

VERBATIM PROCEEDINGS

OLD SAYBROOK PLANNING COMMISSION

MARCH 16, 2011

OLD SAYBROOK PLANNING COMMISSION  
OLD SAYBROOK TOWN HALL  
302 MAIN STREET  
OLD SAYBROOK, CONNECTICUT 06475

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HEARING RE: OLD SAYBROOK PLANNING COMMISSION  
MARCH 16, 2011

1                   . . .Verbatim proceedings of the Old  
2 Saybrook Planning Commission meeting, held at the Old  
3 Saybrook Town Hall, 302 Main Street, Old Saybrook,  
4 Connecticut on March 16, 2011, at 7:33 P.M. . . . .  
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6  
7  
8

9                   CHAIRMAN ROBERT MCINTYRE: Okay, we're  
10 going to call the meeting to order, the regularly  
11 scheduled meeting for the Planning Commission, Wednesday,  
12 March 16th, at 7:30 p.m. at Old Saybrook Town Hall, first  
13 floor conference room, 302 Main Street. First order of  
14 business is role call.

15                   Tonight we have myself, Bob McIntyre, Janis  
16 Esty, Vice-Chair, Sal Aresco is not here, Bob Missel is  
17 here, regular member, Don Ranaudo, regular member, and  
18 Cathryn Flanagan, alternate. Cathryn will be seated for  
19 Sal. Okay, next order of business would be minutes. We  
20 have the minutes from the 2nd. Okay, does anyone see any  
21 errors or omissions on page 1 or 2, page 3 or page 4?  
22 Hearing none could I get a motion to approve the minutes  
23 as presented?

24                   MR. DONALD RANAUDO: I'll make the motion.

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1 CHAIRMAN McINTYRE: Okay, motion has been  
2 made by Don.

3 MS. CATHRYN FLANAGAN: I second it.

4 CHAIRMAN McINTYRE: Seconded by Cathryn.  
5 Any discussion? Hearing none, all in favor?

6 VOICES: Aye.

7 CHAIRMAN McINTYRE: Opposed? All in favor.  
8 Next item on the agenda is correspondence.

9 MS. JOANNE RYNECKI: Excuse me.

10 CHAIRMAN McINTYRE: Yes.

11 MS. RYNECKI: We also have the minutes for  
12 March 8th.

13 CHAIRMAN McINTYRE: March 8th?

14 MS. RYNECKI: March 8th, yes, that was  
15 attached to the agenda.

16 CHAIRMAN McINTYRE: Oh, we haven't seen  
17 those, we haven't had a chance to review those yet.

18 MS. RYNECKI: Okay.

19 CHAIRMAN McINTYRE: So we'll do those next  
20 meeting. Okay, and so that's one thing we did get as  
21 correspondence, we got minutes. Is there any other  
22 correspondence that's going to be handed out? No other  
23 correspondence, the Committee is representative in staff  
24 reports. There's no Committee reports, no representative

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1 reports. Christine, do you have anything from staff?

2 MS. CHRISTINE NELSON: No, not this  
3 evening, no.

4 CHAIRMAN McINTYRE: Okay, thank you. Okay,  
5 next order of business is deliberation with the Preserve,  
6 modification to approve special exception for preliminary  
7 open space subdivision plan for 226 total dwelling units,  
8 925.82 total acres and open space of 556.83 total acres,  
9 Ingham Hill and Bokum Roads, map 55, L-3; map 56, L-6; map  
10 61, L-15, 17 and 18, residence conservation C District  
11 aquifer protection area, applicant, River Sound  
12 Development, LLC, owner, agent, David M. Royston.

13 Our action tonight is to consider this  
14 continued deliberation and consider and act by 4/22/2011.  
15 Okay, today -- one thing we did get from -- of course we  
16 got her latest updated version of the motion to tweak the  
17 modifications. Also, we did also -- there was also one  
18 drafted for -- we all received as e-mails for if there is  
19 a non-approval motion to be made. So we have both,  
20 whichever way -- we're still in the deliberation but as it  
21 is we can talk -- you know, talk about the e-mail. If  
22 anything that after you went home last meeting you want to  
23 come back and discuss any other questions you have, now is  
24 the time for that to happen.

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1                   And if there are no other questions what I  
2 would like -- what we'll do is we'll start to go over  
3 section by section the motion and the application for  
4 approval and we'll go from there. And we'll see if  
5 there's any -- if it brings up any other conversation and  
6 see if it sends us in another direction or we'll just stay  
7 the direction we're going. Does anyone on the Board at  
8 all have any questions since the last meeting? Let the  
9 record show that none of the Board members indicated that  
10 they had any other questions to ask at this time.

11                   Okay, the first thing -- obviously I handed  
12 out three different -- or two different motions. One was  
13 to show the motion, the final motion, and the one served  
14 as an intermediary motion that goes between the one you  
15 have off the e-mail and the one that we got tonight  
16 provided by Attorney Branse. And this just shows the  
17 changes that were made in between the two -- the two sets  
18 and we'll look at that and then we'll move on. And very  
19 little substantive change, it was basically tenths and  
20 things of that nature.

21                   And what you're looking at here is, as  
22 Attorney Branse had said at the last meeting, rather than  
23 having two separate documents he has incorporated the  
24 original approval with the changes that we had discussed

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1 at last meeting, brought them together for us to review  
2 tonight and make sure that we're all in agreement with all  
3 the changes and make sure that if there is anything  
4 additional or if something was left out.

5 There's no need to read this entire  
6 document into the record?

7 MR. MARK BRANSE: No, it's not required.

8 MS. NELSON: No.

9 CHAIRMAN McINTYRE: Okay.

10 COURT REPORTER: Your Honor, did you want  
11 to state on the record while you're deliberating or do you  
12 want to just stay on?

13 CHAIRMAN McINTYRE: Are we almost ready?  
14 Is everybody ready?

15 MR. ROBERT MISSEL: You can go ahead, I  
16 think we can --

17 CHAIRMAN McINTYRE: Okay. Okay, just for  
18 the record the document that we're going to be going over  
19 with all the Commissioners that we're looking at is a  
20 motion on the application of River Sound, LLC, the  
21 Preserve application for special exception, modifications  
22 approved in 2011. And it's a document that consists of 17  
23 pages.

24 There's an introduction, which I won't --

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1 I'm not going to read the whole document I'm going to read  
2 portions -- some highlighted issues and then we're going  
3 to discuss some of the other things that we had talked  
4 about for conditions and go through the document as you go  
5 along. If anybody sees anything in the document as we're  
6 moving along that you think we need to talk about, stop me  
7 right there, we'll go back to it and we can discuss it,  
8 okay, we can go over anything.

9 I just want to read this first part of the  
10 motion, that this motion has been modified from the  
11 applicant's application of October 12, 2010 for certain  
12 modifications, the modifications of the application, to  
13 the approved 2005 special exception. The 2005 special  
14 exception, these motions have in turn required additional  
15 findings, conditions and modifications. As with the  
16 original approval, the findings and the conditions and  
17 modifications stated below are intragual to the  
18 Commission's decision on the motion -- modification  
19 application and for those findings, conditions and  
20 modifications, the Commission would have denied the  
21 modification -- no excuse me, the modified application as  
22 either incomplete or not in compliance with its  
23 regulations.

24 Okay, the first -- as everyone knows, this

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1 document is, like I said earlier, it's comprised of what  
2 was in the original document and there's some text changes  
3 for tanks and things of that nature for now and before so  
4 we're not going to go over those. The next thing that was  
5 added for this approval, it would be Section 1-A-1. And  
6 it's -- I'll read a little bit of the beginning so it  
7 makes some -- the applicant -- this is part of the  
8 original and then it goes into the changed text and I'll  
9 tell you when I get to that part.

10 The application has contended -- the  
11 applicant has contended that because of the preliminary  
12 nature of the road pattern set forth in this special  
13 exception application there was no need for alternative  
14 road specifications to be finalized in this proceeding and  
15 that the reason why the applicant, and this is new text,  
16 did not seek the decision of the Board of Selectmen prior  
17 to the filing of the 2005 special exception application.  
18 Since the 2005 special exception, the Planning Commission  
19 has adopted new regulations for public improvements that  
20 replace the four Board of Selectman's design and  
21 construction standards so the Commission will be in the  
22 position to review road specifications in the context of  
23 the future subdivisions and special PRD applications.

24 Staff have reviewed the modification

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1 application under both the 2005 alternative road and  
2 specifications and current regulations for public  
3 improvements, which is the new road standards that we just  
4 adopted. Okay, the next portion goes -- No. 2 goes into  
5 standing to apply in access to Bokum Road over the State  
6 Valley Railroad corridor. What has changed in that  
7 portion of the document is that the Commission is aware,  
8 Exhibit No. 107, that since 2005 special exception the  
9 State of Connecticut, acting by and through it's  
10 Department of Environmental Protection, has denied one  
11 request for access but the applicant has maintained that  
12 this is not the final decision and may be revisited in the  
13 future. And we discussed that at our last meeting, that  
14 we all felt that we concur somewhat with the applicant  
15 that the process is still open it's not closed at this  
16 time until the final -- you know, until this whole  
17 application is over.

18 Then the next thing was access to Route  
19 153, Westbrook. And just a couple of changes on there in  
20 a couple of sentences -- or modification thereto of 2011,  
21 and modification of the applicant. Nothing other than  
22 just some change in the wording. Inland Wetlands and  
23 Watercourse Commission action, the changes there with this  
24 -- and I'll just start at one sentence above it. The

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1 Commission concluded that the Inland Wetlands and  
2 Watercourses Commission had exercised its jurisdiction to  
3 the extent that it's deemed appropriate, okay. And then  
4 it goes on to say -- the new text is the same that was  
5 from the original approval. And now it goes on to say the  
6 same is true of the modification application, where the  
7 Commission has received a report from the Inland Wetlands  
8 and Watercourse Commission, Exhibit No. 24, and it goes on  
9 in part -- it would be three -- no, actually it's five  
10 excuse me, it's five, paragraph five.

11 And it says that the Commission finds that  
12 the change from community affluent disposal to individual  
13 septic systems on the Pianta parcel and the west PRD and  
14 the proposed Lots off of Ingham Hill Road and the use of  
15 individual wells in the latter two areas appears to be  
16 feasible at this stage of review, which requires only a  
17 finding as to the new property and the conceptual  
18 soundness of the preliminary plan. Detailed septic system  
19 designs, well locations and other public health compliance  
20 issues will be addressed at -- excuse me, addressed at the  
21 more detailed level of review that must accompany any  
22 application for subdivision or PRD. Does anyone have  
23 anything additional to add to that?

24 MS. FLANAGAN: Feasible just means that

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1 it's doable, that it can be built is that --

2 CHAIRMAN McINTYRE: What was the question  
3 again?

4 MS. FLANAGAN: -- that feasibility study  
5 just pertains specifically to just that it can be  
6 constructed?

7 CHAIRMAN McINTYRE: Well, it appears from  
8 the testimony that we received that it could be done.

9 MS. FLANAGAN: Okay.

10 CHAIRMAN McINTYRE: It's never -- it's not  
11 saying -- you know, there wasn't enough evidence to say  
12 definitely no and there's definitely not enough evidence  
13 to say that yes, it can be. It just gives you that in  
14 between -- that feeling that yes, it is feasible.

15 MS. FLANAGAN: Okay.

16 CHAIRMAN McINTYRE: Okay B, which was  
17 compliance and standards, a couple of changes in the text.  
18 And then where we get into Section 56.2 -- let's see,  
19 let's just read this one.

20 The approved 2005 special exception open  
21 space subdivision plan as modified and conditioned in 2005  
22 special exception approval can provide public playgrounds  
23 and active recreation sites and was modified to do so, and  
24 is further modified in the modification application per

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1 Condition E below.

2                   So that's when we get -- later on when we  
3 see this is all about the park and the open space and the  
4 recreation area, and when we get to Condition E, that's  
5 where they'll address that issue. It's also the trails  
6 will be -- there was trails and now things of that nature  
7 which -- the trails for other -- let's go back to this, it  
8 makes more sense, okay. The plan already provides for  
9 outdoor recreation in the forms of golf and tennis among  
10 other activities for club members, trails for residents  
11 and general public, and the passing enjoyment of nature in  
12 the undisturbed forest area. The plan also already  
13 provides for public parks in the form of deeded open space  
14 land. The 2005 special exception did not prove expressly  
15 -- the plan did not provide expressly for preservation of  
16 Ingham Hill Homestead, but was modified to do so per  
17 Condition G, which is one of our Conditions tonight.

18                   The plan did not expressly provide for the  
19 preservation of the old Ingham Hill Road corridor but was  
20 modified to do so to the extent practical as determined by  
21 the Commission upon application for subdivision per  
22 Condition G, which we'll go over later. Then I went over  
23 open space subdivision, that was 5.6.22 -- .2.2, and then  
24 I go to the next paragraph, 5. -- 56.2.3, there's minimal

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1 changes there, these are all text. 5.2.4, okay, the plan  
2 is a preliminary plan but at this level of detail it  
3 appears compatible -- capable of including best management  
4 practices for storm water management and low impact design  
5 in the citing of individual drawing units whether in the  
6 PRD or in individual Lots. And those measures can be  
7 refined in the final subdivision and PRD application. And  
8 that's what we talked about during our -- that so many  
9 things can be done at a higher level.

10 Our next one was 5.62.5, just about the  
11 open space plan. And again, 5.2.6, open space subdivision  
12 plan, no changes there from the original document. 5.--  
13 56.1, acreage, there was no change from the original  
14 document. 5.6.2, Lot numbers, there's no change for the  
15 -- this part of this text there was no change. 5.6.3, Lot  
16 area shape and frontage, no change there. 5.6.4, open  
17 space land, no change there in the text of this document.  
18 5.6.7, permitted uses, no change there. 5.6.8, section,  
19 we got some changes there. The applicant has provided a  
20 preliminary plan for the Pianta parcel but, and this is  
21 the new text, did not include -- they did not include in  
22 the 2005 special exception application, that it was in  
23 compliance with -- this was in compliance with Section  
24 56.6.8. The modification application included a different

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1 preliminary plan from the one submitted in 2005 special  
2 exception application.

3 And the Pianta parcel is included in this  
4 application, a revised plan sheet RS-2. The plan depicted  
5 nine Lots on the Pianta parcel. The approval of the  
6 preliminary open space plan, revised plan sheet RS-6,  
7 revised through February 11, 2011, for nine single family  
8 Lots is based upon the findings and resolution on the  
9 Commission pursuant to Section 56.4 of the zoning  
10 regulations that Lot 9 -- that the nine Lots shown on the  
11 revised plan sheet RS-5, revised through February 11,  
12 2011, represents the maximum number of Lots, a reasonable  
13 subdivision of the land under the conventional subdivision  
14 plan. Does anyone have any comments on that? No  
15 comments, okay.

16 Okay Section 56.6.9, conflicting  
17 provisions, nothing in the beginning of it. However,  
18 there's C, letter C, it says withdrawal of phased  
19 development. The Commission accepts and predicates its  
20 decision on the modification application on the statement  
21 of the applicant to withdraw the request in its proposed  
22 statement of use dated October 8, 2010, that the applicant  
23 be permitted to apply for final subdivision approval of  
24 the three areas, the west PRD, Ingham Hill Road and the

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1 Pianta parcel, either as one application or the separate  
2 application and in such sequence as chosen by the  
3 applicant. Okay, then we go on to --

4 MR. MISSEL: Back on the withdrawal of the  
5 phased development.

6 CHAIRMAN McINTYRE: Ahum.

7 MR. MISSEL: Am I -- my understanding is  
8 that they would -- even though they're not now a phased  
9 development per se, they would still be able to move  
10 forward with the three individual pods, is that what we're  
11 saying in this change?

12 CHAIRMAN McINTYRE: Ask Attorney Branse to  
13 answer that.

14 MR. BRANSE: No.

15 MR. MISSEL: No, that's not --

16 MR. BRANSE: No, that's not correct.

17 MR. MISSEL: -- okay.

18 MR. BRANSE: It -- the motion requires  
19 three points of access for any development of the parcel,  
20 three interconnected points of access.

21 MR. MISSEL: That was my understanding and  
22 I would --

23 MR. BRANSE: Correct.

24 MR. MISSEL: -- and I believe this language

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1 has confused me a little bit here.

2 MR. BRANSE: Yeah, the -- it is now -- it  
3 returns to a single overall plan that must be developed,  
4 bonded, as one.

5 MR. MISSEL: Okay, thank you.

6 CHAIRMAN McINTYRE: Okay new planning, Lot  
7 totals, there's some text change -- minor text changes  
8 there that resolve -- just for clarification and other  
9 factors. It goes -- and I guess it's II-C, letter C, the  
10 modification application. The Commission has reviewed the  
11 proposed conventional subdivision plan for the Pianta  
12 parcel depicting nine Lots and find such numbers to be  
13 reasonable yield for that portion of the property.  
14 Overall, the Commission finds that the modification  
15 application depicts a feasible yield -- total yield of 224  
16 units with the Pianta parcel as compared to the original  
17 221 units without the Pianta parcel of the 2005 special  
18 exceptions.

19 Does anyone have anything on that? Okay,  
20 seeing no comments on that we're moving on. Section 3,  
21 preliminary open space plan compliance and standard, just  
22 some minor changes. And then we go into C, road pattern  
23 traffic. Here it goes into talking about the T pattern, T  
24 intersection. One thing in paragraph five, it is the

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1 verbiage, unless a T intersection is utilized per 5 -- 4.8  
2 below, and then it goes on. The next change in that  
3 paragraph was the final plan shall be advised to depict  
4 Ingham Lane roadage as extending into the forest core per  
5 the 2005 special exception. That's when we were talking  
6 it didn't show that portion of the road going up.

7 Remember we talked about when we went on our walks that's  
8 where the road was and it wasn't depicted on there but it  
9 was on the original application -- original drawing, so we  
10 made the applicant add that to -- they were going to add  
11 that to their drawings.

12 MR. MISSEL: They're going to add --

13 CHAIRMAN McINTYRE: The depiction of that  
14 road as it extends past. Right now it's not on there --

15 MR. MISSEL: Well the original -- yeah, the  
16 drawings that we -- let me just back up because sometimes  
17 I get a little confused here.

18 CHAIRMAN McINTYRE: Ahum.

19 MR. MISSEL: The drawings that we were  
20 given showed cul-de-sac ends at all of the -- at Ingham  
21 Hill, at Bokum Road and on the west pod as well. So now  
22 what we're saying is that on the next set of drawings that  
23 we're going to see, we're going to see those roads  
24 continue through as they were on the original drawings

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1 right?

2 CHAIRMAN McINTYRE: Right. Well, we  
3 probably won't see those drawings. It would be part of  
4 the condition of approval that the applicant to get, you  
5 know, for the final deal to be done -- after everything is  
6 done, there's other things behind the scenes that need to  
7 be done.

8 MR. MISSEL: Yeah, right.

9 CHAIRMAN McINTYRE: So Jeff Jacobson and  
10 the engineer will be working or making sure that the --  
11 that is added to the drawing.

12 MR. MISSEL: That's what we discussed at  
13 our last deliberation meeting.

14 CHAIRMAN McINTYRE: Right, yeah, but we  
15 won't see it.

16 MR. MISSEL: Because it would be confusing  
17 right now if we were to lay these plans out and you see  
18 all the cul-de-sacs there in the drawings but yet in all  
19 we're now saying that if we approve this, the road work  
20 has to be done.

21 MR. BRANSE: Yeah that's -- I mean Mr.  
22 Prisloe pointed that out at the last deliberations, that  
23 the applicant modified the proposal to say these are not  
24 standalone pods, the roads extend through. But the plans

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1 in front of you show --

2 MR. MISSEL: Did not show that.

3 MR. BRANSE: -- showed the cul-de-sacs,  
4 that's right.

5 MR. MISSEL: Exactly.

6 MR. BRANSE: So this -- what I've done in  
7 this motion is to expressly state that has to be changed  
8 to put them back the way they were before.

9 MR. MISSEL: Right, right. And then the  
10 original -- just backing up just thinking back to the  
11 original -- what was it, in October when the original  
12 motion was made for the modification --

13 MR. BRANSE: The application.

14 MR. MISSEL: -- the application, that at  
15 that point in time it was a phased project and it wasn't  
16 -- and it seemed to be a phased project until probably it  
17 was -- I think it was the last public hearing when that  
18 was withdrawn, am I correct?

19 MR. BRANSE: That is correct.

20 MR. MISSEL: So at that point, we now go  
21 back to the original 2005 approval.

22 MR. BRANSE: That is correct.

23 MR. MISSEL: Thank you.

24 CHAIRMAN McINTYRE: Okay, and I just want

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1 to --

2 MR. BRANSE: Worth checking.

3 MR. MISSEL: Yeah, I'm just --

4 CHAIRMAN McINTYRE: Okay Bob --

5 MR. MISSEL: -- yeah, I'm sorry.

6 CHAIRMAN McINTYRE: Looking -- the  
7 statement you made, I'm looking at RS-3, the revision date  
8 2/11/11. The area that we were talking about, there was  
9 no original -- even on the original plans on this portion  
10 right here there was no -- why don't you come around and  
11 just take a look.

12 MR. MISSEL: Yeah, I will. And we've  
13 looked at so many plans Bob, it does get confusing.

14 CHAIRMAN McINTYRE: Yeah, and I'm looking  
15 at -- I believe we identified it at last meeting as SNET  
16 Marker 1427. There is actually -- on the plans that are  
17 on file in Town Hall for the 2005 approval, there is a  
18 road that runs -- that ran right here and it kept running  
19 all the way through and it then it would show branched off  
20 through the village to Bokum Hill and into Westbrook.

21 MR. MISSEL: That's right, right.

22 CHAIRMAN McINTYRE: That's the portion --

23 MR. MISSEL: And that would be the road --  
24 was that H?

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1 CHAIRMAN McINTYRE: Right, I believe that's  
2 H.

3 MR. BRANSE: Yes.

4 CHAIRMAN McINTYRE: But there is no cul-de-  
5 sac that would be depicted or associated with this portion  
6 of road that that paragraph is talking about because --

7 MR. MISSEL: Right, but what we're looking  
8 for is to set some point in time to show roadage.

9 CHAIRMAN McINTYRE: Well yes, that a part  
10 of the condition of approval, that the applicant take this  
11 drawing and modify this drawing when it's submitted for  
12 final approval and --

13 MR. MISSEL: So that we can see that road H  
14 --

15 CHAIRMAN McINTYRE: Exists, right.

16 MR. MISSEL: -- exists.

17 CHAIRMAN McINTYRE: Right.

18 MR. MISSEL: And our approval would be  
19 based on the fact that upon this development moving  
20 forward, that road H would --

21 CHAIRMAN McINTYRE: Exist, yes.

22 MR. MISSEL: -- exist.

23 CHAIRMAN McINTYRE: Right.

24 MR. MISSEL: Thank you.

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1                   CHAIRMAN McINTYRE: Okay and now on to No.  
2     6, off-site improvements Bokum Road and what was added by  
3     -- Bokum Road must be investigated by a traffic study and  
4     feasibility analysis for necessary improvements that are  
5     required. And that was basically a change in wording of  
6     paragraph six. D says -- on page 10 says clustering in  
7     the east to the estate Lots areas, there's some changes in  
8     words, parameter changes. Then E, design of village --  
9     the village areas, no change there. F, active recreation  
10    facilities for the public, no change there. G, location  
11    of maintenance facility, no change there. H, preservation  
12    of Ingham Hill Homestead, no change there.

13                   Connecticut General Statute 22a-19,  
14    intervention, the beginning of the paragraph remains the  
15    same and what's been added is for the modification  
16    application the Commission has considered the conflicting  
17    expert testimony and finds that the proposed modification  
18    plans as revised during the course of the public hearing  
19    are not reasonably likely to unreasonably impair, pollute  
20    or destroy the public trust in the air, water or other  
21    natural resources of the State of Connecticut. In  
22    addition, the Commission has modified the application as  
23    set forth below to include specific requirements for  
24    protection of the Box Turtle identified on the site at the

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1 time of subdivision or PRD application. Anyone have any --  
2 anything you want to discuss on that?

3 MS. NELSON: The only other thing was the  
4 plans were revised to accommodate the prickly pear on the  
5 last PRD.

6 CHAIRMAN McINTYRE: Oh, we need to add  
7 that, yeah.

8 MR. BRANSE: One moment --

9 CHAIRMAN McINTYRE: -- yeah.

10 MR. BRANSE: -- just one second. Okay,  
11 I've added a sentence at the end of that paragraph that  
12 says the plan was modified during the course of the  
13 application to protect the habitat for the prickly pear.

14 CHAIRMAN McINTYRE: Okay.

15 MR. BRANSE: Okay.

16 CHAIRMAN McINTYRE: Anyone have any --

17 MR. BRANSE: And that's on screen, you  
18 don't have --

19 MR. MISSEL: -- you're not that -- you're  
20 fast but not that fast.

21 MR. BRANSE: Not that fast.

22 CHAIRMAN McINTYRE: So -- and with sentence  
23 being added does anybody have any express concerns about  
24 that sentence?

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1 MS. FLANAGAN: This is saying that if this  
2 is approved there will be a specific protocol for  
3 requirements for protection and we haven't yet seen --

4 CHAIRMAN McINTYRE: We did on the map --

5 MS. FLANAGAN: -- specific for the --

6 CHAIRMAN McINTYRE: Let's take a look here.

7 MS. JANIS ESTY: So you're asking a  
8 question on the map or a question --

9 MS. FLANAGAN: No, it's not in the map.  
10 It's a question of where it says to include specific  
11 requirements for protection of the Box Turtle.

12 MS. ESTY: We don't know what those are.

13 MS. FLANAGAN: We don't know what those are  
14 right now.

15 MS. NELSON: It says -- you have to  
16 continue reading, at the time of subdivision or PRD  
17 application, so those are the subsequent --

18 MR. MISSEL: What's going to follow --

19 MS. FLANAGAN: Well, it wasn't before that  
20 --

21 CHAIRMAN McINTYRE: Right.

22 MS. NELSON: -- right, but they're more  
23 detailed orientated.

24 MS. FLANAGAN: Okay.

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1                   MR. BRANSE: Because these plans are still  
2 at a pretty large scale. They're a preliminary plan and  
3 they don't show construction details.

4                   CHAIRMAN McINTYRE: Okay, you all set?  
5 Okay, any other Board members have any other questions?  
6 Okay, moving on to page -- we're on page 11, the  
7 preliminary open space plan, modifications and conditions  
8 as in the -- they made some minor changes in the first  
9 paragraph. And then it says, therefore the special  
10 exception is granted, new text, based on RS-1 through RS-  
11 6, revised through February 11, 2011, subject to the  
12 following conditions or modifications.

13                   Now there's -- the first one was access to  
14 Ingham Hill Road, which in the original application they  
15 wanted it to be an emergency access only. The Board  
16 decided that it needed to be full access and what we've  
17 added to the portion of that paragraph was that the  
18 proposed T intersection proposed in the modification  
19 application in the area of Ingham Hill Road and a new  
20 proposed cul-de-sac between Lots 2 and 9, is approved in  
21 concept subject to the provisions of detailed plans at the  
22 subdivision application stage. Furthermore, the  
23 preliminary plan will be modified to depict a less severe  
24 curve on Ingham Hill Road in the area of the north of CL&P

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1 Pole 2280, see condition one.

2 MR. BRANSE: I.

3 CHAIRMAN McINTYRE: Oh, I --

4 MR. BRANSE: I, right.

5 CHAIRMAN McINTYRE: -- okay I, so that's  
6 what we had talked about the last week we were at the  
7 meeting, we all discussed the appropriateness of that T  
8 intersection --

9 MR. MISSEL: Yeah.

10 CHAIRMAN McINTYRE: -- and if there were  
11 any safety concerns that we had it or even if it would be  
12 feasible to do it that way.

13 Then the village layout, we didn't discuss,  
14 there's some changes there. The golf course design, we  
15 didn't discuss. Then at the end of page 12 there's --  
16 it's No. 7, emergency vehicle access will be provided  
17 throughout the golf course to the extent feasible and an  
18 emergency access map specifying the types of vehicles for  
19 which access is available shall be provided to the Fire  
20 Department.

21 Okay clustering of estates, D, there is no  
22 change there. E, active recreation, minor changes and  
23 until we get to page 13, and I'll just read this whole  
24 thing. Active recreation, the area -- a level area for

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1 active recreation at least 10 acres in this area shall be  
2 depicted and approved for by the residents of all the --  
3 residents of the Town of Old Saybrook. Okay, and then it  
4 goes on to read the location for the active recreation  
5 area depicted in modification -- the modification  
6 application, sheet RS-3 revised through February 11, 2011,  
7 and shall be subject to Note No. 5 on said sheet RS-3,  
8 providing for prior review by the Parks & Rec Commission  
9 of the engineering plans for the fields specifically  
10 including the changes in the elevations of the fields and  
11 access to them. See Condition I, and that's through the  
12 Commission.

13 Location and maintenance facility, and what  
14 was added to that paragraph was the applicant will also be  
15 subject to Condition I as regards to site prior -- to this  
16 site prior to final approval.

17 MR. BRANSE: And I left out the word to, I  
18 just wrote that in, regards to this site.

19 CHAIRMAN McINTYRE: Okay G, preservation of  
20 Ingham Hill Homestead hasn't changed. Off-site  
21 improvements hasn't changed. Now we're at letter I on  
22 page 13, plans and statement of use. Okay, this is all  
23 the -- okay. Plans and statement of use, upon approval of  
24 the modification -- and this is all new text and there's a

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1 lot of it.

2 Okay, plans and statement of use. Upon  
3 approval of the modification application the applicant  
4 shall provide 1,000 scale -- excuse me, 100 scale  
5 preliminary plans and an amended statement of use per  
6 review and approval of the Commission staff as having  
7 incorporated all the conditions and modifications of the  
8 2005 special exception as modified by the approval of the  
9 modification application. Upon such review and approval  
10 the plans will be so endorsed and filed in the Land Use  
11 office and the Town Clerk's office. No final subdivision  
12 approval for special exception condition compliance  
13 application shall be made prior to compliance with this  
14 condition. Okay, that was I.

15 J, additional find -- does anybody have any  
16 questions about I? Let the record show no one had any  
17 questions. J, additional final application requirements.  
18 The entire 925.82 acres of the River Sound property in Old  
19 Saybrook shall be tested by Motorola or the Fire  
20 Department for coverage upon the new municipal Public  
21 Safety and communications system.

22 MR. BRANSE: Mr. Chairman.

23 CHAIRMAN McINTYRE: Yes.

24 MR. BRANSE: Just one thing on all of these

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1 J items --

2 CHAIRMAN McINTYRE: Yeah.

3 MR. BRANSE: -- these were part of a  
4 memorandum from the Town's Public Safety personnel. The  
5 applicant has accepted these and said they're willing to  
6 comply with them. Really, they deal with details of the  
7 subdivision. You can read them if you wish to but I don't  
8 think they're items of dispute by the applicant or anyone  
9 else.

10 CHAIRMAN McINTYRE: Okay.

11 MR. BRANSE: This is just taken verbatim  
12 from the Public Safety report that we got.

13 CHAIRMAN McINTYRE: Okay, and everybody has  
14 read it -- have all the Commission members already read  
15 this paragraph?

16 VOICES: Ahum.

17 CHAIRMAN McINTYRE: And let the record show  
18 all Commission members have previously read this  
19 paragraph. Okay, K was left intentionally as blank.

20 MR. BRANSE: And let me just explain why  
21 that is. Because this is sort of moved as changes went  
22 through the process, the last version of the requested  
23 conditions of approval that you received from the  
24 applicant referenced Condition K, but as a result of the

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1 change at the last hearing Condition K became irrelevant.

2 Condition K talked about the phasing that's  
3 been withdrawn, so if I took K out then all the other  
4 references would have been wrong --

5 MR. MISSEL: Right.

6 MR. BRANSE: -- so I just left K there  
7 blank, okay, so now we don't mess up all the other  
8 references.

9 MR. MISSEL: Right, oh that would be a  
10 disaster.

11 CHAIRMAN MCINTYRE: Okay, we're going to  
12 move on to page -- we're still on page 14, L, road width.  
13 The road width for all roads shall be consistent with the  
14 clarification of roadways as originally approved by the  
15 Commission on the 2005 special exception plans, i.e., not  
16 reduced in width per the modification application plans.  
17 That's where the applicant wanted to have the road with  
18 less and then after -- it proved later that if everything  
19 went through then they would expand the road. We decided  
20 that was not a good idea to --

21 MR. MISSEL: It would have to be expanded  
22 within --

23 CHAIRMAN MCINTYRE: -- right, so we figured  
24 it should be done now.

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1                   Okay M, the Box Turtle protection measures.  
2           The applicant's consultant referenced accepted protocol  
3           with the protection of Box Turtles during the construction  
4           activities. These protocols will be incorporated into the  
5           future subdivisions and/or PRD applications. Okay, any --  
6           that happens later. Alright, any other questions about  
7           the Box Turtle? Seeing none, we're going to move on to N.

8                   Since the applicant has withdrawn the  
9           initial request to develop individual standalone  
10          development pods and will proceed with development of the  
11          parcel in its entirety as originally proposed, there is no  
12          longer need for a turnaround at the end of any roadway and  
13          as such this element should be eliminated from the road  
14          modification preliminary open space subdivision plan --

15                   MR. BRANSE: Mr. Chairman --

16                   CHAIRMAN McINTYRE: -- yeah.

17                   MR. BRANSE: -- just on that, Mr. Jacobson  
18          has pointed out to me that actually it should say any  
19          road, there is one cul-de-sac still in this plan.

20                   CHAIRMAN McINTYRE: Right, and I was going  
21          to bring that out.

22                   MR. BRANSE: So I guess supposedly roads A  
23          or B, and the question is unfortunately these plans, road  
24          A became road -- or road H became road A. We called it

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1 road -- it was called road H in 2005. Road B Jeff, what  
2 -- did it have an equivalent in 2005?

3 MR. JEFF JACOBSON: It was still road B.

4 MR. BRANSE: It was still B.

5 MR. JACOBSON: Yes.

6 MR. BRANSE: Okay, so if I put in here road  
7 A also designated at times as road H or road B, will it be  
8 okay?

9 MR. JACOBSON: Yes.

10 MR. BRANSE: Okay, so what I've changed  
11 here is instead of ending I put at the end of roads A,  
12 also designated at times as road H, or B, and as such,  
13 etc., just to correct -- because there is one cul-de-sac  
14 that would still remain.

15 MR. JACOBSON: Actually there's one of the  
16 estate Lots.

17 MR. BRANSE: Oh okay, another two of them  
18 -- okay.

19 MR. JACOBSON: Yeah.

20 CHAIRMAN McINTYRE: Yeah.

21 MR. BRANSE: So that corrects that by  
22 designating these two as going through.

23 MR. JACOBSON: Right, right.

24 CHAIRMAN McINTYRE: Okay. Okay, in the

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1 Ingham Hill Road area, this required that the extension of  
2 Ingham Hill Road into road H be depicted as shown on the  
3 original preliminary open space subdivision plan sheet RS-  
4 1, and modified preliminary open space plan subdivision  
5 plan sheet RS-2, to the east of Lot 10 and to the north  
6 and west of vernal pool No. 31, including the reservations  
7 of sloping rights. All detailed plans shall be modified  
8 to conform to the 2005 special exception plan to  
9 interconnect roads with such grades, sloping rights and  
10 other measures as may be required to conform to the 2005  
11 special exception plan and the open space calculations  
12 shall be modified to reflect this change.

13 Okay, and then we have O. Does anybody  
14 have any questions -- is everybody clear on the changes  
15 that were made referencing the -- there are two cul-de-  
16 sacs still remaining?

17 MR. MISSEL: I thought it was only one  
18 still remaining?

19 CHAIRMAN McINTYRE: No, we're in --

20 MR. JACOBSON: There's one in the estate  
21 Lots in the original 2005 plan --

22 CHAIRMAN McINTYRE: And then one in Ingham  
23 Hill by the --

24 MR. MISSEL: Okay.

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1                   CHAIRMAN McINTYRE:  -- by the end of that  
2                   roadway, you know, recreation area.

3                   MR. MISSEL:  Ahum.

4                   CHAIRMAN McINTYRE:  Okay, Lots 3 and 4  
5                   shall be reconfigured with a common Lot line that is  
6                   perpendicular to the roadway right-of-way and more direct  
7                   access provided to Lot 4.  I've got a question here  
8                   because when we talked about it, this is one of the things  
9                   I talked about, that was that portion of the road -- that  
10                  Lot we were looking at that had that very long narrow  
11                  strip along -- it started in 3 and worked its way in  
12                  there.

13                  And Mark, I don't know if maybe this thing  
14                  covers the point I was trying to make there that without  
15                  that, Lot 4 cannot be developed until after the roadway is  
16                  extended because there is no way to get to it if it's  
17                  divided -- you know, it gets cut down the middle  
18                  separating so that that portion of the driveway that would  
19                  be going across 3, you know, had the right-of-way going  
20                  across 3, that's going to end and taken out of the picture  
21                  and then it's going to be divided and -- you can't have  
22                  Lot 4 until later on development occurs.

23                  MR. MISSEL:  So the road would be extended.

24                  CHAIRMAN McINTYRE:  No, no, we couldn't

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1 extend it. We talked about that. We talked about  
2 extending the cul-de-sac when I asked the Town engineer  
3 Jeff Jacobson. I asked him, you know, can we extend that?  
4 And he said -- because if we did we'd be extending it that  
5 very high sloped area

6 MR. MISSEL: Yeah, I --

7 CHAIRMAN McINTYRE: -- and that was part of  
8 the conversation. So we made the determination that we  
9 would leave the cul-de-sac where it's at and kind of a  
10 condition that Lot 4 couldn't be built until after the  
11 road got extended. And it's approved, it's an approved  
12 Lot.

13 MR. MISSEL: Right, well that's what I was  
14 saying -- that's what I -- I think what the Commission  
15 communicated --

16 CHAIRMAN McINTYRE: Does everybody remember  
17 --

18 MR. MISSEL: -- yeah, I remember it.

19 CHAIRMAN McINTYRE: -- is that --

20 MR. MISSEL: -- right, so what we're saying  
21 is Lot 4 wouldn't be done until that roadway was to be  
22 extended --

23 MR. BRANSE: Okay, that's where I'm lost.  
24 So I don't think there's a cul-de-sac anymore.

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1                   CHAIRMAN McINTYRE: Yes, it's there. There  
2 has to be a cul-de-sac there.

3                   MR. MISSEL: Well, it could just be a road  
4 ending.

5                   CHAIRMAN McINTYRE: Well then -- well it's  
6 --

7                   MR. JACOBSON: No, because now you're  
8 looking -- it's going to be in its entirety. There's no  
9 more of those pods so there's no need for a cul-de-sac  
10 there anymore.

11                  CHAIRMAN McINTYRE: Oh, so --

12                  MR. MISSEL: It's just a road ending.

13                  CHAIRMAN McINTYRE: -- oh, okay that's why.

14                  MR. BRANSE: No it's not ending, it's going  
15 through.

16                  CHAIRMAN McINTYRE: So that's why --

17                  MR. MISSEL: That's right, I mean just for  
18 that --

19                  CHAIRMAN McINTYRE: So the cul-de-sac is  
20 going to -- the road is just going to end.

21                  MR. JACOBSON: Yeah, there will be no end  
22 it's going to be developed in its entirety unless they  
23 come back at some future point --

24                  CHAIRMAN McINTYRE: Oh okay, I see what

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1       you're getting at.

2                   MR. JACOBSON:  -- yeah.

3                   CHAIRMAN McINTYRE:  Okay.

4                   MR. BRANSE:  Well Jeff, then is Condition O  
5       still relevant and is it still -- do we still need to say  
6       that?

7                   MR. JACOBSON:  Yes, I think so.

8                   MR. BRANSE:  You think so, okay, alright.  
9       Anyway, it should still have a more direct access anyhow.

10                  MR. JACOBSON:  Yes.

11                  MR. BRANSE:  Okay.

12                  CHAIRMAN McINTYRE:  Yeah, it straightens  
13       out -- it's a really bad way of engineering access to the,  
14       you know Lot 4, where it made more sense to square it off  
15       and not have a long narrow driveway going, so.

16                  MR. MISSEL:  Okay, so.

17                  CHAIRMAN McINTYRE:  Alright anybody else  
18       --

19                  MR. SANDY PRISLOE:  Mr. Chairman --

20                  CHAIRMAN McINTYRE:  Yes.

21                  MR. PRISLOE:  -- or Mr. Branse, do you want  
22       to say Lots 3 and 4 on the Pianta parcel because there's a  
23       Lot 3 --

24                  MR. BRANSE:  Are there multiple Lots 3 and

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1 4?

2 MR. PRISLOE: -- aren't there 3 and 4 on  
3 the Ingham Hill?

4 MR. BRANSE: Oh, then definitely.

5 MR. MISSEL: Yeah, that would be --

6 MR. BRANSE: The Pianta parcel.

7 MR. MISSEL: -- that would be very  
8 important.

9 MR. BRANSE: Got it.

10 CHAIRMAN McINTYRE: Okay, everyone all set?  
11 Okay next is page -- we're still on page 15.

12 MR. MISSEL: D.

13 CHAIRMAN McINTYRE: Yes, modified  
14 preliminary open space subdivision plan shall depict the  
15 relocation of the proposed detention basin as is adjacent  
16 to Lot No. 9 by shifting it further to the southwest so as  
17 to preserve the 100 foot envelope associated with the  
18 vernal pool No. 34, as well as the 100 foot Inland  
19 Wetlands regulated area.

20 The detention basin must continue to be  
21 located at an elevation that will allow surface runoff  
22 from the proposed roadway extending down to Bokum Road to  
23 be conveyed back to the detention basin. In addition, to  
24 the extent that it is feasible --

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1 MR. BRANSE: Extension that it is.

2 CHAIRMAN McINTYRE: -- extension that it is  
3 feasible.

4 MR. BRANSE: I've just added that.

5 CHAIRMAN McINTYRE: Okay. Low impact  
6 development techniques shall be utilized to minimize the  
7 impact associated with point source discharge from the  
8 detention basin. And that was that detention basin we all  
9 talked about --

10 MR. MISSEL: That was also the Pianta  
11 property as well right?

12 CHAIRMAN McINTYRE: Yes.

13 MR. MISSEL: Yeah, so we ought to add that  
14 in on that T also because there's another Lot 9 as well.

15 MR. BRANSE: I just did, Lot 9 on the  
16 Pianta parcel.

17 MR. MISSEL: Thanks.

18 CHAIRMAN McINTYRE: Okay, any other  
19 questions on that?

20 MR. MISSEL: No.

21 CHAIRMAN McINTYRE: Okay Q, the Ingham Hill  
22 Road area. The layout of the proposed recreation areas  
23 specifically including the location and number of parking  
24 spaces shall be subject to review of the Old Saybrook

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1 Parks & Rec Commission at the time of subdivision  
2 application. Okay, no comments on that.

3 R, the Ingham Hill Road area, the layout of  
4 the proposed trailhead parking area specifically including  
5 the location and number of parking spaces, shall be  
6 subject to review of the Old Saybrook Conservation  
7 Commission at the time of subdivision application.

8 S on page 16, in the Ingham Hill Road area  
9 preliminary open -- the preliminary plan will be modified  
10 to depict a less severe curve on Ingham Hill Road in the  
11 area north of CL&P Pole No. 2280. The proposed T  
12 intersection proposed in the modification application in  
13 the area of the Ingham Hill Road and new proposed cul-de-  
14 sac between Lots 2 and 9 is approved in concept, subject  
15 to the provision of detailed plans at the subdivision  
16 application stage. RS-3 shall be modified to conform to  
17 the overall preliminary plan of the 2005 special exception  
18 and depict the connection to roadage from Ingham Hill  
19 Road. So that's adding the T section to the plan.

20 MR. BRANSE: And Mr. Chairman, I -- Mr.  
21 Jacobson pointed out that it should say northwest of CL&P  
22 Pole 2280.

23 CHAIRMAN McINTYRE: Okay.

24 MR. BRANSE: So I added north -- I made it

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1 northwest.

2 CHAIRMAN McINTYRE: Alright. And still on  
3 page 16, No. T -- I mean paragraph T, in the PRD west area  
4 the proposed nature center pavilion depicted on the  
5 approved 2005 special exception plan shall be retained at  
6 this time subject to further review from the Conservation  
7 Commission at the time of subdivision application.  
8 Commission is reluctant to eliminate this entity -- excuse  
9 me amenity, without having more detailed information about  
10 why according to the applicant the Conversation Commission  
11 requested its removal.

12 MR. BRANSE: By the way, was it  
13 Conservation or Parks & Rec? I remember it as  
14 Conservation but -- it's not critical.

15 MR. JACOBSON: What was the question?

16 MR. BRANSE: Whether -- who it was that had  
17 questions about the proposed nature center pavilion,  
18 whether it was Parks & Rec or Conservation.

19 MS. NELSON: I think it was Conservation.

20 MR. BRANSE: Okay.

21 MR. JACOBSON: I was going to say Parks &  
22 Rec.

23 MR. BRANSE: Okay, should I say from the  
24 Conservation or other applicable Commissions?

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1 CHAIRMAN McINTYRE: Yes.

2 MR. MISSEL: That should cover all.

3 MR. BRANSE: What's that, not the --

4 MR. JACOBSON: We were talking about the  
5 location of the pavilion and which -- number one, which  
6 set of drawings it was on, whether it was the Wetlands  
7 drawings on the original open space subdivision and where  
8 it was located because at least on one of the sets of  
9 drawings that I looked at today it was located in the Rec  
10 area off of Ingham Hill.

11 MS. NELSON: The 2005 open space  
12 subdivision?

13 MR. JACOBSON: That was on -- no, the one  
14 that I looked at it was actually the Wetlands drawing  
15 because there was no Rec area shown on the open space  
16 subdivision drawings --

17 MR. BRANSE: Of 2005?

18 MR. JACOBSON: -- of 2005.

19 MS. NELSON: Or in the PRD west area?

20 MR. JACOBSON: Not that I recall, but --

21 CHAIRMAN McINTYRE: I was on Wetlands also,  
22 so I remember us discussing that in Wetlands --

23 MS. NELSON: Ahum.

24 CHAIRMAN McINTYRE: -- and that it was

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1       towards the Homestead somewhere because it was like a  
2       pickup point for the homestead.

3                   MS. NELSON:   Right.

4                   MR. BRANSE:   It was a trailhead.

5                   CHAIRMAN McINTYRE:   Yeah.

6                   MR. BRANSE:   It was a trailhead and I  
7       thought also it was in the PRD west.

8                   CHAIRMAN McINTYRE:   Yes.

9                   MR. BRANSE:   At least in 2005 I thought it  
10      was.

11                   MS. NELSON:   It was, but it was in the  
12      Wetlands Commission application not the Planning  
13      Commission application.

14                   MR. BRANSE:   Okay, well I wasn't at  
15      Wetlands so the only place I would have heard that would  
16      be here.

17                   MS. NELSON:   Okay, it can certainly be a  
18      modification of their plan.

19                   CHAIRMAN McINTYRE:   It was discussed and --

20                   MR. BRANSE:   Well, the question is going to  
21      be they have to designate a suitable location for it.

22                   CHAIRMAN McINTYRE:   Right.

23                   MS. NELSON:   Right.

24                   MR. BRANSE:   And based on the advice of

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1 other Commissions.

2 CHAIRMAN McINTYRE: Correct. Okay, I  
3 believe we were on --

4 MR. BRANSE: U.

5 CHAIRMAN McINTYRE: -- yes, U. U, we're on  
6 page 16. In the Ingham Hill Road area the final  
7 subdivision plan shall depict a storm water management  
8 plan that intercepts as much of the runoff as possible  
9 from the vicinity of the west of Station No. 7, plus 00,  
10 and piping it back to the proposed detention basin at  
11 Station 4 plus 00, so as to limit the discharge to the  
12 western portion of Lot 8.

13 Provisions should be made for the discharge  
14 of the remaining portion of the roadway further to the  
15 west of Lot 8 where existing slopes are not as steep and  
16 the potential for erosion is reduced. Low impact  
17 development practices should be utilized on Lots 3, 4 and  
18 5, to reduce runoff from the area and the maintenance  
19 shall be assumed by the decoration and conveyance to be  
20 finalized at the time of subdivision application. Anybody  
21 have any questions on that? Hearing no questions, I'll go  
22 on to V.

23 Detention ponds located on the south of Lot  
24 9 shall be designated to provide renovation of storm water

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1       quality as well as volume detention using best management  
2       practices at the time of the subdivision application to  
3       protect the wetlands located to the southwest of Lot No.  
4       2.

5                   MR. BRANSE:   And Mr. Chairman on that, Mr.  
6       Jacobson told me it should be generally located north of  
7       Lot 9, I put south, apparently it's actually north of.  
8       And this is, again, Lot 9 on the Pianta parcel Jeff?

9                   MR. JACOBSON:   Yes.

10                  CHAIRMAN McINTYRE:   Yeah.

11                  MR. BRANSE:   Okay, and then -- yes?

12                  CHAIRMAN McINTYRE:   Yeah, this is Lot --

13                  MR. BRANSE:   9 on Pianta parcel or is it a  
14       different --

15                  MR. JACOBSON:   No, it's Lot 9 on Ingham  
16       Hill.

17                  MR. BRANSE:   Oh, okay.   I'm glad I asked.

18                  MS. NELSON:   Oh, maybe this --

19                  CHAIRMAN McINTYRE:   Okay, that's the one  
20       that's on the other side --

21                  MR. JACOBSON:   Wait a minute, hold on a  
22       second -- hold on --

23                  CHAIRMAN McINTYRE:   -- over by 9 and 10.

24                  MR. BRANSE:   Okay.

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1 MR. JACOBSON: -- it's to the south of --

2 MR. BRANSE: It was south?

3 MR. JACOBSON: -- you were right.

4 MR. BRANSE: Okay.

5 MR. JACOBSON: It was to the south of Lot 9  
6 on Ingham.

7 CHAIRMAN McINTYRE: You're talking about  
8 this detention pond right there?

9 MR. MISSEL: Ahum, yeah.

10 MR. BRANSE: And it is off of Ingham Hill  
11 Road?

12 CHAIRMAN McINTYRE: It's the new -- yeah,  
13 it's the new portion B. It's off of -- it's actually on  
14 the corner of where road B and the T intersection --

15 MR. BRANSE: So off of road B and Ingham  
16 Hill Road.

17 CHAIRMAN McINTYRE: Right.

18 MR. BRANSE: And is it still southwest of  
19 Lot 2 or is it south of Lot 2 Jeff?

20 MR. JACOBSON: South of Lot 2.

21 MR. BRANSE: South of, okay.

22 CHAIRMAN McINTYRE: No, north --

23 MR. JACOBSON: No, the -- he is referencing  
24 the wetlands to the --

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1 CHAIRMAN McINTYRE: Oh, the wetlands, yeah.

2 MR. JACOBSON: -- it would be to the south  
3 of that.

4 MR. BRANSE: To the south.

5 CHAIRMAN McINTYRE: Yes.

6 MR. BRANSE: Okay, I had southwest so it  
7 should be south.

8 MR. JACOBSON: South, correct.

9 MR. BRANSE: Okay., okay.

10 CHAIRMAN McINTYRE: Okay, does anyone have  
11 any questions on V? Okay, seeing none we're going to move  
12 on to W. In the subdivision review the applicant shall  
13 examine the relocation of the access driveway to the  
14 recreation area from area Lots 5, 6 and 7 --

15 MR. BRANSE: On Ingham Hill Road or on road  
16 B, Ingham Hill Road?

17 CHAIRMAN McINTYRE: -- well, it's on road  
18 B.

19 MR. BRANSE: Okay.

20 CHAIRMAN McINTYRE: Everything will stay on  
21 road B.

22 MR. BRANSE: To the --

23 CHAIRMAN McINTYRE: To the area between  
24 Lots 3 and 4 -- did we say Lots 3 and 4 or did -- we were

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1 going to put it -- it looked like --

2 MR. JACOBSON: Well, it would have either  
3 been between Lots 3 and 4, through Lot 3 --

4 CHAIRMAN McINTYRE: -- well yeah --

5 MR. JACOBSON: -- in that general area.

6 CHAIRMAN McINTYRE: In that general area.

7 MR. JACOBSON: Yeah. And that's -- so it'd  
8 have to be between 3 and 4.

9 CHAIRMAN McINTYRE: Right, it's in that  
10 generalized area.

11 MR. JACOBSON: In that general area.

12 MR. BRANSE: Should I say instead of  
13 between in the area of Lots 3 and --

14 CHAIRMAN McINTYRE: Right.

15 MR. JACOBSON: Yeah, yes you can.

16 CHAIRMAN McINTYRE: Okay, and the  
17 Commission reserves the right to require such relocation  
18 based on more detailed plans of the subdivision review  
19 process. The Commission is concerned about the traffic  
20 impact for the recreation area on the dwellings along the  
21 proposed new cul-de-sac, and fields that access closer to  
22 Ingham Hill Road would reduce that impact. It is possible  
23 that such relocation will require the elimination or  
24 relocation of Lot 3, and the Commission may also require

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1 at the time of subdivision review -- I don't know, do we  
2 really say the elimination of 3 or we just -- everything  
3 just shifts because you might gain a little bit --

4 MR. BRANSE: The reason I put that was in  
5 the discussions you were saying that the proximity of the  
6 wetland there might make it not possible to shift and that  
7 Lot 3 might be lost completely.

8 CHAIRMAN McINTYRE: Okay.

9 MR. BRANSE: Just might have to be  
10 eliminated because of the proximity of the wetlands.

11 CHAIRMAN McINTYRE: Worse case scenario.

12 MR. BRANSE: Right, so that's why I put  
13 elimination or relocation.

14 CHAIRMAN McINTYRE: Alright.

15 MR. BRANSE: And there's a question, is it  
16 road B? Is that the correct -- is that what that's  
17 called?

18 MR. JACOBSON: For Lots 5, 6 and 7?

19 MR. BRANSE: Yeah.

20 MR. JACOBSON: No, that's the -- that's  
21 that little -- they didn't name it but it was that little  
22 cul-de-sac off of Ingham Hill.

23 MR. BRANSE: I'm just going to put then --

24 MR. JACOBSON: I'm not -- I don't believe

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1 they identified or put a name on it or any type of  
2 designation.

3 CHAIRMAN McINTYRE: Yeah, that's --

4 MR. BRANSE: I'm going to say on the cul-  
5 de-sac off of Ingham Hill Road.

6 CHAIRMAN McINTYRE: Right, so then again  
7 you got to go back Mark to U again. It's what we were  
8 talking about the location of -- oh excuse me, V, the  
9 location and it wouldn't be road B, it would be that other  
10 road, it's Ingham Hill Road.

11 MS. NELSON: The cul-de-sac?

12 MR. BRANSE: Off of the cul-de-sac. Okay,  
13 and also back to W, Mr. Jacobson suggested to me that we  
14 should say along the proposed new cul-de-sac and the  
15 common driveway, and he feels that access closer to Ingham  
16 Hill would be better.

17 CHAIRMAN McINTYRE: Okay. Does everybody  
18 agree with that?

19 MR. BRANSE: Because I think it was both,  
20 it was both the roadway and the people off the common  
21 drive who would be sharing their common drive with the  
22 general public.

23 CHAIRMAN McINTYRE: Right. Okay, decision.  
24 And is that the title of this next paragraph Mark?

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1 MR. BRANSE: Yes, that's of this whole  
2 section.

3 CHAIRMAN McINTYRE: Okay. In 2005 the  
4 Commission --

5 MR. BRANSE: It should be the Commission  
6 recognized, I've changed it here.

7 CHAIRMAN McINTYRE: -- in 2005 the  
8 Commission recognized that it has the option of modifying  
9 or conditioning the 2005 special exception in order to  
10 address the deficiencies noted in the March 23, 2005  
11 motion. And the Commission concluded that they could --  
12 it could be remedied by conditions and modifications based  
13 on the information and arguments contained in the record  
14 and that such conditions and modifications did not  
15 substantially alter the application to the extent that any  
16 parties were deprived of their rights to be heard.

17 The condition and modifications were drawn  
18 directly from the testimony and evidence received during  
19 the original application, public hearing, and were  
20 intended to be responsive to them. Those conditions and  
21 modifications remain in full force and effect except as  
22 specifically modified and in conditions in this motion.  
23 And then there's a couple more paragraphs with minor  
24 changes to them. It says that the time limit contained in

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1 56.5 shall commence upon the publication of the legal  
2 notice of the 2005 decision and should not be extended by  
3 this -- the decision of modification application.

4 MR. BRANSE: I should take out the, just  
5 this decision.

6 CHAIRMAN MCINTYRE: This decision.

7 MR. BRANSE: And the reason I took out six  
8 month is because in 2005 it was six months. During the  
9 interim the Zoning Commission has amended the regulation  
10 so it's now, I think five and five. But it's not six  
11 months anymore, so I just said the time limit of 56.5. So  
12 we don't --

13 MR. MISSEL: And we don't know what that is  
14 at this point?

15 MR. BRANSE: I can look it up easy enough.

16 MR. MISSEL: No, no, no, but I'm just --

17 MR. BRANSE: I think they made it the same  
18 as subdivisions, five years extendible for five years.

19 MR. MISSEL: Five years extendible for five  
20 years. So we are now --

21 MR. BRANSE: We're in about year eight.  
22 Well, 2005 --

23 MR. MISSEL: five --

24 MR. BRANSE: -- five, no but we're at six

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1 years.

2 MR. MISSEL: We're at six years.

3 MR. BRANSE: So they've got -- yeah, four  
4 years.

5 CHAIRMAN McINTYRE: And just the ending,  
6 the closing. Okay.

7 MR. MISSEL: Is that extension automatic or  
8 we're just talking about five and five?

9 MR. BRANSE: No, the -- after the first  
10 five years the applicant has to request it from the Zoning  
11 Commission. It's not from here it's the Zoning  
12 Commission.

13 MR. MISSEL: From Zoning.

14 MR. BRANSE: I believe, I believe it's the  
15 Zoning Commission, yes.

16 CHAIRMAN McINTYRE: Okay, and that is the  
17 application to approve. At this time does anyone have any  
18 other areas of concern or comments or anything that should  
19 be added to the approved --

20 MS. NELSON: The resolution.

21 CHAIRMAN McINTYRE: -- document --  
22 resolution?

23 MS. ESTY: Added to or a question of it?

24 CHAIRMAN McINTYRE: Whatever, anything.

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1 MS. ESTY: This is all predicated on a 2005  
2 motion that came before us that was approved back in 2005.  
3 And the difficulty I'm having, as the applicant themselves  
4 said, that that may no longer be viable to do all of that  
5 and we're making these modifications and all these  
6 additions to something that may never happen.

7 And it just -- it doesn't seem to me that  
8 -- we are supposed to be the big picture people and our  
9 big picture vanished. And we are presented with three  
10 little developments that could come as a new application.  
11 I just have difficulty trying to incorporate these into a  
12 2005 program plan that the applicant themselves had said  
13 isn't viable and may never be built and we're modifying  
14 something that's obsolete.

15 CHAIRMAN McINTYRE: Okay, in my  
16 recollection when they said that they kind of -- that was  
17 during -- they had during the beginning of the public  
18 hearing sessions, correct? You know --

19 MS. ESTY: They said it throughout --

20 MR. MISSEL: When we were in the phase --  
21 when we were in a phase mode. We were in a phase mode  
22 until --

23 MS. ESTY: Well, it isn't a matter of the  
24 phase as a pod --

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1 CHAIRMAN McINTYRE: Well, this --

2 MR. MISSEL: Well, that's what I mean yeah,  
3 we're on the same page. In the beginning we were on a  
4 phase mode operation where we were going to -- if we  
5 approved the modification we were originally told at the  
6 first meeting that the center core would probably -- it  
7 wasn't viable to develop it at this time at least. That's  
8 what we were -- you know, am I correct, that was our  
9 understanding at that time? And then -- and then --

10 CHAIRMAN McINTYRE: I would say that's what  
11 I understood.

12 MR. MISSEL: -- yeah, I think we're all in  
13 agreement that was the -- in the beginning that was the  
14 way it was presented.

15 CHAIRMAN McINTYRE: Ahum.

16 MR. MISSEL: And then at the final meeting  
17 of public hearing, then that was pulled back and it became  
18 -- it then became again a single unified plan.

19 MS. ESTY: That is maybe where I'm drawing  
20 my confusion because it doesn't appear to me that the  
21 center core was still considered viable. It was just that  
22 these three pods were not going to be built one, two,  
23 three, they would be built all together at once. Not that  
24 the whole entity would be built at once but --

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1 MR. BRANSE: No, it would have to be the  
2 whole entity.

3 CHAIRMAN McINTYRE: The whole entity --

4 MS. ESTY: The whole entity including the  
5 village and the --

6 MR. BRANSE: Everything, all or nothing.

7 MS. ESTY: -- is all going to be built at  
8 once?

9 CHAIRMAN McINTYRE: That's why the Pianta  
10 -- the cul-de-sac in the Pianta property got removed.  
11 There's no longer -- the road has to go -- remember 34  
12 when it was going to end? But now that road is going all  
13 the way through on this --

14 MS. ESTY: So when this is being built the  
15 whole thing is going to be built at once.

16 CHAIRMAN McINTYRE: At least that's my  
17 understanding that that's what they'll have to --

18 MR. BRANSE: Well let's put it this way,  
19 the condition -- the motion that's on the table now has  
20 been moved for the one that you've been considering,  
21 alright, mandates that there be three interconnected  
22 points of access, which means a road off Bokum Road, a  
23 road off Ingham Hill Road and a road off 153 that  
24 interconnect.

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1                   Now, I suppose they could build all the  
2 roads and build the sewer treatment plant and the  
3 community -- and extend the water lines and not build the  
4 houses. They could do that. But as you recall, there was  
5 a lot of concern from your staff, me included, about this  
6 sort of unphased phase idea.

7                   MR. MISSEL: We've had -- at the beginning  
8 there was confusion on my part and then later I got an  
9 understanding and could wrap my arms around it. But yeah,  
10 I think they were all -- I think there was a level of  
11 confusion, uncertainty, whatever you want to call it in  
12 the beginning when those things were changing.

13                   The other thing is that's interesting, and  
14 I'll just add to maybe what you were thinking about, is  
15 that if these roads are to be built, the interconnecting  
16 roads all at the same time and so on, which is what the  
17 original plan called for, the original special exception,  
18 then that's predicated on approval for a bridge to be  
19 built or a grade level crossing to be built for Bokum  
20 Road, one or the other because you've got to get in there,  
21 and Westbrook's approval to extend the roadway to 153 --  
22 from 153.

23                   CHAIRMAN McINTYRE: Ahum.

24                   MR. MISSEL: So that's -- without both of

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1       those approvals where are you?

2                   CHAIRMAN McINTYRE:  Alright, so they can't  
3       -- so I guess to answer your question no, they can't until  
4       everything's built except for in terms of -- Mark Branse  
5       had said that maybe we could put the water in and all  
6       that, but other than that they have to have approval of  
7       the roads.

8                   MR. MISSEL:  In the original proposal that  
9       was presented to us in -- I think it was written October  
10      12th, presented to us the first meeting in December right?

11                  CHAIRMAN McINTYRE:  Ahum.

12                  MR. MISSEL:  That was the phased program.  
13      Well that program was doable, the phased program, because  
14      we were really only -- we were saying that the central  
15      core wasn't probably going to be built and not feasible at  
16      this time at least.  And that you then could develop the  
17      three outlying pods because that would be -- you wouldn't  
18      have to have an immediate approval for the bridge or the  
19      roadway crossing or the railroad crossing.

20                  And -- you wouldn't have to have that but  
21      you would have to have the Westbrook approval.  But  
22      nonetheless, it was far simpler and a lot less expensive,  
23      I mean in the sense that you're not building all those  
24      roads and stuff.

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1 MS. ESTY: All or nothing.

2 CHAIRMAN McINTYRE: Right, and that was our  
3 staff's concern at the beginning that they didn't see how  
4 you could make a change to this application -- 2005  
5 special exception approval with using that pod mentality.

6 MS. ESTY: But I thought the pod mentality  
7 went to the three pods.

8 CHAIRMAN McINTYRE: Well that -- yeah.

9 MS. ESTY: So you can build all three pods  
10 at once --

11 CHAIRMAN McINTYRE: That's what they were  
12 contending and nothing in the middle, right?

13 MS. ESTY: And I was under the impression  
14 they could build each pod individual of the other.

15 MR. MISSEL: Well, that's what the language  
16 was originally.

17 CHAIRMAN McINTYRE: Yeah, that's what they  
18 wanted to do.

19 MS. ESTY: Yeah --

20 MR. MISSEL: That's what the language was.

21 MS. ESTY: -- but it didn't have anything  
22 to do with what they consider the un-viability of the  
23 center.

24 CHAIRMAN McINTYRE: Ahum. I agree with

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1       you, that's what they wanted to do.

2                       MS. ESTY: But now they have to do --

3                       MR. MISSEL: That has been withdrawn.

4                       MS. ESTY: Okay, I wanted to make sure that  
5       it is all or nothing. We're not modifying something that  
6       no longer exists. In other words, we're modifying  
7       something that would never be built.

8                       CHAIRMAN McINTYRE: Okay.

9                       MS. ESTY: But if they have to build it all  
10       at once, then it makes to look at these individually as we  
11       did.

12                      CHAIRMAN McINTYRE: Yes, I agree on that.  
13       Okay, any other concerns?

14                      MS. ESTY: No.

15                      CHAIRMAN McINTYRE: Bob, you have any other  
16       concerns?

17                      MR. MISSEL: No, I might come up with  
18       another question or two somewhere down the line.

19                      CHAIRMAN McINTYRE: Okay, well we're  
20       getting -- we need to kind of -- we've gone through this  
21       -- you know, looking at the resolution. And now the next  
22       thing would be to act on the resolution and somebody needs  
23       to make a motion to approve the resolution as presented.

24                      MS. FLANAGAN: May I ask something first?

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1                   CHAIRMAN McINTYRE: Yes, you may. That's  
2                   why I'm putting this out, that we need to -- you know, we  
3                   need to get the dialogue out, everything you want to ask  
4                   because that's where we're headed.

5                   MS. FLANAGAN: My question is about page 8,  
6                   and although it doesn't seem specifically relevant to what  
7                   we've been hearing with this application my question is  
8                   about the significance of the deficiencies in the golf  
9                   course design that were concluded and just what happens  
10                  with that as I wasn't here on that Commission?

11                  CHAIRMAN McINTYRE: Attorney Branse.

12                  MR. BRANSE: The -- those modifications  
13                  from 2005 would simply remain. The applicant hasn't asked  
14                  the Commission to change anything with respect to that, so  
15                  that piece of the 2005 motion would simply remain in  
16                  effect.

17                  MS. FLANAGAN: But were there solutions to  
18                  these conditions on page 8 or --

19                  MR. BRANSE: The -- I mean the -- at the  
20                  time I believe the engineers believed that there were  
21                  solutions but you haven't seen them.

22                  MS. FLANAGAN: Okay.

23                  MR. BRANSE: You haven't seen what they  
24                  look like because the applicant hasn't returned with the

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1 detailed plans of the subdivision or PRD.

2 MS. FLANAGAN: Okay, thanks.

3 CHAIRMAN McINTYRE: Anything else --

4 MR. BRANSE: And frankly if there aren't  
5 solutions then they're not going to be able to come back.

6 MS. FLANAGAN: Okay.

7 CHAIRMAN McINTYRE: Don, anything?

8 MR. DONALD RANAUDO: No, I'm fine thank  
9 you.

10 CHAIRMAN McINTYRE: Okay. And I have no --  
11 I think we've thoroughly reviewed the record, listened to  
12 all the comments from the public and staff, and I think  
13 that now that the phased portion of this was removed and  
14 that this thing will have to be built in its entirety, I  
15 believe that the new plan or the new resolution keeps in  
16 the spirit of the original 2005 application open space  
17 subdivision that it isn't -- that the modifications that  
18 were made will have a really major impact or change to the  
19 overall plan as the 2005 was approved.

20 So that's how I'm looking at it. But it's  
21 definitely different. I mean fortunately, I had the  
22 opportunity to sit through everything and I know you  
23 haven't. But -- you know, you've had the same information  
24 that I received from the public of this and we're going on

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1 from what we've heard during the public hearing. And  
2 that's what I'm drawing my conclusions on, that this  
3 application will meet the open space subdivision  
4 requirements and as also outlined in the 2005 approval.

5 So does anyone want to make a motion to  
6 approve this resolution? I know you guys aren't used to  
7 making the motions so I'll just go ahead and do it. Okay,  
8 I make a motion that we approve the resolution as  
9 presented tonight and the changes made by Attorney Mark  
10 Branse to the -- during our discussion period. Mark, do I  
11 have to close discussion --

12 MR. BRANSE: No, no.

13 CHAIRMAN McINTYRE: -- no, okay. I just  
14 want to make sure --

15 MR. BRANSE: In fact, once the motion is  
16 placed on the table there certainly can be further  
17 discussion of the motion --

18 CHAIRMAN McINTYRE: Right.

19 MR. BRANSE: -- once it's on the table and  
20 seconded.

21 CHAIRMAN McINTYRE: Okay. Alright, so I  
22 make a motion that we give approval to the resolution for  
23 approval for the Preserve application for special  
24 exceptions modification approved in 2011, as presented in

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1       this resolution and as adjusted by Attorney Branse during  
2       our discussions.

3                   MR. BRANSE: Let me just clarify, as the  
4       drafter however, I am not recommending approval or denial.  
5       I put that in all of my letters, I want to reiterate that.  
6       I've drafted you motions both ways of course, as I usually  
7       do. So by drafting either motion I'm not recommending how  
8       the motion, that is within your discretion.

9                   CHAIRMAN McINTYRE: Okay, do I have a  
10      second on that?

11                  MR. RANAUDO: I'll second.

12                  CHAIRMAN McINTYRE: Okay, the second was  
13      made by Don Ranaudo. Any discussion?

14                  MR. BRANSE: Mr. Chairman --

15                  CHAIRMAN McINTYRE: Ahum.

16                  MR. BRANSE: -- I would ask that you just  
17      sort of go around the table now that there's a motion on  
18      the table --

19                  CHAIRMAN McINTYRE: Ahum.

20                  MR. BRANSE: -- and just sort of get some  
21      thoughts from each Commission member before we cast a  
22      vote?

23                  CHAIRMAN McINTYRE: Okay, Bob you want to  
24      go?

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1                   MR. MISSEL: I'm thinking about it. My  
2                   thought is on this -- I mean, we can certainly approve it  
3                   and that's fine and there are enough conditions there that  
4                   if they can't get approval for let's say the railroad  
5                   crossing or the Westbrook situation, then essentially if  
6                   I'm right then it's not a deal -- they're deal breakers.  
7                   It's not going anyplace. Am I correct in that assumption?

8                   CHAIRMAN McINTYRE: I believe so and I  
9                   think that's what Attorney Branse has expressed on several  
10                  occasions.

11                  MR. MISSEL: Right.

12                  MR. BRANSE: That's correct.

13                  MR. MISSEL: Now, that doesn't mean however  
14                  that if that's the case and they couldn't get an approval  
15                  to do the roadwork let's say that they couldn't come back  
16                  again with another idea right? I'm not sure exactly what  
17                  that would be, but conceivable --

18                  CHAIRMAN McINTYRE: That's a fact.

19                  MR. MISSEL: -- that they could come back  
20                  with some sort of a plan revision right?

21                  MR. BRANSE: Correct.

22                  CHAIRMAN McINTYRE: Or they can come back  
23                  with a whole new -- all together -- they scrap this whole  
24                  plan --

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1 MR. MISSEL: Right.

2 CHAIRMAN McINTYRE: -- and come back with a  
3 whole new plan.

4 MR. MISSEL: Right, and seeing that as this  
5 point -- I mean we've been told that the likelihood of any  
6 development in the center core in the near or in some  
7 point in the future is minimal at this point in time,  
8 maybe we're going through all of this and -- when it would  
9 be far better to just let them come back with a whole new  
10 plan.

11 CHAIRMAN McINTYRE: Well, what I would say  
12 on that is that our job is to take what's presented before  
13 us, alright, look at it, and see if it fits the  
14 regulations that we have in place --

15 MR. MISSEL: Right, right.

16 CHAIRMAN McINTYRE: -- and if you feel that  
17 it does not meet the regulations then that would be  
18 grounds to, you know, not approve this. Or, if you felt  
19 there was some alternative kind of discuss -- it has to be  
20 something that was in the record that says -- you know,  
21 because we're telling them they've got to build it to the  
22 2005 plan and the modification if it was approved.

23 Right now if this isn't approved they would  
24 still have the standing of the 2005. They also have the

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1       --

2                   MR. MISSEL: Right, well that's right. If  
3 it were to -- I'm sorry, finish your thought.

4                   CHAIRMAN McINTYRE: -- and then the other  
5 part of it is they have another option. They could come  
6 back like you said, and come back and after it changed --  
7 it is changed, this modification, some -- they could --  
8 and then -- and obviously I don't think this Board would  
9 have those three connecting areas because the way this  
10 approval is written they can't come back without -- they  
11 have to get those three access points. If you don't have  
12 the three access points this is not going to happen.

13                   And if that happens in this application  
14 before this modification and it happens in this  
15 application after this modification, so what we're looking  
16 at here is the modification that they presented to us and  
17 do we feel that they're reasonable modifications, does it  
18 still repeat the spirit of the open space subdivision and  
19 the regulations that govern that. And that's what they're  
20 -- and I think all the speculation can the road be built  
21 or it can't be built, well, there's two -- you don't know  
22 because there could be different people in different  
23 positions at DEP at some point in time when this could --  
24 you never know what could change.

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1                   So I'm not going to base my denial on the  
2 fact that just because one person -- the one person at DEP  
3 who was the head at DEP at the time felt this would never  
4 happen doesn't mean the next Commissioner or whatever  
5 would say no, it seems reasonable enough, we could do it.  
6 I mean, that's something that could happen. So it is  
7 feasible that it could happen. So, I'm thinking it's the  
8 applicant who's -- you know, it's on the applicant to  
9 prove that he can do all this. All we're doing is saying  
10 everything you've presented to us we believe is not going  
11 to increase it or decrease -- increase any harm to the  
12 environment other than the original proposed plan and that  
13 you're going to build this, you know, and it's going to be  
14 built to the way -- you know, the 2005 and the resolution  
15 has been set or stated in the document.

16                   MR. MISSEL: Right, but there were  
17 fundamental changes to this special exception, there's no  
18 question about that. And --

19                   CHAIRMAN McINTYRE: As such --

20                   MR. MISSEL: -- I mean as such -- well, we  
21 know the three interconnecting roads but we're now looking  
22 at septic versus city sewers, we're now looking at  
23 drilled wells rather than city water --

24                   CHAIRMAN McINTYRE: Ahum.

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1 MR. MISSEL: -- these are all fundamental  
2 changes from the original plan.

3 CHAIRMAN McINTYRE: Right, and --

4 MR. MISSEL: And in my deliberation I think  
5 I have to -- you know, I think I have to think about that  
6 at least because to me they're definitely fundamental  
7 changes. The fact that it's financially not feasible to  
8 develop the center core, but yet in all we're saying that  
9 we have to develop the -- they have to have the three  
10 roads.

11 I mean, it seems to me that there's a lot  
12 of conflict here. So yes, we went over lots of these  
13 changes and made some modifications and certainly staff  
14 has done a tremendous amount of work and I appreciate all  
15 the work that they did and the engineers and the -- we've  
16 seen a lot of effort been put into this modification.

17 CHAIRMAN McINTYRE: Ahum.

18 MR. MISSEL: By everybody. But there still  
19 are these things that are in some point in my mind,  
20 fundamental changes that I'm still wrestling with.

21 CHAIRMAN McINTYRE: Okay. Just to --  
22 during our discussion we discussed the difference -- and  
23 I'm going to lay out the things that you were talking  
24 about. The septic versus the public septic systems, the

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1       -- what our job during the public hearing was to do was to  
2       listen to both sides, the applicant and the public and the  
3       intervener and our staff, and listen to what they said if  
4       there was anything that would say to us that if you don't  
5       use the public system is it going to be more detrimental  
6       to the environment by using the individual septic systems.

7               In my opinion, listening to the testimony  
8       that I heard that the use of those septic systems would  
9       all be approved systems, they have negligible impact on  
10      the environment and there was nothing to me that says that  
11      you would have total or maybe destruction of any of the  
12      wetlands or areas around there. There was no -- you know,  
13      I mean you heard the same testimony I heard --

14             MR. MISSEL: Right, I just --

15             CHAIRMAN McINTYRE: -- so there was one  
16      side saying one thing, one side saying the other. So it  
17      was our job to sit and listen to all those input and  
18      that's when we were discussing about the septic systems.  
19      That's why we stressed, you know, asking questions about  
20      the septic systems during, you know, the public hearing.  
21      And even during deliberation we talked exclusively about  
22      those issues and at that time it seemed that everybody was  
23      pretty comfortable.

24             You did express some concerns as did other

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1 Board members, but we have to take what we have now as  
2 information, we have to make a decision on that  
3 information, and that's all we can do. You know, it would  
4 be great if we had every bit of insight to know in the  
5 future what would happen but we're basing our thoughts and  
6 our decisions on what was presented at the public hearing  
7 and we have to take that into consideration. And I didn't  
8 hear any testimony that was conclusive on either side  
9 that, you know, there was going to be any more harm to the  
10 environment than -- either way.

11 So I'm saying that that based on that  
12 assumption or that conclusion that I don't have any  
13 problem with the individual septic systems up there  
14 because of the fact that there's hundreds of them up there  
15 already all around there. And I'm not hearing any --

16 MR. MISSEL: No, but it is a change.

17 CHAIRMAN McINTYRE: -- it's a change.

18 MR. MISSEL: It is a change --

19 CHAIRMAN McINTYRE: It's a change.

20 MR. MISSEL: -- it certainly, you know --

21 CHAIRMAN McINTYRE: Yeah, but it was a  
22 change that was explained -- I believe was explained to us  
23 --

24 MR. MISSEL: Right, and we can --

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1                   CHAIRMAN McINTYRE:  -- two of your points,  
2                   and I think we all have enough information now to be able  
3                   to make a decision on those factors.

4                   MS. ESTY:  I have to agree with Bob on some  
5                   of this.  I think in some areas in two parcels that  
6                   they're developing, I think that possibly sewage could be  
7                   adequate with no problem.  But I think when you get to  
8                   some place like Ingham Hill that is hilly and rocky and  
9                   granite, I didn't see enough evidence to say that they  
10                  could put one in there with the level of granite and the  
11                  blasting that would have to take place.

12                 And I have concerns about that in the water  
13                 level.  When you start blasting like that and people have  
14                 wells, that's an issue.

15                 CHAIRMAN McINTYRE:  Well again -- go ahead.

16                 MS. ESTY:  But I mean, that's one part of  
17                 this whole thing that I think should be looked at.  And it  
18                 may not cover each parcel as I said, but I think that for  
19                 that one it does.

20                 CHAIRMAN McINTYRE:  Okay, I agree with what  
21                 you're saying totally.  And I think that during our  
22                 discussions and during the public hearing all those types  
23                 of situations were covered.  This was a preliminary review  
24                 that we would -- any of these -- the applicant's taken it

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1       upon themselves to say okay, they've looked at it and they  
2       think they can do this. If it comes at any point in time  
3       if this -- if none of -- if this is approved -- even as  
4       other sites that were using septic -- the whole place I  
5       think would be sort of mansions or mega mansions or  
6       whatever, were using individual septic systems or was the  
7       whole thing all --

8                   MS. ESTY: No, I think there was one  
9       section that had septic.

10                  CHAIRMAN McINTYRE: Right. Even in that  
11       application right now as it stands, if they go in and they  
12       find they can't build a system -- they're betting that  
13       they can and that approval of that Lot is only going to  
14       happen if they can build what they say they can build, an  
15       approved septic system.

16                  MS. ESTY: But aren't we supposed to look  
17       at this? It's not that they think they can, it's that we  
18       think that think they can.

19                  CHAIRMAN McINTYRE: They --

20                  MS. ESTY: So -- I mean we're saying yes,  
21       we agree with you, we think you can --

22                  CHAIRMAN McINTYRE: -- no, no, we're not  
23       experts. No, we are not experts, you and I aren't --

24                  MS. ESTY: -- but you're looking at the

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1 evidence that was presented. We can go either way, you  
2 use your best judgment when you make that call.

3 CHAIRMAN McINTYRE: -- right, exactly.

4 MS. ESTY: But I mean, it isn't -- the  
5 applicant -- if the applicants can say they can go to the  
6 moon I'm not going to sit here and say well go ahead and  
7 go. So I mean, if you're going to put in septic in areas  
8 that they haven't proven to me can be done and I have  
9 reason to believe that there may be some doubts, I think I  
10 would be remiss if I didn't act on those doubts --

11 CHAIRMAN McINTYRE: Right.

12 MS. ESTY: -- because you're talking --

13 CHAIRMAN McINTYRE: And what you have is  
14 that you have evidence presented to you --

15 MS. ESTY: Ahum.

16 CHAIRMAN McINTYRE: -- and you also have  
17 the assurance that if it can't be done -- and that's a key  
18 point to this thing. This is preliminary, this is the  
19 preliminary because you can't have all the facts at the  
20 preliminary level.

21 MS. ESTY: But I have to have common sense.

22 CHAIRMAN McINTYRE: Well, you're listening  
23 to your --

24 MS. ESTY: But I think it's a difference of

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1 opinion.

2 CHAIRMAN McINTYRE: Right.

3 MS. ESTY: If you look at the evidence and  
4 you have to decide for yourself

5 CHAIRMAN McINTYRE: Exactly.

6 MS. ESTY: -- what you think it's going to  
7 be. And we could debate and we probably will never agree  
8 and it's that --

9 CHAIRMAN McINTYRE: Right, we could debate,  
10 we should debate.

11 MS. ESTY: -- and there's nothing wrong  
12 with that.

13 CHAIRMAN McINTYRE: Yes.

14 MS. ESTY: But I mean, there will be a  
15 difference I think.

16 CHAIRMAN McINTYRE: But is the difference  
17 large enough that the impact is going to be that much  
18 different, you know?

19 MS. ESTY: It may be when you look at it --  
20 I think the difficulty is in this particular project is  
21 you have three distinct different areas that cover three  
22 distinct geographical regions on that piece of property  
23 that have attributes and detriments all to their own that  
24 can be maneuvered.

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1                   And I think at least on two of those pieces  
2                   it's viable to maneuver things around and get septic,  
3                   certain well water, whatever. I think that when you come  
4                   to the hardest piece --

5                   CHAIRMAN McINTYRE: And could you just  
6                   define which pieces you're talking about?

7                   MS. ESTY: I get them mixed up, the Pianta  
8                   and the over by Westbrook.

9                   CHAIRMAN McINTYRE: The PRD, west PRD.

10                  MS. ESTY: Yeah, PRD west. I think the  
11                  hardest one is Ingham Hill because of where it is, the  
12                  steepness of the slopes, the granite, the topography  
13                  itself.

14                  CHAIRMAN McINTYRE: Ahum.

15                  MS. ESTY: And that to me -- it's not like  
16                  you can vote on one and then vote on the other. You are  
17                  taking this all together as one.

18                  CHAIRMAN McINTYRE: Right.

19                  MR. BRANSE: Mr. Chairman.

20                  CHAIRMAN McINTYRE: Yes.

21                  MR. BRANSE: You could -- I mean I'm not  
22                  recommending it or suggesting it, but you certainly could  
23                  say that you approve the modification for any one of the  
24                  three areas where the modifications are proposed and not

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1 another. And that's an option you do have.

2 MS. ESTY: That would make it easier for  
3 me.

4 CHAIRMAN McINTYRE: Well yeah, and --

5 MS. ESTY: I don't know how the rest feel,  
6 but.

7 CHAIRMAN McINTYRE: -- right.

8 MR. MISSEL: That's an interesting thought  
9 and while we're kind of on that thought let's for the sake  
10 of the conversation say a motion that we deny it. They  
11 still -- but we denied the modification.

12 CHAIRMAN McINTYRE: Ahum.

13 MR. MISSEL: The original 2005 is still in  
14 play as it was.

15 MR. BRANSE: Correct.

16 MR. MISSEL: So there is -- it would still  
17 be in play. We're only talking about a modification to  
18 2005, we're not talking about the whole thing here. So if  
19 we were to deny it, the 2005 is still in play just as it  
20 was, just as you approved it that time.

21 CHAIRMAN McINTYRE: Yeah.

22 MR. MISSEL: And it stands. So that's an  
23 option as well. I mean, you know, it's --

24 CHAIRMAN McINTYRE: There's nothing off the

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1 table yet.

2 MR. MISSEL: -- it would stand just as it  
3 is, okay. We've already -- when you think about it, the  
4 original modification to the 2005 was for the purpose of  
5 developing three pods. That's what the purpose was. When  
6 at the last hearing that was pulled off the table,  
7 essentially it went back to the original 2005 with some  
8 modifications, okay. And that would be the Bokum Road,  
9 that was nine houses that we're talking about now, that  
10 weren't there in the original, okay.

11 CHAIRMAN McINTYRE: Ahum.

12 MR. MISSEL: That was the Ingham Hill and  
13 the west pod, those numbers of houses have changed and  
14 locations have changed but nonetheless -- you know, the  
15 original intent of this modification was to develop the  
16 three pods. It changed because -- for whatever reason it  
17 changed, right, so -- I mean, you've got to think of that  
18 in that context.

19 So if we were to deny it they still have  
20 their 2005 and they can still come back with some other  
21 form of a modification.

22 CHAIRMAN McINTYRE: I agree with you on  
23 that.

24 MR. MISSEL: Alright --

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1 CHAIRMAN McINTYRE: That part, yes.

2 MR. MISSEL: -- so, and going back to the  
3 -- some of the fundamental changes, one of the other  
4 fundamental changes to me is when you're building houses  
5 way back in there, alright, particularly on Bokum -- I  
6 mean sorry, Ingham Hill Road you're going to build houses  
7 way back in there and you're not going to have as a plan  
8 -- and I want to be clear about this, as the plan now sits  
9 we're still not talking about any city water.

10 CHAIRMAN McINTYRE: Correct.

11 MR. MISSEL: Correct?

12 CHAIRMAN McINTYRE: Well no, no, no --

13 MR. MISSEL: No, you're talking about  
14 interconnecting roads

15 CHAIRMAN McINTYRE: No, no, no --

16 MR. MISSEL: -- but I haven't seen anything  
17 about interconnecting services.

18 CHAIRMAN McINTYRE: -- but it's been said  
19 before that the internal portion of it at the 2005  
20 approval would mandate that they have the city water and  
21 the city sewage in the middle.

22 MR. MISSEL: In the middle but not on  
23 Ingham Hill Road.

24 CHAIRMAN McINTYRE: Correct.

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1 MR. MISSEL: Not up to where --

2 CHAIRMAN McINTYRE: Right, but you're  
3 saying --

4 MR. MISSEL: -- not up to what we're --

5 CHAIRMAN McINTYRE: -- that we're --

6 MR. MISSEL: -- not where we are right now  
7 in this modification.

8 CHAIRMAN McINTYRE: Correct.

9 MR. MISSEL: So what will they -- now  
10 Ingham Hill Road way -- you know, we're talking right now  
11 the roads should interconnect but you're still a long way  
12 in there no matter which way you come in, whether you come  
13 in from Bokum, whether you come in from 153 or you come up  
14 Ingham Hill Road. And if you're sitting in there without  
15 city water, you're sitting with a 30,000 gallon cistern --

16 CHAIRMAN McINTYRE: Okay.

17 MR. MISSEL: -- okay, that's your fire  
18 protection --

19 CHAIRMAN McINTYRE: Right.

20 MR. MISSEL: -- 30,000 gallon cistern. Now  
21 that 30,000 -- how long do you think a 30,000 gallon  
22 cistern will last? At 1,000 gallons a minute, and I know  
23 fire apparatus, you got a half hour and you're out of  
24 water.

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1 CHAIRMAN McINTYRE: Well --

2 MR. MISSEL: So -- I mean, that's just  
3 another thing that I say is some of this fundamental  
4 changes.

5 CHAIRMAN McINTYRE: Right, and what you  
6 would have is that we didn't hear any testimony that the  
7 Fire Department, they're the ones who recommended the  
8 30,000, so --

9 MR. MISSEL: But that's a minimum  
10 requirement.

11 CHAIRMAN McINTYRE: -- based on their  
12 professional experience --

13 MR. MISSEL: Minimum requirement.

14 CHAIRMAN McINTYRE: -- right, based on  
15 their professional experience that's what they  
16 recommended. That's what they proposed to provide fire  
17 protection for what they saw as needed for that area. If  
18 they're going to do this, this is what we need as a Fire  
19 Department because -- I'm not a firefighter, I just know a  
20 lot of firefighters. There are many, many ways in which  
21 they -- that cistern would give them the time to fight the  
22 fire initially --

23 MR. MISSEL: Get you going, yeah.

24 CHAIRMAN McINTYRE: -- and then you got

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1 tankers, you got all sorts of pump trucks. The  
2 firefighters are amazing what they can do.

3 MR. MISSEL: Right, but what I'm saying is  
4 --

5 CHAIRMAN McINTYRE: Right, so I'm just  
6 saying --

7 MR. MISSEL: -- but it's still a  
8 fundamental change --

9 CHAIRMAN McINTYRE: -- you made it sound  
10 like you're going to be out of water --

11 MR. MISSEL: -- well, you're out of water  
12 in that cistern.

13 CHAIRMAN McINTYRE: -- but they're going to  
14 have tanker trucks and going to refill it. There are  
15 things -- you know, you're saying they're going to be  
16 totally out of water. That's not a true fact.

17 MR. MISSEL: No, but you're going to be  
18 totally out of cisterns.

19 CHAIRMAN McINTYRE: Right, but it's not a  
20 true fact they're going to be totally out of water.

21 MR. MISSEL: Well alright, but it's still  
22 an issue versus city water.

23 CHAIRMAN McINTYRE: Right, and I believe  
24 that that --

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1 MR. MISSEL: Versus city water and  
2 hydrants, that's my comparison.

3 CHAIRMAN McINTYRE: -- okay.

4 MR. MISSEL: It's a big difference.

5 CHAIRMAN McINTYRE: And I think that --  
6 Attorney Branse, is that an issue that would also still be  
7 open for discussion if there was a final -- a new  
8 application -- a final application?

9 MR. BRANSE: There could certainly be fine-  
10 tuning of fire protection measures but if the Commission  
11 approved a preliminary plan that said there need not be  
12 public water in these areas, I don't think you could  
13 revisit that.

14 CHAIRMAN McINTYRE: No, not -- but I'm just  
15 saying maybe increase the size of the cistern or --

16 MR. BRANSE: That certainly would be  
17 something that would -- yes, that you could revisit at  
18 that time.

19 CHAIRMAN McINTYRE: But we could even do  
20 that at this point.

21 MR. BRANSE: You could, although you don't  
22 have an expert testimony --

23 CHAIRMAN McINTYRE: Right, right.

24 MR. BRANSE: -- telling you how much you

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1 need.

2 CHAIRMAN McINTYRE: Right, we need two-  
3 thirds, you know --

4 MR. BRANSE: Right, we'd be guessing at  
5 what --

6 MR. MISSEL: We'd need some expert --

7 CHAIRMAN McINTYRE: Right, but the expert  
8 -- the opinion from the expert that we got, they felt that  
9 with the capabilities they know they have, that was  
10 sufficient to fight the fire if anything happened up at  
11 the end of Ingham Hill Road.

12 MR. MISSEL: Right, but what I'm saying --  
13 and I'm not trying to be argumentative at all --

14 CHAIRMAN McINTYRE: No, no, nobody said --

15 MR. MISSEL: -- but I'm just saying is that  
16 the fact of city water is -- it's a big difference between  
17 city water and drilled wells and cisterns and there's no  
18 question about it.

19 CHAIRMAN McINTYRE: Ahum.

20 MR. MISSEL: And it's just something else  
21 that -- to think about.

22 CHAIRMAN McINTYRE: Right. And that is one  
23 of the things we -- during the whole process we were  
24 thinking about.

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1 MR. MISSEL: Right, oh yeah.

2 CHAIRMAN McINTYRE: I know when -- you  
3 know, you've got to look at the -- that was a big issue  
4 the city water versus wells. And the way I looked at it  
5 was that there are existing houses up there that are on  
6 wells --

7 MR. MISSEL: Oh yeah, no question about it.

8 CHAIRMAN McINTYRE: -- and you know, the  
9 applicant is asking -- there was -- I didn't hear any  
10 testimony that was given at all that there wouldn't be a  
11 sufficient water supply in that area for the wells. I  
12 didn't hear any testimony that --

13 MS. ESTY: Actually, I don't think there  
14 was any at all.

15 CHAIRMAN McINTYRE: -- right, that's what  
16 I'm saying. It would be up to the applicant to prove that  
17 when they started these Lots that there'd be enough --  
18 there'd be water there to provide for that Lot. You don't  
19 have the septic, you don't have water, you don't have a  
20 Lot.

21 MR. BRANSE: Right.

22 CHAIRMAN McINTYRE: So that's why when I'm  
23 looking at this as a preliminary plan, the applicant came  
24 into us with a preliminary plan. Yes, they came in with

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1       one idea. They saw resistance from our staff, from us.  
2       They said okay, let's rethink this. They said some things  
3       that really don't -- you know, you misunderstood us or  
4       whatever, but they finally realized where we were coming  
5       from. And when they did they said okay, we agree with you  
6       now. We agree with you, yes, we're going to withdraw that  
7       and we're going to do this.

8                       And this is what we're talking about right  
9       now, how they propose that it's going to be. But the  
10      whole thing has to be built or nothing. Okay, so the  
11      applicant -- it's just like any other application we see  
12      every time. You base your -- what you feel is right for  
13      this application and you don't -- there's always certain  
14      things you use is like the public testimony, you use  
15      staff, that's the stuff we use, and intervener's  
16      information, all of that.

17                      And the public's -- you know, use all that  
18      to compile in your mind whether you think -- and we're  
19      talking about a preliminary. We're not talking about the  
20      final thing we're only talking about preliminary here,  
21      okay.

22                      MR. MISSEL: Right, right.

23                      CHAIRMAN McINTYRE: Can this be done, can  
24      -- all they're saying is does this Board think this can be

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1 done? They're not -- you know, I don't think they're  
2 asking for anything -- based on the fact that they already  
3 have an approval, okay, I don't think they're asking for  
4 any more. Matter of fact, they're getting a little less  
5 than I think -- less number of homes?

6 MS. NELSON: Three additional.

7 CHAIRMAN McINTYRE: Three additional homes  
8 --

9 MR. BRANSE: Well, except without -- the  
10 Pianta parcel wasn't in --

11 MR. MISSEL: In the original.

12 MR. BRANSE: -- they had laid out a  
13 possible, I think it was 30 homes on the Pianta parcel but  
14 it was not part of your yield because they didn't put it  
15 in the yield.

16 CHAIRMAN McINTYRE: Ahum.

17 MR. BRANSE: So when you try to figure out  
18 whether it's more or less it gets tricky --

19 CHAIRMAN McINTYRE: Yeah.

20 MR. BRANSE: -- because there's more land  
21 in the Pianta parcels now in the mix with its nine houses  
22 --

23 CHAIRMAN McINTYRE: Which gives you more  
24 open space.

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1                   MR. BRANSE:  -- right, yeah, so it makes it  
2                   hard to compare that with apples and apples.

3                   CHAIRMAN McINTYRE:  So -- I mean, the fact  
4                   that the applicant changed its mind doesn't have -- you  
5                   know, I just think that was good because they listened to  
6                   what we were saying because they realize that going that  
7                   route there was no way that was ever going to be approved.  
8                   So they said okay, and they were willing -- and you know,  
9                   obviously they must have had meetings and things and  
10                  discussed it amongst themselves just like anybody else and  
11                  they decided no, we can push for -- or we can do what  
12                  we're presenting.

13                  And so as a Commission member I'm sitting  
14                  here going okay, you realize that this is what you need to  
15                  do and you still think you can do this.  And there was no  
16                  testimony that I heard that said that what they proposed  
17                  could be done couldn't be done, definitely could not be  
18                  done.  That definitely there was going to be irreversible  
19                  damage done to the wetlands or the roads couldn't be built  
20                  because of steep slopes or there was nothing technical  
21                  that couldn't be managed during the public hearing -- or  
22                  during deliberation and the public hearing, all the  
23                  changes that our staff went through, you know the road  
24                  grades to make sure that the driveways would all meet each

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1 other to the road.

2 All that stuff was said so it meant it  
3 could be done and that's all this is, is about could it be  
4 done not will it -- you know, could it be done? Yes, you  
5 could do this and all the applicant -- just like any other  
6 applicant in this Town, if they come to you I find that  
7 they're saying this is what we would like to do. I'm a  
8 property owner, this is what I want to do, what do you  
9 guys think? Is what we're proposing, is it something that  
10 we can do? Is it feasible, can it be done? You know,  
11 we're going to prove to you that yeah, on a preliminary  
12 level we think it could be done.

13 They don't even know for sure that every  
14 one of those Lots could be done they're just hoping that  
15 it is. There could be reasons why when we get into the  
16 final plan that certain Lots would have to go away.  
17 There's a whole big other stage that comes later on that's  
18 --

19 MS. ESTY: But we're dealing with this  
20 stage now --

21 CHAIRMAN MCINTYRE: -- right, right, that's  
22 right but this is preliminary and the fact of the matter  
23 is what did you hear -- either if you heard anything in  
24 testimony of the public hearing that says that it can't be

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1       done, then that would be your justification for saying,  
2       you know, that couldn't be done. I think the fact that I  
3       know that if they can't do what they say they can do, it  
4       isn't going to get done.

5                       MS. ESTY: I don't think that it's our job  
6       to let them determine whether it can get done or not.  
7       It's our job to look at it to determine whether it's  
8       feasible or not.

9                       CHAIRMAN McINTYRE: Right, but what --

10                      MS. ESTY: And --

11                      MR. BRANSE: Well excuse me, if I may?

12                      MS. ESTY: -- in a sense.

13                      MR. BRANSE: I think there's a couple of  
14       elements. There's a feasibility element but since you're  
15       not engineers and since you're working from a preliminary  
16       plan, I think it's very difficult to wrestle with what's  
17       feasible. But the other thing -- so yes, could it be done  
18       is a question to ask. But I think perhaps the more  
19       central question for the Commission as a Policy Commission  
20       is, should it be done? Do you feel that the modification  
21       is as good, better or worse than the 2005 approval?

22                      I mean, you're a Policy Commission. Your  
23       regulations provide criteria for what it is that open  
24       space subdivisions are supposed to achieve. And it might

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1 not be a bad idea to dig out your book and sort of re-read  
2 what is those things you're -- what is it they're supposed  
3 to do or maybe Ms. Nelson --

4 MS. NELSON: It's in the resolution.

5 MR. BRANSE: -- it's in the resolution,  
6 okay. You have in the resolution what it is that open  
7 space subdivisions are supposed to do that conventional  
8 subdivisions don't do, alright. And the question I think  
9 before the Commission is the modification that's been  
10 placed before you, do you think it makes the 2005 plan as  
11 good, better, worse, whether it's feasible or not? Do you  
12 see what I'm saying?

13 CHAIRMAN McINTYRE: Ahum.

14 MR. BRANSE: But that's -- you're the  
15 policy -- it's your Town. You know, you're the  
16 policymakers. Do you like this better, do you like it as  
17 much, do you like it worse?

18 MS. ESTY: Then as I said before from my  
19 opinion, I mean, on two of those parcels I don't have a  
20 problem. I do have one with Ingham Hill.

21 CHAIRMAN McINTYRE: Okay.

22 MS. FLANAGAN: Was what was proposed on  
23 Ingham Hill previously the same --

24 CHAIRMAN McINTYRE: No.

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1 MS. FLANAGAN: -- or substantially the same  
2 or is this dramatically different?

3 MS. ESTY: It's different.

4 MS. FLANAGAN: Significantly different.

5 MS. ESTY: Yes.

6 MS. FLANAGAN: So this isn't as really a  
7 comparable development on Ingham Hill Road as what was  
8 previously approved.

9 CHAIRMAN McINTYRE: Yes, I would say yes  
10 and no. All the elements are there except the recreation  
11 area --

12 MS. ESTY: But that's dramatically  
13 different in a sense of the first time it was --

14 CHAIRMAN McINTYRE: -- but I'm saying --

15 MS. ESTY: -- yeah, but the difference of  
16 where -- and that is one of the problems that I see. In  
17 the original it was more in a flat and level area and now  
18 you're off where the topography is so different, the  
19 amount of fill and blasting that has to take place to me  
20 negates any positive. I mean, that's why I made the --

21 CHAIRMAN McINTYRE: That's a good point, it  
22 is.

23 MS. ESTY: -- the difference there is  
24 really --

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1 MS. FLANAGAN: Significant.

2 MS. ESTY: Yeah.

3 CHAIRMAN McINTYRE: And I'm not sitting  
4 here telling you how you should vote. I'm just giving you  
5 --

6 MR. BRANSE: I believe I've already  
7 mentioned in the past that no one speaks until the  
8 Chairman recognizes them and the hearing is now closed.

9 CHAIRMAN McINTYRE: So -- you know, with  
10 all these things -- it's unfortunate that a lot of these  
11 things didn't come out during deliberation.

12 MS. ESTY: Well, they did in a sense.

13 MR. BRANSE: What do you mean --

14 MR. MISSEL: We're in deliberation.

15 CHAIRMAN McINTYRE: I mean earlier, you  
16 know.

17 MS. ESTY: Well they did, but now that  
18 you're coming down to the --

19 CHAIRMAN McINTYRE: The wire, correct.

20 MS. ESTY: -- fish and the bait sort of --

21 CHAIRMAN McINTYRE: But this is the kind of  
22 dialogue I wish we had had earlier --

23 MR. BRANSE: Well remember --

24 CHAIRMAN McINTYRE: -- to straighten it

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1 out.

2 MR. BRANSE: -- you don't -- you know,  
3 you've got 65 days from the close of the public hearing.

4 CHAIRMAN McINTYRE: Right, right, I'm still  
5 just saying that this is good stuff.

6 MR. BRANSE: Yeah, and -- so I mean if  
7 you're looking at a partial approval, partial denial,  
8 whatever, I can -- that's why -- what I did not want to  
9 have happen was have a motion put on the table and a vote  
10 and have the vote just not carry because then we don't  
11 have any reasons for what you did. A defeated motion  
12 gives us no record as to what your reasoning was.

13 So I'm going to want to hear each one of  
14 you talk and we're going to have to sort of see where  
15 you're headed and it may be that we'll have to do changes  
16 to these motions, different motions, and that's fine. But  
17 the idea is to get a motion upon which there is a majority  
18 vote. Whether it's an approval or a denial it doesn't  
19 make any difference to me, as long as it's one that  
20 reflects your consensus, it reflects three votes.

21 CHAIRMAN McINTYRE: Yeah, as I said in the  
22 beginning of this meeting nothing is cut in stone yet.

23 MR. BRANSE: Correct.

24 CHAIRMAN McINTYRE: This is all open for

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1 discussion and that's what we need to do. Everybody needs  
2 to say what they feel and how they feel about these  
3 parcels, but the thing is base it on the record.

4 So Bob, did you have anything else that you  
5 wanted to add?

6 MR. MISSEL: I would request a five minute  
7 break.

8 CHAIRMAN McINTYRE: Okay, we'll take a five  
9 minute recess.

10 (off the record)

11 CHAIRMAN McINTYRE: Okay now I will call  
12 the meeting back to order, the Planning Commission for the  
13 deliberation of the Preserve. I just want to say one thing  
14 before we get really back into -- just because there's a  
15 lot of new members here and there's probably a lot of  
16 questions floating in your mind.

17 Right now we're at a stage where I made a  
18 motion and you seconded it and we're in the discussion  
19 phase, okay. So what can proceed from here, if in fact  
20 the motion I put on the table is not approved by us then  
21 what would happen is someone else would probably have to  
22 make a motion in another direction and then we would have  
23 -- discussion would open up again and then we could  
24 discuss it again. So just so you understand what the

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1 dynamics of this whole thing is and how it all functions.

2 And it is getting towards almost 10:00, I  
3 want to hear -- we want to get as much out tonight as we  
4 can. If in fact -- Attorney Branse, if we do have a  
5 motion on the table and we can't come to a decision  
6 tonight you can't leave the motion open correct?

7 MR. BRANSE: Sure, you could leave the  
8 motion pending on the table, yes.

9 CHAIRMAN McINTYRE: We can leave it pending  
10 on the table, okay. I mean, I've tried that before but --

11 MR. BRANSE: That's really where the term  
12 to table comes from, to leave whatever is on the table  
13 there and return to it in the future.

14 CHAIRMAN McINTYRE: Okay, so that's where  
15 we're at. I know it gets -- you know, everybody's been  
16 thinking really hard doing a lot of talking and everything  
17 so we're going to press on and I think Cathryn, I think  
18 we'd like to hear from you.

19 MS. FLANAGAN: Well, my questions or  
20 concerns are, again, about the development on Ingham Hill  
21 Road. And to me it also seems that changing to individual  
22 septic and well has the potential to have impact on  
23 natural resources, which we are stewards of for the Town.  
24 And I think that that's a very important point of this

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1 application.

2                   Regardless of the fact that there might be  
3 other homes with septic and wells in the area, do we  
4 approve something that has the potential to really have an  
5 impact on resources that we may never be able to reclaim?  
6 Now, I was obviously not involved in the previous  
7 Commission but that seems to be quite a significant  
8 feature of this new application before us that makes it  
9 significantly different from the one that was approved  
10 previously.

11                   CHAIRMAN MCINTYRE: Okay, is that your only  
12 major concern or is there any other aspects of the  
13 roadways --

14                   MS. FLANAGAN: Well, the roadways is a big  
15 concern for me as well too. You know, we value our scenic  
16 roads but now we're looking at developing an area that  
17 would directly impact the scenic road as well as have the  
18 potential to create a hazardous situation. I understand  
19 that that's all going to be addressed in the future but  
20 just even in a preliminary plan, that site would not be my  
21 choice to approve development on.

22                   CHAIRMAN MCINTYRE: Okay, the only thing I  
23 would say based -- knowing about the 2005 plan is that the  
24 potential for traffic on Ingham Hill Road, whether it's

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1       this development or the one in 2005 -- or the  
2       modification, there still is going to be a significant  
3       amount -- just so you know, there's still going to be a  
4       significant amount of activity on Ingham Hill Road.

5                   MS. FLANAGAN: True, but would it be also  
6       some additional types of traffic or potential risk to  
7       residents that wouldn't have been incurred with the  
8       recreational traffic, I think.

9                   CHAIRMAN McINTYRE: It's still -- you don't  
10      understand, that recreational field only moved a few feet  
11      -- you know, like a few hundred feet. It moved off of  
12      flat land over this way south where that same field in the  
13      2005 plan as it is approved now, is still there. So all  
14      that same traffic that we were taking about for those  
15      houses is going to be there.

16                  MS. FLANAGAN: But that traffic wasn't  
17      going by homes sharing the roads.

18                  CHAIRMAN McINTYRE: Right, right, it would  
19      just be on Ingham Hill --

20                  MS. FLANAGAN: Just on Ingham Hill --

21                  CHAIRMAN McINTYRE: -- we're just talking  
22      about Ingham Hill Road.

23                  MS. FLANAGAN: -- right.

24                  CHAIRMAN McINTYRE: It's not any -- you

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1       were not alluding that it would change the traffic and I  
2       don't think --

3                   MS. FLANAGAN:  No, that's not what I meant,  
4       so.

5                   CHAIRMAN McINTYRE:  Okay.

6                   MR. MISSEL:  While we're on that, that's an  
7       interesting -- I think we should talk about that a second.  
8       When this original modification was proposed for  
9       essentially the three pod setup and then when it was  
10      withdrawn, it goes back to the original 2005 plan, wasn't  
11      it -- and I read it but I can't recall now, that in the  
12      2005 plan wasn't there some major modifications to the  
13      road, on Ingham Hill Road at that time when they were  
14      going to develop -- you know, they were going to put in  
15      the additional roads?

16                   Wasn't there supposed to be a modification  
17      to Ingham Hill Road as well and now that we're in this new  
18      phase we're back to the original 2005 -- does that road  
19      have to be --

20                   CHAIRMAN McINTYRE:  Everything that was in  
21      place in 2005 will still be in place if this is approved  
22      or if it isn't approved.  Everything stays the same --

23                   MR. MISSEL:  Right.

24                   CHAIRMAN McINTYRE:  -- for the subdivision

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1 as far as what was required on Ingham Hill Road.

2 MR. BRANSE: The only difference is, you've  
3 introduced this time the alternative of a T intersection  
4 --

5 MR. MISSEL: Yes.

6 MR. BRANSE: -- as opposed to straightening  
7 that curve to the same extent as was recommended in 2005.

8 MR. MISSEL: Okay.

9 MR. BRANSE: That's an option that didn't  
10 come up in 2005.

11 MR. MISSEL: Right.

12 CHAIRMAN McINTYRE: Alright, let me just --  
13 you wanted to see the pictures --

14 MR. MISSEL: Ahum, yeah I remember, yeah,  
15 yeah.

16 CHAIRMAN McINTYRE: -- sort of on our  
17 drawing --

18 MR. MISSEL: Okay.

19 CHAIRMAN McINTYRE: Okay, Don.

20 MR. RANAUDO: Okay, I'm just going to focus  
21 on our preliminary project -- you know, preliminary  
22 approval. I don't see -- I guess I kind of agree with Bob  
23 about septic and water. I believe we have Health  
24 Districts, all very capable people, to look into this to

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1 see if these Lots can be developed. I've watched -- I've  
2 heard all of our testimonies, I've heard all of our staff  
3 and our lawyers and people in the audience, interveners  
4 and Jeff for our roads.

5 And I've gradually watched each week things  
6 change and become a little more friendly towards the  
7 things we were looking for. And just -- I'll make it very  
8 simple. I mean I think it's reasonably likely, I guess is  
9 the word we're using, that at this stage this can go  
10 forward is just my thought and feeling on this. So, I'm  
11 just going to leave it at that.

12 CHAIRMAN McINTYRE: Alright. Janis, you  
13 have anything else or?

14 MS. ESTY: No, no. You know, like I said  
15 two of them I have no problem with, one I have a huge  
16 problem with.

17 CHAIRMAN McINTYRE: Okay, why don't we  
18 discuss that then. As Attorney Branse has advised us that  
19 we have -- there is an option that you could -- we could  
20 possibly say okay, we agree with what the applicant  
21 presented for the Pianta property and we agree with the  
22 applicant except for the west PRD and that there is -- and  
23 an alternative is to say okay, we want to leave Ingham  
24 Hill Road the way it is. And that's something we should

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1 discuss. And I'm not going to start the conversation so  
2 Bob, why don't you?

3 MR. MISSEL: Throwing the ball right in my  
4 court.

5 CHAIRMAN McINTYRE: Well I don't want --  
6 just --

7 MR. MISSEL: Yeah, that's an interesting  
8 thought. And I'm not sure where exactly I stand on that,  
9 but I certainly would agree that the Ingham Hill -- of the  
10 three development areas that we've been talking about  
11 throughout this period, that the Ingham Hill Road is  
12 probably the most problematic. I mean, I certainly would  
13 agree with that.

14 Whether or not we would want to approve say  
15 two out of the three for the sake of the conversation and  
16 deny one, I'm sure we could do that. But the thing of it  
17 is, is if you're going to do that then why not deny and  
18 just let them go back to the 2005 motion and leave it the  
19 way it would be?

20 CHAIRMAN McINTYRE: Okay --

21 MR. MISSEL: I mean, I'm just --

22 CHAIRMAN McINTYRE: -- are you asking me or  
23 --

24 MR. MISSEL: -- no, I'm just throwing --

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1       you asked me and I'm just throwing --

2                   CHAIRMAN McINTYRE:  -- yeah.

3                   MR. MISSEL:  -- you know, I mean and I  
4       haven't really -- we only -- that only came up this  
5       evening.  I really haven't thought about it in depth and I  
6       can understand the Ingham Hill Road is mostly the  
7       problematic area.  And -- but I just don't know where I  
8       would stand on saying well, we'll approve two and deny  
9       one.

10                   I don't know -- if you were going to do  
11       that, I mean that's certainly -- I could see where that  
12       could be a solution.  But if you were -- rather than doing  
13       that then I think you might even want to consider, well  
14       then let's just deny it and not do anything.  I haven't  
15       reached a conclusion on that though.

16                   CHAIRMAN McINTYRE:  Okay.  Cathryn.

17                   MS. FLANAGAN:  It's an interesting concept  
18       to go that way but it still seems that it would be a more  
19       appropriate thing than to go back to the 2005.

20                   CHAIRMAN McINTYRE:  Okay.  Don.

21                   MR. RANAUDO:  I don't see the reasoning for  
22       it.  I mean, that's just my opinion.  I have no problem  
23       with where we're at and I respect my Board members, their  
24       opinions also.

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1                   CHAIRMAN McINTYRE: And I would have to  
2 agree that from -- and once again I go back to the  
3 testimony I heard and what the applicant's asking -- I  
4 don't think it's that much of a change other than the  
5 water -- you know, there's a major change between public  
6 water and not public water, sewers, public sewers and non-  
7 public -- you know, using a septic system.

8                   I think though that demonstrated during the  
9 public hearing that there was evidence provided to us that  
10 says that it is doable because we have experts -- you  
11 know, the sanitation people saying yes, you could build --  
12 you know, if all these requirements were met yes, those  
13 Lots could support a septic system which would not be  
14 detrimental to the environment, okay. You know, it almost  
15 seems like if we single out Ingham Hill Road, at the end  
16 of Ingham Hill Road there, it almost seems like you're  
17 saying that there should never be another house built on  
18 that area in Ingham Hill because other property owners who  
19 have subdivision land up in that area, you're saying that  
20 --

21                   MS. ESTY: I disagree.

22                   CHAIRMAN McINTYRE: -- but I mean, if you  
23 have one, two --

24                   MS. ESTY: No, because whatever involvement

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1       that may or may not -- even if this applicant came back  
2       with another idea for that area, it may be something that  
3       we would look favorable -- or I would look favorable on.  
4       It depends on what it is that they're bringing forward,  
5       but at this particular moment in that particular  
6       development that they have there --

7                   CHAIRMAN McINTYRE:   Okay.

8                   MS. ESTY:   -- I believe there's serious  
9       issues, not only with water and sewer but with where the  
10      athletic fields are and the amount of blasting and fill  
11      and all of that that wouldn't have taken place in 2005.  
12      But that doesn't mean that the applicant couldn't come  
13      back in at a later date and have another development  
14      passed in another location with a different shape or  
15      whatever and you look at it and say well, that one  
16      wouldn't be a problem.

17                  CHAIRMAN McINTYRE:   So you're -- I mean  
18      just so I understand it, you're saying that if in fact the  
19      --

20                  MS. ESTY:   I'm saying that my objection in  
21      Ingham Hill isn't all inclusive forever.  It only deals  
22      with this particular development in this particular area  
23      the way it is presented now.  I'm not talking about the  
24      future or the past, just this one.

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1                   CHAIRMAN McINTYRE: And that's part of my  
2 thought pattern also, is that if you -- all this land --  
3 and you brought up the fact that in the future that there  
4 could be a whole new plan or that property could get sold  
5 to some other developer and they could come in with a  
6 whole different plan. And there's what, 50 -- what is it,  
7 50 acres Christine -- 50 acres is the minimum acreage --

8                   MS. NELSON: Twenty-five.

9                   CHAIRMAN McINTYRE: -- 25, so you could  
10 take -- you know, you could technically sell the -- a  
11 certain portion at the end of Ingham Hill Road to someone,  
12 25 acres, and they could come in with another subdivision  
13 that would be supported just by septic because it wouldn't  
14 be -- there'd be no additional -- I mean, that could  
15 happen. Is that what you're saying also?

16                  MS. ESTY: No, I'm saying that this  
17 particular development in this particular area with what  
18 is presented before us now, I have problems with. I'm not  
19 going to go into suppositions about what might happen in  
20 the future because those 25 acres we may decide hey, you  
21 got to get a septic system in there.

22                  So I'm -- you can't judge what is in front  
23 of you today by what you think may happen tomorrow or what  
24 happened yesterday. You have to look at it by what you

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1 see now. And in a sense you do have to look back but  
2 you'd have to look back at least as far as 2005.

3 CHAIRMAN McINTYRE: Yeah, correct.

4 MS. ESTY: But, I mean you're not looking  
5 into 1980.

6 CHAIRMAN McINTYRE: It's part of this  
7 record, yes, right.

8 MS. ESTY: And on this particular  
9 development today there's a problem, you know. But if it  
10 was something different, that's totally different.

11 CHAIRMAN McINTYRE: Okay. And so when I  
12 look at it if I'm looking at that area of Ingham Hill  
13 Road, it's just -- it's a piece of land that is  
14 developable, it meets the regulations of the Town to --  
15 and any Lot that is not buildable will not be built. Now  
16 the question is -- then of course then the flip side of  
17 that is would it be better to have everything sewerred and  
18 everything -- you know all public utilities, would that be  
19 better?

20 Right now under the subdivision -- I mean  
21 not subdivision the approval right now, the open space  
22 subdivision plan for this area where we're talking about  
23 Ingham Hill there are no houses, but there are other  
24 houses going up that road that we walked. And they showed

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1 just different lots as we went up on the sidewalk where  
2 the old house is, so there is going to be more activity in  
3 that area even if those are supposed to be sewer, you  
4 know, public utilities. So, but --

5 MS. ESTY: Are you talking about other  
6 developments or this development?

7 CHAIRMAN McINTYRE: No, no, just talking  
8 about this right now.

9 MS. ESTY: Oh, okay.

10 CHAIRMAN McINTYRE: What's presented before  
11 us, and I'm trying to put in correlation that I fully  
12 understand that there's a major difference between them.  
13 But even though there is a major difference between them,  
14 our regulations allow that to be happening. I mean, it  
15 allows for that. Our regulations said okay, let's look at  
16 this. Is this proposal any better or worse than the  
17 original proposal in all those different aspects? You  
18 know, is it the open space plan? I think there's been  
19 some gains on the interior like the Pianta property being  
20 brought into the mix.

21 MR. MISSEL: Yes.

22 CHAIRMAN McINTYRE: There are gains by  
23 giving more open space in the middle, so that's a plus.  
24 So I'm -- and I'm just -- I'm not ready to say that --

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1 myself, I'm not ready to say that I would deny the  
2 applicant the right as a property owner not to build on a  
3 parcel of land that I don't see any testimony and  
4 justification that was given during this meeting, in my  
5 opinion, that would say if they do that something going --  
6 you know, everything is going to die up there.

7                   You know, everything is going to come to an  
8 end. Because everything gets managed, I mean the septic  
9 system is -- our engineer accepts the system. The State  
10 of Connecticut approved them. So as an applicant and a  
11 landowner, I think if he's showing us that that -- and he  
12 has to show it at the final stage that that could really  
13 be done, but we've seen enough testimony that it could be  
14 done, in my opinion. So I'm not in favor of doing away  
15 with that -- the Ingham Hill parcel right at this moment.  
16 You know, I don't think the -- I couldn't justify it in my  
17 own mind.

18                   MR. MISSEL: No, you make a good point.

19                   CHAIRMAN McINTYRE: You've got to confirm  
20 or --

21                   MS. ESTY: My homework -- we're not going  
22 to grade.

23                   CHAIRMAN McINTYRE: -- no, no, no, that's  
24 okay. No I'm just saying, we're going around the table so

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1       it's your turn to speak now.

2                   MS. ESTY: No, I said just about all of my  
3 feelings. I think there is a substantial change  
4 especially in Ingham Hill. I'm not too concerned about  
5 the other two, I think those are appropriate for where  
6 they are. But Ingham Hill I do have problems with.

7                   CHAIRMAN McINTYRE: Okay. Alright, and  
8 just for the record I made the motion so at this point in  
9 time after this discussion I am not going to modify my  
10 motion at this time. So, is there anything else that we  
11 need to discuss? Okay, then the next thing we would do is  
12 if there's no other discussion like I said we'll take a  
13 vote and depending on how the vote comes out then we'll  
14 either adjourn or we'll move forward to continue.

15                   The motion's been made to approve the  
16 resolution for the Preserve and modifications approved in  
17 2011. Discussion has been had, we are now going to vote  
18 and all in favor say Aye? Aye.

19                   MR. RANAUDO: Aye.

20                   CHAIRMAN McINTYRE: Opposed?

21                   MS. FLANAGAN: No.

22                   MS. ESTY: No.

23                   CHAIRMAN McINTYRE: Okay, motion's been  
24 defeated.

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1 MR. BRANSE: Is --

2 MS. NELSON: Did you vote?

3 MR. MISSEL: No, I didn't vote.

4 CHAIRMAN McINTYRE: You didn't vote?

5 MR. MISSEL: Not yet, I'm still thinking  
6 about it.

7 CHAIRMAN McINTYRE: So abstained.

8 MR. BRANSE: Well, is it an abstention or  
9 you're still thinking? I mean, you have the right to --

10 MR. MISSEL: I have a right to abstain  
11 right?

12 MR. BRANSE: You have the right to abstain.

13 MR. MISSEL: Then what happens if I  
14 abstain? I mean, we continue discussion or?

15 MR. BRANSE: The vote -- it means the vote  
16 failed to carry because it would take three affirmative  
17 votes to carry. So you can -- I don't know, are you  
18 thinking to -- I'm not trying to rush you.

19 MR. MISSEL: No, no, I'm still  
20 contemplating it.

21 MR. BRANSE: Okay.

22 MR. MISSEL: I'm not sure how I feel about  
23 it at this moment.

24 CHAIRMAN McINTYRE: Take your time.

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1 MR. MISSEL: I'll vote to approve it.

2 CHAIRMAN McINTYRE: Okay, the motion is  
3 approved by three to two.

4 MS. NELSON: Alright, and do you accept all  
5 changes -- Bob, do you want to call a recess so that  
6 people can clear out, take a break and Mark can get that  
7 printed for you?

8 CHAIRMAN McINTYRE: We're calling a recess  
9 at this time while we rate the motion -- finalize it.

10 (off the record)

11 CHAIRMAN McINTYRE: Back on the record.  
12 For the record, Attorney Branse is going to be reviewing  
13 the modification approval that we voted on to approve  
14 tonight. During the meeting he made changes, we are going  
15 to make sure those changes are reflected in this final  
16 approval before it gets signed.

17 MR. BRANSE: Okay, and I'll just note for  
18 the record because my screen is showing tonight's changes  
19 in a different color, which the printer was not giving us,  
20 I can go to them fairly quickly. And it is -- do you want  
21 this one Jeff?

22 MR. JACOBSON: No, I have -- I was just  
23 looking for the one I had before, the marked up one.

24 MR. BRANSE: Oh --

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1 MR. JACOBSON: Keep that if you want.

2 MR. BRANSE: -- nope, I don't need it. You  
3 hang onto it.

4 Okay, under findings -- page 1, findings,  
5 A-1, alternative road standards, in the one, two, three,  
6 four, five, sixth line, therefore the Commission has  
7 considered -- has considered not has been considering, has  
8 considered, it was just another one of those tenses that I  
9 found.

10 On the next page it starts Commission  
11 received. Go down one, two, three, four, five, six,  
12 seven, eight, nine, 10, 11, it looks like 12 lines, the  
13 line begins preliminary nature of the road pattern set  
14 forth, not --

15 MR. MISSEL: Is that No. 2 you're on page 2  
16 or -- what number are we on?

17 MR. BRANSE: I think I'm still on 1.

18 CHAIRMAN McINTYRE: It's 2 -- 2 got --  
19 somehow they got -- the 2's got overlapped with 4's and  
20 stuff on the property.

21 MR. BRANSE: It's still A-1 --

22 CHAIRMAN McINTYRE: Yeah.

23 MR. BRANSE: -- A-1, okay --

24 MR. MISSEL: But it's on page 2.

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1 MR. BRANSE: -- but it's on page 2.

2 CHAIRMAN McINTYRE: Yeah, but it's not  
3 being highlighted though. The word set forth isn't  
4 highlighted on ours. It looks like normal text.

5 MR. BRANSE: Oh, it -- it should say set  
6 forth rather than sets forth.

7 CHAIRMAN McINTYRE: Set --

8 MR. BRANSE: S-E-T.

9 CHAIRMAN McINTYRE: No, it didn't it says  
10 S.

11 MS. FLANAGAN: Set --

12 MR. RANAUDO: But it's crossed --

13 MR. JACOBSON: Yeah, but it's crossed off.

14 MS. FLANAGAN: It's crossed out.

15 CHAIRMAN McINTYRE: Is it crossed out?

16 MR. RANAUDO: Yes, it's crossed --

17 CHAIRMAN McINTYRE: Let me see.

18 MR. RANAUDO: See, it's got a little mark  
19 across --

20 MR. JACOBSON: Mark, can I just ask one  
21 question on page 1 where you said it has considered --

22 MR. BRANSE: No I see, it's a cross out but  
23 it's not in color, alright? So I -- what's that?

24 MR. JACOBSON: That has is still crossed

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1 out here, is that -- I'm back to your first one.

2 MR. RANAUDO: Yeah, has is still crossed  
3 out.

4 MR. MISSEL: Therefore the Commission --

5 MR. JACOBSON: You said has considered?

6 MR. BRANSE: It should be has considered.  
7 I don't know why the has is crossed out, on my copy it  
8 looks okay.

9 MR. JACOBSON: Okay.

10 MS. NELSON: Because it was in the 2005,  
11 that's why --

12 MR. BRANSE: Right, right.

13 MS. NELSON: -- the Commission considered  
14 --

15 MR. BRANSE: Well considered, you're right,  
16 it is considered not has. You're right, the Commission  
17 considered, thank you. It's correct, it's correct that  
18 way.

19 MR. JACOBSON: Okay, alright.

20 MR. BRANSE: That's all on page 2. On page  
21 3 there is nothing more.

22 Page 4, Item 5, it now -- it's reading the  
23 Commission finds that the change in the community effluent  
24 disposal to individual septic systems. It originally said

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1 on the Pianta parcel, the west PRD and proposed Ingham  
2 Hill. But the latter two areas, Jeff pointed out to me  
3 that's wrong, alright. The west PRD did have water, so  
4 the change I made tonight was to move west PRD to the  
5 front. So it says the west PRD, the Pianta parcel and the  
6 proposed lots off Ingham Hill Road, use of individual  
7 wells in the latter two areas, now meaning Pianta and  
8 Ingham Hill, appears to be feasible. So that latter two  
9 is correct because I made it right by changing the  
10 sequence.

11 CHAIRMAN McINTYRE: Okay.

12 MS. NELSON: They are shown here?

13 MR. BRANSE: Yes, it's just not a different  
14 color.

15 MS. NELSON: Struck out?

16 MR. BRANSE: Yeah, so it is there okay.  
17 And interesting, you see on my screen it's tan.

18 MS. NELSON: Ahum.

19 MR. BRANSE: See, I have -- so I can see  
20 exactly what changed tonight. In B on that same page,  
21 one, two, three, four, five, six lines, and/or plans --  
22 see where it is? The were to are was tonight --

23 CHAIRMAN McINTYRE: Ahum. The were's are  
24 crossed out are's --

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1 MR. BRANSE: Yeah, were crossed out and are  
2 is new. That's a were -- the change from are -- from were  
3 to are was just tonight. That's it for page 4.

4 There's nothing on 5, there's nothing on  
5 page 6 --

6 MR. MISSEL: Nothing on 6?

7 MR. BRANSE: -- nothing on 6 that I'm  
8 seeing anyway. Page 7, see to yield plan, golf course?

9 MR. MISSEL: Yeah.

10 MR. BRANSE: Go down one, two, three, four,  
11 five, six lines, a separate use of land, close quote. The  
12 close quotation had been missing so I added that tonight.  
13 And then go down another one, two, three, four, five, six,  
14 seven, eight, nine -- see "yield plan with golf course" in  
15 quotes?

16 CHAIRMAN McINTYRE: Ahum.

17 MR. MISSEL: Yup.

18 MR. BRANSE: I didn't close the paren.

19 CHAIRMAN McINTYRE: Okay.

20 MR. BRANSE: So the closing of the paren  
21 was tonight.

22 MR. MISSEL: Okay.

23 MR. BRANSE: That's it for that page.

24 There's nothing on 8. On page 9, C-5 -- or actually --

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1 no, on C-5 -- there should be full access to Ingham Hill  
2 Road from road H and what I put in tonight was, also  
3 referenced on some plans as Road A.

4 MR. MISSEL: A.

5 MR. BRANSE: Jeff pointed out to me that  
6 the new set calls what was H, A. It makes it confusing,  
7 okay, and you'll find the same thing in the second from  
8 the last line of that same Item 5 -- the final plan shall  
9 be revised to depict Ingham Hill Road (Road H also  
10 referenced in some plans as Road A). Okay, that's  
11 tonight.

12 MR. JACOBSON: Mark, one question on C-2.

13 MR. BRANSE: Yup.

14 MR. JACOBSON: I notice that there's still  
15 a Road H there. Does that need to be --

16 MR. BRANSE: I show it as crossed out. Oh  
17 you mean Road H should be depicted --

18 MR. JACOBSON: Yeah.

19 MR. BRANSE: -- as originally approved? I  
20 didn't put that in what was in front of them, so that's  
21 not how they adopted it and I think it's pretty -- I think  
22 it's clear over and over again that Road H and Road A are  
23 the same thing.

24 MS. NELSON: And is that part of the

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1 original approval anyway?

2 MR. JACOBSON: Yup.

3 MR. BRANSE: Yes. That was -- we were on  
4 page -- yes, page 9. Let's see now page 10, nothing on  
5 10.

6 Very top of page 11, the fractional  
7 paragraph. You see the last sentence, the plan was  
8 modified during the course of the application to protect  
9 the habitats of the prickly pear? That was added tonight.

10 CHAIRMAN McINTYRE: Ahum, there it is.

11 MR. PRISLOE: It's now an open space.

12 MR. BRANSE: Right. And then under IV, A,  
13 access Ingham Hill Road. As noted above the access from  
14 Road H, and then again, also depicted in some plans as  
15 Road A, close paren, and road stricken out, that was  
16 tonight. Somehow Road was -- it said Road H Road, which  
17 obviously was --

18 MR. MISSEL: Also depicted on some plans as  
19 A, okay.

20 MR. BRANSE: Yeah, that was added tonight.  
21 And the second to the last line in that same paragraph,  
22 northwest of CL&P pole, I had written it north. Jeff  
23 pointed out to me it should say northwest, so the west  
24 piece was added tonight.

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1 MS. NELSON: So that's not northwest --

2 MR. BRANSE: Yeah -- oh, see my copy  
3 doesn't say that. My copy just -- I don't understand  
4 computers. Mine says northwest, strike out north because  
5 mine doesn't say that. Northwest of CL&P. Yeah, I just  
6 have one north and a west, see northwest of CL&P. Yeah, I  
7 don't know why it's different on my screen, this came  
8 right from my screen, but anyway.

9 CHAIRMAN McINTYRE: Has he got goblins in  
10 there?

11 MS. NELSON: Oh, I don't think any of us  
12 have mastered this yet. The reason why you got this thing  
13 at 9:30 last night because I was like, what the hell?  
14 Hundreds of deletes --

15 MR. BRANSE: This was tough. B, village  
16 layout, the third line, again, depicted on some plans as  
17 Road A. That I added tonight. And two lines down, Road  
18 H, and I got tired so I just put or A -- I got tired of  
19 putting depicted on some plans as. There's nothing on 12.

20 13-F, location of maintenance facility.  
21 The third line, Condition I, as regards to this, the word  
22 to just went in tonight. I just noticed it was missing.  
23 I think Jeff picked up the word to was missing, to the  
24 site.

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1 CHAIRMAN McINTYRE: Yeah, and ours doesn't  
2 have the word this.

3 MR. BRANSE: To this because --

4 CHAIRMAN McINTYRE: Show me, where is it?

5 MR. BRANSE: Condition I as regards to this  
6 site prior to final approval.

7 CHAIRMAN McINTYRE: Okay, I was looking in  
8 the wrong spot.

9 MR. BRANSE: Alrighty. In I, the third  
10 line from the bottom, it said Land Use office. Christine  
11 pointed out to me the correct term is Land Use Department,  
12 so I changed office to Department. That was just tonight.

13 CHAIRMAN McINTYRE: Okay.

14 MR. BRANSE: There doesn't seem to be  
15 anything on 14.

16 On page 15-N, okay, the fourth line of N.  
17 It had said the end of any roads, okay -- of any roadway  
18 rather, and Jeff pointed out that that wasn't correct. So  
19 I took out any Roads A -- at the end of Roads A, also  
20 designated at times as Road H, or B. Alright, so that  
21 language is new tonight.

22 MS. ESTY: We have roadways roads.

23 CHAIRMAN McINTYRE: Yeah, that's what ours  
24 reads, roadways roads. Get rid of the word roads.

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1 MR. BRANSE: Yeah, for some reason on your  
2 copy, because I still have Roads A, so take out way. It's  
3 Road A (also designated at times as Road H or B), okay,  
4 that's tonight. Then go down about --

5 CHAIRMAN MCINTYRE: And road A --

6 MR. BRANSE: -- go down three lines where  
7 it says again Road H also depicted on some plans as --

8 MR. MISSEL: Road A --

9 MR. BRANSE: -- that's again, just tonight.  
10 On O, Lots 3 and 4 on the Pianta parcel was just tonight.

11 MR. MISSEL: Ahum.

12 MR. BRANSE: And the same thing in P, the  
13 second and third lines, Lot 9 on the Pianta parcel.

14 MR. MISSEL: Ahum.

15 MR. BRANSE: That's added tonight. The  
16 third line from the bottom of that same paragraph, extent  
17 that it is feasible. I added it tonight, it said that is  
18 feasible -- in addition to the extent that it is feasible,  
19 should be it is feasible.

20 MS. NELSON: They're going to have trouble  
21 seeing it Mark because now it doesn't show. It's not the  
22 black but the strikeout anymore for them. So just  
23 describe better where it is.

24 MR. BRANSE: Okay oh, I'm sorry. Ok in S,

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1 the second line --

2 MR. MISSEL: In which one, S?

3 MR. BRANSE: -- S, second line. Again,  
4 it's doing the same thing it did before. See where it  
5 says north northwest? It's supposed to be northwest. I  
6 had put north, Jeff said it should be northwest. So I  
7 added the word west.

8 MS. NELSON: Mark's copy is right. We just  
9 had to run upstairs and do our merge compare --

10 MR. BRANSE: And somehow the colors flipped  
11 out, I don't know.

12 MS. NELSON: -- when you're creating a  
13 document and --

14 CHAIRMAN McINTYRE: So when you print this  
15 one out this time, it will be just --

16 MR. BRANSE: It should be -- yeah, I'm  
17 going to do it at my office on my printer and hope that it  
18 works.

19 In T, the third line, conservation, and I  
20 added or other applicable. And then Commission went to  
21 Commissions. The S, I added the S. So other applicable  
22 Commissions.

23 CHAIRMAN McINTYRE: Got it.

24 MR. BRANSE: There's nothing in U. In V

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1 the detention, it said ponds. Jeff said it's pond,  
2 located, and it is south. I don't know how -- how does it  
3 read for you?

4 MR. MISSEL: South.

5 CHAIRMAN McINTYRE: South.

6 MR. BRANSE: South, okay good because south  
7 was right, of Lot 9 and I added tonight off of the cul-de-  
8 sac off of Ingham Hill Road.

9 MS. NELSON: There's an extra space after  
10 --

11 MR. BRANSE: Oh, okay. And at the end from  
12 southwest -- south, yes you got it. West to south was  
13 tonight -- that was tonight. And then on that same page,  
14 the last like two lines, see where it says Lots 5, 6 and  
15 7? See where that is, the second to the last line on that  
16 page, W?

17 MR. JACOBSON: On the next page.

18 MR. MISSEL: On the next page.

19 MR. BRANSE: Oh, it's just your pages are  
20 different. Who knows why. Where's W?

21 MS. NELSON: Because we put the word final  
22 at the top.

23 MR. BRANSE: Oh that's right, we put final  
24 on top.

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1 MS. NELSON: So here it is, Lots 5, 6, 7 --

2 MR. BRANSE: So the very top of page --

3 MR. MISSEL: Okay.

4 MR. BRANSE: -- okay the words, on the cul-  
5 de-sac off of Ingham Hill Road is new tonight. And to the  
6 area, I took out between and said of, that was tonight.  
7 To the area of Lots 3 and 4 as opposed to the area between  
8 Lots 3 and 4. That was tonight, you remember you talked  
9 about that?

10 MR. PRISLOE: Since there was no area  
11 between Lots 3 and 4.

12 MR. BRANSE: Right. And then like three  
13 lines -- four lines farther down, you see where it says  
14 proposed new cul-de-sac? See where I am? I added  
15 tonight, and the common driveway. And again, it was a  
16 comment of Jeff's, that it wasn't just the road it was  
17 also the common driveway serving. See where that is Bob?

18 MR. MISSEL: Oh yeah, I got it now.

19 MR. BRANSE: And the common driveway added  
20 tonight.

21 MR. MISSEL: Got it.

22 MR. BRANSE: And then under decision, I had  
23 the the on the wrong place. It said 2005 Commission the,  
24 so I made it the Commission recognized. Okay, so that was

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1 tonight.

2 CHAIRMAN McINTYRE: Right.

3 MR. BRANSE: And let's see now, one, two,  
4 three, four, five, six, seven lines farther down see the  
5 line that begins evidence?

6 CHAIRMAN McINTYRE: Ahum.

7 MR. BRANSE: Evidence received during the  
8 original. I added the word the tonight. And see, this  
9 isn't earth shaking stuff.

10 The paragraph that begins with the time  
11 limit, crossed out the six month time limit, see where  
12 that is?

13 MR. MISSEL: Ahum.

14 MR. BRANSE: You see at the end of the  
15 second line, and shall not be extended by this decision.  
16 I struck out the, that was just tonight. And that's it.  
17 So those are the things that were tonight.

18 CHAIRMAN McINTYRE: So there's nothing for  
19 me to sign tonight then unless you want to --

20 MR. BRANSE: You can sign this. You can  
21 sign this that says final because it correctly compares to  
22 the 2005 motion.

23 CHAIRMAN McINTYRE: Okay.

24 MR. BRANSE: And that's all that matters

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1 for legal purposes, alright. I just wanted you to know  
2 what I changed tonight as opposed to what you walked in  
3 here with.

4 MS. NELSON: But -- you know, I prefer if  
5 we could have a clean copy with the Chairman's signature.

6 MR. BRANSE: I can print this -- I can  
7 print -- please remember though, in terms of the parties  
8 --

9 MS. NELSON: Yeah.

10 MR. BRANSE: -- they don't care what we  
11 added tonight versus what we did this afternoon or  
12 yesterday.

13 MS. NELSON: Right, right, so why bother  
14 signing this.

15 MR. BRANSE: So it's only a matter of what  
16 changed from 2005 --

17 MS. NELSON: Right.

18 MR. BRANSE: -- and for these purposes this  
19 is perfectly okay.

20 MS. NELSON: And it doesn't have to be  
21 signed tonight, the motion was made right?

22 MR. BRANSE: No, it doesn't have to be  
23 signed tonight.

24 MS. NELSON: So you can send it over --

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1                   CHAIRMAN McINTYRE: Yeah, maybe come buy  
2     you lunch or something?

3                   MS. NELSON: I was going to buy you a beer.

4                   CHAIRMAN McINTYRE: Okay, before we adjourn  
5     I just want to thank everybody, our staff, our clerk,  
6     everybody and saying a good job -- the recorders and Sandy  
7     for sitting here and putting up with our nonsense. But  
8     everybody I think really did an excellent job and it's not  
9     easy, and you don't realize how difficult it is until you  
10    get down to that decision-making process.

11                   And I think everybody did really, really  
12    well pulling it together, everybody came up with sound  
13    thoughts and that's what it's all about, bringing those  
14    thoughts out and then having a debate. So I'm really  
15    proud and everybody I think did a really great job, thank  
16    you.

17                   MS. FLANAGAN: Thank you.

18                   MR. RANAUDO: Thank you.

19                   MR. PRISLOE: And just a quick question  
20    concerning what happens now as far as staff is concerned  
21    because you won't see the plans or any revisions to the  
22    plans. That was my understanding from the discussion  
23    earlier tonight. But the approval requires all kinds of  
24    things that the applicant has to do, correct?

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1 CHAIRMAN McINTYRE: Ahum.

2 MR. BRANSE: Correct.

3 MR. PRISLOE: And that's incumbent upon  
4 staff to review and approve?

5 MS. NELSON: Ahum.

6 MR. BRANSE: And however, just -- there's  
7 nothing preventing staff after they're satisfied from  
8 returning to the Commission and reviewing with the  
9 Commission what it looks like, which I think could be a  
10 good idea.

11 MR. PRISLOE: But there's no requirement  
12 that the Commission approve anything.

13 MR. BRANSE: They don't have to vote  
14 because if they voted that would trigger another appeal  
15 period.

16 CHAIRMAN McINTYRE: And I forgot to think  
17 Mark, he has the fastest fingers in the world. Hey, how  
18 do you keep up with what we're saying to get it all down,  
19 it was amazing.

20 MR. JACOBSON: I do have one question on  
21 that staff part --

22 MR. BRANSE: Yeah.

23 MR. JACOBSON: -- in the motion there it  
24 talked about submitting new one inch equal 100 scale plans

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1       that reflect all the revisions of the conditions in the  
2       motion.

3                       MR. BRANSE:   Yes.

4                       MR. JACOBSON:  Would that be for the entire  
5       part or just these areas of modification?

6                       MR. BRANSE:  Whatever you think you need.

7                       MR. JACOBSON:  Because if it's for the  
8       entire --

9                       MR. BRANSE:  Well, it could be for the  
10      entire and I'll tell you why, why it could be alright.  I  
11      have to think carefully how to say this.  The 2005 motion  
12      included a lot of things that were supposed to be changed,  
13      alright.

14                      MR. JACOBSON:  Yup.

15                      MR. BRANSE:  Then there was an appeal, so  
16      it languished for a very long time.

17                      MR. JACOBSON:  Yup.

18                      MR. BRANSE:  The applicant could if they  
19      wish return with plans that depict, satisfy not only the  
20      modifications of tonight, but they could also return with  
21      plans that reflect the required modifications left over  
22      from 2005.  If they do that then yes, they'll need 100  
23      scale plans for the whole thing.

24                      MR. JACOBSON:  Alright, but if they just

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1 return with 100 scales for the modifications that's  
2 acceptable.

3 MR. BRANSE: It just means that then the  
4 other conditions remain outstanding.

5 MR. JACOBSON: Okay.

6 CHAIRMAN McINTYRE: Just sufficient for  
7 now.

8 MR. BRANSE: That's right, that's all  
9 they'll get for now.

10 MR. JACOBSON: Okay, because I don't  
11 suspect that they probably have all those 2005 plans or  
12 that Bob has worked on those or is going to try to address  
13 all those conditions. That's just my gut feeling.

14 MR. BRANSE: I think you're probably right.

15 MR. JACOBSON: I just want to clarify --

16 MR. BRANSE: Yeah, I think you're right --

17 MR. JACOBSON: -- I just wanted to clarify  
18 that we don't have to have all --

19 MR. BRANSE: -- no, they can return with  
20 just this and they'll continue to be subject to -- those  
21 conditions will remain outstanding and unsatisfied.

22 MR. JACOBSON: Okay.

23 MR. BRANSE: And prior to the filing of any  
24 subdivision application, any subdivision application or

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1 any PRD application, they will have to address that.

2 MR. JACOBSON: Okay.

3 MR. BRANSE: And that means any  
4 application, because it's now one single project.

5 MR. JACOBSON: Okay.

6 CHAIRMAN McINTYRE: Okay.

7 MR. PRISLOE: For the whole thing.

8 MR. MISSEL: For the whole thing.

9 MR. BRANSE: Whole thing.

10 MS. NELSON: The whole thing.

11 CHAIRMAN McINTYRE: The rumbles we've all  
12 been waiting for. Motion to adjourn.

13 MS. ESTY: Second.

14 CHAIRMAN McINTYRE: Okay, all in favor?

15 VOICES: Aye.

16 CHAIRMAN McINTYRE: Thank you ladies and  
17 gentlemen.

18 (Whereupon, the hearing was adjourned at  
19 10:44 p.m.)