put a multi-page letter in and he raised issues some of which Carl has already spoken to. These will all be part of the public record and the Board will have copies of all. He asked about the driveway fill, drainage, wet areas, noise pollution, light pollution, traffic, use, whether it will be as a condo, whether it will turn into a vacation timeshare type thing, cutting of trees, are State approvals required, condominium legalization and any other changes, so that's in the record. Joan & John Ekstrom, a letter saying that they oppose this and they are afraid it will become another example of mass influx into our community. Robert and Suzanne Adams – Count us among the many who oppose this development into a multi-unit condominium. Gilbert Clark Family Trust – Mary Beth Ryan wrote I'm concerned about the additional

traffic and the safety of my children on the busy streets. Dan Dutile – A few comments that this is just not finding a loophole to put more housing in the area. So anyway all of those will be part of the public record. Peter Foster – One last question, if this is approved as a condo association, is it possible to have a restriction on it, often times people buy condos to rent them out, and that's certainly a situation we would want to avoid here. The pride of ownership is a key component if this is approved. Vadney – Unfortunately, we do not have any, just like we can't tell you not to rent your house. All a condominium is, is a different form of ownership where you share the land and buy your own little portion of the building so to speak. Johnson – I can, Mr. Chairman, tell you that we are investigating putting language in that severely restricts the type of rentals that Mr. Foster is probably concerned with. A good example is Grouse Point. Most of those condos are just owned by people who live there. They do have a provision where you can sign a two or three year lease and it becomes a long-term thing. I think the term that probably is of concern to most people is transient ownership or transient leasing or whatever of the site. These are units that we are intending to sell for somebody to own and live in and to what extent we can do that in the condominium declarations without compromising anything, we will and we're trying to be sensitive because that seemed to be a major theme and some of the opposition was the fact that they didn't want this to become a three-unit rental, multi-family building. Vadney – And they can put that in there as part of their offer to the thing, but we have no legal right to ban it being a rental. This will be back. We'll need to do a site walk on it. Pick a date when John can be there with us. Bliss – Do we know when John's coming back. (Monday). The down side to that is I know this Saturday's open, but then next Saturday, we have the DOT Route 3 and 25 "Placemaking" which will include a lot of the Planning Board members and any of the public who want to come are welcome. I believe that starts at 9:00 and goes until 1:00. That is Saturday, May 6<sup>th</sup>. It's light enough now that we could do it some night. Do we want to hold off and do this before a meeting? Johnson – We will be back in two weeks with the Architectural Design Review and we would hope that we would receive conditional approval for Site Plan and Subdivision at that time. One of the things I'll bring to the attention of the Board and I know it's not your problem, it's our problem, we have to have a conditionally approved site plan prior to appearing before the Zoning Board for a Special Exception so if we did not appear at the next meeting, we would be into the June meeting of the Zoning Board of Adjustment. The 30-day appeal period after that is the second week in July before we could pull a building permit so that's problematic on our end that's why we've scheduled this to coincide with the architectural review in two weeks. Vadney – So you want to come back on the 9<sup>th</sup> of May. Johnson – We have all of the information necessary to produce the plan in accordance with John's staff review items. Vadney – I'm going to be very limited in my time in Town those two weekends. Finer – Can we do it the 9<sup>th</sup> before the meeting? Kahn – I don't think you're going

to fit it in conveniently for a 7 o'clock meeting. Johnson – I can just tell the Board that the best way to do this is to view the site and view the properties that the site drains onto and then simply go down to the tracks and walk the tracks at the Gerrity property because that's the wetland where everything goes to and then you'll fairly easily be able to see where it goes into the culvert system. I don't think it's going to take two hours traipsing through the woods to determine that. Bliss – I would just as soon set it for the 9<sup>th</sup> before the meeting. Bayard – I don't see why we can't do it at 6:00. Hearing closed at 11:05

Bayard moved, Bliss seconded, THAT WE CONTINUE THIS HEARING UNTIL APRIL 9<sup>TH</sup> AND THAT THE PLANNING BOARD DO A SITE INSPECTION ON THIS PROPERTY AT 6:00 P.M. ON APRIL 9, 2006. Voted 6-1 in favor of the motion.

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