

2 **TOWN OF HOPKINTON**  
4 **PLANNING BOARD**

6 **December 3, 2008**

8 **HOPKINTON TOWN HALL**  
10 **ONE TOWN HOUSE ROAD**  
12 **HOPKINTON, RHODE ISLAND 02833**  
14 **7:00 P.M.**

16 **CALL TO ORDER**

18 The December 3, 2008 meeting of the Hopkinton Planning Board was called to order in  
20 the Historic Meeting House by Chairman Al DiOrio at 7:03 P.M.

22 **ATTENDANCE**

24 Board members present: Al DiOrio, Howard Walker, Ray Cox and Hazel Douthitt.  
26 Peter Santilli and Joseph Escher were absent.

28 Also present: James Lamphere, Town Planner; Scott Levesque, Town Solicitor; and,  
30 Harvey Buford, Conservation Commission.

32 **APPROVAL OF MINUTES**

34 MR. WALKER MOVED APPROVAL OF THE MINUTES OF THE NOVEMBER 5, 2008  
36 MEETING AS CORRECTED.

38 MS. DOUTHITT SECONDED THE MOTION.

40 Messrs. DiOrio, Walker, Cox and Ms. Douthitt approve.

42 *Motion passes.*

44 **OLD BUSINESS:** None

46 **NEW BUSINESS**

48 **Preliminary, 2 Lot Minor Subdivision (no street creation) - Canonchet View Plat II,**  
50 **Plat 11 – Lot 2, Lawton Foster Road, North. Eric Kingman et al applicant.**

Mark Boyer of Boyer Associates represented Mr. Kingman. Mr. Kingman was also present.

Mr. Boyer said there are approximately twenty acres (20) that are to be subdivided into an 80,000 square foot lot. This applicant was before the Board in 2003 to cut out two lots on the southeasterly portion of the property. One house has been constructed and another house is currently under construction. The lot being proposed meets all building setbacks and Town regulations. They have approved test holes on the lot and have scheduled soil evaluation testing for next week. The lot will be serviced by a private well and will have an ISDS for a single family house. The applicant will return with the ISDS and subdivision suitability at Final.

Mr. DiOrio asked if the applicant would consider a no-cut zone with the road frontage, to include the front building setback as is consistent with the informal policy, making concessions for a driveway and sewage disposal to the extent that they exist in the front setback. He added if the applicant is so inclined, there is a conservation easement document that he would like to see executed.

2 Mr. Boyer said he sees no problem with that.

4 Mr. DiOrio asked what the proposal might be for the remaining portion of the property.  
6 His concern is that incremental subdivision of road front lots is the least attractive form  
of development and would like to see an overview of what we can see in the future.

8 Mr. Boyer said that when the applicant cut two lots in 2003 they knew they had enough  
10 frontage for subsequent lots. After this lot there will be enough frontage for two more  
lots on Lawton-Foster Road. The applicant has no intention of doing that although they  
12 know they have the ability to do that at some time in the future. They currently have no  
immediate plans for the lot. Once the frontage is used up, the large parcel to the rear,  
14 approximately fourteen (14) acres, will eventually be merged with the applicants'  
residence lot, or they may contact the Nature Conservancy to see if they would be  
16 interested in buying it. If this lot combines with different owners, something else could  
happen.

18 Mr. DiOrio said he appreciates the informal introduction but personally stands opposed to  
this kind of arrangement. He asked how they will handle subdivision suitability or ISDS  
20 approvals.

22 Mr. Boyer said they will do an amendment to the original subdivision suitability and will  
have that in hand when they come back for Final. His clients will not build on the land  
24 but sell to someone else who may have different plans for the land.

26 Mr. DiOrio said he is comfortable with subdivision suitability if they are rising to the  
level in excess in soil evaluations and that they would then appear before the Board for  
28 Final.

30 Mr. Boyer said they will appear before the Board for Final for either circumstance.

32 Mr. Lamphere said that on page 30 of the subdivision regulations, there is a provision  
that pertains to a two lot subdivision that says, any further subdivision of either of the  
34 two lots created in the initial two lot subdivision, at any time after the effective date of  
these regulations, whether immediate or future, shall be considered to be a minor  
36 subdivision of three or more lots, or a major subdivision. In this particular case, he  
cautioned the applicant, he could potentially cut one more frontage lot, so he would have  
38 four frontage lots and the remainder of lot two. If the applicant made two frontage  
lots, then he would have five frontage lots and the remainder of lot two, which would  
40 total six, at which point this becomes a major. The applicant can do one more lot as a  
minor.

42 Mr. Boyer said he will make sure the applicants understand this.

44 Mr. Buford said the plans have an unusual notation where it says "rocks" and asked for  
46 an explanation.

48 Mr. Boyer responded that there are sporadic rock outcroppings or ledge. The test holes  
that were dug on this parcel had ten foot depths; however, the state inspector required  
50 additional testing.

2 Mr. Buford said that area has a tremendous number of what he would assume are Native  
4 American rock piles. He questioned whether any of that would be disturbed if a house  
were to be built.

6 Mr. Boyer said he is not aware of that. There is a cemetery that is designated on this  
8 plan.

10 Christopher Gray referred to Sheet 3. He is the owner of the most southerly lot and his  
house is near completion. He agrees with Mr. DiOrio regarding adjacent houses along  
12 the street and sees this as a blemish on the landscape and the charm of Lawton Foster  
Road. He continued that from the beginning of Lawton Foster Road to the end, there is  
14 one feature that is visually outstanding; an extraordinary granite outcrop at the corner of  
the proposed lot. It has a ledge line connecting to a smaller granite outcrop and the  
remnants of old stone walls. In the middle of the lot is the foundation of the original  
16 Lawton Foster homestead which burned down many years ago. Behind that foundation is  
what appears to be a gravestone with no markings. Mr. Gray continued, the elevation  
18 lines of this lot are in red, and appear pink compared to the two lots below and the area  
above. The elevation lines are so tight; very steep, very rocky, very beautiful and the  
20 tight elevation lines run, literally, from this lot through the long corridor of the entire  
property. He referred to Mr. Boyer's reference to the Nature Conservancy and feels that  
22 would be a wonderful use as the land is completely unbuildable, but could be very  
charming to someone. He added that any driveway or interference in that area will  
24 destroy the visual wisdom of nature that presents itself. There is a wildlife habitat there  
that he believes should be preserved.

26 Astrid Murre, Lawton Roster Road North, opposite this proposed spot. She thanked Eric  
28 Kingman and Joyce Devine for raising the issue of an endangered local species, the box  
turtle at the Deer Run development, now Brightman Hills. She would like to draw  
30 attention to an even more endangered species, the Pileated Woodpecker, as currently  
defined by the State of Rhode Island. On this land, immediately across the road from her  
32 property, is a prime nesting spot where she has observed them raising their families for  
the last 25 years. She presented the Board with a copy of her statement (Abutter's  
34 Exhibit A).

36 Mr. Buford said he noticed the soil type on the steep slope and that the description was 15  
to 35 percent slope. He asked if there was a buildable site on this lot.

38 Mr. Boyer said that after going through the regulations and speaking with the Planner,  
40 this lot is buildable. Addressing Mr. Gray's comments, he agreed that it is a beautiful  
spot and that most buyers would put the house further back on the property for privacy  
42 and to capture the beauty of the landscape. He said they could put something on the plan  
putting a stipulation on the lot to keep the house further away from the mentioned feature.  
44 However, they must ensure that they would still have site plan suitability. He said the  
applicants will not be the builders and what is on the plans is a template.

46 Mr. DiOrio said the Conservation Easement is a method of insuring that the natural  
48 features can be protected. If there is a scenic element that is important to someone he  
believes they should try to protect it. If the applicant could arrange their site  
50 improvements to protect that element, which it appears they can do, then perhaps the  
ledgescape can be protected by some kind of easement similar to the no-cut zone at the  
52 front. Mr. DiOrio continued, if the applicant is going to return for Final, that is

2 something he would be looking for. The concerns of the woodpecker are out of his  
4 element as to what they may be able to do.

6 Mr. Walker asked what the woodpeckers are nesting in.

8 Ms. Murre responded the large maple trees.

10 Mr. Walker asked if they are on the upland portion of lot.

12 Ms. Murre responded that they are at the start of slope.

14 Mr. DiOrio asked if it was a defined area.

16 Ms. Murre said they nest in the old, dead maple trees.

18 Mr. Kingman, the applicant, said one of those maple trees fell down last year.

20 Mr. DiOrio said Ms. Murre has concerns. Mr. Boyer indicated he is willing to extend for  
22 some agreement that works towards satisfying both parties. When they return at Final, it  
24 can be discussed.

26 Mr. Gray said it was mentioned that there was a possibility of two more lots and it would  
28 make sense if there were a maximum of four lots, two below and two above. There are  
30 Indian cairns on the lots. He feels the one lot should not be disturbed and if two more  
32 lots are allowed, they should be above that area.

34 Mr. DiOrio said there is a fine line between someone's interests and rights of the property  
36 owner. If the applicant would like to take that under advisement, wonderful, but the  
38 Board is not in a position of directing.

40 MR. WALKER MOVED APPROVAL OF THE PRELIMINARY WITH THE FINAL TO BE  
42 BROUGHT BACK BEFORE THE PLANNING BOARD WITH THE APPROVAL SUBJECT  
44 TO THE FOLLOWING CONDITIONS: 1) SUBDIVISION SUITABILITY; AND, 2) A NO-  
46 CUT ZONE FOR THE AREA OF THE FRONT BUILDING SETBACK WITH A  
48 CONSERVATION EASEMENT TO THE TOWN.

50 MR. WALKER FURTHER PROPOSED THAT THE BOARD ADOPT AND SUPPORT  
52 THIS MOTION WITH THE FOLLOWING FINDINGS OF FACT:

- 54 1. THAT THE PROPOSED LOT WILL PROVIDE SAFE AND ADEQUATE ACCESS  
TO A PUBLIC STREET, NAMELY LAWTON FOSTER ROAD NORTH;
2. IS PHYSICALLY ACCESSIBLE FROM THE STREET AND HAS ADEQUATE  
ACCESS FOR EMERGENCY VEHICLES;
3. HAS NO RELATIONSHIP TO THE STATE SCENIC HIGHWAYS;
4. CONFORMS TO THE TOWN'S ZONING ORDINANCE AND CONFORMS TO  
THE TOWN'S COMPREHENSIVE PLAN;
5. ADEQUATELY PRESERVES VISUAL QUALITY AND RURAL CHARACTER  
ALONG THE LOCAL STREETS;
6. MINIMIZES CONFLICTS WITH ADJACENT USES AND EXISTING  
FEATURES; AND
7. ALTHOUGH IT HAS POTENTIAL FOR FURTHER SUBDIVISION OF LOTS, IT  
IS NOT NECESSARY TO IMPOSE LOT DEVELOPMENT STANDARDS FOR  
THOSE REMAINING LOTS AT THIS TIME.

MS. DOUTHITT SECONDED THE MOTION.

Messrs. Cox, DiOrio, Walker and Ms. Douthitt approve. *Motion passes.*

2 **Preliminary – 3 Lot Minor Subdivision (no street creation) – Swanick Phase II,**  
4 **Plat 8 – Lot 28, Woodville Road. David Swanick, Jr. and Ruth E. Swanick,**  
6 **applicants.**

Richard Greene of Richard A. Greene and Associates represented the applicants.

8 Mr. Greene said the property is located southerly on Woodville Road. There is a total of  
10 59.77 acres that are to be divided into three frontage lots: Lot 1, 12.26 acres; Lot 2, 10.14  
12 acres; Lot 3, 37.37 acres. There is no intent to further subdivide by use of frontage for  
14 additional lots. There is a restraint relating to the property, that being a stream that runs  
16 east to west that environmentally impedes any further development of the three frontage  
18 lots. The wetlands are flagging and have been verified by RIDEM and they have a  
20 wetlands permit. They have submitted a subdivision suitability to RIDEM and have  
22 approval for individual homes for the three sites. Sheet 2 of 6 shows the siting of the  
house, the septic and the area of the well and the driveway access for each of the three  
lots. The remaining parts of each of the lots would be wooded in nature. Twenty-three  
(23) abutters have been noticed within 500 feet of the subject property. Lot 3 will be  
retained by the applicant for himself, is abutted by open space to his property on  
Tomaquag Road, and will be for passive recreational use. The property owner directly  
across the street from Lot 2 has expressed interest in purchasing that lot but wanted to  
be sure the lot was buildable.

24 Mr. DiOrio asked about no-cut zones along the frontage of the lots.

26 Mr. Greene said the owner has no issue for a no-clear zone for the front yard setback and  
will indicate it on the plan with the house site, septic and driveway excluded.

28 Mr. DiOrio said the primary septic and the alternate area will still be included in the  
30 conservation easement. He sees significant stone walls along the frontage of the  
property and would limit the only disturbance to that wall be to the areas where the  
32 driveways protrude onto Woodville Road.

34 Mr. Greene said they would like to keep the driveways as noted on the Preliminary plans.  
When they take the wall down in the area where the drive is going, there may be an  
opening in the wall, as in Lot 2, where they could move the wall to another area to fill  
36 in a gap.

38 Mr. DiOrio said perhaps the language could say the area where the driveway will  
40 eventually be installed would be the only area where the stone wall would be disturbed.  
Where they are showing the drive may not be where it eventually resides. He asked  
42 about the site distance issues related to Lot 2; there is elevation and horizontal curve in  
that area.

44 Mr. Greene said the horizontal curve is primarily to the east of the proposed driveway.  
46 There is approximately 250 linear feet from where they are proposing the driveway to the  
easterly line of Lot 2. The grade at Woodville Road is sloping in that area with no severe  
48 hills.

50 Mr. DiOrio asked, then their representation is that this site distance is adequate for that  
driveway location?

52 Mr. Greene responded yes.

2 Mr. DiOrio said that on Lot 3 specifically and possibly on Lot 2, there is a fairly  
4 constrained area between the front yard setback line and the perimeter wetland line and  
stated that they [the Board] are not anticipating seeing any application for front yard  
variances at any time in the future.

6 Mr. Greene said that is correct.

8 Mr. DiOrio said Lots 2 and 3 both share the same concern; the house has been snugged  
10 in. He would not want to see the applicant come forward with a request for relief from a  
front yard zoning setback.

12 Mr. Greene said the house site will be where it is set on the plan and each lot is in  
14 conformance with the setback. They do not anticipate the need for any variances.

16 Mr. DiOrio said it was indicated that the wetlands have been verified and asked if they  
submitted for a preliminary determination of agreed to subdivision suitability application.

18 Mr. Greene said that has been submitted and to the Board, also.

20 Mr. DiOrio asked if he would be agreeable to subdivision suitability approval at the time  
22 the Final is submitted.

24 Mr. Greene responded that they already have subdivision suitability.

26 Mr. Lamphere said that comments from the Building and Zoning Official, indicate the  
lots, as shown, meet the zoning requirements, however, wetlands approvals must be  
28 obtained prior to the issuance of a building permit. Access to the rear of the property  
must be considered.

30 Mr. Buford said the Conservation Commission does stream water monitoring at that  
32 location. It is a trout stream and keeping trees over it is very important.

34 Mr. Greene said there is a 100 foot perimeter wetland associated with the stream;  
interpretation by the State of Rhode Island is that the 100 feet is literally a wetland,  
36 though it may not be. The stream itself is protected for 200 feet from the center in either  
direction and one could not do anything in those areas. Mr. Greene said they are  
38 requesting Preliminary approval by the Board tonight and that the Final be approved by  
Planner, administratively with conditions.

40 Mr. Walker asked, will the larger parcel be subdividable, even theoretically?

42 Mr. Greene said his opinion, as it stands, is no due to the environmental constraints of the  
44 wetlands and the stream. The only opportunity for development would be if someone, at  
some point in the future, purchased an abutting parcel that fronted on Tomaquag Road.  
46 There could then be the potential for a subdivision coming in off Tomaquag Road; access  
is not practical from Woodville Road.

48 MR. WALKER MOVED APPROVAL OF THE PRELIMINARY WITH THE FINAL TO BE  
50 DONE ADMINISTRATIVELY, SUBJECT TO THE FOLLOWING CONDITIONS: 1)  
PRESERVATION OF EXISTING STONE WALLS ALONG WOODVILLE ROAD EXCEPT  
52 WHERE ULTIMATELY THE DRIVEWAYS WILL CUT THROUGH FOR ACCESS TO

2 WOODVILLE ROAD; THERE WILL BE A NO-CUT ZONE FOR THE BUILDING SETBACK  
4 AREA ALONG WOODVILLE ROAD, AGAIN SAVE FOR DRIVEWAY AND SEPTIC  
6 AREAS TO BE PROTECTED BY A CONSERVATION EASEMENT TO THE TOWN; AND,  
THERE BE NO SETBACK VARIANCES TO BE APPLIED FOR IN THE FUTURE FOR  
THESE LOTS.

8 MR. WALKER FURTHER MOVES THAT IN SUPPORT OF THIS MOTION WE ADOPT THE  
FOLLOWING FINDINGS OF FACT:

- 10 1. THE PROPOSED SUBDIVISION AND LOTS WILL PROVIDE SAFE AND  
ADEQUATE ACCESS TO A PUBLIC STREET, NAMELY WOODVILLE ROAD;
- 12 2. IS PHYSICALLY ACCESSIBLE FROM THE STREET AND HAVE ADEQUATE  
ACCESS FOR EMERGENCY VEHICLES;
- 14 3. HAVE NO RELATIONSHIP TO THE STATE'S SCENIC HIGHWAY;
- 16 4. CONFORMS TO THE TOWN'S ZONING ORDINANCE AND COMPREHENSIVE  
PLAN;
- 18 5. ADEQUATELY WILL PROTECT THE VISUAL QUALITY AND RURAL  
CHARACTER ALONG WOODVILLE ROAD;
- 20 6. MINIMIZE CONFLICT WITH ADJACENT USES AND EXISTING FEATURES;  
AND
- 22 7. HAVE NO CURRENT POTENTIAL FOR FURTHER SUBDIVISION OF LOTS.

MR. COX SECONDED THE MOTION.

24 Messrs. Cox, DiOrio, Walker and Ms. Douthitt approve.

*Motion passes.*

26 **Development Plan Review – Morrone's Sunoco, Plat 25 – Lot 259, Main Street.  
JPH, GDD & LCC, LLC, applicant**

28 Attorney George Comolli represented the LLC for the parcel at 208 Main Street owned  
by John and Lorraine Morrone. Also present was Timothy Behan, Professional Engineer.

30 Mr. Comolli said the property is zoned neighborhood business and is approximately  
32 22,500 square feet. There is an existing 1600 square foot gas station on the property.  
The applicant currently proposes to renovate the existing building with the service station  
34 to be removed and replaced with a grocery store and deli, a permitted use. Mr. Comolli  
submitted an architectural rendering to the Board, Applicant's Exhibits 1 and 2, showing  
36 minor repairs to the exterior of the building. He impressed that this will be a two stage  
process and that what has been presented is the initial stage of the renovation of the  
38 existing, pre-existing, non-conforming use, gas station with a kiosk in the front and a  
service station. They are proposing to remove the kiosk, renovate the existing 1600  
square foot building, and have a deli/grocery store, mainly a convenience store.

40 Mr. Comolli continued, the second phase will be much more elaborate combining the  
42 remaining Morrone lots, 256, 257, 258, and 259. The plans will be much more  
comprehensive with requirements for zoning regulations, setbacks from residential  
44 properties, setbacks from the wetlands in the back that are not on their property have a  
buffer zone. They will need all state approvals when configuring a state of the art  
46 facility. He said Mr. Chesler realizes Ashaway Village is a historic village and wants to  
share the architecture, unlike the current building, a 1960's gas station. The facility will  
be brought up to the character of the neighborhood.

48 Timothy Behan, Professional Engineer, responded to Mr. Comolli's questions,  
50 confirming that he prepared the plans and impact statement that is before the Board; that  
the lot was 23,500 square feet and that the building was 16,000 square feet; that the plan  
52 shows parking at the rear of the station with eleven (11) spaces proposed and that the  
Zoning Ordinance would require approximately seven (7) spaces; that there will be

2 concrete bumper guards as required by the ordinance along with a dust free surface of  
4 crushed stones and stone dust. Mr. Behan said they have two photometric plans which  
6 were distributed to the Board as Applicant's Exhibit 3. The first sheet shows an overall  
8 picture including the abutting properties; the second sheet is a close up showing what is  
10 currently on the site. They are proposing to install dark sky compliant lighting, with one  
12 standing light at the rear of the parking area in the center of the property so there will not  
14 be any light going beyond the property line. There will also be two wall hung lights; one  
16 at the rear of the building near the entrance and one off the side. The central fixture is  
18 designed to be more environmentally friendly. A traffic analysis, both pre and post, is  
20 based on ITE's traffic trip generation manual and indicates the pre and post traffic impact  
22 to be roughly the same, with a slight decrease in traffic trips. Overall, there are the same  
24 trips per day at the peak hours.

Mr. Comolli said the biologist study shows there is a wetland on this property. Sheets 5  
and 6 show the buffer and were distributed to the Board as Applicant's Exhibit 4.

Mr. Behan said there is a small pond at the rear of the existing gravel parking area that  
can be identified on pages 4 and 5 of 7. Page 4 of 7 is the site plan. Thirty (30) feet off  
the subject property is a fifty (50) foot buffer. Approximately 20 feet of that buffer  
encroaches upon the subject property.

Mr. Comolli said there is an existing stockade fence that goes to the residential  
neighborhood immediately to the west.

Mr. Behan said the fence is on both sides; both are 6 foot. There is also vegetation to the  
rear against the pond and also toward the east. There is a proposed dumpster site to the  
rear in the gravel parking area against existing Lot 258. Existing signage is to remain.

Mr. DiOrio said he see no professional seals neither on the plans he received nor on the  
plans on the board and asked for an explanation.

Mr. Behan said the reduced size plans do not have the seal; the full size sheets delivered  
to the Planner's Office have seals. This was confirmed by Mr. Lamphere.

Ms. Douthitt asked how long this business been at this site.

Mr. Morrone responded since 1935.

Mr. DiOrio said the lighting plan that was submitted was prepared by a PE in  
Massachusetts?

Mr. Behan said he is licensed in Rhode Island.

Mr. DiOrio said when something comes before this Board, if it has been prepared by a  
professional; it has a seal on it. Those are the regulations. To expect this to be viewed as  
a professionally prepared document, it needs a professional seal in Rhode Island. With  
regards to the impact statement, there is a one sentence line under fiscal impact that  
appears different than most statements having to do with fiscal impacts. It reads, "We  
believe there is no fiscal impact to the town." Mr. DiOrio said if there is no fiscal  
impact, then telling us why would go a long way toward convincing him. He continued,

2 there was a representation that the site is surrounded by existing stockade fences which  
he understands will serve as the buffer against abutting properties.

4 Mr. Comolli responded that at the present time, at Stage 1, yes.

6 Mr. DiOrio said he notices that the existing fence line on the easterly boundary is actually  
8 not on the site.

10 Mr. Comolli said they control that property; they have a lease option on all that property.  
It will be included in the development of Stage 2.

12 Mr. DiOrio asked between now and Phase 2, what mechanism will the applicant present  
14 to the Board to ensure us that that stockade fence remains up.

16 Mr. Comolli responded that as a condition of approval, the fence will remain up.

18 Mr. DiOrio said he has no problem with the dumpster location but the detail is sketchy.  
He asked if it is on a concrete pad and if it is covered and would like more detail to the  
20 plan.

22 Mr. Comolli said it shows an enclosure, probably a cement, concrete pad.

24 Mr. DiOrio asked if it was covered.

26 Mr. Comolli responded enclosed.

28 Mr. DiOrio asked, specifically covered? It is shown as enclosed.

30 Mr. Comolli does not respond.

32 Mr. DiOrio said on note number 16, Sheet 1 of 7, he would like clarification of, “all  
34 construction shall be performed in the dry.”

36 Mr. Behan said any trench work or activities that are in water are not allowed during  
construction. If you are digging a trench and find water, you have to put in a sump  
38 pump and dewater the trench.

40 Mr. DiOrio asked if there is a relationship between Phase 1 and Phase 2 or are the two  
completely separate.

42 Larry Chesler, a managing partner of the LLC and associated with Spicer Gas in Groton,  
Connecticut, said he has 30 years experience with convenience stores and gas stations  
44 and propane and petroleum related products. This is a separate entity from Spicer which  
currently runs one location, the Mobil and Dunkin Donuts at Clarks Falls. They are  
46 currently leasing from the Morrone and have an option to purchase at Phase 2. The  
purpose of Phase 1 is to achieve the regulatory hurdles and requirements before  
48 combining all the lots. They will remove the existing structures on the property which  
includes the outdated gas station, canopy and the adjacent house and signage. A new  
50 structure currently under design, is extremely challenging because of a number of  
requirements, mostly the necessity for the applicant to acquire a source of water and to  
52 meet the state’s requirements and setbacks, and perhaps a public well. A potential public

2 well that would meet the requirements of the property setbacks, is such that it would  
3 severely limit the ability to use a meaningful location. From a design point of view, he  
4 does not endorse and does not desire to go forward if he needs any financial or long term  
5 basis with the present configuration of the site. There are presently four MPDs, multiple  
6 product dispensers, in the ground, each producing three grades of gasoline. The previous  
7 diesel tank in the ground was removed. In Phase 2, they will remove the existing pumps  
8 so there is an appropriate setback from the road, achieving a much better traffic flow.  
9 They can not go forward with this until the water issue is resolved. He has spoken  
10 with several individuals who reportedly have plans to bring public water to Ashaway; one  
11 would be from the 95 corridor. He was told they are at least a year away for that to come  
12 to fruition and are also at least a year away from water coming from another site that  
13 whose owner is working with DEM or the appropriate water authority; a well is being  
14 drilled or is in the process of being tested. They need public water for the deli which  
15 makes food on site and serves coffee. Mr. Chesler said they would like to upgrade the  
16 site because getting the water is a year away, at least, and then construction would follow.  
17 Phase 1, is cleaning up the existing building, trying to improve the traffic flow, taking the  
18 kiosk off the island, putting control of the gas pumps inside where it is comfortable for  
19 people to sell products. They are not making structural changes to the building. Phase 2  
20 will go forward in two years. They have been operating the site since Memorial Day.

22 Mr. DiOrio said so the answer to the question is that Phase 2 is not in the near future.

24 Mr. Chesler said it is being planned and they are under contract for it. He added the  
25 dumpsters have covers.

26 Mr. Comolli said two parties have expressed an interest in getting the water supply.  
27 One is Hopkinton Industrial Park and Mr. Quinlan. This project is conditional with  
28 getting potable water to site.

30 Mr. Cox asked if there will be a drive through for a coffee window.

32 Mr. Chesler responded not in Phase I.

34 Mr. Comolli said it may be a potential in Phase II subject to municipal approvals.

36 Mr. Cox said he likes Phase I.

38 Mr. Walker asked what businesses are currently conducted in the building.

40 Mr. Chesler responded gas and it is used for food storage, cigarettes and soda.

42 Mr. Walker asked how many gas pumps are there now and how many cars can fuel there  
43 at one time.

46 Mr. Chesler said there are four MPD's which can service eight vehicles.

48 Mr. Walker asked how many they are proposing to have when this is completed.

50 Mr. Chesler said in they have not yet designed that for the Final phase. It is a question of  
51 traffic flow, parking and building frontage.

52

2 Mr. Walker asked if this property is engaged in a non-conforming use.

4 Mr. Comolli said it is a pre-existing, non-conforming use.

6 Mr. Walker asked if a gas station would be a permissible use on the properties they are  
planning on combining with the existing one.

8  
10 Mr. Comolli said the only way they can expand on the gas station is by special use to  
expand a non-conforming use. They are asking tonight for Phase I, to allow a permitted  
12 use for a convenience store and deli in the existing service station. Phase II will be  
driven by potable water and will require numerous municipal and state approvals.

14 Mr. Levesque said he heard testimony tonight about changing the canopy, some signage,  
and other materials around the pumps itself which raised in his mind, are the pumps being  
16 changed, are the USTs being changed, is the use going to be increased in any way? If it  
is, there is a problem with the non-conforming use.

18  
20 Mr. Comolli said as it sits now, the pumps remain exactly the same, the canopy remains  
the same, the building stays the same; the only thing being removed is the kiosk.

22 Mr. Levesque asked if they understand that in Phase II they will encompass some zoning.

24 Mr. Comolli said he understands that in Phase II there will be a number of zoning issues.

26 Mr. Lamphere said he has a comment from the Zoning Official saying that the use code  
on Phase 1 is wrong. It is coming in under a grocery store/deli, which it is not. He  
28 suggests that an easement be recorded for the septic system line servicing the single  
family dwelling, as the septic system will be shared. He also notes that a building or fire  
30 code review has not been performed on the project. Lots 257 and 258 are already  
merged. Lot 256 is located in a residential zone.

32  
34 Mr. Comolli said they he understands that completely and will address that in Phase II.

36 Mr. Lamphere said the reason this application is before you tonight, in this format, is that  
he views this as a relatively minor change. Since they have brought up Phase II, he  
38 commented that it is a long distance to bring water line to serve a grocery/deli and asked  
if that is cost effective. He added, the applicant has not given us too much of an idea of  
what Phase II will entail.

40  
42 Mr. Comolli said the water line is not just to service just the deli but to service most of  
Ashaway. The fire department desperately needs water; numerous residents down there  
44 don't have potable water. That waterline, if approved by the state which is what  
Northeast Water is working on right now, will service the Village of Ashaway. The  
capacity of wells that Mr. Quinlan was fortunate to obtain, can easily service that area.

46  
48 Mr. Lamphere said he walked the site two times and made note of the existing lighting.

50 Mr. Behan said the lighting is at the rear of the parking, at the new entrance at the rear  
of the building, and one at the side.

52 Ms. Douthitt asked if this was a proposal for this business to be open 24 hours.

2 Mr. Chesler said this business will not be open 24 hours.

4 Mr. Lamphere said as far as aesthetics goes, the existing canopy has the Sunoco blue and  
6 yellow colors. Looking at the picture that was handed out tonight, he asked, is that  
canopy over the proposed doorway something that fits into the character of Ashaway?

8 Mr. DiOrio said he is not an advocate of canopies and finds them rather rude so the color  
is a moot point. He would like the applicant to address something else, but if that is what  
10 they want to do, he doesn't know if there is a regulation that prohibits it.

12 Ms. Douthitt said she would rather see something with shingles.

14 Mr. Walker said it would be no uglier than what is already there.

16 Mr. Lamphere said he finds it positive that the parking is in the rear, getting parking off  
the street.

18 Mr. Buford said this is a Development Plan Review. They have an existing building and  
20 they are putting in a use that is already allowed there, questioning why they can't just do  
it.

22 Mr. Comolli said he agrees with Mr. Buford. However, after speaking with Mr. Ward  
24 and Mr. Lamphere, who suggested it was a change in use which would trigger a  
Development Plan Review, in abundance of caution, they came before the Board and  
26 issued post card notices to all the abutters.

28 Mr. Buford said they spoke of sheet flow across the back to the pond on the adjacent  
property for the runoff and asked if that flows across the top of the leach field.

30 Mr. Behan said the divide for the drainage is roughly where the building is; the pavement  
32 goes toward the street and gravel areas go towards the back. It is relatively flat with  
grades around 2 percent. They want to introduce stormwater into the grass area. Right  
34 now there is gravel in front of the pond. They will probably restore whatever the distance  
was shown on the plan. The top of the leach field will be grass. There is a very small  
36 area of runoff.

38 Carol Baker, Ashaway, said she was glad to see the property being used for expanded  
purpose. She wants to make it clear that they are only talking about Phase I and anything  
40 that is approved here tonight does not go on to Phase II, asking if that was correct.

42 Mr. DiOrio said that is the way he sees it.

44 Ms. Baker said she would implore the Morrone's that when upgrading the building to  
try to improve it, using the canopy as an example. She would like them to build with  
46 more New England character and increased aesthetics. She asked if Ashaway is on the  
National Register.

48 Mr. Lamphere said there may be some individual buildings in Ashaway that are.

50 Ms. Baker said she did hear tonight that there will be no expansion of underground  
52 storage tanks and no expanded usage, stating that this property is within the Primary

2 Aquifer Protection District; any expansion of underground storage tanks is prohibited  
under the Zoning Ordinance.

4  
6 Greg Benoit who lives directly across Route 3 from the gas station, asked why they are  
investing a fair amount of capital into an existing structure when it is going to be  
effectively eradicated if and when Phase II comes to pass.

8  
10 Mr. Chesler responded that there are times in the gasoline world when you can't make  
money selling gasoline and need associated services.

12 Mr. Benoit said he realized there are many variables on Phase II and asked when they  
will move from Phase I to Phase II.

14  
16 Mr. Chesler said they are planning it now and may move to Phase II in one and a half to  
two years.

18 Mr. Benoit asked if they have in mind what Spicer has on their property at Clarks Falls  
for Phase II.

20  
22 Mr. Chesler said in the sense of economically what goes on there, yes; not a truck stop,  
nothing of that nature.

24 Mr. Benoit said he understands there are two separate phases yet they are linked.

26 Mr. Chesler said they are here for Phase I. To not tell you that there is a Phase II would  
be inappropriate.

28  
30 Gary Paul, operations manager for Spicer Plaza, will manage the on site store. He said  
they are here to make an impact on the community in a good way. There will be a  
manager on site. They want to be a good neighbor and to make sure they fit in the town.  
32 They do employ people in the town. At Phase I they are trying to become that neighbor.  
They do not want to take anything away from Ashaway.

34  
36 Dave Boufee bought the Morrone's house, abutting this property. He asked is for a  
stockade fence to protect pond.

38 Mr. Walker asked if bringing potable water to the site is a condition of Phase I or is it  
limited to Phase II.

40  
42 Mr. Comolli said that is Phase II.

44 Mr. Walker asked Mr. Lamphere if the easement for the shared septic with the adjoining  
property is part of this phase.

46 Mr. Comolli said that is part of the ISDS.

48 MR. WALKER MOVED APPROVAL OF APPLICATION SUBJECT TO THE FOLLOWING  
50 CONDITIONS: THE APPLICANT ESTABLISH THE CONTINUING CONTROL OVER THE  
PROPERTY WHERE THE BUFFERING STOCKADE FENCE IS LOCATED; THERE BE  
ISDS APPROVAL WITH AN EASEMENT RECORDED FOR THE SHARED SEPTIC WITH

2 THE ADJOINING RESIDENTIAL LOT; AND, WITH THE EMPHASIZED CONDITION  
3 THAT THERE WILL BE NO EXPANSION OF THE UNDERGROUND STORAGE TANKS.  
4 MR. WALKER PROPOSED THAT THIS APPROVAL BE SUPPORTED BY THE  
5 FOLLOWING FINDINGS:

- 6 1. IS CONSISTENT WITH THE DEVELOPMENT PLAN REVIEW ORDINANCE;  
7 AND
- 8 2. THE PROPOSED PROJECT IS CONSISTENT WITH PUBLIC HEALTH, SAFETY  
9 AND WELFARE AND IS CONSISTENT ALSO WITH THE COMFORT AND  
10 CONVENIENCE OF THE PUBLIC IN GENERAL AND THE RESIDENTS OF  
11 THE IMMEDIATE NEIGHBORHOOD IN PARTICULAR.

12  
13 Mr. Walker asked if the abutter's proposal to have a stockade fence at the back of the  
14 property to protect the pond is something the applicant would be willing to do.

15 Mr. Chesler responded yes.

16  
17 MR. WALKER SAID THAT WILL BE ADDED TO THE CONDITIONS, THAT THERE  
18 WILL BE A STOCKADE FENCE INSTALLED ACROSS THE BACK OF THE PROPERTY  
19 FOR THE PROTECTION OF THE POND.

20 MS. DOUTHITT SO MOVED.

21 MR. COX SECONDED THE MOTION.

22 Messrs. Walker, DiOrio, Cox and Ms. Douthitt approve.

23 *Motion passes.*

24  
25  
26 **Planning Board Advisory to Town Council regarding the potential amendment of**  
27 **the Town of Hopkinton Groundwater and Wellhead Protection Ordinance (Chapter**  
28 **131) and update of the Groundwater and Wellhead Protection Map (March 22,**  
29 **2004).**

30  
31 Mr. Lamphere said the existing map dated 3/27/04 was approved by the Town Council.  
32 The whole town is either in a primary or secondary aquifer protection zone. Since this  
33 map was adopted, additional wells have been drilled and existing wells have expanded  
34 their use and have increased their pumping, making them an area that needs protection.  
35 The state is aware of these wells and is in the process of upgrading their maps. However,  
36 if a map has not been updated to reflect existing conditions, the existing conditions can  
37 not be ignored and deserve protection. Melanie Benda-Joubert, our GIS expert, has  
38 produced a map that reflects the data since 2005. Additional areas are now classified  
39 as Primary Protection Zones. He would recommend to the Board that the Board request  
40 the Town Council update the existing map to reflect existing conditions as soon as  
41 possible.

42 Ms. Douthitt asked how recent the information is.

43  
44 Mr. Lamphere said new data came on board in 2005; this reflects the most current data  
45 the state has as of October 2008.

46  
47 Carol Baker said as soon as a well is approved by DOH, DEM basically accepts the fact  
48 that a well exists even though the map is not updated. New wells have come in including  
49 Saugatucket Springs. The spirit of the log is to protect public drinking water. If a public  
50 well comes in, we need to protect that area. The Saugatucket Spring well was approved  
51 in May of 2007; the Golf Pavilion restaurant was approved about two months later. The  
52 main areas that are now affected are basically all Exit One. These areas do not prohibit

2 development but prohibit things like commercial underground storage tanks because the  
town is one hundred percent dependent on groundwater.

4  
6 Mr. Walker asked if it is necessary for either the town or state to upgrade these maps in  
order to extend the primary protection area to include the newly expanded wells, or  
8 does the mere fact that the well is dug and gets the approval from the health department,  
in and of itself, bring the area of that well under the protection of that statute.

10 Mr. Buford said the Zoning Ordinance provides additional protection beyond what the  
state regulations provide. We have some uses that are prohibited in a primary zone while  
12 the state would allow them to be there.

14 Mr. Levesque said the difference would be the language. The state considers public  
wellheads. The town then takes that public wellhead information and whatever is in the  
16 public wellhead would be considered Primary Aquifer Zone; whatever is outside that  
public well head is secondary. Once you expand the community public wellheads, by  
18 state definition, you then create more primary aquifer for this town, based on the way you  
define it. That then effects the use table as to what sits in a primary aquifer zone and  
20 what does not.

22 Ms. Baker said there are two types of public wells; community and non-community. The  
state prohibits underground storage tanks near community wells. South Kingstown has  
24 verbiage where the existence of wells is not tied to a specific hard copy map but tied to  
wells as they come on line. She would hope the Planning Board would recommend that.

26 Mr. Levesque asked how they update their information to enforce that.

28 Ms. Baker said basically, it is a living document; when a new well comes in it changes  
30 the uses in that area.

32 Mr. Walker said then Ms. Baker is recommending that the Planning Board recommend to  
the Town Council that it amend the Zoning Ordinance so as to automatically extend  
34 primary wellhead protection to any new and approved community or non-community  
public well.

36 Ms. Douthitt added, whether the map is updated or not.

38 Ms. Baker said yes.

40 Mr. Buford said that because this is a zoning item it does provide a way to challenge. We  
42 can work with the primary/secondary lines rather than the wellheads with graphic  
information with slopes and soil types and ask that the lines be changed.

44 Mr. Levesque asked if the map that is proposed is it identical to what the state is now  
46 debating to adopt?

48 Ms. Baker said it is not a debate; it is just a process.

50 Mr. Levesque said it is important to talk about the underlying data because the state has  
adopted this so lets talk about what they are relying on in amending the map. They have

2 gone out and done what they need to do to show that the wellheads are going to be  
increased in size.

4 Ms. Baker said it is not should be, it already has. Frontier Campground has and is  
6 pumping more.

8 Mr. Levesque asked how they made the determination that the pumping capacity has  
increased.

10 Ms. Baker responded field hits.

12 Mr. Levesque asked, and the underlying data is available to us?

14 Ms. Baker said yes. The DOH regulates all the licenses

16 Mr. Levesque asked if the new wells that came in were made aware of that application  
18 phase and incorporated that data.

20 Ms. Baker said yes.

22 Mr. Buford said we could request that DOH's and DEM's experts come down before the  
Town Council to say how they got their data.

24 Mr. DiOrio said it appears that we are jumping out in front of the state. Someone who is  
26 not following how the process works may be looking for an explanation. If someone  
28 from DEM or DOH explains that the only reason DEM has not updated their maps is that  
it is a process that takes time, that it does not invalidate what we are trying do, that could  
go a long way toward convincing the Council that this is a good idea.

30 Mr. Lamphere said they need text changes to the ordinance because we have a GIS  
32 department that can readily make the changes to the map. We should make text changes  
34 that will make primary zones effective on the instillation of a well so that our local  
regulations are not dependent on our local maps.

36 Mr. Walker said we want the triggering event to be the DOH approval of a public well,  
whether community or non-community. Approval would automatically extend the  
38 protection of a Primary Aquifer Protection Zone to the radius area for that well.

40 Peter Marek asked what would trigger us to update the maps; a certain amount of new  
wells?

42 Mr. DiOrio said we will have our own process that we have to go through, whatever that  
44 will be.

46 Mr. Lamphere said a lot is dependent on getting the information to the GIS Director. If a  
well is drilled somewhere, has received approval, and for some reason somebody is not  
48 aware of it, that's a fail-safe mechanism of amending the text.

50 Mr. DiOrio said he agrees. When the GIS person isn't here anymore, we can't rely on  
that mechanism. He would much rather have the text trigger it.

52

2 Mr. Levesque asked what notice are we giving the public, under that scenario, as to  
4 where the primary will be defined. How will that information be made accessible to  
someone wanting to use their property? He agrees there should be some mechanism to  
6 make it easier to have this information updated. His concern is that may be too lax.

8 Mr. DiOrio asked don't you think that is impingent on the applicant?

10 Mr. Levesque responded, I do.

12 Mr. DiOrio said when he does an application and the regulations says you will go out and  
define the location of all existing and proposed wells, he doesn't have any place to go for  
14 that data other than to go down there and find them.

16 Hazel asked, don't they have to go to the DEM.

18 Mr. DiOrio said there is no record of that. There might be for some, but the wells that are  
buried in somebody's basement, there is no way of knowing but to knock on the door.  
20 When an applicant comes before us, don't they have to rise to some level of investigation  
that a reasonable person would undertake?

22 Mr. Levesque agreed, but they are not going to come here and say I'm in a primary.  
There is a possibility they would say they are in a secondary when in fact they are in a  
24 primary. That could happen if our information isn't in an updated map drawing base.  
What tips you off? It is information both to you and to them that levels the playing field  
26 if it's sitting on the map in front of you.

28 Ms. Baker said a call to DOH for a list of public wells.

30 Mr. Levesque asked if they also automatically define the radius and pumping capacity.

32 Ms. Baker said there is an initial one.

34 Mr. Marek asked if this would allow us to update information as it comes in without  
going before the Town Council.

36 Mr. DiOrio said he would think it would.

38 Mr. Buford said if the narrative is very clear, as public wells are licensed and approved  
40 by DOH, they are automatically included in the primary protection zone and the maps  
will be updated from time to time to reflect this.

42 Ms. Baker will email South Kingstown language to the Planner.

44 Mr. DiOrio said he believes we would not have to go back to the Town Council every  
46 time a new well came on line.

48 Mr. Marek commented, which would make sense.

50 Ms. Baker said it is not limiting growth; it just limits a couple of uses.

2 MR. WALKER MOVED THAT THE PLANNING BOARD RECOMMEND TO THE  
4 HOPKINTON TOWN COUNCIL THAT IT AMEND THE TOWN ZONING ORDINANCE TO  
6 PROVIDE THAT UPON THE LICENSURE BY THE STATE OF A PUBLIC WELL,  
8 WHETHER IT BE COMMUNITY OR NON-COMMUNITY, THE PRIMARY AQUIFER  
10 PROTECTION ZONE SHALL AUTOMATICALLY BE EXTENDED TO INCLUDE THE  
RADIUS ARE OF THAT WELL WHETHER OR NOT THE EXISTENCE OF THAT WELL IS  
REFLECTED ON THE LATEST TOWN MAPS, BUT PROVIDING FURTHER, THAT THOSE  
MAPS SHALL BE UPGRADED AT REASONABLE INTERVALS FROM TIME TO TIME  
BUT SHALL NOT BE BINDING UPON THE TOWN.

12 MR. COX SECONDED THE MOTION.  
Messrs. Cox, Walker, DiOrio and Ms. Douthitt approve.  
14 *Motion passes.*

16 **PLANNER'S REPORT**

18 *∞* **Administrative Business:** None  
*∞* **Comprehensive Plan**  
Bids to update the Comprehensive Plan have come in. Four bids have been  
20 received: PARE Engineering, the Maguire Group, Sam Shamoon with Tony  
Lachowicz, and David Schweid. We are in the process now of reading them,  
22 comparing them and devising our recommendation to the Town Council and hope  
to get awarding of the contract on their December 15 agenda.

24 **CORRESPONDENCE AND UPDATES:** None

26 **PUBLIC COMMENT:** None

28 **DATE OF NEXT MEETING:** January 7, 2008

30 **ADJOURNMENT:**

32 MR. WALKER MOVED TO ADJOURN THE MEETING.  
MS. DOUTHITT SECONDED THE MOTION. ALL APPROVE.  
34 The meeting adjourned at 9:10 P.M.

36  
38 Attest: \_\_\_\_\_  
Lynda St. Amour  
40 Planning Board Clerk

42 Approved: \_\_\_\_\_