

# MINUTES

## WATERTOWN PLANNING AND ZONING COMMISSION PUBLIC HEARING

WATERTOWN HIGH SCHOOL TECHNOLOGY CENTER  
WEDNESDAY, JANUARY 2, 2008 - 7:00 P.M.

### FRENCH HILL ESTATES

**PRESENT:**

Jeff Franson  
Carl Mancini  
Gary Martin  
David Minnich, Chairman  
Ron Russ  
Judy Wick, Vice Chairman

**ABSENT:**

Michael Masayda, Secretary

**ALTERNATES PRESENT:**

Ken Demirs  
Duane George  
Ray Rondeau

**ALTERNATES ABSENT:**

None

**OTHERS PRESENT:**

Chuck Berger, Town Engineer  
Ruth Mulcahy, Zoning Enforcement Officer

**1. Call Meeting To Order**

Mr. Minnich, Chairman, Called the Public Hearing to Order at 7:00 p.m.

**2. Roll Call**

Ms. Allen, Clerk, executed the Roll Call.

Mr. Minnich, Chairman, asked Mr. Demirs to sit in for Mr. Masayda, in his absence.

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**3. Hearing of Applications**

- A. An Application for a 15 lot subdivision known as "French Hill Estates" located on French Street, Watertown, CT.

Applicant: Joseph Masi and Margaret Raymond  
33 Pleasant view Street  
Oakville, CT 06779

Recess or Adjourn, Public Hearing must be Closed by February 6, 2008 unless the applicant grants an extension of time.

Mr. Minnich, Chairman, read aloud the Legal Notice for the record as follows:

"Legal Notice  
Town of Watertown  
Planning and Zoning Commission  
Public Hearing

The Planning and Zoning Commission of the Town of Watertown will hold a public hearing on Wednesday, January 2, 2008 at 7:00 p.m. in the Watertown High School Technology Center, 324 French Street, Watertown, CT to hear and act upon the following application:

An application for a 15 lot subdivision known as "French Hill Estates" located on French Street, Watertown, CT.

Applicant: Joseph Masi and Margaret Raymond  
33 Pleasant View Avenue  
Watertown, CT 06795

At this Hearing interested persons may be heard and written communications will be received. Copies of the application is on file in the Planning and Zoning Office, Depot Square Business Center, 51 Depot Street, Suite 502, Watertown, CT.

Dated at Watertown, CT this 22nd of December. 2007.

Michael Masayda, Secretary  
Planning and Zoning Commission"

**Janet Brooks, Attorney Representing the Applicant**

**Atty. Brooks:** I have a brief procedural point that I wish to begin with, then I will turn the floor over to Stuart Somers. At this point we would ask that Commissioner Martin recuse himself from consideration, participation, or deliberation of this application for personal interests based on two grounds, and I have two documents to submit. One is that Commissioner Martin's participation in another zoning matter is a subject of an appeal that is in court, and that was regarding the Text Amendment to Zoning Regulations to eliminate an industrial zoning area near Echo Lake, and the applicant, Mr. Joseph Masi, is a member of the organization, the plaintiff that brought that appeal, and his wife Donna Masi, is the President of that organization. That appeal was dismissed not reaching the merits there of whether or not Commissioner Martin's participation was improper. That case is on appeal and what I would like to submit is the copy of the petition for certification which are the appeal papers to the appellate court that indicate the subject of the focus of that appeal to the appellate court is whether or not the participation of Commissioner Martin and another commissioner who is no longer seated and is not of concern to us in this matter, whether or not that was improper participation, so I have a copy of the petition of certification of one ground and in that which is appended to the petition is the trial court decision in which the trial judge found that Commissioner Martin is the son-in-law of Richard Fusco, the owner of 43 acres of industrial zoned property between Echo Lake Road and Route 262. Richard Fusco actively opposed this application before the Inland/Wetlands and Watercourse Agency submitting a SEPA intervention petition before the Conservation Commission, and I would like to submit a copy of that intervention petition so for both basis, for the pending lawsuit and for the position, the stated position of Commissioner Martin's father-in-law regarding this application, we respectfully request that Commissioner Martin recuse himself from this application. Thank you for consideration.

**Mr. Minnich:** Gary, this is obviously your decision to recuse yourself. The applicant has made their request and it's your decision.

**Mr. Martin:** Well I'd like to say first of all that I'm quite taken aback that somebody would think that I couldn't sit here and impartially hear something that is completely unrelated to anything that I have dealt with in the past or anything associated with what they're doing. The two issues are completely different. Why they feel that my father-in-law runs my life is beyond me, they keep saying that, but I'm not sure where they get that from. I have my own life, I have my own career, my father-in-law does not run my life, and no, I will not recuse myself from this discussion, absolutely not.

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**Atty. Brooks:** I don't wish to impugn anybody's participation at this point. The whole protective value of recusal for personal or financial interests doesn't mean that somebody is bad or evil, rather it is a public good that the potential, the case law, the potential of a temptation, in fact there needn't be any proof that there is truly a conflict, but that it could arise, it could reasonably arise, and for that posture, and to protect the finality of whatever decision comes out of this Commission, that we do respectfully ask it, but we are not pointing fingers and saying that there is an evil that has to be eradicated, but rather we're trying to protect the process. Thank you.

**Mr. Martin:** I've taken my time, I've gone over and seen the site, I have made no opinion on it one way or the other, I'm here to listen to the details of this submission and to make an educated, unbiased decision on what should happen with this property. If this Commission would like to see me not listen to this case, I'd be more than happy to back off, but you are the only ones I will back off from or with, or for, not a request because of some perceived predisposition to the request; I find that ludicrous and insulting.

**Mr. Minnich:** Let me just share with you my own thought. As you have said and I believe they have said too, this issue is not about you. This issue we clearly know is about their application before us. I thought that the issue in court was settled and was completed. They've appealed it and they obviously have felt because they stood here that that you should not be hearing this issue because you were part of a process, although it's the Planning and Zoning Commission, they're pursuing an appeal. It's not a black and white issue, it certainly isn't, and once again as in all recusals it's up to you, but I just ask you in thinking about, for you to think about here in the next few seconds, and if others want to comment, that this really is about them, in terms of their process, and they don't think it's fair, it's not my word, or any words that have been used, but they don't think that your participation would be helpful in this process and it's up to you to decide what you want to do. Anybody else have any comments they want to make on this? None.

**Mr. Martin:** Please, I'd love to hear from others.

**Mr. Mancini:** I can understand if it had anything to do with Gary personally gaining or losing if he voted yes or no for this French Hill Estates, but seeing as he has no interests in this case whatsoever to gain from, I don't think he should be forced or asked to leave on this matter.

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**Ms. Wick:** I think as a stated perception is the key and I will relate only what an attorney of ours as an individual said to us when there was an instance, if the question is raised, he's lost the battle. In other words if the question was raised that there would be a perception of lack of ability to be impartial then it doesn't matter whether there is or not, because the question has come up, and one of the most important things that this Board should have is the confidence of people who come before us that we will look at things impartially, and I agree as Dave said, the decision obviously, Gary, is yours.

**Mr. Minnich:** Is there anyone else who would like to comment? Gary, what is your decision?

**Mr. Martin:** I am truly amazed at this request that many of the things that have come from these people and it truly amazes me, but you know something, I will step down because you want to know why, I don't even want to hear their proposal. How's that? They don't deserve my ear to that proposal. Thank you very much. I recuse myself.

Mr. Martin Recused himself from this application.

Mr. Minnich, Chairman, asked Mr. Rondeau to sit in for Mr. Martin, in his Recusal.

**Don Nolte, Project Manager, Stuart Somers Company**

**Mr. Nolte:** The applicants have owned this property for quite some time and it has been in their family even longer. First I'd like to distribute a reduced colored site plan that might facilitate our discussion rather than you trying to view everything up here on the board. I'd like the record to reflect previously before this meeting I submitted the certified mail return/receipts to Carol, your secretary.

We did an overview of this application for the 15 lot subdivision located on French Street. At the initial meeting, and we did have a site walk which a number of you were in attendance, reviewed the subdivision record map first. The property is located on the north side of French Street between Icehouse Road and Gilbert Lane, not far from the Riverside Street intersection and the high school. It's 14.08 acres in area, has a proposed 950 foot long public permanent dead end road proposed to be constructed. The road cannot be extended due to its geography, the adjoining nature of Echo Lake Park and the steep slopes going up towards Oak and Innes Roads. It's proposed to be 30 feet paved in width and 11 of these 15 lots would have driveway access off of this road. The 4 remaining lots will front on French Street and have driveways off of French Street.

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In dark green is the proposed open space component of this application, which consists of two open space parcels. I'll go over the areas in more detail later, one being contiguous to Echo Lake Park, one at the entrance of French Street and proposed Brook Hollow Road which contain the storm water control facility, also has two conservation easements proposed as components of this open space set aside containing Echo Lake Brook and surrounding upland area. The second easement does not contain any wetlands or watercourse, it's on the hillside above Lots #3 through #8 basically and it's proposed to maintain hydrology above the areas of excavation of these lots on the west side of the proposed road and for aesthetic reasons as well will break up the development's impact on the surrounding valley.

Switching over to the rendered version which I just gave out to you of the site development plan, you can see in 3 different colors the general concept of the development, the dark green being the undisturbed forested area, the entire site is currently woodland. There is light green shading which would be around house areas, the expected lawn areas, and there's the medium green which are areas to be disturbed for the cul de sac and road construction and the storm water detention facility that will be replanted and will be a horticultural unkempt condition. It will be landscaped and plans have been prepared by William Kenney Associates of Fairfield for that purpose.

The road, we retained a geotechnical engineer and excavated I believe 25 deep test holes on the site and throughout the site and the geotechnical report is included in the application addendum which you should be aware of or know is in the file in which good soil conditions for the proposed construction were determined to be present. At the entrance of the road based on these soil tests we were able to eliminate a 10 foot high retaining wall that we had in our earlier layout because of the rock present that we will encounter, we'll be able to grade a 1:1 rock cut and above that rock cut are swales, as are above Lots #5, #6, and #7 to divert the water from the above watershed out of the construction area and into a controlled area. Those swales will be maintained by the private property owners.

As far as drainage, there are basically 3 or 4 components of storm water control. The first being a storm water detention basin that will handle most all of the road located at the site entrance. There is a bio-retention area within the center of the cul de sac that will absorb, recharge, and disperse water from the cul de sac area itself. There is another rain garden serving Lots #1 and #2 which have a shared driveway and landscape plans have been prepared for that to take roof and driveway runoff, treat it, and slowly release it.

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The common driveway developed during the wetland hearing procedure was we combined previously two separate driveways to reduce the impervious, to reduce the site disturbance, and also to increase the separating distance from the driveway entrance to the crest of the hill which is roughly across from Gilbert Lane to maximize the site distance. Also on 8 of these lots there are sub service storm water galleries proposed for roof drainage that will accommodate runoff flows up to a 100 year storm.

We've shown an interior sidewalk on the westerly side of the road. It may not be necessary, it works with the grading only because of the limited number of lots on the road and the width of the road, it may not see much action if constructed, but it is part of the proposal. We've discussed briefly at the site walk and at the initial meeting the possibility of constructing, in lieu of this sidewalk, a sidewalk that would connect Icehouse Road up to the westerly end of our property towards Gilbert Lane, although an inspection of that road, I don't believe there are any sidewalks on the northerly side of French Street, it wouldn't really connect or be part of the contiguous system that there is on the south side.

The application involves a wetland regulated activity which was approved I believe in October under wetland Application #589. You should have a copy of that conditional approval. It involves a box culvert of this intermittent water course coming down off of Innes Road that will maintain the existing grade and condition essentially of that rocky channel that is most usually dry. Additional mitigation activities, proposed and accepted and required by the Wetland Agency, was the cleanup of a dump site on the northwesterly entrance to the watercourse of the property. Most of you have seen it, I do have a photograph if any of you would like to see it, but it's about 2,500 square feet in area, we're proposing to remove 35 to 50 cubic yards of sand and gravel that have come from the subdivision above have filled the reservoirs of the little impoundment area and is overflowing now a stone wall and those sediments are going into Echo Lake Brook. We will be removing that and stabilizing it with a rock area and a planting plan will be prepared. We will be removing the invasive species which are rather extensive in this intermittent watercourse corridor. Also we are treating 8 acres of other watershed area that flows down French Street currently unrestricted into Echo Lake Brook. We'll be bringing that into our storm water control facility, and prior to that a gross particle separator as mitigation for the Wetlands Agency, so we'll have improved water quality above and beyond what we're handling for our site, in the post development condition.

Conservation easement, as you saw on the record map, will be delineated by a 600 foot or so 2 foot high stone wall behind Lots #11 through #15. This will be a permanent demarcation, obvious and visible to all. That is a good deal of protection that we can provide to that Echo Lake Brook area. The other easement area will be marked with medallions above the lots to the left.

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The grades of the road follow the contour of the land very well as you saw from the center line stakes that we had out there. I think the steepest part of the road is about 6.5% and it used to be like 4.5% but it had to get up and over the box culvert at the intermittent crossing is still very gentle and it just follows the grade of the land very well. We looked at other alternatives and there's no way to get east/west roads for solar access or anything on this particular site.

The project will be phased, I'll just briefly review the phases with you. A great concern to the Wetland Agency and their consultant, Sean Hayden from the Northwest Conservation District. Rather than have a single 40 or 60 scale plan, we've broken this down to 4 separate graphic sheets with notes and details outlining general practices, specific practices, sequences. The idea is to limit the phasing or disturbance of the site to areas no more than 3 acres and that's the largest phase at one time to minimize the impact on the regulated area.

- Phase 1 shown here is Lots #1 through #4, they do not rely upon the proposed road.
- Phase 2 is construction of about 650 feet of road without the intermittent watercourse crossing, temporary sediment basin, storm water detention basin to be converted for temporary use as a sediment basin, stockpile area, only a minimal clearing, the swales up in the woods that will meander through the woods will be put in before excavation below is commenced and this shows other details, it shows one model home in an area that's least sensitive, pretty flat area, but it's a limited phase tree clearing and development sequence.
- Phase 3 is the completion of the cul de sac with the box culvert installation crossing stabilization of the shoulder for the cuts and fill around that cul de sac. Another temporary sediment basin and stockpile area.
- Phase 4 includes the build out of the residences, either by private, probably the lots will be sold, although this stone wall is going in first and the developer is putting that in at the time of initial clearing. Lots #5 and #6 are to be excavated and stabilized at the time of the road construction. Some of that material will be used in the crossing and the cul de sac area. This was a requirement of the Wetlands Agency. They wanted the largest cut and there is a drainage system with curtain drains and storm drains at the base of the cut to be installed before the lots were sold out to developers, builders.

I would next like to distribute a memo addressing Ruth Mulcahy's comments to you of November 7th, that you should have. If you don't, I can address those few comments on an item by item basis. If you like I can review the item and then the response, or if you have it in front of you, I can just do the response.

(Tape #1, Side A ended - may have missed some.)

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1. There are no comments required, it just references the wetland permit which I believe you got a copy of.
2. The Fire Department comments, I believe they've been forwarded to Ruth.
3. The Water & Sewer Authority comments, I believe these have been forwarded to Ruth. I'll just hand them to you and you can pass them down. They are both favorable. If you have any questions, just ask.

Essentially Larry Black comments that he reviewed the site plan for the project and as presented the plan appears to meet the access requirements of the Fire Department. We did relocate the location of the fire hydrant to the mid point of the road to serve the site without having a distance of greater than 500 feet to the home or to the lot. They found the water supply and access requirements to be adequate.

Frank Jodaitis comments that the Watertown Water & Sewer Authority has adequate water supply and distribution capacity to provide potable water for domestic purposes and fire protection.

The next item, it looks like one of the numbers disappeared, but it was #6, it came after #3, it was just in response to a typo, but I wanted to follow the same pattern.

- 6-1. We have revised the record map to indicate 4 additional properties that are partially situated within 200 feet of the site. I'll submit those 3 copies of the plan this evening. They were across various roads.
- 6-2. Record map does indeed the percent of inland/wetlands and watercourses, it's in a table format along with the areas.

We didn't show a tree line, or show non-wooded areas because the entire site is wooded so there is no tree line, we have one off site tree line in the site plan but it's really not relevant to this particular site.

We have showed the proposed water and sewer service but we have not shown the electric and telecommunications, that's only because it would be a guess of ours. Connecticut Light & Power will require the subdivision to be approved and a copy of the record map before they mark up a plan and determine where they're going to run those utilities. We could add a conceptual location if necessary.

The soil erosion control plan (inaudible) understand now it's just too involved to clearly show on one plan, it would just be difficult to read and interpret and just couldn't contain all the information on this particular site.

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With regard to the limit of flooding being shown on the property, this property is beyond the area of detail mapping by FEMA. It's not shown on the firm maps. We have monitored the site closely and after large storms, including the 5 or 6 inch storm last April, inspections following it showed Echo Lake Brook water level didn't rise but more than a foot. I have photographs I could submit if you're interested, to show these weren't even moved higher than that elevation. All the water is continued to the channel. The basement elevations are a minimum of 14 feet higher than that flood level. The intermittent watercourse was contained and is well within its banks. I have a picture of that as well. It's just a couple of inches deep and it is controlled and will be controlled in the future.

Soil types are not shown on one particular plan but they are on the existing conditions plan and the grading plan, just trying not to pile on too much information on every sheet.

4. I basically addressed this already.

Regarding open space, I'll next be moving into summarizing and distributing a memo with statistics on the open space proposal.

Also Megan Raymond, our consultant from William Kenney Associates will speak on the characteristics of the open space and the easement areas after I review this memo with you. Right now just submit into the record the revised record map so he'll have it, it has the 4 additional names, we corrected a typo in the area table and that's about it.

I'll just pass down again this memorandum on the open space statistics. This memo is dated December 12, 2007 to the Watertown Planning and Zoning Commission from myself. The regulations require 10% of the property under consideration be provided as open space. This equates to 1.4 acres. The applicants are offering two separate open space parcels as part of the subdivision which possess a combined gross area of 1.33 acres. In addition, 3 separate conservation easements of combined total area of 2.47 acres have been provided in partial fulfillment of the open space computation and conforms with Section 7e3e of the subdivision regulations which allow for this method of disposition. The total combined area of the open space parcels and easements is 3.8 acres which represents about 27% of the entire 14 acre parcel.

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The .7 acre open space one, which is located at the southwest intersection of French Street and the proposed road, contains a proposed storm water detention facility which is about 0.45 acre. It also contains 0.06 acre of wetland and watercourse. The .6 acre open space #2 is situated between the proposed cul de sac and Echo Lake Park. It contains a portion of Echo Lake Brook, an intermittent watercourse and associated wetland soils that total 0.15 acre. After deducting the proposed storm water control facility, 0.45 acre from the open space computation, the percentage of proposed open space is 3.8 minus 0.45, so roughly 3 and 1/3 acres or 23.8% of the site. If open space #1 was to be excluded from the open space computation entirely, then the total open space components would be 3.8 minus .7, or just over 3 acres. This would yield an open space set aside percentage of 3.09 divided by 14, or almost 22%. Conservation easement #1, which is intended to provide long term protection of the functions and values of Echo lake Brook, encumbers portions of Lots #11 through #15. It has an area of 1.18 acres. There is 0.31 acres of wetland or watercourse within this area. This easement, which will be delineated by a 2 foot high stone wall, will serve to preserve both valuable wildlife habitat and scenic connection between Echo Lake Park and French Street that encompasses Echo Lake Brook.

Conservation Easement #2, situated on the hillside and it intended to maintain existing woodland vegetation, site hydrology, slope stability, and scenic value of areas above proposed for excavation. This 1.26 acre easement encumbers portions of Lots #3 through #8 and contains no inlands, wetlands, or watercourses.

Conservation Easement #3 is proposed over 0.03 acre sloping portion of Lot #10 above Echo Lake Brook which adjoins open space #2. The total combined wetland area within the proposed open space, both in fee and easement of the subdivision is 0.52 acres. This represents 13.8% of the total set aside, thereby satisfying open space (inaudible) twice. Subdivision regulation 7.52 which requires that no more than 50% of the open space consists of wetlands. The way that the subdivision has been laid out is to minimize conflict with topographic constraints. It is very unlikely that an additional 25% of the site will be altered by this subdivision. This will in effect preserve roughly 50% of the site in its natural wooded condition. The applicants could have, but have not elected to take advantage of their statutory right to a first split of the property that could have reduced the minimum open space requirement. For example, if the 1.7 acre Lot #1 were to be split off first, then the open space requirement would be reduced by 0.17 acres to 1.23 acres. Attached to that is the table from the record map, percentages of wetlands on the lots, and open space and easement areas, and a reduced map.

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At this time I would like to invite Megan Raymond of William Kenney to speak about the open space.

**Megan Raymond, Senior Ecologist, William Kenney Associates**

**Ms. Raymond:** We were retained by the applicant to assist in the permitting of the wetland application, we provided a planting plan, an ecological impact assessment of the application, and for the Planning and Zoning purposes we have provided an ecological basis for the layout of the proposed open space areas, and to that effect I wrote a quick letter that summarizes or just describes each of the open space and conservation easements areas and their value in terms of the maintenance of some existing functions and values of the wetlands on the property.

In summary, just following on Don's description, there are two components of the open space proposal. One is the open space areas and the other are the conservation easements. These areas are strategically sited around the property in order to maintain both upland areas, wetland areas, and then upland areas within close proximity of the wetlands. The intent of the open space and conservation easements is to allow portions of the site to remain in their present, unimproved condition, thereby providing a woody buffer to Echo Lake Brook and the preservation of which will allow for the existing functions of the wetland to remain such as groundwater discharge, wildlife habitat, and so forth, and as well allow for continued use of the parcel by the general wildlife species that may be present today.

Specifically Conservation Area #1 is a large or a long linear piece that is in the eastern portion of the property and basically runs adjacent to Echo Lake Brook, and the preservation of this woody buffer will allow the Echo Lake Brook corridor to remain as it exists today, and it's a nice feature and it's something that we were proud of and worked to incorporate into the site plan.

Just parallel to that on the other side of the property is the preservation of the other large conservation easement area which is about the same in size, a little over an acre and a quarter, and this is an entirely upland area that incorporates some of the topographic complexities of the western portion of the property, and these complexities allow for some interest and demonstrate the potential for wildlife use, and it's a nice mix of deciduous hardwoods in that location of the property, some areas of ledge and the preservation of which does provide a nice break between (inaudible) is proposed to the west and to the east and will allow for just a nice section of the property to remain in perpetuity.

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Additionally the final open space area or the conservation easement area is just a small sliver, a little over or about .03 of an acre in the northeastern portion of the site and this allows for continuity to the open space area and does allow for a direct connection to Town owned open space area which is the Echo Lake Park that abuts the site directly to the north.

Balancing out the other areas are two open space parcels, one in the southeastern portion of the property and one in the northeast. A portion of this will contain the storm water management area, but as well will allow for a woody buffer to remain between the storm water feature and Echo Lake Brook, and then additionally (inaudible) same purpose, a nice buffer between proposed activities and Echo Lake Brook and as well providing that direct connection to the active and passive recreation opportunities of Echo Lake Park to the north.

So putting all this together, what we're looking at is a nice layout that will allow for consistency with your subdivision regulations, specifically in your subdivision regulations, as I'm sure you're all aware, your open space and recreation areas are defined to include, but not limited to, areas left in their natural, undisturbed state, and you go on to describe other features, but as well, similar areas for wildlife habitat, passive and active recreation, groundwater recharge, scenic preservation and the like, so looking at what's the intent and the composition of what is proposed, the layout of the subdivision, we feel that the proposed open space and conservation easement do demonstrate consistency with the regulations as stated in Section 7. I'd be happy to answer any questions specifically or turn it back over to Don for more description of the project.

**Mr. Minnich:** Why don't you finish your whole presentation and then we'll ask questions.

**Ms. Raymond:** That was my summary. Thank you.

**Mr. Nolte:** Next I'll move into the traffic study aspect of the subdivision. Unfortunately Fred Greenberg, the Traffic Consultant, was unavailable to be in attendance this evening, but he did furnish a report dated today. Fortunately he was able to get out there between the storms and snow on the ground to get traffic counts and to give us his report. I will once again pass this to you to send down the line. I'll also read it into the record for the benefit of the public:

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"January 2, 2008

Re: French Hill Estates

Dear Mr. Nolte:

As requested, DL Company has prepared this access evaluation for the above referenced site. The work program included (inaudible) traffic data collection and access review.

Introduction: This evaluation was performed for the local Planning and Zoning Application Residential Subdivision, French Hill Estates on French Street. French Hill Estates will be located on the north side of French Street between Gilbert Lane and Icehouse Road. Site being shown on Figure 1.

Proposed Use: French Hill Estates will be a 15 lot single family home subdivision. 11 lots will have access on Brook Hollow Lane, a new cul de sac. The remaining 4 lots will have access directly on French Street. Lots #1 and #4 will share a common driveway.

French Street: French Street is a two lane east/west route. The 2007 Watertown Plan of Conservation and Development classifies French Street as a major collector, it terminates at signalized sections on each end, at Route 63 Main Street and Buckingham Street. French Street has a 25 mph posted speed limit and is generally 34 feet in width near the site. Abutting land also uses are primarily residential, but a police station, Watertown High School are also served. French Street is illuminated and has sidewalks sporadically along the south side, is generally straight, and horizontal alignment has a rolling vertical alignment. In the vicinity of the site, from roughly Gilbert Lane to Stephanie Lane, French Street is in a steep vertical curve with a low point near Riverside Street. Along the site frontage French Street is on a 12% downgrade traveling east.

A traffic count and spot speed study was performed near the site in December of 2007. The 24 machine traffic count on French Street showed a total traffic volume of 6,665 vehicles. Average in 85th percentile travel speeds were 37 and 43 mph downhill, and 33 and 40 mph uphill, westbound respectively. The 85th percentile speed is generally considered as appropriate for use in evaluating site distance, etc.

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Brook Hollow Lane: Brook Hollow Lane will service most of the subdivision. It will be located about 335 feet west of Riverside Street and 505 east of Gilbert Lane. Section 5.3.7 of the Watertown Subdivision Regulations indicates that the intersection shall be spaced not less than 400 feet apart. The question of whether the 335 distance rather than 400 feet will present any traffic, operational, or safety problems has arisen. Exactly how or where the 400 foot direction was derived from is unknown. Historically spacing requirements have little or no real rational or grounding in engineering analysis. Separating intersections serves several purposes, such as eliminating jog movements, maximizing capacity spacing, overlapping turns, or in simplifying driver's tasks by separating conflicts, however, there is no generally accepted minimum spacing distance among transportation or planning professionals. For unsignalized intersections on the collector road, which is the functional use of French Street, suggest 175 foot minimum separation distance can be found in transportation and land development published by the Institute of Transportation Engineers, or 333 feet in the access management manual published by the Transportation Research Board.

At the proposed Brook Hollow location available site distance to the east is essentially unlimited. Site distance to the west will be about 500 feet limited by the top of the hill. The intersection site distance criteria found in the Watertown Subdivision Regulations are believed to be based on a combination of long superseded Connecticut D.O.T., information and other unknown sources. Based on current practice and prevailing speeds on French Street, 475 feet of intersection site distance should be provided from Brook Hollow Lane. If Brook Hollow Lane were to be located at the 400 foot spacing distance, the available site distance to the west would be reduced to about 440 feet, due to the crest of the hill, somewhat less than the 475 foot figure. Having an intersection spacing less than 400 feet is certainly consistent with the existing development patterns along French Street. Streets with less than 400 feet of separation are the rule rather than the exception and include Westbury Park Road, Edward Avenue, Greenwood Street, Burton Street, Gilbert Lane, Riverside Street, Old Icehouse Road, Earl Avenue, Wyath Avenue, Saunders Avenue, Flagg Avenue, Tucker Avenue, Tarbell Avenue, Dalton Street, and Heath Street. While not a street, the Watertown High School driveway, which probably generates more traffic than most of the above named streets, also does not have 400 feet of separation to the nearest intersection.

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Conclusion: The location of Brook Hollow Lane, a low volume cul de sac, although not strictly in accordance with the Watertown guidelines for intersection spacing 400 feet, will not present any traffic, operational, or safety issues. Intersection site distance is a more critical and well documented design element than intersection spacing. While there is a choice available to maximize the site distance while still maintaining reasonable intersection spacing, that is the preferred layout. The proposed location of Brook Hollow Lane provides increased site distance, (inaudible) that would be available at the 400 foot spacing and is therefore preferred.

Please contact us if you have any questions or require additional information.”

(Tape #1, Side B ended - may have missed some.)

I'd just like to state that I believe it is within your authority to waive that 400 foot distance as was done on a nearby subdivision with the roads being named Stephanie Lane and Deanna Court and I'll just submit Tax Map 113A into the record showing those streets, they're located not far from Icehouse Road, the newer subdivision. You can see from the Assessor's numbers, it's probably about 150 feet between intersections on that particular subdivision.

With reference to the common drive location being the closest one to the top of the hill, I'll submit 3 copies of a, provides grading plan that shows the site lines from that 15 back of that location as well as a site line profile corresponding to that alignment which demonstrates, you can see through the center of the Gilbert Lane intersection 250 feet. This is just a site line profile. We did have the site line for the proposed road, but in response to concerns we just added the alignment from the intersection that shows what we have, basically unlimited to the east and 250 feet to the west. I'll submit two copies. In addition with the shared driveway we feel safety will be improved by the fact that the driveways of roughly 300 feet, vehicles are highly unlikely to be backing out of there, they'll be coming out forward so the possible problem of backing out would be most likely eliminated. If you go by there tonight, there is a street light directly across from this proposed driveway location, and is slightly farther down the street than the one across the street, maybe 20 feet or so farther down the hill. That's all I have for a presentation, but I'd be happy to take questions.

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**Mr. Mancini:** I brought it up the first time they came before us about the 400 feet, it seems that Megan made it perfectly clear in her presentation how as far as open space is concerned it meets this regulations and this one here meets that regulations, and so we're kind of stuck with the regulations. They complied with the regulations so that's what it is, but Don is trying to tell us now that the regulation is 400 feet but we don't have to comply with that 400 foot regulation. I don't agree with that, that 400 feet regulation. I asked (inaudible) told you verbally, I think that is going to be a problem, try and move that road up a little bit to comply with the 400 feet.

**Mr. Nolte:** I believe Mr. Greenberg's report does address the fact, and what I stated in response of moving it up reduces the site line for vehicles who from the report are traveling perhaps 18 mph over the speed limit up to that, therefore we still believe it's better in its proposed location for that reason. We did look at moving it up and we worked on some preliminary grading plans, we can get it to work, it will be 400 feet from Gilbert Lane, a space of 400 feet or so, but you get into a massive rock cut, we don't lose a lot but you get like a 40 foot rock cut or a 1:1 slope would be a 40 foot vertical difference of rock cut at 6:1 or 1:2 or it might be a 25 foot sheer rock cut to accommodate the driveway at that location further up the hill.

**Joseph Masi, 33 Pleasant View Street, Oakville, CT 06779**

**Mr. Masi:** My sister and I have discussed this at length with Charlie and Don and this subdivision is going to represent us and you would not want to live across the street and take a look at the rock cut that's going to be there and the walls that are going to be there if we meet the code. We can meet the code, okay, but you in your role as planners, okay, should have the opportunity if you have the proper engineering reports that indicate that there is not a problem if it stays where it is, to have something good versus something bad and that's what we are saying.

**Ms. Wick:** I would wish that it were so, but my understanding of the law is that we have the right to waive aspects of the subdivision or regulations but only those aspects of them that we have given ourselves in those regulations the right to waive, and I would like our staff to confirm that, and if my understanding is true, then we don't have the ability to waive it. I agree, I think perhaps it should be waiver able and maybe something can be done to change the regulation but as the regulations stand now, I don't believe we have the authority. We limit, in those subdivision regulations, what we have declared are waiver able items and that has to do with the width of the roads in subdivisions and this is not one of those things that we have indicated would be waiver able, so I'm open to suggestions, but I don't think that we can do it.

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The other issue is I assume that Lot #4, that the driveways for Lot #1 and #4 are combined because you put your square off the Brook Hollow Lane, which as I said before is a problem for me, it's something we should have fixed in our regulations and we haven't, but I wonder if a reconfiguration could be done so that the driveway could come off Brook Hollow Lane and you won't have a combined driveway coming onto French Street.

The other issue, and we mentioned it before, that it has been our policy that we don't count detention basins as part of the open space and in truth we have had in recent years a lot of trouble with conservation easements as part of open space, because people, they pay taxes on it, it's their land, and they do things that they're supposed to do, so from my perspective I want to see our open space in fee simple, and I think we have the right to require that. Certainly the conservation easements are valuable for the protection of Echo Lake Brook. The other really is valuable for the viability of your project, but I would like to see our open space in fee simple land, and based on our regulations it should be contiguous to existing open space since there is some.

**Mr. Russ:** I'd be dead set against the driveways, any of them, from Gilbert Lane coming down to that street, just for safety reasons. I've worked with the Town for a lot of years and retired and (inaudible) on that hill to get in and out of driveways, it's scary, I don't care if you're coming out front or backwards. If you go back up French Street the other way you'll see there is a project there where there is no driveways coming out of the houses that were built during that project and I would like to see that on this project, that there be no driveways on French Street except to the road. That presents a nice safety factor for all the homes. You say people aren't going to back out of these driveways but I know from experience that when you have parties and you have people parking in the driveways, some of them are going to drive in there and not be able to turn around and they will back out into the road, and 40 mph over a hill at 250 feet, there's only a couple of seconds. It's just not good. I couldn't approve a project, not after seeing what they did on the other one.

**Mr. Nolte:** We have grades on this project that don't allow the flexibility of perhaps other properties in town to utilize the property. We're in an R-12.5 zone. We feel we meet the regulations. Most towns have a 150 or 200 foot minimum distance; we have 250 to the nearest, maybe a little over 300 to the next driveway and 400 or slightly over from the crest down to the third driveway proposed on French Street, but I know you have your opinions.

**Mr. Minnich:** Does the cul de sac at the end of the road conform to the regulations?

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**Mr. Nolte.** Yes, it does. We did check with engineering as to this retention area in the center and they agreed that it would be a good application in this instance.

**Mr. Minnich:** On open space #1, I'm looking at the map, could you help me to point out where that permit of open space #1 is?

**Mr. Nolte:** You might see the heavier lines, it's right here, I'm circling it on the map, open space #1.

**Mr. Minnich:** So it does not go along Echo Lake Brook, correct?

**Mr. Nolte:** No, that is the easement one.

**Mr. Minnich:** On the corner of French Street and Brook Hollow Lane, do you show a street light there?

**Mr. Nolte:** No, there is one nearby, actually there's a pole there, I believe there's a light on.

**Mr. Minnich:** There is an existing one, is that what you're saying?

**Mr. Nolte:** Yes, if not, we'll install one at that location, but I do recall prior to driving by at the last meeting, I saw one there.

**Mr. Minnich:** That open space that you presented some of the aspects of it I like, I mean I think to help protect that Echo Lake Brook area and I'm not sure if the conservation easement is the best way to do it, but I like open space a lot better and it changes the title of the land to the Town or others, but I do think that Echo Lake Brook as you have pointed out in your presentation should be protected in some means and it's just a matter of the legal mechanism to which that is done, but I too favor that being open space rather than just a conservation easement.

As to the issue that seems to gather some attention by your traffic engineer as well as some comments that are here, on Davidson Farm Subdivision out on Morris Town Line Road and going towards Litchfield, during their process of review they did need to change and they did change their two intersecting roads so that they were spaced at least 400 feet apart, they previously weren't, so there is some recent history to this 400 foot intersection review. I'm not sure if it was that project or another one, I lose track of these after awhile, but we do have a legal opinion from our Town Attorney with regards to the process to change subdivision regulations, or at least waive subdivision regulations.

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What Commissioner Wick had discussed is indeed what the legal opinion said, is that it needs to be specific in the regulations as to waiving a provision of the regulations. I read it again tonight, it does not state that that is a waiver able issue. Now that begs the question in terms of what is the best process to go here, and as Joe has pointed out, the alternative is to put a different location for a road and cut rock away. The other alternative is to having understood that impact a little bit better, I mean you've mentioned it to us, but I think in fairness we need to understand it much better than what we do by just a few words, that there is the other option of looking to change the regulation, not necessarily the 400 feet, but changing making it waiver able or not is another option. Changing the regulations in some manner is another option that's there, but I don't see that this 400 feet based on the legal opinion and based on what we've been doing is waiver able by us at this point in time.

**Mr. Rondeau:** You mentioned some owner maintained swales?

**Mr. Nolte:** Yes.

**Mr. Rondeau:** Could you point out where those could be?

**Mr. Nolte:** Above the road between on Lots #3, #4, #5, and #6 flowing to the south and on Lot #7, flowing to the watercourse to the north.

**Mr. Rondeau:** When you say they're owner maintained, I assume that's to keep water from coming down that embankment into those homes?

**Mr. Nolte:** Yes.

**Mr. Rondeau:** My concern is if they are owner maintained, obviously it will be difficult to manage that. How do you propose to handle that?

**Mr. Nolte:** Really it's just removing fallen dead wood, something that might obstruct the swale and berm system, it's really not a whole lot of work if we have a tree throw, but the area is going to be cleared and graded, maybe 12 to 15 feet in width and there is not a lot of under story in this area in the wetland corridor there is, we tried to traverse, but it's removing fallen dead wood basically, and these people would be doing it to protect their own homes and also in connection with maintaining curtain drains, there will be curtain drains at the base of the slopes as well. Right now there are no rivulets or signs of concentrated flow, I haven't seen any flowing off this hill, we have very well drained soils, sandy soils, I don't expect to see rushes of water coming off where there is none now because there is very limited disturbance above these swales, they were more a protective measure but caveats could be put in the deed to bring it to their attention as their responsibility as well.

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**Mr. Rondeau:** And then the areas that you guys are going to be cleaning up in the northwest corner, when we went up there we obviously saw a bunch of debris, who will be responsible for keeping that silt and other things from building up there after you guys have fixed this and left?

**Mr. Nolte:** That's in a Town drainage easement, there's a Town drainage easement, a wide one coming into the site, it hasn't been maintained, it's probably collected sediment for 10 years. If it's not maintained it will probably collect sediment for 10 or 15 years before it starts to overflow again or the Town maintains it. There is access though to come down through the existing easement in this road.

**Mr. Rondeau:** You were mentioning about the shared driveway and that you didn't think people would need to back out. What is the proposed width of that driveway, and is there an area to pull off if one car is coming in and another is going out?

**Mr. Nolte:** It's proposed to be 16 feet wide with 2 foot shoulders on either side.

**Ms. Mulcahy:** That doesn't necessarily mean that the person who buys that lot has to develop that 16 foot driveway, right, that's just feasible?

**Mr. Nolte:** We would accede to any requirements of 16 foot above and beyond the minimum width, it is above the minimum width of the Town, but as a condition it could and should be made 16 with 2 foot shoulders on either side.

**Ms. Mulcahy:** You'd have to condition it.

**Ms. Wick:** Is there any proposal to have a homeowner's association for this so that there would be a joint responsibility for maintaining these swales, etc?

**Mr. Nolte:** No, it is not, it's proposed to be handled through caveats on the deeds of the property owners, except for there are two other drainage easements specific between lots where pipes are conveying flows, one being on Lot #5, there is a catch basin that the swale would drain into that flows across Lot #5 and the Town could have the right to maintain, but it's the owner's responsibility, but if they don't the Town has a right of access to maintain it. I know why they would, because the water would just be flowing over their driveway, it's their drainage. And also on Lots #1 and #2, where you have a set of catch basins in the driveway and a pipe going to the rain garden, that's within the drainage easement that the property owners will share the responsibility of maintaining.

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It doesn't affect the public road and there's drainage between the road and the driveway, whereas if for some reason the two catch basins weren't maintained, water will be guided to a catch basin in the shoulder, it will be graded to that catch basin, not straight out to the street but I would think that catch basins with 2 foot sumps, a 15 inch pipe leaving it would be more than adequate to handle a private driveway.

**Ms. Wick:** We have in the past required driveway agreements when you have the sharing of driveways so that there is no question that the people there are responsible and each one knows ahead of time what that responsibility is.

**Mr. Nolte:** That would not be a problem.

**Mr. Masi:** We talked about homeowner's associations. It's been my experience in West Hartford, which deals a lot in homeowners associations, they're basically failures. If you think you're concerned about getting a property owner to clean this swale, on top of the ledge for his own protection, try getting a homeowner's association to go in and clean out siltation basins and rights of way and so forth. It don't work. It just don't work. As Don pointed out, we threw these in on purpose, we didn't have to as far as the swales at the top of the hill, but we all knew that there could be possible runoff where the shear cut is so we threw those in as potential projection and like he said, if the person below that who owns that lot doesn't clean that swale, he's the one who is going to get inundated with water, so it makes sense he keeps it clean.

**Mr. Minnich:** Any members of the Commission? Okay, next phase of this Hearing is to turn it over to the public. Are there any members of the public who would like to make comment on this application?

**Jean Rainone, 443 Riverside Street, Oakville, CT 06779**

**Ms. Rainone:** I live on the corner of Riverside and French so when you were talking about the traffic, I'm very concerned about the traffic. I didn't know if anything was mentioned as far as a traffic light, I thought I heard someone mention that. I wasn't sure if that was addressed. Maybe I just misunderstood.

**Mr. Minnich:** There was no traffic light, it was a street light.

**Marie Lamy, 18 Gilbert Lane, Oakville, CT 06779**

**Ms. Lamy:** My concern is that I have a septic system and that would be right up in this area and I'm almost positive they'll have to do some blasting because it's all ledge back there, no matter what they put up, and my concern is my septic system, cause it's very close.

**James Beveridge, 359 French Street, Watertown, CT 06795**

**Mr. Beveridge:** I didn't come prepared to speak tonight since we've raised some questions on driveways and safety. I tried to address this safety issue during the Wetlands process and I was told it would be more appropriately done here. I don't know what your traffic survey showed and I don't know what your site walk showed, but if you made a site walk between 7:15 and 7:45 Monday through Friday you would have found traffic stopped on French Street coming up the hill due to cars trying to get into the high school making a left turn. Coming out of this subdivision during that time period, I would think that a left turn east on French Street would not be possible, and you could make a right turn if somebody decided to let you get in. I'm just concerned with safety on that hill and I just wanted you to be aware of that. Thank you.

**Mr. Minnich:** Any other comments from the public?

**Mr. Nolte:** I did meet with Ms. Lamy at her property and I acknowledge her concern, there is shallow ledge on the proposed house site on Lot #1, close to her property. Perhaps we could give some additional thought to her septic system as part of a preblast survey. I know there is a sanitary sewer in front of her property, she elected to replace her septic in the past instead, but the Fire Marshall will govern the blasting permits, the safety, blasting mats, but perhaps the condition of the septic could be evaluated by the developer prior to any blasting on that site so there would be baseline information. I would like to request that the public hearing be kept open. There has been some interesting discussion and I would like to perhaps meet with your staff about the past decisions by Town Council on regulations, changes, I'd like to understand a little more. Davidson Farm that is really new to me, I'd just like, and if you have your Town Attorney, any past opinions on this or any information you could help us with, perhaps staff could provide that in the interim before the next meeting.

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Just food for thought that occurs to me and I don't know if it will solve problems at the high school or speed problems on French Street, I know that at the beginning of the school year there was quite a bit of attention to the speed control in these areas by the Watertown Police Department. I saw in on Channel 8 news on several occasions. Enforcement, the Police Department close should be a concern in the school zone, but perhaps as a traffic calming measure, not really related directly to this subdivision but maybe someone, or even we could request it, that stop signs might be a good idea at the French Street High School entrance so that people aren't cutting across traffic or racing people to get by the school who want to go in or pass by it, but it just seems to me that there is a traffic light at one end and one at the other, and it's just, go dogs go in between, so that's something that just could be driven consideration.

**Mr. Minnich:** Does that conclude your presentation?

**Mr. Nolte:** Yes.

**Mr. Minnich:** Any comments from members of the Commission? Any further comments from members of the public? What's your pleasure?

**MOTION:** (Ms. Wick, sec. Mr. Russ) to Keep the Public Hearing open.

**Discussion:** None

**MOTION PASSED UNANIMOUSLY**

Public Hearing Recessed at about 8:15 p.m. (no time given).

(Tape #2, Side A ended - may have missed some.)

**Mr. Minnich:** Course of reviewing what I mentioned about the . . . .

**Mr. Nolte:** Yes.

**Mr. Minnich:** That shouldn't take you very long.

**Mr. Masi:** If there is any new information you (inaudible).

**Mr. Minnich:** Ruth, my recollection obviously fades with time, but my recollection is that that legal opinion was done about the time that Mallory Court Subdivision of Joe Polletta's on Echo Lake Road cause I recall it was related to our authority under subdivision regulations. It was a broach opinion, it wasn't specific to 400 feet.

**Ms. Wick:** It was about waiving.

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**Mr. Minnich:** It was about waiving subdivision regulations.

**Mr. Masi:** What is the time cycle for requesting an amendment to the subdivision regulations?

**Mr. Minnich:** We can do it fairly quickly in terms of getting it on the agenda to talk about, it's a matter of either you or us or perhaps a combination of at least discussing it.

**Mr. Masi:** Could it be done so that it would fall in sync with the time cycle that we are allowed under the Statutes?

**Mr. Minnich:** Not under this, no, so there is not enough time to do both.

**Mr. Masi:** Even with the extensions we could grant you?

**Mr. Minnich:** Well you could always grant extensions.

**Mr. Masi:** I'm trying to get a sense of what we might be able to do.

**Mr. Minnich:** What's going through my mind, though, with that very thing and you can help me with this as well, the rules to which apply to you are, the rules that were in effect at the time you made your application. If we change the rules, as what you're proposing to do, those rules don't apply to you, so in order for it to be applicable to you, I know this is this is the reverse of the reason why the law is in place, cause you now want it to happen, but in the case where most likely where rules change that you don't want to happen, I don't see how these changes in the rules would apply if there is an open application, you follow my logic?

**Mr. Masi:** Well I think that's usually where the current rules are tougher than the pre-existing rules, where the current rules are looser than the pre-existing rules I think you've got your leeway and you might want to check with corporation counsel on that.

**Mr. Minnich:** I don't think there is any distinction under the law.

**Mr. Masi:** But I think you ought to check with Counsel on that. The thing is if you (inaudible) what you found here, forget my subdivision, okay, what you found here is something that you may need as a tool later on.

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**Mr. Minnich:** I'm not necessarily in disagreement with you. I'm not so sure I want to, unless the Commission wants to do it, expend Town funds to find the answer to this because we already know the answer to this question and the answer that we've heard so many times are the rules that apply are the rules at the date to which you have made the application, and anything we do subsequent to that does not affect your application, so the only way that you can change, have this effective is to not have an application before us and to apply later. If you're asking the question how soon can we get this done you can gather a consensus of the Commission to determine how soon that can be, but it can be done rather quickly.

**Mr. Masi:** (Inaudible) hear that if I could just for. . . .

**Mr. Minnich:** I've found in the past, just in terms of getting this done, that obviously need to be some willingness on all of our parts to do this, but also it's usually best if the application whether it comes from us or you has some agreement or tentative agreement before we all go about doing that so if you want to go around the table and see . . .

**Mr. Masi:** Does the Commission (inaudible)?

**Mr. Minnich:** Does anyone want to comment on that issue? I'm sorry Ruth corrected me, subdivision regulations can only come from the Commission so we would have to do the making of the, zoning comes from you, but subdivisions can only come from us but let's see if we have some willingness to change this . . . .

**Mr. Franson:** (Inaudible) more than open for discussion and I think it's a good tool if we could modify that in some cases (inaudible).

**Ms. Wick:** I have no problem in making that . . . . I would like parameters but certainly making it a waiver able issue is not a problem for me.

**Mr. Rondeau:** I agree.

**Mr. George:** I don't have a problem.

**Mr. Demirs:** I agree.

**Mr. Russ:** I'm open.

**Mr. Mancini:** I'm open, I'm only gong on the regulations that are there, I have no problem listening . . . .

**Mr. Minnich:** Okay, so how do you want to proceed here?

**Mr. Masi:** I will let you know very shortly, I want to talk to my family and get back to you ASAP.

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**Mr. Minnich:** All right, thank you. Okay, so lacking the fact that you may withdraw, and the fact that what you're getting for information we can get by our next meeting which is in the middle of January, so we'll continue this public hearing until the middle of January, whatever that date is, the 16th, thank you.

Respectfully submitted,

David E Minnich, Chairman  
Planning and Zoning Commission

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Lynn M. LaForme, Minutes Secretary