

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

Finer moved, Bayard seconded, THAT WE APPROVE THE MINUTES OF APRIL 11, 2006, AS PRESENTED. Voted unanimously.

Finer moved, Bliss seconded, THAT WE APPROVE THE MINUTES OF APRIL 25, 2006. Voted unanimously.

APPLICATION SUBMISSIONS

1. **RICHARD AND GAIL FREEMAN** – Architectural Design Review of a proposed 3-unit multi-family structure (condo), Tax Map U03, Lot 8, located on Massachusetts Avenue in the Residential District.

Applications for Site Plan and Subdivision Review were accepted and heard on April 25, 2006. The hearings were continued to 5/9/06 and a site inspection was scheduled for 5/9/06 prior to the continued hearing. An Application for Architectural Design Review has been filed. Application, elevation drawings and abutters list are on file. Filing fees have been paid. Recommend that the application for Architectural Design Review be accepted as complete for purposes of proceeding to public hearing this evening.

Finer moved, Bliss seconded, THAT WE ACCEPT THE APPLICATION FOR ARCHITECTURAL DESIGN REVIEW FOR PUBLIC HEARING THIS EVENING. Voted unanimously.

2. **FRED AND JUDY WILLIAMSON** – Proposed Site Plan Amendment to convert existing building to retail sales, Tax Map S02, Lot 18, located at 274 NH Route 25 in the Forestry/Rural District.

This item has been postponed and will not be discussed this evening.

PUBLIC HEARINGS

1. **RICHARD AND GAIL FREEMAN** – Continuation of a public hearing held on April 25, 2006, for a proposed Site Plan for a multi-family condominium, Tax Map U03, Lot 8, located on Mass Avenue and Hillrise Lane in the Residential District. Application accepted April 25, 2006.
2. **RICHARD AND GAIL FREEMAN** – Continuation of a public hearing held on April 25, 2006, for a 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.

3. **RICHARD AND GAIL FREEMAN:** (Rep. Carl Johnson) Architectural Design Review of a proposed 3-unit multi-family structure (condo), Tax Map U03, Lot 8, located on Massachusetts Avenue in the Residential District.

This is the second public hearing for the subdivision and site plan and the first hearing for the architectural design review, although I briefly mentioned the elements of the architectural design review in the last public hearing. I will try to make my presentation brief because it is a second hearing for the project, but just to hit a few of the highlights and to remind some members of the Board about the project and maybe some members of the audience who weren't here for the last hearing, I'll go over the basic premise of the project. The property is located with frontage on Massachusetts Avenue and Hillrise Lane. It's an existing single-family home on slightly over one acre of land in an area where the properties generally speaking are about 15,000 sq. ft., some a little bigger and some a little less so for all practical purposes this is the largest lot in the immediate vicinity bounded and bordered by slightly smaller lots. Because the density in the zone is one unit per 10,000 sq. ft., from a density standpoint this property could support over 4 units. That means theoretically all circumstances being correct, it could have four separate lots with four separate houses, if all the elements of the Subdivision Regulations could be met in that regard. Additionally, it could be subdivided into two separate properties and two separate structures could be constructed each containing a duplex which is a permitted use and have four units. Some of these options were discussed during the planning process and an alternative plan was presented which is the plan that you see before you this evening. Without benefit of approvals from the Planning Board or Zoning Board and simply by pulling a Building Permit, the property could be converted into two, three or four bedroom apartments. That would not require a public hearing from either Board, it would simply be a matter of pulling a Building Permit and proceeding work. The alternative of somehow getting four units onto the property was looked at, potential subdivision creating additional dwelling, converting the existing structure into a condominium situation or rental situation with four units was also discussed and basically because of the general nature of the neighborhood and other considerations and the desire to try to keep the existing structure, the parking and all other features as close to what's existing there now, they decided not to go for the full four-unit which is available by the density and permitted, but the three units. The result of that is one unit for 15,000 and change. The properties that directly touch the subject parcel are all less than that meaning the density for all those properties is higher than the density that's being proposed for this project. Under Meredith regulations, a conversion to a condominium is considered a subdivision. For purposes of clarity, the land that this building resides on is not going to be cut up. One of the misconceptions is that subdivision of a property means that there's going to be other lots created. That's not the case. The Town of Meredith treats it as a subdivision because the

individual units that are sold are sold in fee and so, essentially, you would have three separate units, therefore, it's a subdivision. The land will remain 46,047 sq. ft., there will be no additional property lines created if you will by the subdivision, the subdivision itself applies only to the units that are being created, the condominium units inside the building. The way the condominium is set up, it's also subject to site plan review and under site plan review, we look at things like the amount of lot coverage, the general character of the development in terms of lighting, parking, dumpsters, those types of elements some of which are similar to when you look at commercial properties for the overall site. We've tried to address many of those elements in the development by keeping the parking at a minimum. If you will notice, there's a slight revision, I've made some reduced copies of the plans in front of you, but basically what we're trying to do is to minimize the amount of parking on the site to be just sufficient for what the units need. If you look at the lot coverage calculations, the lot coverage is significantly lower than what is permitted. If the owners wish to create a bigger parking lot, a bigger parking area and create more parking, they would be able to do so. From a lot coverage standpoint, they would not need any relief to do that because the lot is so big. The general attempt is to try to keep what's there now visually the same, the same amount of pavement basically, slightly enlarged in one area to facilitate moving in and out, but the parking that's being proposed right now, there are 3 spaces that are underneath the building. If you look at the architectural rendering that's in your packet, you'll see that there are three garage stalls for the building. When a car parks underneath, they will be out of sight, they will be inside the building and we are counting those as 3 spaces. The other 3 spaces are spaces that are stacked outside of that. What that means is if the units were full and there were two cars per unit, in theory there would only be 3 cars that would be parked outside of the building. The additional advantage of this is that the lighting as the cars pull in, the lights are coming up the driveway and they are facing into the building and not facing the abutting properties. The driveway situation has been reviewed by Mike Faller and we are not proposing to have any changes to the width or configuration of the driveway. It's going to remain the same as it is now. Because the lot is so big, there is the flexibility and it does have quite a bit of frontage, over 200 feet on Massachusetts Avenue, there is the ability to widen the driveway and reconfigure it and we've decided not to pursue that at this time. The property does fall into the newly created Waukegan Watershed Overlay District and the purpose of your site visit this evening primarily was to notice that the drainage from the site goes under Massachusetts Avenue through two culverts, dumps onto the large piece of property that's owned by Gerrity, goes down to the railroad tracks and then you noticed the culvert that goes underneath the railroad tracks, that drainage enters into a culvert and drainage catch basin system that flows underneath the Gerrity property, goes into Corliss Brook, goes down behind the Lang Street School and eventually makes its way into Lake Winnepesaukee. We have recently

done some work on the Gerrity property, some topographic and drainage analysis and the topography that we have demonstrated on that site confirms that the drainage runs in that direction. One of the things that the Board has to determine as part of their approval process is that it meets the exemption clause of the Waukegan Watershed Overlay District. John Edgar has a staff review and has several comments. I'll briefly go over the comments that John has. He wants the plan to eventually show the existing sewer and water connections. We could not locate with our equipment the existing water service and we've requested that the Town give us some assistance to locate where the water and sewer lines are so we can add them to the plan. There are no proposed changes to that with one exception, possibly the project will be reviewed by Chief Palm in terms of meeting all the applicable fire codes. If there is any type of additional sprinkling that's needed within the building, it's a possibility that the existing service line would have to be increased from what it may be now to something bigger, but it would be put back in the same location so that would be just an upgrade of the additional water service. Any conditional approval granted by the Board traditionally requires a signoff by the Fire Chief prior to final compliance. As you know, we did have Nicole Whitney of Ames Associates, who is a certified wetlands scientist, delineate the wetlands on the property and they show that the proposed addition that's being made to the east of the building does not fall within the setbacks as delineated by those wetlands. John wanted the existing culverts on Mass Avenue to be added to the plan. We've added those and we will add the culvert that comes underneath Hillrise lane which essentially is the source of the drainage system that's to the east of the property. There are no signs proposed for the property so we don't show them on the plan. There will be no additional light posts or bright shining lights added, it will be downward type lighting as identified on the architectural design plans. There'll be no flood lighting and the sources of that light will be downward shining and sensitive to the existing lighting in the neighborhood. The fuel supply if there is an additional source of fuel meaning if there's some propane tanks to be added, those have to be approved by the Fire Chief and shown on the plan and in terms of a dumpster, we do not want a dumpster on the site. There is no dumpster proposed. The condominium documents specifically state that there will be no dumpster and the trash has to be disposed of. Each unit has to take their own trash to the refuse facility. In terms of the architectural design review, I don't know if you want me to put a plan up, I'd be happy to. You have the packet in front of you. For the members of the audience I could put up the rendering. Christopher Williams Associates has prepared the architectural plans for the property showing the floor plans and showing the architectural elements and as you can see that the general intent was to keep the configuration, it's a unique building shape and building type. They tried to keep the roof lines and the building materials and the character of the house the same as it is so we don't put an addition onto the building that looks uncharacteristic to what's there so they've spent

a great deal of time looking at the existing building and putting the elements together for the addition that would make it be in harmony with the existing structure. Many of the other elements of the architectural design review deal primarily with building new buildings and they talk about things like building mass and orientation and things like that don't really apply in this case. This is a small addition to an existing building and so the basic elements of the architectural design review that are important here are the general nature of how it looks in conjunction with what's there and the character of the neighborhood. Vadney – In approximate terms, what is the existing floor space of the building and what's being added? Johnson - I don't have that information readily available. I'd have to calculate that using the architectural plans, I did not do that. I don't know if the architectural plans reflect a square footage of each unit or not. I can calculate from a footprint standpoint, but it wouldn't give you the individual breakdown of the units. I could have that for the compliance hearing if that would be important. Vadney – Don't worry about it, I'm just wondering, just to get a ballpark look at it. I've seen it in the picture and it appears to be probably no more than 15% or something like that. Johnson – it is a small percent of the overall floor space keeping in mind that there's being underneath garage space added in part of that addition. One of the things to be mindful of is that there is a huge area in front of the building that's available for an additional addition. As a matter of fact, just when we met and when we talked about the different elements of what you could do with the property, you could take a 50' x 80' building and stick it in the front and meet all the setbacks. You could put it between the house that's there now and the street and meet the setbacks, just to illustrate what type of room is available there, so there is a huge area available and what they really wanted to try to preserve was the architectural element of that wraparound porch in the front and didn't want to go in that direction just because of that. So I think that Chris Williams when they are hired to do something like that, they take a look at what are the visual impacts and elements of the building that they want to keep desirable and they try to work to that end and I think that's what they've done. The other element of the condominium aspect is because a two-family home would be a permitted use, the special exception that we'll be applying for and hearing before the Zoning Board on Thursday evening is really the addition of one unit to the property, two being allowed. Four being permitted by density, but one additional and in terms of the additional traffic and noise and stuff, it represents a small increase into what would be a permitted use. We had not too long ago, a couple years ago, a five-lot subdivision down the road on Mass Avenue extension and two of the lots at that time qualified for a duplex so in theory, there could have been 7 additional units, although we did discuss the traffic issues for that, it didn't rise to the level of having any type of a study conducted and just fairly recently, I'm not sure the Board remembers, but we had a traffic engineer state that a 14-unit residential subdivision in a rural area did not create a significant amount of traffic so traffic, although it's always a concern and

there's no way to add any units without increasing traffic, remember that the density in the zone is one unit per 10,000 sq. ft. Actually, the density of the neighborhood as it is, is in the immediate vicinity about 50% greater than that so it's not as crowded as it could have been had the properties been subdivided into 10,000 sq. ft. units. As I mentioned the ones on Westview Drive are 14,000 and 12,000 in that neighborhood and across the street there's a 15,000 and a larger, about a 20,000 sq. ft. lot so it could be denser than it is now and be meeting the letters of the zoning ordinance. Single-family dwellings are a permitted use, two-family dwellings are a permitted use, multi-family, meaning 3 or more, are subject to the Special Exception granted by the Zoning Board of Adjustment. The Special Exception requires a conditionally approved site plan by the Planning Board. Before you can appear before the Zoning Board, they want to make sure that the elements that the site plan addresses have been reviewed by the Planning Board. Bliss – I have a question, Carl, as far as the trees, when we were up there, I know the side buffers and the back buffer, there's quite a bit and then right off the back end of the porch where I'm assuming that's where the addition is going to go, are those coming down as well or what is your plan for that? Johnson – There's a tree line that defines what I'll call the back yard. If you had a chance to see the back yard and essentially it's the trees that are associated with the small wetland area that's to the west and then the drainage area that goes down between the two properties. There's no intention of removing any of that vegetation at all. Whether or not there's an individual tree in the area of the addition, I don't know. I didn't map individual trees in that area. If they were in that footprint, they would have to come out, but other than that there's no intention to remove any vegetation on the site. As a matter of fact, one of the reasons we went with converting the house to a condominium is so there wouldn't be any additional removal of the vegetation. Bliss – just kind of a follow-up, maybe this will help me see it. In the footprint that's already there of the existing building, is the new addition going to be right in that same footprint or is it going to go back and can you give me an idea of how many feet it's going to go back? Johnson – There will be no addition to the back. The limited common area that's shown on the plan is like a fenced-in area so somebody could put a lawn mower or rakes, that's the 625 sq. ft. limited common area, that's just a fenced-in area, that's not an addition to the building. The only footprint addition to the building is what's crosshatched on the plan and if you turn to Page 1 of the architect's plan, it gives you the rough dimensions of that addition you can see there. It's like 10' out and 15' down and then it jogs over a little bit. Bliss – Mr. Chairman, if I could ask one more question. In John's staff notes, he wrote about what was going to happen with trailers and excess cars and boats and that kind of thing and I know when we were up there tonight, there were a number of items in the driveway. Is that mentioned in the condominium documents? I scanned through them and I didn't see anything along those lines. Johnson – I don't think there is currently, if that's something the Board's concerned with, they could be

entered into the documents. One of the things John has suggested is if the Board had any comments they felt should be incorporated into the condominium covenants and restrictions, we could include them, add them to the plan and come back for a compliance hearing and the purpose of the compliance hearing would be to review the final aspects of the covenants and restrictions and condominium documents and make sure that the plan reflected those and that those reflected the plan. Bliss – I guess my thought is I would like to see something in there like that. I don't want to restrict, to a point I do want to restrict what people have, I don't think one person should have 4 boats, but I think they ought to be able to at least have one and I think it should be in agreement with the rest of the people who are in the condominium as far as what that number is. I just don't want to see the whole yard get cluttered up and then you've got a problem there. Johnson – One of the discussions with John initially was about the parking and the fact that we don't show any additional areas of pavement or gravel for parking and he wondered if we should show an area dashed that says "possible future parking area" and my initial response was that what we are trying to do basically is to restrict by a matter of what's there what people could have. If there's no place available to store boats, you don't store boats. If you have a place on the plan that says possible additional parking area, then the association's going to vote, they are going to build it and they are going to store boats so what we're trying to do is make it self-controlling to some extent if you don't have the space, you don't store the stuff. Whether or not you can include in the condominium documents, "there shall be no boat storage", I'm not sure. I think you define it by saying there shall be no additional alteration of terrain or lot coverage, then it becomes self-controlling to a certain extent. The other element of that and it's an arguable point, but in the experience of many of my clients and many of whom have rental properties and have developed condominium properties, the general sense is when it's a condominium property and the person owns it, there's a slightly higher level of how the property looks and how they take care of it because they own it. There are some that are and some that aren't, but mostly I think there are because it's an owned situation, it's an asset and they have some financial interest in making sure it doesn't look terrible. The condominium documents and much of it is the boilerplate type stuff tries to prevent things like temporary siding and storage of junk vehicles and so forth and that is in the documents. Vadney – If I might add to what Pam raised, currently there are 3 or 4 boats and they were parked on the grass which is fine, it's currently a single-family home and the Town isn't fussy about that. I do think if we make this a 3-unit and all 3 people start parking on the lawn with 2 or 3 boats, it would be kind of out of character with the rest of the neighborhood so I think maybe the best way to control it is only to identify that is something that the condominium people have to agree on because one person could start covering the whole lawn without any other control. I'm no expert on how to do that, but I think Pam's point was even today with no mention of pavement, they are parking 3 or 4 boats

on the lawn and if three families started doing that, it would be substantially different. I'm open to suggestions if you think that's something we should look into. Kahn – Do we have the power with respect to the site plan to ban boat parking. I think we've done it in other situations or to restrict it to particular areas. Vadney – I suspect we could put some, I'm not particularly the guy that likes controls on things like that, but I think to protect the neighbors, there would be some sense in at least putting some limits on it so that all 3 families moved in there didn't make it look like a marina in the winter time. Worsman – How is it that condominiums can even be applied for in an area that is designated as single-family residences. Vadney – First, condominium has absolutely nothing to do with the way the land is used, it's just simply a question of how it's owned and the word condominium comes from co-dominion, you share the land and you do various things on it. Lou is an attorney who I will turn to for details on that type of thinking. Kahn – I guess all I would say is with respect to condominiums, the State has seen fit to deprive the Town of treating a condominium as anything other than another apartment house and so the restrictions that we can apply to any multiple dwelling, we can apply to a condominium and no more. The fact that it's owned jointly by the owners of the apartments, we can't restrict that. It doesn't matter whether it's owned by a landlord or owned by the owners of the apartments. As to how you get a multiple dwelling in this district, this is a residential district and as Carl pointed out, you can get a multiple dwelling in if you can get a special exception from the ZBA. It's a different department. Johnson – Mr. Chairman, it's important to note that the zone is not restricted to single-family dwellings. Single-family dwellings are one of many permitted uses in the zone. Two-family dwellings are permitted uses in the zone and uses subject to special exception are permitted uses subject to special exception and so the multiple family aspect of it is not related to the condominium aspect of it. In other words, if they decided not to make it a condominium, you could have on another piece in another zone, you could have a five-unit apartment building and whether or not it was condominium would be irrelevant. The relevance is whether or not it's multi-family or not. That's what the Zoning Ordinance dictates. Condominium is a form of ownership that the Board has no control over. Kahn – The point that I was making was that if the owners of this property had sought to make it a 3-unit rental property and obtain the special exception from the Zoning Board of Adjustment, it would be the same as though it was a 3-unit condominium. Worsman – That's the process they'd have to go through from the Zoning Board. Kahn – In this district, you can only have multi-family dwellings with a ZBA special exception. Worsman – Everyone who owns a home has a right to do a fair amount with it, I just am seeing so many neighbors who are having a significant problem putting in condominiums in their neighborhood and I guess I'm looking for information from the Board. Vadney – Let me add something here, Lou. Our current ordinance and I'll admit this is a bit mushy, it was written long before I was on the Planning Board. The

general-purpose statement is a bit misleading. It's one of those philosophy kind of statements. It says, this area provides housing for a substantial number of seasonal and year-round residents who prefer to live in single-family detached housing near existing centers. However, paragraph A then says, the residential district permitted and special exceptions and anything that is not covered here is prohibited. Under permitted uses, single-family dwellings of course, home occupations and a bunch of stuff, Bed & Breakfast, these are permitted, they don't need approval from anybody other than maybe the Building Inspector, rental cottages can go in there. One reason why you all could move out and rent your homes and maybe you rent those buildings now, those rental cottages are permitted and two-family dwellings are permitted by the ordinance so what we're really arguing about here and the argument is whether to allow 3 or just hold it at the 2, it's that third unit. The option you could be facing as Carl has explained is if someone wanted to, they could modify that and they could tear that building down and divide up that lot and put 4 units on that same piece of real estate, that's the way the ordinance is written. I suspect that's the way you'd all want the ordinance written if you were on the other side of the fence here. Johnson – Another example, Mr. Chairman, there was a building that burned down on the corner of Lang Street and Stevens Avenue that was an apartment building and that property was allowed to be rebuilt with as many units as they had because it was an existing situation and that building now is being converted from rental units to condominium units and that is a change of ownership and the density was a result of a previously existing use. That's subject to Planning Board approval, but not subject to Zoning Board approval and in terms of the Planning Board, the Planning Board really isn't deciding 3 units versus 2 versus 1, that's what the Zoning Board's special exception decides. The Planning Board is looking at the subdivision aspect as it pertains to the condominium situation and the site plan issue as well as the architectural design review. The Zoning Board is going to look at the density, approved or conditionally approved site plan should we be benefited by one and they don't really look at the condominium aspect of the proposal whether it's condominium or rental is at the Zoning Board is fairly irrelevant. I don't want to put words in the Zoning Board's mind, but it is fairly irrelevant to the Zoning Board, the form of ownership of the units. They are looking at the number. Vadney – I didn't intend to mean because I said part of the argument was 3 versus 2 that necessarily is our decision, we're looking at the broader picture for the neighborhood. It does have to go to the ZBA for the third unit. Johnson – One of the other things I'll add, I didn't bring a copy of the proposed condominium covenants and restrictions, but one of the things that you get with a condominium as a benefit I believe is a detailed list of what you can and can't do with the property. When you get a rental, you get a lease and there may be something like you can't have cats and dogs, but it's not nearly as extensive as the restrictions that generally come with a condominium form of ownership in terms of what you can and can't do and

those restrictions largely are, some of them are enforceable by the condominium association, but any of those conditions that the Board feels are relevant to their approval, isn't enforceable by the Planning Board and because it's a site plan, at any point in time they can call the project back in subject to the review and amend of site plan and address the issues that came before them. So it's an element of protection that's not offered in a multi-family rental situation. Vadney – Does that clarify it at all; it certainly is a mushy subject. Bayard – Taking a look at the site plan, I can't see how you could fit 4 buildings on that particular property. You might be able to fit two duplexes, you might be able to make it into a 4-bedroom or 4-unit apartment building or something like that, but I think fitting 4 houses on that would be... Vadney – They apparently aren't familiar with the Carl Johnson gerrymandering. Johnson – The only way that would be accomplished would be in a condominium form of ownership where there would be 4 units, but they would fit. There are large enough areas. If you look at the units that are approved at Meredith Bay Village, you could tear that house down and plop two of those units in there very easily and you'd have a 4-unit condominium. Vadney – Keep in mind although we usually refer to it as quarter-acre zoning, it's really 10,000 sq. ft. and four of those are about 4,000 sq. ft. less than a full acre. Bayard – I was just commenting that I think given all the swampland it would be a little difficult to put 4 buildings there. Certainly 2 would probably be easily accommodated. Johnson – I think the term is non-designated wetlands. Kahn – Mr. Chairman, I would just say that whether or not you could get 4 units there is irrelevant to our discussion here. The fact of the matter is we've got 3 in front of us and I don't think that we have the control as to whether or not it's 3, it's the ZBA, but what we do have the control over is the site plan and we can use our site plan review to make the 3 units as palatable to the neighborhood as possible. We can control things like parking within reason, we can control things like garbage storage and things like and I think we ought to be looking at those things. I don't think we really have much control over whether or not there are 3 units. Carl, I'm looking at this miniaturized plan and you say there are 5 parking spaces. Johnson – Actually, there's 6. Kahn – The way this is lined up, I don't see them. Johnson – There's 3 inside the building and 3 out. Kahn – The 3 inside the building are what size? It looked to me like the garages were maybe 15' deep. Johnson – The Subdivision and Site Plan Regulations define a parking space as it exists outside of a building, they do not define the size of a garage. Kahn – Let me see if I understand, but you're saying that the garages, you're counting the garages as parking spaces? Johnson – Correct. Similar to Meredith Bay Village where they park inside the house and the parking for the condominium is calculated based on the fact that they are parking in the garages. Kahn – I don't know what the size of the garages are there, but what I'm saying here is it looks to me like these garages are really small in terms of getting a car in there and somebody getting into that car. Maybe they worked when the house was built. Johnson – I'm not an architect, but I

would be willing to be that Christopher Williams Architects would not design a garage that you couldn't get a car into. Kahn – Two of the garages are existing and if I understand it, the third garage is going to be the same size. Johnson – That could be. Vadney – Are those garages used now for cars? Johnson – I don't know the answer to that. Vadney – We'll ask the public in a minute on that. Some of the neighbors must know. Kahn – My own guess is that the garages are going to be too small for cars and they are going to end up as storage and therefore you don't have enough parking on the site to take care of the 3 units. Johnson – One of the things I mentioned in my presentation is we're offering this as the option that creates as little outside parking as possible. If the Board's desire is to create additional spaces for outside parking, we have the ability to do that because we have the available lot coverage to create additional outside parking. Kahn – In terms of the topography, you've got a notation here (add pavement)? Johnson – Correct. Kahn – Are you going to have to excavate to add pavement? Beyond that, I guess it's further to the east, beyond the add pavement notation, is that uphill there? Would you have to excavate? Johnson – That's downhill there, but we would not be adding pavement there because it's within the 50' of a non-designated wetland. The area that I spoke of with the clients and briefly with Mr. Edgar about being available for additional parking would be located in the vicinity of where the tie course is, kind of on the front lawn which meets all of the requirements of the site plan checklist, but was not desirable from our standpoint because it had cars parking in the front of the house. Kahn – You're saying that where you've got the word "tie" is that what you're talking about there? You would widen the driveway, how many spaces would you put in there? The problem is the way this thing is laid out, I can't see how many spaces there are, I mean it's marked as though there were 5 spaces of varying widths. Three of those spaces have got to be in front of the garages I assume. Johnson – The 3 spaces in front of the garage are 10' x 20', that's what's required by the site plan ordinance. Kahn – And you're required by the regulations to have 5. Johnson – That's correct. We're counting the 3 inside. Kahn – I don't like that, I mean my own personal view is that there ought to be, if you've got 3 spaces on the pavement, I think you've got to have 2 more spaces. Johnson – When the Board approved the commercial site plan for the new real estate building on Route 3, there were two spaces inside the building that were counted in the parking calculations. Kahn – They were not going to be there 24 hours a day, the representations that were made was that people would be coming and going and among other things, we didn't bother with a handicap space because we assumed that the real estate people would take care of their handicap customers. Who's going to take care of these people? It seems to me we either have to provide for them in the site plan or they are going to be out on Mass Avenue. Vadney – We're in a dilemma here because, yes we could right now decide he needs X number of parking spaces and he could probably put about 30 of them on the front lawn, but wouldn't make this project any

more handsome or any more palatable to the neighbors. We could let it go with the 3 inside and 3 outside with the doubt whether it will work and that doubt being backed up by the fact that we have the right to review and amend if it turns out that they're parking on the lawn and causing erosion or if they are parking in the street and the neighbors complain so do we want the applicant to do something that is more invasive now based on the fact something might not work or gamble that it might work and avoid that invasive procedure. Kahn – I'm looking at the size of these garages and I'm looking at the absence of a dumpster and I'm figuring that the garbage is going to end up in the garages because I think we ought to provide that it's not stored outside and I'm not suggesting that we add 30 parking spaces. I don't think that under the Site Plan Regulations we have authority. We do have the authority to require a total of 5 spaces and it seems to me if you added two more spaces where the drive comes up and you widen that out a bit, I don't think it would create a horrible ugly situation and would keep cars off Mass Avenue. Vadney – And I wasn't implying that we were going to hold them to 30 parking spaces, I said the front lawn is big enough for that if they wanted to use it for that so it's up to the Board. Johnson – I'll just say that we will add as many parking spaces as the Board sees fit. Bliss – I don't necessarily want to see us add those parking places because it's not a stopping point. I would rather see us hold that for a right to review and amend and if the neighbors see a problem with that, then go to John Edgar and bring it back before the Planning Board. I would rather do less at first than more, than go in there and just tear up all kinds of land that you can't replace once the pavement's there. People are going to park on the grass. I just would rather see us do less to start with because I think it will impact the neighborhood even more if we just start putting in parking places. Vadney – I would say in a couple of minutes we're going to open this to public comment and that's something we would welcome an opinion from the neighbors because the number of parking spaces inside or outside isn't the type of issue that will stop this project. The question is which would be more acceptable to you. Kahn – Mr. Chairman, going off the subject of parking, but going to garbage storage, I think we ought to require that garbage be stored inside and not outside. Either that or require a dumpster. Would you like a row of garbage cans? For one thing, in the course of our site walk we had a discussion about the bear visits in the neighborhood right across the street, so I think we ought to require that garbage be inside and I tell you it's going to end up in those garages and those garages are 15' deep and how wide, Carl? Johnson – I'm not sure, I don't have the plans in front of me. You can see that on the architectural plans perhaps. Kahn – I looked, I couldn't find them. Bliss – Mr. Chairman, I don't want to see the trash outside. I don't think we need a dumpster there and how many people do you see fit into their garage and they know their garbage cans are there and they just have to be careful. Either they get a smaller car or smaller garbage cans, I don't think that's something for us to worry about. I don't want to see it outside and I don't want a dumpster. Kahn – Mr. Chairman,

I'd like to know what the dimensions of those garages are? I can't find them on the plan. Bayard – I would agree with Lou, however, I think that one other thing you might look at is what the size of the third garage would be. Certainly, I think they have a little more flexibility on how large that is. You might be able to fit the dumpsters and a couple of motorcycles in the small garages, but I'm not too sure you could fit cars in there very well. Vadney – Is it intended that these 3 garages, one will be assigned to each unit or under ownership? Johnson – Yes. The other thing I will mention is that the Zoning Ordinance and the parking regulations require 5 spaces because they count half bedrooms. In a condominium situation when you have units, generally you try to have two spaces per unit that's why we're proposing 6. We're only required to have 5, but it makes sense to have the sixth because there's 3 units, that's the reason we've got the sixth parking stall. Joan Ekstrom – I would like to know when the time comes if this were accepted and passed, what is the procedure for an abutter to request that the owner erect a stabilizing fence/barricade for sound and annoyance on their property line? A high one, please. Vadney – You're saying at what point? Ekstrom – How does one proceed with requesting that the owner erect a barrier for sound and annoyance on their property line? Vadney – I think it's a civil matter. Ekstrom – That would be a request, we really would like that. Vadney – I thought the only way would be if this turned out to be a nuisance.. Ekstrom – It is already. Finer – We have required screening and fences in other projects, whether it be home occupations recently down on South Main Street. We required it as a condition of approval. Vadney – in that case, it was a visual screening from a semi-manufacturing type of facility to nearby abutters. Johnson – Could I interject, Mr. Chairman? I don't know of any case where the Planning Board has required a screening, residential to residential. They have in terms of commercial buffering residential, Case n' Keg and the one recently on Main Street. The process would be for an abutter to approach the owner expressing a concern and asking about some type of a barrier between them. I can't think in terms of buffering with the exception of a cluster subdivision where you have a buffer area, the Board talking about that in a residential to residential situation. Vadney – That's why I say, I think it falls somewhere into the civil aspect of it where if it becomes a nuisance, you have the right to call the Police, you have the right to sue the neighbor, you have the right to try and convince a Judge that it's truly a nuisance that's the abutter's fault. Johnson – Fences can be mutually beneficial as well. Knowing the current owners, they are certainly approachable in terms of asking and entering into some type of discussion about buffering. Vadney – Then it would have to come to the Planning Board probably for approval of the fence. Joan Ekstrom – It would just cut down on the possibility.. Vadney – I understand your concern, but I don't think, and I could be wrong on this, I'm not a legal expert by any means, but I don't think it's something we would normally make as a requirement of this proposal. Ekstrom – Excuse me, but we are already getting this annoyance now with the people who are residing,

renting, working, whatever they are doing there, it's pretty rowdy already. Vadney – We'll look into it and John couldn't be here tonight, he usually keeps a closer watch on that stuff than we do, that's his business. I don't know of any precedent, but we'll certainly check. Richard Roman – I'm not a direct abutter, but I live on Hillrise Lane and I probably represent some of the abutters that can't be here tonight. I'd like to commend Mr. Johnson on his homework and his business, but I'm sure if he lived in the neighborhood like his brother-in-law, he'd feel differently. One of the things that was not brought up tonight was the fact that when these condos are sold, I would like to give you a scenario of Tom, Dick and Harry Smith. They each buy a condo. They each have two or three sons. Each son would like to come up in the wintertime and go snowmobiling. They come from out-of-state, they bring their snowmobiles up and their trailers, where are they going to park them? They come up in the summer time, they all have boats. Where are they going to park their boats and trailers? Is Mass Avenue a parking lot, is Westview Drive a parking lot, is Hillrise Lane a parking lot? Has anybody given any thought to that? Vadney – Have there been people parking along those roads as is? Roman – At times on weekends, people come up. Vadney – I hadn't thought about that before. Johnson – Could I address that Mr. Chairman? I want to make sure that when I say this, it is said in the manner of an alternative example and not to be in a threatening mode as to what could happen with the property from a permitted use standpoint fully knowing that a permitted use can never really be a threat to the Planning Board. If the owners decided to go with a two-family home which is a permitted use, without the benefit of any approval, any review, any analysis by the Planning or Zoning Boards, they could build a parking lot in front of that house for 20 cars. There would be no restriction if they met the lot coverage and met the elements of the Zoning Ordinance, it would be a permitted use. They could invite a lot of friends over; they could park a lot of boats. If they were to have two 4-bedroom apartments instead of three 2-bedroom condominiums, I can almost guarantee you that the intensity of use of that site would be dramatically different and would not be controllable by any municipal board. That's not a threat, that's what can happen as a permitted use. Vadney – In some cases, not by the Police Department either. Johnson – It would be a civil matter if it became that situation, but there are uses that are available to this property that would be essentially what Mr. Roman's talking about in the worst case scenario where you would not have the control because it's listed as a permitted use. A Bed & Breakfast is a permitted use. It would be subject to site plan review, but you could have a 9-bedroom Bed & Breakfast and you could have a considerable increase in the amount of traffic coming and going, parking and so forth so it's always a problem if you invite all your friends over and everybody has a party. Where does everybody park? That's a problem, but it's not something that's being created by the proposal. Vadney – Although we normally think of the term "Bed & Breakfast", we think of these romantic getaways and quiet couples, nothing says it couldn't be Wild Willy's

Motorcycle Bed & Breakfast. You've got to remember, you've got to control those things. Roman – Suppose the Hell's Angels want to buy the place, then what are you going to do? Vadney – We don't control ownership. I'm not going to do anything, we don't control ownership. Roman – What about the loud exhaust the state defines as unacceptable. Vadney – That's a civil matter, it's not a Planning Board matter. The answer to this and it is complex but this is not the worst use of that property that could occur legally. I think there are always exceptions, but I think first you have to admit that the typical homeowner takes better care of his home or her home than a renter. Not always, but on average, the ownership because it's ownership, you take a little better care of it. If you have a duplex where the owner lives in one half and rents the other unit, I think you'd agree that typically, assuming the owner is an upstanding citizen, he's probably going to lean toward having a renter that's an upstanding citizen. This is going to be effectively a 3-way rental with all being owners watching the other guy. It boils down to this, it is probably a better situation for you folks than having it turn into a rental where you can rent to any slime ball that wants to come along. Roman – I'd like to make one more point, the fact that he mentioned the condo down on South Main Street, it is still vacant and it's been that way for some time. Nobody seems to want to buy. Vadney – That shouldn't be a problem to you then. Roman – No, but condos in this part of town don't work. All I can say is there's a lot of people opposed to it and we don't want it. Vadney – I understand that. Bliss – Mr. Chairman, if I could just make a comment to that. I understand people don't want it, but as a Planning Board, we have a set of regulations and ordinances. Our Planning Board has tried for two years to get something through the voters to tighten up some of our regulations and it is not passing. Then what happens, people do come to meetings and they are up in arms because it's happening in their neighborhood and I feel for you, I don't want things happening in my neighborhood either, but the bottom line is these are what the regulations say so I would say to you, the next time the regulations try to change, I don't think you'll see it this year, but if you don't know what's going on try to ask questions because that's what we were trying to do, that was our intention for the past two years to try to get some of these things tightened and it didn't go through. I do feel bad as a Board member, but on the other hand, our hands are tied. Nobody wants it in their back yard, but it's coming. Vadney – I do want to add that we have received a number of pieces of correspondence, some I read into the record last time and noted C. Johnson, R. Rowland, P. Foster, P. Fogg, F. Baker, John & Joan Peters who are here tonight, too, Bob Hill, Water Supply Superintendent, Robert & Susan Adams, Mary Beth Ryan and Clark Family Trust, Dan Dutile and a number of concerns. I spoke with John Edgar on these and tried to boil all those letters down and I'm not trying to take any words you want to add away, but the letters basically covered things like: the density level is exceptionally uncharacteristic; traffic will effect the feel of the neighborhood and add to an already busy street; desirable residential atmosphere will be

compromised; traffic and noise will increase; proposal will add an existing crowding problem to the neighborhood; zoning should be changed if this is an allowed use; current zoning is single-family residential, the neighborhood is safe and has a small neighborhood atmosphere which will be compromised; pedestrian safety. Those are all valid concerns. The density, it may add people to that whole block of real estate up there, but the overall density of the single-family homes is already greater than this will be because this is over a one-acre lot where most are in the vicinity of about 1/3 of an acre. The residential atmosphere, you could end up with as we've said a number of times, Bed & Breakfasts and various things that could add more to the traffic. As far as the traffic up there goes, adding two units and there's already one there, adding two more and I didn't count the houses up in that neighborhood, but there's got to be, not even counting the five that haven't been built on yet and a few others that were approved some time ago, there's got to be 30 or 40 houses in there that do not use Hillrise too much, but more into Mass Avenue. That is a summary of what John and I could get out of those many letters. Those were pretty much the issues. Roman - Not relating to this, but further on on Mass Avenue Extension, does the Planning Board follow through on what has been planned to do? I attended a meeting over a year ago in the summer time at the old building in regards to Mass Avenue Extension and it was relative to the road being elevated to I believe a 10 degree rise to Mass Avenue. There was a discussion, Mr. Johnson was there saying we can't meet the 10 degree angle, we have to go with 12. Mr. Michel said if you can't build the road to the specs that the Town wants, you will not build the houses. Needless to say if you were down there today and you looked, the road is not built but there are two houses down there now. Two houses which are built in wetlands, two houses which are being pumped out of water in the basements. Has the Planning Board followed through? Vadney - As far as that, you're talking about the grade right there at the Stop sign, no I have not looked at it and nothing of the current situation. Roman - My understanding was the road was supposed to be built before the houses. Vadney - We could look in the record, I don't remember how the, even though I don't doubt that Mr. Michel and whoever else you mentioned there made the 10 and 12 percent comments, I don't know what the final approval said. Johnson - Although it's irrelevant to what's before you right now, I will tell you that the road was bonded so that in the event that the certificate of occupancies come to be issued, if the road is not completed to the Town's satisfaction, the Town will pull the bond and build the road. Vadney - First, I'd have to look to see what the final.. Roman - The argument was, Mr. Michel said, you will build the road to our specs or you won't build any houses and that's the way it was left. Vadney - That may well be, I'm not going to argue that, but if it's not that way in the approval, the fact that he said it may not mean much. Roman - Has the Planning Board followed through on it? Vadney - No, we haven't. Kahn - We don't have the capacity to follow through, we have a Code Enforcement Officer and that's

his job. He doesn't report to us, but we pass on subdivisions and we make rules and then the Code Enforcement Officer has to enforce it. We don't have the capacity to go out and inspect sites. Vadney – By the way, you are our eyes and ears. We can't go and look at every piece of property that comes before us. We see hundreds in a year and even if we did, we wouldn't know how it was affecting your neighborhood if we just drove through one time. Roman – No, but you were there last summer inspecting the wetlands and you were bitten by mosquitoes. Vadney – Now that you've brought it to our attention, we can sick the Code Enforcement Officer on it and we can also check the approval to see what was in it for a final. Roman – It would be appreciated. Our little corner of Town is nice and private and quiet, we'd like to keep it that way. Peter Foster – There's clearly a lot of sentiment for not in my back yard and I don't want it in my back yard either, but I'd like to see the Planning Board use every mechanism possible to limit things such as.. We could easily end up with a situation that they are trying not to have by putting the condos there. Myself, my neighbors and I could each go buy a unit and rent it out later on. Is it possible, I haven't been able to read the covenants, for the Board to put a limitation in there on rentals and then additionally, I've heard things like coming back to deal with parking, to deal with possibly a wall, items such as that. Is there any mechanism to create bonding for those items because you're talking about 3 individual units where they will probably be modestly priced, I assume and the folks that are going to purchase those homes probably aren't going to necessarily be in a position to finance building additional parking and when you deal with a large subdivision like on Waukewan, you have a much greater income to deal with those types of improvements. One other item along those lines is that everybody is really concerned about maintaining the image of the neighborhood and I've heard that there's going to be a shed for people to keep rakes and a lawnmower in, but maybe some reassurance to the neighborhood that the property will be maintained, that the condo association is going to have proper mechanisms in place to maintain that property, to cut the grass, to keep the driveway plowed, to keep the building painted. Are those limitations and restrictions that the Board can put into the plan so that the pride of ownership is maintained? That's obviously the key to this whole project. None of us want it, but maintaining that pride of ownership is key to this whole entire project for the neighborhood. Johnson – One of the elements of the covenants and restrictions provides for condominiums to contribute towards maintenance fees and the building I'm in across from the high school, part of what you pay every month in your dues goes towards paying somebody to mow the lawn, to plow the driveway and so forth. That's one of the additional advantages you get in a condominium association is that there are monies escrowed if you will for lack of a better term as you go along to pay for these types of things and again with an ownership situation, you get the benefit I believe that somebody's going to want their property to look nice. I know that Bill Edney has a hard time making some of the rental

properties around Town look nice because many times the owners of the property don't even live in Meredith, don't even live in New Hampshire and they don't have a situation where they have monies available to mow the lawn and to do the maintenance and so there's a problem there. I think that's a benefit of the condominium aspect of it that in the documents you do have dues and maintenance agreements and so forth to take care of those items. Vadney – To answer one of your questions, we do not have much control if any at all, over whether someone buys something and then rents it. We look at what the use of the land is. If it's a single-family home and somebody moves out and rents it to somebody, it's still a single-family home, not our business at all. If they rent it to somebody who is running an adult book store or something like that, that's our business. Steve Hinchey, I live directly across the street from this property. In reference to the existing garage space, right now the only information I can give you is I've been extremely good friends with previous owners of that home for many, many years and I've had the opportunity to make an attempt to park two compact vehicles inside that driveway as surprise gifts on Christmas to my children and I want to tell you, it was an act of God to get either one of those vehicles in those garages and I can speak for myself, nobody else has probably had the opportunity to see that. I don't have a tape measure, I can't tell you how big they are, but you can guarantee that people will not be parking their vehicle in the existing garage that is there now. They are not able to comfortably pull in and close the door behind without taking the bumper off so something would need to be done to make that a useable space if you're going to include that as one of the parking spots. Vadney – Again, that question comes to you folks, they do have enough land there, they can put a parking lot whatever size you think is required or could demand of us. Kahn – We have a regulation that requires 1.5 parking spaces per unit and I guess my issue with the thing is using undersized garages to comply with that regulation to me is not compliance with the regulation. Vadney – I can't help but make the comment that he's giving them one and the inside is the other .5. We can do that and that's where the population is and that's where the Board's feeling is, there's no problem, they will simply bring in a bulldozer in and take out part of the lawn. Johnson – Can I ask a question for a point of clarification because I was not involved with the development of the condominium, that was the architects purview. I haven't seen the garages so I couldn't even tell you, believe it or not, inside the building whether there's existing one or two. Are there two existing garages or is there one? Vadney – There's two doors. Johnson – So there's two existing garages and they are both small. Could I offer a suggestion to identify on the plan an area suitable to the Board for creating two additional parking spaces so there would be 3 spaces outside in front of the garages, there would be two additional outside in a vicinity that was acceptable to the Board and allow the people to park inside if they should see fit. That way we would be meeting the 5 that's required by the ordinance and allowing the people to park in a tight spot. Vadney – Yeah, if

you want to offer that. Worsman - Looking at the subdivision map that you've got gray is additional garage space, isn't it or am I seeing this from, that gray area looks like an extension of where the garages are now? Kahn - They are adding one in that space and we know that it looks like it's only 15' deep, but we don't know what the other dimension is. Johnson - Let's do away with the inside in terms of calculations. Let's just say that they are garage spaces and let's concentrate on the 5 that's required by the site plan parking requirements and construct a mechanism where we have 5 spaces to park cars outside of the building and then I'm hoping and I would image the neighbors would hope that if they have small enough cars to park in there, they will park in the garage. I will ask the architect and we will present this at the compliance hearing. Maybe there are some modifications to the inside to do something about the size of the.. and I apologize for not being more up on that. I actually asked if the architect thought it was necessary to be here tonight to discuss some of those and we incorrectly made the assumption that it would not be an issue. Bayard - There might be, not to micro-manage the entire thing, there might very well be an opportunity to use that third garage as an adequate garage and limit it to only 4 outside spaces. Roman - Is there any restriction on the square footage of the property, I know on commercial property we have paved parking and there has to be X amount of green area. Vadney - Yes, there is, but this is well within the boundaries. Roman - Considering the driveway? Johnson - It's less than half of what's allowed. Vadney - Well within the boundaries, they could double the size of the house and it would still be, it's a big lot, there's an acre out there. Peter Foster - One last comment from the last meeting, it was brought up that 4.6 units would be allowable and the question was raised whether or not in the future another unit would be added onto the building and Mr. Johnson said that the owners would restrict and give up that future use. I just wanted to make sure that ends up in the deed or wherever it needs to be. Johnson - We would be willing to have as part of the conditional approval that the property be restricted to 3 units. Hinchey - I don't mean to re-emphasize this, but all I can say is in the last week over there, the place has turned into a junkyard and I just pray to God that if this goes condo, that it doesn't continue to look like it does now because I think it's a disgrace to the neighborhood. I've lived there for 23 years and I've never seen anything like it in the entire time I've been there, the entire yard is being polluted by boats, trailers and I don't even like driving home at night seeing what I'm seeing. Vadney - Is it being used as a rental today? Hinchey - Yes it is as far as I know. Johnson - Right now, Mr. Chairman, the only recourse the abutters have to the existing situation is a civil matter. If this project were approved, they would be able to notify the Code Enforcement Officer who would then notify the Planning Board that there are violations to the approved site plan and it would be addressable and enforceable by the Town. That's great and I'm curious if the people that own the property are here tonight and if so I hope they hear my concerns. I say that living directly across the street and having to look at

that every day. Vadney – Whether they are here or not, we still have the right to call them back if it becomes an issue. John Peters – It was mentioned earlier that if someone purchased a condo they could rent it out so the Freemans are going to be spending a lot of money on this as an investment I'm sure and to make a good chunk of money if they sell all 3. Say in a year's time, they don't have any sold or 6 months, what's stopping them from renting it to Joe Schmoe. Vadney – Nothing. Peters - I guess that's my point that they could end up renting all 3 of them forever and it would be like it is now, it could be. Sorell – Yeah, but if you wanted to rent your house, you could rent your house right now and there's nothing we can do about it. Peters- But it's not a special exception or a condo. Sorell – It doesn't matter, we can't control that. Vadney – The thing that controls that tends to be the market rate of rentals that size and what it costs to own it. The owner wouldn't want to do that; it wouldn't be his first option that's for sure. Kahn – Mr. Chairman, you also have some simple economics here and that is this building is about to undergo renovation and I'm sure the tenants in there are not long-term tenants. The owner is trying to get whatever money he can get from the place before he starts his renovations so he's probably renting cheap and he's probably not getting high class tenants who are going to be there a long time. On the other hand, after he puts money into the place and fixes the place up, subject to market availability, but they may be more particular about the class of tenant that they have if they find they can't sell and they have to rent it out. Ultimately, if they can't sell it to anyone and they can't rent it to anyone, then they rent it to whoever will take it, but I think you'll find them more particular, if they have to rent, you'll find them more particular after they've sunk money into the thing. Vadney - Some of you at this point wish that the Planning Board had more power than it does. To be honest I'm thankful that we don't. Johnson – One final comment, Mr. Chairman, the process in terms of appearing before the Board just to give you our vision, if the Board were to benefit this project with a conditional approval, we would appear before the Zoning Board on Thursday evening for a request for Special Exception. If that were granted, there's a 30-day appeal period from that decision and we would hope to appear back before the Board in that 30-day appeal period probably in the first meeting of June for a Compliance Hearing to comply with the covenants and restrictions and making sure the plan and covenants match. That would be our timeframe. Vadney – Do remember as abutters, the ZBA does have to look at this and they have a substantially different perspective on this type of thing and you're welcome and some of your arguments actually would hold more weight with them than with us, not that we don't care, it's just that our rules don't allow us to go to some of those areas. But anyway, back to the Board for discussion and/or a motion. Bliss – Mr. Chairman, are you ready for a motion? Do we have any things that we're not sure about? I know we talked a little bit about boat storage, but I don't know how the rest of the Board feels about that. I would like to see something in the covenants. Vadney – The covenants on what? Bliss – I

would like to see something in the covenants that say something about boat storage and storage outside, that it is restricted. Vadney – I guess that's probably what Mr. Hinchey is referring to, the boat storage and stuff like that. Before we go to a motion, I think we should specifically discuss the drainage. We walked the site this evening. We walked the western boundary and noted the lay of the land and the drainage from there where it crosses the road to the west side of the Hinchey house and goes down into the forest behind there and makes a turn to the east and it seemed to be a fairly delineated hill that would preclude water from turning west and all of the drainage did as far as far as I could see and I'm open to other arguments, but as far as I could see, all of the drainage did turn toward Lake Winnepesaukee. Did anybody have any evidence to the contrary on that from the site walk tonight? Kahn - Mr. Chairman, I would suggest for the record that we resolve that that matter has been resolved, so if I can interrupt Pam's motion.

Kahn moved, Bliss seconded, I MOVE THAT IT HAS BEEN ESTABLISHED TO THE REASONABLE SATISFACTION OF THE PLANNING BOARD THAT STORMWATER RUNOFF FROM THIS LOT DOES NOT DRAIN INTO LAKE WAUKEWAN.

Bayard – Was it delineated by the applicant as to where the water went? Vadney – Carl had told us at the previous meeting. We were just out there to kind of see the lay of the land. Kahn – Did Carl make a scientific exposition of it, no, but he did discuss it. Bayard – I wasn't sure that was entirely adequate because I know we had to send the Town Planner out and we had to go out. Kahn – I don't think that we necessarily have to sit back and force the applicant to submit all sorts of data. It may come to that in certain instances, but in this instance I think it's enough. Vadney – There was nothing that Mr. Johnson said that was inaccurate. He mentioned in his previous presentation that the drainage appeared to be that way. We walked it tonight and again we didn't have transits and measuring equipment, but following the streams, etc., nothing indicated that any of that water could go west so I have absolutely no reason to think whether he intended it or not, anything he said was inaccurate. Kahn - It's reasonable satisfaction, not complete certainty. Vadney – We have a motion and a second to say that we have been satisfied that the flowage is toward Lake Winnepesaukee, thereby exempting this property from the Waukewan Watershed Overlay requirements.

Voted unanimously in favor of the motion.

Bliss moved, Bayard seconded, I MOVE THAT WE GRANT CONDITIONAL APPROVAL FOR RICHARD AND GAIL FREEMAN FOR A PROPOSED SITE PLAN FOR A MULTI-FAMILY CONDOMINIUM, TAX MAP U03, LOT

8, LOCATED ON MASS AVENUE AND HILLRISE LANE IN THE RESIDENTIAL DISTRICT, SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) THE MULTI-FAMILY USE IS ALLOWED AND THEY WILL HAVE TO GO THROUGH A SPECIAL EXCEPTION REQUEST FROM THE ZONING BOARD THAT SHALL BE CROSS REFERENCED ON THE FINAL PLANS;
- (2) THE FINAL PLANS SHALL NOTE THE CWS NO., DELINEATION STANDARDS AND THE DATE OF THE FIELDWORK;
- (3) THE PLANS NEED TO BE AMENDED TO SHOW EXISTING AND PROPOSED SEWER SERVICES;
- (4) THE FINAL PLANS NEED TO BE AMENDED TO SHOW EXISTING AND PROPOSED WATER SERVICES AND THAT BOB HILL SIGN OFF ON THE FINAL PLANS;
- (5) THE FINAL PLANS SHALL INDICATE EXISTING AND PROPOSED ELECTRICITY, CABLE TV AND TELEPHONE SERVICE;
- (6) THE CHANGE OF USE REQUIRES A DRIVEWAY PERMIT FROM THE MEREDITH DPW AND SHALL BE CROSS-REFERENCED ON FINAL PLANS;
- (7) THE EXISTING DRAINAGE CULVERTS ON MASS AVENUE AND HILLRISE LANE BE ADDED TO FINAL PLANS;
- (8) FINAL PLANS NOTE DESIGNATED SNOW STORAGE AREAS;
- (9) IT HAS BEEN REPRESENTED THERE WILL BE NO SIGNAGE FOR THE CONDOMINIUM;
- (10) THE APPLICANT IS RESTRICTED TO THREE (3) UNITS ONLY WITH NO FUTURE UNITS BEING ADDED;
- (11) THAT THE CONDOMINIUM DECLARATIONS HAVE SOME RESTRICTIONS AS FAR AS BOATS, TRAILERS, SNOWMOBILES, THAT CAN BE DISCUSSED AT THE COMPLIANCE HEARING, RV'S, ATV'S, MOTOR HOMES;
- (12) TO THE EXTENT THAT THE FUEL STORAGE IS LOCATED OUTSIDE, IT SHOULD BE NOTED ON THE PLANS AND CHIEF PALM SIGN OFF ON THE FINAL PLANS, IF APPLICABLE;
- (13) ANY APPROVAL SHALL BE SUBJECT TO A COMPLIANCE HEARING REVIEW BY THE PLANNING BOARD;
- (14) FINAL SITE/SUBDIVISION PLANS NEED TO BE AMENDED TO REFLECT THE CONSISTENCY WITH CONDOMINIUM DOCUMENTS, I.E., DESIGNATED COMMON AREA, LIMITED COMMON AREA, ASSIGNED UNIT PARKING OF SIX SPACES (SITE PLAN SHOWS 5), ETC.;
- (15) WE STILL HAVE NOT DECIDED UPON THE PARKING. PERSONALLY, THIS PERSON IS IN FAVOR OF THE WAY IT IS THERE. I WOULD RATHER HAVE IT THAT WAY, LESS IS BETTER. THEY DO HAVE PLACES WHERE THEY COULD PARK. I THINK THERE'S PLENTY OF ROOM THERE AND I WOULD RATHER SEE IT

COME BACK SO I'M GOING TO LEAVE IT AS IS UNLESS SOMEBODY WANTS TO CHANGE IT;

(16) THAT THE PLANNING BOARD HAS THE RIGHT TO REVIEW AND AMEND ANY SITE PLAN APPROVAL AS PROVIDED IN THE SITE PLAN REVIEW REGULATIONS NOS. 7 AND 17; AND

(17) SUBJECT TO THE APPROVAL OF THE ARCHITECTURAL DESIGN REVIEW.

Finer – I'd like to see one other condition in there for the approval of the subdivision for the multi-family condo. Worsman – So you mean for no further subdivision, limited to three units. She already has that in there, but we have to approve the subdivision for a multi-family and that should be one of the conditions of the site plan. With that, I'll second it.

Kahn – I wasn't quite clear where the motion leaves the issue of restricting parking for RV's, boats, trailers, etc. It seemed to leave it for the Compliance Hearing but I don't quite know what that does. I think there should be some restriction in the Condominium documents on parking for RV's, boats, trailers, etc., and that we can review that restriction at the Compliance Hearing, but there should be some restriction. Bliss – Mr. Chairman, how about something to the effect that you can have one trailer, whether it be RV trailer, snowmobile trailer or boat trailer. You can't have one of each, each occupant can only have one per, one accessory vehicle. Kahn – If you put three 40' RV's on that site.. Bliss – And that should be in the one each. The condominium people should be able to have their choice, do they want to have an RV, do they want to have a snowmobile trailer, do they want to have a boat trailer, they get one of those. Not one of each, that's up to them. Vadney – Some things are self-limiting, but possibly allowing each unit to have one additional trailer or recreational vehicle type thing. Is that a reasonable recommendation? Do you want to try and tie that to this approval? Finer – Perhaps the applicant might have some proposed wording that he'd like to forward to us. Johnson – The difficulty, I think is in what gets parked. A snowmobile trailer's a lot less of an area than a 50' or 40' Winnebago. I think if the Board's concerned about that they should suggest to us that we identify an area of a limited size that they could store accessory vehicles or trailers in and say that there shall be no storage of those things other than in that area. We could make it a limited common area for instance. I get back to this whole purpose of limiting the amount of space that we're providing being the manner by which we control what gets parked there. I agree if somebody has a Winnebago maybe they'll park it on the lawn. I don't know if functionally you can get vehicles to the "out back". There is an area out back that's not highly visible from Mass Avenue anyway. Vadney – It's pretty steep up in there isn't it? Johnson - If the Board's having a difficult time wrestling with that and since we do have the benefit of a Compliance Hearing that you could technically revise the plan at a Compliance Hearing if you had to, would you like me to come up with a mechanism that restricts the

amount of accessory trailers and vehicles that can be parked on the site and see if that meets the Board's satisfaction at the Compliance Hearing? Bliss – Yes. Vadney – Well, could we give them some limit tonight to make it a little more definitive and we'll say that if each unit had an area 30' x 10' that's 300 sq. ft., three of those would be 900 sq. ft.? We would say come back and show us where you can provide 900 sq. ft. for these units to have additional vehicle parking, recreational vehicle type parking or justify why you need more or not. Does that make sense, is it easier for you to focus on something like that. Bliss – Mr. Chairman, if I could just make a comment on that. What I do want to be careful of is that we, somebody said out back, but you stack them out back and you're going to start cutting your buffer and if we start getting in the side, you're going to lose a lot of that good buffer that's there and I don't want to see that lost, I think that would change the character. Vadney – If we say 300' x 3, 900 sq. ft. and identify a place and if it turns out it's over on the wetland, we'll probably not go along with it, he knows that, when it comes back to us, but at least that way we both know that there was some quantity specified and they know what they are working to and if they don't like it, they can come back and ask for 15,000 sq. ft., we don't have to take that either, but this helps I would think focus a little bit rather than just say do something. Bayard – There is the start of addressing that in Exhibit D on Page 37 of the condominium documents J and K. It left it to the Board of Directors of the condominium which I think is what we want to avoid so that the intent of what they are talking about here is actually done is what we're actually looking for here so I think that could certainly be reworked. I'm not sure 900 sq. ft. unless it's limited in number would make sense or else you may end up with this rather eclectic parking area of various vehicles. Perhaps one accessory vehicle per owner in that area might make sense. Vadney – Thirty feet long covers most boat trailers, most or all snowmobile trailers or horse trailer whatever you like and 10' feet wide that's 300' per unit. I don't care if you put quantity on it, I just thought it might help for us to know what we were expecting back and for them to know that kind of thing. If you want to take the numbers off that doesn't bother me, that's up to you. Worsman – Carl, and I haven't read the declaration documents, is there something in there that protects the buffer areas so there's no accessory structures going in there. Johnson – Not specifically. There is something about accessory structures and the one that's being mentioned is the possibility of utilizing the concrete slab that was out there for a shed to keep equipment in. The intent is not to have equipment laying all around the yard. I think the 30' x 10', 900 sq. ft. total, is a reasonable place to work from. If somebody has a \$150,000.00 custom RV, they can probably afford to store it somewhere other than their yard. Vadney – We have a motion by Pam and a second, with now a discussion item of whether we need to add something for controlling these RV type things. Do you want to make that an amendment to your motion in any way, Pam or you can ignore the whole thing if you want. Bliss – Can you clarify what you want amended? Finer – I think it's in there as far as coming back to the Compliance Hearing, that's

what she had in her motion. Bliss – That's what I said to come to a Compliance Hearing. Kahn – The applicant shall come back to the Compliance Hearing with an acceptable proposal regarding parking of other vehicles and trailers. Finer – I believe the applicant understands that. Vadney – Without putting the numbers in the formal thing, you've got the ballpark? OK and that's covered by your current motion. OK, Lou, new issue. Kahn – It's hardly new, I disagree with Pam on parking and John, it seems to me in his staff review, was somewhat confused and indeed I spoke to him on this subject today and he assured me that what he says in the staff review and that is the site plan shows five (5) outside spaces. It does not, it shows, if you look at the small site plan here where the automobile shows up, that's one space, the space next to it is the second outside space, the space next to that is actually too small because it's sort of between two (2) garages. The next space is a garage and what appears to be the next space is apparently not a space, it's just dead space, am I correct Carl? Johnson – Point of order Mr. Chairman, John Edgar was not reviewing the plan that's in front of you, he was reviewing the plan which was the original submission which showed five (5) spaces. Kahn – Although it seems kind of nutty to me, our regulations require 1.5 spaces per unit, that total up to 4.5 rounded to 5 for three units. It seems to me that you could widen the driveway slightly next to where that little car shows up on the drawing and you could get two (2) spaces in there and there ought to be five (5) spaces that comply in size with our regulations so my proposal is to amend the resolution to require five (5) outside spaces that comply with our size requirements. Bayard – If I may make a comment on that before I second it, that it be five (5) spaces that comply because I'm still trying to make a point because the third garage could very well accommodate if designed properly a vehicle so that it be five (5) spaces that meet our regulations whether they be inside or out. Kahn – Our regulations are 10' x 20'. Bayard – It's conceivable that it could be designed that way. Vadney – You want to be careful with that because the 10' x 20' is something we apply to commercial sites like Mill Falls and things with visitors and tourists and stuff coming. We don't apply that to something as small as this, certainly we wouldn't apply that.. Bliss – Mr. Chairman, I'd also like to point out for many commercial things we waive parking spaces and I just think it's too bad for us to.. Kahn – And sometimes we regret it, but we just recently with Bryant Island required 350 sq. ft. for each house. I'm not wedded to 10' x 20', on the other hand, I think a space ought to be big enough that people can get a car into it and be able to get out of the car. I owned a house that was built in the 1920's and I had a garage that was built in the early 1920's and you could not, if you got a car into it, you couldn't get out of the car, so looking at the age of this house and looking at those two existing garages and looking at the fact that they are only 15' deep, I am convinced that no one is going to be parking there unless they happen to end up with one of those smart cars that I don't think are permitted in the United States these days. Vadney – Lou's made a motion to amend, we need a second to the amendment. Bayard – I will second it based on the criteria I

said that it be five (5) spaces that can accommodate cars presumably that would be roughly 10' x 20', either inside or out. Vadney – The garage door going in is usually 8' wide keep that in mind. Bayard – I'll say adequate spaces with the assumption that the two (2) that are there already are not adequate. Vadney – If the third one can be made big enough is what you're saying, right? So the question is do we want to go with Carl's recommended three (3) inside, three (3) outside, 6 spaces or do we want to amend it and say add at least two more outside, that's effectively what you're saying. Kahn – What I said was add two (2) more be they inside or outside of adequate size... Bayard – And is that acceptable with Mr. Kahn? Vadney – So you would add one more outside if the one inside was big enough? Bayard – Right, and that does appear to be acceptable. Vadney – You're all clear on that amendment, right? Mary Lee, poll the Board on the amendment. Vadney – The amendment will be to require at least one and possibly two additional outside spaces, is a reasonable way of saying it. Kahn – I think it's to require two additional spaces inside or outside of adequate size. Voted 5-3 against the motion to amend. Vadney – We do have the right to review and amend should what is proposed not work and the land will still be there for modification. Worsman – Is there anything we can do to protect the buffers for the neighbors to limit tree cutting, anything to give them additional privacy that would prevent them from having to sue, to put up a fence or something like that? Vadney – There's not much we can do that we haven't already done in there probably. Bliss – I would just add to that, I think we really need to ask Carl that we don't want him to cut any more trees. We were all out there tonight. There is a significant amount of trees; I wouldn't want to see anything cut. I also wouldn't want to see fencing around the whole thing; it doesn't go with the neighborhood. Vadney – Let me point that these very same trees are these new people's protection. It's to everybody's benefit to keep them.

Voted 5-2 in favor of the motion.

Vadney – We now have to look at the subdivision of this property and the architectural design review for official votes. They've already been discussed as part of the full discussion so we can discuss them more or go straight to some type of motion. To vote to prohibit the subdivision, the one we just did becomes a moot point. Bayard – It may have been discussed and it may even be in the condominium documents, but will the addition retain the same type of siding? For the record, you're saying "yes". Vadney – So we need a motion on what to do with the subdivision of that property.

Bliss moved, Finer seconded, MR. CHAIRMAN, I MOVE THAT WE APPROVE RICHARD AND GAIL FREEMAN FOR A PROPOSED SUBDIVISION FOR A MULTI-FAMILY USE INTO CONDO OWNERSHIP, TAX MAP U03, LOT 8, LOCATED ON MASS AVENUE AND HILLRISE LANE IN THE RESIDENTIAL DISTRICT. Voted 5-2 in favor of the motion.

Finer – Would that be subject to the restrictions of the previous motion? Vadney – They could still subdivide it, they just couldn't do anything. The site plan is still valid. Then I will second it. Vadney – Now we have to look at the Architectural Design Review. In that case what we're really looking at is there's nothing taking place here that is outside of the conditions of the neighborhood, that it would be an eyesore, you know the things we always look at. Kahn – John has a reference at the bottom of Page 3 about lighting. It says it will be addressed as part of the architectural review. Vadney – Yes and Carl read that in. That's certainly a condition we can put on any motion if you like. It's actually part of the site plan itself. What we have to do is find if this proposed design demonstrates substantial conformity with the general and specific criteria set forth in the ordinance as far as the neighborhood character and the like. I see no reason to argue with this design.

Finer moved, MR. CHAIRMAN, HAVING FOUND THAT THE APPLICANT HAS DEMONSTRATED SUBSTANTIAL CONFORMITY WITH THE GENERAL AND SPECIFIC CRITERIA SET FORTH IN OUR ORDINANCE, I MOVE THAT WE APPROVE THE ARCHITECTURAL DESIGN AS PRESENTED AND THAT THE PROPOSED LIGHTING BE DOWNWARD LIGHTING AND SENSITIVE TO THE NEIGHBORHOOD. Bliss seconded.

Bayard – Just for the record, I would like to have added that the proposed lighting be downward lighting and sensitive to the neighborhood. Finer accepted.

Voted unanimously.

We don't always like what we do either and I do think if that is going to become more than a single-family dwelling, your chances of having it fit your neighborhood are better if it's a condominium than if it was turned into a pure rental. Kahn – With respect to the earlier motion, I guess it should be covered in the condominium documents, which will be reviewed, but the issue of inside storage of garbage needs to be addressed. Finer – It's in the documents already and Bill and I checked it here a minute ago and I think Carl will work on that. Finer – Carl, in the documents, it does say something about a location of the dumpster. I'd like to see that removed and just put not outside storage of garbage.

PRE-APPLICATION REVIEW

1. **MICHAEL DIBITETTO** – Pre-Application Conceptual Consultation to discuss possible development of Tax Map S17, Lot 2, located on Ladd Hill Road in the Central Business and Shoreline Districts.

Mr. Chairman and members of the Board, for the record my name's Michael Dibitto, I'm a resident of Hooksett, NH, and I'm here to discuss

the parcel in question. Basically, I'm here to talk about the zoning and how it applies to this parcel. My firm has a conditional agreement to purchase the property and we're in the due diligence portion to determine what feasibly can be done on it. In meeting with Mr. Edgar and the Building Inspector and I have to give them kudos for the time that they took to sit with us. They were extremely accommodating. At that point, we learned about the Waukegan Watershed Overlay District. We hadn't been cognizant because I used the web site and I wasn't getting a full understanding of that zoning amendment that had been passed. The underlying zoning in this is Central Business District which does permit quite varied uses from commercial to residential and by special exception, multi-family dwellings which is one of the uses that we are considering on the site. The question and discussion that I kind of was hoping to have tonight was how the District might be applied to this parcel. Approximately half the site, these 19.2 acres seems to be delineated within the Waukegan Overlay District. Interestingly, it's the higher portion of the site. The lower portion closer to Winnepesaukee is outside of that.

Vadney – Not knowing exactly where this lot is, can you tell us what the lot is?

Dibitetto – Yes, it abuts the Meredith Harley Davidson. In fact, it is currently owned by the same people that own Meredith Harley Davidson, PMS Realty Trust and it also abuts Hart's, it's got about 650' on Upper Ladd Hill Road. It appears that the overlay district does not really restrict commercial development significantly. I don't see any reference to a change in zoning in the case of a commercial use.

Kahn – The lot size for commercial zoning is the same 2-acre lot size that's required in the overlay district. What you need to be looking at is not lot size, but the escape hatch that you saw used today for that condo development and that is can it be established to the reasonable satisfaction of the Planning Board that the land does not drain into Lake Waukegan and it was land like this that we had in mind, we can't say right now that this land in fact doesn't drain into Lake Waukegan, but it's certainly land located around this area that we had in mind as needing a possible escape hatch because things that have happened since man constructed roads and culverts and what have you, probably in many cases will cause the land to drain otherwise. That doesn't mean that you can now start constructing culverts to drain the land into Lake Winnepesaukee, but if in fact it doesn't drain into Lake Waukegan and it can be reasonably established, then the Waukegan Overlay District doesn't apply. Unfortunately, we seem to have some indication that at least a portion of it may, a part of the culvert that runs by Meredith Harley Davidson, but does seem to head out toward Waukegan and the Code Enforcement Officer told us to be cognizant that there's probably some of the site that's heading that way. We haven't done the engineering required to really make a comprehensive determination of it, obviously we will.

Kahn – If you have the Overlay District language, you'll see that where a portion of the lot is in this district and a portion is out of the district. It's only the portion that's in the district

that's in the district that's restricted. Dibitto – And is it restricted as to commercial use. Kahn – The restrictions as to commercial and residential are two acres, they are identical. Dibitto – But if it were one lot and it was developed as a large commercial use, there are no additional restrictions beyond the lot size? Kahn – The Waukegan Watershed Overlay only restricts subdivision. Dibitto – Thank you, which is how I read it and I actually appreciate the clarification. That said, it's a possibility to develop a portion of it as commercial and a portion as residential. Kahn – Whether you can develop residential or commercial is an issue under which zoning district, forgetting the overlay district, the lot falls into so the Waukegan Overlay District does not govern whether it's residential or commercial, the ordinary districts are what govern there. It doesn't change it. Dibitto – Our desire would be to develop this as a multi-family site in its entirety. The question or the clarification that I was looking for here tonight or may not come through tonight, but hopefully we could get a handle on it. The area that does fall into the Waukegan District, once it's verified that it is subject to it, has a density of one unit on two acres. Kahn – One single-family unit for two acres, yes. Dibitto – On the underlying district as the project before this indicated, it's a 10,000 sq. ft. per unit density. Kahn – I don't have a zoning map in front of me, I don't know whether you're in the commercial district or the residential district or where you are. Dibitto – It's in the Central Business District. Vadney – The whole piece is in Central Business. Dibitto – It is our understanding that it is and I'm not asking you to verify it, I'm really going to make a statement and then propose a scenario. That being the case and understanding.. Bayard – That requires sewer and water for the 10,000 sq. ft. Kahn – In the project that was before us tonight, that's in the residential district and in the residential district if you have Town sewer and water, it's 10,000 sq. ft. I don't know what we have in your district and I don't know whether or not it depends on the availability of sewer and water. Dibitto – Yes and it does, it does require it and that site does have sewer and water access. It would be the intention to connect up to both. What we would prefer to see is understanding that there is an interest in protecting the Waukegan Watershed, is we would like to draw the units out of the watershed so in essence develop on the land that does not lay in the watershed overlay. What we are seeking clarification of is that if we did that, whether we would be using the underlying zoning district density so just as a rough calculation, we've got 19 acres, let's use 20, at 4 units an acre, we'd be looking at 80 units. Since 10 of it is in Waukegan in my scenario, the indication would be if you were developing within that district, you would be developing at one unit per 2 acres. Vadney – If that portion of the Waukegan Watershed actually drains into Lake Waukegan. Dibitto – Understood and we do need to make that determination, but before investing a tremendous amount of money to make that, I'm hoping to understand how we could apply the density requirements. And we believe that the Town has made a valid

determination in saying we want to protect that watershed so it would be our interest to stay outside of it except to the extent that we had to put roadways and utilities across it. Could we use the 4-unit per acre density and just concentrate that development on the land outside the district. Vadney – My first thought is probably not. Kahn – If I understand the non-applicant, the seeker of information wants to take the units that would be available in the watershed district and add them to the units that would be available, it's a kind of a quasi-cluster, I don't think we've got that. It's an interesting thought, but I don't think we've got that, I don't think we have a provision for that. Dibitetto – John Edgar wasn't sure either which is why we're here because being fairly versed in the ordinance; he was able to answer just about every other question at the snap of a finger. That one, he said, he's got to send to the authorities. Kahn – None of us here, we happen to have the Waukegan Overlay District language in front of us, but none of us here are sitting here as far as I know with the zoning ordinance and no one can give you that answer tonight. Dibitetto – I understand that. Kahn – But I'm telling you what I think the answer is, I think the answer is, we don't have any provision for a sort of a cluster where you take the density out of the Waukegan Watershed and then get a greater density on the other part of the lot. Vadney – John Edgar pointed you to us as the authority and has misled you. My first thought was no it wasn't legal (inaudible). I tend to agree with what Lou was saying that it would be an odd way of looking at a cluster. At the same time, if the option is that you take that 10 acres and put five houses in it, if it's determined to be two-acre zoning, if there were some way you could put that five on the other side if it had some benefit of leaving that 10 acres in a green zone or something. If it's legal, we look for flexibilities like that so I won't say that I'm against it, I'm not sure I can support it legally but from common sense, it looks like it might be a beneficial thing. Dibitetto – It looks like we might be one of the first to have posed this question. Vadney – To pose it in that way. Dibitetto – We were the first ones so I like to be the pioneer. Vadney – If it turns out if we looked at it as more beneficial for us to keep that 10 acres in kind of undisturbed area and you had four additional or five additional units, whatever the number turns out to be on the other side of that easement or wherever it is, that seems like something we ought to consider doing. Kahn – We're just not sure we have any legal authority. Vadney – It may be totally illegal, but if it's not totally illegal, it's certainly something I think we should look at. Bliss – Is that something John could look at with Tim Bates and I would just caution the applicant, you just saw what we went through with the last hearing and if we're not sure about something, we don't want to pass something, but you are going to have people up in arms and it's going to make it a lot harder to go through. I would like to see us try to clarify that in some way or is it the applicant's responsibility? I think it's something that Tim Bates should look at. Like you said, if John didn't know, I can't believe he sent you here. Dibitetto – His indication was to some extent it

was a policy. Vadney – Yeah, it is and it's good that you came and at least alerted us to it. Now, there's roughly 20 acres or 19 acres and we've been over that land a couple of times for other purposes but does it look like there are any steep slopes and things that will be excludable? Dibitetto – On the first walk, we didn't notice anything that would be defined as steep slopes. There are some watercourses that would need to be addressed. It's been fairly much clear-cut; I don't know if you have seen it. Apparently, that was a common thing just prior to the water district plan being adopted because I noticed a few other sites that seemed to have a last minute haircut. Is it your belief that the Zoning Board of Adjustment would be the place that would have to make that call? Kahn – If it's not something that's permitted by the Zoning Ordinance, I suppose you could apply for a variance. I can't see any other way to slice it. Bayard – Can I ask a question? I'm not sure where you're going with this in your example of 10 and 10. Were you talking about 45 or were you talking about 80? Dibitetto – I'm talking about 80, but I'm hearing 45. I guess what I'm saying, somewhere between 40 and 80, I don't know what the ultimate number is, but I'd like to know what our parameters are because obviously it's threshold determination on whether we want to go forward on this acquisition. Kahn – I have no idea because again I don't have the ordinance here in front of me, what the rules are with respect to that portion of the lot that's outside the Waukegan Watershed and how that applies with respect to residential development. I know that our ordinance is fairly flexible about residential development in the commercial zone. We tried in a recent attempt to amend to encourage greater density in terms of residential development in the commercial zone, it didn't pass. Dibitetto – The density that's permitted is actually a good density from the standpoint of my point of view. I don't think it's an unreasonably low density. It's consistent with village-type uses. It does permit condominium and multi-family. That would require a special exception and we recognize that so we would intend, all things being equal, to go through that special exception process and it would be more than likely we would look to do this as a single lot and a condominium so we would not be subdividing into separate house lots which led us to this point where we determined if we could set up a conservation area in one portion of the site and move the density to another portion which is not uncommon in multi-family or condominium uses where you do leave some open space areas. Then comes the question of at what density would we be doing this? Obviously, we'd make the argument that the underlying district says four units an acre and we'd like to use that as our upper limit and see what the site constraints would do to adjust that downward. Kahn – My question would be, I don't think the cluster provision applies in the commercial zone, but it's easy enough to see. The only way I think you can get this done and I'm not an authority, is I think you'd have to go under the cluster provision and I don't think that it applies in this zone. Vadney – Who owns this property now? Dibitetto – It's currently owned

by the Meredith Harley Davidson people. They bought it I understand with the intention that they might have to expand their site and apparently they've determined that they've expanded to the extent they will ever need to and the rest of the land because surplus. I don't see that the cluster provision that we have applies to the Central Business District which doesn't particularly surprise me. No one in his right mind would think that you'd be putting a cluster in the Central Business District. That being the case I don't think there is any provision that can be used to transfer density from one portion of the lot to the other portion of the lot. I think density is what it is in the non-Waukegan overlay area and it is what it is in the Waukegan overlay area and you can build here or not build there as you choose. I don't think you can transfer it from one portion of the lot to the other. I don't think we have any provision for that. Dibitetto – I'm not sure that's actually what I'm asking to do but maybe. When you have one site and you choose to locate your buildings on one portion of the site, that's not necessarily a transfer of property rights from one part of the site to the other. Vadney – It would be if you then clustered into some density that was excessive on one end unless you could gerrymander the shape of the lot so they all had some stub that added acreage. Dibitetto – We could put multiple lots in a condominium form with no lot lines, could we not under your provision. I guess I'm going to have to do a little further research. Kahn – I think I hear what you're driving at, you're saying the condominium association will own the whole lot and one portion of the lot is going to be restricted common area. It will be available only for wild life and another portion of the lot will be a parking area and a third portion of the lot will be housing and I think the answer is, I think you may be onto something. I think that maybe you look at the whole lot and you figure out how many single-family dwellings can go on that whole lot on the basis of the underlying zoning and the Waukegan Watershed and I think you can build whatever you want to build wherever you want to build it and I won't be bound by what I think. Bayard – I think it's a stretch to say we're going to allow 80 units there. Vadney – 80 would be excessive because you know there's going to be some exclusions. Bayard – But we're putting a cluster in here and just calling it a condominium. Kahn – A condominium sort of is kind of a legal cluster. Dibitetto – I think a lot of these units are going to be attached units. I don't think we were looking at whatever the number is and I don't want to quote it again. Separate single-family detached units clustered together. I think you're going to be looking likely at a combination of some multi-family buildings held in condominium ownership and there may be some 1 or 2 unit condominiums as well. Vadney – The bigger philosophical issue for the Town and for us is we don't have a whole lot of Central Business and Industrial type areas in Town, we hate to lose it to residential. Dibitetto – Understood. We looked at the site and said Upper Ladd Hill Road, it's not exactly prime for commercial development right now. It may become, I know there are traffic improvements so that may be coming so I guess we're not adverse

to the thought of creating two separate types of uses on the site although we haven't pursued it quite yet. Kahn – I caution you that it may be 10,000 sq. ft. with water and sewer, but you're probably still subject to soils and slopes and I would guess looking at your layout here that the easterly portion of that lot is going to be a pretty good slope. Upper Ladd Hill Road at that point is sloping back down toward the south, but the other portion of your lot, my guess is dropping like a stone toward Lake Winnepesaukee. Dibetto – I would say this lot has a tendency to flow northerly and westerly. Kahn – I would caution you because we've had some very knowledgeable people in Town do the same kind of division you've done in terms of how many units am I going to be able to get on this lot and run afoul of soils and slopes. We've got lots of slopes and our soils are really lousy. Dibetto – So you use the soil designations even in a case where you have sewer and water, that's part of your regs. Kahn- I think so, that's something you could talk to John about. Dibetto – I guess I'm not asking to put you folks on the spot, but I was hoping that this discussion would take place and I appreciate that some of the concerns and thoughts I had are being expressed by you as well and I would like to pursue to it to the end where we could then say this is doable or not and I guess I'm looking for some guidance from the Board as to where I might find that. Should I go back through John? Kahn – That's absolutely the place to go. Vadney – Yeah and I'll work with him off line on this and we can discuss as a Board. Kahn – What do you see as your price range? Dibetto – It really depends on the type of units we end up looking at. Kahn – Meredith Harley Davidson would really like to see some housing for their employees. Some of those folks have to live north in the Notches. It's a terrible problem in this Town. Dibetto – We're running into it as well in my town. We can't get any affordable units and if we went with the multi-family building, we'd be more likely to be able to get that price point down. Finer – I know it's not part of your presentation before us tonight, but I know one of the things we'll be looking at if this comes back as a formal application is the traffic. It's going to be dumping onto Route 3 right next to Hart's, that's a horrible spot to be putting a lot of traffic in so keep that in mind when you work it up. Dibetto – I guess we'll be looking at the improvements required on Ladd Hill Road too that's a little bit bumpy. Obviously, there's going to be some upgrades. Finer – heading south on Route 3 if they are going to be turning left right after Hart's to get up there, you're going to have problems. Vadney – The Town may have to start looking at things like making the north end of Upper Ladd, making it one-way going to Town with no left turn up toward 104 and making the bulk of your traffic come out through what's being built in a year or so, the traffic circle. We have looked at some of those things. If you're looking at 60 units or something like that, you're looking at 600 cars/day so that's going to start pushing that envelope pretty good. Dibetto – We'll follow up with John and hopefully we'll be back before you. Bayard – I just want to qualify that I really do think there are some legal issues here. I don't think

we can just sort of say that they can fit 80, if the soils and slopes meet it because there is that overlay district and condominium and cluster issues, etc. Dibitetto – The reason why this even came up and your point is very well taken, the Board can't waive zoning. There seems to be a little crack in the ordinance that seems to indicate that it's intended to regulate the way the land in that district is developed and the sense that I got in reading it initially was that if we could be more sensitive to those development concerns, that we might be able to accomplish what we are hoping to. Finer – A thought popped into my head, if it's proven that the water does not flow toward Waukegan at all, then he can do 10,000 sq. ft. density over the full 20 acres, subject to other limitations. Dibitetto – That's the threshold density calculation and obviously as we know, density is always reduced rarely increased. Vadney – Typically, we would be somewhat flexible if there were some way to protect the 10-acre section, particularly if it had some access to the general public and stuff. It becomes a benefit to the Town. Bliss – Mr. Chairman, I would caution that statement with we don't know who's going to show up as an abutter, we don't know what's going to happen, we don't know possibly if you're going to get taken to court over something because they don't like what's being done. My suggestion would be a little bit conservative because when people hear 80 lots, they tend to and yes it's your land, but shuts people off at the gate.

Meeting adjourned at 9:59 p.m.

Respectfully submitted,

Mary Lee Harvey
Secretary
Planning/Zoning Department

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

William Bayard, Secretary