

PRESENT: Bayard, Chairman; Sorell, Vice-Chairman; Dever, III, Secretary; Kahn; Lapham; Touhey; LaBrecque, Town Planner; Harvey, Adm. Asst.

Sorell moved, Lapham seconded, I MOVE WE APPROVE THE MINUTES OF MARCH 22, 2011, AS PRESENTED. Voted unanimously.

Committee Appointments: CIP – Lou Kahn and Ed Touhey
Routes 3 & 25 – Liz Lapham
LRPC Commissioners –John Dever, III & Herb Vadney expressed an interest in remaining on that committee.
Energy – Bill Bayard will remain.

APPLICATION SUBMISSIONS

1. **DAVID M. DOLAN ASSOCIATES, PC FOR L LAKEHOUSE LLC** – Proposed Boundary Line Adjustment to transfer 3.46 acres from Tax Map U18, Lot 12, to Tax Map U18, Lot 13, located at 50 Wagon Wheel Trail in the Shoreline District.

These are two lakefront properties and the applicant's proposing to do a boundary line adjustment to convey approximately 3 1/2 acres from Lot 13 to Lot 12. The plan, application, checklist and abutters list are on file. Application fees have been paid and it's recommended the application be accepted as complete for the purpose of proceeding to a public hearing this evening.

Dever moved, Sorell seconded, I MOVE WE ACCEPT THE APPLICATION AS COMPLETE AND PROCEED TO PUBLIC HEARING THIS EVENING. Voted unanimously.

2. **NICHOLAS & JEANNE RAFFAELLO FOR ESTATE OF PATRICIA M. NESTOR-** Proposed 3-lot Boundary Line Adjustment between Tax Map S09, Lot 10 & 10A and Tax Map U19, Lot 2A, located at 103 Meredith Neck Road in the Meredith Neck District.

LaBrecque – This is a boundary line adjustment plan for the purpose of basically relocating the strip of land that makes up a flag lot. The application, plan, checklist and abutters list are on file. Application fees have been paid. It's recommended the application be accepted as complete for the purpose of proceeding to public hearing this evening.

Sorell moved, Dever seconded, I MOVE WE ACCEPT THE APPLICATION AS COMPLETE AND PROCEED TO PUBLIC HEARING THIS EVENING. Voted Unanimously.

3. **HAMPSHIRE HOSPITALITY HOLDINGS** – Continuation of a Public Hearing held on March 22, 2011, for a proposed Site Plan Amendment to construct two new buildings housing 13 hotel rooms, pool and public space, plus a covered walkway, Tax Map U06, Lots 147 & 149 located on D.W. Highway and Lakeshore Drive in the CB District.
4. **HAMPSHIRE HOSPITALITY HOLDINGS** – Architectural Design Review of two new commercial buildings, Tax Map U06, Lots 147 & 149 located on D.W. Highway and Lakeshore Drive in the CB District.

Rusty McLearn – We had our public hearing on March 22, 2011, The project we have before you with the exception of some details is exactly the same as the project we presented that evening. That meeting was continued to allow for a Planning Board site visit which most of the Board attended and for Lou Caron, Town Engineer, to review the work which had been done and then to resolve any of the issues he had with Paul Fluet, HHH Engineer, was available to answer any questions. Lou's questions were answered by Paul. The changes were made that were necessary with the exception of one item. We had a miscommunication between my team and the Architect and the Engineer and I didn't really learn of it until recently when Angela contacted us and it's a height of the parking lot is a couple feet different in one area than its supposed to be so with Angela's permission Carl is going to resurvey that area tomorrow and then we will replot that and will bring that part of the parking lot up and that will be re-reviewed by Lou and hopefully taken care of administratively by Angela. That miscommunication was on our part and not Lou's. It's a grading and elevation issue from the front door to where an elevation is. We also have a full landscape plan and with that landscape plan, Angela has the plant schedules to go with it. It also has a landscape grading plan. When we had the site visit and the discussions at the March meeting we had discussions about abutters concerns. I have met with the L'Heureux's a number of times and had a brief conversation with Bobbi Smith at the site visit. What I have proposed and what the L'Heureux's have seen and Bobbi has just seen are signage, gates, a turnaround, an automatic privacy gate for around L'Heureux's garage and he demonstrated the signs that would be erected to keep people from turning around and the second page of that is an order to purchase motorized gates for in front of L'Heureux's garage and if people did go through those gates, there would be a sign indicating Private Road, No Turnaround, No Trespassing on both sides of the road plus a 2' x 2' sign indicating a turnaround and if they parked there, they would be towed. There will be gates in front of Mr. L'Heureux's property and our garage door clicker operated to keep people from turning around there. Mr. L'Heureux will at some point in time in the meeting get on the minutes and put in what he would like to make sure the Board is going to make me or a successor do. I think we've got a good plan, it will stop the people. If it does not take care of the issue and I think Angela has this in writing, I will stipulate again today, we will then station a person at the end of the driveway. I think we will probably institute this traffic pattern and mitigation this summer even before we start anything to make sure that it's working. If it's not working we might as well know sooner rather than later. The Mill Street lot

is basically done, it's all graded. The landscaping isn't done, one large pine tree is in, none of the others are yet and the apron isn't paved yet. The meeting room at the carriage house is pretty much done but the carpet's not in and the first group goes in there May 4th as long as we get our C.O. The plan itself has come together beautifully, the landscaping is terrific, you guys saw what the rooms were going to look like, those rooms are now basically done, we're staining the floors in the downstairs unit that had the fireplace and we'll be doing some landscaping up on that end. On the landscape plan something the L'Heureux's and I talked about is their dining and living room are on this side so I originally had taller trees planted there to shield their house. What we've decided to do because they didn't want me to block their view with tall trees, we're putting in lower landscaping and we put on the plan that there is a sight restriction area so the trees growing there will be smaller. Basically, everything we've talked about for the last few months has come together and Lou Caron seems to be happy with everything so that's all I've got.

LaBrecque – I just want to note quickly a few things we discussed at the last meeting to follow up on and some other points I wanted to make. A couple of DES Permits are required, there's a Dredge & Fill required as well as a Shoreline Permit for the activity that's taking place within 250' of the shoreline. Lots 147 and 149, the Biddiscombe and Church Landing property lots will have to be merged and joined prior to the final Site Plan being signed off by the Planning Board. There were comments made by the W & S Supt., Dan Leonard and those comments were reviewed by Paul Fluet and incorporated into the plan. Essentially, one of the biggest changes that came from that was the water service line was upgraded to a 6" line and a hydrant was put on the end of that for additional fire suppression and that's at the portion of Lake Shore Drive before you get to the gates that will be installed. The utilities are being placed underground and I believe that will require some excavation on the Nash Realty property so written permission from Nash Realty will be required. A portion of Lake Shore Drive will be closed so provisions will have to be made for emergency access and continued resident access to their homes so that will not come before the plan is signed but it will come before our pre-construction conference so the Fire Chief, Police Chief and Bill can review that and make sure its adequate enough to make sure folks can get to their homes and emergency vehicles can access those houses as well. I checked with DOT and this will require a revised driveway permit so that's something that would need to be obtained and referenced on the plan. A waiver request is in place for 9 x 18 sized parking spaces rather than a 10 x 20. I believe all the other spaces on that site are 9 x 18 as well. The things revised on the plan as a result of a conversation between Lou Caron and Paul Fluet: Identification of adequate areas for snow storage were addressed and modified; additional information regarding the retaining wall; some of the pavement details were added as well as elevation details; turning arrows point to where the turnaround is right before you enter the private road have been added to the plan to clearly show where to turn around; a couple of guardrails were extended; and there were some minor modifications to the storm drainage system. Overall, everything was incorporated and Lou seemed happy with the final plans. He did review the revised set of plans prior to writing this report so other than that change in elevation, basically what Rusty was discussing earlier was the grade at the parking

lot immediately in front of Building #3 which is the building closest to the existing hotel is a few feet different so rather than going up steps because there are a couple HC spaces there, I believe Paul is going to engineer a few feet rise in elevation for that parking lot. I was hoping maybe Paul could briefly explain that tonight. The abutter's concerns about entrance into the private drive I think would need to be stipulated in the approval that all of the concessions made by HHH are implemented to ensure that this plan is a success and works for the neighbors and abutters.

Fluet – The miscommunication had to do with the existing parking lot which I thought was not going to be changed and the first floor of Building #3 has about a 2 ½' difference. If you've been into that lower parking lot, it does slope down quite a bit and there's a catch basin at the bottom and basically what we're going to do is by raising the end of the parking area we will have to move the low point upslope and then put a new catch basin over the existing pipe that will now be the new low point and that way we'll be able to access the building with either no or one stair to try and make up that 2½ to 3' difference. Carl's going to do a little more detail survey of the existing conditions there and once I get that I'll be able to figure out the best way to tip that in back up and where the low point needs to be. It's going to be pretty simple.

Touhey – If you're going to raise that area, are you going to have some kind of a retaining wall? Fluet – The actual building is a retaining wall and then on the other side is the retaining wall to the other parking lot.

Maurice L'Heureux – Most of these items have been discussed with Rusty and they've all been agreed on but I want to have them recorded into the minutes of the meeting so at a later date there's no questions. One question I have that was not fully discussed is the sight vision we have, he's talking about 12' trees and I think those are a little high.

McLear – Plantings proposed within in this sight line have habits of growth that will not interfere with the abutter's view so I shouldn't have said 12'. We mentioned to Rusty that besides the click buttons, we want to have a key pad on there in the event we want someone to go to check the house, we can just give them the numbers and they could punch the key pad and get in. They are to be responsible for this but I would like a reasonable timeframe to be established. In the event they don't take care of it, I hate to have to hire an attorney and start legal action. I think it should be noted if he doesn't take care of it and we don't come to an agreement, you people have got to pull his C.O. out of those units until he does the repair and takes care of the problem that exists.

LaBrecque – Mr. Chairman, I can comment on that really quickly. The letter dated March 26, 2011, does speak to having a gate installed at Mr. L'Heureux's property and I recommended in the staff report that items 1-7 noted in this letter are in place prior to a Certificate of Occupancy for the new rooms. (Page36) On Page 25 of the staff review report under the section of parking, the first underlined section is where I tried to address that type of concern, but certainly the Board can modify that however you see fit.

L'Heureux's – That's prior to giving him a CO. Once he has the CO and the place is being occupied, the unit goes on the fritz, needs to be repaired and nobody takes care of it, what recourse do we have? If its specified and noted that they don't repair this within a given length of time, you have the right to pull the CO and they cannot occupy those units until its corrected, now we've got something that's worthy of having.

McLear – We've had a number of conversations about this and while I do think pulling a CO for this is a little

draconian, frankly, I don't mind. You can put that in if the gate breaks and I don't fix it in 5 days, I can't occupy the units until I fix it. Bayard – I'm not sure that's something we necessarily want to put in directly. There are a couple of options, you can talk to the Town Zoning Administrator and we have the right to review and amend something if there's a continuing problem. We generally try not to get involved in litigation amongst the parties where they would disagree on some particular issue. We prefer them to have the issue resolved among themselves because we could open up a can of worms and start having CO's open and contingent on a variety of things and it could tend to get out of hand and it would lead to us not just being an enforcer but acting almost like a legal enforcer of issues. McLear – I just mentioned to him something I could do between the two of us and that would be to set up a savings account or bond or something like that so funds are available if this thing breaks to access to hire an electrician. L'Heureux - I don't want to create any problems and I don't want any problems either. McLear – We'll work something out and I'll make sure Angela gets a copy. L'Heureux – The other item is they are removing the power from overhead to underground to the house and there will be damage to the roof because we do have a pipe going up through the roof for the power so we want to make sure this doesn't look like an eyesore once its done and the roof will be repaired and this pipe taken out to make it presentable. Dever – Has he already agreed to this? McLear – We will hook up the new power to the house, take the old mast off and make the house look like it has had underground power from the beginning. Dever – What few dealings I've had with Rusty, he's been pretty trustworthy and what he has come forward and said he would do, he does. I don't see a need to make it a condition of this approval. McLear – He'll have it in writing also. Public Hearing closed at 7:33 p.m.

Dever moved, MR. CHAIRMAN, I MOVE IN THE CASE OF HAMPSHIRE HOSPITALITY HOLDINGS FOR A SITE PLAN AMENDMENT ON TAX MAP U06, LOTS 147 AND 149, LOCATED AT 281 DANIEL WEBSTER HIGHWAY IN THE MEREDITH BAY WATERSHED AND CENTRAL BUSINESS DISTRICT, WE GRANT CONDITIONAL APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) A DREDGE AND FILL PERMIT FROM NH DES IS REQUIRED FOR THE PROPOSED DOCK AND BOAT SLIPS.
- (2) A SHORELAND PERMIT IS ALSO REQUIRED FROM NH DES FOR THE PROPOSED ACTIVITY WITHIN 250 FEET OF THE LAKE.
- (3) EVIDENCE THAT LOTS 147 AND 149 HAVE BEEN MERGED IS REQUIRED PRIOR TO THE PLANNING BOARD SIGNING THE SITE PLAN.
- (4) WRITTEN PERMISSION TO EXCAVATE FOR THE PURPOSE OF PUTTING ELECTRICAL SERVICE UNDERGROUND SHALL BE OBTAINED FROM NASH REALTY BY THE APPLICANT.
- (5) PRIOR TO THE PRECONSTRUCTION CONFERENCE, A SAFETY PLAN SHALL BE DEVELOPED, REVIEWED AND APPROVED TO ENSURE CONTINUED ACCESS IS MAINTAINED FOR RESIDENTS AND EMERGENCY VEHICLES TO LAKE SHORE DRIVE.

- (6) A REVISED DRIVEWAY PERMIT IS REQUIRED FROM DOT FOR THE PROPOSED EXPANSION. THE DOT PERMIT SHALL BE CROSS REFERENCED ON THE FINAL PLAN.
- (7) THE SITE PLAN IS CONDITIONED ON EXECUTION OF THE CONCESSIONS OUTLINED IN THE LETTER DATED MARCH 26, 2011, AND SHALL BE IN PLACE PRIOR TO A CERTIFICATE OF OCCUPANCY.
- (8) A PARKING WAIVER IS GRANTED FOR 9 X 18 PARKING STALLS RATHER THAN THE REQUIRED 10 X 20.
- (9) PARKING LOT, BUILDING AND WALKWAY LIGHTING SHALL BE CUT OFF LIGHT FIXTURES.
- (10) THE ELEVATION DISCREPANCY AT BUILDING #3 SHALL BE RESOLVED AND ANY ADDITIONAL ENGINEERING SUBMITTED TO THE TOWN FOR REVIEW.
- (11) A PERFORMANCE GUARANTEE WILL BE REQUIRED TO GUARANTEE SATISFACTORY CONNECTION TO MUNICIPAL UTILITIES AND SITE STABILIZATION DURING CONSTRUCTION. THE DESIGN ENGINEER SHALL PROVIDE A UNIT COST ESTIMATE ON FORMS PROVIDED BY THE TOWN. STAFF WILL REVIEW THE ESTIMATE AND ESTABLISH THE AMOUNT OF THE GUARANTEE. THIS CAN BE DONE ADMINISTRATIVELY. THE FORM OF THE GUARANTEE SHALL BE EITHER CASH OR LETTER OF CREDIT. THE FORMAT OF THE LETTER OF CREDIT OR CASH AGREEMENT SHALL BE APPROVED BY THE FINANCE DIRECTOR.
- (12) THE PLANNING BOARD RESERVES THE RIGHT TO REVIEW AND AMEND ANY APPROVAL AS PROVIDED FOR IN SITE PLAN REVIEW REGULATION NOS. 7 & 17. Voted 6-0 in favor of the motion.

McLear – The designs are as we discussed the last time, basically this is the pool building, this is the lobby, the cookout area, 7 rooms. This is the 6-unit building next to L'Heureux's, 29 feet high, pretty residential in scale. We have actually purchased from Sharp's Lumber in Holderness all of the cedar logs. They were cut in Maine in late winter which I'm told is kind of an oddity, you cut the trees in the winter so they bark won't come off of them which I didn't know so those are going to be shipped down shortly but its basically what we've been talking about.

Touhey moved, Dever seconded, MR. CHAIRMAN, IN THE CASE OF HOSPITALITY HOLDINGS FOR THE SITE PLAN AMENDMENT CONSTRUCTION ON LOTS 147 AND 149 LOCATED ON THE D.W. HIGHWAY, I MOVE WE GRANT ARCHITECTURAL APPROVAL IN THAT THE PLAN DEMONSTRATES SUBSTANTIAL CONFORMITY WITH THE GENERAL AND SPECIFIC CRITERIA SET FORTH IN THE ORDINANCE. Voted unanimously.

3. **DAVID M. DOLAN ASSOCIATES, PC FOR L LAKEHOUSE LLC** – (Rep. Dave Dolan)

Dolan – Both properties are located on Wagon Wheel Trail. Also here tonight is Sylvester Pecorra on behalf of the property owner as is Attorney Regina Nadeau and Joe Dever, Caretaker. A couple years ago we were in here when the property was under different ownership for a Boundary Line Adjustment and both lots have significant frontage on Lake Winnepesaukee and they both are behind the large stone and wrought iron fence that encloses both properties. Lot 13 as it presently exists is about 3½ acres and has about 500 feet of lake frontage. There's a shed, a playhouse and Dave pointed out where the existing service road comes down through to access the property. Lot 12 has an existing house, existing leachfield and a well services that house. Municipal sewer is available on Wagon Wheel Trail and at the time the sewer line went in, there were between 5 and 7 sewer services that were actually installed along the road frontage of the property. The area in yellow is going to be transferred from Lot 12 to Lot 13, (3.465 acres). Lot 13 will then be over 7 acres in size and will have about 1,000 feet of shore frontage and the remaining land of Lot 12 will be 1.35 acres which exceeds the minimum lot size requirement of 40,000 sq. ft. and will have 260 feet of lake frontage. Both properties will be accessed by the existing driveway that comes in through the main gate. It has been noted on the plan that there will be a ROW easement for the benefit of Lot 12 over Lot 13 that will be for access as well as the installation of utilities. A couple notes from the staff review, one has to do with draft language being submitted and execution of the deeds to be prepared for review prior to recording the plans. This is kind of unique and brings up a little bit of a paperwork type of glitch, if we don't have a conditional approval that might lead into a spiral but basically you can't grant yourself an easement over your own property. Both of these properties are in the same ownership and the plan is to keep them that way. We can prepare a draft of what that easement may look like but it wouldn't be executed because legally you can't convey yourself an easement and the same really applies to the conveyance of the property. There may be a way to work that out which Regina may be able to articulate better than I could. Rather than having those two conditions of approval holding up the recording of the plan, there may be a way that staff and counsel for the property owner could work that out to everyone's satisfaction. We will set pins at the property corners, there will be 3 monuments to be set and we would certify that document prior to providing a mylar at the time of recording. Both lots will eventually be developed and in the cover letter we did say the remaining land of Lot 12 as it exists after the boundary line adjustment would have no dwelling unit but at some point in the future it may be developed. We will add a note to the plan stating we will be connected to the sewer. LaBrecque – As far as the driveway easement, I think I was just looking to have the easement reviewed prior to final plan approval. It wasn't stated to be recorded in connection with it. I did suspect that both would be under the same ownership. As far as the Boundary Line Adjustment goes and I understand you can't convey something to yourself but what happens, for instance, down the road when you record this plan, as far as the Town of Meredith is concerned that becomes one lot. Until such point

in time that is conveyed by deed, then it's not really done as far as the registry goes, is that correct? You can record the plan but until such time it's conveyed that really doesn't make that a lot. Dolan – You are correct. Approval and recording of the plan does not execute the transfer of the property between the lots. LaBrecque – It does not make that a 7-acre lot. Peccora - It only puts the plan on record and allows the transaction to take place. LaBrecque – The house can get built. Say a new house gets built, they tear down the old ranch and a new house gets built on that lot line, say things go south with the bank for some reason and all of a sudden it gets taken back, so then you have a house sitting on a lot line. How do you prevent that from happening? Regina Nadeau – I just brought this up with Dave Dolan before the meeting, this comes up an awful lot and we can prepare any kind of paperwork. It may not have any legal value but essentially what happens is and it's my understanding that this Board has the authority to grant the approval of a request to unmerge certain parcels of land. That doesn't require a deed to do it; it's within this Board's power. Similarly, if we're going to do a Boundary Line Adjustment when it's the same owner on either side of the property line, this Board's approval and the recording of that plan effectuates it. It's only when there's a 3rd party that comes into the picture that creates an issue which is, why historically, this Town was one of the few who were way ahead of everybody and said show us what your proposed deeds are going to be and make sure there are no mortgages where you need the mortgagee's consent. That's not applicable in this case. If, hypothetically, we put this plan on record that would effectuate this boundary line change and your tax assessor would honor it. If we then took out a mortgage, the mortgage deed would reflect the new boundaries so if the mortgagee had to foreclose, it would be foreclosing on the new lot configuration. The problem is if you have a benefitted and a burdened lot for easements, if it's the same person on either side, it's a legal fallacy. What we could do is prepare for the record a proposed deed for the smaller lot which has the perimeter description along with sample easement language that also describes the easement. That would be on file with you so if in the event there were ever an actual conveyance out to a third party or conveyance of a mortgage because that is a conveyance, that language would be adopted. LaBrecque – So a lender could be a third party. Nadeau – Yes. Because ultimately if they went to foreclose that would be a transfer. LaBrecque – So would we still want to have a mortgage release? Nadeau – What would happen is this plan goes on record. Hypothetically, let's say there was enough value in that smaller lot to fund the full construction of whatever were to go on the big lot so they only took that one small parcel of land, the description of what's being secured would be that smaller lot with the easement so that's where the description and the mortgage deed would be similar to the description in any deed to any third party and that's when you actually see it go on record but right now this is enough to effectuate the boundary line adjustment. Kahn – I understand that you can't sort of grant an easement to yourself, but why can't we put on this plan a condition that says the larger lot is burdened by a driveway easement to the smaller lot. Nadeau – Absolutely, and that's what we're proposing to do. Dolan indicated there is a note on the plan to that effect and he can add anything to it that the Board wants. Kahn – I think you want to beef it up a little bit. Nadeau - As I said, we're certainly happy to give you

the draft language for the easement. The note could say “draft language on file with the Town. The whole point is to carve out that description now so we’ll know and you will know in the future. Kahn approves. Bayard – One of our concerns is if there’s a current mortgage on one of the properties and we in effect convey some land, then there could be a problem with the current mortgage. Nadeau – I’ve already done a title examination and I saw that one of the proposed conditions was that we certify to the Town that either there are no existing mortgages or that we get a release to this so I do plan on providing a certification of title that says there are no current encumbrances. LaBrecque – Essentially, the condition’s OK except for “the executed deed shall be recorded with the mylar”, just strike that line and that would be OK. Public Hearing closed at 8:00 p.m.

Dever moved, Sorell seconded, MR. CHAIRMAN, I MOVE, IN THE CASE OF DAVID M. DOLAN ASSOCIATES, PC FOR L LAKEHOUSE LLC FOR A PROPOSED BOUNDARY LINE ADJUSTMENT, TAX MAP U18, LOTS 12 & 13, LOCATED AT 50 WAGON WHEEL TRAIL IN THE MEREDITH BAY WATERSHED AND THE SHORELINE DISTRICT, THAT WE APPROVE SAID BOUNDARY LINE ADJUSTMENT SUBJECT TO THE FOLLOWING CONDITIONS:

(1) A NOTE SHALL BE ADDED TO THE PLAN THAT CONNECTION TO MUNICIPAL SEWER IS REQUIRED FOR LOT 12 UNLESS SOIL BASED LOT SIZING SHOWS AN ADEQUATE AREA HAS BEEN ESTABLISHED.

(2) THE APPLICANT SHALL PROVIDE A DRAFT CONVEYANCE DEED FOR STAFF TO REVIEW. THE APPLICANT SHALL VERIFY IN WRITING WHETHER THERE EXISTS A MORTGAGE ON LOT 12. IF THERE IS A MORTGAGE, THERE SHALL BE A SATISFACTORY RELEASE RECORDED IN CONJUNCTION WITH THE CONVEYANCE DEED.

(3) THE DRIVEWAY EASEMENT SHALL BE SUBMITTED FOR STAFF TO REVIEW PRIOR TO FINAL PLAN APPROVAL FOR THE LANGUAGE.

(4) THE SURVEYOR OF RECORD SHALL PROVIDE WRITTEN EVIDENCE THAT ALL PINS HAVE BEEN SET PRIOR TO RECORDING THE MYLAR. Voted 6-0 in favor of the motion.

4. **NICHOLAS & JEANNE RAFFAELLO FOR ESTATE OF PATRICIA M. NESTOR –**
(Rep. Carl Johnson, Jr.)

Johnson – I’m representing the Estate of Patricia Nestor. This property is located on Meredith Neck Road. We did a subdivision of this property in 2005. I’ll give you a quick history as to why we’re here for a Boundary Line Adjustment; Mrs. Nestor at the time owned several plots of land, one of which is about a 20+ acre piece of land located around the existing homestead which has been there for several generations. There’s about an 8 acre piece of land separately owned and about an 85-acre or so parcel of land which extends all the way from the terminus of Tax Map S09, Lot 10 all the way down to Pinnacle Park Road. At the time in 2005, Mrs. Nestor’s brother, Bob Wallace, wanted to purchase a piece of land from her to build his house. He started down close to Meredith Neck Road and there were some

issues there, she did not want it to be on the 8-acre parcel because that piece of land was too big so we started moving up the property and there were some wetland issues so we kept moving up the property and ended up creating a situation where we took a 50' strip of land from the 20-acre parcel and took this rectangular shape of land from the 80 acres and created a 3.16 acre lot total which included the strip all the way down to Meredith Neck Road so this 50' strip of land was actually going to be owned by Mr. Wallace when he purchased the lot. Because it cut off or severed the 20-acre piece, there was a note to the effect that these two pieces were legally bound and could not be sold separately without one another unless they had further Planning Board approval. At the time that was the best we could do with what we had because we had several parties involved and to be honest I'm not sure any party was actually totally happy with what we ended up with but we ended up creating that lot and that parcel was approved by the Board and the plan was signed and recorded. In the meantime, Mr. Wallace had purchased a modular home and did not have a place to put it, he put it on this lot. The Town had created a lot that it would eventually sit on plus it already was sitting on a lot that had no house on it so Bill could issue the building permit. Unfortunately, Mrs. Nestor passed away before she conveyed the parcel to Mr. Wallace so right at the moment Mr. Wallace's house exists on a parcel of land that appears in the Registry of Deeds as an approved plan but was never conveyed. This lot has a fully functioning house, septic system and well. It is for all practical purposes a lot, however, it doesn't exist in the legal world because it was never conveyed. Mrs. Nestor has now passed away and the Executor of her estate has met with Lee Mattson and me to try to put together a plan to put the estate in the best position that would be most favorable for it. Because in the beginning we didn't particularly enjoy the situation we created, we're proposing to change it. As the crow flies, nothing is really going to change. What we're doing is taking this strip of land that the driveway exists within and putting the flag lot down to the southern portion of the land. It's really a dummy strip of land because it's going to be restricted for access so it's only providing the 50' frontage on Meredith Neck Road which is required by ordinance. Because we did that, we actually created a situation where the existing farmhouse was too close to a lot line so we went to the ZBA. In essence, we received the variance to create that line because it really had no affect on the general public and it had no affect on the abutters and all it did was really kind of solve this issue where any future development of the 80-acre parcel would probably be accessed by this road but would not be driving across the land that was owned by this lot. There are a bunch of different scenarios that could take place but one of which we're trying to avoid is the problem this ownership would create if this 80 acres was developed into more than one or two lots, this would essentially have to be upgraded to a road and it would have to be upgraded to Town standards and in the normal situation you want that roadway "to be a strip of land which is owned in common by the homeowner's association by several lots if they ever were to be created and not so much an ownership because the other thing this strip of land does other than provide the access, it gives it enough land area to make it 3 acres which is the minimum lot size in the zone so this dummy strip not only has the importance of providing the frontage that the ordinance requires but it gives it sufficient land area to keep it 3 acres because at the time Mrs. Nestor then and Mrs.

Raffaello now don't want this to get much bigger into the 80 acres. It is getting a little bit bigger into the 80 acres because this strip of land is slightly bigger than this strip of land so we had to make up the difference because we didn't want the lot to be any different in size, we had to bump this line out just a very little bit to make up the 1,000 sq. ft. so its not much at all. The access to the farmhouse is still going to be over the existing driveway provided by easement across this so nothing's going to change there. There's not going to be a driveway in that strip. It is kind of a boundary line adjustment and you can call it a re-subdivision since the land was never conveyed. We want to get Mr. Wallace some land underneath his house that he actually owns. The plan would be to convey one strip for another so he would have a 3.16-acre and everything would be conforming on his lot. He's got a small shed that has to be relocated because we're essentially moving the lot line from the far side of the road to the near side of the road but we did confirm that his existing house and overhangs and all of his other structures are conforming as part of the BLA. He would have an easement across the strip and the strip is the same description for the easement as it is for the ownership strip that was previously approved by the Board and it extends a little bit beyond so it covers the entire top part of his lot and would continue to be the access sometime in the future to the 80-acre parcel if that ever happened. Subsequent to this happening, Mrs. Nestor conveyed what was called The Pinnacle to an abutter a kind of landlocked piece of land that was just sitting on top of the hill with the stipulation it would not be built on so that's one thing that has happened since the original subdivision of Mr. Wallace so that is not part of the 80 acres anymore. It is a slightly confusing situation but in simplicity, if you were to drive by there today to look at the way it is and drive by there subsequent to this happening, you wouldn't notice any difference in the way the properties are being used. Dever questioned the pins that are set on the side closest to town. Johnson – Those rebar were part of the original lot. Dever - So essentially that line goes away in this plan and reverts to the original parcel. Johnson – I have added a note per Angela's staff review which doesn't appear on your plan that says, "The side lines of the easement delineate the former lot lines of S09 – 10A and are to be discontinued as a result of this plan". They are changing from lot lines to limits of an easement. It will still be bounded and there will be pins there, except it's an easement as opposed to owned property. Dever – That section reverts to the original parcel. The ownership will continue through just like before. The access to the farmhouse is still going to be over the existing driveway and is going to be provided by easement so Sorell – So Carl, you're saying is the bottom 50' piece is just so he has his right amount of acreage. Johnson – It's two things, to get him to the 3 acres and to provide 50' of frontage on Meredith Neck Road. Sorell – But he's not going to have a road up there. Correct. There's no need to have an easement over the 50' strip because they own it. Touhey – The farmhouse then is going to need an easement over that 50' strip. Johnson – Correct – When its conveyed, it will be subject to the easement. When this gets conveyed, the only easement Mr. Wallace will have is over this 50' strip to go out. Kahn – Angela, how does this fit in with the rules about lengths and widths? LaBrecque – The 4:1 ratio? Johnson – The 4:1 ratio has not applied to the flag portion of a flag lot in the past. The same thing happened at Clover Ridge. LaBrecque – I looked at the

before and after strips and figured if it were conforming in '05 to the 4:1, I didn't see that much of a difference. Dever – In essence the dummy strip is shorter than the original strip. It is a boundary line in the Town's mind; it's not a legal boundary line in that it's still partially owned by Mrs. Nestor as part of another lot. That's why we're taking the extra step to create the paper trail if somebody's researching this; they are going to get very confused if they don't have this as a process whereby this plan is going to supercede through Boundary Line Adjustment the plan that's in the Registry right now. The difference is that normally in a BLA plan there are conveyances of these strips separately. In this particular case, there will be conveyances of these strips combined as a single lot. It is important to have this mechanism so there is a paper trail, the proper steps in a title opinion as to what's happening, why it happened and why this plan shows up on the tax map when there's no deed. Dever – Once this is done, it will be all conveyed and there will be the deed trail and the plan trail and the Assessor's office trail. Public Hearing closed at 8:23 p.m.

Dever moved, Touhey seconded, MR. CHAIRMAN, IN THE CASE OF NICHOLAS AND JEANNE RAFFAELLO FOR ESTATE OF PATRICIA M. NESTOR, FOR A RE-SUBDIVISION OF LAND, TAX MAP S09,10 AND 10A AND U19, LOT 2A LOCATED AT 103 MEREDITH NECK ROAD IN THE MEREDITH NECK DISTRICT, I MOVE WE GRANT APPROVAL OF THE RE-SUBDIVISION WITH THE FOLLOWING CONDITIONS:

- (1) ANY ADJUSTMENT TO THE LOT SIZES SHALL BE CONFIRMED BY THE SURVEYOR AND NOTED ON THE FINAL PLAN.
- (2) A VARIANCE WAS GRANTED BY THE ZBA FOR THE SIDE SETBACK FOR THE FARMHOUSE AND SHALL BE CROSS REFERENCED ON THE FINAL PLAN.
- (3) THE APPLICANT SHALL PROVIDE A DRAFT CONVEYANCE DEED FOR STAFF TO REVIEW. THE EXECUTED DEED SHALL BE RECORDED WITH THE MYLAR. THE APPLICANT SHALL VERIFY IN WRITING WHETHER THERE EXISTS A MORTGAGE ON LOT 10. IF THERE IS A MORTGAGE, THERE SHALL BE A SATISFACTORY RELEASE RECORDED IN CONJUNCTION WITH THE CONVEYANCE DEED.
- (4) A DRIVEWAY EASEMENT FROM LOT 10 TO LOT 10A FOR ACCESS SHALL BE SUBMITTED TO STAFF FOR REVIEW AND RECORDED IN CONJUNCTION WITH THE RE-SUBDIVISION PLAN.
- (5) THE SURVEYOR OF RECORD SHALL PROVIDE WRITTEN EVIDENCE THAT ALL PINS HAVE BEEN SET PRIOR TO RECORDING THE MYLAR. Voted 6-0 in favor of the motion.

PRE-APPLICATION REVIEW

1. **ALEX RAY** – Pre-Application Conceptual Discussion regarding proposed temporary use and future development of Tax Map U06, Lot 146A, located at 247 Daniel Webster Highway in the Central Business District.

Ray – I'm here tonight to discuss the 146A lot which formerly was the Christmas Loft. HHH and I purchased the property the first of the year for a multi-use property in the future. I'm here tonight because I was sent from the Planning Department because this is a complex property that we want to use for multiple uses in the future, but it's not going to happen immediately. I am asking to lease a part of that exterior property for extended use this summer only as part of the Town Docks outside patio. They have discussed it and suggested they would support it, however, they wanted me to come and inform you people so that's what we're doing tonight as a conceptual so everybody knows what's going on. Basically, I asked for the leasing of it to the new entity at the Christmas Loft for the grass area behind the Loft in between the shoreline and the boardwalk and the building for this summer only up through October for extended patio use for the Town Docks. Otherwise, that property will be unused this year in total. We will not use the building, it will stay vacant but we need to go through design permitting and planning for it and come before you next winter so because we purchased it and want to use it is what I'm here for. LaBrecque – Alex came into the office and said he would like to put 8 tables over behind the Christmas Loft because its just going to sit idle for the next several months and Bill's first thought was maybe he should go to the Planning Board. LaBrecque – But to put 8 tables outside and not know what's happening with the 10,000 sq. ft. building was an issue. So John, myself and Bill put our heads together, talked it out and figured this probably could be done through a Special Use Permit with conditions that it's only for the summer season from May thru September or October. It's only the 8 tables requested, the building itself isn't going to be used for anything until it comes before the Planning Board for a full site plan review. We looked at the parking and there are 11 spaces dedicated to the Christmas Loft. That's quite a few spots to go with the 8 tables and we're anxious to see what these guys are going to come up with later on but that's how we felt and then Bill suggested Alex come and let the Board know that something would be in the works coming to you later in the fall. Ray – The only construction will be kind of a privacy fence so there will be delineation between the walkway and the use of that property so there will probably be an exit gate closest to Church Landing but it will say "not an entrance" for our personal control, but otherwise no construction will take place. LaBrecque – These are just patio tables and I don't think they are putting a shovel in the ground it appears pretty minor. Dever – I have no objection to this use. There is no sign proposed. The existing sign will be covered for now rather than taking it down and putting it back someday. All the Town Docks patrons sitting at those tables are going to be funneled through the front door of the restaurant. Ray - No access will be provided through Christmas Loft property to that area. There might be a visual block fence extended from Town Docks utility area so there won't be anybody coming or going through there. Touhey – Would that area have access off the boardwalk? Ray – The boardwalk there is actually paved on the ground as opposed to the rest, it comes back onto land along that retaining wall and we probably should have built a fence there prior. But for delineation purposes now because it's going to be utilized, I'd like to put some fencing between the boardwalk and the patio. Bayard – I think it would be a good use of some of the property which I think is a good idea rather than letting it sit

there. I know it gets pretty busy back there in the summer, so it would be nice to have the extra tables. Ray - This is more informational than a formal request for anything so you know what's going on. The Board was in agreement with the proposal for the summer.

Meeting adjourned at 8:36 p.m. (Sorell moved, Dever seconded)

Respectfully submitted,

Mary Lee Harvey, Adm. Assistant
Community Development Dept.

The above Minutes were read and approved at a regular meeting of the Meredith Planning Board on 5/24/11.

John W. Dever, III, Secretary