



2 **Master Plan Public Informational Meeting, con't. – Comprehensive Permit – Brushy**  
4 **Brook, Plat 32 – Lots 1 through 71, Dye Hill Road. LR 6-A Owners, LLC, applicant.**

6 *A court stenographer was present to record the proceedings. A copy of the transcript is*  
6 *attached and made part of this record.*

8 Attorney William Landry represented the applicant.

10 **Mr. DiOrio** said he understands they are on the agenda to discuss fees and to establish a date for  
12 the continued special meeting.

14 **Mr. Landry** said at the last hearing there was discussion about their request for a waiver of fees.  
14 The Board took action and decided that the fee would have to be paid. Seeking the waiver has  
16 nothing to do with the financial strength of the applicant. His client testified at the last hearing  
18 that there is no mortgage on the property and the entire project will be self-financed. They feel th  
16 fee is excessive and the Town's Affordable Housing Plan speaks about municipal density  
18 bonuses. He said the town defines its municipal subsidies as either a density bonus or a waiver of  
20 fees. His client will pay the fee and he understands the fee will be applied to consultant review.  
22 They are asking for a neutral review. He said the town could pick any five engineering firms and  
24 they will select the firm that would do the work and they would also participate in the scope of  
26 work. In their opinion, it is a waste of time to go with consultants at Master Plan. They know the  
project needs to be engineered and that they need state approvals. DEM does the nitrogen  
loading analysis, which is required at the Preliminary Plan stage. They will review the wetlands  
flags and at their drainage calculations. He said none of those things will be available for a  
consultant to review.

28 **Mr. DiOrio** said we have a relationship with an engineering firm and asked if there is a particular  
30 reason why we shouldn't go with this group?

32 **Mr. Landry** said he is uncomfortable with that; he doesn't know who they are. When you have a  
34 firm that works for the town, you don't have that neutral review. Those are the town's engineers  
and would hope the town would get a few bids.

36 **Mr. Levesque** said Edwards and Kelcey is a firm that the town has used in the past for similar  
38 types of requests but is not on retainer by this town nor are they an exclusive engineering firm  
that this town uses.

40 **Mr. Lamphere** said there are two firms that have been pre-approved to do work for the town by  
the Town Council that responded to an RFQ.

42 **Mr. Walker** said it is more important that it is someone the town trusts, rather than the applicant.  
44 He is not sure he would represent this engineering firm to be neutral in having no interest  
between the parties. The job of this engineer, presumably, is going to be to look out for the  
46 interests of the town as opposed to the interests of the developer. That is the whole point of  
independent review, not to arbitrate between disputing engineers, but to offer the town a candid  
opinion that we can trust.

48 **Mr. Escher** said he feels there should be no collaboration between the client and the second  
50 opinion firm; that wouldn't be either fair or unbiased.

52

2 **Mr. Walker** said he wouldn't have a problem with the applicant making a recommendation as to  
the scope.

4 **Mr. Escher** agreed.

6 **Mr. Walker** said we don't necessarily have to accept the recommendation but it would be worthy  
8 of consideration.

10 **Mr. Landry** said, so it is clear, they are suggesting the town pick five firms that are qualified.

12 **Mr. DiOrio** does not see the independent review as being neutral, but as working for the town.  
You have folks on your side; he wants someone on his side.

14 **Mr. Landry** said he has a problem with that, explaining that the way this usually works, is the  
16 Planning Board is a quasi judicial board. When they have experts in cases opposing experts they  
have to pay for, they usually are hired by the town. The town appears as a party and the town's  
18 lawyer presents those witnesses and the town is a litigant in the proceeding. The problem he has  
is with the Planning Board using his money to hire an advocate to be adverse to their witnesses  
20 that presented testimony in this case.

22 **Mr. DiOrio** would not use the term adverse. He envisions this firm as looking out for the best  
interests of the town. They may side with your experts, in which case, that is perfectly fine.

24 **Mr. Landry** said they should be able to talk to our experts.

26 **Mr. DiOrio** said he would take the position that an expert examines everything. He said it  
sounds as if the consensus here is we would be using the town's engineering firm. The applicant  
28 would certainly be invited to participate in establishing the scope of the work.

30 **Mr. Landry** asked, which town engineering firm?

32 **Mr. DiOrio** said he believes the original recommendation was Edwards and Kelcey.

34 **Mr. Lamphere** said that is correct.

36 **Mr. Landry** said that Mr. Lamphere said last time that the town has two approved engineering  
firms: Mr. Frisella and Edwards and Kelcey. He assumes Mr. Lamphere has decided he likes  
38 Edwards and Kelcey and asked what would be wrong with Mr. Frisella?

40 **Mr. Lamphere** said it is not a question of liking one or the other. It is a question of accessing the  
42 firm's ability and Edwards and Kelcey is a much larger firm and more capable of assessing the  
project.

44 **Mr. DiOrio** said the selection is going to come from the town's pool of pre-approved firms.

46 **Mr. Walker** dislikes the use of the term advocate, as if the town is placing itself in opposition to  
48 the applicant. He has not taken a position for or against the applicant and doesn't know anyone  
else who has on this Board. It is a question of getting independent, professional advice, for those  
50 of us who are charged with evaluating your client's application, who do not have the professional  
qualifications of the experts that we are evaluating. We are not looking for somebody to come in  
52 and oppose your application and provide us grounds for doing so. If the application and the

2 presentation is meritorious, then we would expect the reviewing engineers to say so. If there are  
4 flaws in it, we would expect them to point that out as well. Presumably, the experts will review  
6 the record, application, exhibits, drawings, plans, and transcripts, with the eye of a trained  
8 professional, offer advice and recommendations. Presumably, they may come up with a report  
10 that may be introduced as evidence to examination. They may testify subject to cross-  
12 examination and could do this regardless of what their conclusions are. The expert might come  
14 up and support your application, in which case, it would be any objectors who will want to do the  
16 cross-examination.

10 **Mr. Landry** wants to make sure that if the Board is going out and receiving information that is  
12 different, or in addition to, that every aspect of that occurs on the record with an opportunity to  
14 cross examine.

14 **Mr. DiOrio** would suggest that if they are going to participate in the scope of service, one of your  
16 suggestions would be that the outcome of their review takes the form of a report, of which you  
18 would be provided a copy and an opportunity to review, and that perhaps they would attend a  
20 public meeting whereby you would have the opportunity to question them on their findings.

20 **Mr. Landry** said that seems reasonable but a highly unusual proceeding.

22 **Mr. DiOrio** added, a comprehensive permit is a highly unusual proceeding in a small town.

24 **Mr. Walker** added, a three hundred (300) unit residential development is highly unusual in the  
26 Town of Hopkinton. Your project, if it goes forward as presented, would increase the housing  
28 stock in Hopkinton by ten percent (10%), a pretty big deal and highly unusual.

28 **Mr. Landry** said the thinks it is very clear where we are.

30 **Mr. DiOrio** said if we are in agreement that we are going to have some kind of independent  
32 review, do we have the review begin? Are there still things for us to talk about in a public forum?  
34 Should we be waiting for this?

34 **Mr. Lamphere** would suggest we get the consultant on board as quickly as possible and while  
36 we get up to speed, we could have another meeting in January.

36 **Mr. Landry** said they exhausted their witnesses last time.

38 **Mr. DiOrio** said there might be one or two folks in the audience that have a few things to say.  
40 So why don't we move on to a meeting?

42 MR. WALKER MOVED THAT THE PUBLIC INFORMATIONAL MEETING FOR BRUSHY BROOK  
44 BE CONTINUED TO 7:00 P.M. ON WEDNESDAY, JANUARY 20, 2010, AT THE HOPE VALLEY  
46 ELEMENTARY SCHOOL.

MR. COX SECONDS THE MOTION.

46 Messrs. DiOrio, Cox, Walker, Escher and Ms. Douthitt approve.

*Motion passes.*

48 **Mr. Lamphere** added, just for point of clarification, the two application fees have not been paid;  
50 one for the Pre-application which is \$6,200 and one for the Master Plan which is \$30,500.

2 **Mr. Landry** said they are past the Pre-application stage. There were no witnesses, no consultants  
hired.

4 **Mr. DiOrio** asked, is the comment that somehow you shouldn't be paying a Pre-application fee?

6 **Mr. Landry** said absolutely. Their Pre-application was heard.

8 **Mr. DiOrio** said his personal opinion on this would have been that they wouldn't have gotten in  
10 the door without a check on the table. He doesn't know if at this stage of the game if you get to  
say I think your fee schedule is too unreasonable and I don't want to pay it. His understanding is  
12 the fees are due. We need an answer as to when the fees will be paid because we now have  
consultants that are going to be hired.

14 **Mr. Landry** said they will pay the bill. He thought at some point in this process somebody  
16 might recognize that the Comprehensive Plan calls for fee waiver. He accepts that and thinks he  
has an understanding of what the Board thinks about the Affordable Housing Plan. You ordered  
18 the fee paid, put it in writing and it will be paid subject to whatever further rights the applicant  
has. He just wants it to be clear that they're not stipulating to this waiver from the housing plan.

20 **Mr. DiOrio** said he will leave it between Mr. Landry and Mr. Lamphere to work out the details  
22 of getting the fees paid so that we can be on about our business, presuming there will be an  
update when we get together on the 20<sup>th</sup>.

24 **Mr. Landry** said he will not have conditional witnesses on the 20<sup>th</sup>. He may have exhibits to  
26 introduce. He wants to hear from the public. He's not resting his case because the Board hasn't  
questioned the experts. He assumes he will not have all those experts there for that meeting.

28 **Mr. DiOrio** said certainly the Planning Board wants the opportunity to do that but rather that be  
30 after he has something to compare their witnesses against, the whole idea behind the independent  
review. If members of the audience wish to question the application, how will that happen?

32 **Mr. Landry** said he and Mr. Duhamel will be there. They presented all of those witnesses last  
34 month and everyone had a chance to question them. He's not going to have them there at every  
hearing.

36 **Audience voice** said we're at every meeting.

38 **Mr. Landry** responded, and we'll be at every meeting, too.

40 **Mr. Levesque** said we do have the issue of the deadline for the decision and thinks that is  
42 February.

44 **Mr. Landry** said that is right.

46 **Mr. Levesque** said if we are going to postpone the Board's questions of your experts, we may  
want to address that right now by an extension.

48 **Mr. Landry** said they will have their experts at the meeting.

50 **Mr. DiOrio** asked, then this will be an opportunity for everyone to question your witnesses?

52

2 Mr. Landry responded, yes.

4 **Master Plan Public Informational Meeting, con't. – Comprehensive Permit – Rockville Mill**  
– Plat 30 – Lot 43, Canonchet Road. Rockville Mill, LLC, applicant.

6

8 *A court stenographer was present to record the proceedings. If and when it is transcribed, it will become part of this record.*

10 Attorney Robert Berkelhammer represented the applicant. Also present were:  
Mr. Gordon, Mr. Dilley, Ms. Small, Mr. Cluley and Mr. Bannon.

12

14 **William Gordon**, Development Consultant, helped to develop the project and with  
financing. He said the owner and the architect were not present due to illness. They have  
16 tried to address all the concerns that have come up that pertain to Master Plan approval  
and feels they were vague in how they responded in a few areas.

18 One was lighting, relative to Dark Sky. They sent a letter in early December from their  
consultant to Mr. Lamphere with back-up information which he read into the record:  
“The pole light and bollard that was specified has a cut off type optic which meets  
20 IESNA standards for this type of optic distribution. What this means is less than 2.5% of  
rated lumens, at or above 90 degrees vertical. For this wattage, 175 watts, this type of  
22 cutoff is acceptable to meet Dark Sky regulations. Higher wattages such as 400 watts and  
above, require a full cutoff optics to meet Dark Sky. I’m attaching a white paper from  
24 Padco which explains this further. If the town of Rockville has a regulation that specifies  
a full cutoff requirement, we need to know about that and we’ll change our light  
26 fixtures.” Mr. Gordon said if there are concerns, they will work with the town. They feel  
they met the standards that need to be met.

28 Mr. Gordon said school age children and cost came up. They had two reports done; one  
saying three (3) school age children and one saying five (5). The Board asked which one  
30 should we go with? They will go with the five and be definitive, not the 3 that seems  
reasonable. He added, whether there are five, ten or two school age children living here,  
32 he doesn’t see that as relevant for Master Plan approval, nor is the cost of school age  
children a basis for rejection or approval of the Master Plan. The information from their  
34 consultant and the Chariho website says it is \$13,485. He said the state provides \$4315  
per student, making the real cost \$9170 per student. He added, if we assume this will  
36 cost about \$45,000, and they will be paying about \$17,000 in taxes, this means it will be  
a cost of about \$28,000 to the town with five school age children in the system.

38 Mr. Gordon said residents expressed concern that their tenants will be trespassing on a  
pond, impacting the quality of life, and implying a fatal accident might even result. He  
40 said whether a resident trespasses or not, is not a basis for rejecting Master Plan approval.  
Every tenant will have a tenant information package stating that trespassing is prohibited.  
42 They will also suggest where there are public ponds and will cooperate with local  
residents, police, etc., around the issue of trespassing and work with them and if there is  
44 an issue or an ongoing concern. They can not completely control what their tenants do  
and can’t promise that a resident of theirs won’t wander off the property.

46 Mr. Gordon said residents expressed concern that parking would be too close to the  
property lines and that there wasn’t enough. They are providing in excess of what is  
48 legally required. He said the town doesn’t give a specific per unit amount of parking

2 spaces, however, most communities have either 1.5 or 2 parking spaces per unit, a  
constant they see in almost all communities in Rhode Island. They are providing 28  
4 parking spaces for 14 units, or two per unit. Four of the units are one bedroom with  
chances that there will be only one car associated with it. Six of the units are 2 bedrooms  
6 and some of those might just have one car for a single parent. The idea that they would  
come close to using all the 28 spots is highly unlikely. They asked their management  
8 company to look at their profiles of similar type housing, mixed, 1, 2's and 3's, rural not  
urban, and their count was 43 cars for 69 units, less than one car per unit. The post office  
10 requires one spot for every 250 square feet. The post office is about 900 square feet, with  
rounding up, that would be 4 spots. Then they are to have one spot for every 2  
12 employees, making 5 spots that they would need legally. They are providing 8. There  
are 36 spots in all. He said it was inferred there might be spillover to the streets and out  
14 of their property. He can not imagine under any circumstances that that would happen.  
He said there was also concern that their cars would be too close to the property line,  
16 encroaching on neighbors, and having a negative impact on them. Their design has more  
controls than are there now and the cars will be less close to the property line. There will  
18 be signage, striping, and the parking will be more contained than what one currently sees  
there now with no real structure.

20 Mr. Gordon said they suggested three ways to deal with traffic patterns: one was mostly  
focused on signage; another on a one way orientation; and the third, was rerouting the  
22 road. They would assume not do that suggestion as it is not financially feasible and  
would have a big impact on the road. They felt one-way would have a negative impact  
24 on people coming in and out of the post office, both for their residents and the  
community in general. It is their position to focus on signage, stop signs, yields and what  
26 they believe is the least intrusive plan.

Mr. Gordon said a back up septic system is cost prohibitive and not required. They will  
28 have a service contract with a professional company for 24 hour on call.

Mr. Gordon said he has been involved in developing 2,500 units of affordable housing  
30 over 20 years. They are trying to be sensitive to the neighbors' concerns and he thinks  
their concerns have made it a better project. He keeps coming back to who is going to be  
32 living here, the real impact versus the perceived impact, how do we preserve this  
building, how do we add to the richness of the community, and how do we respond to the  
34 town's affordable housing plan, while at the same time, responding to the community's  
concerns. He said most of the people living here will be working people with low-paying  
36 jobs; the ones that aren't are generally handicapped or elderly. What often happens with  
rental projects in a remote area is that the people that will live here are usually residents  
38 from the community or have ties to the community. It is not impossible that people will  
be coming from other parts of the state, but it is unlikely. There will be a local preference  
40 during rent-up, with a lot of people being relatives and friends of people who already live  
in this community. Most of this has come from Hopkinton's Affordable Housing Plan  
42 and Mr. Gordon reads from the plan.

44 **Paul Bannon** of RAB Professional Engineers, a traffic expert, said at last month's  
meeting, they explained the options but did not provide graphics that would show the  
46 potential design options. Their identification of lack of control at the intersection in the  
village area, and the residents' perception of viable speeds through the area, further

2 confirmed one of their recommendations for a full controlled intersection. They will  
4 provide, as a submission to the town, an exhibit that is a representation of a three way  
6 stop condition. Mr. Bannon said the Y intersection currently has no control. They would  
8 recommend striping to orientate the traffic to it's proper lane utilization. At the junction,  
they are proposing to add short sections of striping, possibly 25 to 50 feet, advanced  
intersection signs typical of NUTZ standards, which indicates in advance an intersection  
stop condition, with striping and stop bars at that location. It would be an all-way stop,  
forcing vehicles to slow down, stop, observe.

10 **Ms. Douthitt** asked if a stop light would be better than signage.

12 **Mr. Bannon** said there is no need. In response to Mr. Berkelhammer he said this is the  
14 best solution. The residents said speed is an issue through the area as you get off Spring  
16 Street, Route 138. This will be a controlled condition, so they have to stop. It meters the  
traffic in and out of the village.

18 **Mr. Walker** said it occurs to him that the simplest solution to the only traffic problem  
20 that he is aware of is for the traffic coming out of the post office parking lot as opposed to  
22 the traffic coming north on Canonchet Road. He said the simplest way would seem to be  
24 to put one stop sign on Canonchet Road, northbound, perhaps at or just beyond that Y  
26 intersection, forcing northbound traffic to slow down and stop where there would be  
visibility for both a northbound Canonchet Road driver and anyone emerging from the  
parking lot. That would require one sign that would slightly inconvenience the  
northbound traffic on Canonchet Road, but not to a significant degree. There is another  
stop sign now at Wincheck Pond Road that would not require rerouting traffic on the  
extension. Traffic coming southbound on Canonchet Road is not an issue.

28 **Mr. Bannon** said he fully agrees with what Mr. Walker is saying.

30 **Mr. Walker** asked how does the southbound movement on Canonchet Road conflict  
32 with the northbound?

34 **Mr. Bannon** said because you are approaching an intersection that has three approaches  
36 and none of them are controlled. If you have someone going southbound and someone  
38 from the northbound direction actually wants to bear left, they can bear left across your  
path. That condition is what they are trying to eliminate through full control.

40 **Mr. Walker** said he uses both of those roads and theoretically there is a conflict, but  
42 given the generally light traffic on Canonchet, that is a conflict that very rarely happens  
in his experience.

44 **Mr. Bannon** said he agrees.

46 **Mr. Walker** said the dangerous conflict is between the traffic emerging from the parking  
lot from the post office and the northbound traffic on Canonchet Road.

2 **Mr. Bannon** said he agrees and that is exactly what this plan addresses.

4 **Mr. Walker** said his point is simply they go beyond eliminating the existing conflict and  
6 basically create another stop sign for traffic that is essentially not a problem. Why not  
keep it simple?

8 **Mr. Bannon** said they can and then it is not an issue. In their report they made  
10 suggestions and would work with the town with whatever the town wants to do. They  
have identified the problem, have come up with a solution that they think will work.  
12 When they have a situation like this they want to make a full controlled intersection so it  
is clear that everybody has to come to this location, stop, and make a decision. It is  
cleaner as opposed to a through road with a stop sign on it.

14  
16 **Mr. Walker** said he supposes the desire of the town is that the applicant pays for these  
stop signs and striping.

18 **Mr. Bannon** said that is not an issue; they will pay.

20 **Christopher Tanguay**, 328 Canonchet Road, distributed information on the State's  
22 ordinances for zoning and variances to the Board and the applicant. He reads from  
Section C, Granting a Variance, commenting that he believes Mr. Gordon has stated on  
quite a few occasions that less than 14 units would not be profitable for the developer  
24 and also that he would not receive financing for this project. He sees an issue there. He  
said he doesn't understand how 14 apartments with 28 bedrooms, which could potentially  
26 have two occupants per bedroom, or upwards of 56 people, living on a very small piece  
of property, with a full parking lot of cars, doesn't adversely affect the surrounding area.  
28 He believes the relief to be granted is not the least relief necessary. Mr. Tanguay reads  
from D, 1, Granting a Use Variance, stating he believes the mill could be very beneficial  
30 to the community if it was used for businesses and services that are consumer friendly;  
things that the neighborhood could actually enjoy. He said it is the only property in the  
32 village that could re-create the village, and that adding a high density housing project  
doesn't enhance anything for the existing residents, and they will be paying for it. He  
34 mentioned other factors at the last meeting about environmental and safety issues. The  
property runs off through his property via his pond and if he has a problem with that, as  
36 it is his property that processes everything from the project property. The square footage  
that this lot offers is suitable for 4.5 units and he thinks four nice apartments for purchase  
38 would be economically acceptable. If the mill was used primarily for businesses, the  
parking lot empties out at a certain hour and the community stays quiet. These state  
40 zoning laws protect what is right. He distributed the ISDS history of this application  
from the engineer to DEM, from the DEM website.

42  
44 **Robert McAllister**, Camp Yawgoog Road, said they talked are talking about some kind  
of bulbs that aren't going to give any reflection, and asked if these lights are going to be  
on all night and if there is a shut off time? He doesn't see something happening where  
46 you don't get some kind of reflection off of cars and back into the atmosphere on cloudy  
nights. He added, they have a nice situation now in Rockville; there is no light pollution.

2 He understands they got letters from the Fire Chief, the Police Chief, and the Town  
4 Manager and asked if they could be read.

4 **Mr. Lamphere** said there is none from the manager.

6 **Mr. Berkelhammer** said that regarding lighting, they haven't gotten to that level of  
8 detail.

10 **Mr. Walker** said if the Master Plan is going to be approved, there could be a condition  
12 that Preliminary approval requires Dark Sky compliant lighting and certain standards.

12 **Mr. DiOrio** reads a letter dated November 20, 2009 from Chief Stanley addressed to the  
14 Hopkinton Planning Board and a letter dated November 18, 2009 from Police Chief  
16 Scuncio addressed to James Lamphere, Town Planner.

16 **Barbara Capalbo** said she is a lighting designer and the IESNA, the Illuminating,  
18 Engineering Society of North America, does not have specifications for Dark Sky  
20 compliance. If they are going to use a 175 watt halogen street lamp fixture, there is no  
22 reason that it can't be full cut-off. She said they should look at something other than 175  
24 watt halide, suggesting LED luminaries that have less spill and brightness where you  
26 need it and not in the upper atmosphere. If this particular community, which is rural with  
28 a lot of apartments in one space, if you had more bollards or low level lighting, people  
could get easily from car to home. She suggests turning off any parking lot light at a  
particular time, and using the bollards only. She would like them to look into other full  
cut off luminaires as low a level lighting that is possible, and is not sure that sixteen feet is  
necessary.

28 **Mr. Simmons** said the actual fixtures the applicant has specified will provide somewhere  
30 between 350 to 430 lumens in a 90 to a 180 degree plane and will glow the parking lot. As Ms.  
32 Capalbo said, a full cut off fixture should be required.

32 **Ms. Capalbo** said you can comply with Dark Sky; they have to dovetail that. You need to be  
34 more precise so the applicant has some recommendations.

36 **Mr. DiOrio** said his question is when we as a Board want to stipulate the appropriate guidelines,  
38 what do we tell an applicant?

38 **Mr. Simmons** responded, a full cutoff fixture.

40 **Mr. Berkelhammer** said their lighting expert is unable to be here and he does not understand the  
42 potential significance of agreeing to the suggestion and what the effect of it is, and would like this  
44 put to Preliminary.

44 **Mr. DiOrio** said we will probably have some discussion later this evening on the direction we are  
46 moving in and will probably come up with a recommendation that abides by Dark Sky  
48 compliance and full cut off.

2 **Paul Toracinta**, 320 Spring Street, Rockville, said with the cost to Chariho at \$13,485 there is a  
4 shortfall that the taxpayers must pay, through taxes to the state. These apartments will cost more  
6 than most houses in Rockville. We need low income housing, but we are doing better than most  
8 of the other towns in the state, asking, what's the rush? He hasn't heard anyone speak in favor of  
10 this. He moved here to get away from density issues. There a lot of reasons you can reject this:  
12 the impact to the town, our welfare, our health, well being, quality of life, and property values.  
14 He asked if the Board will have an unbiased engineering review, like for Brushy Brook, if this  
16 starts moving forward?

18 **Mr. DiOrio** said it is a possibility.

20 **Mr. Toracinta** believes they would all appreciate that. He doesn't think that burden should be  
22 put on the residents to get the experts, because that is the Board's charge.  
24 Mr. Toracinta asked what will be the recourse if you run into water or environmental issues after  
26 we start digging up the area? Is there going to be a recourse for the people that are going to be  
28 affected? Are wetlands approved? Is the ISDS approved? He said the revenue shortfall, this  
30 whole thing, is a negative impact to the whole town of Hopkinton and a big negative impact to  
32 everyone in that area. Mr. Tanguay brought up the Zoning, Appendix D1, 2, 3, 4, and he would  
34 like to bring up E2. It was going to be for the six to eight units. It is all about financial gain. We  
36 shouldn't have to be here because of that.

38 **Betty O'Leary** said that the past few weeks brought snow to the area. At the post office, even  
40 plowed, there were eight cars in the parking lot that took over half the parking lot. You'll be  
42 lucky with the extension of the parking lot, to get 20 vehicles. We we will be parking on the  
44 street and walking to the post office and public safety will be in jeopardy. Rerouting the road to  
46 one way traffic will be at the taxpayers' expense. A statement of the Rhode Island Housing Act  
48 says one of the state's requirements is that no negative environmental, health and safety impacts  
50 should be in place. She doesn't think they can say that for this development and that federal  
52 regulations and requirements for Housing and Urban Development's own statement will not be  
met. The codes from Housing and Urban Development site and neighborhood standards, say they  
must be accessible to social, recreational, educational, commercial, health facilities and services  
and other municipal facilities typically found in neighborhoods largely of unassisted standard  
housing of similar market rents, and also says that it is best to have public transportation lines in  
place. It states that the site must have adequate sizes, exposures, contours to accommodate  
numbers of units, adequate utilities, which is a big question with water, sewer and environmental.  
She presents a copy to the Board. She said all that is mentioned here and at previous meetings in  
regards to the safety, health and environmental issues, are all listed as grounds for denial from our  
own state laws.

Ms. O'Leary said the next issue is on the educational cost for school children. What wasn't  
discussed is what if one or more of these children has special needs and falls into the severe,  
profound category? With the cost of out of district schooling, one on one nursing and special  
transportation needs, the actual cost could be or even exceed 50 to \$60,000 per student. These are  
laws that are state mandated but not funded. She wants a peaceful, pleasurable, quiet  
environment that is safe, just the way it is.

**Deborah Luz** said the plan indicated that a portion of the proposed development will be  
marketed to seniors or the elderly, in particular, the one bedroom and handicap accessible units,  
in the small building in the back. Senior elderly in an isolated building should be viewed as a  
major safety and health issue. Two one bedroom units are located on the second floor of the main  
building with no elevators. One, one bedroom unit on the first floor of the main building may be  
suitable for the elderly as long as they do not wish to access the rest of the building. She thinks

2 the comprehensive plan should be considered deficient in this regard and should be grounds for  
4 denial. The DEM permits have not been approved yet and does not know why these applications  
have not been put forward.

6 **Mr. DiOrio** said those approvals are not necessary at this stage. They will be required as the  
applicant moves forward into the project.

8  
10 **Ms. Luz** said as the permits are being put forward, if they are revised or deficient in any manner,  
it would be pertinent for the town to know why they are being denied at that point in time.

12 **Mr. DiOrio** said if a permit is denied, the project does not go forward.

14 **Ms. Luz** said the recreation aspects of the comprehensive plan have not been discussed and  
relates to individuals wandering off their property to seek recreation elsewhere, for example, the  
16 pond across the road. This plan has indicated there would be recreational playgrounds on the  
property but that hasn't been brought in for review. They talked about extending it into the  
18 wetlands area, but that would once again have to be approved.

20 **Henry Yeles**, 57 Spring Street, said if you took this land area, you couldn't even build a two  
tenement house on it. A two tenement house calls for four acres of land. He asked if  
22 conventional zoning is thrown out completely with this project?

24 **Mr. DiOrio** said we can use that type of terminology, yes.

26 **Mr. Yeles** asked are there tax breaks involved in this? Is this going to be a profitable thing at all?  
Does the town get any federal funding if this goes forward as a benefit?

28  
30 **Mr. Lamphere** said the benefit to the town as put forth by the State of Rhode Island is the fact  
that we get affordable housing in town that is needed. We would be addressing the need for  
affordable housing. There's not going to be any grants or monies paid to the town for doing this.

32  
34 **Mr. Yeles** asked, would that improve the percentage of low cost and what are the figures we have  
now?

36 **Mr. Lamphere** said we have to arrive at 10% of the town's 3,040 year round housing units. We  
need 340 affordable units. Right now we're at 6.97%, not including Canonchet Woods which will  
38 give us 20 for 7 ½%.

40 **Mr. Yeles** said they're talking about the traffic pattern. He thinks it is erroneous calling the  
brook, Moscow Brook, that flows from Wincheck Pond. Moscow Pond is a couple miles down  
42 the road. He suggested they could go across the field and build a bridge that would avoid the  
traffic completely, at the lower end of the site. Trailer trucks come down from Greene Plastics at  
44 night, year round, and that hasn't been addressed. The water was tested January, the high time of  
the year when the pond is overflowing. He doesn't know what kind of erroneous figure that  
46 could develop. In the summer, when the pond is low, all the wells in Rockville suffer.

48 **Mr. Tanguay** responded to an answer Ms. Small gave at the last meeting, saying people are  
already parking on his property line, and that the new plan would be an improvement because, the  
50 area would turn into an access area instead of parking. There is vegetation from his trees and  
shrubs from his property line into the parking lot that would be completely cleared for the road  
52 going in. The vegetation that is screening his back yard from this property is going to be reduced

2 by one half to three quarters. He does not know how that is an improvement for him. The huge  
vegetation gap between parking now and his property line will become the entrance road.

4 **Mr. DiOrio** asked, does he understand correctly that vegetation from your side of the line is  
6 hanging over or growing on to this property?

8 **Mr. Tanguay** indicates yes, it is part of the buffer between he and this entity. Ms. Small said  
they were already parking on the property line, which is not true, because there are trees there.  
10 He said the complexes that we have in this town for elderly and handicap affordable housing,  
have sprawling properties and yards that are not utilized. This is going to be one of the first units  
12 to create affordable housing for families and there is no recreational space. There are going to be  
apartments on the second and third floors looking into his back yard where he has a beautiful  
14 inground pool area with a new septic system and retaining wall. He's spent money clearing his  
fields to open it back up. They are going to look through those windows and say playground,  
16 recreation, because their developer isn't affording them that minimum standard. He is the most  
affected by this, it is really disturbing, and his whole life style and quality of life will change. His  
18 property and his home have been his life investment. He feels backed into a corner were all he  
can do is research and come up with a legitimate case against this. It is too many people for a  
20 small lot in a community that doesn't offer any services.

22 **Mr. DiOrio** said what he hears Mr. Tanguay describing is a visual vegetative buffer that lies  
between Mr. Tanguay's property and the existing parking that is on the subject site. You don't  
24 have control over it and it is going to be cleared to create an access way therefore reducing the  
buffer. You're the abutting property owner that is going to be the recipient of the fence line.

26 **Mr. Tanguay** said that is correct.

28 **Mr. DiOrio** asked, the fence line is going to be on the subject site?

30 **Mr. Tanguay** said part of the problem is the stone wall and part of it is just their blacktop rolling  
32 into his field. He said he does own some of that property beyond the stone wall, especially the  
area between the two mills where he owns probably four feet of their blacktop that they already  
34 use.

36 **Mr. DiOrio** asked, there is going to be some fencing, somewhere along that line?

38 **Mr. Tanguay** said that is what he was told.

40 **Mr. DiOrio** asked the applicant if there is any proposed vegetation along that line?

42 **Ms. Small** said they did a Class I property line survey as part of the preparation for this project.  
The property line is shown on the plan and it runs along the wall. They are clearing a portion of  
44 the existing vegetation which is on their property. If you look at the existing conditions plan you  
can see where that exists in this area between the stone wall and the pavement line. It is less than  
46 a car length. They are putting their access drive in that area. The parking will be on the opposite  
side which will be about 20 to 25 feet away and they will be putting a fence. The conversation  
48 she had with Mr. Tanguay was that they were willing to put a fence on top of the wall , if that was  
a preference to him or provide him with plantings to increase vegetation that he already has on  
50 that side of the property should he desired that instead. They are pretty flexible on what they  
would do for him to help with some of the screening in that area. Ms. Small said the exact terms  
52 can be better defined as we move forward with the project.

2 **Mr. DiOrio** said there is an administrative item, the perceived deadline for decision. He said he  
admits to confusion as to whether our deadline for a decision is January 21 or February 21.

4 **Mr. Lamphere** said it is February 22.

6 **Mr. Berkelhammer** said he has on his notes February 22.

8 **Mr. Levesque** said we had this discussion during the last meeting and it was his understanding  
10 that the applicant agreed to that extension which was in part arrived at because we continued one  
of the hearings before this Board.

12 **Mr. Berkelhammer** said he has February 22.

14 **Mr. DiOrio** said so it is clear on the record we have a due date of February.

16 **Mr. DiOrio** said he likes the project; he likes the idea of restoring this kind of property, the mill  
18 specifically is something the community should embrace. He is uncomfortable with the density  
that is being proposed at 14 units and would be much more comfortable if that number were less.  
20 He said it is not only about the units; it is about all the appurtenances that go with the units; more  
units means more parking, more septic, greater groundwater withdrawal, more of everything. He  
22 feels that the site, given its constraints, riverbank wetlands, zoning, setback lines, existing  
building shape, three and a half acres to start, the net usable area, is just too small for 14 units.  
24 He would ask the applicant to return to the drawing table and come up with a smaller number.  
Mr. DiOrio said with regards to traffic, there's been a more poignant discussion of that this  
26 evening. When he came into the meeting he was concerned; after hearing the expert again, he  
feels a bit more comfortable but he still has a suggestion. The Town Council needs to weigh in  
28 on whether this could actually happen, so he would be suggesting that should the Board act on a  
Master Plan position, that sometime between Master Plan and Preliminary, the applicant go to the  
30 Town Council and seek some type of conceptual approval, if not hard approval, for the proposed  
traffic remedies. He does not believe that it is within the Planning Board's ability to issue that  
32 kind of approval or modification to the town's traffic pattern.

Mr. DiOrio said with regards to water, they've heard from several of the residents that water is a  
34 concern. We heard that again this evening. He feels whatever density is eventually approved,  
should be subject to an agreement stating that the applicant, all heirs and assigns, would be solely  
36 responsible for providing water to the project, and that the town shall not be responsible nor  
contribute in any way should there suddenly be a situation where there is an inadequate water  
38 supply.

Mr. DiOrio said with regards to sewage treatment, he believes we have testimony to the fact that  
40 total nitrogen concentration will be 8.63 milligrams per liter with a standard that is 10. He would  
be suggesting, again, that whatever density is approved, would be subject to an executed  
42 agreement stating that the applicant and all heirs and assigns, will be responsible for testing the  
effluent from the disposal system for total nitrogen, at least on an annual basis, and reporting the  
44 results of that testing to the town building official. Also, since the applicant is proposing what is  
termed alternative technology to treat the effluent, they should be in agreement that the applicant  
46 is solely responsible for the operation and maintenance of this system and that the town shall not  
be responsible or contribute in any way to the repair or maintenance of the system in the event of  
48 failure.

With regard to flood zone, Mr. DiOrio said there has been some correspondence with the building  
50 official regarding the requirement that the applicant conform to flood proofing, or something  
along those lines, and that Mr. Ward's requirements be incorporated in any approval.

2 In summary, Mr. DiOrio said he would be in favor of the project if we can wrap our heads around  
4 issues of density and some of the technical issues which he thinks are easier to address. If we can  
get to that point, he would be comfortable with moving the project forward.

6 **Mr. Walker** said he is basically inclined to agree with Mr. DiOrio. At issue before us on the  
8 Master Plan stage is the concept of the project, not the detail. Many of the details can and must  
be reserved for the next stage, the Preliminary stage. The question, as he sees it, is whether the  
10 basic concept that the applicant has presented of renovating a historically significant mill  
building, that he thinks everyone recognizes is a key landmark in Rockville and in the town, and  
12 using it for what everyone acknowledges is badly needed affordable housing, is a worthwhile  
concept that ought to receive our essential endorsement. His own opinion is that this is a  
14 basically good concept for this particular property which has essentially lain foul for many years  
with nothing but a post office and one small business on the first floor and the rest of the property  
essentially vacant and unused. The building has deteriorated and is not in the best of shape and  
16 renovation and improvement of its attractiveness would actually be a benefit in that sense.

Mr. Walker shares Mr. DiOrio's concern about the density. He is not locked in to any particular  
18 number and the number of 14 units doesn't necessarily offend him. He is to some extent  
comforted by the fact that in order to get approval of any level of density, the applicant is  
20 required to get permitting from the various state agencies, particularly for septic and well, and if  
they can't get approvals for that they can't go forward, no matter what we say. It may be that 14  
22 may be too many and the site simply would not adequately support that to the satisfaction of state  
officials that rule on such matters. It would also be that the lower the density, the lower the  
24 parking requirements, hence the less some of these other problems that have been justly  
mentioned. Most of the problems that have been mentioned can be dealt with in the form of  
26 conditions that would minimize the impact of the project on the neighborhood, eliminating or  
minimizing any bad effects that it might have.

28 Mr. Walker is particularly concerned with Mr. Tanguay's concerns and can particularly attune to  
his privacy concerns. He is encouraged on that score by the applicants apparent willingness to  
30 work with Mr. Tanguay with appropriate fencing or screening that will alleviate that problem.  
Certainly, if they were to vote for approval, one of his conditions would be a reasonably  
32 satisfactory arrangement be worked out between the applicant and Mr. Tanguay concerning those  
particular issues which he thinks are very legitimate.

34 Mr. Walker said he can also understand Mr. Tanguay's concern about the possibility of runoff  
into his pond and onto his other property. That is an issue that is appropriately dealt with at the  
36 state level with DEM. They're going to have to get approvals from DEM for the surface run off  
and for the ISDS which should alleviate any pollution concerns Mr. Tanguay would have for his  
38 pond and the rest of his property. A standard condition of the Master Plan approval is that all  
these necessary permits be obtained.

40 Mr. Walker shares the traffic concerns as he previously indicated. A condition for Master Plan  
approval would be for a correction of what we all acknowledge is a general traffic issue that will  
42 have to be resolved to the satisfaction of the town.

Mr. Walker said the same thing is true of the lighting. The applicant can take if for granted that  
44 an iron clad condition for approval at a higher level and a condition of Master Plan approval  
would be that Dark Sky compliant lighting would be required and we are fortunate to have an  
46 expert on both the Town Council and this Board that are technical experts in lighting. He can  
assure you he will not approve any lighting plan that does not meet their approvals.

48 Mr. Walker said a number of the other concerns that have been expressed by the townspeople, he  
also shares as a resident of this town. The simple reality of life is that we have to have affordable  
50 housing in town. We have a mandate from the state that requires us to meet 10% and we have to  
work diligently toward achieving that or things will be taken out of our control. As a practical  
52 matter, whether it is affordable housing or any kind of residential development comes before us

2 like Brushy Brook, there is always a concern about school children. Houses mean children and  
4 children mean schools and schools cost money and they cost more money than the typical single  
6 family house is going to pay in taxes and therefore all of our taxes go up. The only way around it  
is commercial development that will improve the town wide tax base for nonresidential property  
and we are doing what we can do for that at Exit One and other places. Housing is something we  
don't have a great deal of control over.

8 On the issue of density, Mr. Walker said the number of 14 does not offend him but he, too,  
would feel more comfortable with a lower density, and he would like to see a little more  
10 information from the applicant on that issue. The applicant said that 14 units is the number  
required for economic feasibility of the project. To say that these are essential to make it  
12 economically feasible, doesn't mean that is the number we have to approve. If the number that is  
required for economic feasibility makes it unfeasible for environmental, neighborhood safety, or  
14 other legitimate reasons, then it doesn't matter what it takes to make it economically feasible. He  
would be interested in input from other members of the Board on that issue and would probably  
16 feel more comfortable at a lower level.

18 **Mr. Cox** said he too feels as though 14 is very heavy. They started with eight. He is glad the  
people had a chance to talk and to hear their opinion. He agrees with Mr. DiOrio and Mr.  
20 Walker. He believes fencing on a border is supposed to be in a few feet for maintenance.

22 **Mr. Berkelhammer** said they would work that out with the neighbor. If they put a fence on the  
property line, they would do it with agreement with the neighbor.

24 **Mr. Cox** said whoever owns the fence has to maintain the fence and if it is on the line, you have  
26 to go on your neighbor's property.

28 **Mr. Berkelhammer** said what he is suggesting is, if Mr. Tanguay wants the fence, they would be  
willing to provide the fence. He can't ask us to provide the fence and then say he won't allow  
30 them to have access to the fence to maintain it. He would legally give us the right to have access  
to the fence.

32 **Mr. Tanguay** said that is not an option.

34 **Mr. Cox** said there is no visitor parking and asked if two cars per family are parked there, where  
36 are visitors going to go? These places always have a place for visitors to park because you are  
not allowed to park in someone else's spot who lives there. He doesn't understand why that  
38 wasn't done.

40 **Mr. Berkelhammer** said normally it works out. That's the kind of day to day activity that they  
work out with the management company of whether visitor's spots would make the most sense or  
42 not. It is a decision they wouldn't premake.

44 **Mr. Cox** said it has to be marked out somehow. These people don't want people going to the  
post office and parking in their spot.

46 **Ms. Douthitt** said she has a problem with the density, also, making quite a few of the units too  
48 small for living space. Otherwise, it's fine, just too dense.

50 **Mr. Buford** said the Zoning Ordinance that was handed out doesn't apply in this case because  
you are here as the Planning Board, not a Zoning Board.

52

2 **Mr. Walker** said we're sitting as the local review Board so we have the powers of the Zoning  
Board as well as Planning Board

4  
6 **Mr. Berkelhammer** said you're actually not the Planning Board; you're the Comp Permitting  
Board.

8 **Mr. Walker** said we are the local review board under the statute. One point that he didn't  
address is the question of trespassing. He appreciates that concern but does not think it should be  
10 a problem, and if it is, it is not the kind of problem the Planning Board can address. We have no  
control over what the tenants in the Rockville Mill would do any more than we have control over  
12 what the other residents in the neighborhood would do. If people are going to disobey the law it  
could conceivably become a police issue. It is not something we can validly assume will happen.

14  
16 **Mr. McAllister** said the problem is not trespass, it is safety that you lose with the trespass to the  
pond. Children don't know laws. Children don't obey parents.

18 **Ms. Douthitt** asked if there are children in that neighborhood now.

20 **Mr. McAllister** said no, very few.

22 **Mr. Walker** said he thinks there are several children because he takes his daughter to the bus  
stop where there are several school age children that get on the bus at Wincheck Pond Road and  
24 Canonchet Road.

26 **Mr. DiOrio** said the safety for residents of this project, either for features that are on this site  
itself or for features that are off site, is not a lot different than safety for any other child in any  
28 other part of this immediate area or the town.

30 **Paul Toracinta** said a lot of this comes down to the safety, health, well being and quality of life,  
that is your charge in your mission statement as a board. They are asking for representation for  
32 their quality of life, as it is now. He does not see that being addressed at all.

34 **Shelia Beckwith**, North Road, said she is a realtor in Hope Valley and works with affordable  
housing. The USDA will subsidize affordable housing for qualified applicants, down to a one  
36 percent mortgage rate with no down payment for up to 33 or if necessary, 38 year mortgages.  
They have many applicants right now for this type of housing and subsequently, there is quite  
38 a bit of affordable housing is being built. The people that will be residents are buyers with good  
credit but don't have high incomes. Many of them qualify under the very low income level and  
40 who actually can become home owners. These are people who are going to become residents  
even though they are not going to be wealthy residents, and they are going to be adding to the tax  
42 base instead of taking away from it. Saugatucket Springs senior housing is full. The Cardinal  
Lane condominium project is going to be 8 more units of affordable housing which will be  
44 owned. There are two units already built. They are very affordable. She asked if the Rockville  
Mill project going to be rental units at market value, or are they going to be Section 8 subsidies.  
46 She would also like to know what the applicant was thinking creating a playground area that is 25  
feet by 60 feet, which is much too small. How are they going to do trash pickup when the  
48 parking lot is already crowded?

50 **Mr. Gordon** said it is affordable rental housing, not ownership housing. This is a very expensive  
project to develop because it is historic and has to meet certain standards because they are using  
52 historic tax credits to pay for the construction and the soft costs related. It has to be rental

2 housing. It is expensive also for the site development. The septic, drainage, parking etc., is  
4 disproportionately expensive, developing this site, not just the building. He cannot speak to the  
play area size. They are not fair market value. All the units are going to get a Section 8 subsidy  
and the rent levels have been set.

6  
8 **Ms. Beckwith** said you say there is a crying need for affordable rental housing in Hopkinton.  
She asked if Mr. Gordon had actually numbers for the need in Rockville for rental affordable  
housing?

10  
12 **Mr. Gordon** said he thinks there was a stated need for something like 210 family units. With  
what was referenced earlier, there are 23 units of family affordable housing.

14 **Ms. Beckwith** asked if this is rental housing.

16 **Mr. Gordon** said it is family rental.

18 **Ms. Beckwith** asked if they actually have applicants who are waiting to be included in this  
process or is it just the mandate? In other words, do you have applicants who are ready to rent  
these units?

20  
22 **Mr. Gordon** said the project will not be occupied for several years. No, they don't have 14  
people ready to move in for a project that won't be on line for about two years. They have to get  
approvals first before they will start that process.

24  
26 **Ms. Small** said they could address the question about trash pickup at Preliminary. She would  
rather not put anything on the record.

28 **Mr. Yeles** said on the other side of Wincheck Pond Road, he is exempt from using 200 feet of  
land. That's the waterfall from the overflow from the dam. How does that affect this here? Are  
30 they exempt from that two hundred foot arc like he can't use 200 feet of his land?

32 **Mr. DiOrio** asked if was referring to the riverbank wetland associated?

34 **Mr. Yeles** said right. He sees a small setback here but he doesn't see a big one.

36 **Mr. DiOrio** said the 200 foot riverbank wetland line cuts through the building. They have to  
abide by the same regulations. When you take in the site restrictions, you have issues. He said he  
38 thinks we should be thinking about a decision for February 3, given a deadline of February 22.

40 **Mr. Lamphere** said the administrative filing fees for this application is subject to a Pre-  
application fee of \$480 and a Master Plan fee of \$1900, that have not yet been paid.

42  
44 **Mr. DiOrio** asked if a formal waiver was requested. Should we act on the fee issue right now?

46 **Mr. Lamphere** said he wouldn't say you have to act on it right now.

48 **Mr. DiOrio** said they have it in their sight, if this is the time for the Board to come up with  
something.

50 **Mr. Lamphere** said we should try to be consistent with the other applications. Admittedly, we  
might have a slightly different one. The other was for a for-profit developer. This one has block  
52 grant money involved, even though it has a private owner.

2 **Mr. Berkelhammer** said it is 100% affordable and agreed they are a for-profit entity.

4 **Mr. DiOrio** asked how the Board wants to address the applicant's request for waiver of fees.

6 **Mr. Walker** said he considers this different from Brushy Brook. We're talking the difference  
8 between a \$2300 waiver and a \$36,000 waiver, and with this case, we don't face the necessity, as  
10 with the Brushy Brook case, of putting the town through the expense of hiring experts and using  
the applicant's fee monies for that purpose, at least so far for this project. A fee waiver is  
something he personally would be happy to entertain as part of our contribution to the project and  
something we could deal with at decision time.

12 The Board decides to wait on the vote.

14 **Mr. DiOrio** said he ready to entertain a motion to continue to February 3.

16 **MR. WALKER SO MOVES.**

18 **MS. DOUTHITT SECONDS THE MOTION.**

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

20 *Motion passes.*

22 **Dark Sky Ordinance**

24 **Mr. Simmons** said this is basically a different direction from where he started. He's made a very  
readable document that is easy to understand, would give us some control, and help us to steer  
applicants. He used Renova and Saugatucket Springs as examples of good lighting design. He  
26 put together his thoughts on what he knows about fixtures, aiming, efficiency and tried to come  
up with some straightforward rules people can follow and would give us the results we are  
28 looking for.

30 **Mr. Simmons** said a lot of the original draft was from the Block Island Lighting Ordinance,  
North Smithfield has a good one, and he took some of the thoughts from Kennebunkport.  
32 Basically, the ideas from all different ordinances from many towns were combined.

34 **Mr. DiOrio** said so you do this for a living. Are the ideas and principles that you're proposing  
going to be palatable to those who need to implement the lighting?

36 **Mr. Simmons** said easily.

38 **Ms. Capalbo** said the ordinance is very much like the one from Block Island which is one of the  
40 nicest ones we have in Rhode Island. It is easy to understand. IES has pulled it together so all of  
their commercial and residential applications invoke Dark Sky. We have LED's that don't do it  
42 in wattage; it's a whole different mathematical construct in the last two years. We are not  
wanting to get stuck putting something in writing that we can't sustain. Mr. Simmons has done a  
44 really good job dovetailing standard usage with the spirit of the law, not just the letter of the law.

46 **Mr. DiOrio** asked, if he were a detractor, what are the holes in your ordinance? What are people  
going to stand up at the public hearing and say, you shouldn't approve this Town Council  
48 because...?

50 **Mr. Simmons** responded, the grandfather clause.

2 **Mr. Levesque** said the way he always appreciates these issues is when somebody changes,  
modifies or renovates their property, do they need to meet current standards? Absolutely. That is  
4 usually the way you capture existing conditions. He doesn't think that a three year cutoff would  
be sustainable.

6  
8 **Mr. Simmons** said he put that in because three years is pretty much the lifetime of a 175 watt  
bulb.

10 **Mr. Levesque** said you could capture it by saying when you change the model or fixture, you  
might capture it anyway in a three year period. To say you own a parking lot, and you have to  
12 change every fixture in three years, he is not so certain that will work.

14 **Mr. Simmons** added that they can either be replaced or retrofitted. You can very easily add  
shielding to bring a luminaire in compliance with the cutoff spirit of this ordinance.

16  
18 **Mr. Levesque** said again, who knows what cost that would entail. His gut reaction for a legal  
issue is cutting in off in three years may not be supportive.

20 **Mr. Simmons** said he would defer that to Mr. Levesque's opinion as many lamps are not going  
to be available.

22  
24 **Mr. Walker** said that in saying this may not be supportive, is that necessarily a reason not to go  
for it if we think that would be a desirable result? What would be the downside if three years go  
by; the Zoning Officer orders somebody to change the lighting in their parking lot? Either he will  
26 say okay and go along with it or go to litigation and spend a few thousand dollars on legal fees in  
court.

28  
30 **Ms. Capalbo** said in three years, even if you said at the end of ten years, people will be doing it  
on their own because they will save so much energy. They'll do it by themselves; you won't  
have to enforce anything. Put a ten year time limit on it, because it is a rural community, and  
32 people will have done it by themselves without you doing any work at all. She added, number 3  
under purpose, should add, and luminaires and fixtures.

34  
36 **Mr. Simmons** said all new Stop and Shops have parking lighting Dark Sky compliant, by their  
choice because it is more energy efficient. A lot of the lamps that are in these fixtures are either  
going to be phased out by the government or will not be available in five or ten years.

38  
40 **Mr. DiOrio** said he really appreciates a good example for people like himself that don't know. It  
is helpful to go to those places to see what is acceptable. It would also benefit him to have a  
couple of bad examples which would be equally as educational.

42  
44 **Mr. Cox** said you're right about it catching on. They are doing the indoor skating rink at URI.  
They took out all the indoor lighting to save money.

46 **Mr. Simmons** said last he heard was Massachusetts and Rhode Island would give you a 40%  
fixture rebate. CLP will actually come in and help you install the new fixtures. If everyone  
48 wants to mark up their copy and give it back to him with questions, comments, he'll address that.

50 **Ms. Capalbo** said she knows Tom Buck really wants this. If we can make comments and update  
it, she feels it should go before the Council for a hearing so Mr. Buck can talk about it.

52

2 **Mr. DiOrio** said so it doesn't necessarily need to come with a positive recommendation from the  
4 Planning Board? It is just originating here because we happen to have a resident expert?

6 **Ms. Capalbo** thinks it would be good if you run this before the town and ask what do you think?

8 **Mr. DiOrio** said eventually we will send a recommendation to the Council, so why don't we plan  
10 to get comments to Mr. Simmons with the idea that there may just be a few comments with a  
12 revised draft for the February 3 meeting. He added, the Board appreciates all their effort.

14 **NEW BUSINESS**

16 **Application Fees** – Review and Discussion

18 **Mr. Escher** said when he found out we didn't collect anything up front for Brushy Brook, he was  
20 amazed. If we want to give something back he would do more of what he would call a rebate.  
22 He would collect the fee for every single project when it is due. If a motion for refund is  
24 obtained at some point, then we go from there. It would certainly get us out of the problem of  
26 trying to hire somebody without the money to pay for them to do research on a project that we  
28 need as independent. It seems we are shooting ourselves in the foot in letting that go as long as  
we do.

30 **Mr. Levesque** said that from a legal standpoint, we do this when there are requests for waivers  
32 on other checklist items. We get the applicant before the Board for the level he is entertaining,  
34 and requests the waiver formally. The Board then makes the determination as to whether or not  
36 the waiver will be granted. If the answer is no, before they get before us on that level, they have  
to pay the fee. If the answer is yes, they don't, and they get scheduled for the hearing. The rebate  
is concerning to him from the perspective that you may reach an applicant that effectively is shut  
out who legitimately is entitled to a waiver. He thinks the waivers are better handled the way we  
normally do. Get them before the Board for a determination.

38 **Mr. Escher** said when you are waivering something, all the people with deep pockets that want  
40 big jobs can ask for waivers. He can't do that if he wants to put up a garage. He doesn't see  
42 where it is fair. Don't call it a rebate; call it whatever you want. It seems we should collect the  
fees upfront or everyone that comes in here is going to ask for a waiver.

44 **Mr. Walker** said the only people who are talking about waivers are the people that are here for  
46 these comprehensive permits for affordable housing.

48 **Mr. DiOrio** said he thinks they are both saying the same thing. Money needs to be in our hands  
50 before moving to the next phase. There's always a pre Pre-application meeting, presuming they  
are requesting a waiver. They stand before us. They make their pitch. We make a decision on  
the money. They either write us a check or they get a free ride.

52 **Mr. Levesque** said it is on the agenda as that; a request for waiver.

**Mr. DiOrio** said if they want to request a waiver at the Preliminary stage, we do the same thing.  
In either case, we get the money beforehand.

**Mr. Walker** said you can do that by putting it in the checklist. The Master Plan checklist would  
include the Master Plan fee or the filing of an approved waiver, so that no fee or no waiver, no  
Certificate of Completeness. There would be a Certificate of Incompleteness so that the time  
does not start to run on our decision making until they paid the fee or obtained the waiver.

2 **Mr. Levesque** said the time doesn't start ticking until the application is certified complete and is  
4 suspended when the application is certified incomplete. It comes before the Planner. The  
Planner gets the request for the waiver. He hasn't gotten the fee paid yet. He certifies it  
incomplete, for failure to pay the fee. He gets it before the Board and suspends the time.

6  
8 **Mr. DiOrio** said an application that is incomplete should not be before the Board. His  
applications don't come before the Board if they are incomplete.

10 **Mr. Levesque** said it is incomplete until they pay the fee. The minute you know they're  
12 requesting a waiver you're not out of line to issue a letter that says you are incomplete until you  
pay the fee. We understand your request for a waiver and we will put it on for hearing. The  
14 minute you get that issue resolved, you now know that application is going to be complete and  
when or on the decision of when the request for waiver is granted.

16 **Mr. DiOrio** said you do this a couple of times and the applicant will know this is the way  
Hopkinton is doing it. You can revise the checklist. If we don't, the word is going to get out,  
18 people are going to fall into line, and the issue is resolved. If we don't start holding people's feet  
to the fire, this situation we had tonight is just going to continue. The audience doesn't quite get  
20 the whole picture, and has the impression we're giving people a free ride. It's really not the case,  
but to the uninitiated, it sure looks that way.

22  
24 **Mr. DiOrio** said that is justification for not granting the waiver or pay in something. There are  
expenses that are always going to accrue. For somebody to expect they are going to get a free  
ride throughout the whole process is unreasonable.

26  
28 **Ms. Capalbo** said she has an issue with the nonprofit. We have given them \$97,000 CDBG grant  
money, and they want a waiver? That money could have been spent on Warm Shelter or Alton-  
Bradford water. They have put in for \$72,000 for 2010 and they're not nonprofit. We have cut  
30 our budget so far. This is just \$2000 but we gave it to them.

32 **Ms. Douthitt** added, and they want 14 units because it won't make any money if they go back to  
eight.

34  
36 **Ms. Capalbo** said you are waiving something that we have to spend money for. In this case,  
we've already donated to them. They should pay something.

38 **Mr. Buford** asked, by the town subsidizing this, does that give the town some additional benefit  
with state requirements.

40  
42 **Mr. DiOrio** said this is consistent with the low and mod act that Mr. Landry read to us that also  
includes the density bonus. It is consistent with our stated objectives that we will consider a  
reduction in the fees. There's still building fees and impact fees that need to be considered.

44  
46 **Mr. Buford** asked who grants relief on the building permit fee? Planning Board? The Council?  
You don't set the building permit fees.

48 **Mr. Levesque** said he would assume it would be in Mr. Ward's court at that point because we're  
not involved in building.

50  
52 **Mr. Escher** said it sounds better than letting it lapse and not doing anything.

2 **Mr. DiOrio** said it sounds like everyone is on board with that. He told Mr. Lamphere that we  
4 have a new strategy that we want you to implement.

4 **PLANNER’S REPORT**

6 \* Mr. Lamphere said regarding the comp plan approval, he and Al met with statewide planning  
8 with our two consultants on December 23. The state wants to see increased density in the  
10 existing village areas. Working with the affordable housing partnership, he knows how strongly  
12 they feel about the soils not being adequate. We don’t have sewerage, so we are really not set up  
14 for any huge increases in density there. We do seem to accept increased density at Exit One as  
part of a village. The state was receptive to that and if it is put in writing, said they would be  
inclined to go along with that. He will make a case that Hope Valley and Ashaway are not set up  
with the infrastructure we need to accept massive increases in density, that we can start off with  
Exit One which would be the responsibility of developers to get their own water and sewerage,  
not the town.

16 **CORRESPONDENCE AND UPDATES** None

18 **PUBLIC COMMENT** None

20 **DATE OF NEXT REGULAR MEETING** February 3, 2010

22 **ADJOURNMENT**

24 **MR WALKER MOVED TO ADJOURN THE MEETING.**

24 **MS. DOUTHITT SECONDED THE MOTION.**

26 All approve.

28 The meeting adjourned at 10:27 P.M.

32 Attest: \_\_\_\_\_

34 Lynda St. Amour, Planning Board Clerk

36 Approved: February 3, 2010