

**MINUTES OF A CITY COUNCIL SPECIAL PERMIT HEARING HELD ON JANUARY 27 2009,
DOC. #129/08 APPLICATION FROM ATTORNEY JAMES WALDRON REPRESENTING
NORTH AVENUE REALTY TRUST REQUESTING TO BUILD 27 MULTI-FAMILY RENTAL
UNITS IN 4 BUILDINGS ON FARRWOOD DRIVE - ISLINGTON CROSSING**

SUBJECT: Doc. #129/08 - Application from Attorney Waldron representing North Avenue Realty Trust requesting to build 27 multi-family rental units in 4 buildings on Farrwood Drive - Islington Crossing.

Present: President Michael J. Hart, Councillor Robert Scatamacchia, Councillor William Ryan, Councillor William Macek, Councillor Mary Ellen Daly O'Brien, Councillor David Hall, Councillor Michael McGonagle, Councillor James Donahue, and Councillor Kenneth Quimby.

City Clerk Margaret Toomey: Doc. #129/08 - An application has been received from Attorney Waldron representing North Avenue Realty Trust requesting to build 27 multi-family rental units in 4 buildings on Farrwood Drive - Islington Crossing. A favorable conditional recommendation has been received from the Planning Board and Planning Director.

President Hart: Declared the hearing opened.

Attorney James Waldron, I represent the applicant. This is an application for a special permit to construct 27 units of multi-family housing on Farrwood Drive in Bradford. This is adjacent to the Farrwood Condominium development. The parcel on which the four buildings would be constructed is not a part of the condominium. It was land that was left over after the condominium was established approximately 30 years ago. In our application we stated that the 27 units would be rental units. Since the time the application was filed several months ago, we have had several meetings with different groups and as a result of those meetings, later on Mr. Stapinski will speak to the change. We are now requesting that these units are going to be condominium units and we have represented to various people that it would be rented until such time as they are sold. They would be condominium units with a condominium association. He will explain the reason for that. That is a change we would request here this evening. The reason for the change will be explained later in our presentation. At this time I would like to introduce Stephen Stapinski from Merrimack Engineering. He will discuss with you the plans that were filed with the various amendments to the plans and the reasons why certain things appear or don't appear on the plan.

Steve Stapinski from Merrimack Engineering, our office prepared the plan before you this evening. I took the liberty of providing you with a reduced copy. It's a reduction of the plan in your packet. It's a little easier to read. The Islington Crossing development is 27 units located on approximately three acres of land that sits between the area that was originally developed by Roy Farr. You can see on the aerial photograph Farrwood Drive coming in from the west from route 125 you come up to the end of the street, take a left and head towards Sterling Lane and back out

to rte 125. On the left hand side of the site there's a three acre parcel owned by Mr. Weinstein that's vacant. There's no restrictions on the development of it. It's properly zoned, serviced with water and sewer in Farrwood Drive. We are proposing a total of 27 units, five units in one building, that's the one to the left as you are looking at it to the north, nine units in the second which would be to the east or to the right as you are looking at it, and then 10 units to the west, which would be closest to what's known as Phase I. The plan that you see is a little different than what was at the Planning Board. The five unit building was originally turned to be parallel to the wetlands. We turned it at the request of both the neighbors, who we heard at the Planning Board and the Fire Department and Building Inspector who had comments before the Planning Board. The Building Inspector wanted us to reduce the length of the dead end street and the Fire Department wanted us to bring the units closer to Farrwood Drive so they would be easier to manage. The neighbors, one in particular, there were several that lived in the building that's closest to the development, you'll see it on the aerial photo and on the site plan, they had some concerns that sometimes there would be units that looked out into their unit, they wanted to retain their privacy. So taking that five unit building and turning it so that it isn't behind the existing building at Farrwood Drive would address those concerns of the privacy. Now there will be no units behind any existing unit on Farrwood Drive. The people who looked out their windows in the past can still look out and see the woods. We have addressed that. We also met with some of the representatives of that phase. Their attorney in particular who requested that we provide a dense planting area between the openness of the existing phase lawn and the new development. You will see on this revised plan that we are proposing twenty six foot high spruces or pine trees that would be planted. This is something we agreed upon with Attorney Schiavone their representative. The site has on it, a portion of the adjacent phase parking area. You'll see on our plan that parking area. Even though we have had meetings with the association in the past, apparently we were a little misled by their management company. We thought that there was no objection to the removal of the parking lot. In fact that was not the case and we were certainly made aware of that at the Planning Board meeting. In meetings with their representatives we agreed to construct a new parking lot or pay for a new parking lot to be built on their property. The shaded parking area that you see actually proposes thirteen parking spaces to replace the eleven that would be lost with the removal of their parking lot which is on the Weinstein land. It's not a case of someone taking something away. It's literally Mr. Farr built this over the property line when he built it and the people in the association have been parking there all these years. Mr. Weinstein knew about it for four or five years, didn't object. He's let them do it, hasn't charged them. He's been letting them park there for free. Now it's time to develop it. He wants to remove it. He's willing to replace it for them. He knows it's not their fault either. It was the fault of Mr. Farr. Mr. Weinstein is willing to pay for that. One of the other things that came up during the Planning Board meeting is that the Fire Department was concerned that we didn't have sprinklers proposed in the units. In fact we have agreed to provide fire sprinklers in all the units so that every unit will be fully sprinkled and fully code compliant. We've added that note to the plan. The Fire Department also asked that we take the driveway that was coming into the development and make it a looped driveway. We originally had it with just one entrance. So at the Planning Board you saw a plan with one entrance now we have two entrances so the fire trucks can come in and circulate through. They can come in and turn around. If they had a false alarm, for an example, or they came in and serviced whatever the call was, they could then drive up without having to back out. We've made that drawing change as well. I think one of the most important aspects of the change was a note added to the plan. You'll see note C. Notes A-D were all added to the plan since the meeting of the Planning Board. Note C and note D are probably the most important because what we are proposing to do, the developer, is to reconstruct Farrwood Drive from a point about 500 feet in from rte 125 all the way up to the driveway, the easterly most or northerly most driveway, depending on how you look at it to the site. It's about 1600 feet. I know all the Councillors have been up to Farrwood Drive. When you drive in from 125, closest to Western

Electric, the road is a pretty good road. It's first four or five hundred feet. It's the area that's been rebuilt. That was rebuilt by Mr. Weinstein as a condition to another special permit that the Council had issued for a triplex. Then you hit a road that is pothole laden, that has drainage issues, that have pavement issues and that's the road we are going to rebuild. We are going to completely rebuild to City of Haverhill standard in terms of the gravel and pavement thickness. This is something the Planning Board requested and asked that we put on the plan. We've committed that to all the neighbors and all the association members. That road will be built to full city standard, inspected by the city just like the first five hundred foot was when it's rebuilt. The developer has already made an investment not only in land, but also improvements to this area. Five years ago when the land was purchased there was very little or no water pressure at the site. There were fires where literally units were destroyed significantly. There was a duplex that was being built, there was a case of arson, it was lit on fire and it literally burnt to the ground because there wasn't enough water supply or water pressure. The developer has spent \$250,000 without any requirement from the city to do this. There was no special permit involved here. It was just something that had been requested by the Water Department. He spent the money upfront to construct a twelve inch water main from Cross Road, this where the railroad tracks are. If you go down 125 you go past the post office past Flowers by Steve you come to the railroad track, that's where Cross Road is, where Joseph's Restaurant is. There's a twelve inch water main there. The city had plans to build it up to Farrwood but never had the funds. Mr. Weinstein funded the expansion of the water main all the way from those railroad tracks all the way up to 125 then down Boston Road to Farrwood and interconnected it in. Now there is adequate pressure and supply to service all the fire hydrants and to service all the units. When that water main was designed we actually paid Camp Dresser and McKee, the city's consultant, to specify the size and layout so this way the water main would satisfy the unit demands for the existing residents as well as anything was proposed by Mr. Weinstein in the future. In addition, when the city looked at the condition of the pump station, there's a sewer pump station at the North Andover line, that Mr. Farr had put in in 1974, they looked at the maintenance records, the wastewater division who maintains that pump station was at the site every other day. They were either fixing a clogged line or repairing a pump or repairing a control. Every two days there was somebody from wastewater at that pump station. They requested Mr. Weinstein to remove and replace the pump station. He agreed to do that and fund that so the city wouldn't have to so the association members wouldn't have to. This is not coming before the Council for a special permit and it's not coming before the Planning Board for anything. It's just when he was applying for the duplex permits, they said would you do it and he said yes. What we thought was going to be a small job of replacing some pumps and controls ended up being a very large job where we removed the entire pump station and replaced it with a brand new state of the art computer controlled pump station. There was no emergency generator here so when the power went out the city either had to send a generator down from the highway department or they had to send a sewer truck down to pump out the sewerage from all the existing units because there was no pump working because the electricity was off. As part of our improvement program, we installed a brand new state of the art emergency generator. It's connected to the natural gas that's in 125 so now if there's a power failure which you actually had ice storm came, that generator automatically kicks on. You don't do anything because it's automatically fed from the underground system. There's an automatic switch gear system and it's all computer tied into the wastewater treatment plant in Bradford so that if there's a failure of either the pump or the generator it comes up on the wastewater board so they know about it. This is literally state of the art improvements. They were done at no expense to the city and then Mr. Weinstein paid for the electricity for two years. So the city didn't pay and the residents didn't pay for any electricity. The city has now accepted that and they are now paying the electricity. When Mr. Weinstein was here for the triplex the Council requested that he meet with many of the association members and talk about the plans for future development. At that time we went ahead and developed some plans for development of the site, they are very

future, very preliminary plans. We tried to be very open with the association members and the residents here. One of the things they asked is whether or not he's be willing to whenever they call to try and get up here and help them maintain the roadway. He agreed to do that. Every three to six months he gets a phone call and people can you fill this pothole, can you fix this can you fix that and he sends his crew up. It might not be the same day, but certainly in a couple of days he does it at no expense to the associations because he knows he has a long term investment. I would say he have tried to work as close as possible with all of the association members and the associations. We feel it's a joint effort to provide services to make improvements so that they benefit the city overall, benefit the residents who live here and they benefit the development that's proposed because we don't want a development that is serviced by infrastructure that doesn't meet local standard. That's been the commitment all along. Everything that he said he was going to do he has done. At the Planning Board there was a question as to whether or not the drainage from this site would flow onto the abutting properties. We agreed to go out and survey the area. On the revised plan that you have you will see the elevation of the buildings, the lowest elevation is anywhere between eight feet and four feet above the adjacent wetlands. There's no way that the water from our site on the which the development is proposed or the wetlands or the stream will ever go back onto the adjacent properties. The Conservation agent in his letter to the Council has said that any work that is proposed would have to be subject to the review of the Conservation Commission to assure that there would be no drainage issues. That was a commitment Mr. Weinstein would make if he was here this evening. He asked me specifically to bring that up. I would say the development fully complies with the zoning by-law. The building inspector has made that determination. The Planning Board has recommended it. You'll see from the packet we submitted the house plans are townhouses they are of a scale and a size to that's similar to what already exists in the neighborhood. So it is similar to what's in the area. These will be units that would be offered for sale. Most importantly is that there would be a homeowner's association as Attorney Waldron has indicated that would pay their fair share to the existing associations to maintain the road. Whatever the maintenance costs are for snowplowing, etc. on a pro rata basis, these units would pay their share as will any other unit that is developed here in the future by Mr. Weinstein.

Attorney James Waldron - At this time I would like to discuss some of the issues that arose at the Planning Board meeting that were raised by the people who attended that meeting. The first issue was the effect on property values of the present Farrwood condominiums. There is absolutely no evidence of any kind submitted that this new construction of residential units who have an adverse effect on the neighbors. You could almost anticipate that a \$4million investment in the area would increase the property values having the opposite effect of reducing them. What effects property values are factors that don't include, there is no evidence at all that this project would reduce property values in that area. This use is allowed in this district in the zoning laws. The second part, somebody mentioned the effect upon schools. Presently there are sixty school children from the 464 units at Farrwood Condominiums. That's one for each seven and a half units. If you use the same ratio, you have 27 units would mean three children. This had been true of almost every development that has come into the city. These are two bedroom units. They don't produce children the same as three and four bedrooms units do. The developer owns or manages three hundred units in Haverhill, Andover, North Andover and in the state of Maine and that's his experience with these type of units. You just don't get the number of children that people think that you do out of those places. The benefit to the city, before they can put a shovel in the ground, they have to spend \$106,000 for the fees water/wastewater and building permits and reviews by the various departments. The taxes, I have used a couple of comparables and spoke to the Assessor's office and the taxes would be about \$75,000 a year on the 27 units. I think the major issue that was discussed at the Planning Board and referred to by Mr. Stapinski is the Farrwood roadway. I have been through it. Except for the 500 feet that was developed by Mr.

Weinstein, it's in quite bad repair. Mr. Weinstein has offered to make a part of the special permit and also a part of the definitive plan process to do another 1600 feet at a cost of about \$160,000 that would make a major improvement in that roadway. Drainage and conservation issues have been dealt with by Mr. Stapinski and I think it bears repeating that the Conservation Commission will require a full storm water management and they insist on having covenants so that somebody is responsible to maintain their drainage systems. On top of that you have a full definitive plan review by all of the city departments and needs the further approval of the planning board and the bonding of any off site improvements that you offer to make. The last thing is density. The existing condo development of 467 units is on fifty-two acres. That's 8.9 units per acre. The proposed development has 27 units on 3.16 acres, that is 8.5 units per acre which are less than the existing. The plan that he has overlaid on the aerial photography you can see that the buildings are less dense that what they are now. We are not increasing the density on that property. It's been stated earlier that project is in an RH zone. That allows for multifamily dwelling with a special permit. Special Permits should be approved if they meet the conditions set forth in the ordinance. I have to put those into the record. Those conditions are in section 255, section 76, section D as follows: the use is allowed and it is; it's allowed in the RH zone multifamily dwellings which a special permit and that's why we are here before you this evening. The use is desirable to the public welfare, the construction of new housing in the city has always met that requirement. New residential properties raise the standard for many other residential properties in the city. The extra competition makes people take care of their units so that they can rent them. These are brand new units which are certainly desirable to the city. The use will not impair the integrity or character of the district. I believe our presentation here this evening sets forth all of the factors that relate to this requirement. The requested use provides for convenience and safety of traffic within the site. This plan that has been presented to you have been fully reviewed by the city engineer and by the Fire Department. We had several meetings with both of those city departments and they are satisfied what we have proposed meets their requirements. The requested use provides for adequate methods of disposal and adequate methods for water and storm water. We have addressed that. The requirement of conservation and definitive plan approval will ensure that that requirement is met. The other item mentioned by Mr. Stapinski is development must be serviced by public water and public sewer. We have that. Based upon the foregoing we request your granting of the permit. The alternative development if it is not a special permit for multifamily housing it is going to be developed for something by someone sooner or later. That could be a Form A plans, which can be done off of this street and taken to the building inspector and filed for a building permit. It requires no further Planning Board approval or City Council approval. That's not a threat, it's a fact of life. Some developers are in the business of buying of real estate for the purpose of using it to develop and make money with it. We are here this evening asking you to give us a special permit for what we think is a very good development that answers most of the concerns that were raised at the Planning Board meeting. The roadway situation, we have been in lengthy meetings with Attorney Timothy Schiavone who represents Phase I which is our immediate abutter to this project. We have spoken at length with him about the Farrwood Rd. and he is going to make a comment on that this evening. So I won't make a repetitive one.

President Hart: Is there anyone else who wishes to speak in favor?

Arcadi Ibanov, President of Farrwood Phase II. We're by far the largest phase in the whole development so far. I rise here to state our conditional support of the association as an entity, not as individual units to this development. The particular reasons are as follows: Most of you are familiar with the state of our road. I think Councillor O'Brien has been very intimately involved with the whole discussions. The 500 feet which have been reconstructed so far, prior to reconstruction, caused tire bursts to the large SUVs. The rest of the road has not been reconstructed still the development of the existing phases. Now provided that Mr. Stapinski and

Mr. Weinstein are taking it upon themselves to rebuild the road, or alternatively pull the special permit and develop what they want it seems both imprudent and unreasonable to pass up the money which neither of the phases alone or even combined can raise to mitigate the problem. The concerns you are most likely to hear tonight ranging from the drainage issues to endangered species issues to people being able to leave their children on their backyards, some of those concerns have already been expressed during the Planning Board meeting. Me representing the residents of Phase II who is not even closely abutting the development, but who have to drive every day back and forth on the road, which if not for Mr. Weinstein covering up the holes would be impassable on bad days. For me it's reason enough to agree to this development. Obviously no one likes when something is built in their back yard but the benefits here far outweigh the negative impact of that development however virtual it might be. The only actual concerns which have been expressed are Phase I's drainage issues, water table issues, close proximity which might endanger their foundations if the runoff is not corrected. Provided that all the issues with Phase I are resolved such as parking spaces and drainage, Phase II as association has no objection is looking forward to a new road being reconstructed.

President Hart: Is there anyone else wish to speak in favor? No one else. Is there anyone who wishes to speak in opposition?

Ed Petrycki, 41 Farrwood. I have been there 30 years, you have probably heard my story already. I was at the Planning Board. I will be directly involved in this. If there is no guarantee my property value will not go down. If there's a guarantee that there won't be any influx of kids going to schools, draining the taxpayers' dollars and draining the school system. If they can give me a guarantee that there will be no water issues I wouldn't have a problem with it but nobody can give me those guarantees. I question the accuracy of that board right there, first of all. Nobody here can give me the guarantees I am looking for as a citizen. It would be very irresponsible for this Council to vote for this plan.

Timothy Schiavone, I am an attorney at law and my office is located at 70 Bailey Boulevard in Haverhill.

This evening I represent the Board of Directors of Farrwood Green Condominiums, Phase I. There are three concerns that the board wishes to voice. The first is parking. I will say that we have had numerous discussions with Attorney Waldron and Mr. Stapinski and I firmly believe we will come to a resolution. As of this moment there is no resolution but I good faith I have to tell you we are working on the situation. We believe that we have prescriptive rights as the owners and their successors at condominium one have been parking there since the mid 70's, mistake or not it's a fact. That, I would tell you is not the reason to deny them to go forward but I want to make a truthful representation and perhaps that should be a condition imposed. I would also like to say that my clients appreciate the quality of work that the applicant produces with regard to residential development. Absolutely is proud of his development and if someone is going to develop it, better to have someone who does quality work, has worked within the City of Haverhill and can point back and show a responsibility. Two other issues, one is drainage. I would respectfully ask that, I will not be long, that Curt Young of Wetland Preservations be able to address the issues and many of the issues we can not determine from the plan as it is presented this evening. We respect the fact that is not a definitive plan at this stage. That brings me to the roadway. The roadway is private. The roadway is owned in fee, owned by the developer. The residents that have entered into the various six condominium projects have a right, an easement to use it and maintain the road. 450 some odd units. It's impossibility over numerous decades to get 450 people together never mind many of them that are owned in common with other tenants to come to an agreement as to how a roadway should be maintained. This point in time, various management teams will attend to plowing, they bill and people are assessed and they pay. But I

suggest that a special permit bears some responsibility that you can impose on this project. The responsibility goes with not only repairing and sort of stepping up to the bar and owning it so as successors take over it will be present there. To establish some structure that could be, not imposed on everyone, not all of the 450 some odd units, but imposed on the developer at this time to only form, not to manage, a limited liability company and that all condominium associations that now contribute and are assessed, they would be invited to participate in the governing of this LLC with votes. I don't have specifics of it. This would not overburden the developer long run. It would ensure that there is structure, at least structure for people to make determinations. There would be a responsible party through private management that would then answer to the residents. Right now there is just no structure and although efforts have been made to put structure there they have been unsuccessful. I know that, I have spoken with Attorney Waldron and Mr. Stapinski this isn't overly burdensome. I would respectfully suggest that conditions be imposed on any special permit with regard to the roadway. We heard representations this evening, we heard representations that the road would be repaired, brought up to current city standards and I would suggest that when you are thinking about the road (with the light on the plan), that's where condominium Phase I is, next to it is the proposed development. Over here is the birches, that has been permitted with the understanding and the conditions that the developer would complete redo Sterling Lane and do this portion of Farrwood, the last portion out to the intersection of route 125 with a traffic light. That will be significant. What we have on the other side that you heard, 500 feet, is along the other entry and it comes right up to where the duplexes are. Then we have some 12, 1600 feet of roadway that is unattended to and that would be repaired, repaired not maintained, by the developer. There seems to be some willingness, they've made the representations and I would ask that if you do approve the special permit, that those conditions be imposed and that they be reviewed by city departments with regard to the road. That would leave only a short distance that would not be brought up to current standards and I do show you over hear, these are just proposals that the plans were given out a year or two ago, just proposals on the board for future development. As you can see, the future development is going to impact the road so we would only have a short distance to do I think those things can be worked out during the permitting stage with the developer. We appreciate the fact that you are in a position to impose conditions with regard to the definitive plan and we ask that those conditions be thoroughly considered with the comments of the city department heads as the same apply to the roadway.

Curtis Young, I work for Wetlands Preservations Inc. we are wetland consulting firm, environmental consulting firm dealing primarily with issues related to wetlands including drainage, storm water management, wetland delineation and restoration work. We've been asked to take a look at the project that you have before you this evening with regard specifically to potential drainage and storm water management issues. There have been representations made this evening by Attorney Waldron as well as Mr. Stapinski with regard to drainage issues and storm water management on the site. Attorney Waldron made the statement that part of the special permit requirements were to demonstrate that there would not be a storm water management or drainage issue associated with this project. So I was asked to take a look at it from that perspective. Mr. Stapinski and I have talked on a couple of occasions with regard to the site plans that he has presented this evening. The difficulty we have drawing conclusions with regard to this particular set of site plans is that they are incomplete with regard to the type of information that we would typically see and expect to see to determine whether there are drainage issues or not. The mere relevance of the four to eight foot differential in topography really doesn't mean too much when we don't have accurate survey information through this portion of the site that would demonstrate what the proposed grading is. We've got units that are fairly close to the site boundary in this location and very close proximity to both the existing and the proposed parking area but we don't have any grading or drainage structure showing there that would

demonstrate whether the water is going to sheet flow onto those parking areas or whether it is going to be guided around those by drainage structures. It's simply a black box. We don't know. The information is not there. We would anticipate there would be some sort of drainage structures in the back of the units and here and I would fully concur with Mr. Stapinski that the elevation from this location to approximately this location is eight feet. The facilities up here about eight feet above that. But associated with the main development area there will have to be infiltration galleries. This is part of the new storm water management policy that exists in the Commonwealth to protect the water quality and well as the water quantities downstream and those infiltration galleries will recharge the storm water to the point where it's currently at or above that. We have that infiltration gallery, probably going to be subsurface, somewhere in this parking area here, we don't know because it's not on the plans. We have no clue quite frankly with regard to what sort of storm water management will be used here. Representations that it will comply with the storm water management policy don't necessarily give Farrwood Condominium Phase I a great deal of comfort because we don't have the details that will tell us whether the water is going to be coming towards us, away from us, or stay exactly the same. The significance of this is that when you look at the proposed development uphill of this project that may occur in the future, potential for drainage is a real issue for Farrwood Condominium Phase I. There's a lot of uphill activity taking place. It's steep slopes, very poor soils and that's why there is concern on the part of the condominium facility. I think that the representations that have been made certainly suggest that there can be some accommodation but we have no clue at this point in time with regard to the actual ability of this project to protect Farrwood Phase I project and to comply with the storm water management policy or reasonable drainage structures in the area. Those are our primary concerns and unfortunately unable to give this Council a thumbs up or a thumbs down. We simply don't know because the information are not presented.

President Hart: Is there anyone else wish to speak in opposition?

Ed Strazdins, Sterling Lane. I am not really close by. I am not really in opposition. I am not really for. I know they are doing a grand job fixing up the roads and paving for us that we couldn't be able to do it. There are some issues people have been talking about with the birches up on the upper right hand side. They mentioned to me it seems like the storm water's going to be rolling down that direction, now you have the oaks and the pines, they are just concerned that all of this is going to be funneling into a brook right now which is still running and flooding out their basements. Other than that I have no opposition against it at all.

Michael Grandmont, 190 Farrwood. When I was looking for condos I remember one thing about the value was the percentage of homeownership. How many people owned, how many people rented and that would bring down the value of the place if there was a large percentage of people renting. We have no idea how long these places will be rented. The other thing about, I did a little research about a similar situation, one of the places was in Portsmouth New Hampshire on Madison Street. There were condominiums built there and there were drainage problems. The people were reassured that when the condominiums were built the drainage problems would be solved. After the condominiums were built they had major flood problems. That developer was King Weinstein. That's about all I have to say.

Julia Kristo. There are many astute people here tonight have given us a lot of great statements. The fact that the units that were to be rentals are not rentals now. They are going to be condos. That relieves my mind a bit. However, Mr. Weinstein, I wonder, two years ago, the gas company put pipe lines down Farrwood Drive to Sterling Lane. They painted over beautifully. Mr. Weinstein came in two years later, two months later, knocked up the road, it's terrible. He does nothing to keep it up until somebody had her car wrecked and he had to pay for it. Then he filled

in the holes. And now they are patching patches that continue patching patches and not fixing the road. They are talking about Phase I that he is going to do all this great work on that road. I wonder about that because he hasn't done anything for us as far as smoothing out that road. It's just terrible. It decreases our value because people coming in look at this junky thing. The curbstones are down. When it rains there's a big puddle down where a drain is because it doesn't go down in the drain very well. I don't know what that problem is. Those are the things that concern me. If it's this way on my side, what is it going to be like on the other side.

Donna Humphrey, 48 Farrwood Drive. I am the very last unit for the parking lot. Sole resident of a three bedroom condominium. I look out on the parking lot. Twenty feet away, if I understand this correctly, is where the new development will begin. Twenty feet, is that the distance say from here to the end of the curb here, this arc? I am very concerned. I am extremely concerned about the drainage problem. He talks about elevation. He is elevating his property two feet to four feet above our parking lot so water goes down hill. It's just natural to go downhill, go to a flat area. If the drainage is not properly constructed it can go over or it can go under the parking lot and continue because water is very precarious. I lived in North Reading next to golf course, they made a slight adjust. The golf course had to come in and I think they put a sump pump in the neighbor's basement and corrected the problem for her. He's going to construct this drainage and the future concern of mine is that why it is being rented if there is a collapse or blockage who is responsible for maintaining this drainage system? What about the integrity of it. If it fails within the first year what recourse do I have? Will there be a bond or any type of fund that I can access to take care of my damages? Is there anything being done not for the immediate present but for the future? Yes those potholes get repaired on the street. They get repaired in May. I had my unit for sale for a while and I was very nervous about trying to show it and people come in a certain way. I noticed that approximately when winter was over the first week in May the potholes were filled, not extremely well, he should have been disappointed with the people that were filling them, but they were filled. My concern is about the present and about the future. We do have the engineer and the town who will take hopefully and do due diligence and the proper construction of it. I am concerned about the responsibility one year after the completion of this property.

President Hart: I think it is becoming quite clear, because when we are done with the opposition, what happens is we turn it over to the Council to start asking questions of the people. It's quite clear that your main concern, probably A number one concern is drainage, we hear that and we are going to be talking about that and trying to get the assurances that you'll need. The parking area is another concern. (change to second audio tape) ..change in values are your concerns. We get that that these are your concerns. Other people are welcome to come up especially if you have other concerns other than the ones that I just stated. We will be looking to the developer to answer those questions because they are legitimate questions.

John MacDonald, Unit 95, Farrwood Green Condominium 2. I lived there since it was built, day one. I've seen a lot of things happen. If Mr. Weinstein built the houses on Bradford St. right below my building, I'm in building C, going all the way down to 125, and you look at Bradford St. now granted that one side is North Andover and one side is Haverhill or Bradford. That used to be a two lane highway. Now it's very dangerous. One car can basically travel even in daylight hours because some of the cars, if they have visitors in those homes they have to park on the street. That is a very convenient road if you want to going up to Merrimack College to cut over and it's getting more and more traffic even truck traffic. Local people, it was nice but it's getting very dangerous now. That's a concern. If he didn't return the road, a major highway to status after building those houses, he's gone, what does that tell you. Next, those houses were built on all watershed land, steep hill, right down to 125, lot of trees. When it snows, we've had a bad winter, the snow stays in the trees and melts gradually without the trees there now, when the snow melts

if it's a quick thaw, you are going to have a torrential water slide like they have in California, mud slides and that brook that goes across Farrwood Drive buildings A & B in my unit and the other side, Farrwood Drive Unit 1, there's a major brook that's fed from all the hills in the surrounding area, way over to the other side, all six condominium associations and up beyond that where the farms are, they dairy farms, it all feeds down into that brook. I could remember stopping or walking the dog and going down there and seeing, it's like a miniature Grand Canyon cut into that brook, which shows you when the snow is melting and that would all rush right down to route 125 and under right down to the Merrimack River. That to me is what watershed land is, just being fed from all the surrounding hills, and it's still there that brook, that's the reason why people are concerned about flooding and the trees are gone now. There's nowhere for the snow to stay, it's going to melt that much faster. This is what happens when you cut down trees or vegetation which retains snow so everything is gradual. Mother nature has been around a long time and it works very well. We can improve on it, sometimes we do things that can ruin the whole thing and now when I first came here tonight, these are my concerns about the building, the contractor and because I have a stake in my home. I have taken care of it like everybody else and we are worried about the values going down and the quality of life. The discussion started off about worrying about trucks and everything. I visit New York, Syracuse area, relatives, every Christmas time. They get a lot of snow out there so you could say they are experts on snow and you could probably go out to Colorado and the Rockies, it seems to me, if you are going to rely on the state of Massachusetts to keep up with the times, forget it. Out in Syracuse because of the tremendous amount of snow they get, their snowplows, I noticed it for the first time this year, I never saw before, they have the plow in front, they have two plows, one on each side of the cab, why do they have that. When they put the snow up like in a mall or where roads intersect, you've got mountains of snow. Look around you here in Haverhill, that situation is everywhere. The side plows knock off the snow so a vehicle can see what's coming at an intersection. You could go to 125 now where I live, that Irving Gas Station is very dangerous to come out of there after you filled up your car, to see if it's all clear on 125 and you can get out on the highway.

President Hart: I think that's a legitimate concern but I think we are drifting now.

Mr. MacDonald: I know but this is important.

President Hart: We have snow plowing problems in the City but we are drifting.

Mr. MacDonald: You have a colossal problem that could happen. Bad accidents, you can't see. Why isn't somebody on the ball, try to modernize and get with what's going on in the world. Also, we got the problem of no traffic lights where I live and you got the church being built. It's very hard for us who live there to get out onto 125 if we are going to work in the morning or coming home at night.

President Hart: Anyone else?

Stacey Morrison, 94 Farrwood Drive. We talked a lot about property values this evening. I understand that the value of my property may not be effected by this development, but when you go onto Farrwood Drive, if you are in the market to buy a condo and you see brand new construction versus our old homes from 1976, as a homebuyer I probably will be more directed towards the new construction which wouldn't effect my property value but would certainly make it more difficult for me to sell my home. That's my concern.

President Hart: Anyone else? All right, rebuttal.

Mr. Stapinski - With all due respect to the people who spoke this evening the developer of Madison Street in Portsmouth New Hampshire was not King Weinstein. It was Dick Cabral. He was the developer. Mr. Weinstein was the builder. Mr. Weinstein purchased the property of the plans that were prepared by Mr. Cabral who is a developer in New Hampshire. Those plans had been approved by the city. Mr. Weinstein inherited those plans. Mr. Weinstein was building the condominiums when the flooding occurred on Madison Street. The next day he remedied the situation. He spent the money to improve it. I would tell you that last night, King Weinstein as well as myself by the way, were given an award by the City of Portsmouth, the Mayor and City Council as distinguished citizens of the year because we, together, have made arrangements for the past five years for the City of Portsmouth to hold their Christmas parade and mass it on property that we have an interest in with no charge to the City and last night we were given an award. With all due respect to the comment made about Madison Street, Mr. Weinstein has a relationship with Portsmouth, I suggest that you look at the Portsmouth Herald tonight and tomorrow and look at the picture of him receiving the plaque. I was with the neighbors last night, I received my in absentia. To go beyond, I would say that Mr. Weinstein did not build the houses on Bradford Street and he did not build the duplexes on Farrwood Drive. He subdivided the lots. He sold the lots. There was another builder who built them. That's a good example of what happens when you subdivide the lots and you don't have a special permit process. Those lots were developed by right and it could be that this site is developed by right. That's way happens. Because there was such an outcry from the people who lived on Farrwood Drive, about the duplexes and not paying their fair share of the road, we said we would not develop anymore duplexes by right, without coming before the City Council and without coming before all the neighbors and letting them look at the plan, letting them critique the plan without making improvements and without giving the City Council the ability to put conditions on the plan. The Council denied it and said we are not going to let you do it, then we would go off and do something else. I think Mr. MacDonald's comments about the houses on Bradford Street are very appropriate because it tells you what happens when you don't have conditions. You are in a position tonight to put conditions on the plan and satisfy Mr. MacDonald's concerns. I will say that in terms of the relationship, I moved Mr. Schiavone's exhibit, not that I don't want you to look at it, someone had said that the new building is twenty feet from her unit, that in not the case. The new building is twenty feet from the lot line at the closest point which is another sixty-five feet to the building so it's eighty-five feet from her unit. Just to correct that. In fact the elevation of this proposed development site is not two, three, four or five feet above the parking lot it's eight feet below her building. Eight feet below is where the site is. We are not proposing to fill to it. Last, I would say with all due respect to Mr. Young, he is probably the best if not the best storm water and wetlands person in the area, and I think when he gave his comments, he gave his comments based on a review of the plan in the context of what he would expect if we were before the Planning Board or the Conservation Commission with a definitive plan. The City Council has a set of standards for a special permit. It's the same standards that the Planning Board has for a special permit. In those standards we have to show the existing topography, not the proposed topography. We don't show the storm water management system. We don't show all of the final elements of design. Mr. Young is correct, he can not evaluate the plan because it doesn't show any of those things that's because this Council and the Planning Board doesn't require it at this point. You require it at the next stage. If you issue the special permit we will then develop that plan that Mr. Young can review. That needs to be clear. In terms of the condition that the City Council can put on this plan and that would be that of course Conservation must review and approve it, that's another hearing, the Planning Board and city engineer must review and approve it. We have no objection to the association having Mr. Young review the plan and give us input as we develop it during that approval process. If Attorney Waldron or a member of the Council could craft the language that would require that, we have no objection for the association working with us on the drainage plan, none whatsoever. We welcome it.

Attorney Waldron said it maybe somewhat repetitive but we would agree to the condition that we spoke with Attorney Schiavone here this evening. We will form at our expense the LLC and it was his suggestion and a good one that would be available for the continued upkeep of the roads in this area. It's something that's never been done and I think it's a very good idea and we would be happy to start that out for him. We could live with a condition that we receive and execute a storm water management agreement, I've done them before from the Conservation Commission. They make you set forth every single thing you are going to do. Who is going to be responsible and it gets recorded in the Registry of Deeds. That is something that is well reviewed by their agent and we would be very pleased to have that condition on there because we have to do it anyway.

President Hart: The opposition, if anyone cares to rebut something that was just said in the rebuttal, you now have an opportunity to do that. You have the last say on basically it should be directed to what was just said.

Male speaker - I want to apologize if I was inaccurate. We don't do this full-time. I have another job. That's the information I got off the internet. Floods is a nightmare for people. It seems to me things aren't really worked out yet from what I understand. It's still up in the air. They don't know what they are actually going to do and the effects it's going to have. I think we ought to know before we cut down trees and building houses.

President Hart: Declared the public hearing closed.

Councillor Daly O'Brien asked Attorney Schiavone to come forward and stated, I think for me the most important thing is to get an understanding of where your representation comes from. Would you say that this group that's here tonight for the most part you represent them?

Attorney Schiavone: No, I represent the board of Condominium I, Phase I. Councillor Daly O'Brien asked for a show of hands as to how many people are from that area stating that's about more than half of the people in the room. I wanted to get a sense of the group that's in front of us because obviously we can't tell who's from where. Attorney Schiavone said you notice that several of the dissenters were from two up above. Daly O'Brien said we also received these (letters), I'm not sure which areas they are from, they just say they are Farrwood property owners. ...If all your stipulations and conditions are met, would that be satisfactory? Attorney Schiavone said yes and I will tell you why. The expense of bringing that road to present day city standards would be significant financial imposition on 454 units. Councillor Daly O'Brien said the property as it was developed, especially the roads, are disgraceful. I don't think it is anything that the original developer can be proud of. Councillor Daly O'Brien asked Attorney Waldron, am I correct in my assumption that the Sterling Lane project, nothing has happened to that road because of the project hasn't gone. Attorney Waldron said that's correct. It's probably market conditions as well. Those items are all part of the bond that has to be done including the street lights out on 125. .. He continued the stipulations with respect to the roadway, and the stipulation with respect to storm water management systems in place with Conservation approval. Councillor Daly O'Brien asked about the parking. His reply was that we have offered to replace the parking at our expense on their property. The parking could be a title problem that this Council doesn't want to turn into a land court. I don't think that either side wants and expense of five figures in the land court to prove. You don't get adverse possession by saying you have it. You get it by going to court and proving it. That means if somebody takes that action, either we take that action to say our title is without it or they could take the action. Neither side wants to spend five figures or

more in the land court. That's going to be settled. I think Attorney Schiavone would echo the same sentiments.

Councillor Ryan said I really have to concur with Councillor Daly O'Brien. I think she has brought out the key component of this entire discussion as far as the residents and owners are concerned. This is an opportunity you probably will not have again to resolve a lot of very critical issues over there. The process is complicated. This isn't the end. The easy part is up to this point. Now they have to show where every drain is, very expensive to do. The city does not require you to spend a lot of money on environmental, engineering and so on in the preliminary stage because you don't really have a permit yet. You might spend \$50,000 just to do the preliminary work and maybe less. You may have to spend \$500,000 to do the definitive plan. That's the complicated part. You can't ask people to spend that money because they don't have permission to do the project. That's what this is tonight. I have full confidence in the Planning Department, our city engineer, building department, building inspector, all the folks demand very high standards. ...I think we have to go forward with this. I intend to support it tonight because of my experience in the past that if we don't take advantage of this tonight we've lost any opportunity to fix that road. You have a developer who has said yes to about everything you have asked for.

Councillor Quimby asked how long this project would take to get built if this project goes through.

Attorney Waldron said he would guess three or four months for conservation and the planning department at least. Councillor Ryan was correct. These ordinances were drawn up to encourage people to come before the Council and get a preliminary okay for the project before they are expected to spend literally hundreds of thousands of dollars on engineering plans without knowing that they are going to get a permit. Mr. Stapinski said eighteen to twenty-four months to build it depending on when the permits are issued. Councillor Quimby asked if there was any chance for those becoming condos pretty fast rather than rental units. I was a little hesitant about supporting rental units because I don't think it belongs in that area, condos yes. How long in that time frame? Sixty months, three years? Attorney Waldron said I don't know how anybody can predict this market. I heard on the news today the prices of condominiums have not fallen at the same rate of single family houses. These will be condos from day one. Councillor Quimby said I just want the neighbors to be happy. Last week I talked to a few of them and they weren't too happy with rental units. Right now I am going to change my mind to support condos. If it was rentals, I would not support this project whatsoever.

Councillor McGonagle said this is my second time since I've been on the Council to have some folks from Farrwood in front of us. I think at that first meeting Mr. Weinstein and Mr. Stapinski were here and there was a compromise struck that night to do some pothole repairs and things like that. What I saw was the six groups and the other group coming together and compromising and coming up with something that you can all live with. The three main issues seem like they will be taken care of and I think it will be a very open and honest look at what is going to go in there. I think Mr. Stapinski has offered to have your wetlands expert review that plan and make sure that is acceptable. I want to thank you for coming out and being reasonable and being honest and really caring about that community. Hopefully when that road is done some of the concerns about the value of properties about there, maybe you won't have to have someone come in the back way if you are thinking of selling so they don't see the road, maybe that will help the property values in those areas.

Councillor Hall said that he has one concern, Merrimack Engineering agreed to do 1500 feet of paving, is that correct? Attorney Waldron replied 1600. Councillor Hall asked is that the hundred that the engineer requested. Attorney Waldron replied yes. Councillor Hall said reviewing Mr.

Stapinski's letter of January 15 and there are seven conditions that you agreed to and those are basically the same conditions that the Planning Director recommended, am I correct? Attorney Waldron said yes. Councillor Hall said he just wanted to make sure when they vote that these are part of the conditions on these seven plus any and all the planning director might add to it.

Councillor Scatamacchia said he was going to support the special permit. They were already mentioned by the previous speakers. I want to assure the residents there, I think one of the reasons you are having problems in the streets today is because, if my memory serves me correct, it was the first condo project that ever hit the city. Over the course of a hundred or so projects that the city has issues special permits for, I think we have learned our lesson that we know where to look. We have the developers provide you with, exactly the negotiations between Mr. Waldron and Mr. Schiavone. You have experts come up to present your point of view at the definitive plan hearings. We don't want bad projects. We don't want to have other condominium projects come before us and tell us the streets are bad because the city failed to do their part in ensuring that the streets be maintained as well as they should be. I am going to support this.

Councillor Donahue stated to Attorney Waldron that he has one concern because he was over there today. It's the lighting and the parking lots. Is there any way we can improve the lighting at Farrwood Drive? Mr. Stapinski said the lighting that would be provided within the new development will meet the City of Haverhill wire standards, that's a note, Planning Director Bevilacqua had the Planning Board adopt the standards that the Wire Inspector approve the lighting plans. That's the plan that we would live with within the development. In terms of Farrwood Drive itself, I believe that they have Mass. Electric standard lighting and Mass. Electric or the association maintains it. I would say that as part of the LLC that Attorney Schiavone is proposing be developed for maintenance of the roadway, however the lighting is currently maintained, we will pay our share, if that is in fact what happens up there now. In terms of other improvements, additional lighting, we would not be providing it on Farrwood. We would be providing it to standard within our own development.

Councillor Macek said I have spent some time talking to the residents. I've gone over and reviewed the area. I can understand the concerns that are being brought up. If we do this right, this is going to be a plus for the people who are residents there. What I am hearing tonight is that the parties really have almost come together. It needs to all be in writing and that's where they are moving to. We need to have good agreements that are enforceable as the project moves forward. I think that's what's being worked out between the attorneys and the developer. The developer wants to do something good for the area. The developer also has more property and would like to. The developer is a long term owner of that property and wants to continue to improve upon it. I do have one question. I would like to think that you will also discuss and perhaps we can discuss now or put some type of condition on get at least assurances, have you will have some type of timeline for the off site improvements that coincides with the development itself. I think that's important to somewhat have agreement on.

Attorney Waldron said it will be part of the definitive plan and will be bonded. Many times you have to do some part of it before you start this construction and work them in tandem. The city engineer and the Planning Board have...you don't wait til it's over. Councillor Macek said I can be comfortable and rest assured that we won't see the project fully developed and nothing done on improvement of off site. I also think it's important that the parking lot, which you are taking part of that parking lot for development, that there be an early construction for building one, I don't think can wait til the end.

Mr. Stapinski said your question was actually discussed with the association number two representatives. I'd like to propose that maybe you adopt what I suggested with them and that is that the roadway improvements be completed concurrent with, or at the time of request for occupancy of the units. Let me just explain that. What we don't want to do is dig up the road and leave it a dirt road, everybody can remember the first five hundred feet. It seems like it took forever because of the contractor. What we don't want to do is dig up the road at the beginning of the project and then eighteen months later pave so that everybody's got dirt for eighteen months. What we want to do is time the construction so that when the units are on site are done the off site is completed. The units on site that are not occupied unless the off site is completed. As we talked about it last night, we want to dovetail the end of the construction of the units ready for occupancy with end of the construction of the roadway. I think that's what we discussed. Councillor Macek said that certainly would be acceptable.

Mr. Stapinski, I think the parking lot, what we proposed to Atty. Schiavone, the parking lot that is on the development site not be removed until the new parking lot is constructed. This way maybe there's units underway yet the parking lot stays and the people still get to use it while we are waiting for the site contractor to build their new parking lot. The old parking lot is not removed until the new one is built. Councillor Macek replied I think that's a very reasonable approach.

Councillor Macek said the only other question I have is whether or not the visitor parking and on street parking is addressed. Are these four spots actually visitor parking. Is that a little spot for family or visitors or even guests that come by because the site doesn't appear to have any. You are counting under garages for parking and you only have single spacing in front of the housing. Is there some area provided for visitor parking? Mr. Stapinski said these units require one and a half units spaces per unit. We have over two spaces per unit. Those four spaces would be visitor parking. There's also the little cul de sac area that would be available. You could park some spaces there. These units are a little different than what you have at Farrwood right now. There are no garages at Farrwood. The units all park in parking lots. These have garages under so you will be able to park in the garage and go right upstairs to your kitchen without having to park outside. There is a parking space behind that as well that's provided.

Councillor Macek said he is happy with the answered he's heard. This is probably the only way you are going to see the necessary improvements without the residents that are currently there finding a vehicle to fund the reconstruction of Farrwood Drive. This is an advantage to all the residents there.

President Hart said one of the major concerns that I heard and it's a legitimate concern for anybody who is going to see a development be constructed close by with the variances in pitch and landscaping is drainage.

Either Mr. Stapinski or Attorney Waldron if you could go into, and re-explain to the people what is involved with what you would be doing, assuming you got an approval, in terms of your storm water plan. What does that involve, how is that done, and what assurances will this be able to give the people in terms their best interests being looked out for? Mr. Stapinski said the site is located within one hundred feet of the wetlands which means the Conservation Commission would hold a public hearing on the proposed development. One of the things we originally proposed was pervious pavement on the roadway so the rainwater or the run off from the snow leeches into the through pavement into the sub grade. The city engineer said that we would prefer that you don't do that. We actually have a system that we like. It was constructed at Orchard View Estates and I asked the city engineer to send me a copy of the plans that he'd like to see implemented. He mailed them to me. I have them right here. Anybody can go to his office

tomorrow and see those plans. Essentially they involve (change tape) .. run out into the groundwater so that the ground water is recharged from the leeching galleries and then there's an overflow that would then discharge into the upland area between the stream and the development. That upland area would have grass lining and it would purify the water further if these was any overflow that didn't exit the chambers. These would be the plans, these chambers, this is what the city engineer has recommended to me that we design this for. In addition, on the backs of some of the units where we don't have walkout units, we would put some roof drain collectors on the backside of the development. Again, we would be infiltrating the water into the ground to accommodate the storm water management requirements of the roof infiltration. The combination of those two systems would be implemented into the plans so we would have any increase in runoff from the site and we would have no degradation of the water quality in the stream of the wetlands. It would be both the planning board and the conservation commission who end up with jurisdiction because we would almost do the plan filing and permitting simultaneously. Both the city engineer, who sent me the plans and Mr. Moore who would be reviewing them for the Conservation Commission would be giving each other board. The city engineer giving to planning and con com and Mr. Moore giving to planning and con com their opinions and their reviews of the drawings.

President Hart: How much is that going to cost to put that all together? Mr. Stapinski: The engineering plan? Yes, roughly. Mr. Stapinski's reply was probably \$15-\$20,000. President Hart: And then you get your approval from the conservation commission, and the planning board. What happens if there's a miscalculation, who's held accountable? Mr. Stapinski: If there was a miscalculation we would be held accountable and there's a long term storm water management plan that is put in place that the Commission, as Atty. Waldron described, the commission would approve and it would be recorded at the Registry of Deeds, for example, if there weren't enough galleries, then it would be the responsibility of the developer to go back and put the correct number of galleries in or if they weren't put into the proper size, and I doubt really if that could happen anymore in Haverhill. You have a clerk of the works that the Planning Board hires, a conservation officer who goes out and does inspections, Mr. Sheehan and others. You have the conservation agent who goes out and does inspections. The city engineer who does inspections and then you have the developer has to hire an independent environmental monitor who does weekly inspections and certifications and then you need as built plan that certifies the sizes. All the sizes that were approved have to be built. If this were frontage lots like Bradford St. like Mr. MacDonald referred to, you wouldn't have any of those checks or balances with this process you do. President Hart asked Atty. Waldron it goes on record with what? Attorney Waldron said he forms a homeowner's association which you already have in place with a condominium and then attach the storm water management agreement to the homeowner's association. That's how you get it on record and they are responsible. You can't get a building permit until you return that with a book and page on it to show that it's in the registry.

President Hart said he just wanted to point out some of the stuff that's going to be done that would be safeguarding the main concerns that you have. Maybe you can explain exactly how it would function, this LLC concept. What is it going to do? Atty. Waldron said I probably have more questions than you do. When this was first explained to me I had trouble getting a handle on it. It wasn't until tonight at six o'clock when Mr. Stapinski was in my office going over the presentation when Tim came downstairs to give us the final thing that he was concerned about. He brought it up again. It's just having a central entity to take care of the roads. That's the reason that's nothings been done for thirty years. There are six different organizations up there. President Hart asked, how are you getting those other six organizations to sign on. Atty. Waldron said that's the question I have. They still will have to contribute. As a condo unit owner they want roads that they can drive on. They want the plows to be there. President Hart said I hope they do I just don't

see how you can get them to all. Atty. Waldron said it's the best we can do and it's an improvement. This was tried about three or four years ago. Atty. Magliochetti represented Mr. Weinstein. He paid Attorney Magliochetti to represent him, not the owners, to go to these groups, I wasn't part of that, but I do know that he spent a considerable length of time and it didn't work. Nothing happened on it. We are hoping, the situation has gotten worse up there. Tim thinks it will work. President Hart said I think it's a great concept. I was just curious as to how it would function. How you could get six associations, it's hard to get three associations to agree never mind six. There's bound to be some dissent in there. Atty. Waldron replied at least you have associations that can meet. They are responsible for the budgets. President Hart said the stronger associations could take care of their areas. The ones that don't want to get involved. It's not ideal, I just was curious. Atty. Waldron said I think what the LLC does it really puts in a parent organization.

On motion of Council Macek to move passage of the special permit. Also, to move to add additional conditions to the special permit.

Conditions:

- With all of the recommendations and proposed conditions and stipulations in the Jan. 16 2009 letter from William Pillsbury, Economic Development and Planning Director and all letters from City Departments are also included;
- With all of the assertions and agreements in the Jan 15 2009 letter from Merrimack Engineering Services and to additionally condition that letter to expand the approximate length of the roadway improvements to 1600 feet in place of 1500 feet as it currently appears in item #2.

President Hart: Madame Clerk please call the roll.

City Clerk: Councillor Scatamacchia-yes, Councillor Ryan-yes, Councillor Macek-yes, Councillor Daly O'Brien-yes, Councillor Hall-yes, Councillor McGonagle-yes, Councillor Donahue-yes, Councillor Quimby-yes, President Hart-yes. 9 yeas, 0 nays.

Further, on motion of Councillor Macek:

- The parking lot for building 3 Phase I be left in its full usable state until such time as additional replacement parking is in place;
- Road improvements be completed concurrent with the request for occupancy permits for Islington Crossing;
- Storm water management agreement be created and entered into between the developer and the Conservation Commission and it become a part of the new condo association's responsibilities for maintenance.

President Hart: Madame Clerk please call the roll.

City Clerk: Councillor Scatamacchia-yes, Councillor Ryan-yes, Councillor Macek-yes, Councillor Daly O'Brien-yes, Councillor Hall-yes, Councillor McGonagle-yes, Councillor Donahue-yes, Councillor Quimby-yes, President Hart-yes. 9 yeas, 0 nays.

Further, on motion of Councillor Macek:

- The developer form an LLC and invite the other six Farrwood area condo associations to participate in road maintenance and expenses with proportionate sharing for all units involved in the LLC.

Councillor Scatamacchia asked what happens if you form the LLC and you propose to pay your proportionate share of the roadway maintenance and the other six don't participate? Atty. Waldron replied we are only going to pay our share. That's our worse case. We only have twenty-seven units. Councillor Scatamacchia stated you will just be paying for the maintenance of your own project. Atty. Waldron said we will agree to pay because our automobiles are going to drive over the whole project, and we'll pay our proportionate share for the twenty-seven units. Councillor Scatamacchia said you're not even a tenth. Atty. Waldron said it's on a per unit basis. The same as the other units. Councillor Scatamacchia said say you estimate the cost to be \$100 a year, that's \$2700. Councillor Macek said that brings up another point. I think we need to make clear that the Islington Crossing project interior roadways are not the responsibility of the rest of the condo association. Atty. Waldron said that's fine. We are talking about the major roadways. Councillor Macek said the twenty-seven units would share for the individual units of the interior roads. Atty. Waldron said I don't know what they assess for gardening, maintenance, do you want to get into that?

Arcadi Ivanov, Phase II President - To answer your questions, currently there is no super association which deals with the road maintenance or plowing. It's customary that all six phases have met to date every year or two years depending on plowing contract and would jointly and proportionately enter plowing contract as needed. However, there is no mechanism to enforce that. No phase has so far backed out. But if one phase were to back out there would be no mechanism to force them and we either have no plowing or we simply, the other phases that want plowing have to pay the entire cost proportionately whatever number of units we have total at the time. To answer your question, we don't know how that would work since in order to enter such an agreement it's likely we would need large majorities of all the units to agree not just the board members agreeing. Councillor Macek said I am going to withdraw that because the same plowing company should be doing the Islington little area. I withdrew the need to separate the cost of the roadways in the Islington area.

President Hart: Madame Clerk please call the roll.

City Clerk: Councillor Scatamacchia-yes, Councillor Ryan-yes, Councillor Macek-yes, Councillor Daly O'Brien-yes, Councillor Hall-yes, Councillor McGonagle-yes, Councillor Donahue-yes, Councillor Quimby-yes, President Hart-yes. 9 yeass, 0 nays.

Councillor Macek added I have one more that has not been discussed tonight specially but it's been discussed in a generality it's because of that that I really think that I am going to propose this as a condition of the special permit. I do know that Mr. Weinstein and Mr. Stapinski and the development team that we are approving this for is a good company and I'd like to see them be the development company that does it. I would like to propose that the special permit may not be sold or transferred to another person or entity without prior approval by 2/3 majority of the Council and failure to do so would automatically void the special permit. Attorney Waldron replied I think that's a deal killer with financing. Our ordinance says that you can not restrict the special permit to an individual it runs with the land. Councillor Macek said okay I just hope what we are doing tonight is going to be done by the Weinstein development team and not flipped to somebody who is a hit and run developer. That was my concern but if we can't do it legally, and I agree you may have an issue with financing. Certain banks don't like those type of conditions.

Atty. Waldron replied any bank doesn't like it because they can't take title back if you don't pay the. Councillor Macek said I thought the Weinstein's were just paying for it cash.

Mr. Stapinski said the intent is for King to build these units and the intent is for him to continue on. Atty. Schiavone showed you the other developments. The Pines which nobody in the City has heard of but the association members have heard of them because we've been meeting with them. I committed to the members of the association #2 that the City would never see that plan unless I've met with them to review the plan and work out a plan that is amenable. If we walked away and flipped this and let someone from Worcester come into town and build this development and screw it up we would never get to ever work on the Pines. I think they would make sure that we wouldn't. I think your police officer should not be your condition. Your police officer should be the Phase 2 board members who probably have a lot more teeth.

On motion of Councillor Macek to move approval with conditions.

President Hart: Madame Clerk please call the roll.

City Clerk: Councillor Scatamacchia-yes, Councillor Ryan-yes, Councillor Macek-yes, Councillor Daly O'Brien-yes, Councillor Hall-yes, Councillor McGonagle-yes, Councillor Donahue-yes, Councillor Quimby-yes, President Hart-yes. 9 yeas, 0 nays.

Respectfully submitted,

Barbara S. Arthur
Administrative Assistant

February 9, 2009

REASON FOR VOTE - DOCUMENT #129/08
Special Permit to Build Multi-Family Rental Housing at Farrwood Drive
on Behalf of North Avenue Realty Trust

In granting the special permit, those members voting in favor found that the application fulfills all of the general conditions contained in Chapter 255-76 of the Haverhill Zoning Ordinance.

President Hart: I voted in favor because it complied with all statutory requirements of Chapter 255-76 of the Haverhill zoning code.

Councillor Scatamacchia: I voted in favor because of the infrastructure improvements the developer was going to make.

Councillor Ryan: I voted in favor because this project is good for the neighborhood and the City.

Councillor Macek: I felt the Special Permit request was an appropriate usage of the land parcel and that the off-site improvements will be a major improvement for the area.

Councillor Daly O'Brien: I voted yes for this permit because it will benefit the neighborhood, it complies with requirements of the City and I assume the developer will meet all the conditions and stipulations.

Councillor Hall: I voted for the Special Permit because the developer has conceded to all reasonable requests from the neighbors and the project is good for property values in the area.

Councillor McGonagle: I voted in favor because the Special Permit was recommended by the Planning Board and met all city requirements.

Councillor Donahue: I voted in favor because I agree with the proposal.

Councillor Quimby: I voted in favor of the project because it is not going to be rental housing and because of the improvements to the road.