

Town of Watertown  
Planning and Zoning Commission  
Joseph Masi and Margaret Raymond  
Public Hearing

Time: 7:00 PM

Date: November 5, 2008

Place: Watertown High School Technology Center  
324 French Street  
Watertown, Ct

Present: D. Minnich, G. Martin, C. Mancini, G. Dupliese, J. Blais, D. George, K. Demirs, R. Rondeau

Absent: R. Russ, M. Masayda

Others Present: Ruth Mulcahy, Administrator of Land Use  
Chuck Berger, Town Engineer

D. George sat in for R. Russ

R. Rondeau sat in for M. Masayda

Minnich: Next is a hearing of an application for continuation of a public hearing for an application for Joseph Masi and Margaret Raymond for the re-application of an 18 lot subdivision to be known as French Hill Estates located on French Street, Watertown, Ct in an R – 12.5 Residential Zoning District.

Before we begin there is a folder of items that we had administratively to deal with the last time and we said we would deal with it this time with various people. Let me start off with the first one. Carl Mancini, the applicant requested that you recuse yourself. You requested to contact an Attorney and to review that issue and what is your decision?

Mancini: I will not recuse myself.

Minnich: Gary Martin the same question you were asked by the applicant to recuse yourself at the last meeting and wanted to request to consult with an Attorney, what is your decision?

Martin: I have a little bit more worry than I have given this a lot of thought on the request to recuse myself and I can unequivocally state that I have no pre conceived position upon this proposal and I will participate in the discussion. And that is where I will stop.

Minnich: Thank you. On another administrative matter I suppose I could turn to staff was the issue of the green cards having been received which is the notice to the various neighbors have those been submitted to the office.

Mulcahy: Yes they have.

Minnich: Thank you Ruth. The last issue that I have on my list of the administrative issues was the issue of the documentation that I request be put into this record and if the applicant wishes to repeat those again we will consider putting those into the record. If there is any other administrative matter I missed I will be happy to answer those questions.

**Mike Zizka – Attorney – Martha Calino**

First of all I would like to thank you.

Minnich: Jim has not recused himself on this issue. So for the record Jim Blais is now a sitting member of the Commission. So I thank you for your service Ken.

Zizka: First of all I would like to thank Commissioner Martin and Commissioner Mancini for at least giving consideration to our request, we do think the request was appropriate but I understand that is a decision that had to make on your own with council and appreciate the fact that you did so. With regard to Mr. Minnich to the issue of the documents I would like to submit that we do repeat that request. I still have that list of documents here and I would propose to present those for the record. Again the purpose of these is just to indicate why some of the choices were made in connection with any subdivision application. The Commission has an opportunity normally to consider amendments or modifications to the subdivision plan and the purpose of the historical documentation is to indicate in large part how the application got to this point. In the event there were any questions that should come up later about why a particular method was chosen instead of something else. I do have that list.

Minnich: Would you please give that to Carol and if there are no objections from members of the Commission I will ask Carol to make a list we insert into the record at this point the list of documents that are being requested to be put into the record.

Zizka: I have just changed the date to November 5<sup>th</sup> but it is the same list.

Minnich: So if you could insert that into the record and type it into the record at this point. Is there anything I missed?

*November 7, 2007 – Regular Meeting*  
*January 2, 2008 – Public Hearing*  
*January 2, 2008 – Regular Meeting*  
*January 16, 2008 – Special Meeting/Public Hearing*  
*January 16, 2008 – Special Meeting*  
*February 6, 2008 – Continuation of Public Hearing*  
*February 6, 2008 – Regular Meeting*  
*February 6, 2008 – Regular Meeting Motion Sheet*  
*February 20, 2008 – Special Meeting*  
*March 5, 2008 (revised 5-20-08) – Regular Meeting*  
*March 19, 2008 – Special Meeting*

*Includes – Memo of March 14, 2008 – Roy E. Cavanaugh to Ruth Mulcahy*

- *Five-page handout headed “Preliminary Summary of intersection grade standards*
- *Transmittal letter of March 10, 2008, from Selma Alves, Council of Governments of the Central Naugatuck Valley, to Ruth Mulcahy. with 14 pages of attachments*
- *Memo of March 12, 2008 from Ruth Mulcahy to Planning and Zoning Commission re: Street Intersection Separating Distances, with 14 pages of attachments*

*April 2, 2008 – Regular Meeting*  
*April 9, 2008 – Special Meeting/Public Hearing*  
*April 16, 2008 – Special Meeting/Public Hearing*  
*May 7, 2008 – Public Hearing*  
*May 7, 2008 – Regular Meeting*  
*May 14, 2008 – Special Meeting*

Zizka: I will probably think of something as the evening goes on but none that I am aware of now. Mr. Chairman I am not sure if is customary for the Commission to hear from their staff, from their engineer or planning professionals before we continue. We do have some additional comments that we can make as a result of further discussions with staff. But I did not know if it is your custom to hear it from staff first.

Minnich: We do it both ways. So as you wish either way.

Zizka: I would point out that we have submitted documentation of the prior hearing with regard to the issue of the intersection distance as well as other technical data regarding traffic and I would note for the record that Mr. Berger has provided additional comments that we are prepared to talk about as the Commission may wish. I would like to do tonight is first of all to call on Mr. Fred Greenburg to make a presentation to the Commission with regard to his review of the traffic pattern and proposed intersection of the new road with French Street. Mr. Greenberg was unable to attend the last session of this public hearing. He is the person who authored the report and I thought it would be most appropriate for the Commission to hear from him directly so that he may directly answer any questions that the Commission may have. Without further ado I would like to introduce Mr. Fred Greenburg.

**Fred Greenburg – Traffic Engineer – B & L Companies, Meriden**

I am a registered professional engineer in this state. My practice is exclusively in traffic engineering.

Initial evaluation for the first application of this site back in January of 08 had an update in September of 08. The primary issue as my understanding is the distance from the public subdivision street for Brook Hollow Lane to nearest public side streets as proposed on the plans is about 335 feet from Riverside Street and about 505 feet from Gilbert Lane. Subdivision regulations require the 400 foot spacing between intersections once that spacing is waived by this Commission. When we look at the site originally we did couple of things on French Street with the traffic with site distances and we also measured travel speeds. The prevailing speed on French Street which has a street limit of 25mph hanging down the hill in front of our site is about 43mph. That is what we call 85% percentile speeds which is higher than the average speed. For speed at which only 15% of the vehicles are exceeding I certainly consider it to be a design type speed. Based on that speed of about 43 mph we would want to have 475 feet of site distance from a driveway looking up the hill. So it is adequate for vehicles exiting the street to have adequate distance to see if the prevailing speeds if they can safely make a left turn out of the site at the location where the Brook Hollow Lane is now located. We have about 500 feet we are going to section site distance up the hill. The distance is as you aware it's only been on the street the distance is restricted by the crest curve on French Street. When you go about 400 feet or so you go over the top of the curve and you dip down and you lose sight of vehicles we have about 500 feet of site distance even by the hill.

The question is if we move Brook Hollow Lane to be 400 feet from Riverside Street what will we wind up with? If we did that would meet your regulations in terms of intersection spacing. We wind up with site distance of about 440 feet if we move the intersection over which is less than the 475 feet we feel is warrant. We believe that the intersection site distance criteria is much higher order of importance than the intersection spacing criteria in terms of safety and actually in terms of traffic operations. The spacing that you have 335 feet is perfectly adequate and safe and therefore considering the site distance issue which has indicated feel more important we feel that the Commission should grant the waiver for the 400 foot distance in this particular case. I think that basically puts it as simply as I can and be happy to answer any questions.

Zizkas: For the record if I could Mr. Chairman, I just ask Mr. Greenburg to state what his background is and how long he has been involved in traffic engineering.

Greenburg: As I have an indicated I am a professional engineer registered in this state. I have a bachelor's degree in civil engineering and a master's degree in transportation engineering. I have been practicing about 30 years.

Zizkas: I have one more question, if the intersection is designed as proposed would the shortening of the distance the intersection distance to Riverside Drive would that cause any public safety issues?

Greenburg: No

Dupliese: You mentioned the 85% on this 43 mph. Then you said 15% is it 15% of the traffic that is exceeding the 43mph?

Greenburg: That is correct.

Dupliese: The 85% are anywhere below that 43 mph.

Greenburg: Yes, the 43 is the point where the 15, 85 break is and that is the (inaudible) issue that is generally accepted in the profession as a type of design speed.

Dupliese: So that 85% it could be that 90% of them are actually following the speed limit doing 25 mph but we have some that are...

Greenburg: I can tell you that is the average speed which is in here some place is 37 mph, so 50% of the people are exceeding 37 or 50% below. I think the speed limit is 25 so 25% of the people are at the speed or below.

Minnich: Anyone else on the Commission?

Martin: Are those parameters set for all streets whether they are level, inclined whatever those the set parameters that are out there that exist no matter what the contours are?

Greenburg: For intersection site distance it for other distances as adjustments for grade. For intersection site distance the intent is to widen up distance so people don't have to stop on the streets. So if they are coming out on French Street which has a steep grade if you hadn't had put in section site distance people coming in on Brook Hollow Lane would enough room so that people they make a left turn without people on French Street having to slow down. So if you do not slow down the grade becomes kind of immaterial.

Minnich: Any others members of the Commission? Chuck will you help us to what you have put into your memo November 5 mentioned that and was that the latest one and I am not sure if we all had to read all of that as it relays to this topic of traffic.

Berger: As it relates to the topic of traffic again and tonight's packet was a November 5<sup>th</sup> memo. There are two memos in the packet, the other one is dated October 8<sup>th</sup> so make sure you get the November 5<sup>th</sup> one out. At the bottom of page two, the top of page three is where I addressed this issue in that memo. I can briefly read that to you.

The application package contains a traffic report from BL Companies dated September 10, 2008. In regard to intersection sight distance and intersection spacing the following information is provided;

As currently designed the proposed intersection of Brook Hollow Lane is located 335 feet west of Riverside Street and 505 feet east of Gilbert Lane. In this location the intersection sight distance is 475 feet to the west and greater than 500 feet to the east. These distances are measured 15 feet back from the edge of the pavement on French Street in accordance with DOT Highway Design Manual. The traffic engineers report states that the DOT Highway Design Manual would require a minimum of 475 feet of intersection sight distance at this location.

Given the above discussion, the proposed location of the intersection cannot be moved further away from the intersection with Riverside Avenue to obtain the 400 foot intersection spacing distance without impacting the intersection sight distance such that it will not comply with DOT Highway Design Manual standards. In order to obtain the minimum required intersection sight distance of 475 feet to the west, a waiver of the 400 foot intersection spacing distance from Riverside Street will be required.

I listened very carefully to the traffic engineer and I don't take any exceptions to any of the statements he made this evening.

Minnich: Is there any other questions or comments on this topic from members of the Commission? Does the applicant have any other comments on this topic of traffic?

Zirkas: Nothing on the topic of traffic specifically. I would like to ask Don Knolte now to talk about his responses to some of the items in the memo that Mr. Berger has submitted.

**Don Knolte – Stuart Somers Co.**

I just wanted to point out that since the last meeting plans had been revised in response to the comments dated 10-21 on which this memo is based on which you just received. I have also responded in earlier to Chuck that should also be part of the record. I don't know if it is part of your packet, I can submit that if it is not. It seems like we addressed a good number of most of those comments. The ones remaining on this November 5<sup>th</sup> memo seem to be minor in my opinion...

Minnich: Let me just interrupt you are you referring to response which you made October 28<sup>th</sup> is that...

Knolte: That is correct. These other changes would be typical of construction plan preparation and we have no issues with any of these items. I could comment though getting back to the sidewalk issue which was raised we have looked at that and really do not object to relocating the sidewalk to the east side of the road to the Commission feel that be most effective or appropriate in that location with the 30 foot wide road and the few numbers of houses on the lot on the street. Though it may be able if the Commission would consider moving that sidewalk to French Street it would may gain greater use than the greater public benefit. The client has authorized us to say no objection to putting it within the front of his property only not going onto it from other adjoining properties to make that connection entirely within the intersection of Gilbert and Ice House but that would serve to carry that possible future sidewalk a good ways. We have no objections with the Commission would like to site the sidewalk.

In reviewing the open space with our client, we have looked at the amount of open space offered in fee and that was included that 6.25 percent was included in October 1<sup>st</sup> memo I gave to you of the entire 14 acre site. That excludes the storm water control facilities and excludes the conservation easement areas to fee areas. Which total almost 2.8 acres they were reduced slightly in response to Chuck's comments, the last comments to take them away the box culvert area on a couple of lots but that was just a minimal reduction of say 4,000 square feet. On deep thought and consideration our client's are willing to offer a component of a fee in lieu of the lacking of open space area direct in fee. Ignoring all that

is being offered in easement over the regulated area or non regulated areas and to offer to make payment of the 3.75% of the pre-development value of the land.

The last issue that I might want to touch on is just and I have received Ruth's comments and memos on this. But just to point out on that we feel that we fully comply with the dead end street requirement. Even though we have 18 lots within the subdivision we have 3 lots with legal frontage on French Street. This manner of serving the subdivision really came about that through this process to not private driveway access off of French Street. So we developed a common driveway scheme but we feel that there is no need for a ¾ road to allow access to 15 lots on this street as might be on other subdivision of layouts because we don't have sole access to all 18 lots of the street. We have other access available which we are not electing to use for the 3 lots which exceed the 15 lot criteria in that section. That is all I really have to speak on but I can answer any questions at this point.

Minnich: I would presume that the 3.75% in lieu is addition to the open space?

Knolte: Yes it is and as pointed out in that memo the open space will be cut down to exclude the detention base and that will just be a parcel to go to the town of Watertown.

Dupliese: You are proposing changing the sidewalks if we ask for the sidewalks to go to French Street that there would not be any hassle with that?

Knolte: We have no objections to putting them and would see a greater benefit to having them out to French Street right of way. Than on a 30 foot wide road where probably would not see much use and may interfere or hinder it will still work but the driveways will then have the hump of the sidewalk to go over. This sidewalk on French Street we are only offering in front of 800 feet approximately.

Dupliese: You are not proposing to connect it to Ice House or...

Knolte: No it would be just the three or four other lots involved to be built to town standards.

Minnich: Is there anyone else on the Commission?

Martin: The 30 foot road proposal is strictly based on what are requirements are, there has been no position on whether or not we want 30 feet or what...

Rondeau: The last meeting I attended this was discussed and I don't know if there was I have not seen the minutes from the meeting that I missed but the last time I had asked why there were so many houses off of a shared driveway and why that shared driveway was not made into an actual road versus a shared driveway for 5 or 6 lots or so...

- Knolte: It is physically not possible because of the grades allowable for a driveway exceed those allowable for a road for one thing. We are going up a hill we are trying to keep not working with the contours so much because we are trying keep the driveways off. It would just chop up the lots to not allow the squares to fit on the property.
- Rondeau: If the slopes are not adequate for a road but they are adequate for a driveway are there any safety issues associated with having 5 or 6 whatever that number of houses are on that if the slopes can exceed what for a driveway but they cannot for a road?
- Knolte: No, we think they are safe and something I didn't point out but we have done we have widened the road to 20 feet width it was 18 feet width...
- Rondeau: The driveway?
- Knolte: The driveway, the Fire Marshal raised that as preference and we took that to heart and decided to make that wider to improve safety and access for emergency vehicles to pass to serve these lots.
- Rondeau: My concern is having multiple houses on a single driveway is there obviously has to be some type of cooperation amongst all the home owners to service and maintain what have you.
- Knolte: Absolutely and I have submitted to staff and I can submit into the record we have a draft easement document for access, maintenance, utilities but I will just put it in and make sure it becomes part of the record but I know it has been reviewed by staff prepared by Mike Zizkas if there any questions on that specific...
- Dupliese: Would the developer maintain that driveway until a certain percentage of the homes on that private drive are filled are they offering something?
- Zizkas: The way that the declaration and easement is worded each owner of a particular lot would have a proportional share of the responsibility of maintaining the driveway. So for as long as the current owners what would be called as the declarant in this proceeding let say 5 of the 7 lots that owners would have 5/7 of the responsibility for maintaining it . They would have to share 5/7 of the cost, that's the way the declaration is created.
- Dupliese: The driveway is a paved driveway to the top of the hill but now actually to the cull de sac correct?
- Knolte: Yes to the cull de sac. They would have an 85 foot diameter turn around.
- Dupliese: So that will be paved before the individual lots are sold for...

- Knolte: Before certificates of occupancy are issued.
- Dupliese: And that is part of the document that you would provide?
- Knolte: You can make that a specific I am not sure if that is in here we be happy to offer that as a specific condition of approval if it is not here standard.
- Dupliese: Is that the private driveway be paved up to the cull de sac before any CO's are issued on the homes for those 7 lots. That way in the past and I am not saying anything about it has happened in other developments and I am not saying that. What happened here...
- George: The same process as subdivision as a town road and no certificate is allowed until the base course is passed.
- Dupliese: And what about the finished course when does that go down, we are having that problem right now on another subdivision that they do not want to put it down because they have run into financial problems?
- George: But it is a town road it's when they get the final CO for this subdivision.
- Martin: But this is not a town road we could do something different.
- Dupliese: I am trying to figure some language here somewhere just so make it...
- Knolte: It is certainly a bonded item as all common driveways are but whether you want this second course of pavement down before a CO I don't know why that would be necessary so...
- Dupliese: Because if it does not get done the I have seen it that first course just gets torn apart by all the construction that is going on and then the homeowners having to come down the hill when he is hitting two foot potholes and nobody wants to take care of them. I am trying to alleviate that problem or the future.
- Zizkas: If I might Mr. Dupliese one of the reasons that we are reluctant to say that the final course would be put before any CO is issued is that if assuming let say one house is built and obviously the way to these projects are financed typically the sale of one or two lots provides some of the cash to go forward and complete some of the other improvements. If one lot is sold and the final course has to be put down that means all the construction vehicles are going to be going back and forth and back and forth on the six and ruining that final course so our preference would be that certainly the first course or something like that something to make it absolutely suitable for the, subject to the Town Engineers office is review would be available and certainly we would be agreeable to any condition

where if the town's engineering staff determines that there is any deficiency in the road that makes it unsafe for the existing homeowners to travel that we would be required to take care of that immediately. But as Don said I mean this could be a bonded item as well and if the town determines that something needs to be done for public safety they call the bond, the developer was not prepared to do that. But that we think would be probably better rather than trying to put the first course or the full course down and then have ruined by later traffic.

Dupliese: Chuck it doesn't look like an awful lot of construction it does not look like they are blasting or so it would basically be the construction vehicles, the concrete trucks going up and down. Do you have a problem with waiting till the 7 houses are occupied or do you want to make it as part of a bond problem? I know you're the one that ends up dealing with the problems after so...

Berger: It is no matter what always is a problem at the end because before the town accepts anything and for these 7 homeowners who want a nice and new looking road a lot of ways it is better to wait until all the construction is done and then you put the top course and fix your curbs up and everything is nice there is no more concrete trucks running over the curbs.

George: Then it should be a bonded item.

Berger: Typically we do that, typical subdivisions are the base course goes down and most of the construction takes place and then prior to acceptance the curbs gets fixed and its all the bond is held as Mr. George said we hold the bond until it is all done and I think we could that here as well.

Dupliese: As long as you're happy that is what, you are going to deal with it...

Berger: That is fine.

Minnich: Chuck could review for us the remainder of your memo on November 5.

Berger: I will go through it quickly and then we can go back if there are any specific items but again on November 5<sup>th</sup> memo items 1 through 7 are generally items that have been addressed in their draft response letter and I am suggesting that they be confirmed on a revised set of plans. In my mind agreed to the comments that are in there and those comments need to be transferred onto the plans and made clear on the plans.

In the middle bottom half of page two we already talked about open space area #1 just showing it divided up for that area that required for the detention pond and then other open space area.

Item #2 I am suggesting that they touch base with DEP as the potential need for dam safety permit for the detention pond dam, the majority of the pond is dug into the hillside with a very minor embankment and I don't believe a damn safety permit would be required but they should check on that prior to any on site construction.

We talked about the intersections spacing and site line issues. We talked about sidewalks already. We were just briefly talking about the conservation easement document and the common drainage access and utility easement and maintenance agreement. Which the applicant has provided and I briefly reviewed those, I think given that they are proposing a common driveway with 7 lots that the Town Attorney also ought to look at that for simplicity I will call it a common driveway agreement but it is much more than that in this case. We ought to make sure that all our items are addressed there.

Dupliese: Chuck I am going back to October 8<sup>th</sup> letter here, item #2 it said a minimum of 10 foot wide level area was recommended for any houses for a potential for a walk out basement. Was one of your comments but I do not see any of the homes that would have less than 10 feet as it is. I am not sure if I am missing something?

Berger: Depending on what the date of the plans that you were looking at? I was concerned about some of the lots up on top of the hill...

Dupliese: As far as the drop off.

Berger: Yes in their back yards. The most recent plans that are dated 10-21-08 have addressed that comment of mine on the plans.

Knolte: Let me interject just to address concerns over individual lot grading in my memo October 28<sup>th</sup> I did offer and we would be willing to accept as a condition that detailed 20 scale plans would be provided showing compliance with all grading. Slope stabilization, soil erosion, and drainage requirements of the town. We have offered already to wetlands, to have geotechnical engineer involved with the project on some of the lots with more significant cuts and for the road and the road slope stabilization. So that these 20 scale lands you might not normally get on something without a septic plan being submitted but that can be made a condition.

Berger: That is a fine suggestion to make to ensure that we have got stable lots that can be utilized by the homeowners because these are shown as feasible plan. The house lots may change depending on what they want to put there and 20 scale plans would be very helpful in making sure the grading and appropriate levels area are incorporated right from the beginning.

Dupliese: Right because they do not have you saw grade lines here but this is off a geotechnical map, this is not actual geo map so these could actually change in the field. But you have on lot 7 you have grading off that back corner.

Berger: The existing contours are what are out there today.

Dupliese: They are.

Berger: Yes, then the proposed ones is what they are proposing and the prior version of the maps they did not have a level area coming out the back of those houses. They have added that 10 foot level area on the plans that I believe that you are looking there now. For that particular shape house on that lot when it comes time for building permit things it may change a little bit and that is where the 20 scale plans would be helpful and making sure that all the concerns are addressed.

Dupliese: It will maintain the minimum a 10 foot lawn area of some sort.

Berger: I usually use 10 foot as a good small backyard. But better than just coming out the back door and going to a 3 to 1 slope that is not practical.

Dupliese: Again on back lot 2, 3, 4 and 7 that all going to be the heavily wooded area on the top so those are the limits of excavation is there any limits there how much they are actually going to cut and remove of the trees or they just cleared the whole thing?

Berger: What sheet are you on?

Dupliese: S1

Berger: I will call them the cloud shaped lines are the limits of disturbance for those lots.

Dupliese: So that is where you would have you silt fences put in so that we don't end up with, once they take the trees off the top of the hill and they start working on there it will all run down the bottom.

Berger: Yes

Dupliese: So it is not just cleared. No trees left in between lots and..

Berger: As well as the conservation easement as you get further down that hill but the limits of disturbance are the limits of the services.

Martin: Chuck, that shared driveway is that a curbed driveway?

Nolte: Yes it is a formal catch basins and curbing.

- Martin: I noticed a 30 foot drop between the upper catch basin and the lower catch basins and a span of what appears to be about 240 feet. On a heavy storm Chuck do you feel that sufficient to catch water coming down that hill?
- Berger: Yes there drainage analysis is designed for the 25 year storm. I believe that is about a 12% grade. There may be some by pass to the catch basin but it is all caught in the catch basins or the next one downhill typically in a large rain storm you will see some bypass going past catch basins only to be caught in the next one or the next one and there is an allowable bypass that we accept.
- Martin: So there is no humping of the road so to speak to try slow that water coming down at the catch basin as it is hitting each catch basin?
- Berger: No
- Martin: I am not seeing catch basin that is located at the cull de sac?
- Knolte: We have a depression design approved by the Wetlands Agency it's a infiltration and retention area in the center island where some of the water is graded to most of it is going through the storm drainage system. You see the last set of catch basins down to the storm water basin but the area within the cull de sac grades into this bowl. Basically it is planted is has porous material beneath it and it will discharge into a bio swale at the tow of the fill for the cull de sac.
- Martin: How large is that circle in the center of the cull de sac?
- Knolte: 40 feet in diameter. There are two other catch basins but you will note those in the shoulder to take water.
- Martin: I do see those, there is a very steep sloped area and you give it a heavy rain I just want to make sure...
- Knolte: The road grades vary between 1 and 7% maximum at the stake follow the contours pretty well. It only goes up to 7% really because when you have to accommodate the box culvert crossing with the intermittent waters...
- Minnich: Do you have anything else further at this time Gary?
- Martin: No thank you.
- Minnich: Chuck did you have any comments on the October 28<sup>th</sup> response to your comments?

- Berger: Going to my November 5<sup>th</sup> memo items 1 through 7 that begin on page 1 are my responses to their response to my October 8<sup>th</sup> memo. Which I believe they again all those responses I am basically requesting they be added onto the plans.
- Minnich: What the size of the cull de sac in that the driveway?
- Knolte: It is 85 feet.
- Minnich: The size of the cull de sac is proposed Brook Hollow Lane?
- Knolte: 100 feet
- Minnich: What is the length of Brook Hollow Lane from French Street?
- Knolte: 950 to the end, end to end.
- Minnich: Ruth do you have any comments?
- Mancini: Mr. Knolte going back to the sidewalks if I may what was the proposal for the sidewalks just on the Westside of Brook Hollow Lane right and nothing on French Street or ...
- Knolte: Nothing on French Street.
- Mancini: I see from Chuck's letter here that he is suggesting that it be moved to the east side and then that can't be done he is suggesting that the be put on the north side of French Street extending to Ice House Road?
- Knolte: It is really a preference we feel it can be done on the east side engineering wise that makes better use of French Street right of way.
- Martin: Chuck the reason for placing on the east side is obviously the stuff that could happen coming off the hill.
- Berger: I was trying to get away from the hillside but French Street is a good alternative as well.
- Rondeau: You are putting a driveway in instead of road because it is too steep; the grading is to steep to put in a road is that correct?
- Knolte: We could have driveways off of French Street in lieu of having driveways off of French Street we are going to a driveway from the interior of the subdivision and to maintain buffers from the development to French Street so we do have to climb greater grades than we would have serving the homes off of French Street. A road would involve massive excavation to get a 10% grade that we are trying to avoid. We are trying to you see the grading plan it works pretty well at the entrance you have maybe a 22 foot cut with a

shelf but then after that its following the grades pretty nicely. Because the ground we are not having a 22 foot cup all the way up and having to haul out 30,000 yards of materials.

Rondeau: I understand. So you have more flexibility with the driveway than you do with a road.

Knolte: Absolutely

Rondeau: So that being said, the reason that there are slope parameters when you put in a road is for reasons of safety correct?

Knolte: I guess when you get to above a certain point yes.

Rondeau: For all intensive purposes although this is being quote un quote labeled as a “driveway” there are correct me if I am wrong is it 7 houses worth of traffic that are going to be going up and down this quote un quote “driveway”? I am looking at this is a road that you’re calling a driveway so that you can meet the topographical...

Knolte: There is no need for public access into these homes that is the only public access to your house on your own driveway. There’s not going to be the kind of traffic the type of vehicles the volume of traffic that is just people going to their own mailboxes which would be down at the bottom. There is no need for public right of way, or public access or something built on public road standards.

Rondeau: If it were a single home or maybe perhaps two homes I could probably agree with you when you get up to having 7 homes that could have as many as two or three cars per home the amount of traffic that is going up and down that portion or that driveway could be conceivably just as heavy as it would have been on the actual road or the cull de sac itself. There are just as many homes almost on that driveway as there are on the actual road. Pretty close to fifty fifty isn’t it? Seven on one and 8 or 9 on the other. So I guess the point I am getting at is that I am not a big fan personally of having multiple houses on a single driveway to begin with. The fact that there are 7 houses on one driveway and the fact that you mentioned that the reason that you didn’t make it a road is because you could not make the driveway to the same standard as a road leads me to believe that just the easiest way around getting in and out of that situation. It may not ultimately be the safest or the most pertinent way of doing things long term especially for the people that are going to end up being stuck there.

Knolte: I understand that you do not have good driveway standards that you might be looking at, regulations for sharing common driveways but you don’t have them in place at this point.

Charles  
Spath:

You point out that because of the width that is not the only reason.

Rondeau: I did not actually mention width.

Spath: That is something that comes to my mind but you are saying because of the grade sorry. This grade is 12% your road grade is generally, most road grades are designed to be 10%. This driveway is designed at 12 a lot of towns allow up to 15 or more being paved. This driveway that we have proposed here now also will accommodate two fire trucks passing each other at the same time that is why it is widened to 20. What we are trying not to do is your road regulations now for this zone because of undersized lots which these are all oversized up on top to accommodate possible parking. Your road width has to be 30 feet unless you grant less that does not, if we try to put a 30 foot road up here for these lots which is not needed. This is as engineer is 20 feet wide two cars can pass easily on this road. I just want to let you know a lot of roads, most roads in Newtown are 22 foot wide designed for roads, fifty lot subdivisions. This is not under designed for those 7 lots but what it is it not what we are trying to do to take the driveways off of French Street. To do that we designed this drive we have try to address any of Chuck's concerns we have also addressed the Fire Marshal's concerns regarding his vehicles accessing this we have also put a fire hydrant up these houses alones so they will also have a fire hydrant. I think what you are trying to say is we are trying to get around it this way. We are trying to use the best situation here. Where we will not have any access onto French Street instead of the road and this driveway will accommodate the 7 lots and has been designed so. There is no question that this is a good width for these 7 lots.

Rondeau: My issue is not the width what my ultimate concern is the potential grade where the driveway intersects the road and on a potential winter and obviously the steeper something is getting up and down that in the winter is more difficult if a driveway is allowed to be at a steeper incline that a road.

Spath: We designed it at 12% and we took that as a factor into this. You have a maximum grade of 10 now if you go down French Hill Road that is probably more than 10. We designed it at 12% it is not much over 10. We could actually if we wanted to design that at 10 foot wide; we used not only the grade we used everything that we thought was best for this design and that is what we came up with. I think it meets all the intent we are trying to keep the driveways off of French Street and maintaining one access.

Blais: Let me get this straight you designed this design to fit the terrain safely?

Spath: Exactly. This design came about was to keep the driveways off of French Street, there is not a driveway regulation in place for site line a definite one for the town of Watertown. That place but that change with each instant says on this street to a side street.

Blais: And you meet our regulations by building this driveway this way without any deviation from our regulations?

Spath: Yes

Blais: Except for the 12% as opposed to 10%.

Spath: No that make it also for driveways, your driveways are up to 15%. So it is less.

Martin: I am looking at a 30 foot drawing on that traffic lane. I am thinking worst case scenario would be a winter day where you have slippery conditions here. Just so I understand the reason this isn't a town road and you are saying 30 feet it could be 24 feet we have got the right to make that change. The reason we are not going for town road is because the incline or the steepness of the road would not meet our standards for a road is that correct?

Spath: It is not the only reason no. There are intersection distances between roads, this would not make it. You have your 400 intersection distance we wouldn't make that, there is a center line radius per road that your trying to accommodate that have been put in place minimum radiuses it probably would not make that because your road design standards that you have for the town of Watertown are mostly you are taking a thorough road this is a dead end. You have different standards for permanent dead end and temporary. So there is a number of reasons why it is not the only reason.

Martin: Just to share some of my concerns. You talk of a private drive; you talk of a pretty steep prior drive...

Spath: Not steep you are saying 30 feet but it depends what the length of the road is it is only 12% for every hundred feet it's 12 feet. It is not steep 12% is not steep. Your driveways out there now in Watertown are 15% there is a lot designed at 15. We are not 15...

Martin: You don't have two cars going off the directions and just again I thinking how that would be, I am not condemning. When you look at that you think maintenance of that drive 7 homes the traffic that seven homes generates do you get a private group such as these 7

homes to properly care for that entry drive. In bad weather as opposed to the town coming in with their trucks sanding it in a pretty decent fashion makes me a little nervous.

Spath: Seven homes there is a greater amount of homes than 2 homes or 3 homes or 4 homes I think we can easily be taken care of in that respect. There are a lot of town roads that I know Chuck can answer this. There are private roads in the town that take care of them sometimes people pay them back I don't think it is an issue because it is seven homes it is not 2 or 3 or 4. It is better being the greater amount; it is the same as being a private road. You can have a private road that like you are saying that is seven lots you can have a condominium association. In your condominium association 20 feet is fine but you have to understand there is a lot of if your approval is a 24 foot lot isn't the same instance.

Martin: I would feel better if it was condominiums association because you hire somebody to care of it.

Spath: That is exactly what is going to happen.

Martin: Somebody will be hired to take care of the road.

Spath: I can hand this to you it is part of your packet. I believe you have received it but you might not have. We prepared a draft Chuck will review this and your Attorney will review this but for those lots involved there is a agreement and with that an attorney will be in place I will put in every year and what could be what I suggest which is easier. At the sale of the lot which would be nice to put in a sort of deposit towards future years. So if the sale of the lot if someone to put in \$2,500.00 times 7 lots to get them going what would happen is this driveway would need to be paved after 15 years of repaired after 7 or 8. There is an amount there the time of the sale of the lot that is in place which makes it even easier for the homeowners putting down an extra 2 or 3 thousand dollars at the sale would make sense. Maybe it would not be lost...

Martin: You're saying that document is kind of spelling that out the maintenance, the care of, the repaving, all that stuff?

Spath: Yes there is a draft document that we have there will be a document in place and that will be Chuck will review that, Chuck has mentioned he would like the Attorney to review that, the Town Attorney. But that is also a concern for the owner of the properties.

Because he may own a few lots for three years so it is his concern and it would be done properly.

Blais: Do you know who plows our elderly housing complexes? Is it the town or contracted out?

Minnich: Contracted out.

Spath: It's the same situation what it is what you have to make sure though is that these homeowners are actually contributing the money every year. So if there are seven of you though 2 people are not paying their dues I think is going to be taken care of in their own way because there is seven there is not two, one against the other.

Dupliese: Do you know what the steepest slope is on French Street in front of the property?

Spath: Off of the top of my head I do not? I could do some rough calculations?

Dupliese: Just the front of the property that is all?

Spath: It is not that steep in front of the property.

Dupliese: I think the steeped point is above the actual property line. It is steeper up towards Gilbert Lane I think.

Knolte: It is about 12%.

Dupliese: So French Street is about 12%.

Martin: The location of Brook Hollow Lane has not changed from the original proposal is that correct?

Spath: It went back to the original location.

Martin: Is it staked?

Spath: It was staked originally it we have been out there.

Minnich: How is this common driveway agreement proposing different from the standard common driveway agreement that the town has or that we agreed to? The statement that I am to be voted on significant amount of time going through a standard driveway agreement because we like every other town has issues with regarding what is in it we concluded that is what we wanted it I am wanting to understand the key points of what is different in this one compared to our standard one?

Zirkas: Actually I'm glad you asked me that question because I needed to get to that after hearing some of the discussion. I took you very much to heart last time when I asked last time about what type of agreement you might be looking for as a Commission because there are various ways of doing that and Commission members advised me last time that Watertown has a series of agreements where they have done this kind of routinely, or they have done this fairly frequently and that if I were to go to the town hall I could get copies of the documents that have been approved in the past. That is what we did and I went and I used those as a model and about the only thing that I changed in the models were the description of the property which obviously had to be different and just things that were specific to this property that were not the same as the specifics in the other property. Pretty much the language is the same. As for instance as Mr. Berger mentioned in this driveway easement we also included accessing utilities and we did it in a slightly different fashion because we have more access utilities coming down along the driveway then there might have been in some of the other documents. For the most part it's the same and in fact I am smiling because in the conservation easement I was trying so carefully a hue to the old agreement that I actually left in language I got to the bottom of it and sent it out in draft to Charlie and Don to take a look at and I left in references to the Wolf Hill Subdivision that's how closely I was trying to follow the model that you have. If the Commission feels that it would prefer some other type of model after consulting with their staff and their Town Attorney were amenable to doing some other kind of arrangement that Town Attorney might feel is more suitable for this particular activity but what you have here is what you have approved in the past.

Minnich: That answers my questions.

Zirkas: Did you get a copy of this?

Minnich: I have never seen it.

Mulcahy: It was sent to staff by e-mail it very similar it was identical to the other ones that were in the file and I have to say I didn't copy if off that e-mail.

Minnich: Ruth you wanted to make some comments.

Mulcahy: Just a couple of comments, one was on the sidewalks I met with Town Engineer and I agreed that the best solution in the ones that would be used the most would be along French Street in front of the applicant's property and that I also wanted to say that was the conclusion of the land use office to recommend that the sidewalks be on French Street.

The only other item was mentioned by earlier in the presentation by the applicant and this would be something that the Commission would have to interpret or have their Attorney comment on. I took it to mean in the subdivision regulations on 5.3.11 the dead end streets, dead end streets are permitted but not encouraged and shall provide sole access to exceed no more than 15 building lots. Now the key to it I think is what their Attorney was making was the shell provides sole access and I think I don't know if it was Don Nolte who was making the presentation to say that two lots or maybe 3 that had frontage on French Street so that therefore they met 15. I don't know how you interpreted it in the past I interpreted if you are showing a site development plan with that number of lots that the Commission would have to vote beyond the 15 building lots. That was my interpretation, their interpretation is that I think using the word sole and maybe their Attorney can address that.

Nolte: Any Ruth is correct this is unfortunately this is one of those areas that lawyers love because you can make arguments either way so. Well I have seen documents written by lawyers that are much more confusing so don't let that throw you. Unfortunately this is a situation where the word sole accesses are somewhat ambiguous I had a case recently involving subdivision regulations in the town of Cromwell. Where it talked about having access on a street and it was a very similar situation where the it talked about the lot has to access on the street and the driveway was being proposed to come in on a different way than the road frontage and the Commission said we don't like that because the driveway is coming in from an area other than the street that it has frontage on. We said but it has theoretical access from that street we just don't want to use it for topographic reasons and the application got denied on appeal the court said no, access just means if you can get there through frontage of the property that is access.

In this case it is a little different Ruth is correct in saying that again when you are talking about sole access to a property it is certainly not unreasonable to interpret that to mean the access that accurately being proposed. So you could look at this either way, I guess

what we would say is this the reason as we have explained that there are more than 15 buildings lots that would be coming in from Brook Hollow Lane is because the Commission at least in the past has suggested to the applicant I think in fairly strong terms that they really don't want have a variety of additional driveways coming out onto French Street. T

This is a case where the frontage of three of these lots is on French Street and if theoretically nothing in your regulations would say that we could not have a driveway out onto French Street. Because of the discussions that have been held with the Commission in the past and the concern about how many driveways there would be on French Street again the applicants' took that very seriously and that is the reason for this design, that is the reason for the driveway coming up and avoiding having additional driveways going out onto French Street.

If the Commission were to interpret the regulation as to say that it requires a  $\frac{3}{4}$  vote to do that. We would ask the Commission to think about that and I guess in an independent fashion. Because what it would be saying is if you don't have more than that number of lots on this street that means we would have to go out onto French Street with these driveways. Again the purpose of it is to avoid using the available frontage on French Street and instead having the common driveway.

We have explained in the past because of the common driveway does add considerable expense to the project and that is part of the reason why the number of lots is being proposed in order to make the plan economically feasible. So that's the reason to avoid access for individual driveways out onto French Street and so we would hope that if the Commission interprets that to require  $\frac{3}{4}$  vote that would give us the  $\frac{3}{4}$  vote for that reason. Otherwise again we do need to go out onto French Street.

Blais: Chuck, what's is your opinion on the 3 lots coming out onto French Street as opposed to this configuration for safety purposes?

Berger: I would not support and have not supported in the past the 3 lots coming out onto French Street because of site line issues there.

Dupliese: Chuck I have a question for you. On that private driveway if you look as you are going up the top of the hill where it makes a bend at the top there is a grade line on sheet S1 that says 580 and if you go out to the street if you came straight out to the street on a 90 degree angle here directly perpendicular to the street, the street looks like it is at 572.

Would it be possible to make like a safety access drive only for emergency we had it on the elderly subdivision 55 plus over on Bunker Hill onto Middlebury Road they have a safety chain breakaway for emergency access vehicles and I am just thinking that in a strange form if there somebody up on the hill that couldn't get an ambulance up the driveway would be possible to have a safety access chain even if just paving blocks out onto the road just even for fire truck access.

Berger: But a lot of things can be engineered I can't engineer that. I don't know if the applicant's engineers have any comments on that. The line that you are drawing there goes certainly somewhat flat on top but then as it gets down towards French Street it gets pretty steep with those contours is close together.

Dupliese: 580 down to 572 and I know it drops in between and comes back out.

Berger: Then it gets steep as it going out towards French.

Dupliese: I know Mr. Rondeau was concerned about the driveway, Mr. Martin made comments about it and now I am just looking at it quickly here and I don't know if that even feasible but.

Berger: They would have to look at it.

Knolte: We would have to look at that as well. I can't tell we have driveways going up in that general area. I can't tell you what the grades would be, but now it might in a fill situation to get the 11.37% grade. We have now where as it might have been a cut at that particular point without some more parameters it might be a 15% gravel drive but..

Dupliese: But even for something for safety sake if you are looking at from 72 to 80 you're really an only talking 8 feet of elevation in less than 100 feet.

Knolte: It may be possible; it may very well be possible.

Blais: The Fire Chief inspected this?

Knolte: Yes

Blais: And he made some recommendations?

- Knolte: We widened it and we increased the diameter of the turning circle dramatically in response to his concerns.
- Blais: Did he say anything about the grades was he considered ...
- Knolte: No, he did not have anything with the grades.
- Blais: The Fire Department usually puts chains on for safety purposes in bad weather even if they are parked in the Fire House.
- Minnich: I have a couple of areas of inquiry. One I believe I asked the question before but I didn't get a good dose of the response. The previous application had been before Inland and Wetlands agencies and did they have any questions? Has this application gone back to Inland and Wetlands Commission to see if they needed to needed to review it again?
- Knolte: No but I went back and met with Moosa Raffey and staff person and informed in that there are no more regulated activities in actually the lot 11 driveway which use to be lot 8. The grading has been moved farther away from the intermittent water course then previously approved and he told me based upon that design criteria that modification would not require that these plans are consistent with the wetland permit and approved.
- Minnich: Chuck do you have any comments on that? Not what Moosa said but any comments relating on engineering and you were involved in the ...
- Berger: Direct impacts to wetlands or the 50 upland review area I think have not changed if anything it has been a little bit reduced I concur with what Don said.
- Minnich: What are the conditions of this comment sometimes when Inland and Wetlands on a project of this size became rather complicated and took a period of time. So they make in their condition or statements in their approval some suggestions for the subdivision review. Our area here as the Planning Commission is to consider any statements that they have made as recommendations. Do you recall any of those that they have made for us I do recall a generally one that had to do with the grading putting in a wall and this scheduling of when that was going to be done in that project? And just don't recall the details. I just asking if there was some comments in their approval or related to their approval in their minutes with regards to what they would like us to take a look at?

Berger: In general Wetlands spent a considerable amount of time looking at the construction plans and phasing of the project and the sediment and erosion control measures that would be installed because of the steep slopes because of the rock cuts because of the proximity to Echo Lake Brook wetlands. Spent a considerable amount of time looking at that and the plans that you have before you have a very detailed three phase plan that was part of the wetlands approval process. That outlines a very detailed sediment and erosion control plan and construction plan that will provide protection to the wetlands if implemented as agreed to.

I believe the wall specifically, the wall that you were speaking about is at the downhill sides of lots 14 through 18. There is a proposed two foot high storm wall mediation structure. If you have sheet S1 still open you see that at the back side of all those lots as well as some call them perpendicular wings you'll see a note to that effect between lots 16 and 17 again to provide an extra layer of protection if you will to Echo Lake Brook.

A third party review was performed in Wetlands by the Northwest Conservation district, and I know the applicant's engineer worked very closely with them on those issues as well as the bio retention area in the cull de sac we talked about previously and the phasing plan. And then there are 3 sheets in the plans set ESC1, 2 and 3 that talk about the different phasing of the projects and how it will be constructed.

Minnich: Perhaps the applicant might help me here with the open space. Obviously clear the size of the open space is of requirement in section 7.2 is 10% and has certain qualities of the property of which are to be open space. Then of course is the Commission may look at a fee lieu of the applicant so proposes. Typically our experience or what we have done is when we do look at something other than the 10% we may not want the property we think it is in the public interest to have the property and therefore fee in lieu of is one avenue. Another avenue is to have some portion of that put aside as a trail or a sidewalk or some other kind of improvement that would offset that. In this case which is novel from my view point is without the 10% for what we don't need will agree to pay that amount of money in this case will be 3% in terms of fee in lieu and that is what the offer is. My question having given that background the intent of the open space is clear in section 7.10 in which follows: Which for recreation purposes, which is for open space that can be used to preserve the land and the 10% when you only have a small portion it defeats the purpose of an open space we have said that it need to be as our regulations say 10%. Could you help me and convince me that the 10% that you are not offering is what we should require of you in this project?

Knolte: First of all we are offering 25 ½ % included easements which were not discussing in the 10%. We are agreeing to exclude that from the 10% but in this unusual circumstance we have land contiguous to Echo Lake Park as over half an acre which will expand the existing park facility. It will also provide activity for the neighborhoods to get and access that park without walking along the street, they can as far as the neighborhood it improves access to the open space. The easement provides a corridor of protection over a valuable ecological resource. We feel that all the components of what we offered excluding the fee that we offered this evening are good and sensible also preserve the character of the area and not only just wetland regulated areas but hillside area and limit the clearing and impact upon the neighborhood. We believe that there are consistent with that section of open space criteria. But we are going above and beyond our client feels but willing I am also offering a fee payment of the difference when you exclude the easement that we feel should consider as value for the town.

Minnich: Could you articulate the connectivity that you mentioned in your discussion and terms how that is connected?

Knolte: There is going to be a pedestrian trail from the cull de sac a ramp anyways where within the subdivision in surroundings subdivisions and neighborhoods could come down Brook Hollow Lane and more quickly get into the park by walking along the brook through the new open space onto the existing open space over to the earth and dam and the lake. It contiguous that is connected to the road, it provides pedestrian access where there is none now to through the private property.

Minnich: You mentioned something that perhaps I missed earlier there is a proposal for a trail you said.

Knolte: Yes there is to be a wearing port surface in that note was agreed upon a note has been added to the rights plans. Well actually it is on the slope area, it is easy to walk that area if other improvements are suggested or required to connect it where we have walked through on our site walks. We could clear, it is sparsely vegetated but if a more defined trail was desired pruning could be done and wood chips applied to this direct people more to be able to find that route out of the park and returns to their neighborhoods.

Minnich: I just wanted to be clear, I am not sure that if I understand you clearly, it's not a trail as I would think it is more of a open area to which they will have general access and there is no trail.

- Knolte: We are just proposing a stable ramp down the road and have safety issues people walking from the cull de sac down the fill embankment into the open natural area which connects to the natural area that adjoins the property.
- Minnich: That is what I understood.
- Knolte: To walk across the brook you could walk parallel to the brook and get into the open space.
- Minnich: Just for clarity of the record there really is not a trail then, correct.
- Knolte: Correct there is a ramp.
- George: I have a question, isn't quite a bit of this open space on private property?
- Knolte: There is 2.7 acres of conservation easement but the open space that we are talking about conveyed to the town is 1.33 acres.
- George: Then the remainder is on private property?
- Knolte: Yes and then there would be the fee above and beyond that. So it is 25% protected by open space or easement and a fee of 3.75%.
- Minnich: That 1.33 acres is that the same and the equivalent of your 6.25 that you mentioned open space that you mentioned earlier?
- Knolte: No, the 6.25 is the 1.33 less the storm water control facility which is .45 acres. So it is a total of .85 acres of open space without storm encumbrance 6.25%.
- Minnich: Does sound correct. I thought you were talking about slightly less than an acre. Is there anything else from the Commission at this point before we open up to the public?
- Martin: Chuck, you make the statement that there is no need Inland and Wetlands to review because there is nothing significant change on this ...
- Berger: That private drive in the impervious surface that is equated to that private drive that now comes down the hill gets caught by the catch basins and dumps into the post detention basin. It does not change any of the calculations in that basin to warrant review?

- Berger: Let me just take a step back. I just want to clarify I didn't say that it did not need to go back to Wetlands I concur that there were no changes to the regulated area or the upland review area. Your question did the additional impervious area change the drainage calculations? Yes they did. Whether or not it should back to Wetlands Commission is not mine to make.
- Martin: Moosa's review of this determined that the amount of additional drainage to that area did not warrant review, am I saying that right?
- Berger: Yes, the additional drainage is controlled through the storm water system through the detention pond and discharged but there is a change in the numbers.
- Minnich: Whether this should be going back to Inland and Wetlands slightly different project and the applicant responded by the same that Moosa reviewed this and thought it did not need to go back. You can confirm that.
- Mulcahy: Yes I can, I discussed it with Moosa and he looked at it and said it did not need to go back.
- Martin: You concur with that? I am looking at the amount of additional drainage...
- Mulcahy: In terms of the impact of the additional driveway up there?
- Minnich: She is asking if you concur with Moosa that it should or should not go back to Inland and Wetlands?
- Mulcahy: I didn't really look at it that carefully; I will let him look at it (inaudible) I can't say that I looked at it myself to analyze it.
- Martin: I guess I feel comfortable someone just told me, I look at the impervious area and the additional water flow that is going to come off of that hill, I feel pretty comfortable that it does not affect anything physically and without having Moosa here to be able to answer that question makes me a little nervous.

- Knolte: I would like to say to Mr. Martin that the revised radius calculations have been included in the application it showed no increase in discharge or storm water basin and was oversized originally and the fact that we offered and our installing a gross particle separator to control the sediment from 8 acres of offsite properties including French Street that is not even contributing by this site. So one driveway and I can't tell the difference in impervious of four of the private driveways. I can't give you the number but the sediment coming off of French street the interception of that we felt was a great benefit in mitigation and whatever sand comes off of the driveway will be controlled through that storm water system which was oversized initially.
- Minnich: Let's see if there are any comments or questions from the members of the public at this point we could come back for more questions. Are there any comments or questions from members of the public on this project?
- Dupliese: You have open space one and open space two, I don't know the lot requirements are for 14 through 18. I know you have a conservation easement behind them starting at the wall inland and wetland. Is there any way the conservation easement, I guess my question is for lots 14 through 18 do they need property that is within the conservation easement on the backs of those properties in order to meet the lot size requirements?
- Knolte: Yes they do.
- Dupliese: So we cannot connect open space one to open two through the easement.
- Knolte: No not through public access.
- Minnich: Is there any other members of the Commission have any comments or questions at this point? Does the applicant have any comments on...
- Zirkas: A couple of things yes first of all I want to address the Inland and Wetlands issue. Just for an understand point the Connecticut Supreme Court in particular has recognized through a series of decisions that the way statute is intended to work with the requirement that Inland and Wetlands be contacted first before any action is taken by the Planning Commission on a subdivision. Is for purposes that somebody has to go first back before that statute was amended to include that provision, there was a situation where one Commission might be waiting for the other one to go first and so forth and it was to try to provide some coordination among the Commissions but there has been a recognition by the courts that what happens is the Inlands and Wetlands Commission will end up making

a decision and then the Planning Commission will act on its application taking into account what the Inland and Wetland Commission says. There have been specific decisions by the court that says that the Planning Commission doesn't have to do what the Inland and Wetlands Commission does.

The Planning Commission has its own jurisdiction it supposes to consider what the Planning Commission does. But it doesn't have to buy the same thing. What that can mean sometimes is the Planning Commission takes a little bit of a different approach and changes the subdivision and that may have to go back to Inland and Wetlands.

I can remember one situation where the Inland and Wetlands Commission and the Planning Commission just absolutely disagreed not here in Watertown in another town disagreed on what drainage to use. One wanted to leak offs and the other wanted catch basins and the train did not meet until they knocked their heads together.

The point I am trying to make is that the fact that there may have been changes after the Inlands and Wetlands Commission acted as a result of discussions with this Commission and so that the Commission might be acting on something slightly different from Inland and Wetlands saw doesn't mean that the Planning Commission shouldn't act on it. The idea is that the Planning Commission could make changes in what the Inland and Wetlands Commission wanted and that would have to go back.

So my recommendation would be that the Commission act on this particular application. Then certainly through staff, through Ruth or Chuck or whatever and direct inquiry could made to the Inland and Wetlands Commission itself. Do you want see this again here are the changes that have been made do you need to see this again. They could take it up after the Planning Commission acts and in that case they would now know what the Planning Commission has done and perhaps why the Planning Commission has done it. So it is a good question to ask whether or not the Inland and Wetlands Commission it is a sensible question to ask and all I want to say is that the Inland and Wetlands Commission can jurisdictionally look at this after this Planning Commission decide and I think that is the way it is probably is suppose to work. They should hear what you say before they go back and make a second decision.

With regard to the grades in the driveway vs. the road I would just say to Mr. Rondeau particularly my experience in a number of communities in Connecticut is that they very often distinguish between driveways and roads in terms of the grades that they will allow and in terms of the width and so forth. The reason for that obviously is that a driveway is

typically not going to be used as heavily as a road because other people in theory are using the road. Here you have a situation where you have a cull de sac and it is a relatively short cull de sac so you have a limited number of houses on it and that of course limits the number of cars that are going to be on it but in theory this road at some point if the town ever wanted to do it extend to some distance and you could end up having a road that is longer or through road or whatever. Whereas the driveway is always going to remain a driveway and my experience has been typically in driveway situations Commissions often allow. This Commission does often allow up to 15% for a grade just because of the lower level of usage. For a road they typically allow 10% but even where they allow 10%. It is usually the standard but it can be waived up to 12% or perhaps even higher. Twelve percent again in my experience is not been considered to be an overly steep grade. If the Commission preferred it keep it at 10 when they can keep it at 10 but 12% is a acceptable and for driveways even 15% is acceptable.

In this case I do want add to what both Charlie and Don said actually one of the benefits of having this number of lots on this driveway is the ability to make sure that the road gets maintained and stays safe. One of the problems that that you can sometimes have when you have a private driveway that shared by say two people is one person defaults and the other person it stuck. The person has to maintain it because he has no choice. Let say one of the people doesn't need to get back and forth. One of the people works at home or whatever it doesn't need to drive back and forth whereas neighbor A does. So neighbor A is going to be forced to do and now if neighbor A wants to take any action against his other neighbor he's the only one that has got to pay for that action. He is the one that got to go to court and so forth. If you have seven people the odds are that even if one person default or two people default you got five people remaining that have still pooled their resources to take of the driveway and you have five people that can get together and say let's go after this one defaulter or these two defaulters. So in fact having more people on the common driveway greatly enhances the opportunity to make sure that the road is going to be properly maintained and if it is not that the people who are defaulting are going to get their head handed to them. Because there will be the resources available to do it. There is a benefit to having this number of lots on this driveway, as the engineers have testified it is a safe driveway it meets all of the standards of the town's regulations the 12% grade is for a relatively short distance and for that reason again we would commend this application with this design to a favorable vote by the Commission. Thank you.

Minnich: Is there anything else that anyone would like to bring up?

Martin: When we talk of the open space we talk of 25 acres is that correct?

Minnich: Yes that is correct, that is what I am hearing.

Martin: What would the open spaces acreage be if this all went well and how much would it be?

Knolte: 10% of 14 acres roughly.

Minnich: Is there any other comments or questions from the applicant?

Zizkas: Just one other thing I am glad Mr. Martin raised that point. Because one of the other thoughts that I had was one of the purposes of the fee in lieu of open space is that just as you indicated Mr. Minnich you raised a valid concern about how useful is the open space and frankly when you end up in a situation where you have a relatively small amount of land that being subdivided you are going to end up with small pieces of land if you apply the 10%. Frequently what you are going to end up with if you insist on the 10% within the subdivision is a piece of land that really is not going to have the qualities that you want and so one of the benefits of some kind of fee in lieu arrangement is again allows you to pool the financial resources from these subdivisions and to ultimately acquire a piece of land that is of a wider benefit to the community and the theory behind the requirement of open space that courts have talked about is that when a subdivision is created your adding to the community and creating an additional need for certain types of services. The courts have said the burden that you place on the developer of that land should be proportional to the burden that is created. So if you have a very small subdivision it is a very small burden that is created and that means they can only be required to do a very little bit. If it is in terms of land it is not very useful. If you thought about say 20 small subdivisions being put together and you are getting a fee in lieu or a partial fee in lieu from all of them you end up with the equivalent of piece of land that would be satisfactory if all of that land had to be contiguous and developed at the same time. There is a real benefit to the fee in lieu even though looking at it on its own it may not seem significant. The idea is ultimately it can lead to something significant.

Minnich: I understand that but in my own head obviously it is your offer for the fee in lieu of but if you follow you're the logic further the land is not deemed to be appropriate for the smaller pieces of the open space then that is the whole reason as I understand the whole process if for the allowable of the fee in lieu of which is your offer not ours. So you offer us 3.72% of whatever that is ...

Zizkas: 3.75 right because the 6.25 that we are offering in the actual open space we do feel as specific value to the town and that value was related by Don Knolte and Charlie Spath it does have open space two does have the kind of activity to the town park area and with the road being created you'll have greater access from this area of French Street to the park without requiring people to drive there.

I live on a cull de sac that is a lot longer than this and I can tell you that my wife and I are often walking up and down the road even without sidewalks there is 70 lots on this cull de sac it is crazy. This is not going to get an awful lot of traffic back and forth it will be very safe to walk on this, it will be very safe to access the park through that opening space area.

The other thing is I don't know specifically how your regulations may focus on open space but conservation easements many towns are viewing conservation easements very favorably because they satisfy a secondary goal of open space preservation. Initially the subdivision statues talked about parks and playgrounds and not so much open spaces but people are starting to recognize that just having an open area a peaceful area and protecting or providing a buffer area and natural resources is important. When we originally offered the land and we including the conservation easements as part of the open space we felt that had significant value just as protection for natural resources particularly the one that is along Echo Lake Brook. We think will provide substantial benefits. Even this conservation easement although it may be crossed ultimately by utility lines in this area, lots 9 and 10 once those utilities lines assuming they are installed once utility lines are installed the place has to revert back to normal, has to be put back to the way it was there really would not be much reason to disturb those anymore. This will end up being an area that is going to be stable so we do think what we provided in terms of the conservation easement combined with the open space does provide substantial public benefits. Our thought is because we want to do belt and suspenders we'll take just the open space and just open space that does not have retention facilities or drainage facilities and then will add fee in lieu on top of that. But we really would ask the Commission not to discount the value of these conservation easements as well.

Martin: On lot 5 and 6 what is the height of the walk cut in the back of those homes?

Knolte: 14 feet

Martin: Lot 5 and 6 what is the acreage between those two lots?

Knolte: Over 6/10 of an acre roughly.

Martin: Would the applicant consider and this is just my own consider including that in the open space forgetting the fee in lieu of if this Commission was so amenable to accepting that and leaving those as just open space and not lots?

Knolte: No I don't believe so.

Minnich: The practice is the last word is yours if you want it you may have already said it but you have any further you want to add before we close the hearing?

Zizkas: I don't having anything further.

Minnich: Is there a motion to close this public hearing? Is there a second? All those in favor please say I. All those opposed no motion carries.

Text of motion to close the public hearing  
Motion made by G. Dupliese and seconded by R. Rondeau  
All in favor and none opposed.

Michael Masayda \_\_\_\_\_  
Secretary

