

**NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING
THURSDAY, JANUARY 7, 2010**

The North Attleboro Planning Board held its Regular Monthly Meeting on Thursday, January 7, 2010 at 6:30 P.M. in the Planning Board Office located at 43 South Washington Street, North Attleborough, Massachusetts. Board members Richard Peterson, Richard Thimot, Donald Cerrone, Scott Weymouth and Mary Burgess-town planner. Richard Houle arrived at 6:43 P.M.

Planning Board Business;

Vouchers;

Earthworks for Queen's Grant, Arns Park and Woodridge.

Mr. Cerrone, On Woodridge how much money have they spent up to date with all the inspection engineering fees?

Ms. Burgess, Planning Board just around \$5000, Conservation I believe was \$3900 and BOH was per lot, per perk, etc. It came about to probably about \$11,000.

Mr. Cerrone, Do you think that new method is going to be cheaper?

Ms. Burgess, No I think we're doing just fine the way we are.

Mr. Cerrone, I'm just asking getting your opinion. How many lots on that?

Ms. Burgess, 10.

Mr. Cerrone, \$1500 a lot roughly.

Ms. Burgess, \$1000 a lot. It did get through in like 100 days.

Mr. Peterson, They were pretty organized they responded.

Mr. Cerrone, How many extensions did we give them?

Ms. Burgess, 1. I was wondering if we could do the agenda little out of order tonight because Tom Fitzgerald isn't going to be here tonight. We have Arns and Nissan, which I would like to get done in the 7:00 range and we have Form A and CASCO.

Mr. Cerrone, Can we do the those get rid of new business first.

Ms. Burgess, That is what I was thinking.

Approval of Minutes;

Mr. Cerrone, I haven't read the minutes I don't know about rest of board if we can go right to new business.

Mr. Peterson, The previous 3 I've read.

Mr. Cerrone, I picked up my package this morning I didn't have chance to pick it up last couple of days so I didn't even look at it. It is up to the board do new business. We have to open hearing at 6:45 P.M. we'll open then we'll go to new business.

Other Business;

Budget;

Ms. Burgess, We have budget coming up we're going to be doing the budget. They haven't asked us to do level funded budget. They did ask us to do budget that reflects what the office needs. Linda and I have been taking last 3 years and averaging out and taking what we're going to need this year. We're going to need reserve fund transfers this year because we don't have enough money in advertising. Just to let you all know everytime we go over 10 we have to transfer the money out of Nancy's hourly pay into overtime to pay Allen. This is new so what I was planning on doing is if and when that money runs out.

Mr. Cerrone, Why are they doing that?

Ms. Burgess, We have to do it we can't take it anywhere else.

Mr. Cerrone, Go to the finance committee.

Ms. Burgess, That is thing.
Mr. Cerrone, We've been running on bare bones.
Ms. Burgerss, As long as we still have money in that account they're not going to give us anything.
Mr. Cerrone, That is for our secretary we shouldn't be touching that money.
Ms. Burgess, I have her budgeted as tight as possible anyway.
Mr. Weymouth, They have it if she depletes you have to then go to the finance committee is that what you have to do?
Ms. Burgess, Yes. I'm thinking April I'm going to go in and ask for reserve fund transfer for that.
Mr. Cerrone, Who told you that? Who said you had to use her money who gave you the authority to take her money?
Ms. Burgess, We have to because she gets paid hourly. Because the other two positions are salary we can't take it out of there and I can't transfer general funds into salary.
Mr. Cerrone, We should just go to finance committee our next meeting to get money.
Ms. Burgess, I was waiting actually I have to get reserve fund transfer for advertising anyway so I might just do them both at same time.
Mr. Peterson, It is coming out of amount we requisition for because.
Ms. Burgess, No one told me about the overtime.
Mr. Peterson, Overtime is considered hourly salary that is why it's coming out of hourly salary.
Ms. Burgess, Yes.
Mr. Weymouth, Theory is necxt 9 months she might not be here and you might never have to use that hourly.
Mr. Peterson, Right and that line item is hourly salary so it has to come out of there.

**NORTH ATTLEBOROUGH PLANNING BOARD
PUBLIC HEARING
THURSDAY, JANUARY 7, 2010**

6:45 P.M.- Continuation of public hearing to determine if Thomas Fitzgerald should be declared in default of carrying out his obligations to complete the Bally Heather Subdivision, including Garrett Road, Jonathan Drive and Massand Road;

Board requested sidewalk estimate for replacement/partial replacement.

Earthworks Engineering Inc. is owed \$3,000, possible bond reduction to pay outstanding invoices.

Waiting for letter from Engineer verigying detention basins.

Requesting a continuance to January 21, 2010.

Ms. Burgess, Tom Fitzgerald asked for continuance because his engineer was not able to get the engineering letter this soon. He asked to be continued to 6:45 P.M. on 21st.

Mr. Cerrone, Make motion we continue Tom Fitzgerald until January 21st. at 6:45 P.M., seconded by Rich Peterson.

All in favor 4 to 0 to 1 abstain Richard Thimot.

**NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING (Continued)
THURSDAY, JANUARY 7, 2010**

New Business:

Form A: Randall A. & Lee Ann Herald, Primrose Terrace Note: Final Action Due 1/25/10;
Existing Lot to be subdivided into 2 lots.

Lot 28: 21,294 sq.ft; 248.48 frontage on Primrose Terrace.

Lot 29: 24, 002 sq.ft; 179.84 frontage on Primrose Terrace.

Ms. Burgess reading in application.

Suane Santos-Hayward Boynton & Williams, Form A off of Carlgate and Primrose Rd. John Mason Rd. is what will be the Jill Marie Subdivision. Primrose has existing turn around and it is paved up to turn around. Existing dwelling is the Herald's #34 and we are proposing to create what will be lot 29. Numbers on this plan don't match numbers on subdivision plan reason being it is land court plan. Every time there is change for instances lots with the circles that is old lot number under land court and when you make change you just continue on with numbers.

Mr. Houle, So it stays with land court numbers.

Ms. Santos, Yes. Lot 28 will have 21,264sq.ft. and Lot 29 in rear has 24,002 sq.ft.

Mr. Houle, What is your setback from Primrose?

Mr. Weymouth, To structure.

Ms. Santos, It is existing pre-existing from what would be rear lot line is 60.7ft.

Mr. Weymouth, Does this meet current zoning?

Ms. Santos, Yes.

Ms. Burgess, It is pretty straight forward basically the lot meets all the requirements for ANR.

Mr. Weymouth, Doesn't create any non-conforming situation?

Ms. Santos, No it doesn't.

Ms. Burgess, We actually can't look at that either even if we put that house into non-conformity we can't look at it is not part of the ANR rules. So we're basically just dealing with the 2 lots as long as it still has frontage and minimum lot requirement.

Mr. Weymouth, Do you need to extinguish the easement?

Ms. Santos, No it has already been recorded.

Mr. Cerrone, That is old subdivision that has been there.

Mr. Weymouth, You don't need to extinguish it to create that lot?

Ms. Santos, No.

Mr. Houle, Is Primrose and accepted street?

Ms. Burgess, It is public way.

Ms. Santos, There is existing house Kieltyka.

Mr. Thimot, This doesn't go out to Reservoir?

Ms. Burgess, It has emergency roadway for fire access.

Mr. Cerrone, That is future once they straighten out Reservoir St. that is reason it is there.

Mr. Cerrone, Make motion we approve Form A for Randall and Lee Ann Herald Carlgate Rd. lot 28 and 29.

Mr. Thimot, Fronting on Carlgate Rd. Is this one lot?

Ms. Burgess, Yes it was one lot now it is 2.

Mr. Thimot, This doesn't front on Carlgate Rd. it is on Primrose.

Mr. Cerrone, Lot 28 fronts on Carlgate and one is on Primrose.

Mr. Thimot, Second motion

All in favor 5 to 0.

Ms. Santos, I have the covenant.

Ms. Burgess, Covenants for the subdivision have also been approved we have final subdivision plan so during the week next week you guys can stop in and sign the mylar for the subdivision.

Mr. Cerrone, All easements and everything have been reviewed?

Ms. Burgess, Yes everything has been reviewed.

Mr. Cerrone, All plans have been changed whatever our conditions?

Ms. Burgess, Everything has been changed.

Mr. Cerrone, Did John look at it?

Ms. Burgess, John looked at it, I looked at the ones I could do and when they had to change percentage on road and everything.

Mr. Cerrone, Can we get letter from John put on file that he looked at?

Ms. Burgess, He did provide you with letter.

Site Plan: CASCO Enterprises, LLC, 60 John Dietsch Blvd. Note: Final Action Due 1/27/10;

Existing manufacturing building in I60 district.

Proposed Tow Yruck Manufacturing and retail.

Applying for a rear variance set back to square off building.

In front of zoning for variance on January 12, 2010.

In front of ConCom for NOI January 5, 2010.

Richard Peterson left table at 6:55 P.M. had to recluse himself.

Ms. Burgess reading in application Form O.

David Manoogian-attorney, Representing applicant with me tonight are CASCO's principles Cathy and Jack Cassali they also own and operate Patriot Sales and Service, which is tow truck assemble and manufacturing business that they plan to move to North Attleboro from RI. They're already purchased property at 60 John Dietsch Blvd. they are preparing to move busines in they can operate there as matter of right. However as the application indicated in order to accommodate some of the larger tow trucks that they assemble they propose small addition to rear of building. We are going before zoning board to seek variance in order to square off the proposed addition however the addition that you see planned on here in irregular shape is allowed as matter of right and does compy with zoning setbacks. I hope that if you approve the site plan one of the condtions you could impose is that if the zoning board grants variance we just have to file revised site plan showing the squared off portion of the building other than that nothing will change. With me also tonight are representatives from Tilton & Associates Larry Tilton and Glen Ofcarcik.

Mr. Thimot, Is this Jerry's building?

Mr. Manoogian, Yes he sold it to Mr. & Mrs. Cassali.

Glen Ofcarcik-Tilton & Associates, Just want to enter into the record copy of deed conveying from Jelyn Corp. who is Jerry Higgonbotham to CASCO Enterprises. At time we filed formal application Jelyin was still record owner at end of December that has transferred to CASCO Enterprises LLC so we ask that any decision by board be referanced to CASCO. This is Old Classic Automotive building coming up from Shaw's Triboro Plaza there is large expansive wetland to rear. Existing driveway pavement all around existing building, which is currently 5,000sq.ft. building. Area paved in the back, parking around the outside there is stone covered swale, which leads down to concrete block wall adjacent to wetlands on west and south of the property. Property was developed originally in 1987 at the time that the building was constructed. As Attorney Manoogian mentioned the proposal tonight is for on the plan

14,030sq.ft. addition with provisions for that to become 15,000sq.ft. addition if we do receive the variance that we've applied for from ZBA. As part of redevelopment of the site we've added some stormwater improvements again the entire construction of the impervious are on the site is being reduced. Proposal is to put the building addition on the west side of the building in area that is currently paved. We will leave fire access lane immediately adjacent to that then we propose to remove 485sq.ft. of pavement existing at far west end of parking area. Also in order to improve stormwater currently the existing building is in disrepair the gutter system is in disrepair has gutters and downspouts, which dump out onto the ground. As part of stormwater improvement we're proposing to take the entire building addition roof and substantial portion of the existing building roof collect it in new gutter system and put it into series of 38 underground Cultech recharger storm chambers so we'll be removing that runoff, which now comes onto the ground and sheet flows across and we'll be taking roof water, which is considered clean water and putting it into the ground. That information is fully detailed on site plan. Again as Attorney Manoogian mentioned we have simultaneous hearing, which was opened last Tuesday night with Conservation and we have ZBA variance application, which is going to be heard next Tuesday night of which if successful we'd squared off little triangle in back of building. There can be service of the tenants this is two story building now the addition in back would be open the same 30ft. height but it would be open so the larger wrecker trucks like recovery trucks that pull tractor trailers off are also constructed here that would be done in the bay. This addition would go with or without the square corner but we've shown it both ways if it is not building it is already pavement.

Mr. Houle, If that is squared off how close will you be to the wall?

Mr. Ofcarcik, About 25ft. to the wall but it is paved now right to line. We're pulling back the edge of pavement there will be no doors the access to the bay area will be on south there would be no overhead doors.

Mr. Cerrone, How far are you from garage door that wall to parking space line?

Mr. Ofcarcik, About 28ft.

Mr. Cerrone, Is there enough there for big trucks?

Mr. Ofcarcik, According to zoning we need 18 parking spaces.

Mr. Cerrone, No I'm saying when you have to go in with big tractor these big tow trucks?

Mr. Ofcarcik, The tenant has requested 5 parking spaces.

Mr. Cerrone, I'm not asking how many parking spaces when you're backing it out or driving it in can you make that with cars parked there?

Mr. Ofcarcik, Yes.

Mr. Weymouth, Can you show us with truck turning radius?

Mr. Ofcarcik, Template in here?

Mr. Weymouth, Yes.

Mr. Cerrone, If I had 4 cars parked there can you make it?

Mr. Ofcarcik, We could also move the cars because basically it is employee cars. There is small retail component but there is addition retail parking in the front.

Mr. Houle, One of the larger vehicles that get done here how long are they?

Jack Cassali, I go by inches probably very largest would be about 350" long.

Mr. Cerrone, I've seen those big wreckers.

Mr. Manoogian, Full size sedan is about 200" so it is 29ft.

Mr. Houle, You have 28 to the first car.

Mr. Manoogian, There is all employees that are driving there is no consumers that bringing it in and out so it is all regulated. This isn't type of institution where people routinely come and say I'll pick up a tow truck it is all customized special order so frequency of trips is pretty tight.

Mr. Weymouth, I'd still like to see truck turn radius path shown on the plan.

Mr. Manoogian, Do we have room to move those spaces elsewhere?

Mr. Cerrone, I think if you just eliminate 1 parking space you might have it.

Mr. Weymouth, Southeast corner of the building, which would be lower left on the plan what is the width of drive aisle between that and if vehicle were parked in that parking space?

Mr. Ofcarcik, 28ft. from edge of building.

Mr. Weymouth, No you have curb or grassed area.

Mr. Ofcarcik, There is piece of stockade fence 22 ft.

Cathy Cassali, I wish we had these coming in and out every single week unfortunately these real big ones that run over half million dollars we probably do 4 or 5 a year. When they are in the bay they are in the bay for 2 and 3 months at a time having things done to them. It is not in and out every single night the vast majority of what we do are much smaller trucks, which we prefer to have the higher ceilings so we can lift things up and down. They are much smaller vehicles not anywhere near the size of the big ones and when those go in and out it would probably be early in the morning it goes in there won't be anyone there. It is there for long period time having work done to it so it is not an in and out thing. There is Jack and I and 3 other employees we've been at our current location for 7 years and we've never had more than 3 customers on our property at any given time because all of our work is pretty much custom work. They make appointments come in we don't have 20 people coming in buying tow trucks it doesn't happen that way.

Mr. Thimot, If I recall that building had an elevator is it still functioning?

Mr. Cassali, He had welded staging put together that he would drive vehicle to and put forklift under it and drive it over and drive cars in. I have no intention of doing that.

Mr. Thimot, It would be handy to have wouldn't it?

Mr. Cassali, Yes but I don't see need for us our trucks are to big.

Mr. Manoogian, There are cars but trucks are impractical.

Mr. Ofcarcik, As mentioned in the application basically safety and security lighting that will be maintained. There is no outside dumpster all of the material stored within the building for safety and security reasons.

Mr. Houle, Will any new lighting be put up for back part of building?

Mr. Ofcarcik, Security lighting. Open space remains at about 65% on lot we're increasing the amount of green space by just about 500sq.ft. Drive aisle requirement are 20ft.

Mr. Weymouth, Is our requirement 24ft. drive aisle or 22ft.?

Ms. Burgess, 22 I believe.

Mr. Ofcarcik, 100 sq.ft. for parking space 10 x 20 space and 10 x 10 behind the space so it is 20ft. aisle. Routinely what we would do is request reduction in parking space.

Mr. Weymouth, 20ft. aisle is what we require?

Larry Tilton, We've been using 24ft. for years.

Mr. Ofcarcik, We've reduced the parking space depth to 18.

Mr. Tilton, Is this case we're not going for variance for parking size we're just putting 28ft. aisle in.

Mr. Weymouth, Glen can you add the dimensions that we just talked about to your plan with next submittal.

Mr. Houle, On both top and bottom.

Mr. Ofcarcik, You want to see the dimensions on there the offsets okay.

Mr. Manoogian, One of the things tossing around is if we moved the space and made it parallel Mary figured out we'd have almost 35ft. so that would take out concern about backing out.

Mr. Houle, Could you do the same with other one?

Mr. Manoogian, Fire access issues there.

Ms. Burgess, You could turn them both parallel that would give you even more.

Mr. Ofarcik, 18 and 19 and we also have extra space we could take out one space because we're only required to have 18.

Mr. Houle, I think if you made those both parallel that would give you plenty of room.

Ms. Burgess, It would give you 40ft.

Mr. Houle, I think the thing that has me little concerned is the one on bottom has me little more concerned than the top. You have 24ft. you said right?

Mr. Ofarcik, By the fence.

Mr. Manoogian, Maybe it makes sense to eliminate the one at bottom and then just turn the other two parallel. Does that make sense?

Mr. Houle, You gain probably what 10ft. there if you got rid of it?

Mr. Ofarcik, Take one out open that aisle up take space out.

Mr. Tilton, Which number are you talking out?

Mr. Ofarcik, Number 5.

Mr. Cerrone, Number 6 he's talking about. I don't think 6 is going to make difference. Do you have gate going across?

Mr. Tilton, Yes there is gate it is there now.

Mr. Cerrone, That isn't going to make any difference I can see the back #6 space.

Ms. Burgess, You still have 25ft. from building.

Mr. Cerrone, You're not backing out into anything.

Mr. Manoogian, Right so I'd rather keep that one and just turn.

Mr. Tilton, It is gated secured facility.

Mr. Cerrone, Only one that is concern is #19 & #18 when you're backing out.

Ms. Burgess, You don't even have to drop it off you can just leave it and go parallel. If you want to drop off it is your design I'm not trying to design your plan.

Mr. Cerrone, Whole back is being fenced in?

Mr. Tilton, Yes it is secured facility.

Mr. Manoogian, Other than that it is pretty straight forward addition to accommodate needs it is not anything dramatic.

Mr. Cerrone, Sign you have ground sign?

Mr. Ofarcik, We showed ground sign in front in accordance with zoning bylaw. There is existing small sign it just has number 60 on it between two post it is right at property line so we showed new ground sign in accordance with zoning setbacks.

Ms. Burgess, Basically with stormwater being looked at by Conservation so I didn't see need for it to be reviewed that is up to you guys.

Mr. Cerrone, If they're looking at it.

Ms. Burgess, They're looking stormwater regulations and everything it is in their jurisdiction they're in front of them.

Mr. Tilton, We were on Tuesday and we're back on the 26th. at Conservation.

Mr. Cerrone, When is the deadline for this have to make decision? Like to hear from Conservation.

Mr. Houle, Yes I would.

Final Action is 1/27/10.

Mr. Houle, You're going before zoning when?

Ms. Burgess, 12th. it would make sense to wait for zoning if they get through zoning then we can make it condition of our approval. If you guys go to zoning and get to square off the building.

Mr. Houle, Dick probably won't be here so you know.
Mr. Cerrone, We're going to meet on the 21st.
Ms. Burgess, As long as we have 3 members. Conservation meeting is the 26th. so we can possibly condition it to Conservation where I can get letter from the agent.
Mr. Houle, As long as we have letter I'm fine with that.
Mr. Manoogian, So what we'll do is revise that site plan as you requested with parking.
Ms. Burgess, Put turn radius on it.
Mr. Manoogian, As Mr. Weymouth requested I don't think I anticipate any problems with that orientation of parking spaces that should give us plenty.
Mr. Thimot, If you want to vote on it tonight.
Ms. Burgess, You're going to drop space #19 and turn space #18 parallel?
Mr. Houle, Dick said if you want to vote tonight subject to zoning.
Mr. Weymouth, No.
Mr. Cerrone, No we still have 3 members.
Mr. Manoogian, We will see you on 21st. with revised site plan and if we get zoning we'll show you it squared off it is not going to effect anything.
Mr. Houle, As long as we have letters that is fine.
Mr. Tilton, I'm sure at the hearing zoning board is going to be looking for letter from planning.
Mr. Manoogian, Make recommendation on zoning.
Ms. Burgess, I hadn't written formal recommendation at this time because they were in front of us before they're in front of them. If board wants me to write recommendation.
Mr. Houle, Yes put letter.
Mr. Manoogian, That would probably help us because you've already had preliminary approval of overall site plan.
Mr. Cerrone, How come you came in front of us first usually it is other way around? You're the only guy who has done it right.
Mr. Manoogian, Give credit to Mary that is what she suggested.
Mr. Cerrone, Usually they all go there first then come to us.
Mr. Manoogian, What time on 21st.?
Mr. Cerrone, Check with Mary's schedule.

Mary explaining to Dick Houle about overtime for janitor coming out of clerk's budget.

Ms. Burgess, I'm going to have to go for reserve fund transfer in probably month so I'll approach it for then if they say come back in May I'll come back in May when it is depleted more that is all I can do.

Mr. Cerrone, They change the rules as they go along we never had that before we never touched items for secretary.

Ms. Burgess, We never had to pay overtime before that is only reason we have to touch that money.

Mr. Houle, What they trying to do is get us to get out of here at certain time.

Mr. Cerrone, We can't we've been out of here midnight, 11:30 and 12:30 before.

Mr. Houle, I agree my point is I don't see why that should come out of her salary.

Mr. Cerrone, I agree that is what I can't understand.

Richard Peterson returned at 7:20 P.M.

Old Business:

Site Plan: Fireside Nissan/Nissan Village, 665-685 South Washington Street Note: Final Action Due 1/13/10;

Final review of the plans was completed and given to the applicant via fax, mail and email.

Updated conditions of approval have been provided.

Ms. Burgess, Don you also missed a meeting did you read the minutes?

Mr. Cerrone, No I didn't.

Mr. Houle, That doesn't preclude him from this he can read those minutes.

Ms. Burgess, We're going to vote on it and he can't vote on it until he sign the Mullens.

Scott Weymouth and Donald Cerrone left table at 7:25 P.M.

Ms. Burgess, We've been going back and forth trying to finish this up. I believe as of today what you have from Earthworks is all the items have been closed. The conditions of approval that were in your package that will alleviate 3 of them I believe stormwater things. Conditions of approval that I had drafted up the only thing I just realized that I didn't put on was the sidewalk comment so I did not make that on the conditions of approval.

Mr. Houle, We were supposed to get some feedback from them as to what Mass Highway was going to say.

Ms. Burgess, We were going to condition upon Mass Highway saying that it was okay or if they were able to or not. You have 5 conditions of approval and 3,4 and 5 have been resolved so it leaves 2. First one applicant shall combine lot 41, 119 and 129 of assessors plat 22 into one lot by creating an approval not required prior to issuance of building permit. #2 applicant shall provide copy of NPDES stormwater pollution prevention plan and NPDES NOI to Planning Board prior to issue of building permit and third one would be sidewalks it is not on there I left it off.

David Simmons-Angle Tree Consultant, You're correct it is prior to the commencement of construction #2 instead of it saying applicant shall provide a copy of NPDES stormwater pollution plan and NPDES NOI to Planning Board prior to issuance of building permit it is going to be prior to commencement of construction.

Mr. Simmons, November reason we said that was they want to pull zoning permit next month there is no way they were every going to get Form A plan done and filed taken care of that before that happens. Building permit by February 19th. the variance is going to expire.

Ms. Burgess, How would the board like to handle that? On #1 he was saying he would like that.

Mr. Simmons, Even if it is commencement of construction that is fine it still allows time to get building permit.

Ms. Burgess, Problem being their variance or special permit.

Mr. Simmons, It was variance but it was suppose to be special permit because it isn't.

Mr. Houle, Why wasn't this brought to the board ahead of time?

Ms. Burgess, It was it may have I don't recall.

Mr. Simmons, You make both of those conditions prior to commencement of construction.

Mr. Houle, On #1 and #2?

Mr. Simmons, Yes and that makes it legally possible to get everything done keep everybody happy.

Ms. Burgess, There is really no way I would know when commencement of construction is beginning technically. There is little bit of disconnect but we could add to protect ourselves in the end that I would have to sign off on final CO. The way we've been doing it with other ones where I check all the conditions of approval prior to CO. " No certificate of occupancy shall be issued until Planning Board/town planner acknowledges the applicant has adhered to all conditions of approval".

Mr. Houle, Add that in and what about sidewalks?

Ms. Burgess, It is going to be prior to commencement of construction.

Mr. Simmons, Sidewalks we're going to apply to Mass Highway and if they give us permit we'll build it.

Mr. Houle, Mary how are you going to word #3 for sidewalks? You said several times that you felt we were holding you up and doing this or because of this or that. I don't want there to be anymore of that type of language. What I'm trying to do is let you know in advance what we're expecting that way you're not going to have any surprises and we won't have any surprises.

Mr. Simmons, We agree to that condition last time wording was very explicit we went through it twice. I believe it said, " applicant will construct sidewalk along Rte.1 frontage subject to approval of Mass. Highway Dept." I believe that is what we said.

Mr. Houle, Correct and you were going to get back to us.

Mr. Simmons, No we said we would accept that condition of approval and that is how we left it.

Mr. Houle, I thought you were going to get back to us.

Mr. Peterson, Yes I was kind of under the impression you didn't think they would have problem.

Mr. Houle, But you were going to check.

Mr. Simmons, You can check between December 17th. and now with Mass Highway on anything so I wouldn't have agreed to do that.

Ms. Burgess, The applicant.

Mr. Simmons, Applicant is fine with it.

Mr. Peterson, Way I understood it was I thought you were going to check with applicant you didn't think there would be problem with them doing it. You were going to check with them and as you said it would all be contingent on whether highway dept.

Mr. Simmons, There is no problem with the applicant.

Mr. Houle, They certainly didn't have problem with it across the street Mary so why would they have problem over here?

Ms. Burgess, It depends on layout.

Mr. Houle, Jeff do you see any reason why they would have problem with sidewalks?

Jeff Kane-Earthworks, No unless there is some sort of site constraint that is going to for reasons of safety it is going to prevent that from happening I don't see it being issue. I think David has point that it could be certain amount of time.

Mr. Simmons, With new access regulations it is just taking them forever to approve anything that is why we asked for it to be that way. Something that should take 30 days is taking 90 to 120 days.

Mr. Houle, All language from #3, #4 and #5 is not needed anymore.

Ms. Burgess, Correct. Do you think by having those sidewalks put in that you're going to have to do some regrading, dry well is going to be effected at all any of that stuff.

Mr. Simmons, We're not going to be able to put sidewalk in front of dry wells. We said that at last meeting it will interfere with it. Will just stop and be transition for now to extend it have to figure way to get water under sidewalk.

Ms. Burgess, What about sloping along front of property it kind of goes up?

Mr. Simmons, We have no issues rest of property there is plenty of room to grade it is like 25ft. of grass. Way level spreader is right against edge of right of way you can flow over the sidewalk and that is probably what we'd have to do but that could create potential for some slippery conditions. On other hand reality is probably put snow bank on top of sidewalk and leave it anyway.

Mr. Houle, Jeff what do you normally see when something like that happens?

Mr. Kane, I would depend I'm not sure without looking at numbers it would depend on how often that overflow. It maybe worse if it is something like 100 year storm when it is going to

happen it might be worth just putting sidewalk in. If it is something that is going to happen on 2 year storm then you may have issue with icing and things like that. I don't know the numbers off top of my head when the overflow occurs.

Ms. Burgess, Would you have problem if they do get approved providing grading and plan and profile plan for sidewalks?

Mr. Simmons, That is not necessary not plan and profile we'll add it to site plan. Whatever we give to Mass Highway we'll turn into you guys minimum of station and grading and things like that.

Mr. Houle, So whatever Mass Highway gives you you'll submit to us?

Mr. Simmons, Yes provide you copy of their access permit plan. We already have permit to do the driveway that is something doesn't require here modification of that or ...(inaudible).

Mr. Houle, Are there any other issues that you can think of?

Ms. Burgess, There were some off site concerns from DPW but they were only concerned because they don't have control over this portion of the road and it was just concern about the flooding. All the others requiring meter and everything else has been closed up. There is no way to fix the flooding issue until Mass Highway decides to fix it. We can keep saying it until we're blue in the face but if they don't want to fix it we can't fix it.

Mr. Houle, Mary we could approve this subject to conditions #1, #2 plus sidewalks and that he is going to and will put new verbiage in there?

Ms. Burgess, Yes it will be 4 conditions that we've discussed tonight.

Mr. Houle, We discussed 3.

Ms. Burgess, Including the CO.

Mr. Peterson, Make motion to approve the site plan for Nissan Village with conditions as amended this evening.

Mr. Houle, Just note condition 1, #2, #3 and #4 as amended. Should we state those conditions for record?

Ms. Burgess, #1 applicant shall combine lots 41, 119 and 129 on assessors plat 22 into one lot by creating an approval not required plan prior to commencement of construction. #2 applicant shall provide copy of NPDES stormwater pollution prevention plan and NPDES NOI to Planning Board prior to commencement of construction. Sidewalks shall be constructed along frontage of property if approved by Mass Highway the applicant shall submit plans to Planning Board at same time. #4 no Certificate of Occupancy shall be issued until Planning Board/town planner acknowledges that the applicant has adhered to all conditions of approval.

Mr. Thimot, Second motion.

All in favor 3 to 0.

Scott Weymouth and Donald Cerrone returned to table at 7:40 P.M.

Mr. Cerrone, I wasn't here last time either.

Ms. Burgess, That is right 11/19.

Mr. Cerrone, Do I have to sign anything?

Ms. Burgess, Did you read the minutes?

Mr. Cerrone, No nobody told me that I had to read the minutes. I guess I'll sit out on this one too.

Donald Cerrone left table.

Mr. Clemmy, We canceled because we didn't have full board last time.

Ms. Burgess, No first time you actually came here and presented to us Don wasn't here. It is nothing we still have 4 members need majority. We can hold meeting with 3 members. If Richard leaves and we don't approve this before he leaves on vacation we'll just keep on working through.

Site Plan: Form O Arns Park/Boch Attleboro, LLC, 553 South Washington Street Note: Final Action Due 2/28/10;

Received review from EEI and forwarded it to applicant.

No responses have been provided at this time.

Ms. Burgess, Since last time we met we have received the first stormwater drainage review by Earthworks. I forwarded to the applicant on December 10th. and asked them to reply in writing to everyone one of the issues and I have not received anything as of date today. Received letter from Building Inspector I didn't get it until January 5th. two months after I asked for it. Building Inspector dated 1/5/10 (Insert). Received letter from Marcus Enrico Emmer and Brooks dated 12/16/09 (Insert).

Mr. Houle, Mary did Rod get chance to see this?

Ms. Burgess, It was sent to him.

Mr. Houle, He saw this before he issued his comments?

Ms. Burgess, Yes. Where we stand today we heard from Building Inspector although he did not specify which parking standards are used for this I can inquire on that further. I think all we're waiting for is the reply to the additional review and then possibly to have workshop after that to see what is left after workshop. I'm just waiting for them to comment on the items that Earthwork has indicated in letter you have regarding the issues that are outstanding and then we can have workshop with their consultant and our consultant and then they will be ready to present to board next time with changed plans that hopefully address all the issues.

Mr. Houle, When will that take place?

Ms. Burgess, As soon as they get me the information.

Stephen Clapp-attorney, Represent the applicant it was our understanding that workshop would be convened following the comments from Earthworks review. Our engineers have sort to have that workshop. Mary would like response to the Earthworks report before the workshop occurred. We feel that would be a needless waste of effort on our part because the workshop would clarify some basic things that would make everything else fall into line. The Conservation Commission has review consultant also and request was made to have workshop there. Workshop was convened today with Conservation Commission consultant and some of those basic and the agent and some of those basic philosophy questions were answered and everything fell into place. It is our feeling that if workshop was convened things would happen similar to Woodridge subdivision that went so smoothly after workshop that these things could be ironed out and everything would fall into place and we'd have answered to all the questions raised. Rather than rash of paper and then more delay and then workshop we thought go to workshop get that philosophy worked out and then make the responses and everything would fall into place. It would be much less paper and much less meetings that is what we were looking to do.

Ms. Burgess, In the 12/10 email that I sent to Mr. Suzi and Mr. Clemmy I stated please reply in writing to these and once I've received them I will schedule workshop. It is always the way we've done things we always get the reviews so we don't miss anything we don't skip anything and then when we go to the workshop Earthworks can know what their philosophy is going ahead of time and say this does fit you're right, this doesn't fit. I have no response and I think it would just be prudent to have response so we all go in looking at the same things. I understand there are some inconsistencies between Conservation's consultant and Earthworks and as soon as I get some information in writing I can possibly address those with agent and consultant and also possibly have dual workshop where both consultants can sit down. I don't feel that it is prudent to sit down and just talk about couple of items out of sort.

Mr. Houle, That is way we've done it in the past there is no doubt about that.

Ms. Burgess, It is just easier to keep track of all the items and that is always the way we've kept our check and balances to make sure that every concern that Earthwork has brought up has been met.

Mr. Clapp, There was response from engineer to Mary there wasn't response from engineer to Earthwork's review. Mary asked what are the subjects that you want to review at workshop and Jim Suzi sent response saying these are items we would like to discuss at workshop. Those are basic philosophy engineering philosophy issues, which would make everything else fall into place if they were answered.

Ms. Burgess, Once again I did reply.

Mr. Houle, If town planner sent you letter she took time to put this down in writing she sent letter on 12/10 I'm really confused. Why wouldn't you answer that?

Mr. Clapp, I think they did.

Jim Suzi-United Consultant, We sent email to Mary on 31st. of December requesting sit down with Earthworks. We also sent one to Shannon at same day requesting sit down with their consultant separately. As previously stated we did have that meeting with Conservation Commission and their consultant today lot of issues that we had clarified. In that email to Mary I had listed the 6 or 7 issues that we would like to clarify with Earthworks so that we could move forward with revisions. Basically biggest issue has to do with the style of detention infiltration area we're using. They have deemed it to be an infiltration trench, which has certain setbacks to surface waters and slopes. Hayward Boynton and Williams called it infiltration basin we feel it is sub surface structure, which has different setbacks than infiltration trench. We'd just like to get that clarified with them so that everybody is agreeing on type of detention infiltration that we have and the setbacks to it and then we can proceed. There were couple of issues that were comment between them about soil testing and what not we got those results in we will be doing additional soil testing. The core of it is we really need to sit down with them and everybody agree on what exactly style of detention infiltration area.

Ms. Burgess, I think that is good idea except the email said that they have issues with #16, #18, etc. That is not a response to say you have an issue with it when you don't state what the issue is. Where if you did formal reply to us you would state your reasoning for doing this.

Mr. Houle, It would help move things forward.

Ms. Burgess, Exactly instead of just saying #16 we have problem with #18 we have problem with. I have email that says it and that is when I said once again that soon as you get me stuff in writing I'll be more than happy to set up a workshop.

Mr. Houle, That is the way the Planning Board does things this is nothing out of the ordinary.

Donald Cerrone, I wasn't here December 19th. meeting have you asked town council's opinion on zoning that it is allowed?

Mr. Weymouth, I have fundamental problem with this proposal I respect Mr. Palmer's opinion but I don't necessarily agree with it with this being allowed use.

Mr. Cerrone, Before you go any further you might want to get town council's opinion.

Mr. Houle, I have no problem with that.

Mr. Weymouth, I don't know if there are other members of the board that have same.

Mr. Houle, I would also like to make sure town council gets copy of this letter also.

Mr. Clapp, If I could point out that the bylaw provides for this type of decision to be made by Building Inspector who is zoning enforcement officer. Once he does that it is a decision and everyone else has opinions he has right to make decision and he has made decision apparently.

Ms. Burgess, He made an opinion.

Mr. Clapp, I don't think it is open at this point.

Michael Clemmy-Boch Toyota, I am the applicant I have pleasure of coming in front of this board. My ultimate goal is to build a building across the street I'm going to need off site parking I'd like to buy these ladies land and that is what we're here for. Mary I apologize for my engineer if he didn't answer your questions because Mr. Chairman kind of seemed focul about that and he should answer all the questions tomorrow morning. As soon as he gets done he'll send them right over to you all the answers and the ones he doesn't understand because one answer triggers another answer to other stuff. Then as soon as you can we can get answers from your consultant that we know we can have workshop. It seems like there is some disparity about the zoning because I've been asking the Building Inspector he's been working on it for 2 months on this decision I think you said that earlier in your statement. You've been waiting 2 months I've been waiting 2 months and he tells me he's going to get it to me he gives it to Mary and then I have to wait 2 days to hear that it is okay. Ms. Fish's lawyer they don't want these people to sell the land, which is okay. I want to buy the land so whatever the lawyers end up doing I want to go in front of the board and try to get it approved as the lawyers work on it. We'll get the answers to the board to Mary set up workshop we'll answer all the questions and we'll let Mary come back with all the answers from the consultant I paid I gave you money right you have it in house.

Ms. Burgess, Yes.

Mr. Clemmy, Even if it is not zoned right I'm willing to take a chance and if they can't sell it I'll still take the chance we'll get that ironed out. Come back in front of the board and we'll have all those answers to the questions board had and then from there we'll have the lawyers at same time working on Rod's letter on this gentlemen's letter if it's zoned if it's not zoned and board's question and Mr. Cerrone. If they make decision that it's zoned I buy it if it's not I don't buy it they don't sell it they'll sell it to someone else. In mean while I'd like to go ahead pull my application and do as town planner has asked and answer his questions. How fast can you set up meeting after you get answers tomorrow?

Ms. Burgess, I usually give him week with the answers.

Mr. Clemmy, Read the economy read the papers it is bad economy is he that busy?

Jeff Kane-Earthworks, We'll do standard.

Mr. Clemmy, That is total week so next Wednesday or Thursday we can meet? We can put it in right now? These people want to sell their land I want to buy it. I've give town how much money \$4000 to review it I'm paying you right?

Mr. Houle, I'm going to stop you right there we get what you're saying enough. When can we put them on Mary? It is also going to be subject to us getting town council's opinion on it.

Mr. Clemmy, I would recommend that too because obviously Ms. Fish and her lawyer and Building Inspector took 2 months to answer it. My lawyer submitted him documentation from old attorney Bob Bliss saying that he had zoned the land for this use years ago Building Inspector has copy of that letter. So we'll spend some more time and NA money rezoning it because Steve Clapp has done all the research for the Building Inspector and handed him letter from Bob Bliss saying that this area is zoned correctly. At same time the lawyers can work it out, they'll spend money and I'll spend more money but we'd like to proceed with peir review group and then come back in front of board. Board can vote obviously at the end.

Mr. Houle, Like you said you're going to give the money and you don't have any problem so that is fine.

Mr. Clemmy, I've already given money to the town ladies want to sell it and I want to buy it we have it under agreement.

Mr. Weymouth, You're willing to risk the time and money?

Mr. Clemmy, I'm willing to risk it what I'd like to do I'd like to know right away and work with I'm paying these people. I know people that work for me work hard and I work hard and I'm sure everyone in the room does but we'd like to get your answers work with them address them and get them fixed and come back in front of board before the month is out. We've been waiting since November you couldn't meet in December because you didn't have full board and you had holidays and we appreciate that. They want to sell it I want to buy it.

Mr. Weymouth, You understand Mike that opinions issued by Building Inspector and opinions issued by town council aren't necessarily opinions of the members sitting on this board.

Mr. Houle, Correct.

Mr. Weymouth, You understand that?

Mr. Clemmy, Exactly so lawyer from years ago.

Mr. Weymouth, Going forward with your risk you understand that?

Mr. Clemmy, I'm willing to spend the money the town of NA is going to spend money with lawyers also your taxpayers are going to spend money. I'm taxpayer in this town I just want to build a building buy their land and they want to sell it. If it's zoned for it I'm willing to take that chance because I feel the research I've done with my team it's zoned correctly for that.

Mr. Weymouth, But I want to make it clear that the opinion expressed by Building Inspector or opinion expressed by town council doesn't necessarily represent the opinion of the members of the board. Do you understand the risk in going forward?

Mr. Clemmy, I'm not sure of that I think it goes to court then right?

Mr. Weymouth, I don't know where it goes after that I'm just making statement.

Mr. Clapp, The Building Inspector has made a determination it is not an opinion it is decision. Building Inspector has decision that is different thing than opinion. You have opinion, I have opinion.

Mr. Weymouth, The letter should be rewritten because it is opinion.

Mr. Houle, That is way I read it.

Mr. Clapp, Mary asked him to make a ruling and that is what he did there.

Mr. Clemmy, It took him 2 months I talked to him probably 2 or 3 times week last 2 months since I put application in.

Mr. Weymouth, Steve does that necessarily mean members of the board have to accept that?

Mr. Clapp, Bylaw says he makes those decisions.

Ms. Burgess, I'll ask town council that as well.

Pauline Schafer, One of the trustees for Arns Estate Realty Trust. I can't understand the attitude that prevails in this room. We have business we've been there since 1923 we want to sell it we want to retire. Business is bad for motel business. You people are going to sit there and watch this business just go out of business and then where are the taxes going to come from. It would seem this Planning Board would have attitude I don't expect you to go against rules but it would seem to me that your attitude would be to try and help someone do business in this town to generate the taxes that the town wants.

Mr. Houle, That is exactly what we do but I have to tell you something you said it exactly right we have responsibility to do it right and to make sure what we're doing isn't going to effect everything else on Rte.1. Whatever we do has domino effect so we have to make sure that we get it right the first time that is what we're trying to do. Yes the building dept. did issue I don't have anything with building dept. letterhead.

Ms. Burgess, That is what I've given you today I didn't get it until Tuesday and I actually didn't get until Wednesday when I came in. You're right Mr. Clemmy we both baggered him day in and out to get it.

Mr. Clemmy, If it wasn't me calling Building Inspector it was Mary numerous times and Rod it was tough decision he asked my attorney and I paid for it because that is who has to pay for that attorney. He did all the research I said Steve it is what it is if it's not. We own 10 acres we own 3 houses on Old Post Rd. I'm good neighbor I know all the names I knock on their doors. I ultimately want to build new building right there and pay this town building permit fee, pay additional taxes for new building and get out of building and park cars over there it is good use. If you don't want me to buy it if it's not zoned right then I'm going to move on and they will have to sell to someone else what else could the town want there. What else should go there a grocery store?

Mr. Weymouth, Whatever the zoning allows is what can go there.

Mr. Clemmy, What does the zoning allow in your opinion?

Mr. Weymouth, I don't know.

Mr. Peterson, I think we've come to level of understanding what we're going to do next I don't see this discussion going anywhere. I just want to make a comment I can't speak for other members of the board but I'm only sitting here because I'd like to be able to participate to help town of NA. I don't know why the people out in the audience often think we're here to give them hard time we're not here to give them hard time because I can think of lot of other ways to spend my Thursday evening.

Mr. Houle, Nothing could be further from the truth.

Mr. Clemmy, This lady has been trying to sell the land since 2001 it is 2009 I feel for her.

Mr. Houle, Planning Board has to do what Planning Board needs to do and we have to make sure we dot our I's cross our T's and as you well know Mike everything we do has a ramification to it. Unfortunately we have to make sure we get it right the first time that is all we're trying to do.

Mr. Clemmy, You're the Planning Board of NA you represent the taxpayers I'm a taxpayer through my business in NA. You have to do what is best for town and some times you have decision could go either which way and when you make that decision and it's not clear cut is how he interprets it with the engineering and my engineer or Mr. Tilton who worked for me in the past interprets the engineering they work together and make it work correctly for the town. Members of the board that is your decision to hopefully do the best for the taxpayers and as taxpayer I'm here all the time doing the right thing. There isn't anyone calling up saying Boch is doing the wrong thing. We do everything on top of the table parked few cars Mary call me up get them out of the way we want to do the right thing we'd like to buy this land we'd like the board to work accordingly what is best for the board, town instead of fighting tooth and nail. What is the best for the town? Go down Rte. 1 exit 32 in Westford I'm building 60,000sq.ft. building I got approved in 8 months. Town of Westford they wanted me to do that. In NA I want to make Rte.1 lot nicer than it is it is not that nice looking there. We can beautify it and work together as a team and I can pay more taxes.

Mr. Houle, Like you say that is matter of opinion too Mike everybody has their own opinion.

Mr. Clemmy, Neighbor Ms. Fish she's abutted it every time that is fine she has the right to she is a taxpayer.

Mr. Houle, I think the good thing is here we do have I think a form of action that we're going to do. We're going to follow through with this certainly you're going to get opinion of town council send him the applicable letters that we have here.

Ed Alcock-attorney, Represent Rita Fish. For record I heard Mr. Clemmy say that we want to stop the sale that is not what we're looking to do as you can tell from the letter that was read into the record. What I'm seeking to do on behalf of my client is make sure that the zoning

bylaw town of NA is followed. I just got the Building Inspector's opinion today on my way down here.

Mr. Clemmy, Before me the applicant?

Mr. Alcock, I received the zoning board's opinion.

Ms. Burgess, Not from me.

Mr. Alcock, Because I was copied on it.

Ms. Burgess, They asked me for it I didn't give it to them.

Mr. Alcock, I received it this evening I think it was probably mailed on the 5th. I assume it was sent to me because I filed letter on December 16th.

Mr. Houle, For the record it was sent in mail to you by building dept. and you got it today? Just for your edification it was sent through the mail he got it today.

Mr. Clemmy, How many times did you call the Building Inspector? I called him 3 times a week on this I'm the applicant.

Mr. Houle, I'm going to stop you right there through the chair please you don't yell at each other we're going to keep this professional and organized.

Mr. Alcock, I have no intention of going back and forth I was just indicating that I'd just received it.

Mr. Houle, This isn't court of law.

Mr. Alcock, I understand I have no intention I want to direct my attention to the board. I just received it today so I had opportunity while I was sitting here just to go through the bylaws. I would say with all due respect I don't agree that this is a commercial parking lot under town of NA bylaws. In fact it wasn't even what the applicant asked for determination. Applicant was seeking it to be determined permitted use as vehicle storage facility, which isn't listed in your table. I don't know how the Building Inspector determined it was commercial parking lot but I would say commercial parking lot, which also indicates commercial parking lot for structures is something a parking garage. Facility whether it would be town facility or garage facility where people come pay and park. I would say this is clearly not what is intended in fact if you look at section 11.

Mr. Clemmy, Mr. Chairman let the lawyers work about the sections.

Mr. Houle, He has right to talk let him finish.

Mr. Alcock, Section D11 talks about loading spaces on facility and clearly what they're doing and I think what I understood from last meeting is they're loading vehicles on this lot for use on the lot across the street. Then going to drive over in fact if I remember looking at the plan is designated area for actual loading of vehicles and we talked about what time the big trucks were going to come in and drop the cars off and then driven across the street. There was discussion of employee parking and things back and forth. Section D11 indicates that loading spaces shall in all case be on the same lot of the use on which they're intended to serve, which would suggest again to me that this is not a use that is a commercial parking lot. Obviously if you had principle use with commercial parking lot you would not be loading vehicles on it and then driving them across the street. I just wanted to point out D11 and since you're going to be seeking opinion I'll probably send follow up letter to Building Inspector just pointed that section out. I'm not going to rehash what I said in my prior letter because it has already been read into the record. I disagree it is not parking lot it is vehicle storage facility for ansulary use across the street and I don't think it something that is contemplated by NA zoning bylaws, which is why we oppose the site. We don't think at least not as matter of right something that is permitted by zoning bylaws.

Mr. Clapp, Could I respond to the substance of the permitted use question since Mr. Alcock has gone into it some length? NA zoning bylaw goes back number of years in 1989 this same

zone the C30 extended down to what is now Pride Ford property, which was then the Jack Witchi it was flea market property at the time. The same zoning district is we're in today. At that time Pride was operating Dodge dealership across the street across Draper Ave. and rented the Witchi flea market property for the storage and display of new vehicles for the Dodge property. Neighbors complained about that and town council and building inspector ruled on whether it was permitted use and the same use a dealership across the street using parking facility for display and storage of new cars. Question was is it permitted use? Building Inspector ruled that it was town council confirmed that it was. Then the neighbors complained to B. of Selectmen and said it should be listed on the Class I license as part of the facility if you're going to use that property. Town council again ruled that it didn't have to be listed on the Class I license if the public was not permitted to go onto the lot. If public was permitted to go onto the lot and sales were being made from that property then it would have to go onto Class I license. That was the two rulings that the town council made in 1989 on same situation. Then several years ago Dave Manoogian proposed amendment to the bylaw so that it would make it clear that the off street parking regulations did not apply to this kind of use and bylaw was amended to incorporate that section that says all of the restrictions on off street parking do not apply to a storage and display facility. That is the background that I know of because I was involved in that Pride situation.

Mr. Houle, I think we're going to move on from there in answer to that it is why we're going to get town council's opinion that way I think we'll have a legal opinion from him. We've got all the criteria you guys have stated. I'm glad I wasn't Rod Palmer I don't know if he is in the room. I can see why it took long time Rod in all due respect to you.

Mr. Clemmy, For the record he called my lawyer gave him all the information called town council he called lot of people. He worked hard for the town and taxpayers. It cost money to keep hiring lawyers and this and that he worked hard for you give him some credit he worked hard. I would like to continue with the lawyers working and Ms. Fish's lawyer and Steve Clapp. Can we proceed and meet with the pier review get those questions answered keep on moving and we'll come back and let the lawyers spend money and hopefully the taxpayers will spend too much money NA, Ms. Fish is willing to spend money I don't blame her she lives there and doesn't want anything there. These poor ladies I came to board as applicant.

Mr. Alcock, He says what my client wants or doesn't want we already said if you would just leave my client out of it.

Mr. Clemmy, I apologize Ms. Fish for bringing you in. These poor ladies have been held up from 2001.

Mr. Houle, I don't want to go over that again. What is our next date?

Ms. Burgess, February 4th.

Mr. Clemmy, As long as the consultant can meet next week.

Ms. Burgess, I'm hoping if you guys get me the response tomorrow I can get it to Earthworks the same day.

Mr. Houle, That is key to getting the next step guys you getting her the responses.

Mr. Clemmy, If you don't get it tomorrow. If you get it Monday morning we haven't met since November.

Mr. Houle, Mike that is fine Monday will be fine.

Ms. Burgess, Problem being is that by time I can get workshop it is week of our meeting I already have 6 things scheduled for the 21st. I can not put anything else on that agenda we have to be out of here by 10 and we're sticking to that so by February 4th. we'll be able to get your comments and then I'll be able to have 2 worksops with Conservation and with us and we can get it all rapped up. You can have new plan for February.

Mr. Clemmy, Can we have the one with Conservation with Jeff?

Ms. Burgess, Yes.

Mr. Houle, By then we'll have legal council's opinion.

Mr. Clemmy, I think Scott you said it best as you sit on this board you have to make the right decision for the town you're responsible for that.

Ms. Burgess, I haven't scheduled the workshop until I get the response.

Mr. Clapp, It will be before the 4th. of February?

Ms. Burgess, Yes.

Mr. Suzi, Regarding response to Earthworks letter do you need response of issues we would like to discuss with them?

Ms. Burgess, Take it item by item that they have brought up. Everything they have brought up.

Mr. Houle, They're just looking for the answers to the questions they gave you.

Board is taking 10 minute break.

Donald Cerrone returned at 8:35 P.M.

Work Session Christina Estates Subdivision;

Conservation Commission issued a cease and desist for drainage issues.

Applicant is proposing to install catch basins at the intersection of Cumberland and Monast.

Applicant is proposing a temporary detention basin.

All Boards, Commission and staff invited to meeting to obtain an update.

EI provided review of system.

Town Planner provided review of existing conditions of approval.

Larry Tilton-Tilton & Associates, You have Conservation Commission with you. Are you also going to have them convene because they need to convene as board also?

Ms. Burgess, Are you guys going to be making any decisions or talking about making decisions tonight?

Mr. Tilton, They are in the decision making.

Ms. Burgess, If you don't know I say open your meeting and then we can work from there that way we don't have any problem with open meeting.

Mr. Cerrone, You just want to sit in.

Ms. Burgess, To bring Planning Board up to speed what has been happening in last couple of months is there has been some serious drainage issues out at Christina Estates with one road that is partially built Delfis Monast and intersection of Cumberland. Where as the Conservation Commission issued cease and desist because water was draining into Cumberland and then in turn to catch basin and then into wetlands so cease and desist was ordered. In the interim applicant has been seeking approval from NA Electric Dept. to put in above ground utilities and Planning Board said it is not in our rules and regulations. Also the water line has not been hooked up and the DPW had opted not to act on road opening permit at that time. Where we stand now is the applicant has presented the plan you had in your package to Conservation Commission. In letter that was written to the Conservation Commission there is mention of temporary detention basin as well as possibility of temporary cul-de-sac. Where as the wetland crossing has not been approved in fact permit was withdrawn. Currently what the applicant would like to do is to put in two catch basins per original plan at intersection of Cumberland however the pipe is going to be 12" not 15" that will be something DPW will be discussing. The other stormwater issues and how deal with rest of subdivision are suppose to be done with temporary detention basin. I had sent letter requesting the board's presence and board and Commission presence at this meeting tonight so that we could all be on same page and make sure that we are thorough in this and that we can get this done in correct way. Where as if

there is violation in the subdivision control where they do need an 81W to put in temporary detention basin or any other aspect of this plan right now we'd like to do that prior to any other decisions being made so that it is all within subdivision control bylaw. Obviously they have to address the cease and desist first and foremost to prevent the pollution, etc.

Mr. Cerrone, Do you have inspection of when this project started this roadway started? What was first date for inspection call?

Ms. Burgess, Was in April 07 last was letter they sent to us in December asking to pave after the November 15 deadline of 07.

Mr. Cerrone, What is today's date?

Ms. Burgess, I believe it is January 7, 2010.

Mr. Houle, Before we start I would like to thank Conservation, Building Dept. and BOH for being here moving forward and DPW just to show we're trying to work together and trying to formulate a plan to move things forward and we're all here to try and do that tonight. I just want to thank everybody for coming.

Ms. Burgess, We received letter from Electric Dept. they couldn't be here tonight. From Jay Moynihan General Manager regarding my letter I sent 12/16. Letter dated 12/29/09 (Insert).

Bob Shelmardine, We're in process of building as you know we've been trying to pursue subdivision for quite some time now. I'm not exactly sure when but probably sometime within last year we submitted to the board request to get certificate to get covenant release from Planning Board to be able to build the first 7 lots off Delphis as they come off Cumberland Ave. Bond estimate was prepared by board's consultant and we posted money with the Planning Board with town. We did obtain covenant release from the Planning Board to be able to go and construct from Planning Board's perspective. Be able to start activity on these 7 lots pull building permits. We pulled two building permits on Lots 19 & 20 we in fact started to build the houses we've put in the roadway we put in drainage and we actually started to build two houses. Houses are in various stages of construction but I think they are both weather tight both up roofs on and we're proceeding with each one of the utilities that we need to get water, electric pursuing in front of other boards. Water, electric, septic we're proceeding in front of those independent boards. Recently we received cease and desist from Conservation Commission regarding issues of drainage I'll let my engineers explain what those issues of drainage are and how we've addressed them. We did meet with Conservation we met twice with them we submitted plan to rectify their concerns. I'll let them speak for themselves but I believe our plan was plan to address the concerns drainage prepared by our engineers and pier reviewed by Conservation's consultant was generally accepted. I think there maybe some tweaks here and there I think when we received the letter yesterday from pier review consultant Planning Board and I think generally our plan was acceptable I'll let our engineers deal with that. We met with Conservation and we asked them at that time to approve our plan so we can continue and move one. We were told letter issued by town planner for town asking no further activity no further permissions no further authorities or permits be granted or issued, voted on or approved by any town official until we met with the Planning Board. Planning Board sent us a letter previously to come in and talk about issues of temporary cul-de-sac or what have you so we've proceeded. We've submitted the plans that we've attempted to address the concerns of drainage that have been raised by Conservation. Neither houses on Lot 19 or 20 have subject of separate NOI filing because they are outside the jurisdiction outside buffer zone of the wetlands.

Larry Tilton-Tilton & Associates, I understand this is joint meeting between the Planning Board and Conservation Commission because we have Conservation Commission who is in the decision issuing position. We have quorum and the understanding is that this temporary stalling

basin is not a detention basin it is stilling basin there is big difference between them. When cease and desist came back in we stopped the project it was in the direct effect that sheet flow was coming off from the pavement because there is high point and it all sheets to Cumberland Ave. Quite honestly it was picking up silt it was running down it was overburdening the two catch basins that exist in Cumberland Ave. flooding out in the street and making mess because there were silt sacks in the basins. The silt sacks were not official silt sacks they were erosion control material grate was lifted put down and just trapped off water couldn't get in the basins so it was ponding. Cease and desist came in and question was what can you do to accomplish two things to get through the winter months because roads have been shut down we applied for tie in permit for both water and drainage but road is shut down as of December 1st. We weren't going to be able to open street to complete drainage that is approved under subdivision control law. That being said we have two main concerns we have Cumberland Ave. intersection that is icing up or going to be icing up and has been because we're going to have to pour extra salt and plows in this area now. We also have second situation where to rear there is small portion of asphalt that is now sheeting and lots are sheeting that we could pull back. We have two areas we could try and dry up Cumberland Ave. and deal with water in area to get through the winter. We have December through April/May time frame that we said we have to deal with water we're going to get February melt rain situation is going to come at us temperatures are going to go up. Lets do something minimal but something to try and dry up Cumberland Ave. and pull this water that is headed to Cumberland Ave. pull it back drop it into stilling basin clean it don't make it detention pond just let us get it clean let it filter through and it will run overland to a resource area that has been previously delineated has erosion control in place. We sat down and sketched up what we might be able to do as temporary fix and use Lot 16 that I presently have not filed for on site septic system permit for although we have Order of Conditions to construct house and system on and erosion control and stuff like that. Other 6 lots have approved septic systems on. Lots 19 & 20 have existing structures as well existing septic systems constructed on. Lets do something on Lot 16 in such a location that it wouldn't compromise the foundation of the proposed house that is previously planned and permitted and it also wouldn't compromise the soil structure that is under the approved/proposed septic system that we have that has not been filed for. We have area that would be just left of the driveway to come in this location that is planned to be lawn maybe turn out when you back out of your garage you can back over the area. Lets take that area develop a temporary stilling basin four bay design and activate these catch basins that are in place but not functioning. They're in place they're covered the piping is in place to manhole and stubbed off it is not active it is not draining it is just buried. Lets pull covers off put grates on get them active that would capture portion of the water that is coming from high point towards Cumberland Ave. it would capture lot of it like almost 2/3rds. of it pick it up pull it back upgradient tap existing manhole that is there today drop in a 10" PVC pipe that we have on site run it over outside the proposed layout drop it into a four bay because we don't want to go out there and grab vortex or something like that. Drop it into four bay design then come through the area that is little mound out of the four bay into stilling basin and then let it infiltrate both through the bottom but mostly through the sides of rock filled copper dam or mound and then run overland that is outside the resource area hit existing erosion control that would be second line of defense that is set up off the wetlands and then eventually into resource area and on its way through. Clean water and the whole idea so it isn't just point discharging out running right into wetlands it would have cleaning effect and our idea was grab it pull it back it doesn't run to Cumberland Ave. Then the area that is in Cumberland Ave. has an existing drainage structure in place right now. If you look at approved subdivision plan you will find that we have existing catch basin in

two locations it is connected with a 12" RCP today right now in Cumberland Ave. drainage. As part of the approved plan we're to and granted after the streets are open we're to replace 12 with 15" replace and existing 12 with 15" into existing basin discharge so that this now 12 will be 15 can handle the flow that is coming towards Cumberland Ave. to be picked up into not proposed catch basins there are existing catch basins there today. There is third catch basin that is approved to be placed for water that might jump over and run around. Right now we have two basins there in stubbed off not connected. There is approved connection that ultimately once the street is reopened in April they will be able to do the plan that is approved by replacing this line it is dig and replace and then construct new catch basin that is not there right now tie that into new manhole that will be constructed on top of the 15 that is proposed new one and then tie other basins in. Today right now there is no way we can do it. Our proposal was this line running between two catch basins is outside of the travel way of asphalt it is off the shoulder. Let us saddle that existing 12 with dog house manhole tie two basins in now activate them so we can grab the water that is coming to Cumberland Ave. grab it put it in and run it over and discharge and dry intersection up. It is temporary fix granted it is band-aid but there was question what can you do now almost month ago what can you do? This is what we can do but we had to get permission to open the street saddle the existing 12 with dog and tie them in and we asked for permission and we didn't receive it. Right now what is happening is just coming down running around the gutter into basins. What was done almost instantaneously soon as cease and desist came out is they rock filled both sides made rock/stone drain on both sides out of two sumps that were constructed put hay bales on the sides to grab water filter it out so at least when it popped out down at the toe it was clean. It didn't have the silt in it took the erosion control material out of the catch basin and put in real silt sacks, which have been working and they've been cleaned and replaced so they are being maintained. Right now the water is getting filtered out of these sumps and running down and now we have clean water but we haven't gotten it dried up because we can't get this issue taken care of and it won't be until we can get those tied in. I'm saying 1/3rd. of water that is here would be cleaned up 2/3^{rds}. of water planned to come drop into stilling basin in cross section I wanted to run drop into the basin four bay go through rock berm that had single layer filter fabric all way along bottom and I was going to start right on OG and build it up 6" put filter fabric down rock it build berm filter fabric with silt single mesh and then put stone on top of that so we wouldn't have erosion water would filter through come into basin filter through and then out through this double line rock mound per say and eventually end up in resource area clean and find its way out around resource area eventually coming all way round back to Cumberland Ave. It was honestly something we put together quickly to solve existing immediate problem that we could jump right on with equipment build it. We have existing Order of Conditions on Lot 16 for house and at same time I didn't want to destroy integrity of the lot as far as future building of it. It was quick fix I'm quite pleased that it made it through the review it did we ran some quick numbers on it put the low flows through it we never intended it to be the 25 and 100 year storm. We intended it to be the 2 and 10 something that was going to hit flash thing dry intersection up capture water that is running off clean it discharge it and get through the winter months that we are now in. It would have been quick little in and out fast we have more than enough rock on site filter fabric and then it was going to be we'd put in the application for on site Lot 16 and up and going in the spring.

Mike Intoccia, In April won't we tie into there?

Mr. Tilton, Yes.

Mr. Intoccia, This temporary fix goes away?

Mr. Tilton, If April comes around and we're still talking about this thing this will be number 1, can set until we come across or be cleaned up and taken out. I put it in such location that it wasn't going to disturb the lot its future value.

Mr. Intoccia, I won't build on that house until we tie in and do that.

Mr. Tilton, Reviews that have come back I think have all pretty much agreed it would work it is not long term fix it is made to fix the 2 or 3 months hit with weather and storm events.

Mr. Houle, What are your intentions with those lots and those houses?

Mr. Tilton, Two houses are up we intending to build one has house/location and septic system. We have approved house and septic on 22, we have 17 & 18 systems approved and house locations. We're sitting with Orders of Conditions on 18, 17, 16, 22 and 21.

Mr. Intoccia, Those two homes one house is 100% done other is 95% those are the only two homes I'm looking to move. Those other ones are not going to be closed on until after April.

Mr. Houle, When you say you're looking to sell those now they have no water no sewer and no electricity.

Mr. Cerrone, Mary you said 2007 they started?

Ms. Burgess, They started April/May 07 right when I first got here.

Mr. Cerrone, When did they put binder down?

Ms. Burgess, Finished the binder in November of 07.

Mr. Cerrone, Can someone read condition #10 that board approved? What does it say?

Ms. Burgess, Top coarse of pavement shall be installed within two years of installation of base coarse.

Mr. Intoccia, I already agreed saying if I have to rip up base and redo base and put finish I do. I can't help the economy I've never ridden through this. I can say we're almost through it and over the hump. I'll do anything to make sure everybody is happy and that is what I told the board " do you want me to rip base out come May I will rip it out and redo it". I'll do whatever you guys want if you feel that needs to be done. I don't want to go do the finish coat when I still have to build 4 or 5 more homes the finish coat would get ruined.

Mr. Shelmardine, November 24, 2009 we submitted letter to Planning Board regarding this condition where we indicate that due to the economy we've been unable to sell the 7 hereby state that we'll replace roadway binder if necessary.

Mr. Cerrone, My question would be before you start building you would have taken care of that drainage problem before you put binder coarse.

Mr. Intoccia, We didn't know there was drainage problem you're right it should have been done.

Mr. Cerrone, Nothing has been tied into the road this is going the same way that is why we had to change rules and regulations that was 3 years ago. Everyone wants to build the houses but nobody wants to get the road finished. You've been on this project since 2007 and all years having the same issue.

Mr. Intoccia, 2007 but I didn't start pulling building permits for about 8 months ago.

Mr. Cerrone, But you started the roadway.

Mr. Intoccia, Yes we started the road now we're here.

Mr. Cerrone, You still haven't finished it.

Mr. Intoccia, I know we haven't even had time to go in to tie in and do everything because we had problems at other places that we tried to resolve. I can't help that all I can tell you.

Mr. Cerrone, Should have never started then.

Mr. Intoccia, You're right I wish I had known I'm not disagreeing with you. I'm just trying to go forward to get this complete get remaining project then come April/May the back piece to

back piece I already have the drainage everything we already have gravel down, utilities and get going.

Mr. Cerrone, How is the bridge coming?

Mr. Intoccia, That is next point how many things do you want me to do?

Mr. Cerrone, You were crying to us 5/6 years ago I have to get approvals tonight remember?

Mr. Intoccia, You're right and then remember what happen 6 months ago? I wish you never gave them to me I wouldn't be in this deep. You think I like it being like this?

Mr. Tilton, We're walking the line between Conservation and Planning dealing with stilling in attempt to try and dry Cumberland Ave. up so we can cut back on road maintenance that is going to have to be done the plowing, etc. We're trying to help the town out part of it here otherwise we're going to have to deal with this issue all winter long.

Mr. Cerrone, What happen last winter?

Mr. Tilton, It wasn't that bad.

Mark Hollowell-DPW, It wasn't bad because they didn't have house lots raked up and graded out.

Mr. Tilton, I'm trying to dry this up and at same time.

Ms. Burgess, If we go down Conditions of Approval that you're not following right now for the Planning Board. #4 all work within 100ft. of wetlands discharge into, etc. shall be reviewed by appropriate state, local and federal agencies. Any required changes to the plan shall be reviewed for acceptance by Planning Board. I heard you state at Conservation Commission that you didn't feel you had to come to us. Condition 4 says that you are changing.

Mr. Tilton, Changes you're talking about are 81 type changes that would involved. These are construction site changes or alterations.

Ms. Burgess, But they are still changes.

Mr. Tilton, Request was made what can you do to dry up Cumberland Ave. and pull some of that water and protect resource area. To me that is construction change quite honestly it should have been yes get this done.

Ms. Burgess, This doesn't say anything about 81W this says any change.

Mr. Tilton, That is what the changes you're talking about.

Ms. Burgess, It doesn't say that it just says change and I'm saying that they have to come to us. Are you doing change through Conservation? You are so you have to come back to the Planning Board. Next one any changes to the plan as result of actions of any state, local of federal agencies shall be submitted to Planning Board to allow the board to review and acknowledge said changes for acceptance or approval as necessary. Let's go to the culvert and crossing and all of that.

Mr. Tilton, What crossing?

Ms. Burgess, Apparently we're on the same page what crossing?

Mr. Tilton, Crossing is the crossing that is approved there is no change proposed in the subdivision that is what we're trying to get across to people there is no change. There is covenant in place for work that is being proposed right now there is covenant in place.

Ms. Burgess, I understand that.

Mr. Shelmardine, And bond.

Mr. Tilton, You have thousands of it in money.

Ms. Burgess, If Planning Board pulls bond today I can fill that wetland and go right across? Can I?

Mr. Tilton, First of all you couldn't pull that bond today.

Ms. Burgess, That is your opinion but could I fill that wetland right now?

Mr. Shelmardine, Bond isn't established for the brook.

Mr. Tilton, If you follow the permitting process.

Mr. Shelmardine, Bond isn't established for culvert crossing.

Ms. Burgess, But you just said it is approved so bond is approved for those lots so I put in cul-de-sac right?

Mr. Intoccia, Since I'm the owner can I say something. To answer your question there is bond set if you look other lots here and the bridge I didn't do that. I didn't post that bond I only posted this bond. What is here today each day that goes by the neighbors are getting in trouble I'm trying to fix everything so you know what screaming and yelling isn't going to do anything. I'm saying I'm willing don't build on the lot, go fix it come April tie in and put new pipes in and then I'll be set and then I will keep going.

Mr. Houle, Let's just say we went with that. What happens when nothing else can happen? Lets say financial nothing else can happen then what happens?

Mr. Intoccia, I'm here to tell you financially these 7 lots and remaining I've already put money in place to go. Homes are up the other homes already financed I have everything in place to finance. You have bond in cash everything is all set I can come tomorrow if you want post bond here and post other and go start building more homes. What good is that going to do? I'm not tied in I have to finish bridge crossing get it designed.

Mr. Houle, It would be pretty foolish to build more homes when you don't even have electricity.

Mr. Intoccia, I know that was pretty foolish to go start this when the economy went town the tubes but I did it now I'm here and I'm trying to go forward. I'm just trying to make everybody happy I can't change the past I can only help today and go forward.

Ms. Burgess, Planning Board is trying to go forward in positive manner.

Mr. Cerrone, What is going to happen is you're going to get people living there and they're going to be complaining every week to us.

Mr. Intoccia, I maintain the road.

Ms. Burgess, You don't answer the phone I do I'm the one that ends up having to deal with it.

Mr. Intoccia, Have them call me I maintain the road I send my trucks there to plow/sand we have the machines we have everything we're there. I will do whatever you want but I have to do something now to fix it.

Ms. Burgess, You'll put bond in place for stilling basin to be refilled and removed if it becomes problem?

Mr. Intoccia, It is on my private property it is on my lot. I'll tell you what I won't pull building permit on that lot I won't build anything on that lot until we tie in and that is out. Until I tie in I won't build that lot.

Jim Visconti-236 Cumberland Ave., In this proposal I'm all for drying up Cumberland Ave. but this back still that they're proposing all that water is going to come to me and I already have issue with water now.

Mr. Houle, Where is your lot?

Mr. Weymouth, One of my questions was how do we know that additional flow is not going to overburden the existing system that is there?

Todd Taylor-208 Cumberland Ave., Right now there is 21" pipe that goes underneath Cumberland Ave. next to my house property and right now that is too small it backs up into my back yard. If you add more flow to it I'm going to be in trouble.

Mr. Houle, Does your back yard flood now?

Mr. Taylor, Yes. I'm right on corner on left side as you drive in. One storm drain to the left and one storm drain in front of LaRocque, which is other abutting neighbor on other side. It is not to help or hurt any side of this has been somewhat of issue for long time. I've lived there since May 06 before they built anything. I have french drains all the way around my house and sump

pumps PVC runoff from front to rear on left side of my property and two months out of the year property on other side of me to my left is a stream. I'm not trying to help or hurt anybody here back areas always has been water issue. That feeds I believe it is Ten-Mile River that whole area is wet. It's high and it's going higher I understand development I come from family of developers. There is issue they want to fix it those two drains right now are already taxed I go out there every other rain storm and clean the junk off. We have puddles that wake kids up at night have 5 kids at home it is loud it is not per say anybody's fault.

Mr. Tilton, That is what our ...(inaudible) indicated that the line is undersized when we tie these in that is why on plans dig and replace until streets are open we can't dig and replace it.

Mr. Houle, Problem is houses are up now and we have a problem.

Mr. Intoccia, With pipe we're going to replace it with what Larry is trying to say is dig and replace. We're not going to replace it with 12" we're going to replace it with 15". What he was claiming is true. When we say we put 15" is because when we did this there was already a problem before we broke ground we said we would put 15" pipe instead of 12.

Ms. Burgess, Where was drainage suppose to go without any of these changes?

Mr. Tilton, The two basins are a head water it is suppose to go across continue on and over and discharge that is how plan indicates that will end up eventually. Area has always drained to this existing resource area it has always been sloped. This whole big old field used to drain other way after development lots will drain and go front portion of it. Water after development is headed to the resource area that is there today as it was before it is zero before it leaves our property on the site. We actually are having less water run to that resource area that existing 21 that is under Cumberland Ave. above than there is before development. Visconti's property is the one that we're setting with existing Order of Conditions on to do drainage improvements and grading on when development gets going. We have set of orders in place under his name to do the improvements to correct that drainage situation he has.

Mr. Weymouth, How do we know you're going southwesterly is not going to overburden and already pre existing situation with your temporary fix?

Mr. Tilton, Because front portion of these lots right now drains.

Mr. Weymouth, Right but that is going to becoming back through your four bay stilling basin.

Mr. Tilton, One is going to Cumberland Ave. it is same water that was running in that direction.

Mr. Weymouth, You have house lots to the south that are going to be going into those basins into your new temporary system and basically exiting out onto property. How do we know that is not going to overburden?

Mr. Houle, This being workshop I'd love to hear from Conservation.

Shannon Doyle-Conservation, I want to clarify the water that was going across the crossing.

Mr. Tilton, That is what this is I just didn't draw the detention basin. These catch basins and drain lines were suppose to go hit basin. This pond is sized for all that water as well as more water.

Mr. Visconti, On original plan there was suppose to be new catch basin on outside of two detention ponds one on each side.

Mr. Tilton, I don't think that is correct we kept everything on other side. Virtually the same water that is here today I'm just turning it another way and cleaning it up before I send it over. That is what this is designed to do it just get cleaned up so it is clean water that is headed.

Ms. Burgess, Is it your intention to as Mr. Intoccia said that you weren't going to build on lot with stilling basin however you do plan to move forward with all the other?

Mr. Intoccia, I have to keep going.

Ms. Burgess, Now all of that impervious that you're creating is going to be going to that stilling basin instead of across the wetland, etc.?

Mr. Tilton, These lots are graded in such way that they grade to the rear as they were original. They're down but the lawns grade to rear.

Mr. Houle, Larry could you please answer his question?

Glen Ofcarcik, To respond to Jim's question the original design as Larry mentioned currently from what was the spine before the house was torn down and road came in. There was break part came to Cumberland Ave. and part comes to wetland, which comes around through in between yours and Mr. ..(inaudible) house. The proposal because again we had talked to you through the process in order to reduce the amount of water that is going into wetland, which ultimately goes behind your house. The design was such that from pair of catch basins in between Lot 19 & 20 water would be brought backwards across to Paul Lizotte and off into detention basins on that side. It is still the proposal but what we're talking about today is in response to the request of Conservation Commission since this water still goes way now as it did in pre development condition. Could we do something to keep the water from running basically it has been running right past these catch basins and down the road to collect that water bring it back put here. It is not permanent solution, which would add more water it is not bringing any new water in because there is portion of this existing water, which comes. The numbers are small but there is no additional water going to the wetlands.

Ms. Doyle, You're saying it is existing.

Mr. Tilton, Right it isn't exactly the same it is overgrown field pasture.

My concern now is there no field anymore.

Mr. Tilton, It has bank of erosion control already in place all way around.

Some of that erosion control is non-existing now.

Mr. Tilton, We had it all done.

Mr. Weymouth, Did you live in this home prior to the subdivision being built?

Mr. Visconti, 1980.

Mr. Weymouth, After what was currently constructed did problem become worse for you?

Mr. Visconti, It is hard to tell but the color of the water when it rains heavy it will be brown.

Mr. Weymouth, I'm worried about creating another problem. Temporary situation on Cumberland might be appropriate but I'm not so sure that his problems aren't going to be further exasperated by what you're doing with temporary fix going to south and west.

Mr. Shelmardine, I don't think I heard that the water level has increased I think it is just question of erosion that is what we're trying to finish the crossing.

Mr. Tilton, That is what this basin is meant to do clean that is why they call it stilling basin.

Mr. Weymouth, In my opinion it looks like he is going to get additional flow.

Mr. Shelmardine, That is engineering issue.

Mr. Peterson, What is life expectancy of stilling basin?

Mr. Tilton, Depending on how much silt you pour into it.

Mr. Peterson, I'm just curious this project has taken on considerable length of time.

Mr. Tilton, They are suppose to be maintained every year suppose to be cleaned you can have those things run for years if you maintain them. If you don't maintain them it is just like catch basin it fills up plugs off and over top. It could last 5 or 10 years without a problem but it has to be maintained.

Ms. Burgess, On house lot are there any roof drains, dry wells anything like that?

Mr. Tilton, There are no gutters as of yet and gutters are planned to come down to recharge Cultech at the corners.

Ms. Burgess, Before prior to occupancy?

Mr. Tilton, Yes. I think on the design we were only suppose to have 20% of them then we agreed to bring them all down.

Mr. Intoccia, That wasn't originally on that was just in last 30 days.

Mr. Houle, Jeff can you shed any light on what you think of what we heard so far?

Jeff Kane-Earthworks, It is consistent with construction phase per NPDES we typically have stilling basin out there. Fact that you've changed receiving water right now this gentleman's concern is valid one. Each one has to be looked at specifically each one of these erosion control structures you have to see impact in this case wetland. The applicant mentioned it was something put together quickly so you want to look at the calculations pre and post for that wetland because it was never looked at prior to the design. So you do have surface change you have area that was field now it has drainage, paved area so the potential is there to increase rate of runoff. That concern is valid one something that should be looked at.

Bill McDowell-Public Works, Comment on Cumberland Ave. we had written letter I believe we wrote letter to Conservation Commission I sent it via email. We were of the opinion that this will alleviate lot of water directly at intersection. What we're concerned about and we mentioned that with construction to complete that work this is part of approved subdivision. To complete that 15" replacement they said they were going to do this will not work once that drainage is added into my system now it is my water. That 12" pipe right now is not adequate that is very long segment of Cumberland Ave. that these two catch basins existing ones are draining now. They are already pretty much taxed to the limit to add more water to that pipe just basically take that water disappear it into pipe and put it down by brook crossing we want to be sure that conveys that water adequately. They're not going to be allowed to do that based on streets being closed at this time. This is temporary solution we were concerned we wanted some kind of security to be posted for the additional work, which is about 330ft. 15" RCP. Other thing we were concerned about is without this portion of their solution this won't be adequate anyway. Water coming down is too much it was never intended to be in this intersection because these catch basins were constructed to grade this water is all contingent to intersection. We want these to be constructed and stilling basin as well so in other words both parts of the solution have to be constructed in order for this to work. Otherwise I'm still going to have puddle because there is too much water heading down regardless of how many catch basins they put there. As these two solutions have been proposed and as temporary solution we see them as just that. However the question and Larry mentioned it if this is not maintained this will not continue to work. How long this temporary solution remains in place this drainage that is here is meant to cross that wetland without that crossing this stilling basin will fundamentally become a detention basin for this portion of the subdivision. That is what we're saying this is 90 day solution question is what happens on day 91? What exactly is what is next? This temporary solution is in response to cease and desist order I think it is appropriate response. They would have to apply to B of Public Works for street opening permit for that one catch basin that one drain manhole over the pipe, which I believe B of Public Works it is our recommendation that they approve that solution. We would like to see security for the additional work that needs to be done in Cumberland Ave., which that we said we would require to allow that. Once that is tied into our drainage now it is our water forever that is our concern.

Mr. Houle, In form of bond?

Mr. McDowell, Yes basically under control of Public Works that on day 91 or whatever we're going to give them date certain apply by June 30th. or something if it is not done by then come July 1st. we're out there constructing that pipe. That was part of the work that they're proposing down there was part of approved subdivision so it is nothing different from what was originally approved it is just right now they're doing temporary connection as opposed to permanent connection we were looking for.

Mr. Houle, Before we go any further would BOH like to say anything?

Mr. Tilton, If I may speak that was our education on bond issue we thought when we posted bond for piece of the road that drainage in Cumberland Ave. was part of the bond. We found out through education that wasn't the case.

Mr. Houle, It had nothing to do with subdivision.

Mr. Tilton, Exactly. In all years I've done this I've never bonded anything with Dept. of Public Works.

Mr. Cerrone, It has been done. Larry might not have done it but it has been done with Public Works. You're saying you put that road in you have no drainage in yet that little section of road 700ft. or whatever?

Mr. Tilton, It is in but not connected.

Mr. Peterson, If it's not connected it doesn't drain.

Mr. Cerrone, Look at Order of Conditions see what #10 says? All manholes have to be up to grade the base coat. Is that up to base coat?

Mr. Tilton, All structures are up to base coat.

Mr. Cerrone, Where is water going nowhere.

Mr. Houle, Why wasn't that put in at that time I don't understand?

Where were we going to connect it?

Mr. Cerrone, For 3 years since 07 and now we're still zero. What are we here for?

Mr. Intoccia, I thought we never had problem before.

Ms. Burgess, I don't think there were houses there.

Mr. Houle, Now there are houses. More houses you put up is just going to exasperate the problem.

Mr. Tilton, Until April until road opens up.

Ms. Burgess, On BOH side there has been mention of you putting in wells on those 2 lots to get water service. I was just curious with the location of septic tanks and locations of wells. I'm not up to date on that I don't know if that is feasible.

Mr. Tilton, There have been two well permits filed with BOH. Septic systems one is located asbuilt and signed off. There is well proposed in location 105ft. away from asbuilt location of septic system 30ft. off from property line. There is second well filed for and signed 30ft. off property line it is 67ft. off the tank and bend in line that feeds septic. Code says 50ft. off tank and any line that leads to the box of wells proposed outside the zone beyond the 100ft. and to be drilled and tested these houses will be powered up.

Mr. Houle, What was water table out there? Do you have high water table?

Mr. Tilton, Water table is somewhere around 36 one doesn't have anything to do with the other. Wells are 200/250ft. deep.

Mr. Houle, I understand I have one. I just wanted to know what water table is out there? When you did your perks?

Mr. Tilton, I think I had 30" water table. Stilling basin is planned to start at grade so it would be 30" below grade probably 18 to 24 in that location. This stilling basin is not planned to be dug in you clear the surface lay bed of stone down put filter fabric down and stone it and you go up put basin. It is entirely designed to be started at OG and going up so I didn't put it in the water.

Mr. Peterson, If these conditions we approve this direction. What is this in lei of? I know we have drain problems because of the winter that all lines haven't been opened up connected. My concern is this is temporary measure temporary to what? What happens if you don't go ahead with this bridge or build detention pond on other side of wetlands? Is this temporary too the proposed plan or are we going to be back here looking at some other solution to this drainage problem?

Mr. Houle, Larry what if next plan next phase doesn't happen for two years for whatever reason?

Mr. Tilton, Then we maintain this basin until that happens. To answer a question this is knee jerk reaction to cease and desist. Our intent was to jump in there next day like we did work here with equipment we have build basin and get that water cleaned up that was the intent. I'm delighted that it went through type of review it did and it actually worked.

Mr. Peterson, My point is that is intended to be knee jerk solution and it is not going to be solution for any other changes.

Mr. Tilton, It can't it won't stand up. We're trying to get water cleaned up and I have to clean it before maybe should have laid another row of hay bales at the toe had two lines of defense in case it over tops.

Ms. Doyle...(inaudible). I think main issue is the temporary...(inaudible) stormwater is going to be connected across the wetlands. Where this system is designed for 100-year storm and to capture runoff on site as it is suppose to. You have temporary measure but also have letter asking ...(inaudible). It is not designed to handle runoff beyond 2-year storm. If it is temporary that is fine but it doesn't sound like it is temporary that is why we're concerned. We don't want to approve something that is going to alter wetlands. Should basin be designed for large storm events? Temporary what is temporary? What happens to impact of wetlands?

Ms. Burgess, To add to that now if we're having an issue with the situation now and you're going to build more houses isn't that going to exasperate the quote unquote temporary situation? You said that you were going to move forward and you're going to build more houses and I just don't want to see everything get worse.

Mr. Intoccia, Reason why this was never connected we just started building these homes in April/May whenever it was we were hoping we were going to get sewer to the site so we wouldn't have to cut. If we got sewer to this site we'd have to go down about 18ft. at intersection and if we went down we'd have to put that in first and then drainage.

Mr. Cerrone, They've done that before rip it out you wouldn't be in this situation.

Mr. Intoccia, I'm realizing that. April 1st. do I have to come back and file with you or do I have permit now?

Mr. Hollowell, You don't have permit now.

Mr. Cerrone, You better get on the schedule.

Mr. Intoccia, I already was I got denied so I'm trying to figure how do I get on so April 1st. I can get in there and get going.

Mr. Hollowell, You would have one permit and permit would take cash bond to cover the cost of the work and it would give you the authority to go in and tie in first section. It would have license agreement for water main you can get all wells put in. Mr. Hollowell, Then you can tie in the drainage and correct the drainage.

Mr. Intoccia, If I file starting January or February would my current condition say April 1st. or do I have to wait until April 1st. to file.

Mr. Shelmardine, Can we get all paperwork in order now?

Mr. Intoccia, That is what I'm saying.

Mr. Hollowell, We have meeting on the 26th. of January.

Mr. Intoccia, Okay so we'll do that. Here is my thing to get it going I will go file all the paper work make sure it is all in place get ready for cash bond they need \$25,000 or whatever. Put that up so come April 1st. I'm not delaying filing paper work and then waiting another 30 days. So come first of April I can hopefully tie in I'll start by April 15 or 20 that should be all done.

Mr. Tilton, Weather permitted.

Mr. Intoccia, Right I just said that. At least now I'll start in January or February when next meeting is I'll file paper work now put bond up so come April 1st. I'm not delayed I go right to work and go put that in.

Ms. Doyle, You still have to address that water that only handles certain portion.

Mr. Intoccia, I'll handle that I'll put this in at same time in next 2 to 3 weeks once this is done we'll take look and come back in front of Planning Board and Conservation or we can do joint session again a workshop and we'll take look what are we going to do here. We have to do bridge we going to bring in a crossing.

Mr. Cerrone, Wait a minute you guys designed the plan how many years ago now you're changing?

Mr. Intoccia, I know I'm just trying to go forward trying to do it together. I can only do one thing at a time and take care of it. I'm saying I'll take care of it I'll do it.

Mr. Houle, Let me ask one question Bob are those two wells actually approved? They're not because you just said they were approved.

Mr. Tilton, I was told by your office they are approved the day I filed it. I brought it in Bob Casco was there Donna was there I handed \$100 each well gave her sketch plan gave her application that you approved you can start drilling tomorrow I need well permits when I get back. I do well test that is what I need that is exactly what I was told week ago.

Bob Davis-BOH, I'm not familiar with that approval and I'm not saying in anyway it is not true.

Mr. Tilton, They are even initialed.

Mr. Davis, As Mark said you can put artesian wells on everyone of the lots up there if you want and you stay within the well regulations private property. I'm not familiar with those 2 lots being approved.

Mr. Intoccia, We'll check it tomorrow.

Mr. Tilton, I have the application.

Mr. Houle, I'm not questioning you Larry I'm just wondering you said it was approved I want to know if it is or isn't.

Mr. Intoccia, Regarding the neighbor he has been great we don't want to cause any problems bringing his water table. Truthfully when this drainage is working his water table should go down because water should be going in right places and not going towards his house.

Mr. Houle, It is not going to change water that is going there now.

Mr. Intoccia, I understand I'm saying on record if there is problem when I construct and it effects anything in his house worse than it is now the next 90 days until I tie in the drainage I will be responsible for it. We know what is already there we know what has already been there I trust him he's always been honest with us I'll do that.

Mr. Visconti, Order of Conditions I believe it is #13 take care of that for me right away.

Mr. Intoccia, Yes we'll have Bobby come right down and do it. I don't know what it is. Bobby you go take care of it.

Mr. Visconti, It has been 3 years.

Mr. Hollowell, Mr. Intoccia made it seem like hurdle of B. of Public Works was just pass through. One of the concerns that I have and I think everyone in the room should have is Mr. McDowell said, " once the drainage is tied into our drainage system we own it". If that system doesn't work they can't get across the wetlands the concern I will bring to the board is that we don't have permanent solution for the other end. If there is no permanent solution it may be having to come to our end and I would like to see more permanent solution. I would like to have understanding of what and when.

Mr. Houle, For other end.

Mr. Hollowell, We don't have residence living there now and our job is for residence of town of NA and our job is to protect them. There are no residence there I don't have any residence I have to protect once they are there we have their interest because they are tied into my system we will be responsible for taking care of any problems that they have even though they are in his subdivision and even though he says he's going to be there.

Mr. Intoccia, I own it until you take title of the road at town meeting.

Mr. Hollowell, What if you walk away?

Mr. Intoccia, I'm not going to walk away. I take it as insult when you tell me I'm going to walk away. It is my name on here just as much as you say you talk about it is the town it is my name and my reputation. Didn't I just say before he even talked didn't I say we'd have another joint meeting? Give me a chance I'm here doing it you're not giving me a chance. I turned around and said before you even spoke I said let me take care of this problem right away we'll come back in couple weeks and have another joint meeting and talk about what we're going to do there. What do we do to fix it so come April it is going all to the place where you guys want it to go and it is done now? We work together now before April so come April 1st. I go do everything that is all I'm saying.

Cliff Bessette-Conservation, ...(inaudible). At our meeting we looked at the proposal said we have no problem with tie in...(inaudible) What happens now if crossing doesn't happen so now permits aren't there doesn't become cul-de-sac is that in middle of cul-de-sac it would have to get moved again those are our concerns. Again we don't have problem with tying in at bottom of Cumberland Ave. not at all. If they want to come back to another meeting and show that one more time ...(inaudible).

Mr. Weymouth, Suggestion can we make the permanent solution the temporary solution in event you don't get crossing?

Mr. Intoccia, Here is the thing I need to get something out there now this will get me something out there in next 4 or 5 days could take week I can get this out there. I will come back and that is why I said I will come back at next meeting and have ConCom come and we'll talk about what we can do and how to go forward on the next.

Mr. Weymouth, Mike you will be spending money twice.

Mr. Intoccia, I'm running out of time by time we make decision.

Mr. Weymouth, It will take Larry's office two design full permanent solution. Why can't the permanent solution be the temporary solution?

Ms. Doyle, ...(inaudible).

Mr. Weymouth, Question we have bond money?

Ms. Burgess, We do have bond money.

Mr. Weymouth, Would you agree to allow us to use that bond money if you don't have permanent solution by such and such date?

Mr. Houle, What do we have in the bond?

Mr. Weymouth, I'm throwing things out there it is workshop meeting.

Mr. Intoccia, I'm going to take care of what they want I'm not going to run away.

Ms. Burgess, Another option maybe that you don't pull any more building permits.

Mr. Intoccia, I can't do that.

Ms. Burgess, You don't have water or electric.

Mr. Cerrone, Did you tap the water yet have you tapped water line yet?

Not yet since 2007 you haven't done that haven't done drainage.

Mr. Intoccia, I know what do you want me to do the way my bank is talking I should be in Phase IV already.

Ms. Burgess, With no water and no electric. Rod can he pull permits with no water and no electric?

Rod Palmer-Building Dept., That is one thing Mary touched on earlier no electricity out there. I'm not sure where we stand with electricity. I can tell you this until there is solution or until there is power electricity out there then there will be no more building permits issued. If electricity is brought out to subdivision and these artesian wells rather than town water and they are approved wells then we will issue building permits because it is an approved way. Where we stand right now I would be reluctant to issue any more building permits until such time they have electricity out there.

Mr. Intoccia, I agree with him I talked to him about it.

Ms. Burgess, So essentially you wouldn't be able to pull any more building permits in 90 days?

Mr. Intoccia, No we're trying to work now with electric on getting power so I can't say 90.

Dave Scanlon-Conservation, My suggestion here is the lot with stilling basin if we were to agree if the builder was to agree not to develop that lot and so it is more permanent solution available it could increase the size of stilling basin would help some of the water issues the flows. Then it could conceivable I hope that our senior leadership in DC is able to turn this economy around I haven't seen it myself but conceivable it could last 2 to 3 years with minimal amount of maintenance solve the problem for that length of time this project I'm sure he feels the same can go around way to long for him. I think that would be a good solution to help abate water problem give everybody some confidence that he has his reputation to uphold on being a builder and local developer and it is one lot that he can't build on until there is permanent solution.

Mr. Weymouth, It kind of goes beyond that doesn't it Larry? I think that is where I was going.

Mr. Tilton, That is where you were headed and it somehow went around another curb.

Mr. Weymouth, But it goes beyond that to.

Mr. Tilton, It does and it doesn't. Lets say we throw this in and get the existing situation taken care of so that when February melt comes. We throw it in at same time we follow your thought process and say okay what if just as of what if this doesn't happen and this starts to become a detention pond?

Mr. Weymouth, Then you have to cul-de-sac it.

Mr. Tilton, And we have to throw cul-de-sac on it and if I could talk one at a time. The most logical place for permanent detention/retention whatever pond area is Lot 16 that is most likely place for it of course pipe would have to get changed structure would have to be changed. We enlarge the area to be a full scale detention area but it would in-house or encompass this area and at that same time we'd have to pull back 25ft. right now I'm running about 20 so I can give you about 5 more feet. I can slide it back without impacting structures. If it was to become permanent this area would virtually be a detention area and if I swing around and deal with cul-de-sacs. Thought process is if we do similar things as we've done in other parts of the town where we put the layout has approved and we throw in like Westcott Dr., Cushman, Lockwood, Cedar Ridge. We do cul-de-sac layout where they're in easements on these lots we do full turn around full design turn around and we're showing setting on easements so when this layout does continue through these easements revert back to home owners and go forward there.

Mr. Houle, You'd still be doing Cumberland Ave. right?

Mr. Intoccia, Yes.

Mr. Tilton, Cumberland Ave. has to happen anyway.

Mr. Shelmardine, April 1st.

Mr. Cerrone, When you guys put the bond on this remember what I said. When did we set bond on this Mary?

Ms. Burgess, Last September.

Mr. Cerrone, I said if that bridge is not being built I'm going to give exact words almost. We're going to start over again rescind the subdivision and start over I think that would be best thing because the entrance has been changed. You recall that.

Mr. Shelmardine, I don't remember that.

Mr. Intoccia, I'll go build a bridge.

Mr. Cerrone, I will get you the minutes.

Mr. Intoccia, I'll take you to Franklin we built bridge how long?

Unknown man, 39ft.

Mr. Intoccia, Structure didn't touch wetland right across.

Ms. Burgess, I heard it is wonderful I know the planner over there.

Mr. Cerrone, It is up to Public Works they have to accept it when roads are being taken over they are the ones who have to maintain it.

Mr. Intoccia, That is why I said I won't build on 16 until we resolve this problem.

Mr. Cerrone, You're going to put temporary cul-de-sac.

Mr. Intoccia, Did you hear what I said? I will be back.

Mr. Kane, If board is going route of allowing this temporary basin to act as quote unquote permanent for now. There are few design deficiencies that should be addressed prior to having that go forward. Just standard protocol for NPDES construction phase stilling basins of this nature. As Larry mentioned obviously it was done fairly quickly so there are some things that need to be done for this design prior to having it put in.

Mr. Shelmardine, Those are all outlined in your letter.

Mr. Houle, Out of curiosity Cliff not to put you on the spot or Shannon. With what Mr. Scanlon said would you be agreeable to that? Would that alleviate some of your concern?

Mr. Bessette, We need calculations.

Mr. Tilton, That would come in with the semi permit design process.

Mr. Bessette, One of my concerns when we talked to Larry and our Conservation was if the crossing doesn't come.

Mr. Cerrone, Yes design was that crossing was going to happen everything way traffic was going to flow in subdivision. Now we're changing everything around.

Mr. Bessette, That was town leaning rope fire dept. can't turn around. Will town open that up as town street if fire dept. can't get apparatus in there without cul-de-sac? If we're doing all these temporary measures and that road is still going to end the way it ends today for another 6 months to a year. Can we open it as town road? Doesn't it have to have 90ft. turn around?

Mr. Cerrone, Have to have cul-de-sac so they will be able to turn fire truck.

Mr. Bessette, Fire dept. is not going to back out of that street every time they have to get in there.

Ms. Burgess, I think what you're talking about if we're going to do something on Lot 16 why don't we throw the temporary cul-de-sac in there and get it all done and nobody has to ask any more questions.

Mr. Intoccia, I'm just going to build cul-de-sac.

Mr. Cerrone, Have you Larry design way your plans are before you keep going and come back to us with a plan saying this is what it is going to be because I can see you changing everything.

Mr. Weymouth, Would ConCom be more in favor of this if it was above 2-year storm and maybe 5 or 10 this temporary situation?

Mr. Houle, They said that earlier.

Deb Cato-Conservation, If Lot 16 wasn't built upon if there was cul-de-sac or hammerhead or whatever. If stilling basin was moved away from wetlands by more than 5ft. towards west of property and the pipe that drains does not go into the wetlands.

Mr. Tilton, There is no pipe out of there.

Ms. Cato, It looks like there is one.

Mr. Tilton, No there is pipe into it, that is cross section.

Ms. Cato, Then we'd be willing. If you had plans to build turn around or hammer at end of road so fire can get in.

Mr. Shelmardine, Temporary yes.

Ms. Cato, Put stilling basin farther away from wetlands to left or east side of property with no house lot on it so wetlands won't be impacted I think.

Mr. Intoccia, Just one thing Lot 16 if not house lot I won't pull permit until we resolve what drainage.

Ms. Cato, Right if you resolve it.

Mr. Shelmardine, We won't build on it until.

Mr. Tilton, If we do what she wants we're going to have it underneath foundation. You aren't going to be able to put foundation. He's talking she's talking 50ft. that puts it up in this area.

Mr. Intoccia, It is only temporary.

Mr. Shelmardine, He is saying it is going to make it difficult to build house later.

Mr. Tilton, Bob isn't going to issue building permit once we have pond there.

Mr. Intoccia, I got it so go as far as you can.

Mr. Tilton, I can give them 5ft. I can pull 25ft. off the wetlands.

Mr. Scanlon, I think we have to look at it as purely temporary measure and temporary is one of those terms that can be 90 days or whatever.

Mr. Houle, It is moving target.

Mr. Scanlon, We have to count on the developer building temporary solution that has some life to it he's going to maintain it. Obviously he can't build another house in there if the solution temporary in nature helps to abate the water problem that we need to get abated. I would strongly recommend that he comes up with a solution here like we've talked about where he could abate the water and perhaps provide the fire dept. solution there on temporary bases. I can't speak for fire dept. but I don't think they would mind if they were driving on gravel or concrete or blacktop. That would help resolve the issue everything can start progressing again.

Mr. Peterson, Mr. Chairman we've been discussing this an awful long time. I can understand the temporary measures that the Conservation wants to take to alleviate the drainage out on Cumberland and to control water going into wetlands. It is all when and if there has to be some sort of time line established here as to what the developer is going to do with this property and then we'd work from there.

Ms. Burgess, And consequences if he doesn't.

Mr. Peterson, We have to know temporary why how long this stilling basin is going to be there and how long it is going to take you to design an alternative or to follow through with what your original design is. Those houses right now as soon as you're able to sell them you will and we're going to have people using that street as a public way and we're going to open ourselves to all kinds of other problems. We have to have something established.

Mr. Intoccia, That is why I said if they gave me permission tonight I will go build that tomorrow. I'm willing to go build what you want me to build.

Mr. Peterson, I'm saying that there has to be a follow through.

Mr. Intoccia, I did I just said that. I said that we'd come back and have another family group meeting and work right away.

Mr. Peterson, That is what we've got to do.

Mr. Intoccia, So come April we know exactly where to go.

Mr. Peterson, We have to set time schedule.

Mr. Intoccia, Exactly by April everything will be done.

Ms. Burgess, Understand it is nothing against you it is past practice of other developers in town we've pulled bonds this summer.

Mr. Houle, Other thing this is the entrance to rest of your subdivision.

Mr. Cerrone, That is a main entrance we spent some time on this. You're looking at this entrance for how many lots?

Mr. Intoccia, 110 lots.

Mr. Cerrone, All of sudden we're changing plans and you haven't even started.

Mr. Intoccia, Originally we had the road going here and then over we had nothing. Last second someone didn't want road there I had to go buy this house at last second 60 days before put the road here and do that. I forget his name he was on the board.

Mr. Intoccia, Payson.

Mr. Houle, Ray Payson?

Mr. Intoccia, It was Ray wanted to move it I had to go buy the house I'll show you date I had to go buy it.

Mr. Cerrone, Because you had wetlands there your crossing.

Mr. Intoccia, No.

Mr. Cerrone, You have big crossing this neighbor here.

Mr. Intoccia, I said I would take care of the neighbor.

Mr. Cerrone, One that had raised ranch back yard is always full of water.

Mr. Visconti, That is me.

Mr. Intoccia, We'll come back at next meeting.

Mr. Shelmdine, Mr. Chairman here is what we'd like to do. We'd like to get permission to be able to do temporary measures as discussed and described. It is going to take my engineer to work on more permanent solution month to do the design.

Mr. Cerrone, Larry how long is it going to take?

Mr. Shelmdine, We'd like to come back to Planning Board meeting in 6 weeks.

Ms. Burgess, February 4th.

Mr. Intoccia, Put us down.

Ms. Burgess, We want to see something we see progress prints do we see calculations?

Mr. Tilton, It is not going to happen you can push me to end of February. I'm going to need month to put package together.

Mr. Shelmdine, Yes then we need 2 weeks.

Mr. Tilton, Something that was quick thing for this type of review through engineers all over the place it is not going to happen.

Ms. Burgess, I say February 4th.

Mr. Shelmdine, What are we going to do with stilling basin, the cul-de-sac?

Mr. Intoccia, I'm going to do everything we said we'd do for temporary.

Mr. Peterson, Is Conservation Commission all right with this temporary solution as it is right this minute? One presenting right now. You want stilling basin pushed back even for temporary only for 3 or 6 months or whatever.

Ms. Doyle, Potential impact to wetlands as result yes the storm it was designed for and also the on site flooding.

Mr. Peterson, Even for short period like 3 or 4 months?

Ms. Doyle, We can always issue enforcement order that requires them to come back in 90 days drop dead date.

Mr. Peterson, That is what I'm trying to get at. If they were to do what basically what they have right now. Could the Conservation live with that for 90 days?

Ms. Doyle, We have comments from Earthworks, testimony from the abutters.

Mr. Peterson, Reason I'm asking is because you were kind of elaborating on it. I didn't know whether basically the basic idea that I got with you could live it with short period of time.

Ms. Doyle, Just want to make sure that design is right.

Mr. Houle, Shannon I think what he is saying I don't want to put words in your mouth Rich. Can you live with this or not? We're here these guys want to know should they start something should they not? Can you live with that change?

Mr. Shelmardine, Knowing that we're going to be coming back in 6 weeks.

Mr. Houle, In all fairness to them in 90 days they're going to have you come back in front of them.

Mr. Shelmardine, We're hoping to be back before 90 days.

Mr. Intoccia, We'd like to have joint meeting on February 24th. Why 90 days?

Mr. Tilton, In all fairness to what is going on we have today a permit in place to construct on Lot 16 up to 10ft. off this existing wetland line. We could start filling that lot today build retaining walls that are approved. I'm telling you we have right to go in and construct up to 10ft. off that line. We pushed it 20ft. off the line now I can give them another 5 because of 25ft. issue that is coming along now but that is it. Until we get the bigger pond designed it is going to be larger because it has to be cycled through larger storms no matter what happens to that pond it is going to encompass this one so it is going to end up in the bigger one.

Mr. Kane, I would recommend that those design changes.

Mr. Tilton, Tech stuff?

Mr. Kane, Yes actually in the specifications. Slope material things of that nature that it is standard EPA requirements be incorporated into whatever is done even short term. These are pretty minor changes just construction issues so they should be easy.

Mr. Tilton, He is right.

Mr. Shelmardine, We didn't have any concerns with his comments and we'll do what his letter suggested.

Mr. Houle, You know what the comments are from Conservation? Does DPW want to add anything?

Mr. Tilton, Conservation we wanted to see what Planning Board was going to do and DPW going to do so we're caught.

Ms. Burgess, That is why we're here. Soonest they would be able to tie into your road? For temporary you have to put catch basin in correct?

Mr. Tilton, We're not going to issue any.

Mr. Cerrone, He's not going to be able to tie in.

Ms. Burgess, You're saying they can't do the temporary fix at intersection now?

Mr. Hollowell, No what we would do if board agreed to it what we recommend do agreement for all the work that is to be done within the road within public way including temporary solution and time certainly when they would have to have all that done. Cash bond to cover the cost if it's not done and then they would be allowed to do temporary.

Mr. Peterson, Hypothetically if they had all that information tomorrow I'm just saying as soon as they can get information to you in quote with your meeting they could get permit to do that temporary work?

Mr. Hollowell, If board was willing yes.

Mr. Houle, He can't speak for his board.

Mr. Hollowell, We have discussed this with the board and everyone knows our position.

Mr. Cerrone, You willing to give road open permit this time of year?

Mr. Hollowell, It would be emergency permit to abate a greater issue.

Mr. Cerrone, Okay.

Mr. Shelmardine, Just for a temporary.

Mr. Houle, Mike has already said he doesn't have a problem with any type of bond if that is what they need okay,

Ms. Doyle, It was mentioned in the comments about easements...(inaudible).

Mr. Shelmardine, Do temporary.

Mr. Houle, They will give you temporary easement.

Ms. Burgess, As much as we'd like to have it all done tomorrow you have to go to DPW.

Mr. Cerrone, You have to go to them first before we can do anything.

Mr. Tilton, If we're going to throw temporary easements do we have to run them to you to town council back and forth?

Mr. Cerrone, Yes.

Ms. Burgess, You just run it to me and you'll get it like two days later and then Bob says okay. In meantime you will be getting your permit.

Mr. Kane, We should have temporary right of entry. It is up to you.

Mr. Tilton, Whole lot cleaner and whole lot easier.

Ms. Doyle, I think the Commission is comfortable if the comments from Earthworks are addressed incorporated into the plan move it as far away from wetlands as we can to have center put in place and then we'll issue an Order of Requirements 90 days with full drainage calculations showing that there is no increase in runoff volume to impact the wetlands ...(inaudible).

Mr. Tilton, That would be for the bigger one.

Ms. Doyle, If the crossing doesn't go through.

Mr. Tilton, Yes it will be same type of calcs. that we're going to do we're only going to do one.

Ms. Doyle, I just want to make sure ...(inaudible). As Mr. Visconti said we issued Order of Conditions for work to be done on his property in 07 and it hasn't been done yet. That is going to expire in May that work needs to be done.

Mr. Houle, Can that get done at same time?

Mr. Intoccia, Going to meet him tomorrow I already told him.

Mr. Hollowell, I would recommend that particular work when they're doing 15" work right down to the brook and then that work near the brook if they coordinate that water could do it during low flow. After that period of time in May if they want extension I'll recommend that work be done in June and July.

Mr. Tilton, We'll file for the extension.

Mr. Hollowell, You're going to do something in March when water tide water is coming down.

Mr. Tilton, That is pretty extensive grading that has to be done so I don't want them in there now.

Mr. Houle, Here is the big question can we all reconvene on February 25th.

Ms. Burgess, February 25th.

Mr. Shelmardine, That is on the more permanent fix?

Ms. Burgess, Correct.

Mr. Shelmardine, Are you going to give it peer review?

Ms. Burgess, Yes.

Mr. Houle, Question has been asked by board member if you guys do not do anything.

Mr. Weymouth, If no permanent solution is designed or created. What is the recourse for the board?

Mr. Cerrone, Bridge is going.

Mr. Intoccia, Right we'll be back.

Mr. Houle, I'm going to be honest with you I think if by that time after all these workshops if nothing has happen I think we should rescind it.

Mr. Intoccia, I already have and we're trying not to go with bridge but I already a thing very deep designed.

Mr. Cerrone, Town has to maintain it when you go to town floor you have to sell the street. If it is not recommended by Public Works you're not going to sell the street.

Mr. Intoccia, That is why I'm coming back on the 25th. listening to Public Works and everybody's opinion I will be back with something.

Ms. Burgess, You have to get that road accepted before you can build anymore phases?

Mr. Intoccia, What do you mean?

Ms. Burgess, That is part of your Conditions of Approval.

Mr. Cerrone, You had two lawyers there that night when we did the conditions for you.

Ms. Burgess, You have to have Delphis Monast approved.

Mr. Shelmardine, This isn't a phase first phase is 20 lots.

Ms. Burgess, Yes but you have to have Delphis Monast doesn't go around the corner it doesn't go around to left that is Lizotte so you need to get that road Delphis Monast approved before you can go to.

Mr. Shelmardine, You can't do another phase before you get previous phase done. Phases are designed as 20 lots in a phase not segments of a phase. This is a segment of a phase.

Ms. Burgess, I completely understand that. I'm saying that the road in a phase that needs to be accepted.

Mr. Intoccia, Why would you want to own a road while I'm still going to build 80 homes?

Ms. Burgess, I didn't write the conditions I'm just telling you what they say.

Mr. Intoccia, You guys would be crazy to take title of the road and I'm still bringing trucks in there. You want to do that go for it.

Mr. Palmer, Maybe Michael or Bob can bring us up to date on the electricity issues of power would like to have electricity out there.

Mr. Intoccia, That is Bob's job everyday with the electric.

Mr. Shelmardine, I think NAED has submitted letter and what they've done is they submitted to us that letter was signed on December 29th. On December 31st. we had full set of plans revised plans submitted back to electric dept., which we think addressed all those concerns. Our electrician spoke with somebody at NAED yesterday and they had few questions so I think those plans are moving very quickly to be reviewed and approved by NAED. In addition I've received letter indicated I've received a full agreement, which I'm reviewing from legal perspective. Full agreement for the full subdivision and that is being reviewed and that should take me another two weeks to do as well.

Mr. Hollowell, If any of your infrastructures for your electricity goes within the public way it will have to be included in the agreement that we are signing that is part of it. If you go overhead I don't have air rights but if it goes underground that has to go through us.

Mr. Tilton, We're in the way we need to be in pavement.

Mr. Shelmardine, Right we know that.

Mr. Hollowell, But I'm saying you're allegedly coming in on 26th. to meet with us in January we don't have any plans showing that. I wouldn't have that on my agreement and you wouldn't have permission to get in the road to do that without that agreement.

Mr. Shelmardine, I think we understand that.

Mr. Houle, We're going to continue this until February 25th.

Mr. Bessette, I'd like to thank this tonight I think it was great idea getting everybody together. I think it should happen more often.

Mr. Houle, Are you going to vote on anything tonight Cliff or how are you guys handling this so we'll know?

Mr. Tilton, Conservation needs to approve this temporary solution otherwise we can't do anything anyway.

Ms. Doyle, We're not going to approve it.

Mr. Tilton, DPW has to live with wet intersection.

Ms. Doyle, We have nothing to do with the intersection I wish you would stop saying that.

Mr. Shelmardine, We need stilling basin.

Mr. Bessette, They can still do the Cumberland Ave. it is not in our jurisdiction.

Mr. Shelmardine, Cumberland Ave. is DPW we need to meet with them on 26th. We're trying to do stilling basin now.

Mr. Bessette, Everybody says they're hooked together. We issued cease and desist order because there was problems going from that area down to Cumberland Ave. The intersection of Cumberland Ave. is not in our jurisdiction our jurisdiction is at the top of the project. Whatever happens at Cumberland Ave. we don't have problem with that.

Mr. Tilton, We have cease and desist.

Ms. Doyle, We just said to address Earthworks comments move it further away give me new plan and we'll vote to give you okay to go in. As soon as you get me that plan we'll have business meeting and we'll approve it. I just said it address Earthworks comments move it from the wetlands and submit it. Didn't I just say that?

Mr. Shelmardine, Why can't you vote now and once we've done that.

Mr. Intoccia, Subject to it is part of the conditions. You're voting with conditions A, B, C and D and we're going to follow them.

Mr. Scanlon, How long will it take you to get this temporary solution with the numbers that we need and Earthwork comments back to Conservation? Middle of next week, Wednesday?

Mr. Tilton, When is your next meeting?

Mr. Scanlon, Our next meeting is not until 26th.

Mr. Bessette, If you can get it to us we can get business meeting the following Tuesday, post it.

Mr. Tilton, Two week time frame.

Ms. Burgess, Earthworks did review for the Planning Board.

Mr. Tilton, We can interject his issues into this.

Ms. Burgess, Then you can give me the plan and Shannon the plan then if you comply move the wetlands and answered all the questions and done all that different work.

Mr. Tilton, I'm going to tell you right now the move is going to be 5ft. If we're going to have approval scenario and we're not willing to accept the 5ft. move in that pond then there is no sense of doing anything.

Mr. Shelmardine, You're making our lot unbuildable.

Mr. Houle, Conservation is that going to be okay for you guys?

Ms. Burgess, 5ft. is acceptable.

Mr. Bessette, Answer the questions of Earthworks the review get the calcs. and move it 5ft. we won't have problem with it.

Mr. Houle, Make sure all your questions are answered Jeff okay?

Mr. Tilton, I throw another line of hay bales.

Ms. Burgess, And easements.

Mr. Tilton, I will do set of calculations on this for lower storm event I'll move pond 5ft. and then I'll start design the bigger one and throw erosion control in for bottom just as second line of defense. Big ones honestly can't get through pipe anyway.

Mr. Kane, Does Conservation have storm in mind that they're looking for design?

Mr. Shelmardine, Larry you're going to get the plans to whom?

Ms. Burgess, Conservation and myself.

Mr. Tilton, I'll deliver them to Mary and Shannon.

Ms. Doyle, One more question of record we wouldn't be in this position of accomplishing everything last minute if this was handled with Public Works from the beginning.

Mr. Intoccia, My fault my company my fault I take full blame. I apologize.

Mr. Shelmardine, I need the scenario.

Mr. Tilton, I'm going to set to lay in temporary cul-de-sac, easements and I'm going to size the pond may semi be permanent on Lot 16.

Ms. Burgess, That is for our February 25th. meeting.

Mr. Shelmardine, I'm talking about temporary measures. You're going to get plans to Mary and Shannon then that is the end of it?

Mr. Tilton, They're going to vote following week.

Mr. Shelmardine, You're going to hold business meeting on Tuesday week from this coming Tuesday. In 10 days you're going to hold business meeting?

Mr. Bessette, If you have the stuff for us we can post meeting.

Mr. Shelmardine, We can start on 11th. day Mike. You have an easement?

Mr. Tilton, No not easement right of entry.

Ms. Burgess, Right of entry is better because they're going to be the ones that go in.

Mr. Shelmardine, If they're okay with Planning Board we're okay we see on the 25th. of February we see DPW on the 26th. of January and we'll come to business meeting in 10 days.

Mr. Houle, We're going to be here for last workshop.

Mr. Intoccia, Right February 25th.

Mr. Houle, I look forward to having Conservation, DPW obviously you Jeff and BOH. I want to thank everyone for coming. Especially you people for standing in the background I appreciate all your concerns.

Old Business:

Approval of Economic Development portion of the Master Plan;

Ms. Burgess, I need you to approve Master Plan.

Mr. Weymouth, Do we formally have to vote on it?

Mr. Cerrone, Yes. Make motion to approve NA Master Plan Economic Development section.

Ms. Burgess, January 2010.

Mr. Houle, As written.

Mr. Peterson, Second motion.

All in favor 5 to 0.

Ms. Burgess, I will be sending letter to SRPEDD acknowledging this vote. Then I have meeting on 25th. of January to get housing portion started.

Memo from Joann Cathcart State Ethics;

Mr. Houle, Everybody signed that?

Ms. Burgess, Yes I got everybody's in.

Other Business:

Copy of Change Order the contract;

Mr. Houle, Everything is signed right?

Ms. Burgess, Yes everything is signed we had to extend the date of contract.

Needletech;

Ms. Burgess, Steve Jacobs e-mailed us to let us know the contact person is no longer Ned and they gave us contact information it is in the file if we ever need to contact that person.

Mr. Houle, Is there any reason for that?

Ms. Burgess, They said they were looking for somebody with more experience. I don't know Ned seemed pretty upset about it.

Cameron Woods;

Copy of the covenant that shows that it was registered.

Mini Fenway;

Ms. Burgess, Don asked me to look into make sure that all the articles that were in line to make sure it was done properly in 2000.

Mr. Peterson, I thought the other night to be said it could only be used for children that is not what article said.

Ms. Burgess, It says use sport complex.

Mr. Cerrone, No it doesn't say that.

Mr. Peterson, It says recreation not to be limited to use.

Mr. Cerrone, That's right so I think. You're right the article it was sold at town meeting and what they're doing are two different things.

Mr. Peterson, It could be.

Mr. Houle, It all depends on how you look at it.

Ms. Burgess, I see what you're saying involving but not limited too okay.

Mr. Houle, That was being taken up at Selectmen's meeting tonight correct?

Mr. Peterson and Ms. Burgess, Yes they were there.

Ms. Burgess, I think they wanted to talk to us but we were here to long they have to get on our agenda.

Mr. Cerrone, Send them memo say if you want to discuss with the board.

B. of Selectmen;

Ms. Burgess, This doesn't really concern us 834 E. Washington St. Rte. 1 Marketing Café that was approved couple years ago. He wants to use it as residence but it doesn't involve us. It is a house and hasn't changed anything and he wants to continue to use it as a house.

Budget;

Ms. Burgess, I'm going to have everything ready for you for next meeting so that we can prepare our budget. Like I said before I'm going through all the last 3 budgets trying to get a good idea of what I think we can sell to adjust our budget.

Mr. Cerrone, I have question we don't have enough money this department right now. How are you going to run Community Development project? I'd like to have that question answered. We don't have money to even pay the janitor and you want to do Community Development.

Mr. Thimot, You don't have selectmen's budget.

Mr. Peterson, No that is good point.

Mr. Thimot, They always come up with an extra few bucks when they need it.

Mr. Houle, That's why we're going to go to the Finance Committee and see if we can get couple of bucks because we need it for us.

Mr. Thimot, They don't have to go to the Finance Committee.

Mr. Houle, I understand that.

Warrant Article Guide;

Ms. Burgess, They just gave 27 page warrant article guide on how to submit articles at town meeting. I just gave you the top sheet I didn't think you needed all 27 pages.

Mr. Peterson, I'd like to see it.

Ms. Burgess, I can make you a copy.

Dept. Head Meeting;

Ms. Burgess, Basically just went over the FY10 budget, CIP. I'm actually going to be going to selectmen's meeting when we hold CIP to redo the office carpets and cleaning.

Mr. Thimot, They can do that but they can't pay Nancy? What kind of game are you guys playing?

Ms. Burgess, It is not me it is building maintenance and this carpet is older than me it came with original building and this office has never been cleaned it is covered in dust it is gross. They're taking the carpet out.

ZBA;

Ms. Burgess, This is regarding the Indian Restaurant that is going to be going at 585 E. Washington. I did draw up a letter " after reviewing the above mentioned application the Planning Board has expressed several concerns about granting special permit to allow this use for this property. Current state of the property is not adequate to accommodate any new uses. Site plan approved by Planning Board in 1988 illustrates clearly defined parking area, landscape buffers between abutters and E. Washington St. and 40% open space. The ownership of the property has not changed which illustrates that the owner has not fulfilled their commitment to comply with zoning bylaws. Regardless of the approved site plan the current applicant has not provided adequate information to determine if this is good location for this use. Without knowing how many seats are in the proposed restaurant and current uses of other occupants number of parking spaces required for this use can not be determined. The Planning Board feels that the state of existing property does not currently comply with zoning bylaws and zoning board may wish to inquire to how the property can be brought into compliance".

Mr. Houle, I don't have problem with this letter. Go ahead and send it Mary.

Mr. Cerrone, How come our package was delayed this week usually we get it on Monday night?

Ms. Burgess, I was waiting for two items. I was waiting for Building Inspector letter that I didn't end up getting and I was waiting for the continuance from Bally Heather, which I did get. I only waited as long as I could for that letter. Rod had said he was going to have it to me on noon on Monday. I waited as long as I could I felt it was important enough.

Mr. Houle, We have to read it.

Mr. Cerrone, We have to read the stuff that is why I didn't get chance to read the minutes and there were couple things I couldn't vote on tonight. I like to get my package Monday night or first thing Tuesday morning. I didn't pick it up until this morning.

Ms. Burgess, It was available Tuesday morning. Linda called you guys didn't she?

Mr. Cerrone, No Linda called me 11:40 Tuesday.

Ms. Burgess, I thought she called you earlier I apologize.

Mr. Cerrone, Usually I pick up my package either first thing in the morning 8:00 or late Monday afternoon.

Mr. Peterson, It was at least mid morning because I was in the office. In was on my voice mail when I got back.

Mr. Cerrone, It was on my phone time she called it was 11:35/11:40 right around there.

Mr. Houle, Other thing Mary if there is a board member that misses a meeting obviously that is going to happen with all of us. Could you please just let that board member know by putting letter in his box and by calling that person? I don't care if you or Linda does it. That board member needs to know that he or she needs to come in here read the minutes of that meeting and that way they are all set before the next meeting. Especially if it involved something that we're going to be looking at.

Ms. Burgess, Okay.

Boch Toyota;

Mr. Weymouth, Who is going to be asking town council for opinion on Boch? I also like to know if his opinion concurs with Rod's what position that puts members of the board in?

Ms. Burgess, Do we have to comply? I already wrote that down.

Mr. Houle, It would make the whole thing go to court.

Mr. Weymouth, Paul is already waiting for that to happen.

Mr. Peterson, Reason you're asking for legal opinion is to see interpretation of the law?

Mr. Weymouth, No I don't know if Rod's opinion and town council opinion requires us to base site plan approval on it's merit of submittal and not on the issue of use. If it is then out of our jurisdiction?

Mr. Cerrone, You have to enforce zoning you have to make sure zoning is right.

Mr. Weymouth, But if your code enforcement officer uphind and town council uphind does that mean you are now burdened with their opinions.

Mr. Peterson, I would think you'd have to someone has to be the arbiter of the zoning ordinance and he is zoning official then you're asking for legal standing of the bylaw, which is a law from town council. I would think those two sources would hold great deal of weight.

Mr. Weymouth, That is why I want to ask the question.

Mr. Houle, Not only that we're asking him his opinion. If we're not going to think it is worth anything then why are we even going to ask him? I'm not saying town council is always right I'm not saying he is wrong. I'm just saying if that is the way we're going to look at it then we shouldn't even ask him anything.

Mr. Peterson, The only reason we're asking because if it was real clear in the zoning ordinance then we wouldn't be asking the question. Say for instance it was clear in zoning ordinance you'd have to go by what zoning ordinance.

Mr. Weymouth, You make good point what is sense of even asking.

Mr. Houle, Personally I said this before on other things. I understand you have some concerns about zoning of that particular piece. I don't think it is up to us to sit here as a board and try to play it is not going to be for me anyway on this board. Try and play lawyer when we're not that is someone else's job and he gets paid for that we get paid to be here.

Mr. Weymouth, Missing my point about getting opinion from him and what position that puts us as members of the board in.

Mr. Peterson, Whatever zoning ordinance says or whatever legal opinion.

Mr. Weymouth, This is not zoning issue this is use conformity issue.

Mr. Cerrone, That's right.

Mr. Houle, I agree with you.

Mr. Cerrone, Because everybody is going to be doing it.

Mr. Peterson, It is zoning issue it is in zoning ordinance.

Mr. Cerrone, Did you read the book?

Ms. Burgess, I think that lawyer made a great.

Mr. Cerrone, He has it he's right.

Mr. Thimot, This guy from Boch went ahead and threatened this board and B. of Selectmen to go to court. This board and B. of Selectmen backed down to him because he threatened to go to court and don't say it didn't happen because it did. You sat down and did your arbitrated thing baloney this now this guy thinks he can do it with everything. All he has to do is wave dollar bill up and say we're going to court and this board won't fight.

Mr. Cerrone, That lawyer is right he has it marked right in the book.

Mr. Weymouth, He is right on the money. This has nothing to do with what happen at the flea market. Flea market wasn't application for site plan approval.

Mr. Cerrone, That is right and zoning got changed after that.

Ms. Burgess, There was building on that lot too wasn't there?

Mr. Cerrone, It burned down it was just gravel parking lot there was no asphalt nothing. If I recall they had to get them out of there they couldn't use parking lot anymore there was fight with the Planning Board.

Ms. Burgess, My thing is if it is commercial parking then how can it be storage and display as well you can't have it both ways.

Mr. Cerrone, Problem you're going to get is we're going to get a guy say I'm going to build my restaurant here but I'm going to have my parking there. Once you do once everybody is going to do it.

Ms. Burgess, If this is going to be commercial parking lot then he is going to do 10 x 20 aisles every 40 parking spaces he is going to have open space calculations. If it is going to be commercial parking lot then that is what it's going to be.

Mr. Weymouth, You can't have an off premise commercial parking lot.

Ms. Burgess, Commercial parking lot in itself is allowed just like commercial parking lot that you have in downtown. That is the problem we don't have one in our definition that is the problem. Other thing though he is not going to want that property if he has to do 10 x 20 he is not going to get the inventory he wanted there. He is not going to get 300 cars but the other thing is if he has 300 parking spaces goes to MEAPA.

Mr. Peterson, Make motion we adjourn seconded by Richard Thimot.

All in favor 5 to 0 adjourn at 10:47 P.M.

Respectfully Submitted,