

Town of Watertown
Planning and Zoning Commission
Special meeting
June 18, 2008

Minnich: I would like to call this special meeting to order at 7:30 PM on June 18, 2008. Carol would you please call the roll.

Members: D. Minnich, R. Russ, C. Mancini, G. Dupliese, J. Blais, K. Demirs, R. Rondeau,
M. Masayda

Members Absent: G. Martin, D. George

K. Demirs sat in for G. Martin

Others Present: R. Mulcahy, Administrator of Land Use
C. Berger, Town Engineer

Minnich: **Next item on the agenda is Mt. Olive Cemetery, proposed chapel/mausoleum, 669 Platt Road, Watertown, Ct.**

Mulcahy: I am looking for some guidance on this situation everyone got it in their packet. We have our town attorney here to comment on it. The fact that mausoleum's are exempt from going through any kind of approval process. My question on this one the building department came to me and they presented this information it looks like zoning approval will not require to construct mausoleum. The situation and I understand they do not need a zoning permit or approvals from Planning and Zoning Commission but this happens to be called a chapel with bathrooms, assembly area, and I looked up the definition of a mausoleum and it is a tomb and they definitely have many places for tombs in this building. I do not know the exact number but I think it is 35, something like that. So I am wondering if this would be considered the customary mausoleum it does not need any zoning approvals. Mt. Olive Cemetery has approached the building part for their building permit for this rather large building. Its 7,000 square feet this is not what customarily what

I consider a mausoleum is something on a much larger basis that just has the tomb here. But this would be up to this Commission, we can make a discussion point Mt. Olive Cemetery feels that they should be able to build this with no permits.

Blais: Are the bodies above ground or underground?

Ruth: Above

Blais: There is no wetlands issue?

Ruth: I don't know that because they have not submitted any location of any kind. They are saying that they are not required any zoning approvals or zoning permits.

Blais: Well let's look at it a different way. One a body is embalmed, it is embalmed with embalming fluid which is poisoned they still don't have any regulations with body parts per body if they are not cremated?

Mulcahy: Well, the issue that I thought was more relevant and maybe Paul can help me on this was the fact that customarily I don't think of a mausoleum with a bathroom and don't think of it as having a assembly area and being called a chapel mausoleum. I was going to ask for legal advice on this which way we should go whether we should just let this go I don't know what to do with it?

Jessell: The only problem an incredible lack of knowledge here? I had 38 seconds looking at the document that you guys have and that is all I have. If you would like me to research the issue I would be happy to do so.

Mulcahy: I did do some research on this document; this is a case, they are exempt from zoning but my question is, is this a mausoleum like a zoning permit is not required in constructing mausoleum?

Jessell: I do not know with that case entails.

Mulcahy: I did look up the records here u19a-310 states the town zoning Commission processes and authority and permits do not apply. It is true.

Jessell: But is there a definition of statues of mausoleums?

Mulcahy: That part...

Jessell: Again I think it is impossible for me to answer that question without being to do some research.

Mulcahy: And I don't know whether or not the Commission wants to authorize me to ask the Town Attorney to do that research or do you want me to pursue this, or just let them build it.

Blais: I think they have several other issues. Like a traffic issue, processions I just cannot image that there exempt from all our regulations.

Minnich: My understanding is the mausoleum part of this is very straight forward that is not our authority to and they are tax exempt that is my understanding but we will bring that out in some point in the future. The issue which I accept is on the agenda was the issue of the chapel. Which that is a building with bathrooms and assembly hall and the question that Ruth asked me about and which I heard and get some opinion from members of the Commission is that a more narrow issue of the chapel that is in the opinion of this Commission under a formal basis. I suppose that Ruth make that determination. Is the chapel is subject to our zoning regulations? My thought that it was but I want to make that my own opinion and that is why it is on the agenda.

Russ: I think the attorney should look into it, because of the situation the church part of it , the actual building of it to, is it made of stone, bricks, wood....

Dave: Why don't you refer this to the attorney?

Russ: I will make this in a form of a motion?

Mulcahy: To refer this to our town attorney?

Minnich: Is there any further discussion? All those in favor please say I, all opposed no. Motion carries.

I just want to verify this, this is going to Ruth for her make the decision that is going to advise Ruth on this, this has to come back here. We will put that in the minutes then to motion from members that the attorney will send a letter to Ruth will then act upon.

Mulcahy: I answer the building department, they are looking for an answer from me and obviously as I said if this was just a mausoleum that would be fine but with the bathrooms and chapel...

Text of Motion for Ms. Mulcahy is to obtain an opinion from the Town Attorney advising her on what decision she should make on this application.

Motion made by R. Russ and seconded by G. Dupliese.
All in favor and none opposed.

Minnich: **Next item on the agenda is Ice House Road Estates Subdivision, street trees.**

Mulcahy: On this one you may recall that we the Commission was going to call the bond on this subdivision and then they did install the sidewalks with the Department of Public Works and then the last cue on this subdivision are 8 street trees. And the sub divider said that the property owners did not want the street trees but that has not been verified. In the mean time Roy Cavanaugh has asked please advice this office as to the Planning and Zoning Commission's direction with the regards to the 8 street trees that were on the original site plan on the above referenced copy. I am not sure how to advise on that. Other than whether or not the

Commission wants to just say those trees should be planted or as you know those bonds are established, or contact these people and see where they might be best place for them on their property lines along the street.

Minnich: This does bring up the age old issue again of that we continue to have is that the property enclosed and the trees are not in. I do intent that at some time in the near future to add to this agenda to a future agenda to review and I believe strengthen the requirement that the developer must put the street trees in. This sending off and selling the property and leaving it in the hands of the owners is now putting it on the agenda to see where you folks want it. That was the requirement from this Commission to put street trees in. Ruth inform the property owners that the street trees need to be put in, in accordance to what we done before.

Mulcahy: And now going further on the issue we do have the money in a bond still I have a cash bond now for the street trees. If the sub divider does not move forward with this is there a direction you want to go...

nich: Why don't you ask him first about putting in these trees. If you still feel of the opinion that the Commission would like to put the trees in it needs responding back that he does not want to put these street trees in before we call the bonders there is a process I understand we have to have a hearing and so forth and we will go through that process. This whole discussion once again just seems to be very circular that the developer sells the property the street trees are not in the bond is never enough to put the trees in and so there is a lot of alternatives we have to increase the amount of dollars. When you look at the whole reason for this whole process with the street trees is to improve the appearance of the streets in our community that we like to have done when it comes time for a subdivision and if it is not done its takes years and years of reporting to get it done. Maybe our regulations are not strong enough.... Did you get some direction on this?

Rondeau: If the lot is sold and it's owned by somebody does the developer have the legal right to go in there and...

Minnich: That is his problem.

Ruth is to inform the developer that the Planning and Zoning Commission is requesting that he put the street trees in – in accordance with what the approval of the subdivision. If the developer does not respond, then the process for a hearing on calling the bond will be held.

Minnich: **Next item on the agenda is Echo Lake Brownsfield – cease and desist order.**

Mulcahy: The Echo Lake Brownsfield as you all know I think you have copies of the old cease and desist order and you can see from that they have some issues because this had not gone through the final approval process and the Mylar had not been signed. There were disturbances on the property it was grading and filling and Glen went out there a well. And then they also had the situation where the clearing and grading had gone on an adjacent owners property because the original site plan map that was presented to the Commission was an error it showed the property belonging to the Town of Watertown where it belonged to an individual who had been paying taxes on it and had I said the original site plan presented to the Commission was erroneous. And one of the other issues that came up was that the disturbances that happened also went into the Inland and Wetland review area. The Echo Lake Brownsfield was directed back to Inland Wetlands and applied for those activities that you have in regulated areas because of their first application to the Planning and Zoning they stayed out of the fifty foot regulated area and a survey map as showing the adjacent owners and all of the activities that have been taking place on the site. I did include in your packet tonight the narrative that was sent to me the project narrative that they included and a map showing some of the activities that they have done. But it did not show the new adjacent owners. The other part of this is that I did ask them to

submit a wetlands application I talked to Moosa Raffey before he left and I also had a copy tonight of those. That has been tabled they have not made a decision about those regulated activities and they still waiting for an application. So at this point my recommendation is to continue the cease and desist order the owners of the Echo Lake Brownsfield wanted to be on the agenda tonight because they want to move forward and I had suggested to them that after wetlands approval they come back with an application, again this is not an application this is just looking for direction and the request of the Echo Lake Brownsfield owners for the land fill operation that they want to conduct on this property. But as you can see from the cease and desist order I did put a stop to things that I was looking for. I did not feel the narrative addressed all the activities Chuck and I did visit. The site and maybe Chuck you have some comments as well to add to my observations on the site.

Berger: The plan that is shown part way through your hand outs tonight appears adequately represents the limits of the disturbance. All of the trees have been cut and there has been some grading as shown the approximately location of the disturbed soil. It appears without walking the entire site Dave have accurately represented on the type of work they did there prior to the finalization of any of the plans. An update we have been working with them on the site line issue as you may remember that was a condition of approval that they resolve the site line issues and they have reached an agreement with the Director of Public Works on that. And that is it.

Dupliese: When you say site line agreement what is the site line agreement?

Berger: There is going to be limitations for the vehicles coming out of here, which they can only take a right hand turn and go up the hill. There will be signage that will warn oncoming traffic in both of direction of Echo Lake that construction equipment is entering and exiting. I believe it is 10 trucks a day is what the estimate has been the number of trucks leaving the site and they have committed to work with Tamarek Energy and the Department of Environmental

Protection for long term issue to the site line issues out there on the Mattatuck State Forest property.

Minnich: Does the property owner have comments or presentations?

Joe Kotnosits - Pure Earth

As far as the site line issue we did talk to Tamarek and looked at all of the where there site line would flow on our site line and there is no overlap, so there is no reason to put a program together where both Tamarek and us address the site line , so we are doing it ourselves. I submitted the application to the DET, the land assessment bureau to try and get the authority to clear the lands and I have a copy of the application here if the Commission would like to see that. Several things were brought up which you know I like to say is. I don't believe that the only disturbances that we know that we did on the land were to grade a little bit around the road that we came in. I do not believe there are any other disturbances on the land except for the clearing that we did. We have had our surveyor out there who did measurements and there are very little differences between what was before the clearing and after the clearing and putting the road.

Mulcahy: And how would we know, is that indicated on this map? Is this the same map that you submitted, are these your final grades? But this was supposed to indicate what you have done so far.

Dupliese: Nothing was done on the site?

Robert Rein: Clearing was on the site and then a small spot of grading area. I will pass out these plans so you can look at them a little better. The only disturbances that were done on the property was the clearing company was over zealous went into the right portions of the buffered area. To which I had a site walk with the Wetlands Commission and they didn't seem too concerned at this point about going into there, into that buffered area. The reason why they tabled their notice of the violation is because we were

promising them the Phase II part of the application which included the wetlands application but we were waiting for the state's application to submit the application until our issues with this Phase I application were evolved. And it just made sense to me. Get Phase I resolved and completed before we jumped to Phase II.

Mulcahy: There notice of violation is on handing out the minutes from that meeting so that the Commission, this is the Conservation Commission meeting there is still waiting for your application.

Rein: Just to get back to the disturbances, at the end of the existing entrance which we actually put down one load of gravel. So that way the clearing machines can naturally get in and out without dropping anything into the road. And then there was a small mound at the front property that was existing, all that was knocked over by a bull dozer we did not bring in the other fill in.

Dupliese: Was that material that you knocked over was that clean fill, was that contaminated?

Rein: It was clean fill.

Dupliese: How do you know?

Rein: That fill material was not in the land fill foot print. We were in the process of doing our investigation and we have some data up to that cease and desist order indicated that the area in the front and to the left of the property was not impacted as land fillers.

Dupliese: Was it tested before you moved it?

Rein: Yes, we have data in some of those piles.

Dupliese: The piles in the front that you leveled off, you actually took tests?

Rein: We have some data of that area, which is why we were able to spread that out?

Dupliese: Do you have that here with you?

Rein: I do not have it with me.

Dupliese: If I remember correctly that you had to have filed all the Mylar's and there was a bunch of paperwork that had to be done before you stepped onto this property. Yet you took it upon yourselves to hire people to go clear the trees, you had no right to clear the trees, you had no right to move the soil, you had no right to do any of this? And you just put people to work on the site?

Rein: Correct. What we had was an approval with conditions; there were several conditions that we had not accomplished yet. The only reason that the Mylar was not submitted is because of the site line issue had not been resolved and we were going back and forth to resolve the site line issues. There were no other issues but the site line issue.

Mulcahy: And then you went into the regulated area which is not part of this application, so what we need now because there have been disturbances in areas that were not part of the Phase I once you resolve the Wetlands as I said you need to get your Wetlands approval for the work that you have done and come back with your site plan that shows the higher area you are working in including those regulated areas that were not part of the that approval. That is what my goal is to get that as well as the before this happened. When the Commission approved this application I did not have the notice of violations from the DEP either. And those are relatively new and they came in before.

Rein: The notices of violation of DEP are actually to 3 parties us, the previous owner and actually the owner of the land fill. Who actually has the permit for the land fill out there. That is in litigation right now and an order of violation will take years.

- Kotnostis: And a notice of violation is based off of the visit to the property before we even owned the property.
- Mulcahy: These are issues, but the other issue I wanted to bring the awareness to the Commission is the letter that you sent to the adjacent property owner and I have spoken with the adjacent property owner they just arrived back from Maine, they have been on vacation and they were not aware that you were on the agenda tonight because they are in the process as it says in here in your letter and this is from Mr. Kotnostis that basically you say you inadvertently cleared some of the trees on your property this was completely the error of the sub contractor doing the work. They have been in contact with sub contractor and he said Pure Earth was out there and showed him exactly and marked off the areas for them to clear.
- Kotnostis: All I can tell you is that we have still not paid the invoices to the sub contractor. So there are definitely some areas of disagreement here. So we just have to be clear that there are differences of opinion on what was directed to be done.
- Dupliese: But there is no difference of opinion on this right now, number one you were not suppose to be on that property period until everything was set with Ruth's office.
- Kotnostis: All I am saying is what is going on between us and subcontractor is different than what is going on between us and the land owners. We are in discussions with the land owners to try and come to some resolution. There are two different issues here.
- Dupliese: Where is that piece of land that is owned by...
- Mulcahy: It is still marked as Town of Watertown...
- Rein: It is still the Town of Watertown because I have done an A2 survey form 2002. It is an actual stamped A2 survey that indicated that is still the Town of Watertown. I still have not gotten any information

and new engineers are conducting a new A2 survey with the drop rate because of the alleged... I have not gotten any documents indicating that it is their property yet. It maybe I have not received it yet.

Mulcahy: The information is on the land records and was confirmed by the Town Clerk's office to me as well as the assessor. I did see the tax cards as well when the land owner brought down and with all on the land records and it has been surveyed if you need help with that you get that information through...

Rein: Again, we are getting another A-2 survey which will be certified. I do not imagine that the property lines will change. Maybe the land owner will change. But again our maps were constructed by an A-2 survey that was done in 2002 that indicated that it was the Town of Watertown's property.

Minnich: We are interested in moving this along as you are too. You understand what is still outstanding in the cease and desist order is going to be lifted. Do you understand what is still remaining to be done.

Rein: We are going to submit Mylar and we got everything that we agreed upon.

Mulcahy: No, The Mylar that they approved and I just went over the activity the extent of the activities goes beyond to what you have submitted you need to come back to this Commission and re apply with the new site plans showing the correct information the entire area that you are disturbing which includes that review area. Your Wetlands permit to disturb that, which you do not have because the Phase I that they approved at the land fill for the Phoenix Soil did not include any review area or wetlands. I spelled it out in these steps that you needed to take you are still in wetlands and you need to come back and apply with an application fee and a application. This is not application tonight this is a discussion that I

put on the agenda at your request so we can clear up your direction even though the steps are listed in cease and desist order.

Rein: If that is the case then this application is irrelevant if that is what you are saying. You are basically stopping this entire process.

Mulcahy: What you have submitted to them as your Phase I was inaccurate and you need to submit to them the true site plan of the area that you are working in with a wetlands permit. Right now what you have submitted in the beginning is not what we where you are working.

Rein: It is exactly where we are working. We accidentally went into the wetland area. We met with the Wetland Commission they had no problems they understood why it happened because it so difficult to see where the buffered area is. We were actually told to do this in Phases and we were going to come across as one phase but we were told to do this in Phase I and Phase II. So that is how we proceeded.

Blais: Who told you this?

Kotnotsis: We met with Moosa from Wetlands and we were at the site with wetlands. If you go out on site it basically looks like a wasteland there is 100,000 tires sitting out there. You can still see where you would have difficulty demarcating where part of the wetlands is when you got tires and drums, crushed drums...

Dupliese: I have been on that site. I have no problem delineating walking on that site and telling where exactly where the wetlands starts and begins. The problem here is that you directed people to go on to the site and do what it was not suppose to. You are suppose to have a pre construction meeting if your Mylar's had been filed you would have had a pre construction meeting there would have been people on the site to direct you where to go. You have not

done that and you have violated the space. I think what she is telling you to do is you have to get your wetland approvals again and once you get your wetlands approvals you have to file an application and come back to us with a new application.

Rein: It completely slows and stops the process down. We are trying to investigate a hazardous waste on site.

Dupliese: That is exactly why we want you to go through the process. We do not want this contaminated site to, the site is very contaminated, and that is the problem is that when you go over there and you start moving the turf that you are not suppose to be moving there is a stream that flow through there, there is a head wall to the stream and goes right down to the Naugatuck River and that is exactly why you don't want you on that site when you are not suppose be or doing things that you are not suppose to be doing. Right now you are history with us for track record is not very good.

Rein: We actually have not been doing anything since before the cease and desist order we understood that and I have had conversations with Ruth that we would stop doing anything on the site. The reason why it took so long is because we are trying to get this site line issue squared away. Once that was squared away it was our understanding that there would not be any problems.

Masayda: He is indicating that the map is accurate but it does not need to be changed.

Mulcahy: It is not accurate. Because you are changing the Phase area that you are doing, you have changed it already by this...

Rein: All we did was clearly accidentally into this area. We are not going to be doing any work in this area. Rather than getting close to this area.

Masayda: The point I am making is that he is indicating that the plans are so accurate and that all he needs is from my understanding is the

approval from the Wetlands Commission. If he gets that approval and come back and present that information.

Mulcahy: He needs to do just like Bailey he needs to do a new application so that the Mylar's once they come they will be accurate and they can be signed. Right now if he presented a Mylar what you approved it is not accurate. It does not have the right land owners; it does not have the area that he has disturbed on, as well as a wetlands permit. Right now I need him to go through the steps to get these things done and I think you presented when you first got your first approvals you indicated to this Commission that the testing you already showed that area had been tested and you said that these are the areas that we have tested and now you are saying you have to proceed with testing some of this is kind of...

Kotnotsis: When you do testing and you find areas of concern you do not stop your testing. You continue on with the investigation to determine where the areas of concern.

Mulcahy: Most of the site you indicated would be buried and nothing removed other than a few areas that you found PCB's.

Kotnotsis: Right.

Mulcahy: And you indicated to this Commission during your approval process that you had already determined which areas would have a little bit of soil and you gave us amounts that would be removed from the site. It indicated to this Commission that you buried the rest of it with that Phoenix Soil that previously contaminated soil that is coming from Phoenix. So I think this has to be reviewed again by the Commission in light of the new information and in light of the new DEP information as well. I think that because you changed the boundaries of where you got the approval as well this whole thing has to come back here just like Bailey did when they changed.

Minnich: When you came to us we found your project to be very law able. We thank you for doing what you said you were going to do which is to remove things that should not be there and that is a good thing. We certainly do not want to be stepping in the way of getting that activity completed as soon as possible. The problem here is that the activity to which you said you wanted to come and do you started some things that you should not have started so we need to move forward so with our accomplishing and your accomplishing what you wanted to do. I just want to be real clear that you are clear as to what we are asking of you. If you have some problems with that I would like to know that so we need to know where we are going and leave this room we are fully understood what has to be done.

Kotnotsis: We appreciate that.

Minnich: With this outline in the cease and desist order which is essentially to be real short about it is to go through the process again of going through Inland and Wetlands and coming back to this Commission with your plans. Most of it probably will be the very same which you did before. I ask you for the record do you have problems with or any issues of doing that again.

Rein: Well the cease and desist order certainly did not say we have to come in front and do another application. That is the first problem we hadn't... The cease and desist order was over a month old.

Minnich: Well you mentioned that the cease and desist order is not?

Rein: Coming across the new application and that is the first time I am actually hearing it. I assumed we were going to work past and continue on with Phase I, since the Phase I was pretty straight forward we were just going to clear and then continue our investigation in the land fill.

Mulcahy: The submission of the final plans once you get them updated for review and approval and that means that the Planning and Zoning

Commission you have to submit these again. As I said you have false information on your site plans and you need to go to Wetlands and you never had a Wetlands permit.

Minnich: So do you have problems or any issues it does say in the cease and desist order that you need to have those plans again reviewed and approved.

Rein: It was just a Mylar; apparently it was how we assumed it.

Mulcahy: It says submission of the Mylar's plans for review and approval Mylar copies from signing.

Rein: The final plans being the plans that indicated the site lines that were not submitted that is how it was understood.

Minnich: Do you have any problems with starting this process again?

Kotnotsis: We are going to do whatever process we need to bring this project to a successful conclusion for the town and for us.

Minnich: I agree and that's certainly where we are all at.

Kotnotsis: We are not trying to be adversarial we are trying understand exactly what the Commission wants so we can give you exactly what you want and so we can move on.

Minnich: I believe there our changes that have been made to the project that have not been approved by us have not been documented as what we have approved. We have given you a cease and desist order to stop one of the avenues to correct it in terms of doing this is to start over again. And you want to complete this project. Go to Inland and Wetlands as required to do and get their approval come to us and get our approval and then we move forward. That is one avenue to do and that quite frankly is the least adversarial to go through. The second way is if you don't wish to go through that process of going through it again then we will have to go through

the details of what it is you have not done. That probably will be more protracted process because of the nature of it being adversarial. The fastest way I see for you to accomplish this is to close your eyes to what has already been done, start over again we are all with the same end goal here and then we don't have to be that inserted about the details what you did. I can only suggest that to you. That is why I am asking the question because our one way goal is would you start the process over again if you say no to that then we will have to go through another process of going through the details of what it is that you have not done. Which way do you wish to proceed? Obviously generates the discussion we will have following?

Kotnotsis: We certainly we want to be least adversarial, it sounds like we have to do the whole permit process all over again and since we done so much of it already it seems redundant and for both of us to review this same thing we are giving you and already have given you and the only thing that we have done is kind of jumped the gun on some of the things we are going to do anyway?

Minnich: Well that is part of it and part of it is the documentation.

Kotnostsis: The Mylar's were not there. And there was confusion between RPE's that was required. They were even aware of some these things when it occurred. There was some misunderstanding between the RPE's us and what the Commission is requiring.

Minnich: We can certainly work through every one of those that is going to be a longer process. It seems like you got most of the stuff if not in your mind all of it completed I am only one member here I wouldn't have a problem and I know it is not my decision alone of your going to submit the same application again to waive whatever fees you have already paid. But that is my judgment that is something that the Commission will have to do. But I just need to understand in fact of my own question because obviously generate how we go here. You still have to go to Inland and Wetlands that is a give me. So then after you get their approval is to come back to this

Commission and resubmit what you submitted before with the changes you feel you need to change for the project. And to go through that approval process again? Do you want to do that?

Kotnotsis: We want to do what is the most advocacies and least adversarial?

Minnich: For the record I need direct answer? You don't have to answer if you do not want to? I want to have a direct answer? Are you or are you not going to submit another application to the Commission?

Kotnotsis: Yes we are going to have to.

Minnich: You will okay. What does the Commission want to do in regards with...

Rein: We were told to do Phase I and Phase II, we originally wanted to come with the plan for the entire process. Just to clarify do you want entire project now that Wetlands is involved. Because originally Phase I was not done to have to Wetlands first because working with wetlands...

Dupliese: Yes but this project includes Wetlands and you are going to be invading the wetlands if I remember correctly in the original approvals of this site was that this stream bank I think it is an unnamed stream that goes through this and this all goes back to approvals that are 20 years old that the stream that runs underneath this pile of debris is what covered by the original owner Mr. Kura and some of his associates that this is has to be typed before any work was to be begin on this site. The original agreement was that the Wetland had to be taken care of first. So I cannot understand how and I was not here for the first part and obviously some people did not know about it. To approve in different phases did not make any sense...

Rein: This is what we were directed to do.

Minnich: You are giving up an application that is going to be encompassing the whole project?

Rein: I would rather than to avoid another application. This is the way we were told to approach it.

Minnich: In doing so are you then going to be going to the Inland and Wetlands...

Kotnotsis: Yes

Minnich: I just wanted to make sure. And then we will get their approvals. And then you are going to get their approvals and then you are going to come to us. And then as an entire application?

Rein: As one application.

Russ: You said you were told to do this by who?

Rein: I believe, I was not involved in the project back then but I think it was...

Mulcahy: Mike Mahan. Mike Mahan recommended that they he wanted it in Phases we never wanted it in Phases because I felt that was chopping up the project, in fact I asked Mike if we couldn't do this together because of the wetlands and he said we want to get started right away, so we are phasing it so that we don't have to have wetlands approval and we want to get this first phase done. It was never a staff idea in fact Chuck and I was opposed to it from the beginning and because it is one site and it was going to be a problem and will work for us.

Dupliese: My suggestion is to move this along here I think we know what has to be done. Let's start the application process and go forward.

Minnich: Again he has an approved application let me ask another question. He has an approved application by us what is the process which we not have that approved anymore?

Minnich: To have it withdrawan is that simple. My understanding you can withdraw your application, we must consider accepting that withdrawal that probably ends the cease and desist because I am correct there is no more application.

Mulcahy: No because the work that is done. There is activity.

Minnich: We will withdrawal the application that you have submitted to us we approved some months ago on this project.

Kotnostsis: Yes

Rein: Wetlands was very interested in getting some silt impacts up there. But we were told not to do silt fencing with the cease and desist, not to do anything.

Dupliese: I would not do anything until all the applications are into place right now. Right now it has been two months since the disturbance so just let it keep growing. It is growing and stabilizing itself right now.

Rein: They had asked and I said we could not.

Mulcahy: Chuck and I did visit the site we did not notice any type of erosion channels and no water running off the site or sediments or anything on site.

Rein: I just stated what they told us at the site walk that is all.

Minnich: As I understand this for this Commission to accept the withdrawal of the application which we approved months ago for the project. Is there a motion then to accept the withdrawal of the approval that the Commission approved on January 16, 2008 for Echo Lake Brownfields LLC application Phase I. Is there a second? Is there any

further discussion? All those in favor please say I, all those opposed say no. Motion carries.

The next one is the issue I volunteered or suggested with regards to waiving application fees we approved it and we approved the application and we are asking then we wish then to have no fees.

Mulcahy: This is the second phase?

Russ: I make a motion to approve the permit without fees. Is there a second to that motion?

Dupliese: The original application was just for the Phase I and now he is going to be coming back with an application for basically for Phase I and Phase II would there have been a difference in price if he had applied for the whole project? Let say the number was \$500.00 dollars it wouldn't have been different if it had been the whole piece rather than just the two sections would it still be \$500.00 dollars?

Mulcahy: It would have been different depending on how much the cost for them to do it but not that much of a difference because it is such a large range in terms...

Dupliese: Yes, but the price for Phase I was just...

Mulcahy: He would come back for another fee for Phase II.

Dupliese: Based on the cost of what they were going to do? The cost of what they were going to do was all based on the second phase, it was all the re piping, the removable...So if we are going to waive anything we'll already...

Mulcahy: It sort of like a reward because you would have to pay his fee for Phase II no matter what. If he had completed his Mylar's and

completed Phase I that came back to do another application for Phase II he would have to pay an additional fee to come back to the Commission.

Dupliese: I am not for that at all.

Mancini: What did it cost us for the cease and desist order? What is the fair cost and he walks away.

Mulcahy: That was reviewed by an Attorney as well.

Mancini: That is what I am trying to say?

Minnich: Is there any other discussion? Is there any way to recoup the cost of what we had to expenditure for the cease and desist and the attorney?

Mancini: There is a way by making pay it over again?

Dupliese: And I think that is what we should do.

Rondeau: If he was going to have to come back and submit another permit for Phase II anyway he would have been paying that fee now he is going to come in and submit one application that is going to include Phase I and Phase II it ends up being a wash if you require him to pay this application. In my opinion I would suggest that he pays for the new application and he not any worse off then he would have been.

Dupliese: And tack on a few dollars for the...

Minnich: Is there any kind of discussion? Okay Carol would you please call the role for the purpose of recording our votes.

Dupliese: And the motion is ...

Minnich: The motion is to waive the fees for the new application. On a vote of 4 in favor and 3 opposed the motion is approved. You will get that waiver in writing.

Mulcahy: They are waiving all the fees.

Text of Motion to Accept withdrawal of application that was approved on June 16, 2008 for Echo Lake Brownfield LLC.

Motion made by G. Dupliese and seconded by R. Russ.
All in favor and none opposed.

Text of Motion to Waive the application fees for a new application when submitted.

Motion made by by R. Russ and seconded by J. Blais.
Aye: D. Minnich, M. Masayda, R. Russ, J. Blais
Nay: C. Mancini, G. Dupliese, K. Demirs

Minnich: **The next item on the agenda is 0 Caruso Drive Zoning Permit.**

Mulcahy: I don't actually have a zoning permit but it's the authorization to Attorney Jessell's here he submitted a letter discussing the future application of the zoning permit for a reconstruction of house on Caruso Drive. In your packet you have copy of Attorney Jessell's letter and then some maps. We just made some maps so you would know where this is a lot of you are familiar with the Waters of Winnemaug subdivision. And this is on a not approved lot A. So when you read Attorney Jessell is here so...

Minnich: Well my understanding of this is on the agenda sheet you wanted to get the advice of the Commission regarding this issue. Do members of the Commission. I don't know if I want to read three pages into the record.
Paul can you summarize it.

Jessell: I would be happy to summarize this is a situation on Caruso Drive on really what has been up till now or essentially an unapproved portion where there is a bunch of small cottages out there on leased property which is shown on why it is not an approved lot. The original building I have the distances here was it is an existing nonconforming building. It was essentially 11 feet from the lease line, 36 feet from the center of the improved path of Caruso Drive. I headed to the center that's the dimension that was shown on the old what we refer to as the DiLugo Kekkie Map. What happened during your subdivision approval you actually asked them to move that section of Caruso Drive so that it intersects with Flintlock I believe? You also requested that be improved to 24 feet as a gravel way so it was made wider and it was moved. As a result this building became more non conforming. In fact as a result it was very close 3.6 feet from town right of way. It is a 50 foot right of way as shown on the new map and 13 feet to the line of the improved portion of the gravel portion. There was a lot of back and forth between the building department and the Mr. LaFlamme. Mr. LaFlamme bought this piece he has invested a significant amount of money in a new septic system, also began doing some work on the building admittedly without the appropriate permits which what ended the process. Mr. LaFlamme stop and be spoke with the building department and has agreed to remove what had been a front portion or not to rebuild what had been a front portion of this building so to increase the distance from the road to some 13.6 feet. So he has taken essentially 10 feet off the building he really cannot go back much further because of slopes and ledge. Again it is a preexisting non conforming use had nothing been done to this building he be able to use right where sits at 3 feet from the improved way. So it was my opinion that the Land Use Administrator could issue the zoning permit for this rebuilding of the building. The one issue that arose was whether or not it was destroyed to extent of greater than 75% of its value. The building official never expressed an opinion on that. The tax assess however did say that it was destroyed to that extent. Mr. LaFlamme had 2 appraisers, we have 2 appraisals that show that it variously 49% of its value and 51% of its value. So I don't know if that is a fight that we necessarily want to

get into. Again it is a preexisting nonconforming use I think Mr. LaFlamme has agreed a couple of things. Number one is going to keep it as far away from the road as he can. And number two he actually doing a building that is smaller than what the prior owner wanted to do in total square footage. So I think he has made reasonable efforts to decrease the increasing nonconformity here.

Mulcahy: I just wanted the Commission to be aware of it. Because also as you can see from the 2 maps there originally was an a second dwelling on the lease lot and now off course this is not an approved lot A has 2 dwellings on it as well. And before anyone questioned if I did issue a zoning permit for the reconstruction of this other dwelling it was very unusual situation and not one I had ever encountered before and that is why I needed the Town Attorney.

Minnich: So having listened to the advice do you need our advice you are going to issue the zoning permit is that correct?

Mulcahy: When I do receive the zoning permit I have not received one yet for the new plan and the porch or anything I want the Commission blessing on it on issuing the zoning permit?

Minnich: Does anyone have any problems?

Blais: Has the septic system been approved?

Jessell: Yes

Mancini: Whose dwelling is there?

Jessell: They were always there, there's been 2 dwellings on this parcel for years.

Mancini: I understand that but what kind of dwellings are going to be down there?

Jessell: The one that he is building is an essentially an A frame about 1,300 sq. ft.

Mancini: Okay but the other one that he is replacing or repairing.

Jessell: He is not doing anything to the other one. He has not touched the other one. The dwelling was always there DeLuca Pecking never mapped it. There have always been two there, these are long standing old buildings. This particular one is almost at Flintlock.

Mancini: My question is we approved 7 lots with 7 houses are we going to have 8 dwellings on these lots now?

Jessell: This is beyond where that subdivision actually ends. This is from the area of the improved portion of Caruso to Flintlock where it is all leased properties. These are not designated as building lots these are properties that are subject to long term leases they have existed for longer than I have been alive.

Rondeau: Are these other 2 drawings houses?

Jessell: They are houses people actually live in those houses.

Rondeau: Wasn't it discussed during the subdivision that Mr. LaFlamme in reality wanted to get rid of all these and it was his intention that is soon as he possibly could he would like to get rid of all these dwellings so that he would be working on this particular project.

Mancini: I think what he was trying to say he was trying to buy all these additional properties up.

Jessell: I think what he is trying to do is to eliminate these little anomalies that exists out there, I don't think we wanted to eliminate all these. He paid over \$130,000.00 dollars for this one house and he added to it a septic system. Had he done nothing to it we would not be here this evening.

Rondeau: I would like to just look at the subdivision regulations as far as what we done on this...

Jessell: This is not within the subdivision of the Waters of Winnemaug.

Mulcahy: He did take part of it as part of the subdivision because the 50 foot right of way onto that.

Jessell: That is right. But the Commission required that as a subdivision approval because they ultimately wanted to make a connection with Flintlock.

Minnich: That was a condition of approval.

Rondeau: I guess the point I am making is my understanding was is that he was going to everything in his power to eliminate these nonconforming uses and by issuing a building permit it is only going to perpetuate the problem by having it there another whatever how many years....

Jessell: The upshot in my opinion Ray is that he entitled to it. My legal opinion he is entitled to it. This is not something that really be should be here. He is entitled to a zoning permit here as a preexisting or nonconforming use, I think the special situation of the movement of the road that unfortunately by the fact that the developer did a lot of work without permits which didn't help him at all kind of made this a little of a special situation he has come back and has tried to make some concession.

Rondeau: I wouldn't even be bringing it up during the application it hadn't been stressed that these were on the way out.

Jessell: I am not sure he wants to tear down the buildings as much as he would like to see the leases disappear and turn them into some kind of lots and turn this more into a properly developed area. I do not know the answer to that.

Rondeau: It was him claiming from these facilities and other issues going on and they should not be lived in and again...

Minnich: So the issue here tonight is does anyone have any comments that they wish to give Ruth regarding the zoning permit and when she gets one.

Dupliese: If we grant this one, that we can we limit it that he is not going to put another house on it. Right now it is not controlled by anything so can he actually build...

Jessell: These are preexisting and nonconforming uses you can't now build a new nonconforming use.

Dupliese: So he wouldn't be putting other structures...

Jessell: He cannot erect a new house between these two houses on this not a building lot piece of land.

Dupliese: So he is improving the house that was existing and he is now giving it a full sanitary system of improved septic system that will no longer legate into the lake.

Rondeau: And if this property was considered 75% or more damaged than he is not allowed to...

Jessell: There is a real question about the viability of that particular regulation. I don't know how far you want to go into that. The only way that a nonconforming use can technically be lost is by abandonment. There has been no attempt to abandon. If you intend to abandon a nonconforming use it will be abandoned. Otherwise it exists.

Minnich: Anybody else have any comments? So Ruth I take it when I get a zoning permit you go ahead and do what you would normally do in that process.

The Commission determined that the Administrator of Land Use has the authority to issue a permit for Lot "A" Caruso Drive, Watertown, Ct.

Minnich: **The next item on the agenda is item 4a Walnut Grove Farm, Curt Jones, Civil One, 21 Lot Subdivision titled Southridge Estates on Bunker Hill Road/Sand Bank Road.**

M. Masayda recused himself from this application.

R. Rondeau sat in for M. Masayda.

Chuck you reviewed the documents.

Berger: I did take a brief look at them but I haven't looked at the drainage report in detail.

Mulcahy: Is did a draft motion (inaudible)

Minnich: These documents are different than what we saw before and Chuck Berger is our person who reviewed this and received this, and there is no question that he got it this afternoon because the applicant told us that. I think that is reasonable we should have some time to review it. I think the issue we have are pretty straight forward which is the length of the road that we would consider waiving the 24 foot is one issue that is 30 feet that they are doing and then our discussion a decision on the open space. Those are the 3 issues I see in addition to our standard conditions that we normally would have. So if Chuck has not reviewed it and then suggest we consider tabling this and put this back on the agenda at our meeting two weeks for whatever.

Russ: I will make a motion to table.

Minnich: Is there a second? Is there any further discussion? All those in favor please say I, all those opposed say no. The motion is approved we will table and we will put it back on the agenda for the first Wednesday. I know it is a long process.

Carol: Excuse me Dave do you want to tell people that it is going to be at the John Trumbull School the library on July 2nd at 7:30.

Minnich: Put it early on the agenda so they do not have to stay long.
Text of Motion to Table to the July 2, 2008 regular meeting.

Motion made by R. Russ and seconded by C. Mancini.
All in favor and none opposed.

There was a recess at 9:00 PM
Meeting reconvened at 9:08 PM.

G. Dupliese left the meeting.
R. Rondeau sat in for G. Dupliese

Minnich: **Next item on the agenda is the Planning and Zoning Commission Amendment to the Zoning Regulations Article I Section 5.2.0 Wind Turbines.**

At our meeting last we approved the wind turbines and what we did not do is we have not set an effective date. We did this once before and received advice from our former town council and what he suggested is that certainly the time is very short you don't have to have a decision on a text amendment that we proposed on the same night as the public hearing. So we do not need to hold a new public hearing. We certainly have to establish an effective date and we are required by law I believe it is 10 days after the approval we have to have notice of that in the paper. The previous time we had done this is to re vote again on the main motion of the wind mill and then to vote on the effective date. That covers the issue, the reason we have to vote once again is because we are required I think it is 10 days after we make the approvals it is required to be put into the newspaper. But it is required to put in a newspaper with an effective date because those 10 days obviously past and once again is to go back and to vote on it again. So having said that the motion that we past the last time is in front of you and the changes to this are on section 7.26.13 we changed the word and to or that was by comment of the Regional Planning

Agency and we also took out the word nearby and believe we put adjacent.

Masayda: What happened to the changes I suggested the previous time before that?

Minnich: I we did not approve those the last time.

Masayda: The reason why just for my notes.

Mancini: I think that was voted on and rejected. So why are we doing that over again?

Minnich: So those two changes were 7.26.15 is changed to adjacent. And 7.26.13 the word and was changed to or. Other than that it is as you have in front of you this evening. Is there a motion is approve the text amendment for wind turbines as presented the two changes that I have just mentioned this evening. Is there a second? Is there any further discussion?

Masayda: I just felt that this amendment is so restricted now I don't anyone would be able to put up a wind mill in that not considering being adjacent to open space. You are not considering whether the adjacent property owner may be in favor of having a wind mill right next to his property and it still not going to be allowed so you're pretty much restricting to anywhere in town to have a wind mill. To have a text amendment like this in the regulations why even have it.

Minnich: Any further discussion? Carol would you please call the roll for the purpose of recording our votes. On a vote of 5 in favor and 2 opposed the text amendment is agreed to. Now what we didn't do last time is there the motion that the effective date for this be the day after publication which would be 18th so 27th.

Carol: Are we sure of that date I do not have a calendar.

Minnich: The motion is for this to be effective June 27, 2008. Is there a second? Is there any further discussion? Carol would you please call the roll for the purpose of recording our votes. On a vote of 7 in favor and none opposed the motion is approved.

Text of Motion to Approve the text amendment for wind turbines with changes in Section 7.16.13 change the word "and" to "or" and in Section 7.26.15 change the word "nearby" to "adjacent".

Motion made by C. Mancini and seconded by R. Russ

Aye: D. Minnich, R. Russ, C. Mancini, J. Blais, K. Demirs

Nay: M. Masayda, R. Rondeau

On a vote of 5 in favor and 2 opposed, the motion is approved.

Text of Motion to The effective date of the regulation will be June 27, 2008.

Motion made by C. Mancini and seconded by R. Russ.

All in favor and none opposed.

Minnich: **The next item on the agenda is the application for the Friends of Watertown Library Association for a temporary banner resolution for announcing special events on the railing by the parking lot at 470 Main Street, Watertown in a BC-F district.**

Is there somebody here to make a presentation?

Tony Leach – President of the Friends of the Watertown Library

Even less know is the book nook which is the second hand book shop attached to the library. And they raise \$25,000.00 dollars a year which they give to the library for capital improvements. Very few people know about this and in order for us to advertise our sales we need your help in asking your permission to put banners up on the railings facing Main Street. Although the last 2 years we have

also had a town read in which like other towns we have sold books, He gave a talk I have heard from members of the library association that this town read is the most important thing we do. This year we are inviting Pete Hammel and we are reading Pete Hammel's books and he coming on October 14th to speak to the whole town and we need a poster to advertise his presence. I would like to read you a letter which Vice President, Linda Meriman wrote to you which makes our request more specific. The Friends of the Watertown Library would like to request temporary approval for hanging a couple of banners announcing our special events on the railing by the parking lot of the library. This banner would be put up for the months of April, August, and December stating words book sale. This sign is 2 ½ feet by 6 feet. The second banner would go up the beginning of July until the middle of October this sign is for the Friends Read Together program that takes place this summer. Lends for when Pete Hammel who comes on October 14th this sign measures 15 feet by 3 feet these signs have been a great help for us in the past in making people of aware of what is going on at the library. We would very much appreciate you granting us approval to hang these signs up once again.

Blais: I reading about the library a week or two ago on another issue and it brought it to my attention that they hung up the banner four times a year.

Leach: Yes

Blais: I was concerned about someone the farm market banner right into the brick wall. Ten masonry screws holding up this banner which possibly damaged the wall in the middle of the blocks. They will have to take out all the blocks above to repair. I know you do not do that you tie it to the railing on top. We have a little problem in finding out who fastened the banner for the farm market onto the wall so that they could remove it and repair those holes so water and ice do not get into damage it. Do you know who put up that farm market banner?

Leach: I have no idea. Jerry my wife is co-chairman the book nook and we are pleased because the farmers market was coming on the Saturdays which would sell books. I realize how shallow those bricks are to drive nails in that. I thought that was irresponsible. But I do not know.

Minnich: Is there a motion to accept the application...

Mulcahy: It is a resolution because of the fire district regulations with temporary banners they should form a resolution. It is not an application it is a resolution.

Blais: Ruth you just need a resolution to approve this?

Mulcahy: Yes

Blais: I move that we approve the request for this gentlemen.

Mancini: Second.

Minnich: Is there any discussion?

Masayda: Yes, I just have a concern I am all for the library it's for the kids and it is for the town and everything else and it is good to make money. The only drawback to this is that potential of other businesses in town seeing what the library is doing and wanting to do the same thing. That is the only concern I have and with the size of the sign and the length of time that the sign is up on the railing the two or three months and 3 by 15 is like a large sign and long duration. I can see the business wanting to do the same thing for sales in their stores and we could have a problem here. That is my biggest concern. There are other forms of advertising with the books or something on the building itself this could snowball into a problem for the Planning and Zoning Commission.

Minnich: I see this in my mind anyway but it might not be what others are thinking I rationalize this and this is a public purpose. This is a public

library the sign which is up which I don't know how it was hung up on the wall and it is for events for the Economic Development Commission for the Farmers Market. So in my quick review of this I didn't see it being any kind of expansion to other kind of businesses because this is public business so to speak. It is a public library and the farmers market is a town sponsored event so that is how I rationalize it with it.

Rondeau: I would just like to make a comment I don't have any problem with them advertising and some way shape or form that is great. My concern would be putting actually on the rail during a storm these signs are 3 by 15 feet could act kind of like a sail and the wind could literally tear down the railing. We get thunderstorms and heavy winds my only concern would be safety of the sign and that it not cause any damage to the railing and god forbid if someone was walking on the sidewalk underneath that railing and would be injured. It might be better to put in a temporary post or something in the ground behind the walls something of that nature that would not subject the wall and or the railing to damage.

Leach: The railings are very firm. You can't possibly shake them. When Jeri put up the sign every time and sometimes we do it in gail force winds the corners are very firmly gromtized and we have nylons ties there has never been any problem or flapping at all we make it straight against the railings and I can't even imagine that even going in an hurricane I really can't. And we have 3 or 4 years of experience of putting this banner up and it is so far above the street I just can see it ever hitting anybody or even sort of getting loose.

Minnich: Any further discussion?

Masayda: Is it 3 by 15 really necessary that large a sign could it be less? That is a pretty big sign for people driving through Main Street to see something like that.

Leach: I think it needs to be because the larger sign is for visit for Pete Hammel and we need to because it is a fairly new thing in Watertown. I think we need to do this and he is national known

world famous author. It is something we are very proud of and I think the size of the banner and the commitment to buying this sort of banner is a notice of our commitment this is something so worth wild in so important for the town. People are coming from New Haven the University of New Haven sent a bus load last year. And this is something great that the town.

Minnich: Any further discussion? Carol would you please call the roll for the purpose of recording our votes.

On a vote of 7 in favor and none opposed the motion is approved.

Text of Motion to Accept the resolution for a temporary banner for announcing special events on the railing by the parking lot for the Friends of the Watertown Library Association.

Motion made by J. Blais and seconded by C. Mancini.

All in favor and none opposed.

Minnich: **The next item on the agenda is the Planning and Zoning Commission Text Amendment for Subdivision Regulations for 5.3.5f this came as a suggestion from Commission Masayda the action this evening to discuss this briefly and then to if so desire to establish a accept the application for review and then we will determine to establish a public hearing.**

We had talked about doing this before it just never got done. So I do not know where to begin. Mike do you want to briefly present this.

Masayda: It is just basically changing the grade of road at intersections so that for the stopping and accelerating that our current regulations calls for 6% where at the intersecting roadways and we would like to change it to 3% it is more of the current standards. So I make a motion to approve this and go to hearing. Is there a second? Is there any further discussion? All those in favor please say I, all those

opposed say no. Motion carries. We will establish that for a meeting in July.

Carol: It has to go to town clerk, is there enough time for that.

Mulcahy: You already sent it. The subdivision you don't have to send a card anyway. It is not a requirement of the statues. It is only something we...

Minnich: We do it instead of the town clerk 10 days before the hearing.

Text of Motion to Accept application for review and establish a public hearing for July 2, 2008.

Motion made by M. Masayda and seconded by R. Rondeau.
All in favor and none opposed.

Minnich: **The next item on the agenda is the application for the Planning and Zoning Commission this is in section 30.6.1 and it has to do with transition zone. Moosa presented this language that is here he's been one of the ones that been administrating these two sections the language that is currently in the our regulations is similar to this but it is confusing and I have read it and I too don't fully understand what it is that we did, because it provides a couple of different meanings. What Moosa has attempted to do by these sections is to replace those sections in the regulations and put the words that are written in your agenda as such it is for that. Once again this is not going to be approved tonight but by a public hearing and the action would be to briefly talk about this and then establish a public hearing.**

Masayda: Motion to set a public hearing?

Minnich: Is there a second? Is there any further discussion? All those in favor please I all those opposed say no. Motion carries. So this is for July 2nd then.

Text of Motion to Accept application for review and schedule a public hearing for July 2, 2008.

Motion made by M. Masayda and seconded by C. Mancini
All in favor and none opposed.

Minnich: **Next item is an application is for the Planning and Zoning Commission Text Amendment Zoning Regulations to DELETE Section 71.4 Location of Motor Vehicle Uses.**

This is one of those things they bounce them back and forth and state law to my understanding the word is now is back in whatever is in the regulations whether it is referred to as it now to ZBA or this issue for location of motor vehicles or whether you retain it for sell. Either way is acceptable now under the state law the issue the reason is here once again we are administering this these are also subject to special permit which is not the part that goes to ZBA so the practical problem or challenge with these particular locations of vehicles is we have part of it going to ZBA and part of it staying here and Planning and Zoning because of use. And it becomes rather cumbersome in the process so the discussion that the staff is to make it not so cumbersome and to delete this portion which refers all the location motor vehicles to ZBA that was required years ago is not a option to simplify this process. That is what is here. Once again the action is obviously not to approve this if you so desire.

Russ: I will make a motion to present this to a public hearing.

Minnich: Is there a second? I will second. Is there any further discussion?
Carol would you please call the votes for the purpose of recording our votes.

On a vote of 7 in favor and none opposed the motion is approved and that is also going to make that for July 2nd as well.

Text of Motion to Accept application for review and schedule a public hearing to be held July 2, 2008.

Motion made by R. Russ and seconded by D. Minnich.
All in favor and none opposed.

Minnich: **The next item on the agenda is Rt. 262 Planned Commercial District.**

Several issues on this evening supplementing our decisions we had made last time. We have as a Zoning Commission said we would prepare a text amendment to the zoning regulations for a Planned Commercial District as was recommended by the Planning Commission and was voted by the town council. In that process of doing it the discussions have been for a long period of time almost 2 years. We have spent a fair amount of time talking about the process that would be done which was to there was 3 studies involved. One is an overall town study of the mix of industrial and commercial development in town and the growth and such as well as some other things which are found on pages 46 and 47 of the Planning Development. And the second part of this was directly related to approximately 120 acres on Rt. 262 which are owned by Richard Fusco and Jim Lukasavage that is part of the Planning Commission is recommending a Planned Commercial Development however they also said that we should have 2 additional studies. One is the economic impact study and the second is a traffic study and the outcomes of those are defined clearly on page 86 of the Planning and Development. In our process of approvals that we made, we made a series of motions and one of which I wanted us this evening as part of this discussion to reconsider and that has to do with we asked the Town Council or authorized Ruth to ask the Town Council for the appropriations for the monies for the 2 studies we talked about. Ruth recently got back from the 2 people that we had selected earlier in two previous occasions the same people Brian Miller and Michael Galante to do these studies. They gave us proposals we thought was not fair to them to state their proposals they made and we went back and asked them for numbers. Ruth has gotten that earlier this week. We are ready now to go to the Town Council however we had asked I thought this was going to be done within the same week that we approved it. But it did not turn out that way.

The responses came back quick enough from those two people and so that we had set a date of August 6th as the date that we would like to have response back from the Town Council. I think in fairness to the fact you did not have enough time to literally having the budget not fast, the two regular meeting are the 3rd Mondays of each month of July and of August. They don't have any regular meetings at the first Monday technically do that is the town council schedule. In so doing I am suggesting that we have change our date from August 6th to September 3rd to which we would want a response back. The motion that I am suggesting is the same as the one we had earlier except the changing the date so if I may just to get this item on the table and discussion. I would move that the failure of the Town Council to report the decisions that Planning and Zoning Commission by Wednesday, September 3, 2008 on the 3 studies of appropriation request shall be taken at this approval of the appropriations request. Is there any discussion?

Masayda: So you mean disapproval what does that mean? That money would not be allocated to the Planning and Zoning for these gentlemen to do these studies.

Minnich: We had never had a discussion as to what we would do as a Commission with regards to if we do not get the monies. We asked the first study which was town wide study of the mix of industrial and commercial and so forth. It never contemplated that an applicant who would be proposing a zoning change would pay to have that study done. It allows anticipated that the 2 studies that I mentioned the traffic and the impact directly related to Rt. 262 would be paid for by the applicant. We asked a series of questions last time and the applicants said that they did not feel that they should have to pay for this and thought this Commission pay for this. And this Commission voted on a vote of 6 to 1 to ask the town council for the funding for the three studies which at the time of vote we did not know what the amounts were and that part of that motion was to request that those numbers that I have just mentioned for the studies be updated and then request the Town Council for those funds. In the discussion of why this particular motion was done was

anticipated or as one of the possibilities is the Town Council would not make a decision soon And so we wanted to have that decision either yes or no from them soon. This is not out of line of what is required of us to make that for approval the 35 days. We will give them an opportunity to do that and this will require because the dollar amounts will require a town meeting and they may or may not want to do that, if they decide not to fund the studies that are presented to them as to how we will proceed but we did not want this to be a long period of time by which there was no decision.

Masayda: It seems like your putting out a lot of pressure onto the Town Council when we are in a budget crisis to give them a date of September 3rd and then just saying the Planning and Zoning Commission is going to be in a dilemma. The dilemma for what deciding what we are going to do? Why would we want to go forward with anything without having the proper studies being in place?

Minnich: Well that is the decision that the Commission will have to make remembering that these 3 studies of themselves are recommendations of the Planning Commission to the Zoning Commission we had a discussion there was nobody in disagreement with the statement that we should whatever is in our ability and our capability to honor what the Planning Commission had recommended and go through that process which we spent almost 2 years discussing how we are going about doing this. We have made every effort to follow the process by which the Planning Commission and had recommended and the Town Council had endorsed. If there is no funding the applicant's have said they do not want to pay for this a couple of reasons and secondly if the Town Council does not want to pay for this it leaves us with no means of getting funding and that discussion as to what we will do at that point we haven't had but we wanted to have closure to this decision was to whether they were or were not going get funding for it.

Masayda: It just does not seem like here we be such as the Zoning Commission is going to ask the Town Council for money to fund this. We are in a

budget crisis; I would say a 90% chance it is going to be nulled because we have no money to pay for anything else.

Blais: The time we did this the budget failed once.

Masayda: The chances are if they are going to say no. The applicants who want to develop the property they ought to put a penny into it. You are going to put the burden on this Planning and Zoning Commission to make a decision as to whether we are going ahead without the studies. To me it is like I don't know if any of you are experts here to make a decision like this without any hard fact or documentation or studies who are you make this decision if none of the members here are experts in the field of determining whether this is something that is good for the town or not good for the town.

Minnich: I am hopeful that we won't have to approach that whole question. The reason I said that is that the people that were not supportive of the plan commercial Development as the Planning Commission had recommended on Rt. 262 had talked a long time and about studies. People that were for it had concurred yes we should have studies. We have a problem with our budget in part because of our grand list. The burden of having people pay the taxes is a reason that before us and that having that diversification from the residential properties to other forms of properties industrial and commercial is what we as a Planning Commission has advocated in the development. I see no reason logically why the Town Council on just those statements would want to say no. I do see a reason for them on physical basis to say no. If there decision is on an physical basis they need to look at the larger picture and the larger picture is we're are going to continue with the residential development as it is and with no industrial and commercial improvement to enticing those kind of developments in our town then we are indeed not helping ourselves as a town. And so I am being a very positive advocate and yes we do have a physical problem in our town with regards to this. This whole issue of municipal financing and the school finances but I think the issue is much larger in that if we attempt to solve and get additional diversification in our town that

will help the very issue to which we are having a problem with which is our tax base.

Masayda: I agree however on typically when a private developer comes in they are usually responsible for everything. They are going to be the main beneficiary of the development although the town would potentially benefit also by the applicant who owns the property is typically the one who puts up the funds in order to start a development.

Minnich: If that is true I am just reiterating what was told by this Commission from Konover was also naming their application for a zone Rt.262. The reason that Mr. Fusco and Mr. Lukasavage went through their applications was in part of these studies but were told not just by those individuals but also by others that are nameless of good development that our request for the kind of studies at a zone change level which is what this is not customary. In fact it is unusual. These very same kinds of information are indeed almost always required as part of a consideration for an application. We talked for a really long time and whether one agrees with the studies or does not agree with the studies I thought in my own mind I am beyond all of that because that what we agree as a Commission as a Planned Commission and Town Council endorsed it, that we would have these studies. So even though we having the studies, I just point out they aren't typically what is done for a zone change and because of that, that has been an hindrance to two of our people that have made applications before and they withdrew and I am also understanding that is a inhibiting factor to another developer who is making request for a zone change.

Masayda: So you are saying studies are not typically done for zone change?

Minnich: The details of the studies we have are not typically done.

Masayda: I disagree with that. A zone change of this type I think if you want to get all the information have the studies available in order to make an educated decision.

Mancini: If we went that way the studies would have to get done eventually by the developer or the applicant.

Minnich: At the time of application the kind of information that we are requesting be mostly write into the regulations that have to be...

Mancini: That is what I am saying. The study would eventually get done one way or another before anything gets approved for that piece of property right?

Minnich: That is right.

Masayda: But you are already changing the use before you get this thing done so how do you know that the commercial use would be appropriate for that area. You let the cart before the horse. How do you make the change without knowing the problems?

Blais: The discussions during their conversations were, the developers would probably not come unless the zone change was there.

Masayda: Like Konover came in they will do the study and go for the zone changes at the same time.

Blais: But then they pulled out.

Masayda: We don't know the specific reasons why.

Minnich: They did not cite the reasons why. One of the reasons is probably the zone studies.

Masayda: You are trying to tell me that \$20,000.00 studies for a multibillion dollar effort they could not do it for \$20,000.00 dollars.

Mancini: It was not \$20,000.00 back then.

Masayda: Even if it was \$50,000.00 or say \$100,000.00 you think somebody is going to pull a million dollars operation for a \$100,000.00 dollars.

Blais: You are saying they gave us false information. Then it was not the true answer. I remember reading in the newspapers that that was their excuse. Now are you saying what they said publically was not the true.

Masayda: I heard a couple different reasons why that also there were some issues with property that they were working out in Waterbury. That could be another reason. Do you believe everything you hear in the news and the newspaper?

Minnich: I do think that at least what we reiterated before this is the last meeting I think this is seven to nothing. I do not think there is any disagreement on this at all. We thought that the studies should be done for these projects and to use the process that the Planning Commission had recommended which was 3 studies the outcome to this comprehensive for Planning and Development. Or the studies or the zone change and we asked the applicant if they wished to pay for it. They did not, he had put in as you recall this was controversial it is in there now that if the studies are not at least the 2 studies directed for 262 are not paid for by the applicant then the town would be asked to pay for that. That is in there. So that is contemplated that the applicant would not pay for it haven given the history of two other applicants. So that is where we are now asking the Town Council for monies for the studies. If they say no, then we will have to talk about what we are going to do. I don't know, I don't know what we are going to do but I am hoping in that this is of such importance to our community with regards to getting that land developed and having...

Masayda: I agree with you having gone through this already. But it needs to be developed and everything else but again if we were experts on land use and changing the zone and traffic and all those other issues that go into a study fine let's make a decision but we are not. If you could be able to make a decision this Commission made a

decision on not having anything to hang your hat on I don't know where you are going with this.

Minnich: You made the opinion that the Town Council is going to say no to this.

Masayda: Again, I hope they say yes. But we are in a budget crisis I don't see that money for a lot of things. Hey it should be up to the property owner they should be one, or have 50% or something. They do not want to put anything into it. They are going to be the ones making the majority of the returns on selling their properties. Anybody who develops their property all these applicants that come in front of this Commission one by one if the designer or the engineer or the housing development they put in tons money for studies for drainage, for developing plans, for everything and here we are going to...

Minnich: That is why they do that because they have or right. Because they know eventually they have an of right to do what it is they need to do with their property for its uses and it is a matter of compliance with regulations. Here there are no regulations so I am not going to justify, all I am saying is that we made a motion last time it was on the floor again for having the date of August 6th to give us the circumstances as a responds request for the Town Council. Because of the circumstances to change it to September 3rd there is motion on the floor. Is there a second? Any further discussion?

Rondeau: I have several things. I agree with Mike this is a private individual looking to develop his private land he going to be making millions of dollars on. If he doesn't feel that it is worth the risk to spend the money on this study why should the town take the risk? If he is so sure that this is going to be a benefit for the town then what is the big deal? He puts his \$50,000.00 dollars in he gets a good study back we will get study everybody is happy the process goes through. If the developer has questions as to whether the legitimacy of this project will fly then obviously a reason for him not to want to put his own money into it. I think somebody in the audience here,

every project Mr. Tedesco want to put forth, he might have property right now he would like to change from one zone to another. Basically what we are saying is Mark anytime you have a project you want to change the zone come in and ask the town for some money to do a feasibility study. That way you know whether you should invest your money into this project or not. It is absolutely ridiculous that the town is going to give private individual funds to develop his land at our expense.

Russ: We are looking at the money not to develop or looking for the money for the study to see if we want to make the zone change. That is what we are doing.

Rondeau: But it is his land and he is the one that has to decide whether he wants it a zone change or not it is not up to us. He comes to us with an application saying I want to make a zone change none of us here can do that for him. He is a private individual he owns the land he has to do it. It should be his money that is forked over to find out. Because what happens if the town spends 50 or 60 thousand dollars whatever number you want and that feasibility spending comes back and say you know that would be disastrous for the town for any number of fifty different reasons and the town decides you know maybe it really would not be a good idea. Who is out the 75 grand? We put out all the risk for what? It is his property, none of us here would expect to come in and have the town pay for our subdivision plans and I don't see this being anything different. I think it is absolutely ridiculous. Secondly to ask the town for money in this point in time with now the budget failing twice and then putting a date on it to me is just asking for permission to go around getting these studies done. Now whether you want to sit there and say we haven't agreed on anything, we haven't said we are going to do anything, we haven't said we are going to do that, you got a bunch of people on a commission all lined up already knowing what they want, already knowing what they are trying to get and I see it as a way of skirting around the issue. I think it is absolutely absurd, I think it is unethical and I think you should be ashamed of yourself.

Minnich: Let me respond to a couple of those. One is I think is disrespectful to a process to which you didn't succeed at the Planning Commission into which to the Town Council endorsed. This study may be initiated by the Commissioner or the study may be initiated by the applicant under the direction of the Commission.

Rondeau: That was not what you put in their originally Dave.

Mancini: That what was approved.

Rondeau: That was not originally approved. What were originally approved there were many amendments made so that...

Mancini: What was the final draft that was approved? Was that it or not? You go by the final draft?

Rondeau: There were several members on the Commission that had been involved with many of the focused groups of other activities...

Mancini: What was finally approved?

Rondeau: I did not say it was not approved.

Mancini: So you did not have the vote to knock it down. I don't care what was originally approved. What was finally approved? That was the final verdict.

Minnich: What was originally approved was out of there because I am the one who put it in. It got changed later on so the original one had the study being paid for by both. But that does not matter the issue is what's the final outcome of what the Planning Development was and the Planning Development is clear as to what its recommendations.

Rondeau: I think things have been manipulated over time to get...

Minnich: If the people who are opposed to this project truly want to have a study done. Then they should be out supporting the study. Because the numbers for the study do which have come back are very similar to the numbers to which were given a year and a half ago. So there should be no reason to which people should be voting no if indeed they truly want the study to go forward.

Rondeau: How do you expect somebody on the Town Council that getting parents breathing down their neck about the school budget among 1,000 other budget issues to say where are going to approve and you can fill us in on what the appraisals are I don't know the number? But we are going to approve x amount of dollars for this which a lot of people maybe against anyway and were not going to put those dollars towards some other budgetary item. Your putting a huge amount of pressure on them. And you are tying their hands by saying you have to have this done by September 3rd or else considering in a note, If you truly want the money, and you truly want the studies, and you truly want to find the money to do it. Why are you being so restricted, why not give them till November 3rd vs. September 3rd.

Minnich: Because the answer to which Town Council can give answer to whether they wish to take money to which they want to appropriate the money in a reasonable period of time under state law we have 35 days to give 8-24 approval from the Town Council this is greater than what is required from us by state law by asking them to give a response one way or the other.

Rondeau: Okay if we are willing to go to 60 days why would we be voting to go to 120 days.

Mancini: The motion has been made and seconded.

Rondeau: My point is if you saying that you are willing to be generous in give them more than the thirty five days that are required. I am asking in a situation where we had a budget fail twice why wouldn't you or wouldn't the board give the town the time that would be probably

be necessary to get this done. Which would probably later than September 3rd especially if this over and Carl if you would help me on this anything over \$29,000.00 dollars needs to go to town meeting?

Mancini: 24 or 25.

Rondeau: Are the appraisals that we got more than \$25,000.00.

Minnich: Yes

Rondeau: So now this has to go to town meeting. And what are the chances that this be priority on the agenda with everything else that is going on in town meeting. Even if they did get put on the agenda for the town meeting don't you think it might be possible as does with some of our topics on our agenda that it get not taken care of the first time around and get moved to perhaps another meeting at which case September 3rd might not be adequate time to get the answer we need. The point I am making is if truly interested in acquiring the funds to get the study done I think you would give the town the appropriate time necessary to get funds acquired.

Blais: You talk in terms of what would be the answer during your discussion, no one can answer but the Town Council. We don't have the answer I wish you would not phrase those questions that way? How do we know the future? I am talking about the way you phrase it? Are you asking us? Are you asking the town council?

Rondeau: I am suggesting to the members of the council, I am probably falling on deaf ears...

Blais: What council?

Rondeau: The Commission sitting here that there is a proposal before which you have to vote on momentarily so I am asking you based on the topic that you are going to have to vote on that you vote no.

Blais: Do you want an answer from us?

Rondeau: In essence yes. I am asking you to vote this as no. So we can make another amendment that would give the town the appropriate amount of time necessary because as I am saying if in fact the goal to get these studies done. The town is going to need time to acquire funds and do not think September 3rd is an adequate amount of time. I would ask to reconsider the date of September 3rd to November 3rd instead.

Minnich: The Town Council does have adequate time the next regular meeting is third Monday in July they could then set any town meeting for the 3rd Monday in August and then would get to our September 3rd date.

Rondeau: That is assuming that the only thing that would be on their agenda would be this. But with all the issues that are going on what I said earlier it's possible that they conceivable even get this on the agenda for a town meeting but it is also possible with all the others things that are going on.

Mancini: If the chairman of the Town Council wants it on the agenda it will be on the agenda by July. There is no doubt about it Ray the special meetings you talk about the budget coming up with budget is going to be held next week. We are already talked sitting down special meeting next week for the budget.

Rondeau: And what if that does not pass it. It already has not passed twice. Is conceivable it could not pass a third time and now there are those priorities. The point I am getting at is if you really want the money give them the time.

Mancini: That is a stall tactic. If we had said October 1st you would have said November or December.

Rondeau: Do you have an amendment to make on this? I would like to amend the date of September 3rd to date of November 3rd?

Minnich: Is there a second to that motion? Is there any discussion on that motion? Hearing none we will vote on the amendment first. The amendment is that the motion be requested from town council by November 3rd, 2008 in response to our appropriation request. Carol would you please call the roll for the purpose of recording our votes.

On a vote of 2 in favor and 5 opposed the motion is not approved.

Is there any further discussion? Hearing none. Carol would you please call the roll for the purpose of recording our votes on the main motion of September 3, 2008.

On a vote of 5 in favor and 2 opposed the motion is approved.

Minnich: The next is there 2 letters that we received this week we got in our packet a request to that is related to this 262 zone change and the writer who wrote the letter would like to read it. Would like to speak to us.

Gail McTaggart – Secor and Cassidy

The letter is from John Andrew and his wife also Diane Andrew and they own the property this is directly next to the property that has come in on application for a zone change off 262. Actually I have a map to show you where that is. They have an LLC that owns one piece which is right here. There is also this piece down below it.

Blais: Is that Watertown Plastics?

McTaggart: No it is not Watertown Plastics. Right next to it is the Fusco property and the Lukasavage property. What is says is that we would like to be considered as part of any zone change that the Commission does on its own motion to have this property included if zoned the same way now presently. It is connecting it will be effected by it by any application to zone that other area. And I did go through the plan of conservation and development and looked at the special

emphasize that was put on the Fusco and Lukasavage property but I also noticed that plan of conservation and development looks at that whole area between Ledger Road and Echo Lake Road and Route 8. This property is very much part of that same location. I also noticed that the Commission very wisely I think on page 91 of the plan indicated that you were not making prejudgments about applications that come in for zone changes and that were not doing taking specific properties and saying in the plan of conservation development how they should be developed. It is a goal document as we all know it is an advisory document and in that you indicated that you would look at that obviously on case by case basis. So we looked at it and I been listening to your discussion about the studies and I guess I will say that both things happened on most of the applications that I have put in, this maybe against my clients interests but on most of the applications that I have been putting in for a zoning amendment or zone change I have provided studies that are traffic studies and economic impact studies and the kinds of studies that you have a sense of whether this is good for the community and good for the town and whether is consistent with the plan of conservation and development. So we have done those. I understand also there is times where the Commission on its own motion does studies and those studies are broader and look at a broader area than a single land owners does so both things happen one of the things that we have talked about if came in with a application which we would do is to try to have it run concurrently with the application that you already have pending is we would provide information we would hire a planner and provide information to give the Commission that information that we think it needs to make a decision. Whether that study is big a study as would be done by the town, if the town were to be able to obtain professional that looked at that whole area of town and did a much broader type study that would be a Commission resource that sometimes is beyond perhaps what a single applicant can do. But certainly an applicant does come in and provide planning information, traffic information, economic impact, information in order to do that. The other thing that we would do is as we talked about we would actually try our hand at writing the zoning

amendment which I think should be a planned development type district. Where this Commission has architectural and other kinds of review to take a look at an application it is done in many communities, it has been upheld by our by our supreme court. It is a really good way of doing this, some of our towns the Town of Southbury used it, one your planners that wrote a lot of your regulations Bob Ryan wrote regulations for this town and also for Westport, also for Southbury. Southbury every shopping center that comes in, it is a large shopping center has its own zoning techs and a planned development for that to allow the Commission to do the kind scrutiny that it cannot do on a broader fashion. So our proposal and our thinking are very preliminary is put an application in that would include zoning text amendment that would create something that really is a commercial planned district so you have some regulations about a commercial planned district that you could apply to particular property. So that is what we are thinking about and we really very much would like to have an opportunity to be included on the same public hearing time if we get our application in so that we could run concurrently, I think we can actually provide information and obviously it has to be scrutinized by the town professionals but think we can provide information that would be very helpful and help this Commission to make this decision.

Minnich: In regards to the application that you mentioned you were planning on providing there are outcomes of the studies that were specifically stated on page 82 and 86.

McTaggart: I have read those.

Minnich: Would that be something that you were providing at part of this application?

McTaggart: Actually when I read those pages I can see their studies I just don't know and maybe this Commission knows more I don't know what the scope I mean it is something to talk to your Land Use Administrator about I don't know what the scope is when I read

that I don't know what the scope of that is. I can see that the economic studies that impact studies that I have submitted always include impact on the schools, they always look at the tax dollars, and the benefits for the taxes, it takes a planner to look at the other sorts of character of the town and those sorts of issues so my answer is yes they would. Would there be a study of the whole town that probably beyond what I single land or a couple of land owners can do. They are commonly done studies on zone change applications. I actually agree with you that they are required for this type of an application I don't see how you assess it without having that information. Our hope is that we would provide talented planners and people that have resource studies. Some of you know that the kinds of people that do this are pretty honest and pretty straight forward because if they didn't they would never get the job again. I think we can provide the information that you are talking about if the scope is to look at the whole end of the town, I think what it will do is will be centered on this area of the town because that would be within the budget of the people that making the application.

Minnich: In our two year long discussion leading directly to what you said we had a lot of conversation and quite frankly we get hung up on two issues one is that in order to do an appropriate evaluation wanting it to have a concept of what's going to be on that property. Different sized buildings and what its uses are does have difference in change of traffic and other impacts. And the second issue relating to this discussion was that we had and this was part of the problem that two previous applications had is that we wanted some appendices with regards to the review. So we have talked about wanting this study to be a study that we would both find acceptable both to the applicant and us to whom the person or company that was going to be doing the study. We are familiar with the kind of studies that can come to us and we were not enamored by the typical kind of studies that people would be doing for these kinds of developments which quite frankly are marketing studies. That was not our end goal here. We went past that and wanted specific things to do.

McTaggart: Yes, I understand the physical impact studies are a different thing.

Minnich: Exactly. The two things in summary here and at some point we need to address the independence of the study and secondly was the issue of the concept of what the development would be because of size and its uses would have different impacts. For example a mall has a different impact than and a different size buildings, security kinds of issues and so forth. That became a discussion so.

McTaggart: One of the things that one is to write a zoning amendment, the other one is to do a planned development district. What happens with the planned development district is you get conceptual plans. The first step is to bring in zoning text and a conceptual plan both. And then once that is approved details come in stage too. So you have an idea of what's proposed on the piece of property. I know that some people said we shouldn't just be bringing in a plan and that plan sort of become the zoning amendment because you look at that conceptual plan and it has a zoning table on it you can see what setbacks and so forth. So there are some requirements on that. The typical way it is done is to do a text change so there is something in your regulations that even defines, I can't even find in your regulations what a planned commercial district is. Is it something in your goal document that it has to be defined somewhere in your regulations that has to be zoning text that says that out and what the ground rules are for it. So part of that is to create the process so that the process can work, and so that the Commission review process can work. Something we have a lot of experience doing and I can't conceive of doing without some expert. I will tell you that I told John Andrew when he came in talk to me about, the first thing I said is we need a planner, I am an attorney, I am not a planner I have been at a lot of planning meetings but I don't pretend to be able to be a planner. We need a planner and we need actually one of the people that I mentioned turns out as one of the people on your list. There are a couple of planners that I know are very well respected and I think would add a lot to the process. Obviously we done this whole impact studies on every zone change application in the last ten

years we have done a physical impact study. We are asking for consideration because I did know if you are writing your own amendment what property is going to be included and we are saying we want to show you that we should be included. Why we should be included we are right next door and we are going to be impacted by it, in fact some of the early Konover plans put a driveway into this property right next to this piece of property it make for consistent land use it is in the zone where it is. It could be good economically, a lot of good reasons.

Rondeau: And are you suggesting that you would want to do a study?

McTaggart: We would do a study if we came in...

Rondeau: And you would pay for it?

McTaggart: We would pay for it but what I am saying to is that study that an applicant would do would be a site specific study of this site and what will happen in this area. If the studies you are talking about are to look at and I am not saying that the physical analysis will be looking at schools and so forth. But if your studies are looking at something broader that all the industrial areas in town and all the commercial areas in town and figure out what the right mix is and so forth. That is really beyond what an individual applicant can afford to do.

Rondeau: I might want to suggest to you that since the study that the Commission would want would be all encompassing of not only of what you are area would be. It would also look at the town and since the majority of the board feels it's appropriate to give private individuals funds for these studies I would suggest that you might want to put in your application and ask the town for the money to do that study. Because...

McTaggart: I do not believe the town would grant money to a private individual because the resource what's going on is I heard your discussion but it is a resource to the Commission. What you are asking is if you are

going to design a zone change you are saying we need some resources to try to get it right. So those are two different things.

Rondeau: I am only suggesting that the people you are mentioning on this application being the Fusco and Lukasavage. They have asked for the Commission to appropriate the money to pay for a study to develop their land. I am merely suggesting that you representing a private individual other than it is a slightly different piece of land you are asking to do the same thing.

McTaggart: You are asking me to get into a real political situation...

Rondeau: I suggest you approach your client to before you do a study and ask the generous board of Planning and Zoning for those funds. That is all. Thank you.

Minnich: My understanding you would like us to consider putting this as part of our and that is the basis for our....

McTaggart: We could put in an application in and run the application through the public hearing process the same time. If this other application is going to continue we want to put an application in with it. We will provide some expert information along with that application we do not represent the other properties owners but we are in the same neighborhood and we will be providing some information that will be helpful to this Commission in analyzing a zoning amendment and we will putting in a process for that application proposed zoning text that is the machinery to make it happen because it doesn't exist right now.

Minnich: You obviously as time goes on will decide how to do that. But that very process is what is one (inaudible the tape was damaged so hand rolled to the good portion of the tape and started again). And what we decided was as a Commission was n as a whole in subcommittee to review this and to establish a language so what a separate amendment or separate text amendment we will have to decide on. I think the movement on this Commission is that we want

to proceed soon and rather than later so that might have an influence on...

McTaggart: What happens to amendment that is before you if we were to join in on that what happens to it if there is no text amendment in your regulations...

Minnich: That is the purpose of this subcommittee is to develop text. And bring back to the Commission for review. Our end goal is after all these studies are done is to establish a planned commercial district.

McTaggart: Obviously.

Minnich: We all recognize the need for experts to help us.

McTaggart: I think the planned district idea is good. I think what it says in the Plan of Conservation and development makes sense it just that it now needs to be implemented in some text. So there is something you can apply for.

Minnich: That is what we are in the process of doing, so whether you are going to do it independently or have a separate one you will have to make that decision.

McTaggart: Okay.

Blais: My understanding right that your applicant is looking at our current process in a positive way?

McTaggart: Yes, we want to be included in positive way in, we want this plan included it is in the same boundary as those boundaries that we set up in the plan of conversation and development. I know in one place it says 100 acres and then it is 119 acres under 20 acres but this another 15 or so acres that in that same area that are going to be very much impacted by it so we want to be included and if that application is going to proceed based on the applicants what they have now submitted which I am not sure how you do but if you are

going to do it that way we want to figure out a way to do it and I want to figure out a way in the way that is legally works. That will legally work so if we were successful and were to get this Commission to approve it we want to have something that can be upheld.

Mark Tedesco –

And although I don't feel I have the same rights as Mr. Andrews being an abutting property owner. And I am not here looking specifically for a zone change I want to reserve my right. Let me read the letter real quick and I will make it quick. It is 1061 Echo Lake Road it has been brought to my attention that 120 acres of land is being considered for a dual zone change to allow retail development in industrial zoned specifically the Fusco and Lukasavage and John Andrews properties even though our development fully develop its own 23 acres in the same zone for industrial use and I will stop there for a minute. My heart is definitely in the industrial I have already spent bucks to get it to this point and even in front of this board next month another almost \$40,000.00 dollars of engineering to continue with the industrial. So I just want to make that straight there. We are concerned the large retail development could hurt our ability to attract industrial tenants we already have had 4 potential buyers one right of the bat is DAHL they are a transport company, the potential buyers expressed concerns about the effect of retail development to traffic and access it is my understanding the Commission is asking the town to pay for minimal studies of \$25,000.00 dollars not the comprehensive studies that were originally discussed when I was a member of this board. If the town does now agree that the Commission more than likely will proceed with no studies at all. Therefore even though we do not abut the land under consideration our 23 acres of property which is about 1,000 feet from the Fusco property and again not abutting like Mr. Andrews but please keep in mind that we fear that we may have to get a zone change go on the band wagon as of zone changes here to in our protection. However if retail sprawl is going to hurt our chances for industrial development then I feel as a

taxpayer as substantial tax burden to protect my rights. And I want to make this clear I am not here for a zone change I just want to put on the record that this does affect me adversely which the proper studies would do. I would be more than happy to do studies whatever the costs are. Or as a hypothetical I will make this my last statement if I can't afford to let's just say I am in the same predicament as maybe some other applicants. If I was the same way I would be more than happy to reimburse whatever those fees are after the sale of my property once I have gotten the due profits at that point there I would be more than happy to reimburse the town for those studies if this was me and my property. Thank you.

Minnich: Does anybody have any questions?

Jim Lukasavage – Oakville, CT

At the last meeting that I addressed the board I was requested to submit a conceptual site plan. I would like to do that at this time.

Minnich: Do you have anything else Jim?

Lukasavage: No that is it.

Minnich: To make sure I am fully understanding of what has transpired here tonight in terms of the two people that have been before us. Mark made a statement requesting zone changes. (inaudible rattling of papers) it means to impact him and he is within his right as he has anyway to give us updates in the future. On the issue of other land it is adjacent piece property of 15 acres my understanding there is nothing on that property right night. Correct.

Andrew: There is a building on it. There are 2 pieces of property; there is a nine acre on that piece of property.

Minnich: What are on those 2 pieces of property?

Andrew: The one nine acre is nothing but raw land. The 5 acres is warehouse right now. That we use for Watertown Plastics.

Minnich: Watertown Plastics

Andrew: Yes. 5 acres they use it for storage.

Minnich: What do the members of the Commission wish to do with regards as adjacent property.

Blais: The proposed applicant I think should consider him in the process of the Lukesavage and Fusco property.

Minnich: Does anyone else have any comments or thoughts on this?

Rondeau: I would happen to agree if you are going to do something there, I don't think it is appropriate to limit this to just one land owner anybody in that area should be just as entitled to have their land rezoned. So I would agree that this appropriate.

Masayda: Well again, part of the study usually the study is very specific to abutting property owners and that is the whole purpose of doing this study is that you analysis the development being proposed or the zone change we propose and the abutting zones and abutting property owners. So that is the reason why you need a study ahead of any type of zone change for this situation for these gentlemen right in front of us here.

Rondeau: I would agree but I would also ask that why would we just limit that one area is there any other industrial zoned land in Watertown other than that on Rt. 262? Are there any other parts of Watertown that have industrial zone on them other than that area on Buckingham 262?

Minnich: Yes

Rondeau: Where would that be?

Minnich: Straits Turnpike and Industrial road

Rondeau: Is that already developed or...

Minnich: Almost all of it has been.

Rondeau: Anything that is not developed would it not be appropriate to include that. Why would you limit if the point is that you are trying to entice business to come to Watertown and if everybody feels that the industrial land isn't going to be developed that is industrial in there why would you not allow other land owners in Watertown that have industrial land to also be part of the zone change?

Mancini: What did the plan of development state isn't this area that you are talking about....

Minnich: 120 acres

Mancini: 120 acres we are talking about not the whole town.

Minnich: Anybody else have comments?

Masayda: Fusco junkyard should be look at and also the DiNunzeio nursery. Those areas you look at Jim's map there. You going to the West to Plastics Company you should go to the east because you have other properties that are not developed yet. All adjacent properties should be studied.

Minnich: I understand on what you are saying.

Rondeau: I have a comment on what Carl said. Carl when 262 was originally put in the plan to develop it as a planned commercial area there were no studies done, there was nothing other than the opinion of some people that really don't have any expertise to say that would be the only place you could put it. We are all kind of lament as far as that is concerned in terms of what would or wouldn't be the best

area. So that being said I would think that any piece of industrial land in Watertown would be just as adequate to develop into a commercial property as that land on 262. If the point is trying to reduce the taxes of people in Watertown and industry is not coming to Watertown and there's a four acre lot on Industrial Road is that what you said? Then why wouldn't it be appropriate for that land owner to be able to also convert his land so you might have the potential in developing that when the potential may not exist now. I would just suggest that if you are going to allow one land owner to change a zone then it should be appropriate for any land owner that has industrial land to be able to change if they so desire. I am not saying it automatically be done. But if they so desire I think it is appropriate they be allowed to change as well.

Minnich: Certainly any land owner has a right to request a zone change. In terms of the comments that you have made I am not surprised that they are being made in terms of being a devil's advocate. This Commission and this town have spent over \$105,000.00 on a planned planner to help us through a two plus year process of in part deciding what the mix of residential and commercial and industrial growth that our community could be. We spent an extraordinary amount of time on this particular property in terms of the Rt. 262 issue that I am talking about. This Commission came to a conclusion with the advice of a \$105,000.00 dollars consultant that this is appropriate for our community as this time to consider a planned commercial building. It did not go into what should this planned commercial development uses be and all the particulars about a particular zone in terms of what would be in a comprehensive plan which includes the text of the zone and the boundary lines of the zone. This particular 119 acres was done in large part because of a 2 individuals who had wanted very much to try to sell their property for what zoned industrial, they came to and told us that they were having a lot of difficulties doing that. There were a number of years and we also got input from Mr. Drubbner and some other realtors that all concluded that industry is not where we would like it to be. And that this is alternative to look at. We made that conclusion as a Planning Commission that this

should or recommend as planned commercial district and the town council endorsed that. There was no place else in town that this was suggested to be. The makeup of what this finally gets to be is part of what the decision of the Zoning commission is. Is what we are here today. Mrs. Taggart has suggested that included in this is this review is the 15 acres. The submission has previously said that it would take on the role of developing the language for the Planning Commercial District that the Planning Commission recommended and what is here today is the request that we have 15 acres to that which is adjacent property. And so this Commission and Ms. Taggart and your client can very well make their own plan. You have every right to do what they wish to do with regards to a zone change. They could very well say okay if you are going to be working on this real soon we work with you and see what is going to happen and will go through that process and if don't like that process we speak out and they will have to define what their role is. That is up to them. They are here asking us at this stage they can change their minds any time they want. If we want to include those 15 acres.

McTaggart: It is this piece right here.

Rondeau: Although the town spent \$105,000.00 on a consult to help us develop the plan of development for Watertown nowhere in that study was there a physical impact study, a traffic study, a study would show the impact on social services provided by the town. If 262 or any other industrial land were converted to commercial I for one would not necessarily be against having that done. Excuse me I have the floor and I would not like to be interrupted by the Chairman. I for one am not necessarily against having the industrial land converted to a commercial venture my point for the record and to be clear to all the other members of the Commission is that if in fact this is going to be done I think it is important that it get done in appropriate manner so that residents of the town know exactly what the impact is going to be on them. It is possible to look at something and think "oh! this going to be great and we are going to get this amount of tax dollars and that amount of tax dollars" but we don't know what is going to come with any development there.

If that happens to put a business all the other businesses in town may end up being a net loss. So the point I am trying to make is as I am trying to make on any of the conversations that have been regarding this. Whether it has to do with funds for study or have you is the fact that if this going to be done or if people are trying to move things in that direction it would just be best that it be done in a manner that we are not kicking ourselves years from now or ten years from now and saying we should or we could of I wish we would have.

Minnich: Clearly we have spent the a lot of time over the last 2 years deciding what the process would be or recommending what the process would be as a Planning Commission and that is indeed what we have said our meeting on June 4th that we wanted to begin that process now. Which what the Planning Commission recommended and Town Council endorsed. And so what is before us tonight needs a final submission is to include the 119 acres of property on Rt. 262 in terms of writing regulations and so forth.

Russ: I make a motion that we include the 15 acres of John Andrew for study.

Minnich: Is there a second? Is there any discussion?

Masayda: What is your motion again?

Blais: That we include the piece of parcel the 15 acres into this here study.

Masayda: The Fusco and Lukasavage pieces. And addition to that should include all the other adjacent parcels.

Mancini: He is the only one that came in.

Masayda: I say you should include all adjacent properties. That is what that motion should say. I would like to amend the motion to have all the

adjacent properties included which is typically what the study does approve.

Minnich: What we are going to talk about is going to cover the impact to several things. But this also is not a study issue this 15 acres as well 119 is to do the zone change or talk about the text change so I don't see the other property owners as having come forward to wanting that to be considered as a zone change for their property.

Rondeau: Is hasn't been a public hearing. It is possible that some land owners are not aware that this is going on.

Minnich: Every property owner has every right to make a zone change request that is their right under the law? So they can very well be part of this. When you are asking people to be part of the zone change, I understand that but I am asking people to be part of the zone changes for their land when they haven't even requested to have it changed. Fusco and Lukasavage requested and in this case Mr. Andrews has requested it and no one else has requested it but anyway.

Blais: Can we move the motion forward please.

Masayda: I would like to amend the motion to include all adjacent property owners as part of the study and feasibility of the zone change.

Minnich: No, his is not just the study his is to include the text amendment as well to consider changing it into a planned commercial zone. It is both the study and the zoning. Do you want to make an amendment or no?

Masayda: I just wanted to do the study at this point.

Minnich: That is what is agreed to for the 119 acres. So any other amendments. Hearing none.

Carol: Is there a second to the amendment?

Minnich: I don't know if he made an amendment yet? He might be making an amendment.

Masayda: I will withdraw it then.

Minnich: Now we are voting on John's. If there is no further discussion? Carol would you please call the roll for the purpose of recording our votes. On a vote of 6 in favor the motion is approved.

McTaggart: Thank you we will be talking to you briefly again.

Text of Motion: The failure of the Town Council to report a decision to the Planning and Zoning Commission by Wednesday, September 3, 2008 on the three studies appropriation request shall be taken as disapproval of the appropriation request.

Motion made by: R. Russ and seconded by C. Mancini.

Aye: D. Minnich, R. Russ, C. Mancini, J. Blais, K. Demirs

Nay: R. Rondeau, M. Masayda

On a vote of 5 in favor and 2 opposed, the motion is approved

Text of Motion to An amendment to the main motion that an answer be received from the Town Council in response to our appropriation request by November 3, 2008 instead of September 3, 2008

Motion made by R. Rondeau and seconded by M. Masayda.

Aye: M. Masayda, R. Rondeau

Nay: D. Minnich, R. Russ, C. Mancini, J. Blais, K. Demirs,

On a vote of 2 in favor and 5 against, the motion is not approved

Text of Motion: Include John Andew's 15 acres adjacent to the 119 acres in the text amendment and the study for a Planned Community Development

Motion made by R. Russ and seconded by: J. Blais.

Aye: D. Minnich, R. Russ, C. Mancini, K. Demirs, R. Rondeau, J. Blais

Nay: M. Maayda

On a vote of 6 in favor and 1 opposed, the motion is approved

Text of Motion: Amend the motion to include all adjacent property owners as part of the study and feasibility of the zone change

Motion made by: M. Masayda

Mr. Masayda withdrew his motion

Rondeau: When we have meetings that are scheduled other than our every first Wednesday of

every month I know the chair takes it upon himself to schedule meetings at other

times and other dates. I guess what I am asking is that without consulting other

members of the Committee as far their availability.

Minnich: I guess this is on the Chairman's report this is not on the agenda. I will let you do it

on the Chairman's report. Because this is not on the agenda and you cannot discuss

it.

Rondeau: Are we doing the Chairman's report yet. I am asking that the Chair when you

schedule a meeting that we notify the members of the Planning and Zoning Board

as to when he would like to have a meeting because there is obviously conflict that occur amongst members of the board on days that may have not been previously scheduled.

Minnich: The meetings of this Commission are the first Wednesday of each month and they are by tradition the 3rd Wednesday of the month are the Special Meetings. The subcommittee meetings are called of whoever who going to be the subcommittee Chairman of those various committees that this Commission has established. Chairman has no authority to establish Commissions, every subcommittee is established by the rule when those meetings occur it is at the discretion of the the Chairman of that committee.

Rondeau: We just had a subcommittee meeting today at 6:00. That was the first meeting we had.

Minnich: You are being confrontasous because you are absolutely wrong. I asked Carol and Ruth to call members of the committee which they did. And to which this was the scene at 6:00 tonight was the time that was convenient for them.

Rondeau: I got a call not asking if asking that 6:00 was a convenient time for me. I got a call that there is a meeting tonight at 6:00. I had no problem making it the point I am making is whether the next meeting we have or meetings in the future whether I

can't make it or some other member can't make it I simply asking I think it would be appropriate and respectful to other members of the Commission that it be pre determined by the members of the Commission as to when that meeting would occur opposed to just saying it's today at such and such a time. Without giving people an opportunity to give any feedback.

Minnich: Unfortunately the subcommittees are decided by the Chairman as to when there is going to be and staff follows people to see if they can do it. I know Jim and Ron are on a subcommittee and staff follows then to see if they can follow. So apparently I don't know what communication you have or didn't have with regards to the committee on the moratorium but I am not a member of that committee.

Rondeau: With that being said maybe I am misunderstanding you saying that the committee Chairman would be the person designate the time and the meeting for the sub committee meeting is that what you are saying?

Minnich: The Chairman of the Commission decides the commission meeting that is true. The meetings of the subcommittees is determined by the Chairman of the sub

committee. The first subcommittee meeting there is no chairman so staff I asked them if they call and see if the majority of the people can make a particular meeting. The reason for a meeting at 6:00 tonight so that isn't another meeting night we have to go out. That was convenient to the members of the Commission.

Rondeau: I did not have a problem with the meeting tonight. Is that the next time a meeting is scheduled and someone calls up and says it is Thursday at 5:00 or whatever and I was not asked whether I could make it at that particular time or not but then I might miss the meeting then. I think I should have every opportunity to make the meeting.

Minnich: So you know the first and third Wednesdays of every month is meetings of this Commission. Special meetings of the Commission with regards to subcommittee are called by the Chairman.

Minnich: **The moratorium do you want to talk about that tonight or another night is on the agenda.**

Blais: It is not going to change the situation to the subcommittee and we voted. The Commission voted on unanimously we would recommend to the full Commission that we would. Ask for a moratorium to update the appendix or our regulations. The only reason that we recommend that moratorium at the chairman discretion.

Is that correct?

Minnich: Are you asking for a motion? Or how do we proceed?

Blais: The town attorney also said that it has to be for a specific length of time. And also
for me to repeat how to make our recommendation are labeled
as possible.

Minnich: Just like we do for a texting amendment we have to go to a public hearing
has to go through...

Rondeau: Is it appropriate to ask ...

Blais: It has to be done in a reasonable length of time the attorney said.

Rondeau: Would it be appropriate to ask the Commission to have the attorney to help us
with the wording this so that it would be as said more earlier more legal. If we
decide to do this and we don't dot our I's and cross our t's then we could have
17 or 25 contractors in here.

Blais: We did not decide how to draft.

Minnich: I do not think it is appropriate to ask the town attorney to do the public policy
but all of them want to stay away from this issue of developing the policy would
take direction from us in terms of how we would do it. Doing a moratorium is
fairly drastic issue in terms of your stopping the development of particular
properties that you have part of this development. You probably just haven't

mentioned as to what it is you intent to have the moratorium on.
The appendices that are in the subdivision regulations refer to all
residential
properties in the entire town. If you were to have a moratorium
what is the
urgent call or necessity for a moratorium that you couldn't then
still have the
changes that you want make in the appendices. Why would
need moratorium
to do the appendices?

Blais: I asked you also if she could her data from the building
inspector's office to
see how many certificates of occupancy has been issued to
the town in the
last several years to see if we could show an increase or
decrease for staff
of new homes being built. If we are looking for even the
attorney brought
it up himself if we are looking to slow down the growth of homes
it has to
have data to back our reason why. So I asked Carol to get how
many approve
buildings are in our index. And also several years of
development what the rate
of development or decrease of development. So she is going
to get that data
for us next week.

Minnich: So you need more time to determine whether...

Blais: We are putting the statistics to good use in order to go further...

Minnich: Then the subcommittee has to come back to the Commission, as I
understand
you are not ready to make a recommendation.

Masayda: I make a suggestion that we do not do the moratorium because Dave as you

know and as Ron Russ know approximately 2 years ago he tried to do a moratorium on this exact same issue. And all the developers and farmers came out here and at the time we were all in favor of it then we did not approve it.

Blais: Well that is part of the process. Is to discuss this and debate it. And gather the facts and then see if the Commission decides to vote what they want to do.

Masayda: I think it would be the situation two years ago Dave.

Minnich: The reason for the meeting tonight and so forth to get this done is I think we all agree there is an urgency to getting the process started for the moratorium. Or at least urgency of concluding this issue for now because to keep the issue out then there is a possible moratorium it is not helpful to anybody. So may I suggest that the subcommittee hold another meeting prior our regular meeting in July and come up with a the information they need to make a recommendation one way or the other to put this to rest because if we keep this going through the summer there is a possible moratorium that is not helpful either.

Blais: Ruth could you have that data before the next meeting.

Mulcahy: July 2nd.

Blais: Yes, so we can discuss this. If you have questions about the data can you give me a call.

Rondeau: What are going to learn whether the numbers go up or down?

Blais: I don't know what I am going to learn. Until I hear it.

Rondeau: If the numbers have gone up or the numbers go down.

Blais: I will make that decision when I see the numbers.

Rondeau: I think just looking at numbers as far as whether they go up or down without knowing why they went up or down is somewhat of a point and have Ruth spend time on that may or may not be...

Masayda: I think Ron hit it on the head the economy is going down, the housing development is very slow and I don't agree that we have to go through this whole process but picture that....

Minnich: What I am looking for in terms of making a decision the data supports what thinks want to do if you want to go forward with the moratorium that is the direction that is being done. The question that I want to answer in my own mind is why the moratorium essentially needed why can't the changes be done without a moratorium? And is there some compelling reason? Waterbury has a very good reason why they stopped because they had their moratorium in August because they had close to 1,000 condo units all of sudden.

The moratorium sub-committee will hold another meeting and then report back to the full Commission on July 2, 2008 to decide if a moratorium is needed.

Russ: Motion to adjourn. Is there a second? Is there any further discussion? All those in favor please say I, All those opposed no. Motion carries.

Text of Motion to Adjourn at 11:05 PM

Motion made by R. Russ and seconded by C. Mancini.

All in favor and none opposed.

Michael Masayda _____
Secretary

